



# The impacts of cannabis legalization on organized crime in Ontario and British Columbia

Connor Fraser\*, Sarah Feutl\*, Tala Ismaeil\*

## ABSTRACT

This article presents a qualitative study of the impacts of cannabis legalization on organized crime in two of Canada's largest provinces – Ontario and British Columbia. Utilizing a modified snowball sampling methodology, we conducted semi-structured interviews with 23 subject matter experts in law enforcement, journalism, law, public service, and the private sector. Our findings are complex and reflect a sophisticated, rational response by organized crime to a key legislative event. First, Health Canada's personal/designated production registrations remain in place, which since 2001 have played a crucial role for allowing some patients access to medical cannabis. However, according to nearly every law enforcement officer interviewed, criminal entities continue to abuse this unique system by obtaining licences under false premises and diverting surplus product into the illicit market. Second, while the domestic market for illicit cannabis has likely declined, many interviewees claimed that organized crime groups adjusted operations by maintaining production levels and diverting shipments into the United States, and also by exploiting relationships with some Indigenous communities. This has contributed to deteriorating public health and safety outcomes within some Indigenous communities. Finally, we registered the belief of many interviewees that the most sophisticated criminal groups have begun shifting attention toward opiate production and distribution – potentially in response to both a smaller domestic market for cannabis, and also the skyrocketing demand for opioids. Our results reflect the unique character of Canadian geography, institutions and electoral politics, notably close proximity to the United States, federal-provincial division of powers, the evolving legacy of colonialism, and a unique series of legal precedents.

**Key Words** Illicit economies; institutional comparative advantage; contested jurisdictions; truth and reconciliation; performance legitimacy; violent entrepreneurship; Canadian Federalism.

## INTRODUCTION

On 17 October 2018, Canada took the momentous step of fully legalizing recreational cannabis. The *Cannabis Act* gave Canadians the ability to possess up to 30 g of cannabis product, and purchase the same at provincially licensed retailers (Department of Justice Canada, 2021). The purpose of this study is to assess how cannabis legalization has impacted organized crime groups (OCGs) with Canadian operations in two Canadian provinces, and by extension their insidious impacts on public safety and public health. Our intent is to further the body of evidence on OCGs' response to an important legislative milestone in Canada, not provide a comprehensive and exhaustive account.

Legalization of recreational cannabis emerged as a leading platform commitment made during the 2015 Canadian

Federal Election by the Liberal Party. After the latter's victory, it became central to the government's legislative agenda, with three notable policy objectives: keeping cannabis out of the hands of youth, protecting public safety by allowing adults access to legal cannabis, and keeping profits out of the hands of criminals (Department of Justice Canada, 2021). To our knowledge, this study is the first to qualitatively assess the effectiveness of Canada's policy in achieving the third cited objective – keeping profits out of the hands of criminals. It thus provides a valuable benchmark for the public and policymakers alike as the *Cannabis Act* undergoes its periodic mandatory review process (Health Canada, 2023a).

Consistent with the division of powers established in the Canada's *Constitution Act* (1867), the federal government oversees licensing and regulation of cannabis producers, marketing, medical cannabis, and matters related to criminal

Correspondence to: Connor Fraser, Telephone: 365-378-5138. E-mail: connor.fraser@hotmail.ca

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justice. Contrastingly, provincial governments oversee aspects concerning distribution and retail of cannabis (Alati, 2022). In this respect, we begin to contemplate the institutional origins of resource allocation decisions, and their impacts upon illicit economies. Work by Obradovic (2021) is indispensable for connecting different outcomes of cannabis legalization across Colorado, Washington, and Uruguay to the specific dynamics of reform and structure of government in each jurisdiction. Similarly, our paper seeks to draw connections between the observed behaviours of organized crime and Canada's unique institutional and geographic arrangements.

Illicit economies do not operate in isolation, nor do fundamental laws of economics cease to apply to illicit entrepreneurs (Fiorentini, 1997; Fiorentini & Peltzman, 1997; Polo, 1997). Contemporary studies of organized crime emphasize the tenacity of entrepreneurs to harness the forces of globalization to expand operations and exploit comparative advantages and lower monitoring costs in free-trade zones and border jurisdictions (Holden, 2017). Research suggests multiple reasons for the illicit market's persistence: lower costs and easier access (Hathaway et al., 2021), convenience (Goodman et al., 2022), and higher labelled potency (Mahamad et al., 2020). Mirroring the legitimate economy, the transnational nature of modern organized crime encourages aggressive cost reductions and provision of goods and services at attractive price points, imposing great costs on societies and law enforcement.

In Canada, the presence of a long, undefended border and several Indigenous communities with unique jurisdictional heritage, stemming from Canada's history of colonialism, has been posited to further create an environment conducive to illicit cross-border smuggling (Jamieson, 1999). Our results and discussion have been framed in a manner consistent with established literature on the institutional and geographic origins of comparative advantage, the economics of organized crime, and its evolving transnational character.

## METHODS

The study employs a qualitative, modified snowball sampling methodology (Statistics Canada, 2021). To capture a more authentic portrait of the impacts of cannabis legalization on OCGs, we zero-in on two of Canada's largest provinces, Ontario and British Columbia (BC). In two instances, our sampling process led us to out-of-province individuals whom we interviewed for their valuable expertise on cannabis legalization in Ontario and BC. While we remain optimistic about the prospects of generalizing these results across Canada, the heterogeneity of provincial approaches to cannabis legalization (Alati, 2022; Cunningham, 2021) suggests interpolating results with some measure of caution.

An exhaustive list of stakeholder groups was compiled for inclusion, consisting of academia, government, journalism, Indigenous groups, law enforcement, and private sector stakeholders. While our sample contains leaders within each field, we placed an emphasis on law enforcement as the stakeholders operating closest to organized crime. From these high-level categories, lists of organizations and individuals were identified for contact using open-source search techniques. Specific individuals were invited to complete interviews based

on the researcher's collective assessment of various factors such as their organization's mandate, or the significance of a community according to size and geographic location. Our academic supervisor, possessing word-leading expertise in the field of illicit economies and transnational organized crime, also played a critical role by providing advice and facilitating introductions with subject matter experts. All participants were provided a written overview of the study and confirmed their informed consent before the interview, either in writing or verbally. The study was conducted in partial fulfilment of the authors' degree requirements for the Master's of Global Affairs program within the Munk School of Global Affairs & Public Policy at the University of Toronto, and was granted an exemption from requiring ethics approval as it was completed within the confines of supervised academic coursework. Research was closely monitored by faculty members and strict procedures were followed regarding obtaining informed consent of all participants and maintaining their anonymity.

Semi-structured interviews were conducted both in-person and virtually, for durations lasting between 60 and 90 minutes. Participants were asked a common set of high-level questions regarding the behaviour of organized crime pre- and post-cannabis legalization. Additional questions were provided to each interviewee dependent upon their unique background. Finally, all participants were asked to provide recommendations for individuals to include as additional study participants. We justify our use of the snowball sampling methodology for "its cultural competence and the inherent trust it engenders among potential participants" (Sadler et al., 2010). As suggested by Sadler et al. (2010), it is also an appropriate, time- and cost-effective methodology given the large number of potential participants under consideration, relative to the smaller and harder to reach subset of individuals possessing genuine familiarity with our research questions. Leveraging the networks of previous participants was crucial to access key individuals especially in law enforcement, where contact details and identities may be withheld for reasons of personal safety. In accordance with best practice, the identities of participants are withheld to protect personal and professional security (Naderifar et al., 2017). The sampling process was continued until representation of at least one informant had been achieved across all entities and professional categories identified during the initial stakeholder mapping.

The principal contribution of our study emerges from the results of 21 qualitative, semi-structured interviews completed with 23 participants, between February 2023 and April 2023. Approximately 50% of our sample consisted of law enforcement officers, with the remainder roughly evenly drawn from academia, journalism, public service (both provincial and federal), law, and the private sector. Twenty-five percent of the interviewees are from BC, 65% from Ontario, and 10% elsewhere. Approximately 50% of the sample was uncovered via recommendations of previous study participants, while 50% were recruited directly by the researchers. Fifteen percent of the interviewees were members of Indigenous communities. Interview notes and transcripts were coded on a common spreadsheet to facilitate identification of key modalities by which OCGs were impacted by cannabis legalization. Features of the legalization process in Canada, Ontario, and BC (the independent variables) were distin-

guished from changes in OCG behaviour (the dependent variables) during the coding procedure.

## RESULTS

This section is prefaced by noting that we did not observe substantial divergences in the results or perspectives of interviewees from Ontario and BC. The below themes were equally common across stakeholders from each province. This may have emerged due to the federally administered nature of key programs from Health Canada, the presence of many Indigenous communities across Canada that continue to experience fallout from the legacy of colonialism, and the proximity of both provinces to the United States.

### Ongoing Abuse of Health Canada's Personal/Designated Production Registrations

Across multiple interviewees, there is a consistent body of evidence indicating major abuse of Health Canada's medical licences by criminal groups, in particular the personal/designated production registrations. These are a special category of licences administered by Health Canada since 2001 which allow patients or a designated caregiver to produce cannabis for their own medical purposes (Health Canada, 2016). Several of those interviewed claim that abuse of these licences has increased since pre-legalization, both in terms of the number of illicit production sites having licences and the size of the production sites. Publicly available data confirm the average authorized daily dose associated with personal/designated registrations has increased dramatically since legalization to ~30 g/day in Ontario and over 60 g/day in BC (Health Canada, 2023f). For reference, Health Canada's fact sheet states that across "a limited number of small and short-term clinical studies of cannabis for medical purposes" the maximum daily dose applied was equivalent to 3.2 g/day (Health Canada, 2016). This suggests that, in some instances, these licences may be used to divert surplus cannabis to the illicit market. Annual inspection rates of personal/designated registration sites averaged below 0.05% between 2018 and 2022 (Health Canada, 2023b, 2023c, 2023d, 2023e): they are effectively unmonitored. There was acknowledgement from participants in government and law enforcement that adequate monitoring of such a large number of licences was extremely challenging, especially given that many are on private property. Officers spoke to abuses by large, traditional OCGs and smaller, decentralized networks, both of which meet the definition of organized crime in Canada. Observed methods which OCGs use to obtain licences include having one of their own members with a legitimate medical ailment apply for and obtain a medical licence, or exploiting a connection with someone with a legitimate ailment who can obtain a medical licence, and paying them a portion of proceeds to grow above their limit.

People are getting legal cannabis authorizations to grow their own cannabis for their own medical purposes. They are getting very high amounts of cannabis prescriptions so they can grow large numbers of plants - but then they grow more, and they move their cannabis into the illegal market. OCGs are using legal means and

legal avenues to do illegal activity. (Law Enforcement Officer, Ontario)

The vast majority of OCG cannabis production sites are protected under Health Canada licences, and there has been continuity since pre-2018. Production levels have not changed. Licences have been manipulated, playing with the addresses, number of plants, and using names of deceased persons. Law enforcement is not authorized to inspect medical grow operations. Licensees are often notified of Health Canada inspections in advance, prompting OCGs to reduce their plant quantities and hide industrial growing equipment. (Law Enforcement Officer, Ontario)

Study participants familiar with the government's administration of these licences confirmed the validity of law enforcement perspectives regarding ongoing abuse, with the qualifier that law enforcement possessed greater authority from Health Canada to interdict these sites than officers believed or acknowledged. They noted how through a series of legal cases, beginning with *R. v. Parker* (2000), the right to access medical cannabis had been established within Canada by the judiciary, by way of *Section 7* of *The Canadian Charter of Rights and Freedoms* (1982) and outside of traditional channels. Typically, according to one interviewee from the federal government, introducing a medical treatment to the market would require close collaboration between Health Canada and pharmaceutical companies. These participants further expressed concern and doubts about removing the personal/designated registrations in the near future, believing it may motivate subsequent legal challenges that could render broader aspects of the *Cannabis Act* unconstitutional.

Governments have been, I think, cautious about even talking about removing the personal/designated registrations. Because of the history of litigation, there is worry that by removing it, we might trigger more court activity and more adverse decisions. The threshold for winning that argument is really, really high. It's not going to be about organized crime and its impacts. It's going to be about your mom who has been using a designated licence to let your dad grow 12 plants for your mom who needs it for end of life care. And then we're going to have to prove in court that the scenario where your mom is growing 12 plants with your dad's help is so dangerous that we have to pull this away from everybody. (Federal Government Official, Ontario)

### Heterogeneity of Impacts Across Indigenous Communities

Our study revealed that experiences of Indigenous communities vary widely depending upon the geography, history, and other unique circumstances of each community. Some interviewees were themselves members of Indigenous communities and simultaneously operating cannabis dispensaries fully within the federal and provincial frameworks. Other examples were cited of communities that established their own, internal regime to regulate cannabis, separate

from, and outside the legal framework of, the *Cannabis Act*. This self-regulation can fall into what one Indigenous interviewee referred to as the “grey market,” a cannabis market that is illicit, but limited in scope solely to the production or sale of cannabis. It is without the violence or other criminal enterprises, such as money laundering or sales of more potent drugs, that are often associated with organized crime.

Finally, some communities in both provinces were found to contain significant cannabis production and distribution attributable to organized crime, both with and without the broader consent of community members. In one instance, a participant cited examples of OCGs establishing retail operations and either paying a fee or providing public goods such as housing to gain broader acceptance or dissuade community members from taking countermeasures. This pattern was confirmed across multiple interviews:

Illicit stores on indigenous lands have steadily increased since legalization. Once the ones outside of Indigenous lands were closed down, we saw them pop up there. Organized crime is associated with some of those stores, and the Indigenous governments have said they are. When Indigenous communities don't want the stores they reach out to Canadian law enforcement to get rid of them. (Law Enforcement Officer, BC)

Illicit cannabis was not on the radar before legalization. There were some grow operations in houses, but nothing substantial. Now there are both illegal and legal storefronts for selling/distribution. (Indigenous community member, Ontario)

In another instance, certain individual members of a community were said to have invited OCGs to establish several retail locations on their properties in exchange for a fee, without the consent of the broader community. These stores were associated by an interviewee with notable increases in violence such as armed robberies. The traditional council of this community had not made a public statement condemning the illicit stores, contributing to the perception by some that their actions were permitted. Owners of illicit stores were said to have become increasingly violent toward any law enforcement actions. Nearly identical to the situation detailed by Celentani et al. (1997), a delicate equilibrium had been reached whereby law enforcement officers did not intervene as long as the illicit stores refrained from retailing other illicit substances beyond cannabis.

Government officials familiar with the matter claimed that the *Cannabis Act* was designed to create room for Indigenous businesses, both at the federal level, via production and manufacturing, and at the provincial level through retail. It was noted that many provincial governments, including Ontario, have not yet used their powers to create room in their systems for Indigenous entrepreneurs:

And the Cannabis Act was designed so that provinces and territories could design the retail frameworks. And we strongly encouraged them to design them in a way to accommodate Indigenous interests. BC did it, they have a tailored First Nations cannabis framework. Ontario, and possibly Saskatchewan, gave themselves the legislative

authority to do it, but they've never used it. And so the easiest and clearest solution to the problem is if provinces actually create room in their retail systems for Indigenous communities. (Federal Government Official, Ontario)

### Changes in Product and Geographic Markets

While noting the history of OCGs exporting cannabis from Ontario and BC (primarily dried product) prior to legalization, several interviewees see evidence that exports of domestically produced cannabis have increased post-legalization, mainly toward the United States. Many participants, especially those in law enforcement, further admitted that in the wake of legalization, scarce resources have often been directed toward higher-priority files such as illicit fentanyl, creating an environment conducive to producing and transporting illicit cannabis. Regarding changes in product markets, two trends were evident from several informants. First, some OCGs operating primarily out of BC had significantly increased the production of psychedelic mushrooms. Second, certain sophisticated transnational groups operating in both Ontario and BC that were previously involved in cannabis had begun shifting toward opiate production and distribution.

Prior to legalization, you would see examples of large-scale trafficking and distribution within Canada. We don't see that anymore. Instead, most examples of sophisticated trafficking are destined for the United States. (Law Enforcement Officer, Ontario)

One of the negative impacts [of legalization] is that police have not been as invested as they used to in cannabis investigations and/or prosecutions. (Law Enforcement Officer, BC)

We did not find consistent evidence among our sample to confirm whether legalization had motivated OCGs to target niche cannabis market segments (such as markets for underage individuals or higher potency cannabis products) nor shift resources into the legitimate, regulated cannabis economy.

## DISCUSSION

First and apart from the qualitative findings of interviews, Statistics Canada's (2023a, 2023b) detailed household final consumption expenditure data tables and Health Canada's (2022a) Canadian Cannabis Survey provide initial evidence that domestic illicit cannabis sales have steadily declined since 2018 across all provinces and territories, including Ontario and BC. Statistics Canada employs an amalgamated process to derive estimates, making use of multiple surveys and also high-quality legal data from Health Canada to back out estimates of illicit market size.

Separate from domestic demand, cited abuse of Health Canada's personal/designated production registrations is best categorized as evidence of continuity in illicit production and supply from the pre-legalization era. Illicit producers are continuing to exploit a loophole which was not closed in 2018, for reasons unique to Canada's judicial and constitutional heritage. There is also a possibility that first establishing a robust legal market, where medical users can purchase

preferred quantities at affordable price points, is a precondition for phasing out personal/designated registrations.

In parallel, our interviews cautiously suggest that the surplus illicit supply no longer being consumed domestically has now been directed abroad, notably toward the United States. This would be consistent with the existing literature that provides examples of producers and smugglers rapidly adjusting their destinations in response to a legalization event, by continuing to supply jurisdictions where the commodity remains interdicted (Cheekes, 2022; Dudley et al., 2022; Lacey, 2021). In this way, the ongoing trend toward recreational cannabis legalization in the United States may have a great impact upon illicit cannabis producers within Canada (Auriol et al., 2023; Dudley et al., 2022).

Simultaneously, we find preliminary evidence that some criminal groups may have begun transitions away from cannabis and toward the production and distribution of opiates and psychedelic mushrooms – with the former reserved in our evidence for the most complex, transnational organizations. While some studies propose that criminal agents could respond to cannabis legalization by transitioning toward other illicit substances including opioids (Meinhofer & Rubli, 2021; Xiong, 2021), the transnational nature and decades-long history of North America's present opioid epidemic suggests that the transition toward opiates may be an independent event (Keefe, 2021). Skyrocketing demand for opiates and a smaller market for illicit cannabis may have both factored into the decisions of illicit entrepreneurs, a dynamic which merits further investigation.

The contested jurisdictional status of Indigenous communities – emerging from the history of settler colonialism – adds a final feature unique to the Canadian context (Holden, 2017; Jamieson, 1999). There is widespread sentiment that Indigenous voices have not been incorporated into Canada's process of cannabis legalization, a fact acknowledged within the government's own publications (Health Canada, 2022b; Ivers, 2022). We found that each community has experienced cannabis legalization separately, with some members actively participating in the frameworks established by the *Cannabis Act*. However, some communities have seen public health and safety deteriorate as a result of cannabis legalization, with a proliferation of illicit stores and increases in violence. In some instances, relationships with organized crime have brought money and benefits to communities through rent payments and the provision of goods such as housing. This is a manifestation of a common behaviour described by Fiorentini and Peltzman (1997) whereby organized crime competes for legitimacy with established authorities.

Multiple solutions have been proposed by Indigenous communities, such as transferring control over tax revenues received from on-reserve retail locations (Health Canada, 2022b). Nonetheless, inconsistent actions of provincial governments to exercise their authority under the *Cannabis Act*, combined with federal unwillingness to supersede provincial governments, may have prolonged the status-quo in some communities across Ontario and BC. This is an important case that outlines the dynamics and ongoing challenges of Canadian federalism.

We also stress that interviewees spoke to the ongoing presence of a diverse range of actors within Ontario and BC including smaller opportunistic networks, and large, sophisticated groups – all of whom meet the definition of organized

crime. Our findings were not able to distinguish meaningfully between the impacts cannabis legalization may have had on each group. Existing scholarship might suggest that larger groups possessing wider-ranging expertise and the ability to spread fixed investments in deterrence and production equipment over multiple illicit substances have experienced greater success in the post-legalization landscape (Meinhofer & Rubli, 2021; Fiorentini and Peltzman, 1997).

## CONCLUSIONS

Emerging as a key platform commitment made during the 2015 Federal Election by the eventually victorious Liberal Party, timely implementation of recreational cannabis legalization in 2018 came to be viewed by the government as crucial to maintaining performance legitimacy (Alati, 2022). Unique Canadian institutions and challenges – especially the personal/designated production registrations and negotiating win-win solutions with Indigenous communities and provincial governments – were predestined to remain unresolved within the same timeframe. The continuity of cost-effective illicit production channels, contested jurisdictions, and uneven provincial implementation of retail frameworks (Cunningham, 2021) have had the effect of placing a ceiling on prices and profitability in legal markets, and prolonging the presence of OCGs.

Our findings are complex and indicate Ontario, BC, and Canada are endowed with relative comparative advantages in illicit cannabis cultivation and distribution. There is preliminary evidence pointing to reduced markets for illicit cannabis, especially domestically but also within the United States (Auriol et al., 2023). Our interviews suggest OCGs may have responded by gradually entering new markets, such as opiates. In parallel, production of cannabis has been more or less maintained, with points of sale shifting to new geographic markets, especially within contested domestic jurisdictions, and abroad to the United States, where full-scale interdiction remains in many states. We suggest that future research can investigate the mechanisms that may have influenced certain OCGs to enter new markets, such as opiates and psychedelic mushrooms. A more detailed survey focusing on Indigenous communities and their diverse experiences with cannabis legalization could help advance dialogue and inform win-win policy solutions.

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## CONFLICT OF INTEREST DISCLOSURES

The authors declare that there are no conflict of interest disclosures.

## AUTHOR AFFILIATION

\*Munk School of Global Affairs & Public Policy, University of Toronto, Toronto, ON, Canada.

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