

## Critical Analysis On Legalizing Marijuana

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### Abstract:

*Marijuana is a drug that has both medicinal use and adverse effects. In the last five decades, various countries have regulated marijuana use. India is a country with a population of 1.3 billion and cannabis user is 3% of our entire population. Proponents of legalization have emphasized the potential to eradicate the marijuana black market, improve quality and safety control, increase tax revenues, improve the availability of medical cannabis, and lower gang-related drug violence. Conversely, opponents of legalization have stressed concerns about cannabis' addictive potential, second-hand cannabis exposure, potential exacerbation of underlying and established mental illnesses, as well as alterations in perception that affect safety. Marijuana is an addictive substance and intertwined with the Indian culture and has a place in India's religious beliefs. In its entirety, the paper provides recommendations on the regulation of marijuana, keeping in mind the wide use of the drug and raises concern on effective regulation due to high misuse of prescription drugs.*

**Keywords:** Legalisation of marijuana, Regulation of drugs, Drug misuse, United Nation Commission on Narcotics, marijuana liberalization.

### Introduction:

Psychoactive drugs are substances that alter consciousness and affect one's mood. In a medical setting, various depressants, stimulants, and mental disorder medications are administered extensively and generally without controversy. However, when used for non-medicinal purposes, whether for recreation, creativity, social connection, performance enhancement, self-medication, or spiritual purposes, psychoactive drugs have a particularly negative reputation.<sup>1</sup>

Cannabis is a psychoactive drug extracted from the Cannabis plant. It is utilized for clinical, sporting, and otherworldly purposes everywhere in the world. The Mexican expression for cannabis is marijuana. Its significant part is tetrahydrocannabinol (THC), with 465 different mixtures and, in any event, 65 cannabinoids. Cannabinoids are those mixtures that are primarily like THC. Cannabis or marijuana can be smoked, disintegrated, devoured inside the food, or utilized as a concentrate. A

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<sup>1</sup>ADAM GREIF, Drug Laws, Ethics, and History, FILOZOFIA, 74, 2019, No 2, pp. 95 – 110

Psychoactive drug additionally alluded to as psychopharmaceutical, is a compound substance liable for invigorating mind capacities to create adjustments in disposition, consciousnesses, insight, and conduct of the client.<sup>2</sup>

The United Nations Office on Drugs and Crime (UNODC) expressed that the measure of THC decides the power of cannabis. Cannabis has three types of items blossom or natural products, tar (otherwise called hashish) and oil (hash oil). While cannabis, for the most part, contains 5% THC, the sap is fit for containing up to 20% of THC. Cannabis oil can contain over 60% THC content.<sup>3</sup>

A typical attitude towards drugs is that they ought to be prohibited and punished. The purposes behind this demeanor are taken to be self-evident, requiring no explanation. Nonetheless, support for denial and criminalization is essential; an uncalled-for strategy should not to be received, and just expressed endeavors to legitimize it tends to be evaluated.<sup>4</sup> Hence, one ought to look at the accompanying inquiry: what is the legitimization for drug forbiddance and criminalization? In the paper, the researcher limits the study on the prohibition and criminalization of Marijuana in India. The researcher also explores whether marijuana can be legalized in India.

### History of use of Marijuana in India

Marijuana has been referenced in the old sacred texts like the 'Artha Vedas' that cannabis is one of the 'five sacred plants' utilized ceremonially to accomplish daze and perform other strict exercises driving back to 2000-1400 B.C.<sup>5</sup> Ayurveda also mentions about medicinal properties of cannabis. There are three sorts of cannabis utilized in India. The primary, bhang, tip of the cannabis plant, normally burned-through as an imbue in drink structure, and shifts in strength as indicated by how much cannabis is utilized in the planning. The second, ganja, comprising of the leaves and the plant tops, is smoked. The third, called charas or hashish, comprises the resinous buds or potentially extricated sap from the leaves of the cannabis plant.<sup>6</sup>

Marijuana or ganja finds its broad mention in Hinduism and Sikhism. Cannabis is of paramount importance among followers of Lord Shiva for the purification of the soul.<sup>7</sup> It is consumed in the

<sup>2</sup>Diganth Raj Sehgal, *Legalising Marijuana : A Legal Debate*, available at: <https://blog.ipleaders.in/legalising-marijuana-legal-debate/>

<sup>3</sup>Diganth Raj Sehgal, *Legalising Marijuana : A Legal Debate*, available at: <https://blog.ipleaders.in/legalising-marijuana-legal-debate/>

<sup>4</sup>ADAM GREIF, *Drug Laws, Ethics, and History*, *FILOZOFIA*, 74, 2019, No 2, pp. 95 – 110

<sup>5</sup>Courtwright, David (2001). *Forces of Habit: Drugs and the Making of the Modern World*. Harvard Univ. Press. p. 39. ISBN 0-674-00458-2,

<sup>6</sup>ShayanDasgupta, Shayan, *Legalization of Marijuana in India* (May 6, 2013). Available at SSRN: <https://ssrn.com/abstract=2261316> or <http://dx.doi.org/10.2139/ssrn.2261316>

<sup>7</sup>Report of the Indian Hemp Drugs Commission, India: Government Central Printing House. 1894.<http://www.druglibrary.net/schaffer/Library/studies/inhemp/4chapt9.htm>. Chapter IX: Social and Religious Customs.

form of bhang during the Hindu festival of Shivratri and Holi.<sup>8</sup> Bhang is also famous among Sikh people and is referred to as Sukhinidhan. Guru Gobind Singh first prepared this. According to Indian Hemp Drug Commission Report, the consumption of bhang is an essential religious practice.<sup>9</sup>

India's British Government denied the utilization of cannabis gum (charas) in India during the 1930s that prompted the start of the decrease in the development and use of cannabis sativa in India.<sup>10</sup> Regardless of its numerous business and individual uses, the plant discovered its way in the rundown of things prohibited under the Narcotic Drugs and Psychotropic Substances Act, 1985.

The underlying foundations of the cannabis boycott in India have its underlying foundations in the US. One may have seen how states in the United States of America currently sanction cannabis for sporting and therapeutic purposes; the case was not distinctive around 60 years prior. During the 1960s, America ran a mission to force a prohibition on marijuana. As per Article 28 of the Single Convention on Narcotic Drugs, 1961, cannabis was put under the category of substances highly regulated by the signatory state. As per the convention's decisions, only licensed personnel can cultivate or deal in the Cannabis plant.

Although the explanation for the ban was recorded as to control the utilization of drugs and incorporation of coordinated crimes in the development and appropriation of narcotics, it is accepted that one reason behind the boycott was the conceivable industrial uses of the plant. A few specialists accept that as the plant was cheap to produce, it was difficult to sell items made out of it at a more exorbitant cost making it less beneficial for corporate.

India was not a state party to 1961 the Single Convention on Narcotic Drugs. Hence, it was not obligated to prohibit narcotics, including marijuana. Nevertheless, under the influence and political pressure of United States, the India came up with legislation that banned charas, ganja and hashish and any combination of these products in 1985. The legislation is called the Narcotic Drugs and Psychotropic Substances Act.<sup>11</sup>

### **Arguments for criminalizing marijuana**

<sup>8</sup> Report of the Indian Hemp Drugs Commission, India: Government Central Printing House. 1894.<http://www.druglibrary.net/schaffer/Library/studies/inhemp/4chapt9.htm>. Chapter IX: Social and Religious Customs.

<sup>9</sup> Report of the Indian Hemp Drugs Commission, India: Government Central Printing House. 1894.<http://www.druglibrary.net/schaffer/Library/studies/inhemp/4chapt9.htm>. Chapter IX: Social and Religious Customs.

<sup>10</sup> Sharda N Bapat, Cannabis: the forgotten sacred plant of India, Atreya Ayurveda Publications

<sup>11</sup> <https://blog.ipleaders.in/legalising-marijuana-legal-debate/>

The International Classification of Diseases and Diagnostic and Statistical Manual of Mental Disorders has grouped cannabis as an addictive substance, equipped for causing reliance issues. Though only 9% of the marijuana addicts become clinically dependent on the drug but much higher percent i.e., 71% of the users who try to quit marijuana, are unsuccessful due to severe withdrawal symptoms. Withdrawal symptoms include peevishness, insomnia and dysphoria.

Cannabis has terrible effects on epilepsy and sclerosis and induces epilepsy and sclerosis in various cases. Though studies done on this aspect are less still, marijuana poses a significant threat.

Marijuana are at a more serious danger of being determined to have persistent mental health problems, including schizophrenia. Cannabis addicts regularly show weakened neural network. Smoking cannabis builds the danger of bronchitis and pneumonia. Studies propose that it likewise causes lungs and increased chances of other cancers.<sup>12</sup>

Colorado legalized Marijuana in 2012. The Department of Public Health and Environment of Colorado set up a panel to survey the impact of cannabis. It was discovered that marijuana could cause malignancy, cardiovascular sickness, lung infections, hindered wellbeing in youths, and regenerative wellbeing issues. The report discovered solid proof which proposes that the sanctioning of cannabis may prompt an augmentation in the unexpected utilization of cannabis by kids. Further, the smoke/utilization of weed by pregnant ladies could hurt the youngster. In spite of the discoveries, the advisory group was unsatisfied and proposed examination to comprehend the impacts better. The government of Colorado, after the reports of the survey, proceeded to legitimize marijuana.<sup>13</sup>

As a consequence of marijuana legalization, Colorado witnessed a significant rise in poison control cases, due to marijuana exposure. Fatalities caused due to road accidents among drivers who consumed cannabis increased to 153%. The country did not see any rise of marijuana users among younger people but use of cannabis among adults increased manyfolds. Twenty-two percent of school expulsions and 24 percent of law enforcement referrals in schools were due to marijuana.<sup>14</sup>

In the Indian context, there is a persistent problem of misuse of prescription drugs. In 2019 a survey was conducted by the All India Institute of Medical Sciences in 2019, around

<sup>12</sup> <https://blog.ipleaders.in/legalising-marijuana-legal-debate/>

<sup>13</sup> <https://www.civilized.life/articles/history-of-marijuana-in-colorado/>

<sup>14</sup>

7.2 million people used cannabis in the previous year. In a survey conducted by Ministry of Social Justice and Empowerment survey, thirty-one million people are drug users in India. Most of them are adolescent people. There is a severe concern about the regulation of cannabis in a country where even prescription drugs are widely misused.

India is combating the other toxic substances like liquor, tobacco, and areca nuts as of now. As indicated by the Global Adult Tobacco Survey, 1.35 million Indians die from tobacco consumption each year. The sanctioning of cannabis would add to the problems as opposed to diminishing it. As young people are among the most vulnerable section, accessibility of drug will lead to a grave situation. A population that is still snarled in the traps of alcohol and tobacco, legalisation of another drug could only do so much.<sup>15</sup>

### Arguments for Legalising Marijuana

Prohibition makes illegal drugs stronger and more potent.<sup>16</sup> Prohibition of alcohol in the United States in 1920- 1933 resulted in a decrease in alcohol consumption initially but gradually increased. Alcohol turned out to be more hazardous to consume; crimes increased and became "organized." The prohibition has a shockwave effect on the court, and prison frameworks were extended to the limit, and corruption among public officials increased manifolds. No quantifiable increases were made in profitability or diminished truancy. Disallowance eliminated a critical wellspring of expense income and essentially expanded government spending. It drove numerous consumers to change to opium, pot, patent meds, cocaine, and other hazardous substances that they would have been probably not going to experience without preclusion.<sup>17</sup>

Multiple studies show stricter laws do not affect deterrence in the case of the use of marijuana. A study done by Alex Stevens, professor of Criminal Justice at Kent's School for Social Policy, Sociology, and Social Research, found no correlation between more authoritarian policies and reduction in the number of cannabis users among teenagers.<sup>18</sup> Another study in 2018 called the 2018 Cannabis Price Index by ABCD made a special revelation that Delhi has the third highest

<sup>15</sup> <https://blog.ipleaders.in/legalising-marijuana-legal-debate/>

<sup>16</sup> <https://fee.org/articles/how-prohibition-makes-drugs-more-potent-and-deadly/>

<sup>17</sup> Mark Thornton, Cato Institute Policy Analysis No. 157: Alcohol Prohibition Was a Failure, Available at: <https://www.cato.org/sites/cato.org/files/pubs/pdf/pa157.pdf>

<sup>18</sup> Alex Stevens. **Is policy 'liberalization' associated with higher odds of adolescent cannabis use? A re-analysis of data from 38 countries.** *International Journal of Drug Policy*, 2019; 66: 94 DOI: [10.1016/j.drugpo.2019.01.013](https://doi.org/10.1016/j.drugpo.2019.01.013)

cannabis users than Amsterdam, where cannabis is legal for recreational purposes, which is in 56<sup>th</sup> position.<sup>19</sup>

Legalising marijuana would lead to regularising CBD level, which is injurious and the main reason for prohibiting marijuana. The same policy is followed in most states of the United States of America, where only marijuana extracts with certain limits are allowed. Kentucky also gone to the extent of allowing cannabis but altogether banned THC from the extract of the cannabis.

It is generally believed that cannabis works as a gateway for users of other harder drugs.<sup>20</sup> Marijuana exposes users to other drugs and substances under peer pressure or just for recreational purposes.

Study shows that 45% of marijuana users have ingested some other unlawful medications sooner or later. The study suggests that legitimizing marijuana could build up this pattern as though more youngsters attempt lawful marijuana, and they may wind up putting in more harmful drugs.<sup>21</sup> However, the actual gateway to drugs comes in significantly sooner. Research showed that tobacco items could go about as addictive substances, making way to utilize unlawful drugs. The probability of starting the use of tobacco or other lawful drugs before utilizing illegal drugs is a lot more prominent than the contrary observation. A report recommends that only a tiny percent of users of both tobacco and cannabis revealed having utilized cannabis before tobacco.<sup>22</sup>

## Conclusion

Marijuana legitimizing policies have been developing for the past five decades. Nevertheless, the overall scientific evidence of the impact of these policies is widely believed to be inconclusive. The United States of America was of the most prominent advocates for classifying cannabis as a dangerous drug. Today, most of the states in the United States of America legalised the recreational use of cannabis, and some allow it for medicinal use. In South Asian countries like Thailand, South Korea has followed the footsteps of United States and legalised medical use of cannabis in 2019. Japan went forward and approved trials for cannabis compound Epidiolex, which can be used for treating epilepsy.

<sup>19</sup> <https://www.news18.com/news/buzz/delhi-is-the-third-highest-consumer-of-cannabis-in-the-world-finds-new-study-2302987.html>

<sup>20</sup> <https://www.theguardian.com/science/sifting-the-evidence/2015/mar/03/is-cannabis-a-gateway-drug>

<sup>21</sup> Secades-Villa, R., Garcia-Rodríguez, O., Jin, C. J., Wang, S., & Blanco, C. (2015). Probability and predictors of the cannabis gateway effect: a national study. *The International journal on drug policy*, 26(2), 135–142.  
<https://doi.org/10.1016/j.drugpo.2014.07.011>

<sup>22</sup> <https://www.nih.gov/news-events/nih-research-matters/why-nicotine-gateway-drug>

United Nations Commission in December 2020 classified cannabis as a less harmful drug. The resolution was taken through a vote by the Commission for Narcotic Drugs, after considering suggestions provided by the World Health Organization on classifying cannabis and its derivatives. Nevertheless, attention centered on a critical recommendation to remove cannabis from Schedule IV of the 1961 Single Convention on Narcotic Drugs. It was listed alongside perilous and highly addictive narcotics like heroin.<sup>23</sup>

Portugal and 25 other countries have gone to the extent of decriminalizing the drug. Drug use is treated as a health issue rather than a crime. Portugal complemented its decriminalization policy by allocating more significant resources across the drugs field, expanding and improving prevention, treatment, harm reduction, and social reintegration programs.<sup>24</sup> Portugal has seen a sharp decrease in drug overdose cases with the shift of ideology.<sup>25</sup> Following Portugal Malaysia's Health Minister Dzulkefly Ahmad that "there should be decriminalization of drugs," marking a change of stance. He noted that though drugs "destroyed many lives, wrongheaded governmental policies have destroyed many more."<sup>26</sup>

India can endeavor to regulate drugs and treat drug addiction as a health issue. Regulation can lead to awareness among people and reduce the use of more harmful cannabis among people. India was advancing herself, with India voting to reclassify cannabis as a less harmful drug in the United Nations Commission on Narcotic Drugs in 2020.

<sup>23</sup> <https://www.nytimes.com/2020/12/02/world/europe/cannabis-united-nations-drug-policy.html>

<sup>24</sup> Stevens, A. (2012) 'Portuguese drug policy shows that decriminalisation can work, but only alongside improvements in health and social policies', LSE European Politics and Policy Blog, 10/12/12.

<sup>25</sup> <https://transformdrugs.org/blog/drug-decriminalisation-in-portugal-setting-the-record-straight>

<sup>26</sup> <https://agfundernews.com/a-mini-guide-to-cannabis-in-asia.html>