



ILLE

MONTHLY REVIEW

VOLUME 1 AND ISSUE 5 OF 2023

INSTITUTE OF LEGAL
EDUCATION



ILE MONTHLY REVIEW

(Free Publication and Open Access Journal)

Journal's Home Page – <https://mr.iledu.in/>

Journal's Editorial Page – <https://mr.iledu.in/editorial-board/>

Volume 1 and Issue 1 (Access Full Issue on – <https://mr.iledu.in/category/volume-1-and-issue-5-of-2023/>)

Publisher

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LEGALIZATION OF MARIJUANA

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Best Citation - PRACHI SHUKLA, LEGALIZATION OF MARIJUANA, ILE Monthly Review, 1 (5) of 2023, Pg. 49-53, ISBN - 978-81-961828-8-5

ABSTRACT

Marijuana, also known as cannabis and by many other names, which comes from the cannabis plant, is a psychoactive drug. The cannabis plant is native to Central or South Asia and its use has originated in Central Asia or Western China. The cannabis plant has been used since millennia as a drug for both purposes i.e., recreational and medicinal. Also, it has been in use for enteogenic purposes since centuries. Following alcohol and tobacco, marijuana or the cannabis has been among one of the most used psychoactive drugs worldwide since the late 20th century. Composed of more than a hundred compounds called- cannabinoids in the cannabis plant, the compounds contain "Tetrahydrocannabinol" (THC), and also consist of "Cannabidiol" (CBD) respectively. There are various mental and physical effects of cannabis or marijuana such as- changed state of mind, increase in appetite, euphoria, trouble in concentrating, and loss of sense of time, feeling light and relaxed, lack of normal movement of the body, short-term memory loss, and many more. The effects of marijuana differ depending on the amount consumed, the strength and the medium in which it is taken, and the user's experience. It is to be noted that the international trade in marijuana under the control took place under control for the first time during the International Opium Convention of 1925. It was in the late 1960s that most of the countries by that time had enforced several limitations on the use and trafficking of marijuana including the imposition of severe penalties in case of possession, or sale, or supply depending on the quantity of the same. In this article, we will go through the

various aspects about the legalization of marijuana, especially in the Indian context.

KEY WORDS:- Marijuana, India's legal framework, global position, recreational/ medicinal use, scope of legalizing.

Introduction

Cannabis is the generic term which is used to signify the various psychoactive preparations of the Cannabis Sativa plant and the term "marijuana" is often used frequently to refer to the leaves and other plant material of the cannabis plant. All over the world, cannabis is the most widely used, cultivated and trafficked illicit drug. Globally, nearly 140 million people (on an annual basis) consume cannabis. As per the World Drug Report of 2020, approximately 192 million individuals consume marijuana frequently⁸¹. The International Classification of Diseases and the Diagnostic and Statistical Manual of Mental Disorders indicate cannabis as a substance causing addiction that has been recognized to have dependence disorders⁸². Also, marijuana has its withdrawal symptoms in case of those who are frequent consumers of the same. In severe conditions its consumption may even lead to lung diseases, cancer, impaired reproductive health disorders, and many more. On the other hand, marijuana has some positive effects too. Thus, the demand for legal marijuana since many decades has been increasing and is the primary reason for the growth of this market. Gradually, several countries are legalizing the use of marijuana for medicinal purposes. The substance (marijuana)

⁸¹ <https://www.who.int/teams/mental-health-and-substance-use/alcohol-drugs-and-addictive-behaviours/drugs-psychoactive/cannabis>.

⁸² Concerns in Marijuana Legalization, 26th Jan., 2019, <https://www.iasparliament.com/current-affairs/concerns-in-marijuana-legalization>.

has proved to be effective in the treatment of various diseases, such as- nausea, Alzheimer's, chemotherapy, etc. Uruguay, USA, South Africa, Australia, Canada, Georgia, Mexico are among those countries who have legalized the recreational consumption of cannabis. The first country all over the world to legalize the use of cannabis is Uruguay, in 2013. Designating a legal status to marijuana has its own pros and cons, or we can say advantages and troubles, which a country may deal with in case of its legalization. The reports concerning the usage of cannabis in India have been known to come from the Atharva Veda, as earliest as in 2000-1400 BCE⁸³. In the very recent decades there has been a high tide of cannabis legalization all around the globe based on the commercial as well as medicinal utilities of the same. The topic of legalization of marijuana is debatable depending on the category of usage i.e., recreational or medicinal. Several countries have legalized the medicinal use of marijuana and not the recreational one, and other countries have legalized both its recreational and medicinal use. While many countries have not even legalized the use of it for medicinal purposes.

I. Marijuana and India's Legal Framework

:- The central law which deals with marijuana (cannabis) in India is the Narcotic Drugs and Psychotropic Substances Act, 1985. However, the states in India have their separate laws regarding the governance of the same be it for possession, usage, buying or selling. Till date, marijuana or weed has not been provided a legal status in India. In India, the possession of such narcotics is a criminal conduct. The manufacture and sale of the cannabis resin and its flowers is forbidden by the NDPS Act. But the seeds and leaves of this plant can be used as it is legal within states that are authorized for the regulation and implementation of rules of the state and such authority has been provided to the states under Section 10 of the NDPS Act.

Any person in possession of such plant parts is liable to be arrested.

As per the NDPS Act, marijuana or cannabis is not completely banned and thus it can be used for several purposes such as scientific, horticulture, medical and industrial purposes after taking the permission from the concerned state governments. Uttarakhand became the first state in India to legalize farming of hemp for commercial purposes. Following this, there are several other hilly states, (like Arunachal Pradesh) that are gradually considering the permission regulating the production of marijuana and hemp as it is a source of income for the people residing in the hilly areas due to its geographic conditions of growth. Marijuana is legal in Odisha. The Assam Ganja and Bhang Prohibition Act, 1958 prohibits the possession, consumption, purchase and sale of bhang and ganja which are a form of marijuana. Under the Bombay Prohibition Act, 1949 the possession, or manufacture, or consumption of bhang and substances consisting of bhang without a license is illegal.

In India, at present there are three statutes existing that ascertain punishment in case if a person is caught carrying marijuana or weed:- The NDPS Act, 1985; The Juvenile Justice (Care and Protection) Act, 2000; and the state laws of the respective states in India. Under Section 20 of the NDPS Act, 1985 the sale, production, transportation, purchase, inter-state export or import, any sort of commercial activity is illegal. Any person in possession of marijuana or any other drug is liable to be arrested and the intention has no relevance in such cases, thus the punishment is to be ascertained by the quantity in possession. In other words, according to the NDPS Act, the fulfillment of the two essentials of crime- actus reas and mens rea is not mandatory and what really matters is only the actus reas in order for the prosecution of a person under the Act. If anyone allows the use of his/ her property for cultivation then under Section 25 of the Act he/ she will be liable

⁸³ Concerns in Marijuana Legalization", 26th Jan., 2019, <https://www.iasparliament.com/current-affairs/concerns-in-marijuana-legalization>.

for same penalties as are provided under Section 20 of the Act⁸⁴.

As far as the possession is concerned the punishment is dependent upon the quantity in possession i.e., small quantity and commercial quantity. For possession of small quantity, the punishment is rigorous imprisonment up-to 6 months, or a fine of Rs. 10,000, or both. A person in possession of more than a small quantity but less than a commercial quantity is rigorous imprisonment up-to 10 years, or a fine of Rs. 1 lakh, or both. Person in possession of commercial quantity is rigorous imprisonment up-to 10 to 20 years, or a fine of Rs. 1 to 2 lakh, or both. Anyone engaged in cultivation of cannabis plant is liable for imprisonment for a term which may extend to 10 years and fine extending up-to 1 lakh rupees.

An exception under the NDPS Act is bhang which is a form of marijuana. Bhang is legal as well as acceptable on a social platform in India. The Hindu scriptures and mythology help us trace the usage of bhang as well as several forms of cannabis at some or the other point, thus, being the one among five sacred plants and used in place of penicillin in Ayurveda, as per the Atharva Veda.

II. Nations that Legalized Weed

- A. Uruguay:-** The first country ever, all over the world to legalize marijuana for recreational usages is Uruguay. The people who are above the age of 18 years would have to ensure their formal registration with the government before the purchase, sale, cultivation, etc. Since 2019, marijuana has been made available for commercial purposes as well in Uruguay.
- B. Canada:-** In Canada, the consumption of marijuana is allowed for both purposes i.e., recreational as well as therapeutic purposes. Those who are of 18 years of age and above have the

permission of possession of cannabis up-to 30 grams, be it in a dried or a non-dried form. As far as the sale of cannabis is concerned, just those producers and retailers who have the license for doing so, have the permission for sale.

- C. Netherlands:-** Taking marijuana to one's own house is illegal but one can consume it out of the house i.e., in a restaurant or a coffee shop. This is the condition or we can say- the status of legalization of marijuana in Netherlands. The sale of cannabis is allowed in Netherlands as it is not punishable, till the sellers obey the restrictions like- not making a public nuisance.
- D. South Africa:-** In 2018, the possession, cultivation and consumption of marijuana was legalized in South Africa. On the other hand, utilizing a place for consumption or selling of marijuana, out of one's house, is illegal yet.
- E. Spain:-** In Spain, a person is not liable for any punishment or penalty if he/ she consume/ smoke marijuana in his/ her own home or on his/ her private land. It clearly exhibits that the consumption or usage of marijuana in public is illegal.
- F. USA:-** The consumption or possession of cannabis, irrespective of its reasoning is illegal under the Controlled Substances Act (CSA), 1970. According to the CSA Act, cannabis is categorized as a substance under Schedule I of the Act. The Schedule I substance means that it has a great potential of abuse and no medical advantages, thereby causing medical usage of the substance to be illegal. While the state laws and policies on the use of cannabis for both recreational and medical purposes largely differ, thus leading to conflict in federal law and the policies of various states in the USA. Among 51 states in the USA, 18 states legalized the usage of marijuana for recreational purposes, whereas 37 states are such which have

⁸⁴ Anvita Bharadwaj, "Is Weed Legal in India", 13th March, 2022, <https://blog.ipleaders.in/is-weed-legal-in-india/>.

permitted the medicinal usage of marijuana on prescription of a doctor⁸⁵.

III. Scope of Marijuana Market and its Legalization

There is a rapid growth in the cannabis market, globally. A large number of businesses are now engaged in this industry as there has been an increase in demand for the cannabis plant and its parts. The demand of cannabis is higher than ever before both for recreational as well as for medicinal purposes. The higher demand of cannabis for recreational activities is due to the enjoyable and euphoric experience they offer. People use marijuana or cannabis for recreational activities because it provides them relief from their stress and anxiety, and offers a relaxed state of mind and body. Marijuana is one of the most known drugs used for recreational purposes. Owing to its psychoactive effects due to its ingredient- THC, people prefer buying and consuming marijuana or cannabis for themselves and for enhancement of any special occasion/ gatherings/ meetings. However, recreational use of marijuana or the cannabis has its own side-effects, and even withdrawal symptoms on a person's health and well-being.

There is a steady growth in the demand of cannabis products that have been well-known owing to their medicinal goodness. A number of companies are waiting in the queue for their capitalization based on the rising demand of marijuana and other cannabis products. These companies are involved in developing therapies based on one of the compounds of cannabis i.e. cannabinoids, for treating various severe diseases related to the central nervous system; epilepsy; other neurological disorders; and many other ailments⁸⁶.

In India, legalization of weed or marijuana would bring in a lot more tax revenue. It is a rich crop,

i.e., high in monetary value. Moreover, there would be generation of employment once the government regulates it. It would lead to job creation. So, one good reason for legalization is the potential economic benefits of marijuana's regulated commercial availability. Increased tax income, employment creation, and investment opportunities are all compelling reasons to support legalization. The environmental benefits of de-criminalization of weed or marijuana cannot be ignored. Not only can we use the plant for medicinal purposes, but we can also use it to replace over 50,000 products currently in use in society that cause an entire chain of environmental harm from extraction to processing to manufacturing to transportation to consumption to disposal and recycling into eco-friendly, biodegradable, renewable alternatives.

Conclusion

Globally, several nations have adopted the usage of marijuana or weed or cannabis for recreational and medicinal purposes as well. Indeed, marijuana has many set-backs but on the other hand its benefits cannot be overlooked. The governments of the countries all around the globe need to emphasize more on the positive aspects of legalizing weed or marijuana because its legalization will address several issues that have been constantly revolving around it since decades. Legalization is supposed to regulate the marijuana markets and thus, will not be a gateway drug. Once it is legalized it will be feasible to carry-out research work and experiments regarding its effects on public at large and then only we would be able to ascertain the true facts about its usage or consumption. The issues associated to fungus and mould with regard to the usage of crude marijuana would be significantly identifiable because after the formation of rules and procedures regarding the regulation of marijuana use, there will be designated authorities to tackle these problems.

The recognition of a legal status is also supposed to generate employment for the

⁸⁵ Anvita Bharadwaj, "Is Weed Legal in India", 13th March, 2022, <https://blog.ipleaders.in/is-weed-legal-in-india/>.

⁸⁶ Legal Marijuana Market Size, Share & Trends Analysis Report by Product Type, By Application, By Region, And Segment Forecasts, 2023-2030", ID: SQMIG3512060, April 2023, <https://www.skyquestt.com/report/cannabis-market>.

cultivators in the hill-side regions as its growth and cultivation actually require those geographic and climatic conditions which the hilly areas already have. Gradually, the countries across the globe have begun to recognize the use of marijuana rather than its abuse, which is why the demand for its legalization is growing at a rapid pace. Many countries have already legalized the usage of marijuana for its medicinal properties. Another big reason for its legalization is that it will increase tax revenue. A number of startups are now concentrating on the alternate use of marijuana other than only recreational or medicinal use. Last but not the least, with so much of positive notes with regard to the legalization of marijuana and the revolution that it can bring, we cannot and must not rely just on the ill-effects that it can cause. In fact, there is more harm until it receives a legal status as the users will continue to consume, avail and traffic marijuana illegally, thereby bringing-in more trouble for themselves and others. At least, after being legalized there will be proper established rules and procedures for the regulation of its use, consumption, commercialization, sale, purchase, export/ import which would gradually create a less criminalized and more disciplined and regulated framework to deal with marijuana and its various aspects in the countries where it will be legalized according to their laws.

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