

"CANNABIS LEGALIZATION AND PUBLIC HEALTH: ASSESSING THE RISKS AND BENEFITS"

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Abstract - In India, the Narcotic Drugs and Psychotropic Substances Act, 1985 criminalizes the use, possession, sale, and other commercial dealings of cannabis. This stand is taken even when elements like bhang present as a grey area of the NDPS Act, as the same is not deemed illegal. This raises the question of whether cannabis in general should be legalized in the nation. This discussion explores the Indian laws pertaining to cannabis, along with exploring the debate on the legalisation of cannabis.

Keywords: cannabis, Marijuana, weed, law, legalized marijuana, India, decriminalize cannabis, NDPS, addiction, car crash, fire.

INTRODUCTION

Cannabis, also referred to as weed or marijuana, is a psychoactive substance, which is often read in equivalence to a sin or bad thing. Due to the addictive nature of cannabis, along with the overall impact it has on the health of a person, it has generated a negative image. Yet, there are nations like Canada, Uruguay and South Africa, including certain states of the USA, where marijuana is considered legal. Nations like Brazil, Italy, Australia, Switzerland, and Belgium have decriminalized it. India adopts a different approach as the Narcotic Drugs and Psychotropic Substances Act, 1985 makes it illegal. Based on this law, a person can be fined ₹10,000, and can also be sentenced to imprisonment, which can range from six months to one year. However, considering the global change towards acceptance of cannabis, one does question if the Indian stand is correct or a harsh approach. The present work explores the debate of legalisation or decriminalisation of cannabis, to the stark opposite situation, where it is deemed as illegal. In doing so, the legal stand taken by India will also be scrutinized. Once this is done, the discussion will conclude with the insights from these learnings.

Law in India

In India, the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as NDPS Act) is the main law that pertains to cannabis. This being said, there are state laws as well, which regulate the consumption, sale, purchase, and possession of cannabis. The Indian stand criminalizes the possession of cannabis, which can prove disastrous for a person. However, there are some grey areas in Indian law. The prime one is that the famous substance known as bhang is not illegal from the point of the leading legislation. The Chandigarh High Court, in *Arjun Singh vs the State of Haryana* 2005 CriLJ 253, stated that bhang cannot be deemed as cannabis, as a result of which the provisions of the NDPS Act were not applicable to its consumption. Moreover, eating bhang is not illegal in the nation. This is derived from the need to align with Hindu beliefs, wherein Lord Shiva has been seen to consume bhang on a frequent basis. The religious attributes of cannabis thus allow for the grey areas in the law to make way.

In short, the definition of cannabis given under the NDPS act does not cover bhang as a component of cannabis, under section 2(iii) or 2(iv) of this act. Also, whilst the act prohibits the manufacturing and sale of flowers and resin of cannabis, it does not do the same for the use of cannabis seeds or plant leaves. This area has been left to the states to regulate, through the rules created by such states, and to be implemented within such states. The authority for the same is given to the states based on section 10 of this act. Apart from this, it is worth mentioning that there is no blanket ban on the consumption of cannabis based on the leading legislation. There are cases where cannabis can be used, without attracting criminal charges. These are the cases involving medicinal, industrial,



scientific and horticulture purposes. However, in order to undertake these, there is a need to obtain the relevant permits from the state government. For instance, in Odisha state, one can freely enjoy 'chillum', which is a type of cannabis, which shows that cannabis is legal in the region. Commercial hemp farming has been legalised in Uttarakhand. As against this, the Assam Ganja and Bhang Prohibition Act, of 1958 prohibits the use, possession, sale, and purchase of bhang and Ganja. Under the Bombay Prohibition Act of 1949, in Maharashtra, there is a need for a license for the consumption, manufacturing, and possession of bhang and bhang-containing material.

Despite the criticism points or the loopholes in the Indian stance regarding cannabis, it can be stated that the status overall is illegal. This can be strengthened by the fact that if a person is caught with weed, they can be punished under the NDPS Act, the state laws, and even the Juvenile Justice (Care and Protection) Act, of 2000. It is worth noting here that based on section 20 of the NDPS Act, the sale, purchase, production, and any kind of commercial activity undertaken with cannabis is deemed unlawful. In fact, the mens rea or the intent element is not even deemed relevant. Merely showing the actus reus being present is sufficient to attract the applicability of this section. Sections 27, 28, and 29 also are relevant in this context.

Debate on Legalisation/ Decriminalization of Cannabis

The debate on the legalisation or decriminalisation of cannabis is not a new one. From the time when Uruguay became the first country to legalize it, it has been a point of criticism, opposition, support, and turmoil. Before forming any opinion on whether this move by Uruguay and Canada was correct, or that the Indian stand is better, it becomes important to understand both sides of this debate. This section explores this debate, presenting the ideology behind legalisation, and the case against such legalisation.

3.1. Supporting Legalisation

In order to understand this debate, it becomes crucial to understand why nations like Canada have legalised cannabis in their jurisdiction. The prime reason is deemed to be the possibility of generating revenue from the legalisation. Considering the size of Canada, the legalisation seemed like a good option for the policymakers, with a view of increasing the revenue of the nation. In the absence of such legalisation, the usage of cannabis was not curtailed. The reports have shown that 43% of the people of Canada have used cannabis in their life, at least one time. The curtailment being a difficult job it a good avenue to legalise it, as it allows the government to regulate the sale and use of cannabis. Apart from that, this also generates revenue for the nation. The permits and taxes linked to cannabis have proven to be a good source of income. This can be reflected in the \$43.5B that was added to the Canadian economy post the cannabis legalisation. Further, there have been studies that demonstrate that cannabis does have medicinal properties as well, which proves to be the other point of consideration towards its legalisation. This approach is reflected in the ideology of nations like the US, where the citizens favoured the legalisation of cannabis for medicinal and recreational purposes. The supporters of this notion were 91% of the citizens of the US, while merely 8% opposed it. In addition to these points, there is also the stance that the legalisation of cannabis can help in safeguarding the misuse of the same. An example of this can be seen in Canadian legislation where the legalisation comes with specified protective provisions that safeguard the children and the youth. These have been kept along similar lines to the access to alcohol and tobacco. Within this legislation, the focus has been on public health. Therefore, the legalisation of cannabis does prove to be a smart decision.

3.2. Opposing Legislation

The stance of supporting the legalisation of cannabis does seem worth consideration. However, before reaching any conclusive state and deeming the Indian stance incorrect, there is a need to look at the other side of this debate as well, which pertains to the case against cannabis legalisation. To begin the opposition, one can refer to the most obvious demerit of this drug, which is the harm that it causes to infants, children, and youth. Despite the attempts to legalise cannabis, the results have not been very effective. There have been scholars who have shown that there has been a noted increase in the consumption of cannabis between the ages of 15 to 24 years in Canada. In fact, this is the highest consumption rate across the globe. Furthermore, this study has also showcased that



cannabis poses a bad impact on the physical, as well as the mental health of the young ones. Such negative impact has led groups like the American Academy of Paediatrics to be on the opposite side of the legalisation of cannabis. Apart from this, there have been other studies that showed that 75% of the children between the ages of one month to two years, having parents that consumed cannabis, had COOH-THC in their urine. Other statistics show that out of the individuals who did consume cannabis, 9% got addicted to it. During teenage, there has been a noted growth in this number, in which cases, out of six, one becomes addicted, and 50% or more started the consumption of cannabis on a daily basis. The so-called modern way of using this product through vaping, which is labelled as a safe way of consuming cannabis, also brought the possibility of addiction. The studies have clearly demonstrated that the consumption of cannabis proves to be futile for a big chunk of the public, specifically because it puts the youth and children at a higher risk. The result of this pushes the case against the legalisation of cannabis, specifically to protect the youth and children, as legalisation has not proved very helpful.

The opposition to the legalisation of cannabis does come with other strong points as well, which can be noted in the use and burn injuries that have been linked to its consummate. Butane Hash Oil (hereinafter referred to as BHO), is a concentrated tetrahydrocannabinol (THC) product. The cannabis plant product production results in being presented, once it is distilled with the pressurized butane. Scholars have highlighted a range of cases linked to burn injuries associated with BHO production. There have also been noted increases in flash burns that could be attributed to BHO production in regions including Colorado, where cannabis has been legalised. The extraction of cannabis in areas including homes and non-commercial zones proves dangerous owing to poor ventilation in the manufacturing areas, which are born from the accumulation of butane vapour. When the concentrated THC is inhaled, it presents a key safety issue, and this very aspect is also present during the production of BHO. There is also the factor of homemade product contamination, which increases the psychosis and addiction risks as there is a higher concentration of vapours of THC in such areas. Then there is the highly flammable and volatile nature of butane that poses a security threat when BHO is produced in areas like homes, resulting in cases of explosions, fires and severe burns. Therefore, the health of the general public is put at a high risk, resulting from the explosions and burns, linked to cannabis production. Continuing with the case against the legalisation of cannabis, there is the issue of the impact that it causes at workplaces. In recent years, there has been a noted increase in cases of cannabis use disorder. With the use of cannabis, a person can get psychiatric conditions like substance use disorder, personality disorder, and anxiety disorder. Although, there have been studies that depict that when used in a controlled environment, the use of cannabis is reasonably safe. However, the case remains a vigilance point for employers, as they have to ensure the safety of their employees at the workplace. This requires picking out people who show the symptoms mentioned herein. The use of drugs like cannabis and its associated results are thus required to be taken into consideration, from the point of its frequency, dosage, administration, pharmacokinetics, and risks linked to it in specific work settings. This is specifically true for such work areas that demand cognitive skills owing to the sensitive or safe nature of their work or such workplaces, for instance, where a heavy vehicle is to be operated with safety. The need in such cases is to have a person who has good and sharp capabilities like thought-processing, judgement, insights, multi-tasking, perception, reaction time, alertness, memory, coordination, and coordination. All of these can be impacted or impaired with the consumption of cannabis. This requires employers to look at for employees who can pose a risk to themselves and others at workplaces through cannabis consumption, albeit done within the legal paradigm.

To counteract the point made in the legalisation of cannabis with revenue generation, one can look at the costs associated with cannabis consumption. In one of the studies, it was shown that with cannabis smoking, there are increased chances of motor vehicle accidents, and this is doubled with such consumption. The cases of acute cannabis consumption can be linked to fatal collisions, which proves that cannabis consumption increases the chances of motor vehicle accidents. In this context, the statistics from the US can be looked at. In 2014, 84.3% of the drivers of Washington had tested positive for THC and cannabinoids. For 2010, the statistics showed this figure as 44.4%. In 2014, 75



drivers were involved in fatal crashes, where they had THC in their system, and over half of them had it beyond the prescribed limits. Canadian statistics paint an uglier picture. Between 2000 to 2012, the number of fatally injured drivers showed an increment from 12.8% to 19.7%. The estimated cost of traffic collisions for 2012 was approximated to \$1.09 billion arising from cannabis consumption, where 59% of the cost, i.e., \$643 million was attributed to the drivers. In a recent study, cannabis use showed a correlation with car crashes in the backdrop of acute cannabis usage. This showed that with cannabis consumption, the drivers had impaired driving skills, resulting in higher car crashes. The ones on the road were thus put at risk when allowed to consume cannabis. The lasting impact that comes with cannabis also raises the chances of fatal accidents. Therefore, to make certain that people on roads are safe, the legalisation of cannabis seems like an input move.

CONCLUSION

Overall, in conclusion, it can be summated that the Indian stance is against cannabis legalisation. The NDPS Act, along with the other relevant legislation covered in previous parts, showcases that commercial acts with cannabis are punishable by the law. Albeit there is the grey area of bhang, which is not punishable owing to the religious factors attributed to it. However, the provisions set out under the NDPS Act make it clear that the dealings or holding of cannabis will be punished. This is even when the person did not intend to sell or hold it, and mere possession is enough to be deemed criminal. One could beg the stance of legalising it based on the merits discussed in previous parts. However, the demerits given in detail, especially in the context of jurisdictions that legalise cannabis, make the case strong against its legalisation in India. Even if an attempt is made to legalise cannabis in India, it will be a futile one. This is because the current stand requires reforms, for its effective implementation. Once that is done, a system could be brought out to legalize this drug. The dire need for reform that awaits the drug management system of the nation is the root of this claim. In 2019. Over 72,000 people had been arrested based on the provisions of the NDPS Act. In order to punish these people, it would add up to the burden that has already crumpled the courts of the nation. The slow pace of judicial reforms therefore needs to be at the forefront before the actual theme of the NDPS Act is upheld. With the loopholes like "Big Bhang", the pitiful situation is merely underlined. Nonetheless, given the state of Indian states, it is better to continue with the present stance and to continue deeming cannabis as unlawful.

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