DECRIMINALIZING MARIJUANA: UNDERSTANDING MARIJUANA DEBATE THROUGH HISTORY AND POLICY

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Abstract

The globalization of the world by easy transportation and communication enabled the distribution of drugs to anywhere in the world. Among many drugs, marijuana has an exceptional place with being the most abused drug in many countries such as the United States of America and the United Kingdom. Particularly, marijuana use is prevalent among young people in the United States. Although 1970 Control Substances Act listed marijuana as a Schedule 1 drug, many states in the US have been enacting state legislatures on legalizing marijuana at least in terms of medical use. This paper examines marijuana in a comprehensive way by detailing marijuana facts, history, policy, and alleged medical usefulness in order to shed a light in understanding whether medical marijuana use should be decriminalized.

Keywords: Marijuana, medical marijuana, illegal drug policy

1.Introduction

Historical roots of drug use and abuse date back to early 5000 B.C. with the use of opium poppies by the Sumerian people (Lyman, & Potter, 2003). The writings of the ancient world demonstrate how earlier civilizations utilized drugs for medical, recreational, or ritual purposes. While the writings of the Greek physician Galen explain how Greek athletes were using drugs for boosting their physical performances (Verroken, 2000), the Ebers Papyrus describe how opium was used in order to prevent children from crying (Brownstein, 1993).

Because many drugs are geographically dependent such as coca leafs of South America and lotus flower of India, it is not surprising that earlier cultures used specific drugs in their living spaces. Today, with the globalization of the world by easy transportation and communication, drugs can be distributed to anywhere in the world and almost all drugs can be found locally. Among many drugs, marijuana has an exceptional place with

being the most abused and debated drug in many countries such as the United States of America (Bellenir, 2001; Caulkins, & Pacula, 2006) and the United Kingdom (Sleator, & Allen, 2000). Particularly, marijuana use is prevalent among young people in the United States (Finn, 2012). This paper will examine marijuana in a comprehensive way by detailing marijuana facts, history, policy, and alleged medical usefulness.

2. Facts about Marijuana

Marijuana is an illicit substance produced from the leaves of cannabis sativa (Bellenir, 2001). Cannabis sativa is widely found in tropical countries where the weather allows heavy cultivation (Emmet, & Nice, 2006). However, today cannabis cultivation can be seen in any country especially with the use of artificial methods.

Marijuana use is very common in the United States and constitutes a major problem among other illegal drugs. The 2012 National Household Survey of Drug Use and Health demonstrated that 42.6% of Americans who are 12 years or older had experienced marijuana use at least once in their lifetime (Substance Abuse, 2013). Furthermore, statictiscs shows that between 1990 and 2011 the percentage of marijuana use among high school students were almost 40% (National Drug, 2013). These statistics alone demonstrate the significance of the problem.

Marijuana has numerous street names such as weed, Mary Jane, pot, and herb. It is “green, brown, or gray mixture of dried, shredded leaves, stems, seeds, and flowers of the hemp plant” (NIDA, 2013, p7.). The way people use marijuana is very similar to the way they use nicotine. Marijuana users smoke the drug by using cigarettes that are commonly known as joints. Marijuana can also be taken with pipes, blunts, and even by brewing it as a tea (NIDA, 2007).

Cannabis plant is important because of the chemicals it produces. Cannabis plant is known to have over 400 different types of chemicals (NIDA, 2013). Among all these chemical substances, delta-9-tetrahydrocannabinol (THC) is the most important cannabinoid found in the plant. It is believed that THC is the active element of causing psychoactive effects. Therefore, cannabis plants with more THC levels are considered better products and produce the highest profit in the market. There are basically three types of marijuana cultivated in the United States. These are Indian hemp, commercial grade, and sinsemilla (Lyman, & Potter, 2003). Indian hemp is considered to be the least profitable type of marijuana by containing THC level of 1%. This type of marijuana is grown by itself in remote areas. Since there is no artificial care, the plant grows under the natural conditions. On the other hand, commercial grade marijuana and sinsemilla are grown by people under extensive care conditions. While

commercial grade marijuana contains THC at 8-9% levels, sinsemilla contains THC with 15-17% levels. Despite its quality, sinsemilla is less likely to be found in the markets than commercial grade marijuana (NDIC, 2005). This is mostly due to the easier cultivation of commercial grade marijuana compared to sinsemilla which needs intense care and longer period of time for cultivation.

Marijuana comes from two different sources: domestic and international. In terms of international sources Mexico and Canada plays a major role in trafficking marijuana in to the United States (Mosher, & Akins, 2005). On the other hand, domestic cultivation constitutes a major part in supplying the daily marijuana need for United States. Domestic cultivation is composed of both indoor and outdoor marijuana production.

2.1.Outdoor Cultivation

Outdoor cultivation is the production of marijuana by using traditional methods. Outdoor production areas are selected because of their geographical locations. Producers prefer hard to detect locations in order to grow marijuana. Most of these areas are public lands such as forests and remote areas where it is difficult for law enforcement officers to control. California, Tennessee, North Carolina, Kentucky, and Hawaii constitute the major outdoor cultivating states (Gettman, 2006). Among these states, California alone has a production rate of more than 17,000 plants per year with an estimated value of over 12 billion dollars (Gettman, 2006).

2.2. Indoor Cultivation

Indoor marijuana cultivation is a commonly used way of producing marijuana indoors. This method of cultivation is advantageous for several reasons. First, it allows producers to cultivate marijuana all year long because they can create artificial environments that are suitable for marijuana cultivation. Although marijuana does not require extensive care, better cultivation conditions permit more profitable marijuana production. Second, marijuana producers can hide from law enforcement detection by indoor cultivation. Considering the high expenditures of law enforcement agencies on detecting and eliminating marijuana, it is reasonable for producers to hide indoors and continue their operations with reducing the chance for detection.

Indoor marijuana cultivation is very common in California, Florida, Oregon, Washington, and Wisconsin (Gettman, 2006). Indoor cultivation is made possible by using huge halogen type lamps. This is important because cannabis plants need a great amount of light for growing. Therefore, indoor marijuana cultivators use various types of lamps that can produce sufficient lighting. This high level of lighting also produces high levels of heat which enable law enforcement officers to detect indoor cultivation locations.

However, since 4th amendment limits the activities of law enforcement officers, indoor cultivators can still use the advantage of being out of sight from law enforcement officers (Huskins, 1996).

2.3. Marijuana Market

It is a well known fact that many drug markets are controlled by organized crime groups such as Colombian and Mexican cartels. However, these cartels or organized groups have limited or no control over the marketing of marijuana. In other words, marijuana is marketed by individual sellers rather than organized criminal groups (Caulkins, & Pacula, 2006). Perhaps the most significant factor that disables the organized crime groups' control over the market is the easiness of marijuana cultivation (Lyman, & Potter, 2003). The easiness and abundance of cultivation brings too many people into this illegal business; thus, making it difficult for large organized groups to have power over everyone. Considering the fact that organized crime groups are money driven groups, it is also logical for them not to be interested in a product which is heavily and readily available. Easy access and abundance of a product undeniably reduces the profit margins of that specific product, as in the case of marijuana.

Because marijuana is produced locally in many places, it is also sold locally to marijuana consumers. This marketing type occurs in two types. Marijuana is either distributed within a narrow circle of family members and friends, or sold to broader consumer groups in a local area by establishing a drug sales network. In both ways, marijuana is distributed by simply using plastic bag containers such as sandwich bags or trash bags.

3. Legislation Overview

In many countries, such as the United States, the United Kingdom, Canada, and Mexico there has been a debate on legalizing marijuana at least in terms of medical use. While these debates are consistently continuing, 21 states including Alaska, Arizona, California, Colorado, Connecticut, Delaware, District of Columbia, Illinois, Hawaii, Maine, Massachusetts, Michigan Montana, Nevada, New Mexico, New Hampshire, New Jersey, Oregon, Rhode Island, Vermont, and Washington passed state statues regarding the legalizing of medical marijuana use in their states (State medical, 2013). However, Supreme Court's 2005 decision against the medical use of marijuana is still in process. This constitutes confusion between federal and state legislation. On one hand, state legislations permit the medical use of marijuana and immune users from criminal liability when they use it with prescription. On the other hand, federal legislature does not immune any user in any states no matter what their purpose of use is.

Nevertheless, in order to better understand the present legislation about marijuana, it is logical to examine the chronological legislation history. This would shed a light in contributing to the marijuana debate.

3.1. Marijuana use in the United States

The first record of marijuana use dates back to 1611 when it was brought into Virginia by Jamestown citizens (Pacula, Chriqui, Reichman, & Terry-McElrath, 2002; Lynne-Landsman, Livingston & Wagenaar, 2013). Following this introduction, marijuana became readily available and heavily used in the United States during the 1800s for especially medical purposes. However, it was not until the 1900s when recreational use of marijuana became common in the United States. Particularly, during the Prohibition Era marijuana emerged as a cheap alternative to alcoholic beverages and brought into the United States by Mexicans. However the heightened concerns regarding drugs and alcohol limited marijuana use in those days. Marijuana use did not increase rapidly until the 1960s. As the 1960s became one of the most relaxed time in terms of drug use and abuse, marijuana took its share and became widely used by especially university students and war protestors. Following these relaxed years, the 1970 Controlled Substances Act criminalized all types of marijuana use; however, this law was not sufficient enough to eradicate the drug from the market. Today, marijuana is one of the most available dugs in the illicit market and has over 10 million daily users.

3.2. Legislations in general

The legislative history of drugs and alcohol starts with the Whiskey tax event of the 1791 when the US government enacted a law that permitted the collection of tax on whiskey. This was the first time in US history when whiskey business owners were required to pay tax. This event is more famous with the name of Whiskey Rebellion because of the insurrection by the Native Americans.

In 1868, The Pharmacy Act passed through legislation and the rules for becoming involved in pharmacy business were established. According to this act, any person who wanted to be a pharmacist had to take a test and had to meet certain requirements. Moreover, any person involved in the sales and distribution of the drugs had to be register in order to legally stay in the business (Lyman, & Potter, 2003).

During those years many drugs were readily available and their usages were not considered illegal. Especially in California, many railroad workers were using opium dens to smoke opium pipes which would help them cope with the long working hours and hard working conditions of the railroad construction business. These workers were tolerated because they

would not have worked over so many hours otherwise. This was also the first time in history when an illicit drug was associated with a nationality. Nevertheless, San Francisco banned opium dens in 1875 and this is considered the first anti-drug act in United States history.

In 1906, federal government passed the Pure Food and Drugs Act (Lyman, & Potter, 2003). This is another important act which enabled consumers with the ability to control the ingredients of the products that they were buying. Until this act, pharmacists did not have to report the ingredients and especially many patients were taking drugs without knowing the real content of the drug.

The first major regulations, regarding the registration of drug business owners, came with the Harrison Narcotics Act of 1914 (Spillane, & McAllister, 2003). According to this act, anyone who was involved in distributing drugs which contained opium and cocaine had to register with the government and pay tax for every transaction of narcotics. This act included several fines to people who were not registered with the government but were actually distributing narcotics (Lyman, & Potter, 2003).

In 1919 The 18th Amendment was passed by the United States government. This amendment prohibited the manufacture and sales of alcoholic beverages in the United States and started the Prohibition Era. Although started with great expectations, this amendment did not produce the desired results. In contrary, it established an environment where criminal figures became rich and wealthy by providing alcohol to people illegally. One of the famous characters of American Criminal history is Al Capone. During one of the interviews, Capone stated that he was actually a businessman who serves the community by bringing materials which governments do not accept to bring. It is undeniable that the prohibition era resulted in organized crime groups, but not solutions.

In 1924, US government passed the Heroin Act. This act prohibited the manufacture and sales of heroin within the United States even for medical purposes.

21st amendment repealed the 18th amendment and the Prohibition Era ended in 1933. This is the only amendment in the US legislation history to repeal an existing amendment.

In 1937, US government passed the Marijuana Tax Act. This Act was a result of the profound media movement especially motivated by Harry Anslinger. This act brought new implementations and required physicians to comply with a series of procedures in order to continue prescribing marijuana for medical use.

1951 Boggs Act was passed in order to maximize the criminal penalties for drug related offenses. This act not only increased the penalties but also established minimum sentences for drug offenses.

1970 Control Substances Act is the cornerstone of the drug legislation today. This Act classified certain drugs and substances under one of the five schedules. This scheduling was done by considering both the potential abuse and the potential medical use of the substances (DEA, n.d.).

Schedule 1 consists of substances which have very high potential for abuse and no potential medical use. Marijuana, LCD, and heroin are among Schedule 1 drugs.

Schedule 2 consists of substances which have potential for abuse and very low potential for medical use. Examples to Schedule 2 drugs are morphine, phencyclidine (PCP), cocaine, methadone, and methamphetamine.

Schedule 3 consists of substances with moderate potential for abuse and low potential for medical use. Anabolic steroids and barbiturates are examples of Schedule 2 substances.

Schedule 4 consists of substances with low potential for abuse and moderate potential for medical use. Darvon and Talwin are among the drugs that are in Schedule 4.

Schedule 5 consists of substances with very low potential for abuse and high potential for medical use. Cough medicines are examples of Schedule 5 drugs.

3.3. Marijuana Legislation History

Examining the legislation history clearly shows a pattern towards a zero tolerance policy against marijuana. This is especially evident with the latest Supreme Court decision in 2005. Despite the legalization of medical marijuana in 21 states, Supreme Court permitted law enforcement agencies to detect and arrest any person involved with marijuana use and abuse.

Nevertheless, marijuana legislation history dates back to 1920s. Until those days, marijuana use was not very common among in the United States. Cocaine and heroin were seen as the major illicit drugs and the prior legislations were generally dealing with these two drugs. However, especially after the 18th Amendment, people have started using marijuana as a cheap alternative to alcohol.

During these early years, several states had outlawed marijuana use such as California in 1913 (Gieringer, 1999). This movement was actually a continuation of the general approach towards criminalization of all narcotics drugs. As the pressure of the national temperance movements

Despite all the pressures and legislative measures, marijuana was still used in medical field by many physicians until the 1970s. However in 1970, The Comprehensive Drug Abuse Prevention and Control Act, commonly

known as the Control Substances Act was passed which eliminated the medical use of marijuana (Pacula et al., 2002). As the Controlled Substances Act created a new classification for all drugs, marijuana was also included in this new typology. Following the criminalization of marijuana for both recreational and medical purposes resulted in the addition of marijuana as a Schedule 1 substance.

4. Conspiracy Theories

While many academic articles and professional research establish the ground for including marijuana as a Schedule 1 drug, there still remain some conspiracy theories in some people's minds. For example, some people argue that fighting with marijuana helped establishing a powerful Narcotics bureau and moreover made Henry Anslinger, former director of the so-called bureau famous for his efforts.

Another conspiracy theory is grounded on racial and ethnic discrimination. As the marijuana use was common among many Jazz artists or in other words African American people, Anslinger had allegedly targeted this particular drug because of his negative thoughts. There are several speeches that he has made which are the sources of this kind of thoughts. In addition to the African Americans, he also targeted other nationalities such as Chinese people who brought opium use to California in earlier decades. In one of his speeches, he accused Chinese people for fostering drug problems all over the world (Mosher, & Akins, 2007). Even today there are many people who believe in selective enforcement by considering the fact that drug on war is focused in minority communities (Walker, 2005).

One more objection in fighting with drugs come from foreign countries that are involved in production, distribution, and smuggling of the illegal drugs. This is mainly due to the active role of United States in fighting with illegal drug trafficking worldwide. While United States claims that Drug Enforcement Agency (DEA) sends logistics and manpower to aid those countries, there are various opinions in those countries about the activities of DEA agents. For example, Venezuelan officials had accused DEA agents for performing spying activities; therefore, they no more allow DEA agents to work in Venezuela (Chavez revokes, 2005).

5. Decriminalizing marijuana

5.1. Opponents of decriminalizing marijuana

Opponents of marijuana stand on prohibition for several reasons. First, decriminalization of marijuana would contribute to an increase in other drugs because of its gateway effects. Second, controlling medical use is as difficult as controlling the abuse. Third, decriminalization should encourage

many people to use marijuana. Fourth, according to Food and Drug Administration, marijuana is a harmful substance (The Dangers, n.d.).

Despite the fact that marijuana is not as addictive and harmful as other narcotics, it is considered to be a gateway to other more potential drugs. Opponents of decriminalization argue that permitting marijuana use will inevitably lead to other illicit drugs. Opponents base their ideas on research studies that has done in examining the pathway from marijuana to cocaine and heroin type drugs. For example, a 2002 Substance Abuse and Mental Health Services Administration (SAMHSA) report has demonstrated that more than 60% of the adult marijuana users have tried cocaine in their lifetime after using marijuana (ONDCP, 2007). Besides this report, most of the studies have shown that drug users show a pattern from alcohol through marijuana to other forms of drugs (Mackesy-Amiti, Fendrich , & Goldstein, 1997).

Another objection of the opponents is the difficulty in controlling medical marijuana use once it is decriminalized. Unless decriminalized totally, medical marijuana will not lessen the workload of the law enforcement officers in the war on drugs. Besides law enforcement agencies, medical professionals and all other governmental bodies will still be busy in determining the rightful use of the marijuana. There will be especially more pressure over the shoulders' of the physicians with the possible demand from medical marijuana consumers. Considering the drug divergence, marijuana would be a new target for drug scammers who can get the drug with a prescription and then sell it in the market for high profits.

The third factor in standing against decriminalization is the possible encouraging effect of a new legislation. While marijuana abuse rate is at very high levels, it is not logical to approve its use and foster new users. All of the initiatives including drug education efforts would be eliminated with the legalization of such a drug.

The fourth factor is the link between crime and drugs. While proponents argue that it is not clear whether crime and drugs have a causal connection, opponents believe that drug use is the most important factor in the increase of crime.

Finally, opponents claim that marijuana is a harmful substance and the use of marijuana could harm human body. According to the Committee on Substance Abuse and Habitual Behavior Report, marijuana causes damage to brain and cell membranes (Lyman, & Potter, 2003).

5.2. Proponents of decriminalizing marijuana

The proponents of the decriminalization of marijuana base their ideas on three main points: First, billions of tax dollars are spent on this endless

war. Second, the relationship between drugs and crime is blurry. Third, the alleged medical benefits that comes with marijuana.

Shepard and Blackley (2002) state that, the cost of war on drugs has exceeded 12 billion dollars in 2002. This is the tax money that Americans give to the government for keeping the nation standing. However, if it is obvious that this war fails, it is not logical to keep spending money on it. This expenditure also constitutes a mismatch in terms of microeconomic theory. Microeconomic theory holds that expenditure should be allocated when the calculated cost-benefit ratio is beneficial, which is not the case in the war on drugs (Shepard, & Blackley, 2002). In another article, Shepard and Backley (2004) point out the high incarceration rates due to the drug related crimes. Today, America has the largest inmate population with the highest incarceration rates. Drug users, especially marijuana users constitute a large quantity among those prisoners. According to King and Mauer (2006), marijuana possession contributed to this increase more than any other crimes with comprising 79% of the increase. Considering the fact that only 3% of the increase comprise marijuana sellers, it is apparent that law enforcement has failed to deal with the origins of the problem; that is, the drug dealers.

Second there is ambiguity between the drugs and crime. Shepard and Blackley (2002) argue that reducing drug use should not contribute to reducing crime rates for several reasons. They assert that in many cases, demographics plays a role in determining one's inclination to crime and one could commit crime even if he never uses drugs.

Third factor is the alleged medical benefits of the marijuana. In history, there are many records that demonstrate medical use of marijuana in the United States. Marijuana was first used as a medicine by W. B. O'Shaughnessy (Robson, 2001). In his research, O'Shaughnessy focused on the anti-emetic effects of marijuana. Today, there are still many research projects that examine the effects of marijuana in medical area. These studies concentrate on several areas such as anti-emetic effects, loss of appetite and weight, pain reduction, reducing insomnia, and anxiety. Robson (2001) argues that most of these research studies have proved that marijuana has antiemetic effects; therefore, it heals nausea and reduces vomiting. Robson (2001) adds that marijuana is also effective in treating insomnia and removing anxiety.

Even if the medical use of marijuana seems beneficials from the points of views of the mentioned research studies, its use should not be permitted in the way of smoking. American Society of Addiction Medicine's warns that smoking can not be seen as a method of drug delivery (The Dangers, n.d.). It would be very difficult to differentiate the reason for use when the users are permitted to smoke marijuana.

6. Conclusion

It is obvious that the debate on whether marijuana should be decriminalized or not will continue to occupy the political agenda for a long time. Considering the opinions of both proponents and opponents, it does not seem a clear right decision. Some might argue that evidence from research studies can be helpful in making a decision. However, Lyne-Landsman et al. point out to several research studies concerning the effects of medical marijuana legislations and note that their results show indifference in marijuana usage (2013). Therefore, the lack of empirical evidence that would point out an increase or decrease in the use of marijuana after the enactment of medical marijuana use makes it difficult to come to a conclusion. There are, however, other variables that might help in reducing the marijuana problem. These variables would also reduce other illicit substances and alcohol.

Education is the first major variable that would affect drug use. Many state and local agencies have been engaged in educational programs; however, these programs have not yet produced desirable results. There may be several reasons for the failure of such programs.

The first reason is the lack of sufficient education at the family level. It is a well known fact that family is the first place where children get their initial learning. Unless the family is engaged with teaching the detrimental effects of drug use, children will not be able to fully understand the reasons why they should stay away from drugs.

Secondly, drug education at schools should be done continuously with the help of prominent people in the society. Children or teenagers would consider attending a drug conference conducted by a publicly known person rather than a police officer. This does not mean that police education is useless or insufficient, but rather, it should be supported by other people, too.

Another variable is significant others, especially family members. Culturally, people in the United States adopt an independent lifestyle beginning with their adolescent years. The control of the parents over their children begins minimizing when the children reach early adulthood. Notwithstanding the fact that they reach 18, these young adults might still need some guidance from their significant others. If the family members fail to play their significant other roles properly and sufficiently, peers would replace the family members' roles. In such cases, if the peers are engaged in drugs and alcohol, it is very difficult for children to protect themselves from being engaged in drugs and alcohol such as their addictive peers.

A fourth variable is the education treatment programs. Any type of criminal activity or substance use has a great potential of continuity behind the bars in prisons. Recidivism is one of the most detrimental factors to the

society if not prevented by early intervention measures. Marijuana users including with other drug users should be offered treatment programs even when they are serving their times in correctional facilities. Lack of such treatment programs would lead offenders into a search for the drug which could end up in a new criminal offense. Moreover, new drug networks can be established in the prisons by sharing the information regarding the innovative ways of drug production, and avoiding from detection. This type of information exchange is very difficult to be prevented with using regular police methods. Therefore, treatment of this social illness should be provided to prison community.

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