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The Legal Status of Cannabis in India: An Assessment of its Impacts and Repercussions

Harsh Shrinet^a

^aJamia Millia Islamia, New Delhi, India

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This paper investigates the level of cannabis usage in India and assesses the impact of its illegality. As per the paper, cannabis usage was initially legal in India and had a deep religious connection, but international pressure from America's war on drugs & domestic need for a consolidated statute led Indian legislators to form the Narcotics Drugs & Psychotropic Substances Act, 1985. The paper also discusses the discrepancies related to cannabis in the NDPS Act, 1985 i.e., the exclusion of bhang from the definition of cannabis. It also analyses the effects of using cannabis and also produces research related to cannabis usage. The paper claims that India uses enormous amounts of cannabis and that the government loses valuable money by rigorously controlling the cultivation and manufacture of cannabis. It then focuses on the criminalisation of cannabis usage, which places unnecessary strain on an already frail criminal justice system and other effects caused by it. The paper also analyses the global trends toward cannabis decriminalisation and how India can also benefit from cannabis with specific recommendations suggested in this paper and how India should explore a promising domestic decriminalisation program like the one in Sikkim.

Keywords: *cannabis, hemp, criminalisation, un (united nations), marijuana.*

INTRODUCTION

Cannabis, commonly alluded to as marijuana, is a general word for a variety of euphoric concoctions produced from plants, namely Sativa and Indica. Many nations use the Mexican

term “marijuana” to refer to cannabis leaves or other raw plant material. The primary psychotropic component of cannabis is tetrahydrocannabinol (THC). The concentration of THC in cannabis determines its impact on the user. This active chemical’s mind-altering action changes the way the brain operates. Cannabinoids are compounds that have a similar chemical structure to THC. Furthermore, several newly discovered chemicals differ structurally from cannabinoids yet have many pharmacological effects. Hashish refers to unpollinated female plants. Cannabis oil is a cannabinoid concentration produced by solvent extraction of the crude plant material or resin.¹

Cannabis, a controversial narcotic in India, is also known to be widely distributed inside the country, even though the country’s laws make its possession, use, and exchange illegal. The herb, or a drug, or whatever one wishes to refer to it as there are people divided over this all over the world - although it is simply a question of point of view, it has several names, and these names are generally recognized across the world - be it weed, pot, ganja, etc. It has the appearance of spice and is primarily a greenish-dim blend of dried petals. A few laws have been enacted across the world to make the use, trade, transaction, and purchase of cannabis illegal in their respective jurisdictions. However, the situation has changed in these countries, and an undeniably aware society is now beginning to reject the established norms and is attempting to make marijuana legal in their countries.

Non-governmental organizations (NGOs) in India have advocated for the legitimization of cannabis for commercial, therapeutic, and personal usage. Various politicians have also raised the topic of cannabis legalization. When it comes to the legal status of cannabis, it is declared contraband, but there are some discrepancies. It is evidenced by the fact that bhang, a popular drink drunk during Holi, is not included in the definition of cannabis while it is manufactured from cannabis leaves, and the law permits it. For three decades, the legal status of cannabis had been quite clear, but there has been a stir towards a change in recent years. However, discrepancies in legislation (related to bhang’s exclusion from the definition of cannabis), the

¹ ‘Alcohol, Drugs and Addictive Behaviours Unit: Cannabis’ (WHO) <<https://www.who.int/teams/mental-health-and-substance-use/alcohol-drugs-and-addictive-behaviours/drugs-psychoactive/cannabis>> accessed 01 July 2022

history of cannabis, how cannabis usage affects its users, aspects of criminalisation, and how globally cannabis is being accepted for its benefits are critical to understanding.

HISTORY OF CANNABIS IN INDIA

Cannabis cultivation began as early as 5000-4000 BC². Cannabis was used as a pain reliever, antiepileptic, tranquilizer, as well as other therapeutic purposes in Ayurvedic medicine³. It was used to cure digestive problems, pulmonary oedema, brain abnormalities, and various infectious ailments⁴. Hemp was used for fabricating textiles⁵ and as a construction material⁶ in the Ellora Caves. Cannabis usage was deeply ingrained in Indian cultural customs due to its relationship with religious beliefs. It is referred to be a “joy giver” and is one of the five sacred plants in the Atharveda. India is a land of diverse religious followers’ and cannabis has been mentioned in almost every religious belief.

Weed, commonly referred to as ganja, has been affiliated with the Hindu god Shiva. Bhang is usually offered to Mahadev’s idols, particularly during the Shivratri festival, a ritual that is still practised in Indian temples. It is not only offered to Mahadev but also drunk among his devotees, disciples, and admirers (sadhus and yogis). His disciples are often known for consuming ganja and charas using a device known as a chillum. The Fifth Precept of Buddhist doctrine advises that “People should avoid wines, liquors, and intoxicants that induce heedlessness.” However, weed is treated differently in it. Cannabis and other psychotropic plants are suggested for medical uses in the Mahākālatantra. However, Tantra is an esoteric Hindu and Buddhist doctrine that is not widely acknowledged by most other kinds of faiths⁷. Sukhnidhan, commonly known as Bhang among India’s Sikh people, is a combat drink created

² M. Singh & M.M Sardesai, ‘Cannabissativa (Cannabaceae) in ancient clay plaster of Ellora Caves, India’ (2016) 110 (5) Current Science Association <<https://www.jstor.org/stable/24907973>> accessed 01 July 2022

³ Mohammed Kudus & et. al., ‘Cannabis Sativa: An Ancient Wild Edible Plant of India’ (EJFA, 2013) <<https://www.ejfa.me/index.php/journal/article/view/1130/834>> accessed 01 July 2022

⁴ Mia Touw, ‘The Religious and Medicinal Uses of Cannabis in China, India and Tibet’ (1981) 13 (1) Journal of Psychoactive Drugs <<https://www.tandfonline.com/doi/abs/10.1080/02791072.1981.10471447?journalCode=ujpd20>> accessed 02 July 2022

⁵ Lallanji Gopal, ‘Textiles in Ancient India’ (BRILL, 1 January 1961) <https://brill.com/view/journals/jesh/4/1/article-p53_4.xml> accessed 02 July 2022

⁶ *Ibid* at 2

⁷ Stablein WG., *The Mahākālatantra: A Theory of Ritual Blessings and Tantric Medicine* (Doctoral Dissertation, Columbia University 1976)

by Guru Gobind Singh that comprises a combination of water, dairy products, nut, and marijuana. As per the Indian Hemp Drugs Commission Report, bhang usage appears to be popular among Sikhs and is tied to their religious practices.

Although the Quran does not forbid weed in Islamic culture, many Islamic experts believe weed to be khamr and hence commonly regarded as haram (sinful). In general, traditionalist Islamic scholars consider cannabis to be intoxicating. On the other hand, liberal Muslims believe that the words in Quran had been misinterpreted by narrow-minded dogmatic people seeking to curb individual leisure in the guise of religion⁸. These are a few historical religious pieces of evidence indicating cannabis has been present in India since time immemorial.

EFFECTS OF MARIJUANA USAGE

Marijuana has been liable to constraints ever since the early 20th century, with the ownership, usage, and purchase of marijuana containing active psychedelic compounds currently illicit worldwide. Particularly in India; the UN has asserted marijuana is the most prominent - utilized unlawful psychoactive substance worldwide.⁹

(A) Benefits of Cannabis

- *Diminished Fat in Body:* A study conducted by the Conference of Quebec University Health Center on 700 people aged 18 to 74 discovered that cannabis users have a low body mass index score. People with a lower body mass index are less likely to develop diabetes. Cannabis compounds, when experimented on rats, showed enhanced metabolism, resulting in less adipose in the liver and lower cholesterol. Human trials are being conducted to find a treatment for abnormal weight gain disorders¹⁰.

⁸ Abdul-Rahman, Muhammad Saeed, *Islam: Questions and Answers - Pedagogy Education and Upbringing* (MSA Publication Ltd. 2003)

⁹ Harold Kalant, 'Adverse effects of cannabis on health: an update of the literature since 1996' (2004) 28 (5) *Prog Neuropsychopharmacol Biol Psychiatry* <<https://pubmed.ncbi.nlm.nih.gov/15363608/>> accessed 03 July 2022

¹⁰ Richard Gray, 'Cannabis could be used to treat obesity-related diseases' (*The Telegraph*, 8 July 2012) <<https://www.telegraph.co.uk/news/science/science-news/9383640/Cannabis-could-be-used-to-treat-obesity-related-diseases.html>> accessed 03 July 2022

- *Enhanced Lung Function:* Smoking marijuana isn't that hazardous for the lungs, and smokers have better lung function than cigarette smokers and people who have never smoked. As per the research done by the American Medical Association, heavy cannabis users' lungs may be conditioned to be more efficient.
- *Enhanced Intellect:* A 2012 research in consciousness and cognition discovered that marijuana increased creativity, at least in terms of how well participants utilized language. "We studied the effects of cannabis smoked naturalistically on schizotypy and divergent thinking, a measure of creativity," the researchers write. A group of 160 marijuana consumers was examined solely on single-day sobriety and the next day intoxicated on marijuana, and it was shown that marijuana increased the verbal fluency of low creatives to the same level as highly creative people.
- *Medicinal Use:* Cannabis has several well-documented therapeutic properties. Among them include uneasiness and sickness relief, hunger stimulation in cancer and HIV patients, retinal eye pressure-lowering (which was shown to be effective in the treatment of glaucoma), and general analgesic effects (pain reliever)¹¹. According to current studies, cannabis reduces tension and acts as an antidepressant.
- *Addictiveness* The National Institute on Drug Abuse researched the comparative addictive nature of six substances (alcohol, heroin, weed, coffee, cocaine, and nicotine). Cannabis was shown to be the lowest addicting, with caffeine coming second.¹²
- *Mind-Altering Drug:* Cannabis has antidepressants, psychedelics, and other properties that make it an important subject of study and worth researching. Tetrahydrocannabinol is often considered the primary element of the marijuana plant; however, certain studies have found that other compounds, such as Cannabidiol, could also play a significant role in the psychedelic properties.

(B) Drawbacks of Cannabis

¹¹ 'Minimal Long-term Effects of Marijuana Use Found in Central Nervous System by UCSD Researchers' (*Science Daily*, 2003) <<https://www.sciencedaily.com/releases/2003/06/030630112652.htm>> accessed 03 July 2022.

¹²Berma Kinsey, 'Vaccines against drugs of abuse: where are we now?' (*National Library of Medicine*, 2 July 2014) <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4063243/>> accessed 03 July 2022

- *Drug Gateway Theory*: According to this notion, consuming less harmful drugs may increase the likelihood of using more dangerous substances in the future. This idea is linked to cannabis, alcohol, and cigarettes. Some scientific research demonstrates that cannabis intake can predict a considerably increased risk of later use of “harder” illegal substances, whereas others do not¹³. 10-year research carried out in Australia discovered that people aged 24 used amphetamines, which were preceded by cannabis usage. Another research on rats was done in Sweden in 2006, and it revealed that THC influences the oxytocin system, which is related to happy feelings, which lowers the effects of opioids on the rodent's brain and causes them to take additional narcotics. The results of this study cannot be extended to people because the rodents were given tetrahydrocannabinol at the age of 28 days. Furthermore, despite being desensitized to heroin, previously cannabis-exposed adult rats did not show the signs of being addicted.¹⁴
- *Differing Opinions on Neurological Abnormalities*: A study funded in part by NIDA and other NIH institutes and published in the Affairs of the National Academy of Sciences discovered a relationship between persistent cannabis use as well as cognitive deterioration even after stopping cannabis use. The research showed that regular use of marijuana before the age of 18 caused long-term deterioration of intellect, attentiveness, and recollection and is also indicative of cannabis-related brain impairment. People who began using marijuana after the age of eighteen did not experience the same drop.¹⁵ When the latest analysis, which was reported in the Affairs of the National Academy of Sciences in January 2013, discovered numerous differences from the last research amongst groups, such as schooling students, and professionals because of socio-economic and cultural determinants, but had the same effect on IQ as weed usage, the previous study's findings were questioned if only

¹³ Anita Srikameswaran, 'Researchers say smoking pot is not always a path to hard drug use' (*Post-Gazette*, 5 December 2006) <<https://www.post-gazette.com/news/health/2006/12/05/Researchers-say-smoking-pot-not-always-path-to-hard-drugs-drug-use/stories/200612050152>> accessed 03 July 2022

¹⁴ Maria Ellgren & et. al., 'Adolescent Cannabis Exposure Alters Opiate Intake and Opioid Limbic Neuronal Populations in Adult Rats' (*Nature*, 5 July 2006) <<https://www.nature.com/articles/1301127>> accessed 03 July 2022

¹⁵ Madeline H. Meier & et. al., 'Persistent Cannabis Exposure Alter Opiate Intake and Opioid Limbic Neuronal Populations in Adult Rats' (*Nature*, 5 July 2006) <<https://www.nature.com/articles/1301127>> accessed 03 July 2022

weed usage or the living background and economic conditions are also responsible for long term deterioration of intellect and focus. Research has indicated that the former study exaggerated the effect of weed, which might be negligible. Three further research investigations back up this result.

- *Body safety is a source of contention:* However, no study has established that cannabis may cause death, despite reports of strokes and other cardiovascular consequences. Smoking cannabis has been linked to an increase in tar levels in the lungs, but because most users mix it with tobacco, studying the effect of cannabis on the lungs is challenging. In earlier studies, 2012 research done by (JAMA) found no significant connection between marijuana use and deterioration of pulmonary function. Even though cannabis has the same toxic chemicals as cigarettes, the anti-inflammatory actions of THC prevent lung damage. According to 2009 research published in a British publication, when compared to smoking cigarettes, alcohol, cocaine, heroin, and LSD, the use of cannabis is the least harmful to the body.

BACKDROP FOR CRIMINALISATION OF CANNABIS IN INDIA

Cannabis consumption was embedded in Indian cultural customs due to its relationship with religious beliefs, facilitating its incorporation into public consciousness. In 1893, the British established the Indian Hemp Drugs Committee to investigate the crop production of the marijuana plant in Bengal, the related manufacturing of pharma from it, the impact of its consumption on individuals, as well as the appropriateness of prohibiting the development of the plant and the sale of marijuana and similar compounds. It made no adverse findings in its report and confirmed that moderate cannabis usage had no severe negative effects on physical or mental health¹⁶. Cannabis has been controlled under several excise laws throughout the years.

However, cannabis usage was not criminalized. The United States of America was a key driver in propelling the globe toward a prohibitionist policy on drug usage. Since the 1800s, the United States has been combatting opium usage, and its strategy has progressively grown to

¹⁶ W. Mackworth Young et al, *Report of the Indian Hemp Drugs Commission* (Medical History of India 1894) <<https://digital.nls.uk/indiapapers/browse/archive/74464868>> accessed 03 July 2022

affect the worldwide opinion on drug use. The US drug policy was implemented in the Philippines in 1905 when the US colonial authority was instructed to restrict opium consumption.¹⁷

To achieve unanimity on the necessity to regulate opium commerce, the United States assisted in the establishment of the Opium Commission (OC) in 1909, Shanghai. This led to the termination of British opium sales to China, as well as the eradication of the latter's poppy production. In the decades after that, the US internationalized its drug prohibition and collaborated with the UN to construct a worldwide drug criminalization regime. Hemp was a billion-dollar plant in the United States throughout the 1930s. The plant was in a similar situation in almost every country on the planet. It was also possible that the booming hemp business would pose a significant danger to the alcohol, tobacco, and timber industries, which had fallen behind since hemp had begun to lead the pack.

Thus, it has been suggested that the 1961 United Nations Convention on Narcotic Drugs was the result of a resolution supported by the United States that promoted its interests. The building pressure from the United States and the lack of a centralized and rigorous act for narcotics led India to implement the Narcotics Drugs and Psychotropic Substances Act of 1985 (NDPS), as preceding legislations were not regulated and contained meagre punishments for drug-related offences.

LEGAL FRAMEWORK IN INDIA CONCERNING CANNABIS & PROBLEMS

The Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985, widely known as the NDPS Act is intended to address a significant societal issue of narcotics smuggling. It is one of the unique acts which has frequently been before the judiciary, with a considerable proportion of contradictory rulings perplexing the public at large. Prior to the Narcotic Drugs and Psychotropic Substances (NDPS) Act, India exercised legislative control over narcotic substances with a range of State and Central Legislation. The Principal Central Act of 1930 was approved a good while ago. Various weaknesses in present legislation became evident with the flow of

¹⁷ Arnold H. Taylor, 'American Confrontation with Opium Traffic in the Philippines' *Pacific Historical Review* 307; Dale Geiringer, 'America's Hundred Years War on Drugs' (*Drug Sense*, 3 March 1905) <<http://www.drugsense.org/dpica/DrugWarCentennial1.htm>> accessed 04 July 2022

time and advances within the field of illicit drug trafficking and drug usage on a national and global scale.

Section 2 Clause 3 of the Narcotic Drugs and Psychotropic Substances defines “cannabis (hemp)” as *charas*, that is, the detached resin from the cannabis plant, whether raw or processed; and also comprises enhanced preparation from the resin called hashish oil or liquid hashish; *ganja*, which is, the flower bud or ripening tops of the cannabis plant (except for the seeds and leaves when not backed by the tops), by whichever name they may be known or denoted; and any mixture of any of the above types of cannabis, with or without any natural substance, or any drink prepared from them. When not accompanied by tops, the definition eliminates leaves and seeds. The Act does not cover or mention bhang, but it does include charts. Bhang is a cannabis-based concoction drunk during certain festivals in various states of India. Despite being intoxicating, bhangs are not covered by the NDPS Act of 1985 since a loophole exists as mentioned above in Section 2 Clause 3 of the NDPS Act. Hence state governments allow the production and selling of bhang.

Section 8 of the NDPS Act further stipulates that, except for medicinal or scientific purposes, nobody shall cultivate the opiate plant or any cannabis plant except following the requirements of this Act. According to this provision, medical marijuana use and scientific study are thus permissible in India; recreational marijuana use is completely prohibited. However, medical usage of cannabis has been very limited to alternative medicine such as homeopathy and Ayurveda. Recently, there has been a rise in global importance among researchers exploring possible therapeutic uses of hemp. Cannabis production will be restricted due to its minimal therapeutic use. Cultivation will be authorized for scientific purposes, including testing various cannabis types.

Aside from this disparity, the Central Government does not permit the use of cannabis for industrial or agricultural reasons. Cannabis has the potential to be utilised to create energy and fibers for industrial purposes. Hemp seed can be used to produce hemp seed oil, a valuable bio-oil. Some countries permit the cultivation of cannabis varieties with deficient amounts of tetrahydrocannabinol (THC), the primary component that causes intoxication. These hemp types are used to manufacture fibers, which are then utilised to create fabrics and biofuels. The

NDPS Act makes the production of cannabis a crime. Whoever grows cannabis for purposes other than technical and pharmaceutical research is subject to prosecution under Section 20 of the NDPS Act, which states that plantation, manufacturing, sale, or acquisition of ganja is punishable by 5 years in jail and a fine of approximately fifty thousand rupees.

Also, cultivation, production, sale, or purchase of any other form of cannabis besides bhang is punishable by a decade in jail and a fine of up to 1 lakh rupees. Furthermore, depending on the circumstances, the court has the jurisdiction to issue a penalty of more than two lakh rupees. The incorrect categorization of ganja, charas, and bhang is one of the major discrepancies in the law. Why is it that charas and ganja are banned, and bhang is widely consumed legally? The administration has failed to distinguish between deadly narcotics and minor intoxicants. If a line is to be drawn, it should be drawn between the complete categories of cannabis and nothing, as this is an absurd categorization. Furthermore, the exception enabling the medicinal use of cannabis is a wishful thinking provision, as it is tough to obtain clearance for its scientific and medical usage.

The punitive deterrent provisions of the NDPS Act of 1985 and other legal, administrative, and preventative measures were determined to be insufficient to curb illicit drug transit activity. As a result, it was thought that preventative detention legislation should be adopted to effectively immobilize those involved in any type of illegal trafficking of narcotics and psychiatric drugs. To achieve this purpose, on July 4, 1988, the President enacted the PIT NDPS Ordinance, which was founded on the basis of the United Nations Convention and the 1988 South Asian Association for Regional Cooperation Convention. The Act authorizes the national government and state legislatures to issue detention orders to any individual (including a foreigner) if they believe it is essential to prevent him from conducting illegal trafficking in narcotics and psychotropic substances. Illicit commerce was also defined in the act. Despite the government's measures, illegal drug trafficking thrives. The strict approach has helped to restrain the rampant process to some measure, although not much. It is likely owing to the ambiguous drug demarcations in the aforementioned Acts.

CANNABIS AND THE WORLD

In this section, a comparative analysis is drawn between the laws related to cannabis in other countries, particularly those from which we derived our supreme constitution.

➤ *United States of America (USA)*

Cannabis usage, trade, and ownership are all prohibited under national law in the United States. Cannabis is categorized as a Schedule I substance under the Controlled Substances Act of 1970, stating it harms society and has no approved therapeutic use. The national government's approach becomes clear in *Gonzales v. Raich*¹⁸, which found that the US Constitution provides the national government to prohibit the use of marijuana (even therapeutic use) since federal law is paramount and supersedes state law. Despite the national government's strong and stiff opposition, over half of the US states (18 to be exact), including Massachusetts, have approved legislation permitting some degree of medicinal marijuana usage. 14 of these states have partially decriminalized it, penalizing misdemeanor, simple possession by seizure or fine rather than incarceration. In 2012, Colorado legalized recreational marijuana usage. Adults over the age of 21 in Washington are permitted to possess marijuana, subject to certain conditions. Also, Connecticut and California have legalized weed for personal usage.

The majority of provinces argue that decriminalizing weed would significantly cut the expenses of running criminal law and justice enforcement institutions, whereas authorizing cannabis to enable manufacturing and distribution would generate substantial money through cannabis sales taxes. Economists estimate that marijuana legalization and substituting the federal ban with a scheme of regulation and taxes can save \$7.7 billion annually in the state. If cannabis was taxed equivalent to alcohol or cigarettes, the annual revenue could reach \$6.20 billion. Others argue that the money saved by cannabis legalization may be utilized for law enforcement against other more violent and heinous offenses. It is possible to infer that the United States has two models that differ from the traditional cannabis ban. One considers

¹⁸ *Gonzales v Raich* [2005] 545 US 1

cannabis use a civic violation or a minimal misdemeanour with no jail term, whilst the other considers marijuana possession for personal use to be lawful.

➤ *Canada*

Canada authorized the medicinal use of cannabis in 2001, but in 2018 it also legalized the recreational use of cannabis, joining Uruguay as the only other country that has allowed non-medical cannabis use. The Canadian government has agreed to a 10% tax on cannabis sales. Pot sales would also be subject to Goods and Services Charge and Harmonized Sales Tax, with a possible tax of 20%. According to Marijuana Business Daily, an industrial newsletter, recreational cannabis revenues will range from Rs 14 billion to Rs 18 billion by 2021.

➤ *Australia*

Cannabis for personal use in small amounts is decriminalized in some jurisdictions in Australia; it is banned in the remaining states. Cannabis use is legal in a few Australian territories, whereas it is a criminal offence in certain territories. Though a criminal conviction for possession of a minor quantity is rare, rehab facilities in these states attempt to redirect violators into training, diagnostic, and treatment programs. Because of the rapid expansion of hydroponically generated cannabis cultivation, the Australian Drug Misuse and Trafficking Act (ADMT) was modified in 2006, restricting the quantity of cannabis cultivated under hydroponic conditions, which counts as both a “commercial quantity” and “Bulk quantity.” Despite cannabis being illegal in Australia, the government has shunned penal drug laws in favour of harm-reduction strategies and has a therapeutic approach anchored in a legal framework. Canberra became the first state to legalize cannabis for recreational use in 2019. The legalization of cannabis is widely supported in Australia.

➤ *Netherlands*

In the Netherlands, the substances generally referred to as “illegal drugs” are legally classified as “hard drugs” or “soft drugs.” Marijuana is categorized as a soft drug. Individual users of marijuana are not prosecuted in the Netherlands, but the chemicals themselves remain illegal. The Dutch developed their own official ‘Tolerance Policy’ (in Dutch: “Gedooogbeleid”). The government makes it seem far more complicated, but in layman's terms, it is simply an official

“shutting of the eyes”. Cannabis coffee shops have sprouted up in the Netherlands as a result of the tolerance policy, which allows local authorities to sell cannabis for personal consumption (particularly in Amsterdam).

The selling of cannabis products in small amounts is permitted under Dutch drug regulation by ‘licensed’ coffee shops. Coffee shops were created in the 1970s with the specific goal of keeping hard and soft drugs apart. If these stores are detected selling hard narcotics, large levels of alcohol, selling drugs and alcohol to minors, their licenses will be revoked and they will be forced to close. A ban on the sale of cannabis to travelers in coffee shops was suggested in late 2011, hurting drug tourism in the Netherlands and leading to a more rigorous attitude on outlets selling higher-strength cannabis, resulting in their closure.¹⁹

To combat drug-related difficulties such as trading in dangerous drugs, the Dutch Government's “cannabis card’ regulation requires indigenous smokers to present identification and register their details in a repository. However, the Mayor of Amsterdam has refused to implement a ban since over a million visitors come to Amsterdam each year to take cannabis²⁰. If marijuana is prohibited, people may turn to more potent substances. Furthermore, towns like Amsterdam rely significantly on tourists, and marijuana users account for up to 1/3rd of all visitors. A prohibition would indirectly affect the economy. Therefore, legitimization in the Netherlands remains contentious, and future developments may only help to clear the air.

➤ *United Kingdom (UK)*

Without the necessary licenses, it is unlawful to possess, cultivate, distribute, or sell cannabis in the United Kingdom. It is classified as a Class B narcotic penalty for unlicensed trading, manufacture, and trafficking including 14 years of imprisonment, a fine, or both. The maximum penalty for illegal or authorized possession is five years in jail. The then-Home

¹⁹ ‘Tourists Face Weed Ban in Dutch Coffee Shops’ (*Sky News*, 28 May 2011)

<<https://news.sky.com/story/tourists-face-weed-ban-in-dutch-coffee-shops-10487921#:~:text=Tourists%20are%20to%20be%20banned,the%20end%20of%20the%20year>> accessed 04 July 2022

²⁰ ‘Amsterdam Tourist Cannabis Ban rejected by Mayor’ (*BBC News*, 1 November 2012),

<<https://www.bbc.com/news/world-europe-20165371>> accessed 05 July 2022

Secretary categorized cannabis as a grade C substance in 2001, eliminating the prospect of prosecution for possession but not distribution. The categorization was done to direct attention to more serious drug cartels. This impact was reversed in 2008 when marijuana was again classified as a Class B substance. The breeze looked to be blowing in the opposite direction when the House of Commons voted in 2012 that marijuana will be changed again from Class B to Class C, and the earlier administration's decision was held incorrect. It opens the door to recreational cannabis usage, but only under government supervision.

REPERCUSSIONS OF CRIMINALIZING CANNABIS IN INDIA: -

❖ *Economic Implications*

As a consequence of prohibition and stringent cannabis production rules, there is a significant failure to take advantage of the exemption provided for industrial cannabis use. Cannabis plants with higher levels of Cannabidiol (CBD) have a lower psychoactive profile and great commercial use. This differentiation serves as the foundation for classifying marijuana as commercial hemp. Cannabis goods have an estimated global market value of around \$5 billion, with applications ranging from construction to paper manufacture to personal care. India, on the other hand, contributes only 0.001% of the market²¹. Although industrial hemp cultivation is authorized under the Narcotics Drugs and Psychotropic Substances Act, just the states UP and Uttarakhand have studied the notion and demonstrated the limitations of functioning in this context that in fewer than four decades of cannabis criminalisation, hemp's use as the fabric has been destroyed.

Whereas the global marijuana market seems to be worth around \$15.8 billion by 2027, India's stringent policies continue to stymie economic progress. Furthermore, the government loses money from a widely consumed item. Cannabis is India's most popular psychoactive drug, after alcohol. Bombay and Delhi were the world's top weed consumers in 2018, consuming 38.260 and 32.380 metric tons of marijuana, accordingly. Marijuana may generate significant income if it were taxed similarly to cigarettes and alcohol. Research indicated that taxing

²¹ Neha Devan, 'Boheco: This Cannabis Startup is Weeding Out the High Notes for a Hemp Economy' (*The Economic Times*, 16 April 2019) <<https://economictimes.indiatimes.com/small-biz/startups/features/boheco-this-cannabis-startup-is-weeding-out-the-high-notes-for-a-hemp-economy/articleshow/68899905.cms?from=mdr>> accessed 05 July 2022

cannabis may earn approximately 725 crores in Delhi alone. For Mumbai, this figure was set at 641 crores.²²

❖ *Stress on the Law Enforcement Institutions*

Marijuana prohibition raises the burden on the justice system. The effects are perceived most sharply by the already overworked and underfunded police force, where the police-to-population ratio and shortages have continually been a major governance concern, as well as the judicial system, which is already collapsing under excessive pendency. The state apparatus expends significant human and economic resources to apprehend, sentence, and punish marijuana users. The police department, the judges, and penal facilities are often forced to participate in this procedure at exorbitant costs.

With about an estimated 30 million cannabis users in the country, the system would collapse if the Narcotics Drugs and Psychotropic Substances Act are applied strictly, with every marijuana consumer caught and punished. Despite the fact that no new analysis has been undertaken on the cost of establishing a weed ban in India, studies conducted internationally suggest that average jail expenses are two to six folds greater than the average fund spent on primary care. An assessment of the financial ramifications of the marijuana bans in the United States found that legalizing marijuana would save the government \$7.7 billion annually.

❖ *Jeopardy of Having a Rap Sheet*

The restriction of marijuana consumption overlooks the plethora of concerns that a rap sheet entails, such as the effect on a person's financial, medical, and psychological well-being. A record of any drug charge, even something as little as marijuana consumption, could have a big influence on future sentencing, employment opportunities, getting custody of a kid, obtaining a passport, and so on. Many international organizations have expressed worry about the implications of weed prohibition on communities, financial health, general welfare, right to vote, and other areas. More significantly, it emphasizes the stigma and humiliation of having a criminal record. Every year, the prohibition on cannabis use affects huge numbers of people to these suffering when all they need is proper care.

²² 'Cannabis Price Index' (ABCD, 2018) <<http://weedindex.io/#biggestconsumers>> accessed 06 July 2022

❖ *Impact on the Marginalized*

Although there are many more drugs with a greater risk of addiction, marijuana - a low-cost substance - remains critical to our narcotic control efforts. It is also apparent that the vast majority of individuals arrested and imprisoned for cannabis use are low-wage labourers and slum or street residents. These drug offenders incur short prison terms or fines ranging from 100 to 8000 rupees. This demonstrates how, despite its application equally across social and economic strata, the legislation attacks the poor unjustly and disempowers those who are already disadvantaged. This study also corresponds to a pattern in the United States, where there is a significant racial gap in cannabis arrests. As per studies, black people's arrests were almost fourfold that of white people. Likewise, poor neighbourhoods have a greater prevalence of drug-related arrests. Drug law enforcement prejudice has historically had a multigenerational, sociological, and economic effect on the entire population.

❖ *Promotion of Hazardous Practices*

The criminalisation of drug use contradicts the concepts of harm reduction. Criminalisation leads to social alienation and isolation, reducing exposure to healthcare and violence prevention therapies. Outlawing motivates consumers to get involved in risky behaviour, putting them at risk of sickness and overdose. Criminalizing drug usage generates a parallel market for illegal drugs, removing them from the regulatory machinery. This results in unrestrained access and unsupervised drug usage. The quality of drugs goes uncontrolled in these clandestine markets, resulting in adulteration and the selling of dangerous chemicals. Adulteration in numerous chemicals has been discovered in studies all over the world, mostly to raise the amount or potency²³. This raises the probability of an accidental fatality or substance abuse. Cannabis in India is tainted with rat poison and sulphuric acid used in batteries²⁴. Cannabis is also commonly tainted with Xanax, a pharmaceutical tranquilizer that can develop into narcotic addiction without the person's consent or knowledge.

²³ Claire Cole & et. al., 'Adulterants in illicit drugs: a review of empirical evidence' (2010) 3 (2) Drug Test Anal <<https://pubmed.ncbi.nlm.nih.gov/21322119/>> accessed 08 July 2022

²⁴ 'Grass is not greener, cleaner in Garden City' (*The New Indian Express*, 11 October 2017) <<https://www.newindianexpress.com/cities/bengaluru/2017/oct/11/grass-is-not-greener-cleaner-in-garden-city-1671468.html>> accessed 08 July 2022

CONCLUSION & WAY FORWARD

Cannabis use in India has continued unabated for 3 decades after the cannabis ban was enforced. Millions of people continue to consume marijuana, and each year, hundreds of vulnerable young people are apprehended, convicted, and jailed. Instead of discouraging users, criminalizing cannabis use has simply added stigma to an already overwhelmed judiciary. Ban on marijuana has created a harsh zero-tolerance bubble, which hampers the successful commercial usage of cannabis. As absolute power leads to absolute corruption, absolute liberalization should not be enforced as it might result otherwise. India should decriminalize cannabis but should impose regulations on it to keep control of the level of usage. Just like Colorado and Washington, a model of taxation and regulation should be enforced, and maybe India will be able to generate a large amount of revenue. Certain recommendations for regulations are mentioned below: -

First and foremost, commercial marijuana cultivation should be confined to only licensed growers. Except for these producers, commercial production should be declared illegal. This would result in a systemic decimation of the mafia that controlled the unregulated market of cannabis. Secondly, the state government should control the selling of produce from these registered farmers by establishing licensed retail shops (liquor stores, restaurants, bars, package stores, etc.) & the central government should set the legal age for recreational marijuana usage at 21 years or older. Furthermore, the state government should recommend and guide such retail shops to provide a linked customer card (like a credit card, with full details of the customer and the store). Thirdly, the retail stores should be allowed to sell a maximum of 3 to 5 grams of marijuana per person above 21 years who hold a licensed customer card. This card should be treated like a bookkeeping system that would account for the amount of marijuana purchased by the person per day (maximum limit being 5 grams). If possible, this card should be linked with the Aadhar card, a unique identification card. This interlinking would serve as a better mode of regulating the quantum of usage. Also, the State Government can provide marijuana in a limited quantity to regulate consumption. Lastly, the state should tightly regulate marijuana quality control and potency, and the potency of the product should be made publicly available to the user. Following medical consultations, the

potency level should be determined. If the aforementioned conditions are not followed, the state government must revoke the retail sale and cancel the distributor's license. Commercialization, advertising, and mass marketing of cannabis products should be limited.

Cannabis and humans have a long and varied history together. Cannabis has had a significant impact on human history. Cannabis should be first decriminalized and then slowly legalized and regulated since it can help our country generate cash by placing a tax on sales. There is a large mafia and black-market industry across the country which is making a lot of money because there are individuals buying cannabis at any price or amount. If cannabis production sale is legalized in India, the government will make money rather than the mafia, and this money would be used for other essential causes such as education or the growth of our nation. It can also assist in reducing the unemployment rate in our country since it will create a legitimate industry that will require a workforce. There would be marijuana business chains, and workers would be needed at every level of the chain, from producers to transporters to sellers. As nations throughout the world continue to reduce restrictions on personal cannabis usage, it is time for India also to reject its archaic perspective on cannabis. Finding solutions to decriminalize, regulate and control drug usage is the key aspect that countries all around the world are seeking and using as an opportunity. India too should look into implementing a promising local decriminalization scheme as an optimistic step in this direction. Moving forward, one example is Sikkim's anti-drug approach, which does not utilize punishment to limit drug usage, but instead focuses on a reformative strategy to ensure the well-being of addicts.