

Research paper on policy analysis paper

[Literature](#), [Russian Literature](#)



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Decriminalization of Marijuana in some states of America

Description of issue

Drug and substance abuse continues to affect the society usually with overt and covert consequences. What has resulted is the tendency by communities to disapprove of the consumption. The disapproval has been manifested in legislations, policies and discouraging moral norms and values. Indeed, the position of marijuana has remained unclear in the larger United States of America. Marijuana has the uncommon characteristic of having a dual application in the medical and recreational sectors. It, thus, can be used for either its medicinal value or recreational value. The law in the United States on marijuana could be summarised by the holding in *Gonzales vs. Raich*, 2005, in which the Commerce clause and the Supremacy clause essentially allowed federal law to ban the consumption of cannabis, since federal law, was supreme and hence would be superior to state law. This, among other cases, set the trajectory towards a liberal approach in the

legalization of marijuana consumption. However, several state laws provide for consumption and use of marijuana in two main caveats. The first class, is the medicinal use of marijuana and has been embraced by the following states without being exhaustive: Alaska, Arizona, California, Michigan, New Jersey, D. C., Colorado and Nevada. The other caveat is the recreational use, otherwise known as non- medicinal consumption of marijuana. The latter had been embraced by a number of states in the United States of America, which without being exhaustive include: Oregon, Washington, Michigan, Nevada, Alaska and Maine.

Is the policy a regulatory or legislative initiated policy?

The policy sits within the province of legislative initiated policies. This is because of the general trajectory it has assumed in which, ordinarily, it is the respective state assemblies that come up with the decriminalization law. Even though the jurisprudence set out in *Gonzales vs. Raich*, tends to suggest that federal law being superior to state law could override the laws of the state, the fact that decriminalization of marijuana in the mentioned states is guided by state law initiated by state assemblies point to the direction that the policy is legislative initiated rather than regulatory. The state assemblies or legislature, for these cases, were wary of public opinion and interests and could be argued to have acted on behalf of the citizenry in the legislations. This should be distinguished from regulation which in many cases is guided by academic concerns and findings.

What initiated the policy?

The policy was initiated by legislation. An interrogation of the discourse that led to the various pieces of legislations in the respective states illustrates the fundamental and essential roles played by legislators who clearly initiated the policy. The policies were guided by deep ideologists within the state legislative systems who believed decriminalization would effectively contain the vagaries attributed to the ban. Some of the fundamental arguments in favour of decriminalization border on questions of economic factors, health effects, prison congestion and reduction in illegal trade. In that strain, these legislators and their supporters alike, believe that decriminalization would widen the tax base, and hence the revenues collected, reduce illegalities perpetrated by illegal smugglers and dealers and reduce congestion in prison and the general crime rates to lower levels.

Is there a constitutional issue?

Indeed, a number of constitutional issues arise. This resonates around constitutionalism which looks at the application of the law rather than the mere theoretical expression. Take for instance, the constitutional question decided in *Gonzales vs. Raich*. It was decided that the Commerce clause read together with the Supremacy clause necessarily allowed federal law to override state law for the simple reason that the federal law was superior. This essentially diminishes the capacity of state law especially in regard to protecting the rights of consumers of non-medical marijuana. The consumers may reside in state law for safety and require constitutional safeguards to accrue from the permissive laws. However, the Supremacy clause applied together with the Commerce clause may conspire to deny the consumer any

rights due to the primacy of federal law. This arises because of the inconsistency of the laws in the entire United States of America. A solution, perhaps, lie in constitutional law, which ought to clearly determine the manner in which the laws can be reconciled.

How policy affects the community, accused and victims

Decriminalization of marijuana would probably have a lot of consequences on all the three parties, the community, the accused and the victims. While the argument that state revenue would increase due to an increased tax base holds, it is negated by the fact that the psychological effects of marijuana on its consumers may necessarily facilitate the commission of other crimes. This would only mean the state budgets on crime detection, prevention and investigations would increase, perhaps more that the increased revenues. On the other hand, the consumption of marijuana could only facilitate the indulgence of consumers in consumption of other hard drugs. This is because as one gets addicted and acclimatizes to the conditions, the body naturally demands for harder and tougher drugs like cocaine.

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