

Research paper on disciplinary rhetoric legal marijuana

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



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The subject of legalizing marijuana is linked to many disciplines that impact people in their everyday lives. The controversies are thick and heavy because the subject touches on so many issues that spark political arguments. Some of those arguments are about states' rights versus federal law, the drug war versus legalization, charges of addiction versus examples of medicinal relief. Doctors and biologists would like to have access to high pharmaceutical quality marijuana so they can run reliable tests about its effects. Educators are concerned that young people may not have enough self-discipline to avoid addiction if it were legalized. Some psychologists would like to have access to standardized marijuana in order to treat anxiety syndromes but other psychologists are developing ways to treat patients for addiction or inappropriate behaviors.

Many people grow marijuana for their own use in their homes or gardens. Many others never even give marijuana a thought until they become ill. Then the medicinal value of marijuana patients who are suffering from cancer becomes important to them. Marijuana can help overcome the terrible feelings of nausea that are a result of chemotherapy treatments. Patients

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who have been diagnosed with HIV are able to eat better and stay healthier because the marijuana helps them regain their appetite. The use of medical marijuana has been a strategy for legalizing marijuana in some states even though the federal government laws do not allow an interpretation for legal or medicinal marijuana. Congress has “ banned marijuana outright (Mikos, 102).

This essay discusses two papers with strong opinions about the part the legal community plays in the marijuana ‘ controversy.’ The papers use some typical methods of introducing the subject, discussing the legal issues, relating the subject to peoples’ real life experiences and then they offer suggestions for making improvements.

All the arguments from all the disciplines always wind one way or another to what is legal now and what should be legal. This essay will discuss two papers that present two different perspectives on the legal aspects of the laws and marijuana use.

The working paper titled, “ No Rational Basis: The Pragmatic Case for Marijuana Law Reform” offers the argument that many public policies have been “ self-defeating.” The authors argue for “ humane enforcement” and ask if there really is a “ marijuana problem.” (Blumenson & Nilsen, 5-29)

The working paper “ On the Limits of Supremacy: Medical Marijuana and the States’ Overlooked Power to Legalize Federal Crime” takes a more legally technical look at the marijuana situation in which federal law and state laws are in not in agreement (Mikos, 104-146).

Irrationality versus Pragmatism

Blumenson and Nilsen offer evidence of the self-defeating and illogical consequences of the marijuana laws now on the books. Marijuana is designated as a Schedule 1 drug so legal strategies used by law enforcement and the justice system are the same as if it were similar to heroin or worse than cocaine for users (2). The authors' key argument is that after seventy years of using law enforcement, the main thing proven is that law enforcement is not a strategy that works. "Criminalization, which results in the arrest of more than 700, 000 Americans annually for possession of any amount of marijuana, is an inhumane and destructive response to an act that almost 100 million Americans have committed" (2).

Bluemenson and Nilsen have hopeful news to share as Obama's administration has announced that treatment instead of punishment would start taking a larger role in dealing with drug users (3). State legislators are also moving away from a strictly law enforcement strategy. Laws are being promoted to reflect the move away from punishment to treatment. Laws and referendums have offered ways to unlink possession of marijuana, a non-violent crime, from violent crimes. Not all the proposed legislative changes have met with success but there is a movement across the country to at least consider changes.

Interpretation of the Law

Mikos defines "legalize" as "the government permits some private conduct to occur free of legal sanctions, both civil and criminal. It (to legalize) means something more than decriminalize, which merely removes the threat of

criminal sanctions” (102). He continues his discussion by pointing out the detailed reasons why the states have the right to allow medical marijuana although Congress has placed a ban on marijuana. Congress has a Constitutional right to ban marijuana. This ability of Congress to ban the drug was upheld in 2005 by the Supreme Court.

Here is Mikos’ key argument for the states’ ability to disregard the ban: “States may continue to legalize marijuana because Congress has not preempted – and more importantly, may not preempt – state laws that merely permit (i. e., refuse to punish) private conduct the federal government deems objectionable” (103). So Mikos is arguing that by permitting citizens to use medical marijuana privately, states have used a very powerful tool that can be used in other situations when the state and the federal government have opposite opinions (105).

Blumenson and Nilsen discuss the medical marijuana registration laws in states where it is legal (29-34). They offer realistic suggestions for better marijuana policy such as removing it from the schedule 1 classification which even the American College of Physicians recommends (26).

Mikos uses legally technical language to explain how thirteen states have proved that states rights have trumped federal law with medical marijuana law. He argues that since the federal government does not have the resources to enforce the ban, the states have been able to enact “permissive” state laws on the use of medical marijuana. Importantly he points out that by doing so the state legislatures have “diminished the most

significant barriers inhibiting that behavior, including state legal sanctions and the personal, moral, and social disapproval of the behavior as well.”(160-161)

Conclusion

The two articles reviewed present legally professional arguments for introducing justice into the legal process concerning marijuana use.

Blumenson and Nilsen take a less technical approach than Mikos but still offer legitimate examples of where the law needs to be improved. Mikos has taken a very legalistic approach to explaining his argument. His argument is part of a heated political discussion that has taken place for decades; that is which has the most power - states or the federal government.

The papers give examples to explain how legal sanctions have not been working properly. The papers also offer reasoned arguments with examples of how legal reform can be implemented to better suit citizens. Blumenson and Nilsen take a public policy perspective using the war on drugs as a starting point. Mikos takes the point of view that state laws have a great symbolic significance and uses medical marijuana as an example.

Both papers offer good examples for developing a thesis. I would be interested in looking more closely at options available for taking marijuana out of the schedule 1 drug classification. The Congressional ban is what makes research impossibly difficult for doctors, biochemists and other professionals who want to gain access to standardized marijuana. High

quality research needs to be done in order to evaluate the medicinal benefits and the disadvantages of using marijuana for therapeutic purposes.

The Congressional ban also needs to be changed so that it will become legally possible to get non-violent marijuana-use offenders out of prison.

Works Cited

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