

Legalization of marijuana in colorado, washington state, and beyond research pape...

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



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I. Introduction

Over the last several years the legalization of the recreational use of marijuana has grown to become one of the hottest public policy debates in the United States and Canada. Issues involved in the debate not only encompass the legal question of an individual’s right to privacy and whether adults should be allowed to “ smoke a little weed” in their own home; but also community concerns of addiction and how to regulate marijuana use to control for any potential health and safety risks. Furthermore, the conversation also includes question of whether there are any economic benefits to the legal cultivation of marijuana and how can any “ pot funds” be put to good use.

In regards to “ law and society” however, perhaps the biggest subject concerning the legalization of marijuana is the unique but contradictory legal framework it creates between state and federal law. In 2012, the legalization debate entered a new phase when voter initiatives legalizing the recreational use of marijuana in Colorado and Washington State were passed by wide margins. While the initiatives were a blessing to the marijuana smokers in both states, they also created a problem for the US Department of Justice.

While the possession, use, and cultivation of marijuana is lawful under the laws of both states, it still remains illegal under federal law (Garvey & Yeh, 2014). Accordingly, marijuana users in Colorado and Washington State are still subject to prosecution for violating the federal Controlled Substances Act (Garvey & Yeh, 2014). What is more, the marijuana laws in Washington and Colorado cannot be taken in isolation. As of November 4, 2014, the recreational use of marijuana became legal in three more US jurisdictions, namely Oregon, Alaska and the District of Columbia. Accordingly, the total number of American citizens legally able to use marijuana under state law but in violation of federal law is now 18 million (Fischer-Baum, 2014).

According to the Marijuana Policy Project, a non-profit organization founded to advocate for “ change in state laws to reduce or eliminate penalties of use of marijuana, similar ballot initiatives and legislative action to legalize the recreational use of marijuana will be up for vote in eleven states over the next two years (Chokshi, 2014). This short paper will demonstrate that federal marijuana prohibition is out of touch with the growing trend to decriminalize the recreational use of small amounts of marijuana. Moreover, it will argue that federal law should be amended to take into account the experiments occurring on the state level or lose any ability to influence nationwide policy on marijuana law as well as risk a public backlash.

II. Background

The cultivation of cannabis, the plant that produces marijuana, in the US dates back to the Colonial Era. At that time, cannabis was a common cash crop used in the production of clothes, fabrics and rope as well as for medicine. To be sure, some the nation’s Founding Fathers, including Thomas

Jefferson and George Washington were cannabis growers (CNBC, n. d.). As a medicine cannabis was commonly for its therapeutic properties. As the nation began regulation of its pharmaceutical industry in the mid-1800s, more and more federal and state governments began requiring the proper labelling of all medicines including their component parts. Under many of these laws, cannabis was labelled as a “poison,” mainly as a way to draw attention to its harmful effects or announce the policy that it should only be used with a doctor’s prescription and obtained from a licensed pharmacy (CNBC, n. d.). In 1906, Congress passed the Pure Food and Drug Act of 1906, which sought create a national regulatory scheme for all medicines and drugs. The law incorporated the designation of cannabis as a poison. Successive amendment to the Pure Food and Drug Act as well as the passage of other federal laws further brought the use of cannabis under strict government control. Most states followed the federal lead on criminalizing cannabis. Accordingly, by the mid-1930s, cannabis was a regulated drug in every state (CNBC, n. d.). The culmination of cannabis regulation happened in 1970 when Congress passed the Controlled Substances Abuse Act (CSA). Under CSA, the federal government classified cannabis as “having high potential for abuse, no medical use and not safe to use without medical supervision.”

While the regulation of cannabis began as a state practice but was taken over and dominated by the federal government by the turn of last century, beginning in the 1970s, states began to reassert their authority to regulate it. Indeed, as the economic difficulties in policing its criminalization became clearer, a number of states were forced to reconsider how they regulated

cannabis. In 1973, Oregon was the first state to decriminalize the possession of minor amounts of cannabis. In 1975, Alaska, California, Colorado and Ohio, followed suit with laws decriminalizing possession of minor amounts. In 1978, New York, Mississippi, Nebraska and North Carolina similarly introduced laws that allowed for the decriminalization of some aspects of cannabis possession. Moreover, research into the benefits of cannabis refocused attention on its original therapeutic uses especially in medical treatments and in pain management lead to the creation of a number of advocacy groups calling for the abandonment of marijuana criminal laws. This led to efforts in a number of states, including Colorado and Washington to authorize the limited use of marijuana for medical purposes.

The marijuana situation in Canada is similar to the US. Under federal law, while medical marijuana is allowed under strict regulation, the recreational use of marijuana is illegal. At the provincial level, however, federal marijuana laws are often unenforced by local law enforcement. For instance, a number of court decisions in Ontario have declared the federal prohibition of marijuana to be “constitutionally invalid and of no force or effect” (Boesveld, 2011). Furthermore, just as in the US, there is growing public support for the nationwide legalization of marijuana for recreational use (ARPO, 2012). Additionally, despite provincial practice to the contrary, the federal government, just like its US counterpart, continues to support the criminalization of marijuana use, even in small amounts.

III. New Developments

Colorado

As mentioned, Colorado has been at the forefront of the “ decriminalize” recreational marijuana revolution since the 1970s. However, in November 2012, voters took the major step of voting for its full legalization. Under Amendment 64, Colorado’s Constitution was amended to require that any adult over 21 who possesses, uses, displays, purchases, consumes , or transports one ounce of marijuana will not be criminally prosecuted (Garvey & Yeh, 2014). Moreover, under the amendment, adults over 21 may also cultivate up to six marijuana plants for personal and private use.

Washington State

The medical use of marijuana was made legal in Washington State by a citizen initiative in 1998. In November 2012, voters amended the law to include the legal use of recreational marijuana. Under Initiative 502, Washington law allows adults over 21 to possess one ounce of dried marijuana, 16 ounces of marijuana infused in a solid product or 72 ounces of marijuana infused in a liquid product for personal and private use. Unlike, the Colorado law, however, Washington citizens cannot cultivate their own marijuana but must procure it from licensed distributors. In addition, the new law established a licensing system for the production, possession, distribution and sale of marijuana (Garvey & Yeh, 2014).

IV. Analysis

While federal law (as well as the majority of states) still outlaws the recreational use of marijuana, the obvious trend suggests that a nationwide decriminalization of cannabis is a distinct possibility at some point in the

near future. Just as federal regulation initiated state level regulation of cannabis at the turn of last century, federal decriminalization would likely play a similar role in facilitating the decriminalization of marijuana in the states that remain in opposition to its legalization. From a public policy perspective, legalization has a number of benefits. First legalization will most likely have immediate positive effects on the criminal justice system. The decriminalization of minor possessions of marijuana will liberate hundreds of police officers, attorneys, judges and jail cells used to investigate, prosecute and punish offenders. According to the American Civil Liberties Union (ACLU) over half of the drugs arrests that occur in the nation are for violations of marijuana possession laws (ACLU, 2013). Interestingly, despite the high number of arrests for possession of marijuana, there is no evidence that “getting tough on marijuana” has led to a reduction of its use or availability (ACLU, 2013). In addition, decriminalization could lead to a reduction in the violence and destruction often associated with the transnational drug cartels and local gangs that are involved in its trafficking and sale. Finally, by reducing the stigma that being arrested and convicted has such as the damaging consequences of an arrest record in obtaining employment or receiving social services, decriminalization should lead to a decrease in recidivism rates of the recently released.

Secondly, as mentioned above, decriminalization of marijuana may have tremendous benefits to both federal and state economies. For instance, in Washington State, the legal marijuana industry could potential add as much as US \$500 million per year in tax revenue as well as create hundreds of jobs need to cultivate and sell marijuana as well as regulate the marijuana

industry. The financial benefits of legalized marijuana are not just tied to its production and use. As many states began to discover in the 1970s, legalization will also lead to decreases in the government funds need to keep it off the streets. To be sure, keeping marijuana illegal costs the nation nearly US \$7. 7 billion dollars per year (Miron, 2005).

Finally, from the federal government's perspective, there seems to be a growing sense of the inevitability of a majority of states decriminalizing marijuana and that they should get out in front of the issue or be left behind. Between 2009 and 2011, the Department of Justice issued a number of directives to U. S. attorneys informing them that while the possession and use of marijuana is still a violation of federal law, they should use discretion in prosecuting marijuana cases, especially cases that a legitimate under state laws (Cole, 2013). In early 2014, Attorney General Eric Holder announced new guidelines for United States attorneys which recognize the need for legitimate marijuana businesses to have access to the same financial tools, such as banks and credit cards, as other businesses (Healy & Apuzzo, 2014). Moreover, two bills have been have been introduced in the current Congress that are want to reform aspects of the federal law that criminalizes the possession of marijuana. The Ending Federal Marijuana Prohibition Act, which was introduced in early 2013, proposes to decriminalize marijuana by defining it more like alcohol (). Alternatively, the Respect State Marijuana Laws Act, which was also introduced in 2013, would protect marijuana users from federal prosecution if they are in compliance to state marijuana laws ().

V. Conclusion

In conclusion, while the use of marijuana for both recreational and remains illegal at the federal level, a majority of states have decriminalized or legalized its use. Moreover, arguments to continue its prohibition make are finding less and less of an audience. Indeed, recent (and future) ballot initiatives clearly illustrate that the American and Canadian public has become more comfortable with the idea of legalized marijuana. In addition, its legalization makes sense from a number of perspectives including substantial financial benefits. Lastly, legalized marijuana should have a positive effect on criminal justice by reducing violence, decreasing the number of people jailed for minor marijuana violations and the more effective using police resources. For these reason, federal marijuana prohibitions should be amended to reflect the changes happening to marijuana laws at the state level.

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