

Marijuana
legalization: is
america losing the
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America is losing the war on drugs. The time has come for a serious change in marijuana-related policy. Marijuana is the most commonly used illicit drug, and is also the least harmful. It is arguably less harmful than alcohol or cigarettes. The federal legalization of marijuana can be achieved by modeling policies that already exist in several states in this country, namely California. The federal government stands to save billions in law enforcement expenditure, and also to gain even more money in tax revenue. The statistics of marijuana use are staggering. The government is sitting on a solution to the budget crisis that could change the bleak outlook of the country almost overnight. It is time for a change.

It is estimated that one in three people has, at some point, tried marijuana. It is further estimated that one in ten people actively use marijuana on an occasional basis. But, astoundingly, one in twenty American people are estimated to be heavy marijuana users. It is incredible to know that 33 percent of the people in this nation have engaged in marijuana-related behavior, considering it is illegal. One in eight people incarcerated in U. S. A. are in prison for marijuana-related crimes, and this figure alone costs American people over \$1, 000, 000, 000 annually in taxpayer money. In a recent issue of Rolling Stone Magazine, Tim Dickinson reported that “ the White House leaked word that President Obama considers the four-decade-long crackdown [on marijuana] to be a failure” (Dickinson, 2012). The American government is fighting a losing battle against marijuana use, and it is widely believed that we, as a people, have reached a point in our history in which it is time to seriously re-evaluate the legal stance on marijuana, and potentially decriminalize it completely.

One should first have a brief understanding of the inner workings of the marijuana plant and why it has the influence that it does on the human mind. Marijuana is typically derived from the female plant *cannabis sativa*. The plant contains many types of cannabinoids, but the most notable psychoactive stimulant is delta-9-tetrahydrocannabinol, also known as THC. THC is a mild form of acid, and it is what produces the “high” feeling of using the drug. The content of THC is highest at the flowering bud of the plant, where it can range from 0.5%-5%. It has many methods for ingestion. The primary form is by smoking the plant, which can be achieved through several means, the most notable of these means being by smoking a “joint,” in which marijuana is rolled up into paper and is typically rolled to the size of a cigarette. It can also be smoked in any of several glass implements, such as “bowls” or “bongs.”

Less frequently, it is baked into cakes or cookies. Rarely, it can also be drunk in a liquid suspension. Furthermore, it has a long history of use in this nation (Room, 2010). United States federal law currently schedules marijuana as a non-medical banned substance. This was not always the case. In fact, prior to the 1930’s, marijuana was a completely legal substance. It was used recreationally, medicinally, industrially, and religiously. George Washington even grew several varieties of the plant, including a few strains that were cultivated primarily for smoking. However, the Marijuana Tax Act of 1937 worked to change this by becoming the first act on behalf of the U. S. government to criminalize the product. About three decades later, the Comprehensive Drug Abuse Prevention and Control Act of 1970 repealed the Marijuana Tax Act and scheduled categories for all types of recreationally

used drugs, which involves the risk for abuse and the probability for medicinal use. Marijuana became a substance scheduled for non-medical use, and was banned as an illegal substance, even though marijuana does have limited proven medical use (Saieva, 2008).

What is interesting is that two years later, President Richard Nixon commissioned a panel of public policy experts, members of the justice department, and medical professionals to examine the social implications of prohibition. It was determined that the societal harm of criminalization and imprisonment outweighed the physical risks from smoking marijuana. However, the policies remained the same, and marijuana continued to be an illegal substance. For years into modern times, the state governments took heed of Nixon's report and attempted to decriminalize it locally, sometimes doing so outright and acting in complete defiance of the federal law. In the early 1980's, however, President Ronald Reagan took a hard stance against drug use. He is known for creating the "war on drugs" and passed stricter mandatory sentencing guidelines for drug offenses, known as the Comprehensive Crime Control Act of 1984 (Saieva, 2008). Billions of dollars have been wasted to keep it an illegal substance and fight the war on drugs. Right now, it is estimated that about 45, 000 people are in state and federal prisons for marijuana-related crimes. Taxpayers foot the bill for their "accommodations."

In addition to this, even more taxpayer money contributes in various areas of defense against marijuana, from the everyday police officer to the border patrol officers who attempt to prevent the trafficking of marijuana into our country. Many believe that in modern times, about \$9, 000, 000, 000 is spent <https://assignbuster.com/marijuana-legalization-is-america-losing-the-drug-war-essay-sample/>

on marijuana prohibition as a whole. There is no known released actual figure on this. This, however, is not a perilous situation for marijuana users in the United States of America. Peter H. Reuter recently presented a paper on marijuana legalization in other countries, which outlined several positive changes that have been made in other countries, most notably The Netherlands, where marijuana is almost completely legal for recreational use. The restrictions are fairly tight, but the Dutch are absolutely at the forefront of legalization. In our own country however, several states have made leaps and bounds toward the complete decriminalization of marijuana (Reuter, 2010). The biggest steps have been made by California.

California has had medical marijuana laws on the books since 1996, when the Compassionate Use Act of 1996 was signed into law. Michelle Patton, in 2010, wrote a legal article outlining several programs that California attempted to sign into law during the election of that year (Patton, 2010). The first of these was The Tax, Regulate, and Control Cannabis Act of 2010 (TRCCA), proposed by three Northern California criminal defense attorneys, was the first legalization initiative certified for signature collection for 2010 ballot. This measure would repeal all existing criminal laws relating to cannabis activities except California Vehicle Code § 23152, driving while impaired, and California Penal Code § 272, contributing to the delinquency of a minor. It would permit the possession, use, cultivation, transportation and sale of marijuana and marijuana products for those over the age of 21. It would prohibit furnishing marijuana to individuals less than 21 years of age except for medical use, and it would also prohibit smoking near schools, on a school bus, or by the operator of a motorized vehicle, vessel, or aircraft. It

also prohibits the sale of marijuana to locations outside of California where such sales are prohibited by federal or international law.

The initiative provides general guidelines for these prohibitions, but leaves most penalties for the legislature to determine (Patton, 2010). The TRCCA does not provide all of the details of its implementation. Instead, it requires the government “ to adopt reasonable laws to permit, license, control and issue taxes for the commercial cultivation and sale of cannabis,” including everything from non-smoking ordinances to environmental regulations to business permits to labeling requirements. This amounts to a great deal of complex and potentially highly controversial regulations that must be created and approved by the legislature, state agencies, and local governments. These regulations must be completed within one year. It is also retroactive, meaning anyone currently prosecuted/sentenced for marijuana would be released and expunged (Patton, 2010). The Regulate, Control and Tax Cannabis Act of 2009 (RCTCA) was inspired by Oakland’s tax on medical marijuana dispensaries and sponsored by Richard Lee, Executive Director of Oaksterdam University, and Jeffrey Way Jones, former Director of Oakland Cannabis Buyers’ Cooperative.

It also has the backing of a prominent state politician, former state Senate President Pro Tem Don Perata (Patton, 2010). The goal of this initiative is to create a legal regulatory framework for governing marijuana, similar to the regulation of alcohol, but stricter. The theory behind the initiative is that giving California control over marijuana-related activities will, among other things, ensure access and quality for those patients that need it, prevent access by minors, eliminate the dangerous black market for marijuana, allow

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local governments to prohibit the sale within city limits, and generate billions of dollars to fund state and local governments (Patton, 2010). Unlike the other marijuana measures, the RCTCA does not contain a blanket repeal of all marijuana provisions. Instead, its intended effect is to limit the application and enforcement of current marijuana laws. It authorizes any person twenty-one years old and older to personally possess, share, or transport up to one ounce of marijuana that is not for sale. Adults may consume marijuana both in private premises and licensed premises open to the public. However, the initiative prohibits the consumption while operating a motor vehicle.

Smoking marijuana while minors are present is also prohibited.

The RCTCA permits cultivation on private property for personal use, but land used for cultivation cannot exceed an area of twenty-five square feet. In addition, it explicitly leaves certain regulations unaffected including, but not limited to, those related to possession on school grounds, use in the workplace, driving while under the influence, or contributing to the delinquency of a minor. The RCTCA has a much broader list of such exemptions than the TRCCA, which only exempts driving under the influence and contributing to the delinquency of a minor from its blanket repeal (Patton, 2010). In an interesting twist, the RCTCA delegates regulatory decisions and control to local governments rather than the state government. Local governments would have authority over cultivation, distribution, taxation, sale, possession for sale and, consumption within licensed premises. They also may increase the limits on the sale, personal possession and cultivation, and commercial cultivation and transportation of marijuana.

This delegation of regulatory power would likely result in “wet” and “dry” counties. However, the RCTCA does permit state regulation if the legislature passes an act amending the initiative (Patton, 2010). Under this initiative criminal penalties involving marijuana are maintained but used only when minors are involved. The RCTCA prohibits a host of acts involving minors with penalties dependent on the age of the offender and the minor. For instance, it forbids individuals over the age of 18 to offer, furnish, administer or give marijuana to a minor. The punishment for a violation is a state prison term of three, five, or seven years, if the minor is under fourteen years old, and three, four, or five years, if the minor is between fourteen and eighteen years old. In addition, the RCTCA punishes anyone twenty-one years or older who offers, furnishes, administers, or gives marijuana to a person between the ages of eighteen and twenty-one with up to six months in jail and a \$1,000 fine.

It also proscribes the sale of marijuana to a minor, inducing a minor to use marijuana, and the use of a minor in the transportation, preparation, gift, or sale of marijuana by any individual over the age of 18 years, punishable by a state prison term of three, five, or seven years. There are additional penalties for those authorized to sell marijuana under the Act who negligently offer, furnish, administer, or give marijuana to a person under twenty-one years old. If the authorized seller does so, he or she cannot own, operate, be employed by, assist, or enter any licensed premises for one year. These provisions are much stricter than the corresponding regulations for alcohol; punishing the individual who actually commits the act, not just the license holder, and providing more penalty options. Simply put, this Act is

much more comprehensive, and presents all laws related to the production and possession of marijuana (Patton, 2010). Finally, The Common Sense Act of 2010 (CS) was sponsored by John Donohue of Long Beach, California and is very simple in its approach to legalization.

Effective immediately upon passage, it repeals existing prohibitions on marijuana use, cultivation, possession, transportation, and sale. It prohibits all government entities in California from spending any funds enforcing any law that prohibits these marijuana-related activities. Under this measure, all levels of the government, including federal, would be authorized to tax the manufacture, sale, and use of marijuana. The act explicitly instructs the state legislature to enact taxes and regulations within one year, using the wine industry as a model. It also instructs all United States Congress members from California to work actively to remove marijuana from the schedule of controlled substances under the CSA and vote against any funding that would be used to enforce laws prohibiting marijuana or hemp products (Patton, 2010). While this measure would go into effect immediately upon voter approval, the government would have up to a year to enact regulations concerning the cultivation, transportation, sale, possession, and consumption of marijuana.

It could feasibly take the Legislature the entire year to develop, negotiate, and pass regulations and during that period of time, marijuana would be decriminalized, but not regulated. This would be the case with all of three proposed measures, but would have more severe implications for this one.

The CS's repeal does not contain any of the exceptions for laws concerning vehicles or minors like the other measures do. It does not prohibit the sale, <https://assignbuster.com/marijuana-legalization-is-america-losing-the-drug-war-essay-sample/>

possession, or use of marijuana by or around children. Perhaps this is because it envisions the Legislature enacting new provisions of this nature, just as it has for tobacco and alcohol. However, until the Legislature enacts regulations, these activities would be considered legal (Patton, 2010). California is not the only state attempting to make steps toward legalizing marijuana.

Alaska, Arizona, Colorado, Connecticut, District of Columbia, Delaware, Hawaii, Maine, Michigan, Montana, Nevada, New Jersey, New Mexico, Oregon, Rhode Island, Vermont, and Washington all either have laws on the books or have attempted programs decriminalizing the use of medical-related marijuana use. The approval rate for the legalization has gone up substantially since prohibition in 1969. In fact, in 1969, the approval rate for legal marijuana was only about 12%, but in 2003, that number rose to 34%. Today, it is generally believed to be about 44%. Also, in 2003, 46% of the country believed that small amount possession should not be treated as a criminal offence (Millhorn, Monaghan, Montero, Reyes, Roman, Tollasken, Walls, 2009). The budgetary implications could be very favorable if marijuana is legalized. Jeffrey A. Miron wrote a paper on the budgetary implications of legalization in Massachusetts in 2003.

He discovered that legalization would save the state of Massachusetts \$120.6 million a year in government expense to prosecute and enforce marijuana law. However, not only would this money be saved, an additional \$16.9 million annually would be gained from tax revenue (Miron, 2003). Multiplied on the scale of the entire nation, legalization stands to benefit the country quite heavily, both saving billions on enforcement and gaining even more in <https://assignbuster.com/marijuana-legalization-is-america-losing-the-drug-war-essay-sample/>

tax revenue. Not everyone believes that marijuana is beneficial. Many still hold the opinion that the drug is still detrimental to our culture, and that it is worth the billions spent to enforce its alleged abuse. The federal government recently released a document which made some powerful statements in its defense of the drug war against marijuana. They stated that marijuana use is harmful and should be discouraged.

They also continued on to say that legalization would lower the price of the drug, thereby increasing its use. Furthermore, it is stated that tax revenue would be offset by higher social costs. It is also stated that legalization would further burden the criminal justice system by contributing to under-the-influence related accidents. Finally, they state that legalization would do little, if anything, to curb drug violence (ONDCP, U. S. Dept. of Justice, 2010). These statements are valid arguments to the pro-legalization debate.

However, there are generally accepted arguments within the marijuana legalization community. They are heard often, but they are ever so true. Marijuana users contribute minimally to under-the-influence accidents and this trend would continue with legalization. The effects of marijuana deeply affect one's state of mind, relaxing one to the point that it is likely they wouldn't even head out to travel by automotive vehicle, therefore defusing the burden of the criminal justice system.

The higher social costs would be deeply offset by the saved revenue of enforcing marijuana laws. Drug violence would decrease in a huge way. It is well known that marijuana is the most commonly used illicit drug. Mexico is the chief exporter of illicit drugs into the United States. The "harder" drugs aren't the big business for cartels, though. Many murderous deaths in Mexico
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can be attributed to marijuana (" Are we losing," 2009). By eliminating the need for marijuana traffickers to be illegitimate, that would curb a serious amount of drug violence. To summarize, the benefits of marijuana legalization far outweigh the negative consequences.

As a physical substance, it is far less harmful to the human body than cigarettes and alcohol, both of these substances being perfectly legal in nature. In conclusion, there are great steps being made to legalize marijuana. There is a vast opposition, but promoters of marijuana legalization believe that the struggle will soon end. After all, this is a land where freedom can be gained by simply banding together, letting voices be heard, and proactively pushing their respective cause. President Obama, if re-elected, plans to reform the drug war, and he may potentially do so in favor of marijuana. This will be the greatest leap toward legalization in almost 20 years. It is time for a change, and hopefully, that time is now.

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