

Real World Ramifications of Cannabis Legalization and Decriminalization

Editor's Note: As more states begin to debate the question of legally controlling marijuana, many lawmakers are posing questions to NORML regarding what effect, if any, such a policy change may have upon the public's use of cannabis and/or young people's attitudes toward it.

The following paper reviews various studies** that have examined this issue in regions that have either a) regulated marijuana use and sales for all adults; b) decriminalized the possession of small quantities of marijuana for adults; c) medicalized the use of marijuana to certain authorized individuals; or d) deprioritized the enforcement of marijuana laws. This paper also proposes general guidelines to govern marijuana use, production, and distribution in a legal, regulated manner.

**This paper expands upon the studies initially referenced by NORML in its paper, Marijuana Decriminalization & Its Impact on Use, which may be found here.

<http://www.norml.org/index.cfm?Group_ID=3383>

CRIMINAL MARIJUANA PROHIBITION IS A FAILURE

By any objective standard, marijuana prohibition is an abject failure.

Nationwide, U.S. law enforcement have arrested over 20 million American citizens for marijuana offenses since 1965, yet today marijuana is more prevalent than ever before, adolescents have easier access to marijuana than ever before, the drug is on average more potent than ever before, and there is more violence associated with the illegal marijuana trade than ever before.

Over 100 million Americans nationally have used marijuana despite prohibition, and one in ten – according to current government survey data – use it regularly. The criminal prohibition of marijuana has not dissuaded anyone from using marijuana or reduced its availability; however, the strict enforcement of this policy has adversely impacted the lives and careers of millions of people who simply elected to use a substance to relax that is objectively safer than alcohol. ***NORML believes that the time has come to amend criminal***

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prohibition and replace it with a system of legalization, taxation, regulation, and education.

THE CASE FOR LEGALIZATION/REGULATION

Regulation = Controls

- Controls regarding who can legally produce marijuana
- Controls regarding who can legally distribute marijuana
- Controls regarding who can legally consume marijuana
- Controls regarding where adults can legally use marijuana and under what circumstances is such use legally permitted

Prohibition = the absence of controls – This absence of control jeopardizes rather than promotes public safety

- Prohibition abdicates the control of marijuana production and distribution to criminal entrepreneurs, such as drug cartels, street gangs, drug dealers who push additional illegal substances
- Prohibition provides young people with easier access to marijuana than alcohol (CASA, 2009)
- Prohibition promotes the use of marijuana in inappropriate settings, such as in automobiles, in public parks, or in public restrooms.
- Prohibition promotes disrespect for the law, and reinforces ethnic and generation divides between the public and law enforcement. (For example, according to a recent NORML report, <http://norml.org/index.cfm?Group_ID=6411> an estimated 75 percent of all marijuana arrestees are under age 30; further, African Americans account for only 12 percent of marijuana users but comprise 23 percent of all possession arrests)

DEFINING MARIJUANA LEGALIZATION/REGULATION

What would marijuana regulation look like?

- There are many models of regulation; depending on the substance being regulated these regulations can be very loose (apples, tomatoes) or very strict (alcohol, tobacco, prescription drugs)

The alcohol model of regulation:

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- Commercial production is limited to licensed producers (though non-retail, home production is also allowed)
- Quality control and potency is regulated by the state, and the potency of the product is made publicly available to the consumer
- Retail sale of the product is limited to state licensed distributors (liquor stores, restaurants, bars, package stores, etc.)
- The state imposes strict controls on who may obtain the product (no minors), where they may legally purchase it (package store, liquor store, etc.), when they may legally purchase it (sales limited to certain hours of the day), and how much they may purchase at one time (bars/restaurants may not legally service patrons who are visibly intoxicated, states like Pennsylvania limit how much alcohol a patron may purchase at a licensed store, etc.).
- The state imposes strict regulations prohibiting use in public (no open container in public parks, or beaches, or in an automobile) and/or furnishing the product to minors
- The state imposes strict regulations limiting the commercial advertising of the product (limits have been imposed on the type of marketing and where such marketing may appear)
- States and counties retain the right to revoke the retail sale of the product, or certain types of alcohol (grain alcohol, malt liquor, etc), altogether (dry counties)

A regulatory scheme for marijuana that is similar to the scheme described above for alcohol would be favorable compared to the present prohibition. Ideally, such a regulatory scheme for marijuana would maintain the existing controls that presently govern commercial alcohol production, distribution, and use – while potentially imposing even stricter limits regarding the commercialization, advertising, and mass marketing of the product.

MARIJUANA LEGALIZATION AND ITS IMPACT ON USE

Real-world examples of marijuana regulation:

India (prior to 1985)

- **Federal government imposed no national criminal prohibitions on marijuana cultivation, production, sale, possession, consumption, or commerce prior to the mid 1980s**

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- “The incidence of the habit as estimated ... after extensive studies in the field ranged between 0.5% and 1.0% of the population.” (*United Nations Bulletin on Narcotics*, 1957)
- “So far as premeditated crime is concerned, particularly that of a violent nature, the role of cannabis in our experience is quite distinctive. In some cases these drugs not only do not lead to it, but actually act as deterrents. We have already observed that one of the important actions of these drugs is to quiet and stupefy the individual so that there is no tendency to violence, as is not infrequently found in cases of alcoholic intoxication.” (*United Nations Bulletin on Narcotics*, 1957)

The Netherlands (30+ year history)

- **Retail sale of limited quantities of marijuana (5 grams or less) is allowed in licensed retail outlets for patrons age 18 or over**
- Ministry of Health also licenses production and distribution of marijuana for qualified patrons
 - “These data are consistent with reports showing that adult cannabis use is no higher in the Netherlands than in the United States and inconsistent with the demand theory that strict laws and enforcement prevent adolescent cannabis use.” (*International Journal of Drug Policy*, 2010)
 - “Our findings suggest that the Dutch system of regulated sales has achieved a substantial separation of markets. ... As expected, most Amsterdam respondents obtained their cannabis in licensed coffee shops, and 85% reported that they could not purchase other illicit drugs at their source for cannabis. San Francisco respondents were three times more likely to report being able to purchase other illicit drugs from their cannabis sources.” (*International Journal of Drug Policy*, 2009)
 - “Proponents of criminalization attribute their preferred drug-control regime a special power to affect user behavior. Our findings cast doubt on such attributions. Despite widespread lawful availability of cannabis in Amsterdam, there were no differences between the 2 cities (Amsterdam and San Francisco) in age at onset of use, age at first regular use, or age at the start of maximum use. ... Our findings do not support claims that criminalization reduces cannabis use and that decriminalization increases cannabis use” (*American Journal of Public Health*, 2004)
 - “The Dutch experience ... provides a moderate empirical case that removal of criminal prohibitions on cannabis possession will not increase the

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prevalence of marijuana or any other drug.” (*British Journal of Psychiatry*, 2001)

Canada, Germany, Israel (3-10 year history)

- **Federal health department oversees the licensed production and distribution of marijuana to qualified patrons**
- No evidence this limited regulatory model has led to an increase in general marijuana use or attitudes among the public
 - “The data provide no evidence that strict cannabis laws in the United States provide protective effects compared to the similarly restrictive but less vigorously enforced laws in place in Canada, and the regulated access approach in the Netherlands.” (*International Journal of Drug Policy*, 2010)

California, Colorado, New Mexico (1 year to 10+ year history)

- **County/city licensing of outlets overseeing distribution of marijuana to qualified patrons**
 - “Our results indicate that the introduction of medical cannabis laws was not associated with an increase in cannabis use among either arrestees or emergency department patients in cities and metropolitan areas located in four states in the USA (California, Colorado, Oregon, and Washington). ... Consistent with other studies of the liberalization of cannabis laws, medical cannabis laws do not appear to increase use of the drug.” (*International Journal of Drug Policy*, 2007)

MARIJUANA DECRIMINALIZATION AND ITS IMPACT ON USE

Real-world examples of marijuana decriminalization (removing the threat of arrest for the personal possession or cultivation of marijuana, but maintaining prohibitions on commercial cultivation and retail sale):

Europe (Spain, Italy, Portugal, Luxemburg, etc.)

- “Following decriminalization, Portugal had the lowest rate of lifetime marijuana use in people over 15 in the E.U. ... The U.S. has long championed a hard-line drug policy, supporting only international agreements that enforce drug prohibition and imposing on its citizens some of the world’s harshest penalties for drug possession and sales. Yet American has the highest rates of cocaine and

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- marijuana use in the world, and while most of the E.U. (including Holland) has more liberal drug laws than the U.S., it also has less drug use." (Time.com, 2009)
- "Globally, drug use is not distributed evenly, and is simply not related to drug policy. ... The U.S. ... stands out with higher levels of use of alcohol, cocaine, and cannabis, despite punitive illegal drug policies. ... The Netherlands, with a less criminally punitive approach to cannabis use than the U.S., has experienced lower levels of use, particularly among younger adults. Clearly, by itself, a punitive policy towards possession and use accounts for limited variation in national rates of illegal drug use." (*PLOS Medicine*, 2008)
 - "This paper has shown that ... decriminalization does not result in lower prices and higher consumption rates, nor in more severe patterns of cannabis use, ... and that criminalization may reduce the legitimacy of the judicial system." (*Current Opinion in Psychiatry*, 2008)
 - "While the Dutch case and other analogies have flaws, they appear to converge in suggesting that reductions in criminal penalties have limited effects on drug use, at least for marijuana." (*Science*, 1997)

Australia (20+ year history)

- "There is no evidence to date that the (expiation/decriminalization) system ... has increased levels of regular cannabis use or rates of experimentation among young adults. These results are broadly in accord with our earlier analysis of trends in cannabis use in Australia. ... They are also consistent with the results of similar analysis in the United States and the Netherlands." (Australian Government Publishing Service, 1999)

Great Britain (2004-2008)

- "Cannabis use among young people has fallen significantly since its controversial reclassification in 2004, according to the latest British Crime Survey figures published today. The Home Office figures showed the proportion of 16 to 24-year-olds who had used cannabis in the past year fell from 25% when the change in the law was introduced to 21% in 2006/07" (*The Guardian*, 2007)

United States

- **Decriminalization** (12 states, 30+ year history)
 - "In sum, there is little evidence that decriminalization of marijuana use necessarily leads to a substantial increase in use" (U.S. National Academy of Science, 1999)

- “The available evidence indicates that the decriminalization of marijuana possession had little or no impact on rates of use. Although rates of marijuana use increased in those U.S. states [that] reduced maximum penalties for possession to a fine, the prevalence of use increased at similar or higher rates in those states [that] retained more severe penalties. There were also no discernible impacts on the health care systems. On the other hand, the so-called 'decriminalization' measures did result in substantial savings in the criminal justice system.” (*Journal of Public Health*, 1989)
- “Overall, the preponderance of the evidence which we have gathered and examined points to the conclusion that decriminalization has had virtually no effect either on the marijuana use or on related attitudes and beliefs about marijuana use among American young people. The data show no evidence of any increase, relative to the control states, in the proportion of the age group who ever tried marijuana. In fact, both groups of experimental states showed a small, cumulative net decline in annual prevalence after decriminalization” (U.S. Institute for Social Research, 1981)
- **Medicalization** (13 states, 2-13 year history)
 - “More than a decade after the passage of the nation’s first state medical marijuana law, California’s Prop. 215, a considerable body of data shows that no state with a medical marijuana law has experienced an increase in youth marijuana use since its law’s enactment. All states have reported overall decreases – exceeding 50% in some age groups – strongly suggesting that the enactment of state medical marijuana laws does not increase marijuana use” (MPP, 2005, 2008)
- **LLEP/Deprioritization** (various municipalities nationwide including Seattle, WA; Denver, CO; Oakland, CA; Missoula, MT; Columbia, MO, etc.)
 - “Many states and localities have either decriminalized marijuana or deprioritized the enforcement of marijuana laws. There is no evidence that the decriminalization of marijuana by certain states or the deprioritization of marijuana enforcement in Seattle and other municipalities caused an increase in marijuana use or related problems. This conclusion is consistent with the findings of numerous studies indicating that the increasing enforcement of marijuana laws has little impact on marijuana use rates and

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that the decriminalization of marijuana in U.S. states and elsewhere did not increase marijuana use” (Beckett/ACLU, 2009)

CONCLUSIONS

- **Strict government legalization/regulation of marijuana is unlikely to increase the public’s use of marijuana or significantly influence attitudes.**
- **Decriminalization is unlikely to increase the public’s use of marijuana or significantly influence attitudes.**
- **Free market legalization of marijuana without strict government restrictions on commercialization and marketing is likely to increase marijuana use among the public; however, given that the United States already has the highest per capita marijuana use rates in the world, this increase is likely to be marginal relative to other nation’s experiences.**

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