



Weed Wars: Can India Balance Tradition, Public Health and Profit in a Legal Cannabis Market?

Ishaanvi

Sushant University, Gurugram

ABSTRACT

This research paper embarks on a critical exploration of cannabis legalization in India, a nation with a profound historical connection to the plant. We delve into the compelling arguments for reform, investigating the potential for substantial economic benefits. Legalization, as evidenced by other countries, could unlock significant government revenue streams and empower job creation, mitigating unemployment rates. Furthermore, we analyze the potential for cannabis to act as a powerful tool in public health, providing patients with access to its established medicinal properties. This analysis is bolstered by a comparative examination of nations that have embraced legalization, drawing valuable insights from their experiences. To provide a comprehensive understanding of the current landscape, the paper meticulously examines the existing legal status of cannabis in India, highlighting the potential roadblocks and opportunities for reform.

KEYWORDS: Cannabis, legalisation, reforms

INTRODUCTION

For millennia, cannabis has been woven into the very tapestry of Indian life, serving as a spiritual companion, artistic muse, and social lubricant. From the ecstatic trances of wandering Baul minstrels to the joyous chaos of Holi celebrations, cannabis consumption has been a celebrated aspect of the culture, not a demonized vice. This tradition stretches back thousands of years, with government-sanctioned shops openly selling cannabis and its derivatives until as recently as 1985. However, international pressure, particularly from the US, led to the Narcotic Drugs and Psychotropic Substances (NDPS) Act, abruptly pushing this deeply ingrained custom into the shadows.

A Multifaceted Herb

Cannabis, also known as marijuana, is a versatile plant belonging to the hemp family (*Cannabis sativa* and *Cannabis indica*). While its psychoactive compound THC is responsible for the intoxicating effects, the plant offers a multitude of benefits. Throughout history, it has been utilized for medicinal purposes, as a mood-altering substance, and even as a sacred element in religious rituals. Lord Shiva, a central deity in Hinduism, is often depicted consuming bhang, a cannabis-infused beverage enjoyed during religious festivals.

Ancient Roots and Global Cultivation

Cannabis is among the earliest cultivated plants, possibly originating in the Asian continent. It thrives in various climates and is currently grown in numerous regions, including India, Nepal, South America, and Africa. Notably, *Cannabis sativa* is not only valued for its medicinal and recreational properties but also for its strong fibers. These fibers have been instrumental in the production of durable hemp rope, textiles, and even paper pulp.

A Catalyst for Change

The development of agriculture, which included the cultivation of cannabis, marked a pivotal moment in human history. By enabling greater control over food production, agriculture facilitated population growth and advancement. Cannabis played a significant role in this transformation, particularly through its use in creating hemp rope, essential for harnessing the power of horses for transportation and agricultural purposes.

A Dynamic Partnership

For millennia, humans have selectively bred cannabis plants to enhance specific traits. This long-standing partnership between humans and cannabis has shaped history on many levels, with applications spanning food, medicine, recreation, and religious practices. Today, advancements in genetics and environmental science are further influencing the role of cannabis in our lives.

CANNABIS AND SPIRITUALITY: A JOURNEY THROUGH TIME

Cannabis and spirituality have been intertwined for millennia, weaving a fascinating story across cultures and continents. This journey explores the ancient practices that incorporated cannabis into religious rituals and meditations, and delves into the modern resurgence of interest in its potential for spiritual exploration.

Ancient Roots:

- **Shamans and Healers:** For thousands of years, spiritual leaders across diverse cultures have used cannabis in their practices. From Egyptian priests to Indian sadhus, cannabis was seen as a tool to aid meditation, connect with the divine, and achieve altered states of consciousness.
- **Holistic Healing:** Many cultures viewed cannabis as a bridge between the physical and spiritual realms. It was believed to not only address physical ailments but also cleanse the mind and spirit, promoting overall well-being.
- **Sacred Plant:** Cannabis held a revered position in some religions. In Hinduism, for example, cannabis (bhang) is associated with the god Shiva and used in certain rituals.

A Modern Renaissance:

- **Shifting Perceptions:** In recent decades, there's been a growing interest in the potential of cannabis to enhance spiritual practices. People are exploring its use for meditation, mindfulness, and achieving a deeper connection to the self and the universe.
- **Quieting the Mind:** Cannabis can help quiet the constant chatter of the mind, allowing for a deeper state of relaxation and focus during meditation.
- **New Perspectives:** Some believe cannabis can help break down mental barriers and ego attachments, fostering new perspectives and a sense of interconnectedness.

CANNABIS IN INDIA: FROM ANCIENT USE TO COLONIAL REGULATION

India's connection with cannabis stretches far back, with evidence in the Vedas (2000 BCE) and medicinal texts like Sushruta Samhita. It held cultural significance, even considered sacred by some. However, the colonial era brought a shift in attitudes.

- **Pre-Colonial Acceptance:** Cannabis use was widespread for recreational, religious, and medicinal purposes.
- **Shifting Views:** By the 1870s, the British presence in India led to a more ambivalent stance.
- **William Sproston Caine:** A key figure, Caine, a strong advocate of temperance, raised concerns about cannabis in the House of Commons, influenced by disapproval of some indigenous practices.
- **Indian Hemp Drugs Commission (1893):** Formed to investigate cannabis cultivation, trade, and social impacts. Interestingly, their report, based on vast testimony, concluded moderate use posed "no evil results."
- **Prohibition Malgré Nous:** Despite the Commission's findings, cannabis faced increasing restrictions, likely due to:
 - Colonial desire for control.
 - Alignment with international anti-drug movements.

THE CURRENT LEGAL LANDSCAPE OF CANNABIS IN INDIA: NDPS ACT AND ITS IMPLICATIONS

The Narcotic Drugs and Psychotropic Substances (NDPS) Act of 1985 is the primary law governing cannabis regulation in India.

Categorization of Cannabis:

The NDPS Act classifies cannabis into two categories:

- **Schedule I (Highly Addictive and No Accepted Medical Use):** This includes cannabis flower (ganja) and resin (charas).
- **Schedule II (Less Addictive with Accepted Medical Use):** Cannabis seeds and leaves (bhang) fall under this category.

Implications of Scheduling:

- **Schedule I categorization imposes stricter restrictions:**
 - Possession, cultivation, sale, or purchase of ganja or charas attracts harsh penalties, including imprisonment.
 - Manufacturing, import, or export are also strictly prohibited.

- Schedule II allows some leeway for bhang:
 - Traditional consumption (e.g., in drinks or sweets) is generally tolerated, particularly during religious festivals.
 - However, regulations vary by state, and large-scale commercial sale remains ambiguous.

Exceptions and Ambiguities:

- The NDPS Act's treatment of bhang is a source of ongoing debate.
 - While traditionally accepted, the Act's ambiguous wording creates uncertainty for legal boundaries.
 - This ambiguity allows some leniency but also opens doors for potential misuse.

Medical Marijuana Scenario:

- The NDPS Act doesn't explicitly address medical cannabis.
- However, a 2014 notification by the Ministry of Health and Family Welfare (MoHFW) allows for research on cannabis for medical purposes.
- This has opened doors for some experimentation, but commercial production and prescription of medical marijuana remain largely unavailable.

The NDPS Act's Impact:

- The Act has significantly reduced access to cannabis and driven its use underground.
- Critics argue it disproportionately targets marginalized communities and hinders potential medical benefits.
- Debate continues regarding possible amendments to the NDPS Act to create a more nuanced legal framework for cannabis in India.

ARGUMENTS FOR CANNABIS LEGALIZATION

Proponents of cannabis legalization in India present a compelling multi-pronged argument. From an economic standpoint, legalization could unlock significant tax revenue streams, similar to the model followed by several US states. This newfound revenue could be directed towards crucial social programs or infrastructure development. Additionally, a legal cannabis industry would create new jobs in cultivation, processing, retail, and research.

On the medical front, legalization would allow for proper research and development of cannabis-based medicines. This could provide much-needed relief for patients suffering from chronic pain, epilepsy, and other ailments. Easier access to these medications, currently tightly controlled, could significantly improve the quality of life for many Indians.

From a social justice perspective, the current laws disproportionately impact marginalized communities. Prohibition fuels an illegal market controlled by criminal elements, leading to violence and exploitation. Legalization would remove cannabis from the hands of criminals and allow for proper regulation, ensuring quality control and reducing risks associated with the black market.

Finally, legalization supporters advocate for personal liberty and individual choice. Adults should have the right to consume cannabis responsibly, just as they can choose to consume alcohol or tobacco (both of which are legal and regulated). This aligns with principles of individual freedom and bodily autonomy. By establishing a legal framework, the government could ensure responsible use and protect public health, while respecting individual choices.

ARGUMENTS AGAINST CANNABIS LEGALIZATION

Opponents of cannabis legalization in India raise concerns on several fronts. Public health is a primary worry. They argue that widespread cannabis use could lead to increased addiction rates, particularly among young people. Additionally, potential negative impacts on mental health, especially psychosis and cognitive decline, are cited as dangers.

Social issues also raise red flags for some. Increased cannabis use might lead to a rise in crime, driving under the influence, and disruptions in communities. Opponents fear a potential normalization of drug use and a decline in overall productivity.

Regulation challenges are another concern. Establishing a robust legal framework that ensures quality control, prevents diversion to the black market, and minimizes youth access is a complex task. The potential for increased black market activity if legalization isn't implemented effectively is a major point of contention.

Finally, India's obligations under international drug control conventions, such as the Single Convention on Narcotic Drugs and Psychotropic Substances of 1961, add another layer of complexity. Legalization might contradict these treaties, requiring India to navigate potential diplomatic and legal hurdles.

RECOMMENDATIONS & SUGGESTIONS

The current legal situation surrounding cannabis in India is a complex web of tradition, social anxieties, and potential benefits. While the NDPS Act has undoubtedly reduced access and curbed recreational use, it has also hindered exploration of the potential medical applications of cannabis and driven the substance underground, creating a black market with its own set of dangers. Finding the right path forward requires a balanced approach. Strict adherence to the status quo may not be the most effective solution. On the other hand, full legalization without proper safeguards could lead to unintended consequences.

- **Research and Evidence-Based Policy:** India should invest in comprehensive research on the medicinal and social impacts of cannabis. This data can guide informed policy decisions.
- **Amending the NDPS Act:** The Act could be amended to create a separate category for cannabis, acknowledging the distinction between bhang and psychoactive forms. This could allow for better regulation of recreational use while facilitating medical research and access.
- **Decriminalization for Possession:** Decriminalizing possession of small quantities for personal use could remove the burden on the justice system and refocus efforts on tackling large-scale trafficking.

My Opinion

A nuanced approach that prioritizes public health and safety seems ideal. Learning from experiences of other countries or states that have legalized cannabis for medical or recreational purposes could prove valuable. A strong emphasis on public education, responsible consumption practices, and robust regulations can mitigate potential risks. Ultimately, the decision on how to move forward with cannabis legalization rests with Indian policymakers. By carefully weighing the arguments on both sides and prioritizing a data-driven approach, India can potentially unlock the economic and medical benefits of cannabis while safeguarding public health and well-being.

CONCLUSION

The question of cannabis legalization in India remains unresolved. While the NDPS Act currently prohibits most forms of cannabis use, the changing global landscape and potential economic and medical benefits have fueled calls for reform. A well-regulated legal market could generate revenue, create jobs, and provide access to medical cannabis. However, concerns about public health, social impacts, and international obligations require careful consideration. Moving forward, India must navigate a complex path that balances public health with personal liberty, respects its cultural traditions, and adheres to international commitments.

REFERENCES

- Narcotic Drugs and Psychotropic Substances Act, 1985: https://www.indiacode.nic.in/handle/123456789/1791?sam_handle=123456789/1362
- "Cannabis in India" Wikipedia: en.wikipedia.org
- "It is high time we legalise and regulate cannabis in India" The Leaflet: theleaflet.in
- "Ever Wondered If Cannabis Is Legal In India?" India Hemp Organics: indiahemporganics.com
- "Cannabis in India: Does the law need to catch up with reality?" IDPC: idpc.net