

CONSEQUENCES OF MARIJUANA LEGALIZATION IN THE UNITED STATES AND THE INTERNATIONAL IMPLICATIONS

The international illegal drug trade represents a multi-faceted challenge which has implications for the global community. Not only can international drug trafficking undermine political and regional stability, it can also bolster the role and capabilities of transnational criminal organizations in the drug trade. The illegal drug trade and addiction create sweeping negative consequences to individual communities, economic development, and place an additional burden on national public health infrastructures.

International efforts to combat drug trafficking are based on a long-standing and a robust set of multilateral commitments. Despite these multilateral commitments established to curb the supply of illicit substances, there are a growing number of incongruities appearing between various countries' drug policies and their approaches. These discrepancies are being observed by independent advocates as well as other members of the international community. In recent years, an increasing number of international advocates, including several former and sitting heads of states, have begun to call for a reevaluation of current international drug policies.

Some countries are turning away from the international conventions and unified drug control regime and are moving toward decriminalization or full legalization of certain drugs. Both domestic and international debates are now occurring. This is shifting priorities and resources among various approaches to counter narcotics, including supply and demand reduction; the distribution of domestic and international drug control funding; and the relative balance of civilian, law enforcement, and military roles in anti-drug efforts.¹

Marijuana, also known as cannabis, is the drug at the forefront of many of these debates. Recently, a small number of countries have proceeded with the full legalization of the drug. This action has not been without consequence. As with all experiments, it is important to examine the consequences.

The U.S. Experiment

In the United States, both licit and illicit drugs are classified into five distinct categories entitled Schedules (I-V). Each Schedule is grouped by acceptable medical uses and potential harmfulness to users. Schedule I drugs are defined as “drugs, substances, or chemicals with no currently accepted medical use and a high potential for abuse. [They]

are the most dangerous drugs of all the drug schedules with potentially severe psychological or physical dependence.”² Schedule I drugs include but are not limited to: heroin, lysergic acid diethylamide (LSD), methylenedioxymethamphetamine (ecstasy), and peyote.¹ All substances in this category are illegal under U.S. Federal law. Marijuana is included as a Schedule I drug.

Beginning with the U.S. state of California in 1996, a total of 23 states as well as Washington, D.C. and Guam passed laws permitting the use of smoked marijuana for medicinal purposes.³ Under the Federal Controlled Substances Act (CSA), the cultivation, distribution, and possession of marijuana remains prohibited with the exception of federally approved research.⁴ State laws do not change the criteria or process for the Food and Drug Administration’s (FDA) approval of safe and effective medications.⁵ The Tenth Amendment to the U.S. Constitution grants states the ability to create their own individual laws, rules, and regulations regarding many different issues including marijuana.⁶ Conversely, “under the Supremacy Clause, state laws that conflict with federal law are generally preempted and therefore void. [U.S.] Courts, however, have not viewed the relationship between state and federal marijuana laws in such a manner [...]”.⁷ As such, the current legal status of marijuana appears to be both contradictory and in a state of flux.⁴ So while state law allows for the increase in normalizing, legalizing, and commercializing marijuana, any individuals or businesses engaged in prohibited activities related to marijuana are still committing criminal offenses punishable under Federal law.⁸ Principles of federalism, however, bar Congress from mandating state officials or police officers to actively enforce Federal law.⁷

As of 2012, four states and the District of Columbia have legalized marijuana for recreational use for adults over the age 21.⁸ Colorado and Washington were the first to do so in 2012.⁴ Alaska, Oregon, and the District of Columbia have each passed similar legislation since 2014. In each case, legislation pertaining to marijuana was placed on the ballot for that year’s general election. Colorado and Washington serve as national case studies now that adequate time has passed in order to begin assessing the economic and social implications of these new laws.

Cannabis Legalization in the State of Colorado

Colorado’s Amendment 64 was approved by approximately 55% of state voters in November 2012.⁹ The measure allows for any individual over the age of 21 to possess, use, display, purchase, consume, or transport one ounce of marijuana; or possess, grow, process, or transport up to six marijuana plants.¹⁰ Businesses may purchase, manufacture, cultivate, process, transport, or sell larger quantities of marijuana with a state license,

however, municipalities reserve the right to regulate or prohibit the operation these facilities.¹⁰

In December 2012, Colorado Governor John Hickenlooper established the Amendment 64 Implementation Task Force.⁴ It was charged with “[identifying] the legal, policy and procedural issues that need to be resolved, and to offer suggestions and proposals ... that need to be taken” to effectively implement Amendment 64.⁴ In March 2013, the Task Force issued its report consisting of 58 recommendations including a required 15% excise tax, the permitting of both resident and nonresident purchasing of marijuana, and restrictive limits on the quantity of marijuana that out-of-state consumers may purchase.¹¹ In 2013 Governor Hickenlooper and the Colorado State Assembly passed three bills implementing Amendment 64 and the Colorado Department of Revenue and State Licensing Authority were charged with the responsibility of the state regulation of marijuana.⁴

The economic, social, and public health implications of this legislation are just now being realized. Since the full implementation of Amendment 64 in 2014, when retail marijuana businesses began operating, adult use of marijuana has grown 104% higher than the national average.¹² Colorado rates were 51% higher than the national rates in 2011-2012.¹² Marijuana-related traffic deaths increased by 92% between 2010 – 2014 compared to an 8% increase in all traffic deaths during the same period.¹³ Marijuana-related emergency room visits in 2014 increased 29% while hospitalization increased 38%.¹³ Marijuana is second only to alcohol as the most cited reason for admission into a substance use disorder (SUD) treatment facility.¹³

Youth (ages 12 – 17) usage of marijuana in 2013-2014 increased 20% compared to 2011-2012 before legalization of recreational use.¹² Since legalization, youth usage in Colorado has grown approximately 74% higher than the national average.¹² There has also been an 8 fold increase in reported marijuana exposures for children under the age of 12 years old.¹³ Those exposure rates have tripled for children 0 – 5 years old since 2010.¹³ College age adults (18 – 25 years old) in Colorado are also using marijuana at higher rates relative to the national average, 62% and 42% respectively.¹²

Adverse repercussions extend outside the state as individuals as well as large-scale traffickers are cultivating and processing marijuana legally in Colorado, then taking their product to other states. Colorado marijuana has been found in 36 different U.S. states.¹³ Interdiction experts believe that 10% or less of the drug is being seized by law enforcement.¹³ It is unknown the exact quantity that is either trafficked undetectably or seized, but not reported.¹³

Cannabis Legalization in the State of Washington

Similar to Colorado's Amendment 64, Washington State's Initiative 502 also legalized recreational use of marijuana. It was approved by 56% of voters in November 2012.¹⁴ It became law in July 2014. The cultivation, processing, and sale of the drug is regulated by the Washington State Liquor Control and Cannabis Board (WSLCB).¹⁵ The state imposes a 25% excise tax which is used to fund the Dedicated Marijuana Fund consisting mostly of social and health services.¹⁶ Unlike Amendment 64 in Colorado, which permits individual citizens over the age of 21 years old to grow, possess, and use marijuana, Initiative 502 only authorizes state licensed facilities to produce, process, and sell the drug.¹⁶ The two states' respective laws also differ in that Washington's does not expressly sanction local municipalities to restrict or ban marijuana stores.⁸ It is still illegal to drive while under the influence of marijuana in both Colorado and Washington.⁴

Washington and Colorado appear to have some overlapping trends as a result of legalization of recreational marijuana. Vehicular fatalities for example are some of those factors. Since 2008, nearly 157 people have been killed due to impaired driving.¹⁷ The number of motorists who tested positive for tetrahydrocannabinol (THC), the active chemical in marijuana increased from 65% in 2013 to 85% in 2014.¹⁷ This contributed to the 48% rise in deadly crashes during that time.¹⁷

Like Colorado, the number of young people under the age of 18 years old using the drug has grown as well. Ease of access for youth 17 years of age and younger has increased with every grade level.¹⁸ The ease of access to marijuana with each grade level correlates with the growth of usage rates.¹⁸ Marijuana usage rates for 6th graders are relatively low (1%) and grow every year through 12th grade (27%).¹⁸ Marijuana incidents at primary and secondary schools increased by approximately 75% between 2012 – 2013.¹⁸ While youth usage rates, specifically for marijuana, have increased by an average of approximately 3% every year since 2007, state funded substance use disorder (SUD) treatment rates for all other drugs have decreased.¹⁸

The Washington State Poison and Drug Information Center tracks trends of all reported state poisonings, including for marijuana. In 2015, 272 cases of marijuana exposure were reported with 46% of those cases being pediatric.¹⁹ This approximately equates to a 54% increase since 2011.¹⁹ Regardless of age, 77% of reported poisonings occurred in private residences.¹⁹ These rates were at a 16 year low in 2006 and have steadily increased since that time.¹⁹

The International Effect

Effects of domestic marijuana legalization reach beyond the national borders. The U.S. is currently party to three separate international drug related treaties: the Single Convention on Narcotic Drugs of 1961 (“Single Convention”); the Convention on Psychotropic Substances of 1971; and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988.²⁰ The most central of the three treaties is the Single Convention of which the United States was a one of the first signatories. This Convention aims to combat drug abuse by coordinated international action. It seeks to do this by “[limiting] the possession, use, trade in, distribution, import, export, manufacture and production of drugs exclusively to medical and scientific purposes.”²¹ It also “combats drug trafficking through international cooperation to deter and discourage drug traffickers.”²¹

There is international agreement in the U.N. Conventions that drugs should be produced legally under strict supervision to ensure adequate supplies for medical and research purposes only. The cumulative effects of prohibition and interdiction combined with education and treatment during 100 years of international drug control have had a significant impact in stemming the drug problem. Control is working. The universal weakening of control measures would likely serve to worsen international health conditions. Additionally, cross breeding of plants along with new forms of processing have steadily increased the potency values tetrahydrocannabinol (THC), which is the psychoactive compound in the marijuana plant, to all time high levels.²² The legalization of drugs would inevitably lead to a greater number of dependencies and addictions likely to match the levels of licit addictive substances. In turn, this would lead to increasing related morbidity and mortality, the spread of communicable diseases such as AIDS/HIV and the other blood borne viruses exacerbated by the sharing of needles and drugs paraphernalia, and an increased burden on the health and social services.

Beyond the previously mentioned treaties, there is also disregard for the human rights component to the issue. For example, in the U.N. Convention on the Rights of the Child (CRC) Article 33 states that “[Member] States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.”²³ Normalization and commercialization of marijuana poses a direct threat to young people as ingestible forms of the drug (edibles), often take the form of sweet snacks such as cookies or candies. When left unlabelled and unattended, these marijuana infused desserts easily confuse small children who may not readily recognize the difference. Moreover, edibles which are commonly made with a

with THC rich resins, tend to have higher potency levels compared to smoked marijuana.²⁴ According to the Centers for Disease Control and Prevention, “Consuming a large dose of THC can result in a higher THC concentration, greater intoxication, and an increased risk for adverse psychological effects.”²⁵ There is no way of measuring the potential harm that will be caused to young and immature people who embark on a long-term use of marijuana in the mistaken belief that because the substance has been legalized it cannot then be regarded as being very harmful. As such, neglecting the vital points of these aforementioned treaties is diametrically opposed to the primary duty of any party Government which is to ensure the welfare and well-being of its citizenry.

Prohibition has ensured that the total number of users is low because legal sanctions do influence people’s behavior; not due to fear of punishment, but rather the belief that the law is legitimate.²⁶ Legalization, on the other hand, sends the dangerous tacit message of approval, that drug use is acceptable and cannot be very harmful; it would increase the risks to individuals, families, communities and world regions without any compensating benefits. It would not take the profit out of the drug trade as criminals will always find ways of countering the law. They would continue their dangerous activities including cutting drugs with harmful substances to maximize sales and profits. Aggressive marketing techniques, designed to promote increased sales and use, would be applied rigorously to devastating effect.

As it stands, the U.S. is in violation of the treaties. The International Narcotics Control Board (INCB) is the entity established by the Single Convention responsible for monitoring international drug treaties.²⁷ Raymond Yans, who was the president of the INCB at the time, issued a public statement about the U.S. violation, stressing that the Colorado and Washington laws “are in violation of the international drug control treaties, and pose a great threat to public health and the well-being of society far beyond those states...” and “would send wrong and confusing signals to youth and society and general.”²⁸ To date, no action has been taken.

Currently, how the U.S. responds domestically as well as how it responds to its international treaty partners is unknown. This is not a singular event, however, as Single Convention signatory, Uruguay, officially legalized recreational use of marijuana in December 2013.²⁹ As when the U.S. electorates made their decisions, former INCB President Raymond Yans publicly spoke against the Uruguayan legislation stating that the Uruguayan government, “knowingly decided to break the universally agreed and internationally endorsed legal provisions of the treaty.”³⁰ To date, no repercussions as a result of these treaty violations have been announced in either case.

Legislative adoptions such as these in Uruguay and the United States could prove to be dangerous experiments. Preliminary results of what has occurred since the legalization of marijuana in various regions in the U.S. demonstrate troubling developments. As a part of the International Task Force on Strategic Drug Policy, a network of professionals and community leaders from over 35 countries who support and promote drug demand reduction principles, we are disturbed by this trend of legalization of illicit substances. We call upon the U.S. government to support public health and the public good by disallowing legislation that may serve to increase drug abuse and drug dependence. We also call upon member states to adhere to the international drug treaties that they have pledged to support in order to protect our worldwide community.

Recommendations

It is in working together, learning from experiences, and holding to our commitments that we will collectively improve the health and well-being of our global society. We, therefore, recommend that:

- 1) the International Narcotics Control Board (INCB) push signatories harder for compliance with the standing international drug treaties;
- 2) the INCB declare against and oppose any form of legalization other than for legitimate medical purposes;
- 3) the INCB stress the primary duty of a government to follow the rule: “First do no Harm”;
- 4) an augmenting of public health initiative occur with further research on the harms of illicit substance use and addiction, as well as for substance use disorder (SUD) prevention, education, and treatment programs;
- 5) extensive research of the health impacts of marijuana with high levels of THC be a priority;
- 6) results of emerging scientific research on the harms of marijuana be widely disseminated to the public and to lawmakers on a global basis;
- 7) impacts to public health and safety by marijuana users be widely disseminated to the public and to lawmakers on a global basis; and
- 8) nations adhere to drug policies that are rooted in science and comply with the international conventions on drugs.

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About the International Task Force on Strategic Drug Policy:

The International Task Force on Strategic Drug Policy (ITFSDP) is a network of professionals and community leaders from across the globe who support and promote

effective drug demand reduction principles and strive to advance communication and cooperation among non-government organizations (NGO's) who are working to stem illicit drug use and promote sound drug policy around the world.

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