

Legalization of Drugs in India

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ABSTRACT:

Drug is defined to mean a chemical which is given to a person in order to treat or prevent an illness or disease. Although today, a major portion of the consumers of drugs use it for the pleasant effect it provides the user. The issue of drug abuse has tremendously increased in the recent years proving it to be danger to the society. There have been instances of eminent personalities suggesting to legalize drugs in the recent past. There have been studies that have revealed the advantages and disadvantages of using drugs. It is a well-known fact that drugs like marijuana and ketamine are very useful for medicinal purposes and age old and finds its place in the Vedas as well. Likewise, legalizing drugs may also help curb the unethical or illegal production and selling of drugs at exorbitant prices in the black-market. Thus, legalizing certain useful drugs with restrictions of usage and trade of the same would be productive.

Although the other side of the coin does have enough drawbacks of the usage of drugs to quote, such as overburdening the society which is already dealing with the problems of alcoholism and tobacco addicts. But these can be kept under control by a sound and well-placed legislation to that effect. To be precise, decriminalizing the use of medicinal drugs and the restricted use of it for the treatment should be done along with restricted and controlled production, distribution and use of these medicinal drugs. The rest shall be kept illegal and criminalized. Such a legislation if comes into effect would prove to be useful to the public at large.

I. INTRODUCTION

The discussion on legalization of drugs has gained tremendous importance in the recent past. Many eminent personalities have come up with suggestions of legalizing all kinds of drugs in India. That is so to say, provide with decriminalizing the production (growing at home or under one's ownership), possession and use of drugs at every level. To define the word "drug", it literally means: A drug is a chemical which is given to people in order to treat or prevent an illness or disease. Drugs can also be defined as substances that some people take because of their pleasant effects, but which are usually illegal. If you drug a person or animal, you give them a chemical substance in order to make them sleepy or unconscious.

Drug abuse has drastically increased over the past several years, and has become a tool for crime organizations and bureaucracies, independent and under the control of the federal government, used to transform drug addiction into a profit through the passage of countless laws against drug abuse. The idea of legalizing drugs in India is not a good idea, in fact it is as bad as the addiction of drug itself. No prudent man who is aware of the effects of addiction that is caused by the use of drugs would ever be in favour of the support of legalizing the same.

At present, possession, trade, transport and consumption of marijuana is banned under the Narcotic Drugs and Psychotropic Substances Act, 1985, and is a criminal offence. Last year, Dharamvir Gandhi, Member of Parliament (MP), moved a private member's bill in the Lok Sabha to legalise marijuana. Union Minister of

Women and Child Development Maneka Gandhi also suggested legalising marijuana at a meeting of a group of ministers, which was examining the draft cabinet note on the National Drug Demand Reduction Policy.

Though the World Health Organization has listed a number of diseases associated with the consumption of marijuana, including impairment in cognitive functioning, airway injury, bronchitis and lung inflammation, it also says that several studies have demonstrated its therapeutic effects to treat diseases such as cancer, AIDS, asthma and glaucoma. But it has called for more research to establish its medical usage. Moreover, the chemical component that gives marijuana the so called high has increased due to the increase in the Woodstock by almost about 30%. Which means that the effect that marijuana gives today is a lot higher than what it used to give in the 60s when it was professed to be of safe for consumption. Such drugs can only bring negativity and corruption in the society.

Marijuana is amongst the most widely used illegal drugs in the world with an estimate of 120 million people consuming it in some form or the other. India finds the use of these drugs since time immemorial with a mythical faith attached to it. It is said to be a drug that helps the user attain "ecstasy in the original sense of the word". India has celebrated the use and also consumed drugs like Charas which is hash, Bhang and Weed for festivals as well.

II. REASONS TO LEGALIZE DRUGS:

- **REDUCTION IN DRUG TRADE:** The very fact that production, possession, sale and use of drugs is illegal makes it unavailable to the public at large. A huge number of people demand such illegal drugs. The drug market runs on demand and supply policy and the crime organizations takes advantage of such demand to shoot up the prices of such drugs. These crime syndicates earn a profit of millions under the garb of illegal drug trade. Legalizing these drugs will reduce the inflated drug prices and reduce the criminal supply or illegal supply of such drugs to the detriment of common people. It will eliminate illegal trade and associate crimes Marijuana legalization or decriminalization will replace the black-market production and distribution with an 'overboard industry'.
- **EFFECT ON THE PUBLIC AT LARGE:** it is a very well-known fact that children specially between the age of 14-16 years are exposed to such drugs easily despite being illegal and banned. Among young people the use of drug is considered cool and children under peer pressure resort to the use of such drugs which are easily available to them despite being highly priced. Clearly the strict laws on drugs have done no good. In Holland, where cannabis laws are far less harsh, drug usage is amongst the lowest in Europe. A clinical study showed that only 9 percent of those who use marijuana end up being clinically dependent

on it. As compared to the higher addiction rates of people who use alcohol, tobacco and cocaine which ranges from 19- 30 percent.

- **HELP ITS STUDY:** legalization of drugs would help the availability of samples for detailed study of the same. Due to its non-availability, the illegal drug markets have spread numerous disinformation regarding the drugs and drug use by the dealers and media who peddle wrong information for their prejudice. Such rumours could be brought under control with a scientific study of such drugs, its use, effects and usefulness could be brought to light, provided these drugs are available to the students under controlled conditions to study the same. Ultimately it would provide access to true information and better education of the same.
- **DRUGS AND DISCRIMINATION:** it is often seen that black people face almost double the risk of imprisonment for drug related offences than white people thus making it evident as to how racial discrimination has seeped in there. It is evident that racial discrimination has found its way into this with the help of such laws. The legalization of drugs will help these black people who are innocent victims of racial discrimination to escape from a lot of trouble as it will set aside a huge number of laws against drug possession and its use. It will ultimately reduce the over-representation of black drug offenders in the persons.
- **MEDICAL USAGE OF DRUGS:** various drugs have numerous positive medicinal usages of its. Marijuana and other such drugs are used for medical purposes and are well known to cure diseases. It is professed to treat diseases such as:
 - i. glaucoma,
 - ii. prevents cancer from spreading to other parts of the body,
 - iii. reduces anxiety,
 - iv. slows the progress of Alzheimer's disease,
 - v. improves metabolism, and
 - vi. said to spur creativity in our brain.

Furthermore, Magic Mushrooms are professed to treat Alcoholism and reduces anxiety, Ketamine is used to treat Bipolar Disorder, Heroin is said to reduce Opiate addiction, and also MDMA is at times prescribed to patients to combat Post-Traumatic Stress Disorders. In November 2017, the World Health Organisation released a report in which an expert committee on drug dependence found that cannabidiol “demonstrated as an effective treatment of epilepsy...and may be a useful treatment for a number of other medical conditions” .It

can also be added here that drugs like Marijuana and other drugs with medicinal values have very nominal withdrawal syndromes as compared to alcohol and tobacco.

- **LESSER ABUSE:** it is argued that legalizing drugs would help combat the issue of drug abuse at certain levels. Legalization can assure that good quality drugs are supplied to the users because upon legalization, the production and supply would come under the surveillance of the Government of India. Also, it would curb the mixing or adulteration of drugs with other cheaper drugs to give a more so called “high” effect by drug dealers to the detriment of the wellbeing of the users. Further, it is a proved fact that as compared to alcohol, drugs like marijuana are less harmful. And the aftereffects of alcoholics as compared to stoners are also much graver.

There is no hard proof to say that the criminalization laws have succeeded. If in the end the cons weigh more than the pros then what is the use of such stringent legislations on drugs. If at the end of the day the truly needy person of such drugs (either for medicinal or the purposeful use) is not able to access it then it would amount to failure of existing harsh legislations. It is also true that a huge amount of economy is being invested into these legislations and it is also true that the illegal drug market does not even earn the amount of money which is flown into the making of such legislations or to arrest and penalise the drug offenders.

Under the Narcotic Drugs and Psychotropic Substances Act, the Parliament passed the ban on using and selling marijuana came into force in November 1985. The law was made in consonance with the obligation to be fulfilled by India under the US-backed international treaty for Single Convention on Narcotics, which was drafted in 1961. Moreover, a lot of countries around the globe have legalized the medicinal use of drugs including Australia, Canada, Chile, Colombia, Cyprus, Finland, Germany, Greece, Israel, Italy, Norway, the Netherlands, New Zealand, Peru, Poland, and Thailand.

III. REASONS AGAINST LEGALIZING DRUGS:

- **TRIED AND FAILED ATTEMPTS:** Legalization of drugs is not a very new issue to the political thinkers. It has been there for a while now and a lot of countries have done their part of trial and error with drug legislations. And the results of the same are quite distinctive. It cannot be said that if criminalizing or making penal provisions regarding a social issue is not giving great results one must simply decriminalize or legalize that very issue and see if it works. The society and its people are not experiment equipment of a laboratory to try such great issues this way. In many countries legalization of drugs has only proved to be to the detriment of its citizens. The parliament of India has made efforts to bring in a policy to legalize the use of drugs although it has not yet seen the light of the day.

- **REASON BEHIND THESE LAWS:** India has, Under the Narcotic Drugs and Psychotropic Substances Act made umpteen laws with relation to regulating the use of drugs. Drug usage may have a wide range of effects on the human body and mind. These effects may be direct or indirect effects and might be short-term or even long-term effects. The deadly health effects of using various drugs had become a great public health concern and this was also strongly related to various crimes in the society which was the reason behind the restraint of such drugs in India. The war on drugs itself refers to the concerted efforts by governments over the last many years to prohibit and penalize drug use, possession, transportation, sale, and production.
- **OVER-BURDENING THE SOCIETY:** It is true that legalizing drugs would overburden the society which is already dealing with enough social problems. Alcohol and Tobacco are already causing enough damage to the health, wellbeing and peace of society at large. Legalizing drugs with the argument that it causes less harmful effects would not be a solution to the already existing ones. It is true that almost Four in ten criminal offenders report alcohol as a factor in violence. Almost 40% of India have been exposed to alcoholism in their families. Tobacco is physically worse. Nicotine addiction is harder to quit. Legalizing drugs will only make things worse.
- **WE HAVE COME A LONG WAY:** India is a signatory to three of United Nation's drug conventions.
 - i. Single Convention on Narcotic drugs held in 1961.
 - ii. Convention on Psychotropic Substances held in 1971.
 - iii. Convention against Illicit trafficking Narcotic Drugs and Psychotropic substances held in 1988.

The Indian legislation on drugs was enacted many years after the signing of the 1961 convention. Accordingly, many rules and regulations to garb the restriction upon cultivation, production, sale, purchase, possession, use, consumption, import, and export of narcotic drugs and psychotropic substances except when they are used for a scientific purpose or medical use were formulated. Huge amount of money inflow has also been made towards the process of regulating drug use. At this point, after all the investments into it, if the Government of India thinks of bringing down all the policies and decriminalising or legalizing all drugs it would only mean that all the efforts would be futile.

- **CRIME AND DRUGS:** An overview of the current issues suggests that there is strong pragmatic evidence of the statistical overlap between drug using and criminal behaviour. Various crimes that happen today in the society are in some or the other way related to drugs, be it legal drugs such as alcohol etc or illegal drugs such as hash, marijuana etc. On the other hand, the source of availability of illegal drugs is only through the illegal drug markets because of the provisions against the same. Thus, for the users, if

they have any dispute between the drug dealers, they cannot resort to police or any other authority. Since no legal provisions are available for the same the drug users have to inevitably resort to criminal force and end up committing an offence. Similarly, we even come across crimes being committed just to gather the amount required to buy drugs. Thus, in some way or the other drug use is seen as leading to increasing and sustaining criminal behaviour.

- **PROPER IMPLEMENTATION:**the very fact that drugs are made illegal in the country and its production, use and distribution is illegal has given way to a number of crime syndicates to crop up and take advantage of these laws to sell drugs illegally and at high prices. But this can be attributed to the wrong or weak implementation of the laws enacted. Any law which is enacted unless implemented properly cannot be of any good and people will find loopholes to it but that does not give way to abolition of the law itself. Rather correct the wrong committed in such implementation.

IV. CONCLUSION:

The legalization of drugs is a controversial and a very diverse issue that has been around for a while now. There are many eminent personalities within and outside the political circle who support the legalization of drugs and similarly a large group against it. The use of drugs have claimed huge amount of lives so far and the war against drugs has also come to terms with the fact that it has hardly done any good. It is a general saying that “humans developed BEER before BREAD” this may be so because of the fact that human body and mind reacts in a specific manner when it comes in contact with some chemical composition found in natural plants. Legalization of the use of such drugs which were widely used in the olden times and are professed to be very useful by our ancestors is put on debate.

There have been alternative considerations for legalizing drugs due to the failure of the war on drugs such as:

- Decriminalization: The removal of criminal sanctions for minor drug offences.
- Depenalization: The retention of drug offences as a crime but with discretionary enforcement based on practical considerations and community needs.
- Regulated Access: Government control of illegal drugs in order to experiment with a range of options including, in some cases, a commercial market for substances such as marijuana, or tightly controlled availability for drugs that pose greater risk of harm.

It is true that some drugs have medicinal values and help cure many deadly diseases such as glaucoma, prevents cancer from spreading to other parts of the body, reduces anxiety, slows the progress of Alzheimer's disease, improves metabolism and is even said to spur creativity in our brain. Further, Magic Mushrooms for Alcoholism and reduces anxiety, Ketamine for Bipolar Disorder, Heroin for Opiate addiction, and also MDMA

for Post-Traumatic Stress Disorders. Few of the drugs have also seen mentions in the Vedas and other valued manuscripts to be useful to cure various diseases. Thus, restricting patients to take advantage of these drugs for their betterment would be highly unconstitutional and equivalent to a crime committed against them.

In my opinion, after looking into the possible advantages and disadvantages of the drug legalization plan, it can be said that a total release on the ban on illegal drugs will only worsen the situation. Instead, if the Government of India can come up with a plan of partially lifting the ban on drugs might prove to be useful. To be precise, decriminalizing the use of medicinal drugs and the restricted use of it for the treatment should be done along with restricted and controlled production, distribution and use of these medicinal drugs. The rest, that is non-medicinal drugs which is to the detriment to the human body and mind shall be kept illegal and criminalized. We all tend to look down on drugs at one time or another, today it is easy to access drugs in the legal world and that needs to be stopped. If we legalize all drugs there would be a lot more drug related deaths and which is why a total legalization would not be great, and as Lynch states, “Drug legalization would not eliminate crime” but at the same time if it helps the betterment of the health of a person it should be made available to him.

A regulated drug market would provide drug users with good quality and also consistent doses of the same, lowering the cases of overdose with some drugs. With the help of clear labelling, proper instructions, and warnings present in a legalized system would result in safer usage.