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Marijuana Issues for Voters: Studying Issues US States Have Had with Legalizing Marijuana

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The legalization of marijuana has been a monumental issue for many years now. Totals from this year (2018) state that 9 US states plus the District of Columbia have legalized "the personal use of marijuana," (Clark, 2018, p. 854) and almost half of US states allow the medical use of marijuana (Bakker, 2016, p.186). Legalizing the medical and recreational use and sale of marijuana state by state exemplifies the idea of states being "laboratories of democracy." Generally, by undertaking issues such as these out in single states first, we can see how those states react and how they benefit or suffer from the issues. Since every state has different cultural norms and population sizes, each state could yield different results when they legalize marijuana. This is an essential task to do before we try them in other states, or even move them to a national scale. Marijuana is a substance that many would claim has numerous medicinal benefits. However, until more recently, scientific studies have not been able to take place because of strict laws against marijuana, and therefore scientists and researchers haven't been able to prove in a legal manner if there actually are numerous medicinal benefits. Now that the public can see information from states who have legalized it and the benefits shared and mistakes made by many of them, we as citizens can decide if marijuana is something that we should consider legalizing nationwide. The public can also consider the problems that the states encountered and how states in the future or the entire US can avoid those problems, problems like employment. Furthermore, they can work to figure out solutions in their state laws or even work toward a national law initiative.

Marijuana was first introduced to the United States in the early 20th century. It is said that the drug was brought here by Mexican farmworkers, who migrated to the US in massive amounts after the 1910 Mexican Revolution, about a decade before the Great Depression (Wagstaff & Knopf, 2017, p. 65). Back then, marijuana wasn't nearly as popular as it is now. In fact, it was normally thought to be associated with Mexican aliens, who were not welcomed in the US during the Great Depression (Musto, 1991, p. 14). According to David Musto, marijuana was profoundly more popular, as research showed that it was not as harmful as previously believed (1991, p. 15). Sala Horowitz agrees with this, saying that "until legal restrictions were imposed in the United States, marijuana was widely accepted as having therapeutic properties for numerous conditions" (Horowitz, 2014, p. 325). Even before the elevated use of marijuana in the early 1900s, medical uses

were found with marijuana before 2000 B.C. (Wagstaff & Knopf, 2017, pp. 64-65). In the year of 1937, the "Marihuana Tax Act" was passed in the US. This is considered the official start of the illegality of recreational marijuana, conveniently passed toward the end of the Great Depression (Horowitz, 2014, p. 320). In 2012, the trend of marijuana legalization for recreational reasons started with the states of Washington and Colorado (Ng, Phillips, & Sandell, 2012). Marijuana may have been viewed as harmful for many different reasons in the 20th century but as these views start to subside and be replaced by more open-minded views, states are able to legalize marijuana without major objection from the public. When marijuana was first criminalized, it was likely just an attempt "clean up the streets" or more simply to solve the problems that society thought it knew the solutions to. Prohibition was very similar because many saw it as a societal issue before realizing that the tax revenue from it could really help other societal issues.

In the overwhelming majority (if not all) of states where some form of marijuana is now legal, the decision whether to fire an employee for marijuana use, even medically, still falls at the discretion of the employer (Bakker, 2016, p.186). Madison Margolin cites a quote from Lewis Maltby, who says, "Your boss can fire you for lots of things that are legal. In American law, your boss can fire you for any reason at all as long as it's not discriminatory of race or gender" (as cited in Margolin, 2018, p. 43). Not only are employers allowed to terminate employees on the basis of a positive drug test, but in most cases, they prefer to. To support this, Margolin also says:

> Between 73 and 82 percent [of Human Resources professionals in states where some form of marijuana is legal] say their workplace has a zero tolerance policy for cannabis use while performing work. And between 41 and 50 percent have fired employees for first-time violations. (2018, p. 42)

Since testing for drug use is not as advanced as it could be for employees, employers cannot tell the difference between someone who has just used marijuana before coming to work and one that has used it over three weeks ago. Tests that employers use today do not measure the amount of THC itself, but only for parts of THC that can remain in the body for weeks after the person's last use of marijuana. THC, or tetrahydrocannabinol, is the active ingredient which gives marijuana many of its "high" effects (Bakker, 2016, p.188). One reason that employers choose to automatically terminate their employees for marijuana use is because they're required to abide by the Drug-Free Workplace Act. According to Bradley Bakker, the Drug-Free Workplace Act "explicitly requires policies prohibiting the unlawful possession or distribution of any controlled substance" (2016, p. 189). Marijuana was classified as a Schedule 1 drug in 1970, considering it a dangerous and addictive substance (Horowitz, 2014, p. 320). With such a classification and stigma

about the drug, it is very understandable for employers to take such actions against their employees who test positive for the use of marijuana. However, this doesn't justify people losing their jobs in states where adults of 21 years or older can legally obtain and use marijuana or especially for those who use marijuana because they were suggested to by a medical professional.

There have been many laws passed in states as well as precedents made in courts about marijuana and employers' rights in states where it is legal. The Washington Court of Appeals found that the state's medical marijuana act "did not require an employer to disregard its zero tolerance drug policy" (Bakker, 2016, p. 187). Bakker also states that "the Michigan Medical Marihuana Act (MMMA) did not protect employees" even though there is a law stating that a patient using marijuana should not be "denied any right or privilege" (2016, p. 187). There have also been a few court cases that decided that employers were wrong to decline employees due to their use of medical or recreational marijuana. Madison Margolin cites that "the Supreme Judicial Court of Massachusetts ruled that an employer's failure to accept an employee's need for medical marijuana violated the state's Fair Employment Practices law" and also that a US District court "decided that the [state of Connecticut's] medical marijuana law created an implicit right of action that could not be trumped by federal law, including the Controlled Substances Act" (Margolin, 2018, p. 44). Though these court cases are important to look at, they don't provide anything substantial in the way of law. They may decide what they think is right or wrong but for a court decision to be substantial, it would have to be appealed by one of the two parties, and the Supreme Court of the United States would have to accept the case to make a precedent. This would mean that the entire US would be required to follow a Supreme Court decision, essentially as a new federal law, until that individual case is overturned by another Supreme Court case. Also, state laws can always be overruled by federal laws, which is why is it so important to make a national decision on this issue.

Laws about marijuana can be very different from state to state, which causes difficulties. As mentioned before, states in the US are considered "laboratories of democracy," and when a state passes any law that another has not passed yet, it becomes an example for others to watch and see if that law succeeds or fails before considering similar legislation in their state. For example, California passed a law relating to marijuana in 1996 (the California Compassionate Use Act), and since the idea of legalizing marijuana was very unpopular, the federal government had "an initiative to thwart the implementation of the California statute" (Mello, 2013, p. 660). More recently, with the new wave of marijuana legalization in states, the issue of employment protection is one of great importance. Some states, such as Colorado, New Mexico, and Hawaii, "have implicit employee protection in place where the law mentions only on-the-job consumption or impairment as grounds for

termination" (Mello, 2013, p. 664). These states have clauses written into their laws to ensure that legal marijuana users do not lose their jobs for using legal marijuana. These state laws have not been played out to their fullest extent and there are likely loopholes that employers can use to get around the protections. However, they represent a good start for watching the progress of mandated protections for employees. We, as the American public, will see how they play out eventually and plan for the legal protections that we should or should not write into future laws. Since every state can pass or initiate their own legalization in all kinds of different ways, there have been some initiatives that have not had the best background or reasoning for passing the law. One of those not-so-good initiatives was Issue 3 of Ohio in November 2016. The issue was to be decided by Ohio voters and it did not pass for good reason, as critics "said the proposed monopoly was just another attempt to saturate the market with 'Big Pot,' or few big large corporations controlling the market" (Wagstaff & Knopf, 2017, p. 65). The reason that Ohio didn't pass this issue was not because Ohioans weren't ready for legal marijuana but because the way the initiators wanted to do it would have monopolized the Ohio legal marijuana business and would not allow for individual entrepreneurs or business owners to obtain whatever qualifications are necessary to sell legal marijuana (Masica, 2015). These laws can also be very different in other countries. Many of whom have decriminalized small amounts of marijuana. In others, marijuana is still illegal, but even with much popularity, convictions for the use of it are very uncommon (Mello, 2013, p. 659). Since views about marijuana are changing in this time, marijuana laws will become more and more relaxed across the world. In addition, the US passing a law legalizing marijuana at the national level will set a great example for other industrialized countries to do the same in the future as some already have for us.

The American public has many different views of marijuana and they have varied a lot throughout the years. As of 2016, half of US states have marijuana legalized for medical reasons, with far fewer states having legalized marijuana for recreational purposes. Furthermore, just over half (53%) of American citizens support the legalization of recreational marijuana. The support for legalized medical marijuana is at an astounding 81 percent among Americans. Marijuana can also be used to help relieve symptoms of many diseases (Wagstaff & Knopf, 2017, p. 65). Among these is cancer. In 1990, a survey was conducted of oncologists in America, where "nearly half responded that they would prescribe marijuana to their patients with cancer as an antiemetic if it were legal" (Horowitz, 2014, p. 323). The percentage of those that oppose marijuana legalization has been turned around completely, with the percent of those against it nearly 40 years ago also at 81 percent (Bakker, 2016, p. 186). The support for medical marijuana by oncologists is likely much higher today considering that flip. Many of those who support the legalization of marijuana are not just about it for their own personal use. The goal

of those is to "[decrease] racial disparities in arrest and incarceration while increasing tax revenue and new jobs" (Clark, 2018, p. 855). When states legalize marijuana, it is usually taxed heavily. These tax funds can go toward numerous things including education, social programs, state government programs and employees, and addiction recovery programs. In Colorado, after the legalization of recreational marijuana, the state had close to 66 million dollars put towards the state budget (Wagstaff & Knopf, 2017, p. 66). Those who buy marijuana illegally are usually only supporting their local drug dealer along with large groups who commit much higher crimes that affect many families and communities greatly. Americans likely support the measure of legalizing marijuana so much because they see these issues in their cities and towns and they believe that if there were a legal method for marijuana users to use marijuana, the rate of these major crimes committed by gangs, cartels and other large scale drug dealers would drastically decline.

With only some states and not all creating laws to provide this legal method, the issue of interstate travel remains to drive illegal drug dealing throughout the country. A solution to this problem would be to legalize marijuana at the national level with standardization rather than each state legalizing it on their own terms. This way every state would be selling legal marijuana the same way and dispensaries would be able to use banks and other entities commonly used by businesses that are legally operated. The most probable way that the federal government can do this is by accepting a legal case in the Supreme Court and establish a precedent. The US Supreme Court, often abbreviated as 'SCOTUS', is the highest judicial body in the nation, and the precedents that SCOTUS justices make can only be overturned by other precedents that future justices make.

Marijuana legalization has many benefits, enough to outweigh any drawbacks of the issue. Cannabis is considered "the world's oldest known pharmacopeia" and has been credited to treat many conditions in ancient medicine. These conditions include menstrual pain, gout, poor memory, stress, anxiety and even childbirth (Horowitz, 2014, p. 320). As a result of the California Compassionate Use Act, passed in 1996, the plan of the federal government to fight the legislation included "revoking the registration of any physician who prescribed marijuana to a patient due to its status as a Schedule 1 illegal drug. . . . As a result, physicians in California did not prescribe but rather recommended that patients use medical marijuana" (Mello, 2013, p. 660). This act of recommending the use of medical marijuana is still used in the states who legalize it today. Also, many insurance companies are hesitant to cover medical marijuana, as it remains a Schedule 1 drug in the eyes of the federal government (Horowitz, 2014, p. 321). With the hesitation of insurance companies, many people whose symptoms can easily be treated by the use of marijuana are not able to buy the drug because of the price, and without the help of their health insurance they won't be able to obtain it

legally. Many people who use or have used marijuana feel that it helps a lot to relieve many medical symptoms (Horowitz, 2014, p. 323). In fact, Horowitz also cites a study of patients using medical marijuana in Hawaii. In the study, 97 percent of the patients used the cannabis to help relieve chronic pain. Half noticed relief from anxiety or stress and almost half noticed relief from insomnia (2014, p. 322). Now that we have marijuana legalizing in certain states, scientists and researchers can perform studies to address the effects of marijuana for the people that use it. However, since the states legalize the drug with their own rules, we cannot assume that the same would happen in other states without the same conditions, as US states are very different from each other. More for the recreational side of the issue, Madison Margolin cites that "more lenient cannabis laws have been linked to greater participation at work, less absenteeism and overall higher wages" (2018, p. 43). Therefore, there is little reason to fear that users of marijuana will become lazier, a common stigma. Those who buy and use recreational marijuana are likely not to use the substance while they work but during their off time. Also, marijuana is a drug that is much safer than other drugs, like heroin, in the same "Schedule 1" category (Margolin, 2018, p. 45). Margolin also states that a "large study found a 25 percent decrease in opiate overdose deaths in states where medical marijuana was legal, compared with those where it wasn't" (2018, p. 45). Audrey Wagstaff and Theresa Knopf would agree to this, citing "that since legalization in Colorado and Washington, the use of other vice substances has decreased" (2017, p. 65). The "opioid epidemic," as some call it, is an issue that has plagued the United States and taken many lives. Those stronger drugs in the same Schedule 1 category have caused an overwhelming amount of overdoses in the past decade, and anything to help slow the use of these extremely dangerous drugs would be worthwhile. Any drop in the use of other drugs attributed, even partially, to marijuana legalization should encourage the public to consider supporting the legalization of marijuana if they haven't already.

Marijuana use has a bright future here in the United States. With watching the issues of legalizing it play out in states across this great nation, one can really notice how US states are "laboratories of democracy" and how the way the states dealt with certain issues in their experimentation might give the future a better thought out plan for legalizing marijuana as a whole. There are many benefits to marijuana, especially medically, but there are there are also economic and judicial benefits on the recreational side as well. Employers will soon realize eventually that it is unethical to fire an employee based on their use of marijuana where it is

BENEFITS OF LEGALIZING MARIJUANA

HELPS MANY CONDITIONS

Medical Marijuana can help with many symptoms of diseases.

RESEARCHERS CAN CONDUCT STUDIES

Scientists and researchers can perform studies to address the effects of marijuana for the people who use it.

GREATER PARTICIPATION AT WORK

"More lenient cannabis laws have been linked to higher wages" - Madison Margolin

SAFER THAN OTHER DRUGS

Marijuana is much safer than other drugs in the same "Schedule 1" category.

LESS OPIATE OVERDOSES

In a study, a 25% decrease in opiate overdose deaths was reached in legal states.

legal. Madison Margolin states, "Disqualifying employees or applicants due to cannabis, even in a legal state, only needlessly shrinks the labor pool" (2018, p. 43). Bradley Bakker would add to this, saying, "Employers would be well served to utilize flexible policies that individually analyze employee marijuana issues in states where medical marijuana protections are increasing" (Bakker, 2016, p. 189). To this effect, employers should only worry about whether the legal drug is used during work hours, as marijuana should be treated no different than alcohol. Alcohol is used liberally by many people, and its effects can be much worse than marijuana. Though the federal government still classifies the drug as "Schedule 1," this will soon change, and employers need to review their policies and be ready to have a more lenient stance on marijuana use for when it does change. If employers don't rework their policies to align with state or even future federal laws regarding marijuana legalization, hardworking employees will continue to be needlessly fired for using the substance of marijuana.

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