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**LEGALIZATION AND REGULARIZATION OF THE MOST  
CONTROVERSIAL PLANT: CANNABIS**- Jaya Bhandari<sup>1</sup>**Abstract**

Hemp is one of humankind's most valuable raw materials for various social, medical, and industrial uses. Though illegal in Indian law, cannabis is grown annually on thousands of hectares of land in the upper reaches of Kullu, Manali and Parvati Valley and is a source of livelihood to scores of villages in this region. In the serene beauty of the Himalayan region lies the Parvati Valley, which seems to be known as the "Apple belt of the country", and it now equally emphasizes being home to the best cannabis in the world. One village in this region named Malana is known for its top-notch Hashish, famous as Malana Cream worldwide. The villagers of Malana called themselves descendants of Alexander the Great, considered themselves pure blood, and treated outsiders and tourists as untouchables. Malana is one of the oldest democracies in the world, and they do not follow the regular administrative rules. The only source of livelihood for the villagers of Malana is the crop cultivation of cannabis, which was also criminalized after the introduction of the Narcotic Drugs and Psychotropic Substances Act of 1985. So, here comes the question in this democratic world: isn't it time for the law to change?

**Industrial and Economic Scope of Cannabis in India**

In recent years, several cannabis-based or cannabis-derived product start-ups have emerged in India, recognizing the potential of this industry. These start-ups typically concentrate on pharmaceuticals, cosmetics, apparel, accessories and food products. From the point of view of the environment, hemp fibre, a durable soft fibre extracted from the cannabis plant stem, is more robust and longer-lasting than cotton. Thus, it is an excellent source of material for the clothing

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industry as it promotes sustainability. Also, hemp milk, hemp seeds, and hemp oil are used in foodstuffs, medicines, essential oils, nutritional supplements, and body care products. This draws us towards the multiple uses that this plant holds within it. Looking at its various significant uses, so far, more than 40 countries, including Canada, Uruguay, South Africa, Colorado, Washington and many more, have legalized cannabis fully or partially for medical and adult use.

### **Current Laws and Social Scenarios**

During the Britisher's rule, they found the use of cannabis to be so widespread that a large-scale study known as the Indian Hemp Drugs Commission Report<sup>2</sup> was commissioned in 1894. The Report advised against banning cannabis because of the drug's widespread use throughout India. However, vendors were allowed to sell cannabis only under license. After this, many laws were framed regarding the production and consumption of cannabis. Article 47 of the Constitution of India mandates that the 'State shall endeavour to prohibit the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health'. The principal national legislation, the Narcotic Drugs and Psychotropic Substances Act<sup>3</sup> was formulated in 1985 (the NDPS Act). However, medicinal products containing narcotic drugs in India are regulated under the Drugs and Cosmetics Act, 1940<sup>4</sup> (DCA) and its implementing rules, the Drugs Rules 1945<sup>5</sup>(DRs), which are read together with the provisions of the NDPS Act along with its implementing rules and orders (the NDPS Rules)<sup>6</sup>.

Although cannabis in India is not legal under the NDPS Act, consumption of it as bhang (made from leaves of the cannabis plant) is: the Act explicitly excludes 'seeds and leaves when not accompanied by the tops' from the definition of cannabis. However, bhang, being an intoxicant, may be subject to state-specific excise laws. Even recently, the Karnataka High Court, in its judgment given in Roshan Kumar Mishra v. State of Karnataka<sup>7</sup>, has held that nowhere in the NDPS Act is bhang referred to as a prohibited drink or prohibited drug. Legally, both the trade

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<sup>2</sup>ReportoftheIndianHempDrugsCommission,1894-1895volumes1-8fromNationalLibraryofScotland.

<sup>3</sup>NarcoticDrugsandPsychotropicSubstancesAct,1985.

<sup>4</sup>DrugsandCosmeticsAct,1940.

<sup>5</sup>DrugsandCosmeticsRules,1945.

<sup>6</sup>NarcoticDrugsandPsychotropicSubstancesRules,2022.

<sup>7</sup>RoshanKumarMishrav.StateofKarnataka,2022SCCOnLineKar1484,decidedon26.08.2022.

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use of cannabis resin (charas) and the flowering or fruiting tops (ganja) are prohibited under the NDPS Act. Further, the cultivation of cannabis plants, including the extraction of hemp, is strictly regulated in India and is allowed only under the authority of state governments in specific situations.

Public interest in ending marijuana prohibition is to decrease the social and economic costs that this policy has imposed over many decades and to increase the social and economic benefits that establishing a legal cannabis market will provide. This market should be controlled by the Government, not by the stakeholders, businesses, and consumers, and it may create a competitive free market. These free-market forces will bring about a reduction in the price of marijuana, create a new and valuable tax base, and encourage the economic development of marijuana and its botanically related cousin.

### **Time to upgrade Loss?**

When Article 370 can be removed from our Constitution as per the need of the hour, should the laws related to cannabis not be changed? Looking into the current scenario, it has become mandatory for the Indian Government to take a bold step towards the Kashmir chapter by amending the 75-year-old laws. Similarly, the legalization of cannabis should also be looked into as per the need of the hour, and the age-old British laws should be altered. Many countries like the Netherlands and even superpowers like the USA have legalized cannabis and have generated a vast amount of revenue from this, which has led to tremendous growth in the country. The countries that have regularized the production and consumption of cannabis are aware of the benefits and the advantages. Laws are never framed for eternity. The law is subject to amendments and modifications as per societal changes. The age-old traditions like Sati, which were right then, have been abolished by looking into the threat they caused to the females of society by bringing the appropriate laws.

We are living in a democratic and free-spirited world. However, do we know the meaning of being democratic or free-spirited? This article draws our attention towards the real talk of the natural world, which we often try to avoid daily. Though living in a democratic world, we are often driven very quickly towards the opinions of others, and so is the case in my article. The unawareness and ignorance towards this plant remain an inevitable issue. Cannabis grows wild in

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large tracts of the country. There are reports that it is also cultivated in remote and hilly terrains of some States of the country. Cannabis products are the most widely abused substances. The emerging threat from synthetic drugs further complicates the drug scenario. The enforcement agencies detected and dismantled laboratories manufacturing synthetic drugs. The investigations revealed the collaboration of foreign operatives with their Indian associates. The recent trend indicates that synthetic drugs are replacing natural and semi-synthetic drugs. Despite strict legal controls over certain pharmaceutical products, there is evidence of diversion for abuse.

Marijuana prohibition has proven to be an unmitigated failure in serving the public interest, and it is time to embrace a bold new vision of a national, regulated free market that will better serve these ends. *Cannabis* is a plant which is grown and cultivated like any other regular crop and has commonly been looked at as a type of drug which is illegal to consume and illegal to produce, too. Although popularly known as bhang in the local social market, this is the only lacuna that we as a society face by believing in the stories we are told without becoming aware of certain things.

The herbal cannabis and cannabis resin are formally known as marijuana and Hashish (or just 'hash'), respectively. Street terms for cannabis/cannabis resin include bhang, charas, pot, dope, ganja, hemp, weed, blow, grass and many others. Cannabis is usually smoked, often mixed with tobacco or in a smoking device called a 'bong'. Cannabis cigarettes can be termed reefers, joints or spiffs. The average 'reefer' cigarette contains around 200 mg of herbal cannabis or cannabis resin.

The NDPS Act under Section 20(b)(ii) lays down the punishment for carrying cannabis (narcotic drugs) based on the quantity of possession. For possessing a small quantity, one can face rigorous imprisonment of up to 1 year or with a fine which can extend to Rs.10,000, or with both; for a quantity that is greater than small quantity but lesser than commercial quantity, one can face rigorous imprisonment for up to 10 years and shall also be liable for a fine of Rs.1,00,000 or both. For possessing in commercial quantity, one can face rigorous imprisonment of 10 years, which may extend to 20 years and shall also be liable for a fine of Rs.1,00,000, which may extend to Rs.2,00,000, or with both.

### **Ignored Facts of Legalization**

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Let us look into certain factors that explain why cannabis should be legalized.

1. **Prohibition has failed:** The demand for Hashish has grown tremendously over time, directly increasing its supply. Even after the prohibition of its cultivation by the Government in 1985, its demand kept increasing daily. The officials of the local police department destroyed thousands of hectares of the cannabis crop, and they have also seized thousands of kilos of Hashish in the last decade. However, the cultivation of cannabis kept on multiplying. Prohibition of cannabis has led to so many huge problems that only legalization can make it solve now.
2. **It will boost the local economy:** Legalizing cannabis and medical marijuana will create significant employment opportunities. As hemp is used in various industries like clothing, food, skincare, pharmaceuticals, and many more, it will boost a massive need for employment in the country. Moreover, as we are the producers of the best quality cannabis, it will generate employment, which will directly boost the economy of the state and the country.
3. **It will end the Drug Mafias:** The Emergence of drug dealers has led to many criminal incidents in the peaceful region of the Himalayas. Due to prohibition and the absence of regularization, drug dealers have made the scenario even worse. When the Government legalizes cannabis, then surely no one will be going to the drug dealers when there will be a proper place to purchase it. Thus, the legalization of cannabis will mean the beginning of the end of drug mafias.
4. **Illegal Trafficking of Cannabis:** As we are the producers of the best quality cannabis in the world, every year, thousands of tourists visit the Himalayan region and trek towards the Malana village in search of Malana Cream. They often tend to purchase it in large quantities and take it with them along, especially tourists coming from international countries, which leads to the trafficking of drugs. After the Government, Lee can generate considerable revenue from customs.
5. **It will curb drug abuse:** The lack of awareness and prohibition on cannabis has led to a severe problem among the youth. The youth come in touch with drug dealers and end up consuming dangerous drugs like heroin and cocaine. The prohibition has led to the entry

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of even more harmful drugs into the country, whose consumption is vulnerable to the health of the young generation.

## Conclusion

As alcohol, tobacco, and opium have been regularized in the Indian market with proper laws and policies, the same can be done with cannabis cultivation, too. Alcohol, nicotine and opium have a significant number of deaths recorded in the last decade in comparison to cannabis. The problem is that charas and cannabis, used as synonyms, are intact. Different charas is just one part of the cannabis plant; the several other positive uses of this plant are the reason why the locals of Himachal choose to cultivate it all these years, but now the right to cultivation of cannabis is being denied to them because society as a whole is being adversely affected by result in illegal charas trade, and here the need arises for legalization.

There are several villages in the Himachal region, like Malana, whose only source of income is to cultivate illegal cannabis in the absence of other farming alternatives. The villagers sell their crops to the drug dealers and make some earnings. If cannabis gets legalized, then these villagers can sell their crops to government agencies at fair prices instead of selling them to drug peddlers at low rates. Cannabis will become a cash crop for thousands of villagers.

The Himalayan belt is naturally blessed with this soil and climate, and it is capable of producing the best quality cannabis in the entire world. The best quality of Hashish, Malana Cream, is widely popular even in foreign countries. By legalizing its production and sale, we can get the best prices for the best product, not only in the national market but also in the international market. Living in this 5G generation world where everything is at the tip of your fingers, it is ironic that some people in our country are still lacking their basic rights and struggling for their fundamental right of earning a livelihood. Implementing countrywide laws and getting recognized globally differs from the criteria for a country's flourishing. Instead, we should look at the needs of the hour and the needs of our people before formulating laws. From my perspective, the Government should look into the legalization of cannabis and avail the maximum of benefits from this one single crop.

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