

Cannabis- Their Illegal Status and Irony Laughing in the Corner

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“Herb is the healing of a nation, alcohol is the destruction.”

-Bob Marley

“Cannabis, their illegal status and irony laughing in the corner”

Abstract:

While there are many rules that make or declare certain activities or certain things in India as legal and illegal, there are also certain activities or things to which laws declare as illegal but the practices from the past declares them as tradition. Being a country known for its tradition and customs, India always has faced certain kinds of conflicts when it comes to laws and traditions and especially when it is about following either of them.

The usage of Cannabis is one of such activities that poses a question for the Indians that whether it is harmful enough not to use them or whether it is pious enough to carry out and continue the tradition that our ancestors did?

There are also many instances found wherein the people use them even going against the law. These usages are sometimes made out of necessity and sometimes mere addictions.

The present paper discusses about the Cannabis, their legal status and also how the people of India are dealing with them, what was the history of the cannabis and also what the present is.

Introduction:

India has always been known for its diversity. India, as a nation is such a varied place! We can find the diversities in almost everything we can name and any field we can think of! Yes, it even includes the matters which are legal and the matters which are not. India also carries with it the pride of being a country having its most radical traditions. We Indians have always believed in following what our ancestors did, sometimes there are logics behind and sometimes just the reason they are traditions are enough to follow them.

While India has a unique history related to its religious beliefs, traditions, cultures, it also has its relation with its most significant tradition of the medicines and ailments. It is accepted by the world that Indians had been using *Ayurveda* since a really very long time. There had been many books written on medical jurisprudence and also many discoveries made in the field of medical science.

There are many important plants mentioned under the Indian history that are considered to be of great medicinal importance. Some of them are still in use, some are extinct, few found but illegal to use and then there are few which are found, illegal and still used in practice. We also call them “Cannabis”. These are the plants that form the subject matter of the present paper.

The paper discusses about the legal status of Cannabis, their usage, medical benefits and all such factors related to them.

What is Cannabis? :

As per Oxford Dictionary, Cannabis is “A tall plant with a stiff upright stem, divided serrated leaves, and glandular hairs. It is used to produce hemp fibre and as a drug.

Cannabis sativa, family Cannabaceae: two subspecies (sometimes considered two species) from which the drug is obtained, C. s. sativa (also used for hemp fibre) and C. s. indica

Also called **hemp, marijuana**”¹

As per the Section 2(iv)² of The Narcotic Drugs and Psychotropic Substances, Act, 1985, “cannabis plant” means any plant of the genus cannabis;

So basically, Cannabis is derived from the cannabis plants cannabis *sativa*. It is in the tropical and temperate areas that wherein cannabis are mainly found. Cannabis doesn't require any particular or specific suitable climate and it can be grown in any kind of climate. Indoor hydroponic technology is the process that is highly used for its production.

An ingredient called delta-9 tetrahydro-cannabinol, which is commonly known as THC is the main ingredient present in the Cannabis that makes a person feel zonked.

There are mainly three forms in which Cannabis can be and is used. The three forms are: Marijuana, hashish and lastly hash oil. The dried flowers and leaves of the cannabis plants are used for making Marijuana. Resin, a secreted gum from the Cannabis is used for making Hashish and the hash oil is made from the thick oil that is obtained from hashish.³

¹ en.oxforddictionaries.com

² Section 2(iv) “cannabis plant” means any plant of the genus cannabis;

³ learnaboutmarijuanawa.org

Cannabis and Indian History:

India and its relations with Cannabis are quite interesting. It is an undeniable fact that Indians had been using them since a very long past. India's culture and heritage history has its own unique position in and around the world. The entire world has known where India stands when it comes to its traditions and histories and India always takes pride in calling itself a place of cultures, a place of religion, a place of traditions, a place it can call pious of all!

Indian Vedas, which were written centuries ago, mentions about the medicinal rituals and processes Indians used to carry out. There is a long history of the Indians using plants, herbs and various such natural resources for making the most perfect ailments for the most dangerous and even deadly diseases.

It was in the Vedas and the Sacred Hindu Texts that the earliest mentions of the Cannabis can be found. It was approximately 2000 to 1400 B.C. when these writings might have been compiled. The Vedas speak of the importance of the Cannabis very uniquely. As per the Vedas, Cannabis forms a part as one of the five sacred plants and that a guardian- angel lived in its leaves.⁴

Cannabis is something that the great and legendary *vaidyas* and *hakims* used to prescribe while using and preparing the different medicines for their patients. Cannabis has indeed found a place of significance in the ancient medicinal history of India. The medicines of India were known all over the world. They were considered to be magical for the results they used to give. The learned scholars used to put their endeavors and knowledge in the making of the most effective and quality medicines they can produce.

There were various benefits of Cannabis that the *vaidyas* and *hakims* of the ancient period listed. The benefits include: They stated that Cannabis carries with it a lot of mental and physical health benefits. There was a lot of usage of cannabis made during the ancient period.

The various benefits as stated by the ancient *hakims* and *vaidyas* include as appetizers, nervous stimulants, benefits like great staying-power even during extreme work or fatigue,

⁴ www.psychologytoday.com

their juice, if applied to hairs can help removing dandruff and vermin, if dropped into ears can help relieving pain and killing worms, helps to immune against diarrhea and gonorrhea, etc.⁵

These are just the few of many benefits that can be availed of from the Cannabis. Due to their medicinal values and health benefits Cannabis were brought into use in a lot of amounts. According to the Vedas, Cannabis forms a source of happiness, joy- giver and liberator. Cannabis was compassionately given to humans to help us attain delight and lose fear.⁶

Of all the plants ever grown by humans till date, no plant had ever been praised and denounced at the same time as much as Marijuana.⁷ The Indians relates almost everything with religion and Gods. Similarly, the Cannabis is associated with the God of Gods Lord Shiva. Thus, Cannabis had found a position of real significance during the ancient period.

⁵ antiquecannabisbook.com

⁶ www.psychologytoday.com (Abel,1980)

⁷ cannabis-truth.yolasite.com

Cannabis and Their Legal Status:

There is legislation for almost everything in India. The Democratic state of Government in India sees to it that no wrong prevails in and around the country and thus makes sure that law relating to each and every activity or acts of the citizens are made and the activities are guided by that law. The legal system of India stands strong since the time British left us. We have our own rules, laws and regulations. We take no wrong and give none too.

Even when the British left us many years ago, the instances of their influences can still be found at many places, in many fields, among many areas in India. The Indian Legal system is one of them. When the Cannabis were freely traded and used during the British period in India, a lot of people were getting used to it and thus started getting addicted to the same. The British engaged themselves into an extensive study in the late 1890s when they found out the fact about the extreme usage of Cannabis in colonial India. They were worried about the health of the native people and also by the fact that the use of cannabis was driving them insane.⁸

Then, there were many attempts made by the British to criminalise the use of Cannabis. While British attempted to criminalise it, Indians were endeavouring to stop the same as they carry a religious and traditional importance with them. After a lot of negotiations and discussions, all the Cannabis except for Bhang was criminalised. Bhang was allowed to be used during *Holi* or some religious festivals as it was associated with the Gods and had an evidential and significant value in the ancient India.

Eventually, The Narcotic Drugs and Psychotropic Substances Act, 1985 was enacted for banning the various drugs and Cannabis in India. This act prohibits the illicit use, trade or traffic of any drugs banned under the Act. There are penalties and punishments laid down under the act for the usage of any of the illicit drugs made in India.

The Act lays down the provisions and authorises the Central Government with Powers to prevent and combat abuse of illicit traffic of narcotic drugs. The Act also authorises the

⁸ www.psychologytoday.com

Government to constitute an advisory committee if it deems fit for any matter related to the object of the Act.

Section 8⁹ of the Act makes certain operations like cultivation, production, manufacture, transportation of any illicit drug an offence. Punishments for the crime range from rehabilitation to prison sentences of 20 years apart from monetary penalties depending on the severity of the crime.¹⁰

Thus, the usage and consumption of Cannabis in any form remains illegal in India. The Act was passed in the year 1985 and since then there is hardly any amendment made to the Act.

⁹ 8. Prohibition of certain operations.—No person shall—

(a) cultivate any coca plant or gather any portion of coca plant; or

(b) cultivate the opium poppy or any cannabis plant; or

(c) produce, manufacture, possess, sell, purchase, transport, warehouse, use, consume, import inter-State, export inter-State, import into India, export from India or tranship any narcotic drug or psychotropic substance, except for medical or scientific purposes and in the manner and to the extent provided by the provisions of this Act or the rules or orders made thereunder and in a case where any such provision, imposes any requirement by way of licence, permit or authorisation also in accordance with the terms and conditions of such licence, permit or authorisation: Provided that, and subject to the other provisions of this Act and the rules made thereunder, the prohibition against the cultivation of the cannabis plant for the production of ganja or the production, possession, use, consumption, purchase, sale, transport, warehousing, import inter-State and export inter-State of ganja for any purpose other than medical and scientific purpose shall take effect only from the date which the Central Government may, by notification in the Official Gazette, specify in this behalf: 1 [Provided further that nothing in this section shall apply to the export of poppy straw for decorative purposes.]

¹⁰ indusdictum.com

The Approach of Indian Society towards Cannabis:

The India, being a democratic, socialist country, the State Governments are always allowed to make their own laws in spite of the Central Law or a Parent Act prevailing all over the Country. There are few states wherein the trade of few type of Cannabis is allowed, there are few states which allow the trade in some specific quantity.

There are many instances wherein it has been found that the use of Cannabis is actually done on a large scale in India even today. India allows the cultivation of certain Cannabis for industrial purposes but still its illicit consumption could lead to punishments and penalties under the Narcotic Drugs and Psychotropic Substances Act, 1985. Even when it is punishable, there are people using it freely without any restrictions or fear of being caught.

According to a study made by Seedo, an Israel based firm selling devices to grow weed has found out that Delhi and Mumbai are ranked among the World's Top 10 cities with the highest rates of people consuming Cannabis.¹¹ It was in the year 2016¹² that a large amount of drug was seized from different parts and states of the country even when the Acts makes it a crime.

The seizure was made from the states like Tamil Nadu, West Bengal, Karnataka, Maharashtra, New Delhi and many other parts of the country. Thus, there are many regions that still do trade and supply and also consume the Cannabis in the country. The Act even though enacted, has somehow failed to implement its provisions strictly.

Dr. Dharamvira Gandhi, MP of Patiala has proposed an amendment to the Narcotic Drugs and Psychotropic Substances (NDPS) Act of 1985. The Act is now 30 years old and it is old enough for getting an amendment done.

Cannabis carries with them a lot of benefits and medicinal miracles. Why not can we consider that legally or illegally people still use them and we should consider that the need for the day is that we allow the consumption of the same legally? There are so many diseases that could

¹¹ scroll.in

¹² 164.100.47.190/loksabhaquestions/annex/11/AU918.pdf

be cured by the use of this Cannabis. If they are made legal, people can easily come out and help others. For now, everyone does it secretly.

There are also a lot of movements going on around the country for legalising the Cannabis.

Conclusion:

It can be concluded that our country changed itself with the demand of the times in the past by criminalizing the Cannabis. But as the time now demands a change again, we should be dynamic enough to adapt to the changes once again. Legalizing the medicinal use of Cannabis will not only help the victims of certain diseases but also the farmers, the industries and the economy of our country.

There are people who are hiding from the society and using it illicitly but using it anyway. This creates a lot of wastes of the products and also fears in the minds of the citizens for their own country. Everything is necessary and must be allowed in certain limit. Until the time Cannabis can help the people by its medicinal benefits, we should and must support its production rather than restricting it.

In the hope of a happy world, I conclude with an aspiration of a legislation that restricts us only to the limit that is necessary for the welfare of the people at large.

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