



Opinion: The Difference Between Cannabis Legalization and Decriminalization, and Why it Matters

Leigh Vinocur

February 1, 2021

Many people mistakenly think that decriminalization and legalization of cannabis are interchangeable terms; they are not. Decriminalization removes the penalties for personal use of small amounts of cannabis, which still remains an illegal substance to manufacture or sell. Under decriminalization the state does not regulate cannabis. If caught, it is usually a civil penalty, a fine, under the jurisdiction of the police not criminal charges under jurisdiction of the courts[1].

On the other hand, legalization of cannabis is aimed at the supply[2]. Legalization lifts prohibition and abolishes laws making the substance illegal. Therefore, it also lifts the ban on possession and use of cannabis, but more importantly it allows the government to now regulate and tax the sale and manufacturing/processing of cannabis.

Both decriminalization and legalization can save taxpayers millions of dollars by not using our courts and prisons to prosecute the hundreds of thousands of cannabis users possessing small amounts. Proponents of legalization go further and argue that governments stand to make more revenue in the form of taxes by legalizing and regulating the large and growing businesses related to the manufacturing, processing and sale of cannabis.[3]

One benefit seen with decriminalization are expressed in a white paper published in 2001 by the Cato Institute[4], Portugal's decriminalization program was reviewed, and it was found that those with substance use disorder are more likely to come forward for treatment under decriminalization. This is an important benefit of decriminalization because those in the medical community have always argued that substance use disorder is a medical disease with public health implications and not a crime. Many states in the US that have approved medical cannabis programs have in fact decriminalized it.

Those who argue going a step further to legalization, point to the inequity of our criminal justice system with respect to cannabis arrests and minority populations.

Since minorities bear the brunt of arrests and imprisonment[5] [6] for cannabis charges, legalization can also be thought of as a matter of social restorative justice.

States and their constituents might feel that opting for decriminalization would unburden their legal justice system while not promoting or condoning the use of cannabis. They worry that legalization will somehow increase use and addiction in our youth. However, I would argue that it is less addictive than tobacco and alcohol, which are legal and sold as well as heavily regulated in the US[7]. Additionally, I would argue that by legalizing cannabis responsibly on the federal level like Canada[8] did, would now open the doors for meaningful clinical trials which we need to truly prove its real efficacy and safety as a therapeutic agent .