INTRODUCTION

This project revolves around the new wave for cannabis legalization and/or decriminalization within the country. This wave arises both from necessity and urgency. On one hand, we have the immediate need for providing alternative healthcare options to the public, especially when new-age ‘miracle’ drugs cannot be afforded by ninety percent of the population. The urgency lies in there being a wave of abuse that has captured the country, in the coming generations. Due to criminalization of cannabis but the ever-growing need for awareness, spread of knowledge and premature access to the Internet, the present and future generations are sensitized to the matter of intoxicants at a very young age. This leads to cases of abuse and misuse, which are essentially caused because of lack of adequate knowledge and wisdom amongst the legislators and ineffective sanctioning and regulation.

Trying to fight a drug war at the source is a solution that most governments try to employ. This can be seen from various examples in South America, West Africa, Northern Europe, etc. War on cannabis is expensive and creates for only more internal conflict from which the mafia and other external parties reap humongous profits. The war on cannabis in India essentially was not of our own doing. India had a very harmonious culture towards cannabis usage in daily life.\(^4\) Due to unchecked western influence and the seepage of Victorian morality into our parliament, India, for the first time in over 3000 years, banned the cultivation, use, consumption of cannabis. Without giving proper justification for the same, cannabis was made infamous immediately by putting it in the category of ‘dangerous drugs’ along with heroin, methamphetamine and cocaine. Suddenly 2.8 percent of the country which is about three crore people, became criminals overnight, and the rest is history.

Countries who pride themselves on being the flag bearers for the war on drugs, have now flipped sides and promoted the legalisation as well decriminalization of cannabis but with a catch. It had to be done on a commercial scale ensuring large returns, therefore generating capital close to a whopping $1.5 Billion dollars in the first year of legalization, along with a tremendous increase in creation of employment opportunities, reduction in crime rate and also a major drop in the number of abuse and misuse cases.\(^5\)

**WHAT IS THE BAN AGAINST?**

A report from the Ministry of Empowerment and Social Justice in 2019\(^6\) states alcohol and cannabis are the two most commonly used substances, whereas other substances are essentially used by a negligible portion of the population.

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The genus, Cannabis comes from the family of Cannabaceae, commonly known as the Hemp Family. Under the Genus of Cannabis, there are two species which are Cannabis Sativa and Cannabis Indica. Although both can be made into the consumable form of Marijuana, Ganja, Weed, the distribution of these species around the world is the only distinguishing factor between them, and this in turn brings change to the properties of each of these species on a bio-chemical level.

As per the NDPS Act, the ban on the plant are with respect to two parts. The buds or flowering tops which are known as ‘ganja’, and the resin of the plant known as ‘charas’. The only parts of the ganja plant which has not been criminalized is the stem and the leaf. The leaf is essentially consumed as ‘bhang’, which is a paste of water and crushed leaf, which in most cases is enjoyed recreationally during festivities in the country. The stem in most cases is used as fodder or for cooking fires, making boots, bags, clothes, etc.

Although not well known, the leaf, at present, is legal for recreational purposes only in the state of Rajasthan, parts of Uttar Pradesh and parts of Madhya Pradesh. No other state legally allows for the consumption of ‘bhang’, although the tolerance towards its consumption is very high in most states and the same can be seen every year during the Holi festivities, where ‘bhang’ is consumed on the excuses of cultural and religious factors. The leaf, is also legal when used for recognized medical purposes, as per the Drugs and Cosmetics Act, which allow for the use of Ayurveda and Allopathy and can be legally purchased from clinics that provide for the same.

CANNABIS USE IN INDIA: WHAT ARE WE DOING WRONG?
Over the last couple of years, cannabis consumption at the global level has risen exponentially with new generations catching up to the habit quicker than their predecessors. Apart from this early-on

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sensitization, owing to a fast-moving world, where there has been a surge in the legalization of cannabis from many countries such as Canada, Germany, the Americas, Australia, most of the Scandinavian Countries, and off late most parts of Europe.\(^\text{10}\) From clinics to hospitals, medicines to stores and coffee houses being set up on University campuses and residential areas and even allowing the general public to grow their own plants for convenience are just some of the modern developments created by the ‘green’ revolution.\(^\text{11}\)

In India, all laws which are made without any legislative rationale but are still in force can be said to be ‘manufacturing consent/dissent’. It takes place, when to gain support against or for a certain action or inaction, false pictures and unrealized consequences are painted by those in power so as to turn the mob in a certain direction regarding the subject matter. The problem here is that it is never the people on the extremes who get conditioned but rather the people on the fence.\(^\text{12}\) Also termed as ‘Political Conditioning’ or ‘Hyper-normalization’ this tool is just as effective in ensuring continuous support from the public, all the while, stating false facts and creating conflicts even when none exist.\(^\text{13}\) By painting a fake world and reinforcing that picture through law, people only generate singular opinions against or for said subject matter. The false images painted are shown to the public but the consequences of those images, which go beyond the public realm are hidden away and not discussed. Apart from merely cannabis, political conditioning can be seen with respect to other subject matters such as the ‘beef ban’ or ‘homosexuality’ and even the ‘ban on porn’, or even the ‘cleaning up of the Ganges’, naming a few.

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PUBLIC DIVIDE

Borrowing from Arendt’s reading of “The Human Condition”, the limitations of the law in manufacturing consent/dissent can be seen even more clearly. To check the legality of literally anything or anyone, the first thing one does is look for the law on the related subject. Law is the only division between the private and the public realms. Law is nothing but government surveillance in the public realm to ensure that the public comply with a singular set of regulations, which are followed with sanctions. Law divides people into binaries, as it becomes easier to administer the divisions. A few common examples are Hindu Marriage Law, Muslim Law, SC/ST Regulations, IPC and Laws on Narcotics and Addicts, Rape Laws, Laws on Offences against Transgendered People. The ‘public-private divide’ as discussed by Arendt must be applied to such laws that create binaries, where one can look at the public opinion towards a particular law and look at the way that law is enforced in the private realm, to simply come to an understanding if the law in force is effective or redundant. Strongly worded legislations also generate strong consent or dissent towards the subject matter in the public realm as sanctions are also provided for if the particular law in part or in whole is dissented against, but the same may or may not follow through into the private realm, as we shall see further in the paper.

In particular, when we speak of cannabis, the first contention is the fact that it is illegal and/or a drug and that it has sanctions where one can be sent to jail. The NDPS Act, in all of its glory, is a very strongly worded legislation ensuring total compliance with the American position on drugs in the 1970’s and 1980’s.\(^\text{14}\) Therefore, the impact in the public realm that the legislation has in terms of manufacturing dissent or consent towards substances mentioned in the Act, is exponentially huge as simply claiming that something is a drug and then saying those who don’t agree will be put in jail, is the most simplest form of manufacturing consent or dissent at least in the public realm. Simply stating it, the population that consumes marijuana in the country is 2.8% which is around

3.1 crore people as per the 2019 Ministry report.\textsuperscript{15} Even allowing for a fluctuation by 1\% or so, that still means that about 95\% of the population does not have any knowledge, awareness or interest regarding cannabis or its properties. In India, from the time of the NDPS legislation coming into force, Cannabis has been looked at by the country and its coming generations as a dangerous drug, due to the misinformation and misguidance provided by the NDPS Act, 1985.\textsuperscript{16} Just as Arendt talks about the ‘shadows’ in the public realm, cannabis also has its ‘shadows’ or those people who don’t have a say in the public realm with respect to decisions taken on cannabis and its use, although they consume cannabis or are deeply affected by its criminalization, be it the farmers of Mallana or be it a case of abuse.\textsuperscript{17} Farmers, sadhus, babas, addicts, etc are all people who make up the ‘shadows’ in the public realm. They have no say and their voices are neglected. But they usually end up being the most affected by the decisions made by those who can make decisions in the public realm.\textsuperscript{18}

Under the said Act, marijuana has been put in the schedule of ‘banned and dangerous drugs’ where one can find other actual dangerous drugs like cocaine, heroin, and methamphetamine, which have a high risk of abuse and no recorded medicinal properties. This stance of ignorance taken by a central legislation in putting cannabis under Schedule 1 along with heroin or cocaine, misinforms and misdirects the general public\textsuperscript{19}, because it creates a belief that cannabis is just as dangerous as the drugs it’s grouped with and possession of it would lead to getting arrested. Getting arrested for the smallest possession charge under the Act, being possession of small quantity, meaning only up to one kg, can lead to a jail sentence of 6 months, along with fine of Rs. 10,000.\textsuperscript{20} The biggest problem with this kind of sentencing pattern is that, be it five grams or be in five hundred grams, the person accused will still get 6 months of jail, meaning that small misdemeanours lead to

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\textsuperscript{15} “Magnitude_Substance_Use_India_REPORT.Pdf,” accessed April 12, 2019, http://socialjustice.nic.in/writereaddata/UploadFile/Magnitude_Substance_Use_India_REPORT.pdf.
\textsuperscript{20} “Narcotic Drugs and Psychotropic Substances Act, 1985.”
\end{flushleft}
individuals having an arrest record, which is a record for life. Basically, for the so called ‘crime’ being committed, there is a huge mismanagement in the kind of government surveillance being levied towards such cases. Just as there is no rational nexus between the law and the subject matter, the sanctions that follow are also without any rationale and causation to the offences they were made to redress. The object behind a drug law must be reformative in nature and not retributive. The object must be to make sure the individual can come of their dependency by reformation. Arresting an addict for arbitrary and unreasonable period of times, does not change the nature of the drug addict but probably makes the situation worse for that person. It is the personal opinion of the author that giving a sentencing of the offence committed, does more harm than good. It breeds criminals.\textsuperscript{21} Going to jail for something so irrelevant as the possession of two grams of cannabis can lead to physical, emotional and mental scarring which sticks with the individual for life.

This set of fixed circumstances is more than enough to manufacture ‘dissent’ within the minds of the public, as the thought of going to jail is just not seen as an accepted practice in the public realm. Going to jail can ruin a person’s life completely. Criminals go to jail, but now even smokers can. Since the primary source of information in the public realm is the law, the stance taken by the law on the subject matter, being conservative, also generates a similar perspective in the minds of those that read it for information. Before the public can get awareness of the valued medicinal properties of cannabis, they are misdirected, at their very first interaction with the subject matter, by false information and pictures painted within and outside the law leading to more conflict than resolution of the issue.

You may be dissenting or consenting with respect to one particular aspect of the law but you would still be breaking/confirming to, the law due to your action or inaction, towards something prescribed by law. A requirement for any law framed by the Parliament is that a rational nexus or a causal link must exist between the law and the subject matter, without which the law becomes redundant towards the subject -matter it is made to address. Unnecessary and unrelated legislation which does

\textsuperscript{21} Mehta, “A Silent Movement for the Legalisation of Cannabis Is Spreading across India.”
not have a rational nexus does nothing but create internal conflict between the binaries that it creates in the first place, making the situation worse.

A very clear example can be seen with respect to the ‘beef ban’. The justification for most politicians in support of the motion as to why ‘beef pelting’ is not a problem is essentially the fact that they can trace it back to the directive principles given under the Constitution by painting false pictures to the public saying cows must be saved and are holy.\(^\text{22}\) One must be either for the motion or against. There is never a middle ground. Basically, law provides for political conditioning in the sense of creating binaries within the public realm and this is exactly the reason people are led to believe that the ends can possibly justify the means.\(^\text{23}\) As per a 2016 USDA report, India has slowly grown to be one of the largest producers of beef in the world, accounting for almost 20\% of the world’s beef trade.\(^\text{24}\) This is essentially the reality that is often covered up with lies and false consequences.

Article 48\(^\text{25}\), found under the chapter ‘Directive principles for states’, says state shall “organise agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds, and prohibiting the slaughter, of cows and calves and other milch and draught cattle.”

All states except the North East and the Southern States have enacted legislation and regulations which have enforced this non-mandatory directive principle and made it mandatory for people of the state to comply with it, at least in the public realm. But this does not ensure that any sort of


means can be applied to achieve the ends. And instead of regulating the consumption of beef, people have now divided themselves into those who don’t and those who do slaughter cows and this has led to nothing but internal conflict. And it also does not mean that because enforcement cannot be done, the law must be struck down. The idea somewhere is to always create and maintain a balance by ensuring that there is a rational connect between the law made and the subject matter it is to address. These are subject matters whose consequences go beyond that of the false information and conditioning offered by the law in the public realm. In the above example, what is essentially missing from the equation is a causality between the law that is trying to be enforced and the subject matter against which said law is being enforced. We see only that side of the picture that we are made to see. The consequences that follow those lies tend to usually be hidden from us. People’s food habits can be choices or circumstantial depending on their preferences and what they can afford. Sometimes they may just not have another alternative and in such cases, is it justified to ban their only source of nutrition?

Another apt example is that of the ban on Homosexuality. Just because there was a strong worded law prohibiting unnatural sex, the institutions took to extreme means such as cyber spying and home invasions to ensure that the so called ‘crimes’ are not committed. Again, we arrive at the same question, do the ends justify the means? Is there a causal link that can be established between the law and the subject matter that it is framed to address? People have the absolute fundamental freedom to love, be intimate, share an association with anyone or anything they wish, irrespective of caste, creed, gender, sex. But through the element of law, dissent and consent has been manufactured irrespective of what the consequences are of those laws on the binaries that it creates. All the while saying that Homosexuality leads to the spread of HIV or that it is immoral, the fact that the law was still trying to ban mere physical and/or emotional activity between two consenting human beings seems to be absolutely ridiculous. The law in this case is merely in force

to create more conflict between those identify and those who don’t, because the law makes and reinforces crystal clear binaries. It makes clear who is on which side of the playing field.

PRIVATE DIVIDE

Now, coming to the private realm, how much of this doctored consent actually remains with people in their individual interactions with the law? Although the law is for the general public, the interactions that people have with the law are limited to the private realm. To clearly explain the inefficient and misdirected use of government surveillance on cannabis, three statistical reports on the same can be used to critically analyze this paradox. The first being a report on “The Magnitude of Substance Abuse in India” published by the Ministry of Social Justice and Empowerment.28 The second being the National Crime Reports published by the NCRB for the years 2011 to 2016 respectively and the third being the 3rd Booklet on Cannabis markets published by the United Nations Office on Drugs and Crime.31

The Ministry report shows the current statistics of cannabis consumers in the country, in terms of an age demography, the type of product being consumed (being either ‘bhang’ or ‘ganja’), number of consumers state wise, and finally the top ten states with the highest number of cannabis abuse and dependency cases.

The National Crime Reports on the other hand show the amount of Ganja and Hashish seized, the number of cases that have been registered and the number of arrests all in relation to Marijuana from 2011 to 2016.


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28 “Magnitude_Substance_Use_India_REPORT.Pdf.”
talks about the consumption patterns for cannabis across the world up to 2017 and before. It also estimates the growth in consumption rates for regions across the globe.

Basically, by virtue of being a national survey with a sample group of over five lakh participants, The Report on Substance Abuse helps us in reaching a conclusion that under each of the aspects that the reports cover, one can only see an increase in the statistics on all the fronts, in comparison to previous years. Also, it must be noted that there is a big increase in the number of abuse and dependence cases as well across states in the country. Overall, the reasonable conclusion to draw would be to say that there has been a drastic increase in Cannabis Consumption across all states in the country.

From the National Crime Records, we can see that from 2011 to 2015, there has been a constant fluctuation in the amount of cannabis that has been seized by the authorities, with the most being 1,19,867 kgs seized in the year 2011 followed by 1,08,000 kgs in 2014. But when we see the number of cases that have actually been registered in the respective years, the lowest conviction rates appear when the most amount of cannabis has been seized. In 2016 though, the amount of cannabis seized was around 2,94,347 kgs but the number of cases that were registered also increased majorly to around 14,401 from a mere 5000 registered in 2014. Along with that around 18,650 arrests were also carried out. From this, we basically understand that the percentage of cannabis use has been increasing exponentially within the country, nearly doubling in two years, while the cases being registered and people getting arrested are also increasing drastically. This means that people are not reducing the quantity they are smoking neither are they kicking the habit. Rather more and more people seem to be getting arrested for small misdemeanours such as carrying a rolled cigarette of cannabis, which then remains as a black dot, in terms of any future prospects for that individual.

In the booklet on Cannabis Markets, the UNOCD, Asia accounts for almost 5% of the cannabis seized worldwide and India take the number one spot in terms of quantity seized. The report also

states in the five years from 2010 to 2015, cannabis use seems to have been relatively stable.\textsuperscript{33} The only exceptions being regions of Africa and Asia, where it has been recorded that the cannabis use has been relatively increasing very rapidly as can be seen in the graphs annexed in the report.

Taking a holistic understanding from the statistics provided, it is safe to say that every aspect of cannabis in terms its use, its legality, cases registered against it, have just been increasing and very rapidly, irrespective of the fact that there exist such a strong worded and heavy sanction filled legislation manufacturing consent/dissent in the public realm. This merely leads us to the understanding that the dissent/consent that is manufactured in the public realm does not seep into the private realm. This basically means that the legislation that has been framed for the subject matter has not been fulfilling the object and purpose for which it has been created. This basically goes to show that there is indeed no rational nexus or a causal connection between the law and the subject it addresses.

Law is essentially used in such situations to ensure that in the public realm, it becomes difficult to question the current status quo, irrespective of how people conduct themselves in the private realm. As shown before in the examples, any laws which are ineffective, impractical and/or are irrelevant, but still remain in force, only lead to the aggravation of existing conflict and confusion, going against the core object of bringing any law into force in the first place. Any law enacted, if not for the purpose of attaining a resolution to the current issues, but creates more problems in the process, must be immediately struck down.

**CANNABIS NOW, WHO KNOWS WHAT’S NEXT?**

From the argument made above, it may arise in the mind of the reader as to where the line must be drawn in terms of being tolerant of the public and their behaviour? What can be allowed and what cannot? If there at all is a line to be drawn, where do we draw it?

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To answer this somewhat daunting question, Bourdieu’s perspective of the ‘standard’ and ‘popular’ comes very much in handy.

What we term something as either popular or unpopular, it comes from looking and observing the trend in usage of that something. The more frequented the use, the more unpopular it was and the less the repetitiveness of something, the more popular it was.

To put it in simpler terms, the word ‘standard’ was used by Bourdieu to signify the standards the majority of the population strived to achieve. These were standards that were usually set by a few, being the privileged bourgeois but applied to all, including the proletariat. These were standards that society as a whole was to adhere to. Incapable of adhering to standards set by only considering the preferences of a few, the masses usually found other more convenient ‘sub-standards’ to adhere to which actually took their preferences into consideration. Basically, this process of manufacturing ‘sub standards’ is termed as ‘popularisation’. The ‘popular’ is always a product of society and cannot just emerge on its own. Considering the fact that both the ‘popular’ and ‘standard’ are dualistic taxonomies, it must be the case there is a set ‘standard’ for the ‘popular’ to actually emerge against.

Now if the subject matter of cannabis could be brought into this nuanced understanding, there is at least space for the ideas of regulation, negotiation and compromise with respect to legalization, as compared to law that is in force at present which only provides for extremist views such as banning and prohibition. In the manner that consent is manufactured, such extremist views are seen to be set in stone, as they seem to be oblivious to the legislative rationale, by having failed to make any reasonable amendments to such incorrect, unreasonable and mis-informed views in the 33 years of this legislation being in force.
SETTING THE ‘STANDARD’

- Firstly, the ‘standard’ set for cannabis use in India has been very conservative and impractical. The law on the matter has already been analysed in detail leading us to the conclusion that the Act and its provisions seem disproportionate and ill-equipped in addressing the so called ‘cannabis offences’.  

- Dissemination of information and generating awareness publicly, either through the internet or the general news is out of the question as there is obvious proof to show that pro-marijuana legislations exist on a federal level, but news of these developments or even the mere existence of such laws is not made known to the public. A simple exercise can be done where one searches for any recent developments regarding cannabis in India.

- The News Publications essentially keep focusing on how there is always dilution and erosion of the ‘standard’. By publishing articles slandering the ‘popular’ to reinforce the ‘standard’, especially those which talk about increase in cannabis abuse, growing need for variations in cannabis, arrests made for the possession of cannabis and how Indian cities are becoming leading cannabis chimneys and other similar news have ensured that the status quo with respect to the subject matter can never be questioned in the public realm as the public sees only what they are made to see. Being influenced by manufactured falsities which don’t mirror reality, people get misguided and misdirected about the true nature of the cannabis plant. It is extremely rare to come across an article, literature of any kind published in India which has positive information about cannabis and its benefits and promotes legalization of cannabis.

- Considering that there is so much of recorded medical evidence to show that the plant has medicinal properties, capable of combating cancer causing cells as well as so many other

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34 “Narcotic Drugs and Psychotropic Substances Act, 1985.”
35 “Delhi Youths Hooked to New Forms of Marijuana - Times of India.”
recorded illnesses, one can only wonder how a society can be so ignorant in its ways, where it chooses to remain impractical about opportunities, rather than try to make the most of it, considering that we are losing out on the boom created by the green revolution, across the globe.

- As per the National Crime Bureau Records\(^{37}\), around 8,500 acres of farming land with standing marijuana crop was burned down in 2016 with the help of drones, and this number is said to rapidly increase in the coming years considering a drastic increase in the percentage of cannabis users. The most affected by enforcement of such drastic measures are the lives and livelihoods of farming communities in the region.

- It is the only plant intoxicant that has been banned when seen in comparison to the other substances listed under the Act. Opium, Heroin, Cocaine are all made from plants but not limited to them and are called synthetic drugs. Essentially from the coca leaf or the poppy plant, cocaine or opium cannot be directly extracted from the plants themselves and must be processed using extremely harmful chemicals as catalysts such as petroleum and mercury to end up with the final product being opium or cocaine powder. Synthetic drugs use plants as raw material like the poppy resin or coca leaf but have to add other synthetic catalysts such as mercury and petroleum to process the final product. Cannabis on the other hand is the only plant which has been put under the same scrutiny as chemical and synthetic concoctions. Being natural, this just goes to show that cannabis is clearly the odd one out in the schedule and although we may never understand how we got to such views and amend out regressive views.

- Unlike its counterparts, cannabis has a lot of recorded medical benefits providing for cures to a multiple range of debilitating diseases but there is no evidence to suggest that this information is being disseminated amongst the public, in terms of creating awareness.\(^{38}\) Unfortunately, as per the Act, and research and development in the field of cannabis is deemed to be illegal and is

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prohibited. The only research that can be done is on ‘bhang’. This only leads to a stagnation in the path of development and progress. Each move of intolerance reflects badly on the management of surveillance resources.

- Due to disproportionate and unreasonable punishments being administered by the Act, rather than reforming those who are dependent or abuse the drug, retributive justice takes places. Putting people in jail over a vice that they have, only breeds criminals out of those smokers.

  Sending a person to rehab for reformation is obviously more beneficial than sending him to prison. But the current state of the country’s legal system does not look at the object or purpose behind providing a resolution to a problem. The system only creates for binaries and either you are for the motion or against. Rehab is frowned upon and not well received by the public and arrests hence become the only other tool left to ensure that people who use cannabis are grouped together.

**CREATION OF THE ‘POPULAR’**

Due to such a disharmonious construct in the formation of the ‘standard’, a minority of the masses meaning the population that has used or is using cannabis at the present, decided to move away from such stringent, regressive, unjustified laws and settle with what they felt were to be acceptable, reasonable and justified ‘sub-standards’ leading to the process of ‘popularization’. Such a process helps in finding a middle ground which could harmoniously construct views of both sides while allowing for negotiation and compromise.

- Firstly, now looking at the law in force on the subject matter, one can easily sense that there is much lacunae present within the Act and that it is clearly not a well thought out piece of

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legislation and simply mirrored the American position during Reagan’s war on drugs. Lacking a rational nexus between the object of the act and the subject matter it was framed to address, the law basically become redundant.\footnote{Ashraf, “A Short Account of India’s Long History of Hypocrisy on Cow Slaughter Laws.”} This misinformed and misdirected tool of surveillance should have been amended to reflect the current reality of the subject matter in society. This was one particular reason as to why the minority decided to flock to the ‘popular’, cause unlike the ‘standard’ which took an extreme stance in terms of prohibition and denied people a livelihood\footnote{“(5) The Gaanja Situation - Ep7 : Deven Fights for Right to Life - YouTube,” accessed April 17, 2019, https://www.youtube.com/watch?v=tXNeGyqmpw.}, the ‘popular’ was more accepting and tolerant instead of being dismissive right away.

- By looking at the current statistics in the country, all we can see is a constant increase in the percentage of the population using cannabis.\footnote{“United Nations Office on Crime and Drugs: World Report, 3rd Booklet on Marijuana Markets of the World.”} Arrests and filing of cases are at an all-time high, the razing and burning of standing marijuana crop has increased exponentially. The number of cases of abuse are increasing in each state.\footnote{“National Crime Records Bureau: Crime Report of 2016.”} Considering all of this information, the one conclusion that we can come to with clarity is that apart from deeming 3.1 crore people as criminals for exercising their freedom of choice, the Act does nothing to address the problems of trafficking, cases of abuse, or promote the positive properties of cannabis. Basically, the part of the NDPS Act dealing with the prohibition and criminalization of cannabis must be struck down immediately and deemed to be ‘Void’ for all purposes.

- The medicinal properties of the cannabis plant must be recognized and awareness must be spread regarding the same to the people. The cost of health care has increased at such a humongous rate, whereas per a newspaper reports, the Indian pharmaceutical industry reaps around twenty-five billion dollars in revenue annually, just from production and sale, be it legally or illegally. Unfortunately, to the authors disbelief, the 71st Round of the National Sample Survey Organization states in its survey report that almost 86% of all rural households and 82% of all...
urban households in this country are not covered by any sort of health care or insurance. This means that the Indian population just can’t afford to get sick at all, as there is no budget allocation or insurance to cover the huge costs of medical services in the country. An example which must be noted is that of an American tablet which basically counters the effect of chemotherapy radiation done to your body by ensuring that the radiation doesn’t create other tumours or lead to unseen illnesses. The cost of this ‘miracle’ tablet is around $64,000 if it was to be patented and brought to India. And this was the cost of the tablet per person.

- Looking at the bhang infused medicine for the countering the chemotherapy, currently available in the market, the cost of twenty tablets cost Rs. 300. The reduction in price is more of a ‘miracle’ than anything else. There is a lot of recorded medicinal uses to cannabis ranging from Neurotic Diseases, Chemotherapy, Damaged Nerve Ending, Autism, Breast Cancer, General Anaesthesia, an alternative and effective herbal painkiller in the fight against any kinds of cancer, and for a variety of mental disorders.

- Cannabis, is actually a plant on which an entire demographic terrain depends on for their survival and sustenance. Being primarily an agrarian economy, all the villages situated near the foothills of the Himalayas stretching from the state of Uttarakhand to Himachal Pradesh and to parts of the North-Eastern Belt. Most prominent of these states is Himachal Pradesh in its efforts to legalize cannabis for saving the livelihoods of farmers and uphold a culture, which in their

47 “Cancer: Can You Bear the Cost of Cancer Treatment? Find out How to Buy the Best Cover - The Economic Times.”
49 “Revival, Modernization and Integration of Indian Traditional Herbal Medicine in Clinical Practice: Importance, Challenges and Future,” accessed March 26, 2019, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5388083/.
opinion is being lost to the modernizing world.51 The holy villages of Mallana, Tosh have such extreme temperature conditions where nothing apart from Cannabis, can grow in the soil. Cannabis, there grows just as a weed and is not intentionally cultivated by the people.52 Peas, as part of an experiment were tried to be grown but due to the harsh winters, there was no chance of survival of the crop. Hence in such cases, would it be absolutely irrational for the legislators to criminalize the civil liberties of people, quintessentially being the fundamental right to life.53 Parvathi Valley is another terrain lost in time, where spirituality touches the sky. Travellers who go to these regions face cultural backlashes from the population residing in the villages.54 Not allowed to touch houses, or people or any tools belonging to them, etc are some of the absurd rules put to those who visit.55 The idea somewhere lies in the diluting of the purity in their culture. They don’t want to be ‘touched’ upon by outside influence.56 That choice should be respected.

- Farmers all over the country in general would benefit from legalization of such a high potential cash crop such as Cannabis. Requiring very little water and even lesser sunlight, it is an ideal cash crop for drought periods. All sorts of products as mentioned above can be obtained from the cannabis plant. Hemp Seeds provide for nutrients such as Omega 3, Omega 6 which actually help body regeneration.57 Clothes can be made from its stem along with shoes, bags, ropes, etc. Its roots have herbal and medicinal properties. Any waste can also be used as fodder for cattle. It naturally helps in keeping certain kinds of pests away from the crops, if planted on the boundaries of the field. They provide for high soil retention as well. It would create a lot of

51 “(5) This Guy Builds A Strong Case For India Legalising Cannabis | In My Opinion Ep. 6 - YouTube,” accessed April 17, 2019, https://www.youtube.com/watch?v=JnHjWH3HRG0.
56 “The Village Where Cannabis Is the Only Livelihood.”
57 “(5) This Guy Builds A Strong Case For India Legalising Cannabis | In My Opinion Ep. 6 - YouTube.”
business opportunities and provide for an increase in employment opportunities. People can be employed to run clinics, cafes and coffee shops. The farmers would benefit in the process of cultivating and selling their produce to the Government, which would in turn sell to licensed outlets, from which consumers can purchase. The produce of the farmers can be checked for quality and sold for a uniform price. This would ensure that the mafia stays out of the legalization process as the dependence on procuring it illegally leads to so many problems that legalizing it would completely resolve.

- The mafia is one of the biggest players in the drug market, especially in the context of cannabis in India. Maoist and Naxal Cultivations of cannabis over thousands of hectares of land in the hill regions of Southern India and the north eastern belt provide for the current illegal trafficking of cannabis in through-out the country. Legalising cannabis would remove the middle men from the equation and this would ensure quality and price of the product remain uniform.

Now that we have understood what is the ‘standard’ set by society and how diametrically opposite from the ‘popular’ it stands, we can then come to the question of whether it can be allowed for or not? This exercise was merely to look at what was the realistic picture of the current cannabis paradox in the country. By looking at the way this trend is slowly growing, it is possible to say that people are becoming more aware about the benefits of cannabis and hence flock towards the ‘popular’. This is an analysis that can be done with respect to any sort of law, where one must look at what the standard in society? Why are people dissenting from the norm of society? What is the extent of the dissent? Is there a rational behind the dissent that cannot be found in the norm?

By legalising cannabis, are we solving problems that exist because of its illegality? By the above analysis, we can clearly confirm that there is more benefit being created by legalizing as compared to problems that are present due to its criminality. Then in such a case where there is more advantage in reading the two sides in a harmonious manner, why are we creating a binary which leads to

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nothing but more conflict? One must first analyse and critically understand the standard of society, to dissent against it.

This analysis can be done for laws against the consumption of beef as was done for the ban on homosexuality. Practicality of enforcement is secondary. The primary objective must be to see if the object for which the law has been created is being addressed or not. Before there is dissent, we must first allow for the knowledge of the legislators to become redundant regarding a subject matter.

**ANALYSIS AND CONCLUSION**

In the first leg of the project, of the public realm, we looked at how law in creating binaries amongst the populations acts as a tool of surveillance. Being the only objective facet of information in the public realm, it also can manufacture consent/dissent depending on the view taken by the law on that subject matter. We saw how the law was being used as an effective tool for surveillance in the public realm, through the elements of painting false and superfluous images and following the same with sanctions, if not agreed to.

We also talked about the need for causality in legislation between the object it was created for and the subject matter it deals with.

Then in the private realm we saw how the individual had interactions with the law and also saw that the same manufactured consent/dissent doesn’t seep in from the public realm to the private realm meaning that there is no harmony in the existing legal structure. The object of looking at a public and private divide is to see whether there is harmony that can be created between the two.

It can be understood that although the law is being effective in the public realm, other tools of surveillance such as burning fields with standing crop, or registering cases and arresting people are not as effective in dealing with the private realm. When there exists such a grave distinction between what is seen in the public realm and what is followed through, all we see is internal conflict between the two binaries. The side for the motion promotes and the side against slanders. Rather than going through this age-old process, we can read both sides harmoniously where the public realm actually reflects the reality of the private realms and rather than wasting surveillance resources in trying to
ban and prohibit, the same can be used in ensuring that if legalized, it must be regulated properly. Termed by Arendt as ‘derivatisation’ it is the collapse of the walls of the public and private realm, which leads to the creation of the social. It is in the social that there exists this fluidity of law, where the law in force actually mirrors and promotes reality and is not in a constant war with it. The coming of the social would allow for all sorts of permeations and opportunities. Harmonization of both sides and reading both of them in a manner which allows for both sides to have equal say is what we must essentially strive for when we come up with legislation.

In the second leg of the project, the question of whether a vice can be allowed just because a minority of the populations are in support of it has been answered and explained clearly. What must be seen in this analysis is what the ‘standard’ of society is and whether that ‘standard’ is unreasonable and cannot be complied with or whether rationale exists in the object of the law. Then the ‘popular’ must also be assessed to see if rationale exists or if it is unreasonable and cannot be complied with. Basically, this kind of understanding brings about for negotiation, compromise and understanding. Rather than setting something in stone, why not try to first find a middle ground which satisfies all the parties. Parties who actually have a say in decisions regarding their livelihoods must be invited to the table for working out some sort of arrangements. Clearly, cannabis would bring more benefit than disaster for the in terms of both capital generation as well as employment opportunities. Compared to problems that criminalization of cannabis. What we can see is that by being criminalized, cannabis is creating a lot more problems as set out under the heading of ‘standard’, but under the ‘popular’, the legalization of cannabis would not only solve all existing problems but provide solutions to other problems, completely unrelated to cannabis, which would be capital generation and creation of employment opportunities. Instead of taking an offensive and coming up short, why not take the defensive and be strong?

What we must strive for is only harmony. Ensure that the law and the people are both harmonious in the process, rather than always allowing for a constant tussle. Taking extremes and being arrogant is easy but coming to a middle ground with reason and compromise is extremely hard. Wars are fought in all manners. But compromise can be made only in one manner. When both sides clearly consent to come to an understanding.
Cannabis primarily deals with the fundamental freedom of choice. People have the right to consume whatever they please as long as it can be proven that the product doesn’t harm others. It is a question of fundamental civil liberties where people cannot be denied their livelihoods and the right to live. They need the plant for sustenance and nothing more can be said.

It is a question of alternative medication for the majority who cannot compete and survive in the fight for good primary health care.

In the end, it is just a plant. A creation of nature. It simply cannot be burned off the earth. It simply can’t be banned.
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