

PUBLIC POLICY BLOG

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From Condemnation to Legalization: the policy process of legalizing marijuana in the USA

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Executive Summary

Marijuana is one of the most commonly used drugs today. According to the UN Office on Drugs and Crime (2020, p. 17), 188 million people around the world use marijuana. However, even though consumption is widely spread in many places around the world, it still remains largely illegal. The number of countries legalizing its use has been increasing though. In the USA it remains illegal, however, individual states have moved forward to legalizing it. The how and why of this development can be explained by major political actors advocating for the legalization and the general change in discourse on the drug marijuana.

Marijuana and the federal-state divide

The regulation of cannabis at federal and state level is crucial when discussing the recent movements towards marijuana legalization in the US. At the federal level, the consumption and possession of marijuana are regulated in the Controlled Substances Act (CSA). The definition of marijuana excludes any derivative of the cannabis plant that fits the definition of hemp or has a THC concentration of 0.3% or less. The CSA classifies marijuana as a schedule 1 drug, meaning that it is subject to the strictest federal substance control laws. For comparison, other drugs classified as schedule 1 include heroin and ecstasy, while cocaine and fentanyl are only classified as schedule 2. Because of the harsh classification, the mere possession of marijuana can be punished with up to a year of imprisonment or a minimum fine of \$1,000.

The consequence for the distribution of marijuana can be a prison sentence of ten years to life, or a fine of up to \$10 million for an individual.

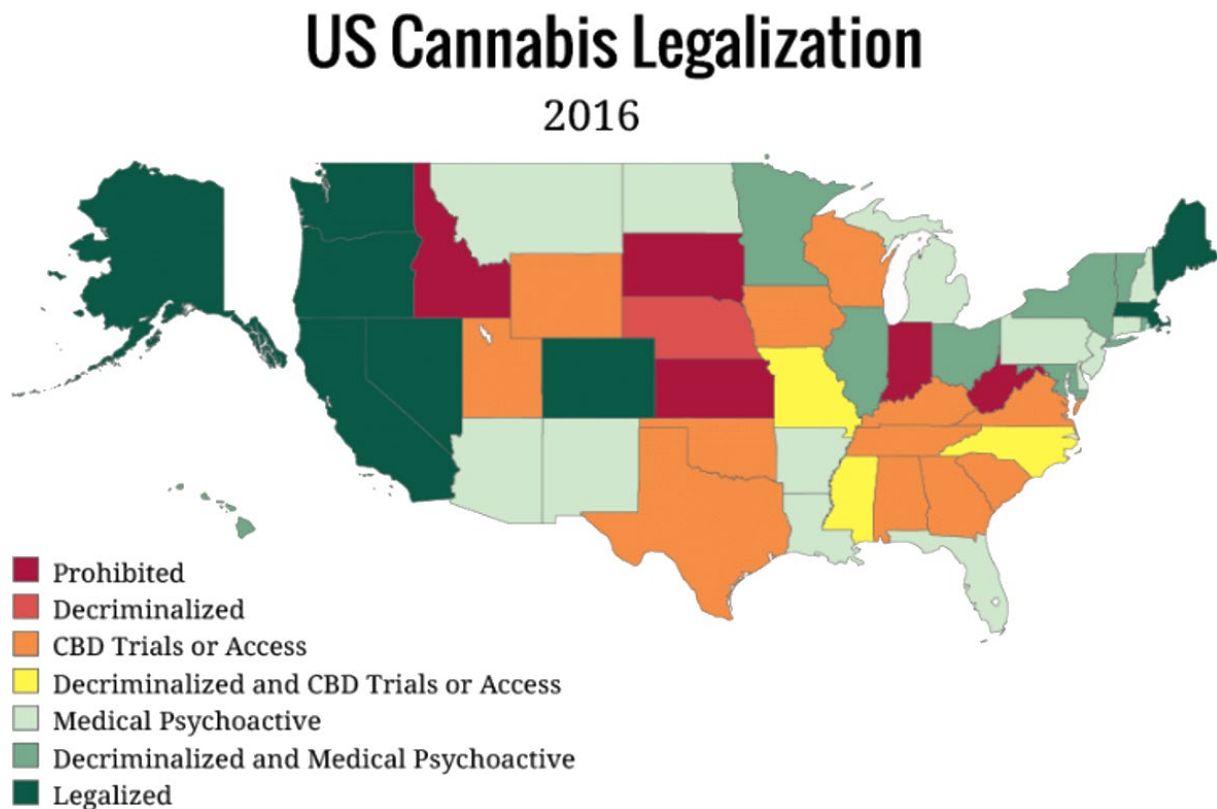


Figure 1: US Cannabis Legalization in 2016

Source: <https://commons.wikimedia.org/wiki/File:Cannabis-legalization.gif>

Contrary to the strict federal policy, on the state level various states have recently moved to legalize medical or even recreational use of marijuana. Today, all but three states allow the consumption for medical purposes, and eleven states and the District of Columbia even permit recreational use. Formally, the liberal drug policy at state level is undermined by the Supremacy Clause of the US constitution which establishes the precedence of federal over state law. This implies that even if a state has technically decriminalized the use of marijuana, any individual making use of it will still act on an illegal basis federally. However, according to a statement by the US Justice Department, the federal government will not interfere with state jurisdiction on the use of marijuana provided that the local jurisdictions comply with certain minimal conditions.

Public enemy number one

The criminalization of marijuana began in the early 20th century. Around that time, the Mexican Revolution took place, and many Mexican nationals began making their way over the border to the USA. They had to face many prejudices, and the US population seemed to fear Mexican rituals just as much as the people themselves. Since marijuana was the main means of intoxication for many Mexicans, the drug had a rough start in the US. Police forces even brought marijuana in connection with violent crimes and a “lust for blood” (Little, 2017, para. 5). With such a stigma attached, it was only a matter of time that marijuana would become federally regulated.

The 1937 Marihuana Tax Act introduced high taxation and harsh penalties for any violation, while not criminalizing the use or possession. The actual criminalization came with the Controlled Substances Act of 1970 under the Nixon administration. In this time, the term “War on Drugs” was first brought up and drug abuse declared public enemy number one.

The states start legalizing

Around 30 years after federal prohibition, the first changes in state-level legislation took place. In 1996, the state of California was the first to legalize the use of marijuana for medical purposes. Since then, many states have followed suit. In 2012, Colorado and Washington State were the first to allow recreational use for adults above 21 years old.

The sudden re-emergence of the topic of marijuana and its legalization was facilitated by the emergence of many new actors. Interested individuals organized themselves in several organizations like the National Organization for the Reform of Marijuana Laws (NORML), the Drug Policy Alliance, or the Marijuana Policy Project. Many important political actors in the US also started debates on marijuana use. A well-known example is former President Barack Obama (in office 2009-2017), who repeatedly mentioned personal use during his youth. Owing to such developments, the discourse around marijuana gradually changed. Rather than focusing on misconceptions surrounding a lust for blood, people started debating how the CSA had disproportionately affected the Black and Latino communities. But not only racial justice concerns brought along conversation changes, also financial pressures did so as the additional tax revenue could fund government expenses. Moreover, scientific evidence proved in 2017 that the consumption of marijuana could help combat certain illnesses (Denham, 2019, p. 88).

Washington State goes green

The case of Washington State provides insights into some of the dynamics of marijuana legalization in the US. Located on the West Coast of the US, Washington legalized the use of marijuana for medical purposes in 1998 and became one of the first states to legalize the

recreational use of marijuana in late 2012. This pioneering role offers a good example of how the conception of marijuana slowly evolved and how the influence of key actors and events helped achieve a significant change.

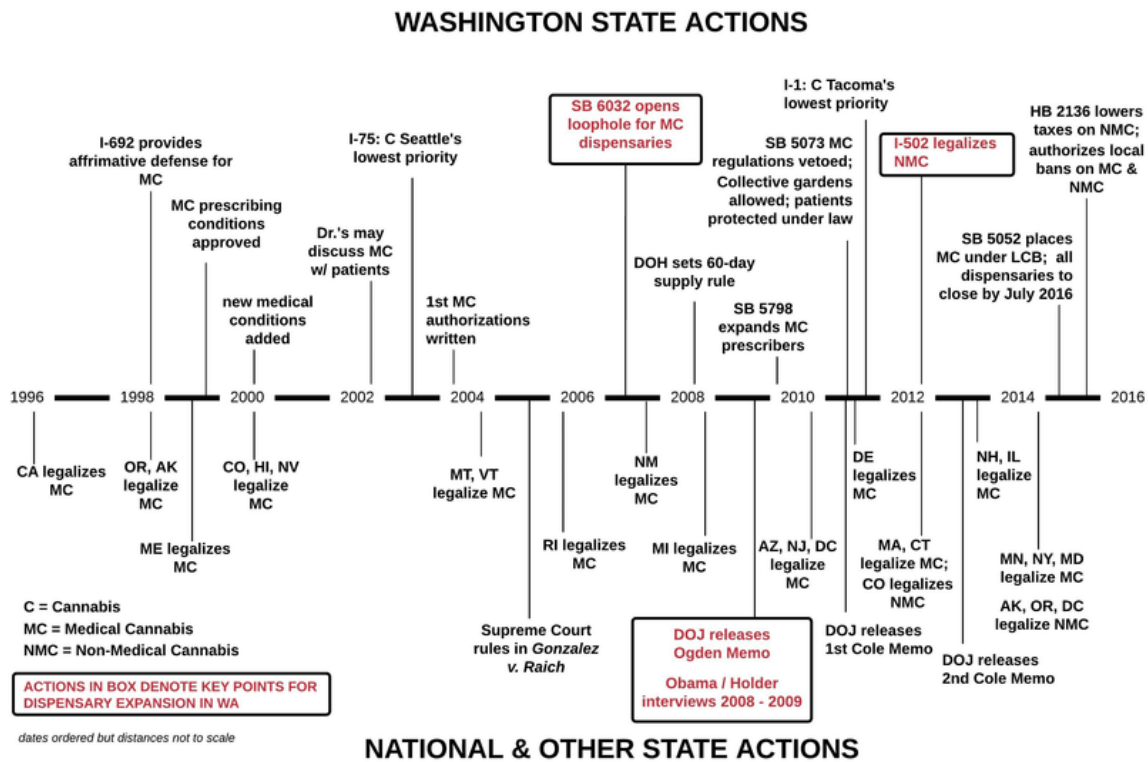


Figure 2: Washington State legalization of marijuana timeline

Link: https://www.researchgate.net/figure/Cannabis-policy-timeline-for-Washington-successful-major-legislation-in-other-states_fig1_311797569

Seattle, the largest city of the state, is home to the US' largest marijuana festival called the Hempfest, which counts with a yearly attendance of approximately 100,000 people. Its goals are to provide the public with quality information and resources about hemp and cannabis culture. As a result of such festivals, the previously attached stigma of marijuana's violence-inducing capabilities faded away as even the police has stressed these festivals' peacefulness. Additionally, several major political actors campaigned for the legalization of marijuana. One of them was Michael McGinn, who served as mayor of Seattle from 2010 to 2013 and aimed to reduce crime in the city by legalizing the drug. Another official involved in the legalization campaign was former Seattle Police Chief Norm Stamper. He participated in countless interviews and showed his support for the movement by holding speeches at the Seattle Hempfest.

The support of important officials positively impacted the public debate and arguably gave legitimacy to arguments in favor of marijuana use. Eventually, this more positive discourse and the support of many official organizations and prominent individuals paved the way for the legalization in 2012.

In a nutshell

Overall, marijuana has a long history within the US and its stigmas have changed over time. While it remains illegal on a federal basis, many states have legalized either the medical or recreational use. This change of heart by the different states can be explained by the influence of officials speaking out in favor of legalization and a more positive discourse around marijuana. Previously feared due to its violence-inducing qualities, today it is more so seen as a soft drug with particular benefits in the medical field.

Sources

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