

The Human Rights Case for Federal Marijuana Legalization in the United States

Alexandra Lubbe, Webster University – Saint Louis

Marijuana should be federally legalized in the United States because the prohibition of marijuana is a serious and relevant issue that connects to various human rights violations, including the right to be free from discrimination, the right to liberty and the right to health. The racist beginnings of marijuana prohibition, the disproportionate effects of the War on Drugs on people of color, and the fact that Black people are arrested for marijuana possession at a rate four times that of White people (despite almost identical rates of use) all violate the right to be free from discrimination. The fact that citizens are not afforded the autonomy to smoke marijuana in the privacy of their own homes while they are allowed to consume drugs that are potentially more dangerous, such as alcohol and tobacco, violates liberty rights. Finally, the federal prohibition on the use of and research on medical marijuana, despite evidence from medical professionals and very ill marijuana users that there are great potential benefits to marijuana consumption for a variety of illnesses and ailments, violates the right to health. Although these rights are diverse, they can all be protected by the federal legalization of recreational and medicinal marijuana, restorative justice programs, and public education on both the racism surrounding marijuana and its medical benefits and risks.

Since 1937, the sale and possession of marijuana in the United States have been prohibited at the federal level, which has led to nearly a century's worth of human rights abuses. The federal prohibition of marijuana and the War on Drugs, which was declared by U.S. President Richard Nixon in 1971, has led to the violation of the right to be free from discrimination, the right to liberty, and the right to health. Presently, it is unclear what the next steps will be in terms of legalization, although the prospects for legalization in the relatively near future look promising. In this paper, I argue that the U.S. federal government should move forward to legalize marijuana because its prohibition violates fundamental human rights.

The disproportionate effects of federal marijuana prohibition on people of color is the first international human rights concern that I examine in this paper. Today, Black people are on average nearly four times more likely to be arrested for marijuana possession than White people, and they face further discrimination in the criminal justice system after they are arrested (American Civil Liberties Union, 2013). The Convention on the Elimination of All Forms of Discrimination “guarantee[s] the right of everyone, without distinction as to race, color, or national or ethnic origin, to equality before the law” (United Nations, 1969). People of color are not treated equally when it comes to federal marijuana laws (or many other laws, for that matter), in violation of their right to be free from discrimination.

The second human right discussed in this paper is the right to liberty. Of course, the right to liberty does not grant everyone the freedom to do whatever they please. Instead, it grants people the right to do things that will not harm others, especially if they are in the privacy of their own homes. While many people think that the outlawing of marijuana use is a justified violation of the right to liberty, I argue that it is not due to both the low risks involved with use and the fact that two comparably risky substances, alcohol and tobacco, are not banned federally. People should have the liberty to smoke marijuana in the privacy of their own homes because it is of no harm to others.

The final human right violated by the federal ban on marijuana is the right to health; by outlawing medicinal marijuana, the government is withholding a potentially beneficial form of medical treatment that may be the best option for some patients. Marijuana provides medical treatment or relief for various types of illnesses, and it may have less health risks than are associated with many pharmaceutical drugs. It also produces effects that many patients cannot find elsewhere. By withholding this potentially beneficial form of medical treatment, or at the very least by preventing research on the medical benefits of marijuana, the federal government is violating its citizens’ right to health, which is afforded by the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights.

I conclude the paper by offering my suggestions on how to best promote these human rights. Ultimately, the federal government should legalize marijuana medicinally and recreationally as soon as possible. They should also take steps to make reparations for the disproportionate effects of the War on Drugs and mass incarceration on people of color, and should promote a criminal justice system that is not discriminatory.

Overview of Marijuana in the United States

History of Marijuana Prohibition

We must understand the racial implications of the history of marijuana criminalization in the United States to get a full picture of where we are now. Contrary to the popular notion that marijuana sale and possession have always been illegal in the United States, it only became federally illegal after the panic that preceded the Marihuana Tax Act of 1937. In the early twentieth century, marijuana use began to be associated with Mexican immigrants and Black people. At the time, it was widely believed that marijuana was introduced to the United States by Mexican immigrants (Caulkins et al., 2016, p. 21). This is when marijuana began to be framed as threatening to public safety. It was believed that Mexican laborers who smoked marijuana were lazy, stupid, and criminal, and southern Black smokers were violent and dangerous due in part to marijuana use (Bender, 2013, p. 362). It is apparent that marijuana criminalization has been an issue of racial discrimination since the before prohibition.

Because of the negative information spread about marijuana use in the early twentieth century, individual states began to criminalize marijuana use and possession, and the federal ban came soon after. California was the first state to prohibit the sale and possession of marijuana in 1913, and Maine, Wyoming, and Indiana quickly followed. It was not until after the Great Depression that marijuana became illegal federally. The Depression was accompanied by great resentment toward Mexican laborers. While calling for quotas on Mexican immigration in the 1930s, C.M. Goethe, leader of the

American Coalition, said, “Marijuana, perhaps now the most insidious of pure narcotics, is a direct by-product of unrestricted Mexican immigration. Mexican peddlers have been caught distributing sample marijuana cigarets [sic] to school children” (quoted in Mauer, 2004, p. 83). Combined with the 1936 premiere of the movie *Reefer Madness*, which painted marijuana users as dangerous criminals, and the denouncement of marijuana by the first commissioner of the Treasury Department’s Federal Bureau of Narcotics, Harry J. Anslinger, this sentiment helped pass the Marihuana Tax Act of 1937, prohibiting marijuana on the federal level.

The next big wave of public focus on marijuana came in the 1960s and early ‘70s, which began with a brief period of decreased regulation and public support for marijuana sale and use. In the 1960s, the popularity of marijuana use by White people, especially White college students, became publicly acknowledged. It is no coincidence that as more White people were recognized as smoking marijuana, public support for decriminalization increased. In 1970, the federal government reduced the sentencing for possession of small amounts of marijuana from a felony to a misdemeanor. In 1972, a report from the National Commission on Marihuana and Drug Abuse (Shafer Commission) was released. The commission found that marijuana is not a danger to public safety and recommended that marijuana possession be legalized (Caulkins et al., 2016, p. 22); however, while support for marijuana decriminalization was growing, the War on Drugs was just beginning.

The War on Drugs, which was declared by President Nixon in 1971, was a way to target antiwar hippies (who were considered heavy marijuana smokers) and people of color under the guise of a war against crime caused by drug use. In the beginning of this “war,” Nixon chose to ignore the Shafer Commission report, and instead established the Drug Enforcement Agency (DEA), which classified marijuana as a Schedule I drug under the Controlled Substances Act (1970). Schedule I drugs, which include marijuana, heroin, LSD, ecstasy, methaqualone and peyote, are drugs that are federally considered to have a high potential for abuse and no currently accepted medical use. Marijuana is still

classified as a Schedule I drug today, despite being legalized medically in many individual states. The War on Drugs was the beginning of the acceptance of “harsh penal policy” on drug sale and possession, and it “gave resources that allowed law enforcement to arrest, prosecute, and imprison more drug offenders,” which disproportionately affected people of color and has led to an era of mass incarceration in the United States (Schoenfeld, 2012, p. 345). There was a brief period of support for decriminalization of marijuana even after the War on Drugs was announced, which included the decriminalization, but not legalization, of marijuana in some form in eleven states from 1973-1978. Still, heavy policing of drug offenses came back stronger than ever with the Reagan administration and the “Just Say No” campaign in the early 1980s. This played a large role in the rising rate of incarceration, with the number of those imprisoned for nonviolent drug offenses climbing from 50,000 in 1980 to over 400,000 by 1997 (Drug Policy Alliance, n.d.).

Current Legislation on Marijuana

Although the effects of the drug war still linger and mass incarceration is one of the United States’ biggest social problems today, there has been a rise in support for marijuana legalization across the country. Even though the federal government has prohibited the possession and sale of marijuana, individual states have the right to legalize marijuana recreationally, medically, or both. Paving the way was California, which legalized medical marijuana in 1996. Since then, 28 other states have legalized medical marijuana. In 2012, Colorado and Washington became the first two states to legalize recreational marijuana, and since then, seven other states and Washington D.C. have done the same. Although there is support for legalization from individual states and the majority of U.S. citizens, 64% of whom support legalization according to a 2017 Gallup survey, the federal government continues to prohibit the sale and possession of marijuana, including in the states that have legalized it (Lopez, 2018b).

Part of the reason that the federal government has not yet legalized marijuana is that marijuana is still considered a Schedule I substance. The paradox of this classification is that it will be unlikely change unless there are large scale clinical trials proving the medical benefits of marijuana, but large-scale clinical trials on marijuana are prohibited as long as marijuana remains a Schedule I substance. While the Obama administration was relatively relaxed on federal enforcement of prohibition despite the Schedule I classification, Attorney General Jeff Sessions from the Trump administration has been leading the charge to crack down on marijuana prohibition (Lopez, 2018a).

Even though individual states have the right to legalize marijuana, the federal government still has the jurisdiction to intervene in acts that violate federal prohibition. In early 2018, Sessions rescinded the Obama administration's hands-off federal approach to individual state legalization of marijuana. (Meanwhile, more than half of country is in support of marijuana legalization and U.S. President Donald Trump himself has made promises that he will not interfere in individual states' rights to decide their own marijuana laws.) Sessions issued a memo on "Marijuana Enforcement" on January 4 in which he directed U.S. attorneys to follow the law as laid out in the Controlled Substance Act, which prohibits the cultivation, distribution, and possession of marijuana. Sessions made a statement in the memo, noting that his directive will help attorneys "tackle the growing drug crisis, and thwart violent crime across our country" (United States Department of Justice, 2018). The reasons given by Sessions for increasing the enforcement of federal marijuana laws are reflective of the reasons given by the federal government for outlawing the use of marijuana for the first time in 1937, as well as the reasons given for initiating the War on Drugs. This raises red flags, because the federal prohibition on marijuana, as well as the War on Drugs, have both led to the violation of multiple human rights. It will be interesting to see how this crack down affects states that have already legalized marijuana as well as states that are attempting to do so.

On the other end of the legalization debate, a handful of legislators have introduced bills to Congress that aim to legalize marijuana. In August 2017, Senator Cory Booker (D-NJ) introduced the

Marijuana Justice Act to the Senate, and in January 2018 Representative Barbara Lee (D-CA) introduced the accompanying bill to the House. The bill would remove marijuana from the Controlled Substances Act, as well as focus on restorative justice in communities that have been disproportionately affected by marijuana criminalization (Berke, 2018). The bill would also cut federal funding in states that continue to uphold prohibition and disproportionately arrest and convict people of color. There is much support for this act among Democrats, including backing from Senator Bernie Sanders (D-VT) and Senator Kirsten Gillibrand (D-NY). In April, a less radical bill called the “Cannabis States’ Rights Act,” which would not legalize marijuana at the federal level but would officially protect marijuana businesses and consumers in states that have already legalized marijuana, was proposed by Representative Dana Rohrabacher (R-CA). Around the same time that the bill was proposed, President Trump promised Senator Cory Gardner (R-CO) that he would support legislation that prohibits federal interference in individual state marijuana laws (Min Kim, 2018). Although Trump is often unreliable, he has maintained his position on this topic since his candidacy, so there is some likelihood that he will continue to support states’ rights to legalize marijuana. The prospects for federal marijuana legalization in the relatively near future seem promising, but there is still a long road ahead in overcoming opposition, especially from Attorney General Sessions.

Marijuana Prohibition and the Violation of Human Rights

The following three sub-sections focus specifically on each of the three rights that have been violated by marijuana prohibition. In each section, I aim to describe the ways in which the right has been violated and how the right would be promoted by federal legalization. Although the rights are seemingly unrelated, the right to be free from discrimination, liberty rights, and the right to health all play important roles in making the case for federal marijuana legalization.

Marijuana and the Right to be Free from Discrimination

Marijuana prohibition in the United States has violated the rights of people of color to be free from discrimination since the beginning of the twentieth century to the present. Human rights are based on the notion that all human beings are intrinsically equal in dignity and worth and they should be treated as such under the law, but people of color have been and continue to be treated unequally under the law when it comes to marijuana legislation and the policing of marijuana use. The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) is perhaps the most relevant human rights document that supports the claim that the discrimination against people of color when it comes to marijuana criminalization violates human rights. The Convention calls for the prohibition and elimination of all forms of racial discrimination and sets out to “guarantee the right of everyone, without distinction as to race, color, or national or ethnic origin, to equality before the law” (United Nations, 1969). In the Universal Declaration of Human Rights (UDHR), Article 7 also provides a right to equal protection before the law without discrimination, which the United States violates in its policing of marijuana use (United Nations, 1948). Additionally, Article 26 of the International Covenant on Civil and Political Rights (ICCPR) requires the law to prohibit all forms of discrimination, including discrimination based on race (United Nations, 1966a). Although some may argue that the intent of federal marijuana prohibition is not to discriminate against people of color, intent is irrelevant in international human rights law (Borden, 2016). Discrimination violates human rights regardless of intent. The next paragraphs will be devoted to explaining how marijuana policies in the United States are discriminatory against people of color, primarily Black Americans, and perpetuate racial disparity.

In general, an extremely high number of arrests come from marijuana possession, even though it is a non-violent crime and marijuana is one of the least dangerous illicit drugs. According to a Human Rights Watch (HRW) and American Civil Liberties Union (ACLU) report, there were over 574,000 drug arrests in 2015, half of which were for possession of marijuana. The same year, there were only 505,681 arrests for violent crimes (Borden, 2016). Thanks to the legacy of the War on Drugs, police make more

arrests for drug possession than any other crime, and most of these arrests have been due to the possession of marijuana. Unfortunately, the burden of these arrests falls on people of color, especially young, Black males (Nguyen & Reuter, 2012, p. 879).

In the United States, Black people are on average nearly four times as likely to be arrested for marijuana related crimes than White people, although both groups use marijuana at very similar rates. This exemplifies the discrimination present in the policing of marijuana possession. According to an ACLU report from 2013, in many states the rate of arrest of Black people compared to White people is much higher than the national average (American Civil Liberties Union, 2013). The highest disproportionality comes from Iowa, where Black people were a staggering 8.3 times more likely to be arrested for marijuana possession than White people, followed by D.C. and Minnesota where the rates were 8.1:1 and 7.8:1, respectively. In every single state except for Hawaii, Black people were more likely than White people to be arrested for marijuana possession. To many people, these numbers provide evidence that Black people must be smoking at much higher rates than White people, but this is simply not the case. In fact, Black and White adults and adolescents use marijuana at almost identical rates (Nguyen & Reuter, 2012, p. 890). In some cities, there is evidence that white people are more likely than Black people to have used marijuana at least once, such as in New York City (Geller & Fagan, 2010, p. 593). Based on this evidence, it is clear that there is substantial discrimination against Black people when it comes to arrests for marijuana. There are multiple causes to this disproportionality, stemming from discriminatory anti-marijuana campaigns in the early 1900s and the War on Drugs, which targeted Black people and kick-started the increase in arrests for marijuana related crimes.

Discrimination persists to this day, partly due to an emphasis on “order maintenance policing,” as well as racial profiling and the fact that Black people tend to be in situations/neighborhoods where they are more likely to be caught and arrested. Since the mid-1990s, “order maintenance policing” (OMP), which came about as a solution to stop violent crime, has been a popular method of policing in

urban areas. The goal of OMP is to be proactive in catching misdemeanor and minor offenses, based on the idea that stopping social disorder will prevent the occurrence of more serious and violent crimes (Nguyen & Reuter, 2012, p. 881-2). The main tool of OMP is stop and frisk, which is promoted as a way to search for firearms or other weapons. One can imagine how the increased use of legal stop and frisk practices would lead to increased rates of arrests for possession of marijuana. These arrests disproportionately affect people of color. Because OMP is used predominantly in urban areas (and within these urban areas, police spend more time in mostly poor, minority neighborhoods), Black people are more likely to be stopped, questioned, and frisked than White people. They are therefore more likely to be caught and arrested for the possession of marijuana, under the pretext that the police are suspicious of firearm or weapon possession and are attempting to prevent violent crime (Geller & Fagan, 2010, p. 593).

Outside of OMP, there is a list of reasons why Black people and others who live in minority communities are at a higher risk for arrest. One reason is that drug sales tend to be more visible in minority neighborhoods, and Black people are more likely to buy marijuana outdoors than White people. They are also more likely to buy from strangers. Additionally, they are more likely to buy marijuana at greater distances from home than White people, increasing the likelihood that they will be caught on their way home (Nguyen & Reuter, 2012, p. 895). Racial profiling is typical for traffic stops, increasing the chances that Black people who drive with marijuana in their cars will be caught. Whether the disproportionality of arrests is blamed on blatant racism or the fact that people of color tend to live in poorer neighborhoods where there is greater police presence and a higher risk of arrest, there can be no denial that discrimination against Black people exists in the policing of marijuana possession and use, which is a violation of the right not to be discriminated against. Arrest, though, is only the first step in the criminal justice system that is discriminatory against Black marijuana users.

Once a Black person is arrested for a marijuana related crime, they are likely to fall victim to a criminal justice system that is harshest on the most vulnerable people. Because people of color who are arrested for possession are likely to be poor, they are frequently unable to afford bail. This means that they are often times forced to choose between remaining in jail until their trial or being released from jail by pleading guilty (Borden, 2016). People of color are also more likely to receive longer sentences than White people, regardless of the crime committed (Travis et al., 2014, p. 93). Further, repeat offender laws have a disproportionate racial impact (Mauer, 2004, p. 88). Because marijuana possession is considered a misdemeanor, which generally only brings fines or jail time while awaiting trial, repeat offender laws greatly increase the chance that someone may be sentenced to time in prison solely for marijuana possession, and Black people are the most likely to be repeat offenders because they are more likely to be arrested than White people. Even if the offender is not sent to prison, they may still face disproportionate consequences from fines and probation. Additionally, many Latinos face the risk of deportation if they are arrested for marijuana possession (Bender, 2013, p. 692). Although some may argue that this is a fair consequence of someone breaking the law, it places a disproportionate burden on immigrants, specifically immigrants of color. A White American citizen does not face the same risks that immigrants and people of color face.

While it would be reasonable to assume that legalizing marijuana would be an easy solution to racial discrimination in terms of marijuana prohibition, by examining states that have already legalized marijuana, such as Colorado and Washington, it is apparent that racial implications are still present. In the first place, campaigns to legalize marijuana rarely focus on the racial disparities of policing marijuana possession, but instead focus on benefits such as tax revenue and promoting individual liberty. While this is not flat-out discriminatory, and these benefits are important and convincing, it still shows that combatting racial discrimination is not the top priority. Another reason many states provide in campaigns to legalize marijuana is that it will help to eliminate drug cartels. While this does not sound

like a bad argument, it is important to realize that drug cartels are predominately made up of people of color, usually Latinos, and that underlying this argument is the fact that it is more acceptable for White business owners to sell marijuana than people of color (Bender, 2013, p. 693). In states where marijuana sale is legal, White males are disproportionately in charge of the retail industry. One reason for this is that even though marijuana sale is legal by some state laws, banks are reluctant to give out loans to marijuana retailers, because marijuana sale is still illegal federally (p. 696). This means that many marijuana businesses have to be financed independently, and White people tend to have more money than Black people to finance businesses without loans. Additionally, legal marijuana retailers are not allowed to have a criminal record (Bender, 2013, p. 697). Considering Black Americans are arrested and convicted for crimes at much higher rates than White Americans, they are much less likely to be legally allowed to sell marijuana as retailers. While this law may not be intentionally discriminatory, it still disproportionately affects people of color, which is a violation of their right to not be discriminated against.

In states that have already legalized recreational marijuana, there are post-legalization regulations that disproportionately impact Black people. The regulations include driving under the influence, possession of marijuana by minors, and public consumption. Driving under the influence disproportionately affects people of color, because they are more likely to be pulled over in general due to racial profiling. Possession by minors is also more likely to affect youth of color, because they are vulnerable to the school-to-prison pipeline, which is the phrase to describe minority adolescents being sent directly from school to juvenile and criminal justice systems. Finally, there is evidence that in Colorado, Black people are more than twice as likely as White people to be arrested for public consumption ((Bender, 2013, p. 701-703). While this may only be true in Colorado, it is likely that it is the case or will be the case in other states as well. While these laws may not have been written to intentionally disproportionately affect people of color, discrimination under the law is still the result.

It is evident that people of color are disproportionately impacted by marijuana prohibition, which is a violation of their right to be free from discrimination. From the beginnings of the regulation of marijuana use up to present day policing of marijuana use and possession, and even in individual states where the use and sale of marijuana is generally legal, people of color have been discriminated against. This goes against their right to be treated equally before the law regardless of their race. It is one aspect of the United States criminal “justice” system that is not very just. One may point out that people of color are disproportionately affected by most laws (not just laws prohibiting or regulating the use and sale of marijuana), and therefore some may question why marijuana should be legalized as opposed to other drugs, or even other actions that are currently considered criminal. While there may be a case for legalizing other drugs, this paper focuses on marijuana because it accounts for half of all non-violent drug arrests and because it is a relatively safe drug. Additionally, the criminalization of marijuana use violates other human rights, namely liberty rights and the right to medical care.

Marijuana and Liberty Rights

The right to liberty is a right that has many variations. A theoretical interpretation is based on the notion that all human beings are autonomous, which provides us the right to liberty. Autonomy means that individual human beings can make their own independent decisions, at least decisions that will only affect themselves. The right to liberty protects people’s freedom to make their own decisions about their own lives and to have control over their own behavior, even if their decisions may seem misguided to others. Liberty is acknowledged as a right in Article 3 of the UDHR, which grants all human beings “the right to life, liberty and security of person” (United Nations, 1948). The right to liberty can also be coupled with the right to privacy. The right to privacy can be interpreted as allowing people to do what they please in private, as long as it does not harm others. Article 12 of the UDHR says that “no one shall be subjected to arbitrary interference with his privacy” (United Nations, 1948). Additionally,

Article 10 of the ICCPR grants protections for people who have had their liberty taken away by lawful arrest. The article states, “All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person” (United Nations, 1966a).

Marijuana prohibition violates liberty rights in several different ways. The federal ban on personal marijuana use does not respect personal autonomy, which is the ability to choose for oneself how they wish to behave. Of course, in a society, complete autonomy is not always granted. There are certain circumstances where infringing upon a person’s autonomy is acceptable. For example, people are not justified in murdering or raping others, and almost everyone would agree that the criminalization of murder and rape is just. The reason for this is that murder and rape harm others. John Stuart Mill explains this notion in his harm principle, which is based in the belief that “autonomy is an ultimate good” (Richards, 1982, p. 7). According to the harm principle, the only justification that a state has for infringing upon the right to liberty is to prevent harm to others (Blumenson & Nilsen, 2010, p. 285). In other words, if a citizen is doing something that is of no harm to anyone else, there should be no laws or state intervention against it. This principle is reflected in one of the earliest human rights documents, the French Declaration of the Rights of Man, which gives its citizens “the power of doing whatever does not injure another” (Richards, 1982, p. 2). In the harm principle, harm to oneself, however, is deemed acceptable. Therefore, according to the harm principle, the government should not be allowed to prohibit marijuana use, even if it is considered harmful to the user. While it is important to acknowledge the harm principle, the reality is that the government has many laws that seem to impose upon an individual’s right to liberty in trying to prevent acts that could cause harm to the individual, including the legal requirement to wear a seatbelt while in a moving vehicle and the prohibition of Schedule I substances other than marijuana. While the validity of these restrictions may be questioned elsewhere, in this paper I wish to focus on the question of why marijuana is prohibited while two other potentially dangerous substances, alcohol and tobacco, are not.

Although alcohol, tobacco and marijuana are three very different substances, there are similar levels of risk in the use of each, possibly even less risk for marijuana use, yet marijuana is the only substance of the three that is prohibited federally. While marijuana has no known cases of fatal overdose, there are approximately six deaths a day from alcohol poisoning in the United States, and smoking cigarettes greatly increases the chances of fatal lung cancer (Centers for Disease Control and Prevention, 2015). According to current data, the lifetime risks of dependence on alcohol and cigarettes are also much higher than the risk of dependence on marijuana (Bostwick, 2012). Additionally, the medical benefits of marijuana are more widely acknowledged than the medical benefits of alcohol and tobacco. Further, depending on the amount of consumption, alcohol and marijuana have similar levels of intoxicating effects. For these reasons, there seems to be no justification for the government to prohibit marijuana. If people are granted the autonomy to consume alcohol and tobacco as they please, they should be able to consume marijuana.

Some may argue that marijuana should be prohibited because use may not only affect the individual user, but also people around the user, including children and people on the road in the presence of an individual driving under the influence of marijuana. While it is true that marijuana use may harm others in these cases, this does not mean that the government needs to ban the use of marijuana entirely. Laws could be created to prohibit adults from smoking when children are present, and laws against neglect would still exist to protect children whose parents are dependent on marijuana. Driving under the influence could still be justly outlawed, as it has the potential to cause great harm to others. Both of these cases could be examined through the framework of legal alcohol consumption. The consumption of alcohol is legal, even though there are instances in which consumption has the potential to harm others, arguably even more than the use of marijuana. People who neglect or harm their children under the influence of alcohol (or otherwise) face legal consequences, as do people who drive under the influence, yet a person's autonomy to choose whether

or not to drink alcohol is still respected under the law. The same could be true for marijuana use, as it is in states like Colorado and California. While there should be legal restrictions on marijuana when it has the potential to or is harming others, an outright ban on marijuana consumption does not respect individual autonomy.

In the United States, there are cases where liberty goes hand in hand with the right to privacy. The right to privacy can be interpreted as a liberty right, because it allows people the autonomy to do what they please in private, as long as it does not harm others. An example of the protection of the right to privacy in relation to marijuana use can be seen in the court case *Ravin v. State* (Alaska). The court's decision led to the legalization of the use and possession of small amounts of marijuana in the home for personal use in Alaska (Brandeis, 2012, p. 175). In the case, it was ruled that a law prohibiting personal marijuana use in the home violated citizens' right to privacy. The court's decision was based on scientific evidence that categorized marijuana as a "relatively innocuous substance," which they felt did not "justify intrusions into the rights of adults in the privacy of their homes" (Brandeis, 2012, p. 179-180). Although the language of privacy is used, it appears that the court was just as concerned with individuals' liberty to do as they please in their own homes, especially since they found that marijuana is a relatively harmless substance. A person should have the freedom, or liberty, to do whatever they please so long as it does not harm another person.

Some may argue that by knowingly breaking a law people forfeit their right to liberty, and while this may be a valid claim in some cases, imprisonment is only justified as punishment if it is proportionate to the crime. The notion of parsimony offers a similar explanation, which is that "punishments for crime, and especially lengths of prison sentences, should never be more severe than is necessary to achieve the retributive or preventive purposes for which they are imposed" (Travis et al., 2014, p. 323). Imprisoning a person for the use, and even the sale, of marijuana is not proportionate to the crime. First, there is no need to punish a person solely out of retribution for behaving in a way that

does not harm others. Additionally, if the state truly feels like they need to use some sort of punishment for marijuana use for preventative purposes, a fine would be a much more proportional approach than taking away a person's liberty. Although there are relatively few people who are sentenced to multiple years in prison for marijuana possession and use, people lose their freedom during arrest, pretrial detention, trials, and probation (Blumenson & Nilsen, 2010, p. 289). Those who cannot afford bail are forced to stay in jail until their trial, or they must choose to plead guilty, and it is difficult for many people to not violate their probation because of the inability to pay monthly probation fees, lack of transportation, or conflicts with work schedules. Some people do, however, face prison time, especially in states with the three-strike rule. In Louisiana, for example, one man was sentenced to 17 years in prison for the possession of a half ounce of marijuana because he was a "habitual offender" (Borden, 2016). This is an extreme violation of the principle of proportionality in punishment and violates his right to liberty. There is no reason why a person should have to spend 17 years in prison for the possession of a substance that he should be allowed the autonomy to choose to smoke.

A person's autonomy and right to privacy should not be violated unless a person is harming others, and marijuana users rarely harm others by the act of consumption. There are cases where it is acceptable to restrict a person's liberty in the case of marijuana use, such as by prohibiting driving under the influence or smoking with children present, but this is not a reason to ban the practice all together. If the government's justification is that marijuana criminalization exists to protect the user, then they should also have an obligation to prohibit the use of other harmful substances such as alcohol, tobacco, and arguably even soft drinks. Yet the state continues to uphold the idea that individuals should have the autonomy to choose whether they wish to consume these substances, while criminalizing the use of marijuana, which is possibly less harmful than alcohol and tobacco.

This paradox can be tied back to the fact that marijuana legislation is racially determined. Although marijuana consumption was at one time legal in the United States, once the notion that

Mexican immigrants and Black people were the main consumers of marijuana was spread, it became more acceptable to take away the liberty of marijuana smokers to smoke in their own homes. Part of this is because most White people already viewed people of color as criminals, and once someone is “criminal,” taking away their liberty becomes justified. Fast forward to the War on Drugs, and the same rationale was used. While the War on Drugs was publicized as a way to prevent crime caused by drug use, members of the Nixon administration later admitted that it was really a way, in part, to target people of color. This has resulted in the era of mass incarceration, which has taken away the liberty of hundreds of thousands of people of color, which is unjustified based on the notion of parsimony. While the legalization of marijuana in many states across the country in recent years is a positive sign of increasing respect for the right to liberty and privacy, it can partly be attributed to the fact that it has become more widely known that White people use marijuana at very similar rates to Black people. The federal government should legalize the use of marijuana to show that it respects the autonomy of every citizen, regardless of race.

Marijuana and the Right to Health

The prohibition of marijuana in the United States violates the right to health that is afforded in Article 25 of the UDHR and Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), and is acknowledged as a right by the World Health Organization (WHO). This right requires that the State protects “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health” (United Nations, 1966b). The violation of the right to health is two-fold. While the federal government denies the right to health by refusing to acknowledge the medical benefits of marijuana, it also infringes upon the right to health when someone is put in prison for marijuana possession, because many prisons do not offer adequate standards of health care and can

cause psychological damage to prisoners. The infringement upon the right to health, therefore, needs to be further explained in both cases.

In maintaining the classification of marijuana as a Schedule I substance, which denies that there is a currently accepted medical use for marijuana, the United States federal government is withholding a potentially beneficial method of treatment for citizens with a range of different illnesses. Considering the fact that 29 states have already legalized the sale and use of medical marijuana, as well as the fact that many physicians acknowledge the medical benefits of marijuana, there is at least some evidence that marijuana has medical value. In 1996, California was the first state to legalize medical marijuana. California Proposition 215 claims that “seriously ill Californians have the right to obtain and use marijuana for medical purposes...in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which marijuana provides relief” (as cited in Caulkins et al., 2016, p. 201). Still, states that have legalized medical marijuana face the possibility of backlash from the federal government. In banning the use of marijuana as a form of medicine, the federal government denies its citizens the right to health care that may best benefit them.

Since states began to legalize medical marijuana in the late 1990s, there has been research and studies conducted on the medical conditions that the consumption of marijuana may help treat or provide relief from symptoms. There are many physicians who acknowledge the benefits of using marijuana as medical treatment for some conditions over the use of other, possibly more addictive, prescription drugs. Although there have been no FDA approved clinical trials on the substance of marijuana due to the Schedule I classification, there has been other research to test the medical benefits of marijuana. While there are possible drawbacks to smoking marijuana because of the toxicity of the smoke, many physicians still maintain that the benefits outweigh the drawbacks. In 1999, eleven independent scientists who were appointed by the Institute of Medicine said that “the benefits of smoking marijuana were limited by the toxic effects of the smoke, but nonetheless recommended that

the drug be given under close supervision to patients who do not respond to other therapies” (Clark, 2000, p. 41). Just like any other drug, marijuana may have negative side effects, but this does not mean that it is an option to throw out altogether. In 2015, 24 different clinical trials on marijuana were reviewed by MEDLINE. Most of these trials had positive results, and they concluded that the “use of marijuana for chronic pain, neuropathic pain, and spasticity due to multiple sclerosis is supported by high-quality evidence” (Hill, 2015). Other sources have cited similar uses for medical marijuana, as well as other uses, including the control of nausea and vomiting in chemotherapy patients and the stimulation of appetite in AIDS patients in order to prevent wasting (Clark, 2000, p. 45).

While many may think of the right to health as the right to be afforded medical care from the government, it can also mean being given the opportunity to have the best possible option for treatment, and in many cases marijuana may be the best option. For cancer patients going through chemotherapy, smoking marijuana may be the best option they have to get rid of nausea and vomiting. In 1985, the FDA approved the Schedule II prescription drug Marinol, which contains THC, the active ingredient in marijuana. The drug, which is taken orally, is meant to treat nausea and vomiting in chemotherapy patients. While the drug has been proven effective, it may not be as effective as smoking marijuana. The problem with Marinol is that the effects take some time to kick in and then they wear off quickly, the prescription is very expensive, and it may be difficult for nauseous patients to consume (Clark, 2000, p. 43). Smoking is a more effective alternative, because it works almost immediately upon consumption, is much cheaper, and should not be a problem for nauseous patients to consume. There are some negative side effects, which may include rapid heartbeat, loss of coordination, and impaired immediate memory, but these side effects should not outweigh the great relief that marijuana consumption may provide to patients going through gruesome chemotherapy (Clark, 2000, p. 42). It seems erroneous that the federal government would withhold marijuana, which contains the same active ingredient as a FDA-approved prescription drug, as an option for relief that would be effective for

patients going through painful medical treatment, especially since many physicians and trials have acknowledged the benefits. People have a right to health, and if medical marijuana best fulfills this right, then there is no reason why the federal government should prohibit it.

While there is merit in restricting the access to certain illicit drugs, such as heroin, for medical use, the fact that marijuana has relatively little risk, even compared to some prescription drugs, is good reason why it should be legalized. There have been no known cases of fatal overdose from marijuana use, while there are countless known cases of overdose from prescription drugs. In fact, we are currently in the middle of the “Opioid Overdose Crisis,” in which more than 115 Americans die of opioid overdose everyday (National Institute on Drug Abuse, 2018). Although only some of these overdoses can be attributed to prescription opioids, such as hydrocodone and oxycodone, often addiction to prescription opioids can lead to the addiction to heroin, which increases the overall quantity of fatal overdoses from opioids. It seems absurd that the federal government continues to uphold the legality of prescription opioids, while prohibiting the medical use of marijuana. Not only are the risks of overdose nonexistent with marijuana, as opposed to some FDA approved prescription drugs, marijuana is also much cheaper than most prescription drugs (Clark, 2000, p. 44). Legalizing medical marijuana may make it easier for people of lower economic status to afford medical treatment, which would promote their right to health care and decrease the likelihood of discrimination based on class.

Not only does the federal prohibition of marijuana infringe upon the right to health from the standpoint that marijuana may provide medical benefits that are more effective and cost effective than other legal drugs, many people who are incarcerated for marijuana related charges have their right to health violated while in prison, as well. Since the War on Drugs began and resulted in the era of mass incarceration, prisons around the country have experienced massive overcrowding. Due to this overcrowding, prisons struggle to provide adequate medical and mental healthcare to inmates, which deprives them of their right to health (Exum, 2011, p. 884). Additionally, overcrowding can cause more

illness to occur, as well as increase the risk of suicide (Travis et al., 2014, p. 180). Long-term imprisonment can also cause psychological damage from the prolonged experience in an oppressive situation, including chronic post-traumatic stress disorder (Travis et al., 2014, p. 176). Even if medical care is provided to prisoners, health care received in prison is usually not continued after release because almost 80% of ex-prisoners do not have health insurance and many do not qualify for Medicaid (Travis et al., 2014, p. 227). Often drug convictions prevent convicts from getting jobs that would provide them with medical benefits (Borden, 2016). Breaking the law is not a justification for the government to infringe upon a person's right to health, no matter what crime a person has committed. While it is clear that there is a great deal of work to be done in prisons overall to uphold the right to a standard of living adequate for health and well-being, legalizing marijuana would be a step in the right direction. It would help deal with the problem of overcrowding and would eliminate the violation of the right to health that convicts face when they are sent to prison for marijuana related crimes.

It is important to address the arguments that many people make in support of continued prohibition of medical marijuana. Some argue that the right to health does not necessarily include the right to marijuana use, because a claim that a substance has medicinal value does not necessarily mean that the claim is true or that the medical benefits would outweigh the drawbacks. However, there is substantial evidence that marijuana provides significant medical benefits, that there are relatively few negative health risks, and that marijuana is a cost-effective substance, which leaves the federal government no excuse to withhold the use of marijuana as a form of medical care. At the very least, they should change the classification of marijuana from a Schedule I substance to a Schedule II substance so that there can be FDA-approved clinical trials on marijuana. If the reclassification is granted, researchers may be able to find more ways to consume marijuana safely without the risk of consuming toxins that may be present in marijuana smoke, as well as discover currently unknown medical benefits of marijuana. Of course, in order to reschedule, the FDA requires controlled, double-

blind clinical trials, which cannot be performed on drugs that are classified as Schedule I. This is a paradox that may need to be altered by legislation.

Another argument against the legalization of marijuana, both medicinally and recreationally, is that marijuana will act as a “gateway” drug that will encourage the use of other illicit drugs, as well as increase the rates of use among adolescents. In states which have legalized marijuana use medicinally or recreationally, there has been no evidence that marijuana has increased illicit use in general or the rates of use among adolescents (Borden, 2016; Clark, 2000, p. 41). Because these concerns do not hold true, there is little reason why the marijuana consumption should not fall under the right to health. Individuals should be able to have a choice in their healthcare as long as the risks are minimal and they are aware of any possible risks, especially if one method of treatment is much cheaper than another option. Because the right to health is violated in both the cases of people in need of medical treatment and people sent to prison for marijuana related offenses, marijuana possession and use should be legalized both medicinally and recreationally.

Conclusion

The federal prohibition of marijuana is, at its core, a human rights issue. The history of racial discrimination in marijuana legislation as well as racial disparity in the policing of marijuana related crimes is a clear violation of the right to be free from discrimination. It also seems unclear why the government would interfere with an individual’s autonomy to choose whether to consume marijuana, especially when marijuana is compared to alcohol and tobacco. Individuals should have the right to privacy to smoke marijuana in their own homes so long as they are not harming anyone else. Individuals should also have the right to health that may be afforded by marijuana consumption. Although each of these rights seem very different, they overlap to create a complex human rights concern that would be

best solved by legalizing marijuana and implementing restorative justice programs for people of color affected by prohibition.

There are currently a handful of organizations in the United States that are fighting for the legalization of marijuana. One of the most well known is the National Organization for the Reform of Marijuana Laws (NORML). NORML, which was founded in 1970, is a nonprofit public-interest advocacy group that focuses on lobbying state and federal legislators to decriminalize marijuana possession (NORML, n.d.). The Drug Policy Alliance (DPA) is another organization working to legalize marijuana. They are insistent that the War on Drug failed and that people should not be criminalized for consuming any substance. The DPA has been a major player in different drug sentencing reforms and pro-marijuana campaigns throughout the country over the past 20 years. Another organization is the International Cannabinoid Research Society (ICRS). This organization, which was incorporated as a scientific research society in 1992, allows marijuana researchers from around the globe to meet and discuss their work (Marijuana Break, 2018). While the organization is impartial and does not shy away from discussing the negative aspects of marijuana, it still seeks to shed light on the medical benefits of marijuana. The list of organizations is much longer than these three, but they are some of the most important organizations working to change federal laws and spread positive information on marijuana.

There are a variety of ways the federal government could go about improving its marijuana policies. The first step should be to remove marijuana from the Controlled Substances Act. The Marijuana Justice Act, which was introduced to Congress by Senator Cory Booker (D-NJ) in August 2017, does just that. The bill would remove marijuana from the Controlled Substances Act and allow individual states to legalize marijuana. The bill also has a restorative justice component, because it would withhold federal funding from states that continue to criminalize marijuana and disproportionately target people of color and create “a Treasury federal fund that could be used for projects to reinvest and rebuild low-income communities through the Department of Housing and Urban Development” (Fearnow, 2018).

The bill already has support from many Senators, including Sanders and Gillibrand. Although this bill may seem like a long shot due to the opposition from Sessions, as well as many Republican members of Congress, this bill should be passed to promote the human rights of American citizens.

Although full legalization is the ultimate goal, decriminalization is one option for improving marijuana policy. Decriminalization means that criminal sanctions for personal use and possession would be removed, but the production and sale of marijuana would remain illegal. Thirteen states have already decriminalized personal use. Decriminalization at the federal level would keep marijuana users out of the criminal justice system and would promote liberty rights by protecting the autonomy to choose what substances to consume. Many people consider decriminalization to be the first step in the path to full legalization, which would fully abolish laws that prohibit the possession and personal use of marijuana while legalizing the production and sale of marijuana and putting them under government regulation (Murse, 2018). Nine states and Washington D.C. have fully legalized marijuana. While decriminalization is a step in the right direction, fully legalizing marijuana at the federal level is what needs to occur to best promote human rights.

The federal government should also legalize the use of and research on medical marijuana, which would require the removal of marijuana from the Controlled Substances Act. FDA-approved trials will help to make the potential medical benefits of marijuana clearer, as well as help to find ways to counteract the toxic effects of smoking marijuana. If there are clear medical benefits to marijuana, people should have the right to “preserve and protect [their] own health and body” (Bergstrom, 1997, p. 163). Legalizing medical marijuana is necessary to secure peoples’ right to health.

If absolutely nothing else, there needs to be criminal justice reform in the way people who possess marijuana are policed and tried. Because the police method of stop, question, and frisk disproportionately affects people of color in urban cities and is not effective in preventing violent crime, the method should be abolished entirely. “Three strikes” or “habitual offender” laws should also be

abolished, because they often authorize sentencing that is not proportionate to marijuana possession or use. People should never spend time in prison solely for the possession of marijuana, even if it is their “third strike”.

Many people will argue that the public risks associated with marijuana use are too high to allow legalization or even decriminalization. A common misconception is that marijuana use leads to crime, but in states that have already legalized, there has been no increase in violent crime, and there is no substantial evidence that marijuana causes crime (Borden, 2016; Blumenson & Nilsen, 2010, p. 284). Another concern is that there will be increased rates of marijuana use among children, but this has also been proven not to be the case in states that have legalized marijuana (Borden, 2016). People also believe that decriminalizing or legalizing marijuana will open a “gateway” for other drug use. While there may be a correlation between marijuana use and the consumption of other drugs, there is no evidence of causation. Ironically, the decriminalization of any drug, not just marijuana, may actually decrease harms related to drug use and protect and promote health. People who abuse drugs or are dependent on them would be more likely to seek help if drugs were decriminalized. Additionally, benefits of legalization include revenue gained from taxes on marijuana sale, as well as money saved on the cost of policing and trying cases of marijuana use and possession.

The issue of racial discrimination will still not be fully addressed simply by legalizing marijuana at the federal level. The campaign for legalization is unlikely to be focused on the racial disparities in marijuana criminalization, but rather the right to liberty and the potential revenue to be earned through taxation. People of color are unlikely to be the greatest benefactors of legalization, as White people will foreseeably make the greatest profit from the production and sale of marijuana. It is difficult to provide a specific solution to this problem. One idea is to provide funding for marijuana businesses owned by people of color, which is one part of Senator Chuck Schumer’s (D-NY) decriminalization bill that he planned to introduce to Congress in early 2018 (Davis, 2018). Additionally, it should be publicly

acknowledged by the federal government that people of color have been the targets of the initial criminalization of marijuana, the War on Drugs, and current policing of marijuana use. There is a strong case for reparations to be made to people of color for mass incarceration caused by the War on Drugs. In general, the public should be educated on the racial disparities present in marijuana criminalization, rather than be deceived with false information that the government is only trying to prevent crime and promote the public good. A mix of public education, acknowledgment of discrimination by the government, and the federal legalization of both medicinal and recreational marijuana is the best solution to promote the right to be free from discrimination, as well as the rights to liberty and health that are violated by the prohibition of marijuana.

References

American Civil Liberties Union. (2013). The War on Marijuana in Black and White: Billions of Dollars Wasted on Racially Biased Arrests. Retrieved from <https://www.aclu.org/report/report-war-marijuana-black-and-white?redirect=criminal-law-reform/war-marijuana-black-and-white>.

Bender, S.W. (2013). Joint Reform: The Interplay of State, Federal, and Hemispheric Regulation of Recreational Marijuana and the Failed War on Drugs. *Albany Government Law Review*, 6, 359-396. Retrieved from <https://digitalcommons.law.seattleu.edu/cgi/viewcontent.cgi?referer=https://scholar.google.com/&httpsredir=1&article=1116&context=faculty>.

Bergstrom, A.L. (1997). Medical Use of Marijuana: A Look at Federal & State Responses to California's Compassionate Use Act. *DePaul Journal of Health Care Law*, 2, 155-182. Retrieved from <http://via.library.depaul.edu/cgi/viewcontent.cgi?article=1258&context=jhcl>.

Berke, J. (2018). Top Democrats have introduced a number of bills to push for the federal legalization of marijuana. *Business Insider*, April 20. Retrieved from <http://www.businessinsider.com/marijuana-justice-act-marijuana-legalization-bill-introduced-in-house-2018-1>.

Blumenson, E., & Nilsen, E. (2010). Liberty lost: The moral case for marijuana law reform. *Ind. LJ*, 85, 279-299. Retrieved from <https://www.repository.law.indiana.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=1073&context=ilj>.

Borden, T. (2016). Every 25 Seconds: The Human Toll of Criminalizing Drug Use in the United States. Human Rights Watch. Retrieved from <https://www.hrw.org/report/2016/10/12/every-25-seconds/human-toll-criminalizing-drug-use-united-states>.

- Bostwick, J.M. (2012). Blurred Boundaries: The Therapeutics and Politics of Medical Marijuana. *Mayo Clinic Proceedings*, 87(2), 172–186. Retrieved from <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3538401/>.
- Brandeis, J. (2012). The Continuing Vitality of *Ravin v. State*: Alaskans Still Have a Constitutional Right to Possess Marijuana in the Privacy of Their Homes. *Alaska Law Review*, 29(2), 175-236. Retrieved from <https://scholarship.law.duke.edu/cgi/viewcontent.cgi?referer=https://scholar.google.com/&httpsredir=1&article=1343&context=alr>.
- Caulkins, J.P., Kilmer, B., & Kleiman, M.A. (2016). *Marijuana Legalization: What Everyone Needs to Know*. New York and Oxford: Oxford University Press.
- Centers for Disease Control and Prevention. (2015). Alcohol Poisoning Deaths. Retrieved from <https://www.cdc.gov/vitalsigns/alcohol-poisoning-deaths/index.html>.
- Clark, P.A. (2000). The ethics of medical marijuana: Government restrictions vs. medical necessity. *Journal of Public Health Policy*, 21(1), 40-60. Retrieved from <https://link.springer.com/article/10.2307/3343473>.
- Davis, S. (2018). On 4/20, Chuck Schumer to Introduce Bill to Decriminalize Marijuana. *NPR*, April 20. Retrieved from <https://www.npr.org/2018/04/20/604136116/on-4-20-chuck-schumer-to-introduce-bill-to-decriminalize-marijuana>.
- Drug Policy Alliance. (n.d.). A Brief History of the Drug War. Retrieved from <http://www.drugpolicy.org/issues/brief-history-drug-war>.
- Exum, J.J. (2010). Sentencing, Drugs, and Prisons: A Lesson from Ohio. *University of Toledo Law Rev.*, 42(4), 881.
- Fearnow, B. (2018). Bernie Sanders Joins Cory Booker’s Marijuana Justice Act to Federally Legalize Weed. *Newsweek*, April 19. Retrieved from <http://www.newsweek.com/bernie-sanders-marijuana-marijuana-justice-act-cory-booker-kirsten-gillibrand-893184>.
- Geller, A., & Fagan, J. (2010). Pot as Pretext: Marijuana, Race, and the New Disorder in New York City Street Policing. *Journal of Empirical Legal Studies*, 7(4), 591-633. Retrieved from https://www.brown.edu/Departments/Economics/Faculty/Glenn_Loury/louryhomepage/teaching/Ec%20137/Pot%20As%20Pretext_Submitted_JELS.pdf.
- Hill, K.P. (2015). Medical marijuana for treatment of chronic pain and other medical and psychiatric problems: a clinical review. *JAMA*, 313(24), 2474-2483. Retrieved from <https://jamanetwork.com/journals/jama/article-abstract/2338266>.
- Lopez, G. (2018a). The Trump administration’s new war on marijuana, explained. *Vox*, January 5. Retrieved from <https://www.vox.com/policy-and-politics/2018/1/4/16849866/marijuana-legalization-trump-sessions-cole-memo>.
- Lopez, G. (2018b). The spread of marijuana legalization, explained. *Vox*, April 20. Retrieved from <https://www.vox.com/cards/marijuana-legalization/-popular-opinion-changing-marijuana-legalization>

Marijuana Break. (2018). Top Organizations and People That Are Paving the Way to Cannabis Legalization. Retrieved from <https://www.marijuanabreak.com/top-organizations-and-people-that-are-paving-the-way-to-cannabis-legalization>.

Mauer, M. (2004). Race, Class, and the Development of Criminal Justice Policy. *Review of Policy Research*, 21(1), 79-92. Retrieved from <http://selfteachingresources.pbworks.com/f/Race,+Class+and+the+Development+of+Criminal+Justice+Policy.pdf>.

Min Kim, S. (2018). Trump, Gardner strike deal on legalized marijuana, ending standoff over Justice nominees. *The Washington Post*, April 13. Retrieved from https://www.washingtonpost.com/politics/trump-gardner-strike-deal-on-legalized-marijuana-ending-standoff-over-justice-nominees/2018/04/13/2ac3b35a-3f3a-11e8-912d-16c9e9b37800_story.html?noredirect=on&utm_term=.fffa7ec79771.

Murse, T. (2018). Decriminalization Versus Legalization of Marijuana. *ThoughtCo*, March 19. Retrieved from <https://www.thoughtco.com/decriminalization-versus-legalization-of-marijuana-3368393>.

Nguyen, H., & Reuter, P. (2012). How risky is marijuana possession? Considering the role of age, race, and gender. *Crime & Delinquency*, 58(6), 879-910. Retrieved from http://faculty.publicpolicy.umd.edu/sites/default/files/reuter/filesnguyen_and_reuter.pdf.

National Organization for the Reform of Marijuana Laws (NORML). (n.d.). Introduction: A Voice for Responsible Marijuana Smoker. Retrieved from <http://norml.org/about/intro>.

National Institute on Drug Abuse. (2018, March). Opioid Overdose. Retrieved from <https://www.drugabuse.gov/drugs-abuse/opioids/opioid-overdose-crisis>.

Richards, D.A.J. (1982). *Sex, Drugs, Death, and the Law: An Essay on Human Rights and Overcriminalization*. Totowa, NJ: Rowman and Littlefield.

Schoenfeld, H. (2012). The war on drugs, the politics of crime, and mass incarceration in the United States. *Journal of Gender, Race and Justice*, 15, 315-352.

Travis, J., Western, B., & Redburn, F.S. (2014). The growth of incarceration in the United States: Exploring causes and consequences. The National Academies Press. Retrieved from https://academicworks.cuny.edu/cgi/viewcontent.cgi?article=1026&context=jj_pubs.

United Nations. (1948). *Universal Declaration of Human Rights*. Retrieved from <http://www.un.org/en/universal-declaration-human-rights/>.

United Nations. (1966a). *International Covenant on Civil and Political Rights*. Retrieved from https://treaties.un.org/Pages/ViewDetails.aspx?chapter=4&clang=_en&mtdsg_no=IV-4&src=IND.

United Nations. (1966b). *International Covenant on Economic, Social and Cultural Rights*. Retrieved from https://treaties.un.org/pages/viewdetails.aspx?src=ind&mtdsg_no=iv-3&chapter=4&clang=_en.

United Nations. (1969). *International Convention on the Elimination of All Forms of Racial Discrimination*. Retrieved from https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-2&chapter=4&clang=_en.

United States Department of Justice. (2018). Justice Department Issues Memo on Marijuana Enforcement. Retrieved from <https://www.justice.gov/opa/pr/justice-department-issues-memo-marijuana-enforcement>.

© Copyright 2018 *Righting Wrongs: A Journal of Human Rights*. All rights reserved.

Righting Wrongs: A Journal of Human Rights is an academic journal that provides space for undergraduate students to explore human rights issues, challenge current actions and frameworks, and engage in problem-solving aimed at tackling some of the world's most pressing issues. This open-access journal is available online at www.webster.edu/rightingwrongs.