

# REEFER REFERENDUM: COMPARING MARIJUANA LAWS ACROSS THE GLOBE

## I. INTRODUCTION

This note will broadly examine the treatment of marijuana in four countries: Singapore, Uruguay, Italy, and the United States with brief allusions to other countries to illustrate the various degrees of legality. Treating each of these four principle countries as a case study, the underlying policies and impacts of marijuana laws around the globe shall come to light. By comparing and contrasting the various laws, policies, and approaches taken around the world, a path for the ideal method of marijuana regulation may unveil itself. That overall path currently trends in the direction of medicinal legalization<sup>1</sup> and decriminalization for recreational use,<sup>2</sup> but should begin to head toward adding full recreational legality with regulations that standardize the end product, distribution, and consumption in a similar manner to alcohol.

The analysis of the laws and policies of each country shall explore the following issues in a systematic process: first, this note answers whether or not marijuana usage is legal in a given country.<sup>3</sup> Then, if marijuana usage is not legal, the extent of punishment is discussed along with the impacts of that punishment. Alternatively, if marijuana usage is legal, this note looks

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1 Argentina legalized medical marijuana in 2017. *El Gobierno Reglamentó la Ley de Cannabis Medicinal*, INFOBAE (Sept. 22, 2017), <https://www.infobae.com/politica/2017/09/22/el-gobierno-reglamento-la-ley-de-cannabis-medicinal/>. Thailand has considered becoming the first Asian country to legalize medicinal marijuana. Eli Miexler, *Thailand Mulls Becoming the First Country in Asia to Legalize Medical Marijuana*, TIME (Nov. 1, 2018), <http://time.com/5441318/thailand-legalize-medical-marijuana/>. Mexico plans to move to full recreational legalization in addition to medicinally. Reuters, *Mexico Moves Toward Major Rollback of Marijuana Prohibition*, U.S. NEWS (Nov. 7, 2018, 1:13 PM), <https://www.usnews.com/news/best-countries/articles/2018-11-07/mexico-moves-toward-major-rollback-of-marijuana-prohibition>.

2 Countries such as Norway are moving toward decriminalization. Alf Bjarne Johnsen, *Historisk i Stortinget: Slutt på Straff for Rusmisbrukere*, VG (Dec. 13, 2017), <https://www.vg.no/nyheter/innenriks/i/kaJA1A/historisk-i-stortinget-slutt-paa-straff-for-rusmisbrukere>. Decriminalization simply means lowering criminal penalties for possession of small amounts of marijuana (at least in the context of the United States). Rosalie Liccardo Pacula, Jamie F. Chriqui & Joanna King, *Marijuana Decriminalization: What Does it Mean in the United States?* (Nat'l Bureau Econ. Rsch., Working Paper No. 9690, 2003), <https://www.nber.org/papers/w9690>. Portugal has long de-criminalized the usage of all drugs and has seen profound results in the impact on drug addiction. Susana Ferreira, *Portugal's Radical Drug Policy is Working. Why Hasn't the World Copied it?*, GUARDIAN (Dec. 5, 2017, 1:00 AM), <https://www.theguardian.com/news/2017/dec/05/portugals-radical-drugs-policy-is-working-why-hasnt-the-world-copied-it>.

3 For purposes of this note, usage may refer to either possession or consumption of marijuana.

at the extent of a given country's regulation, including whether usage is allowed recreationally or for medicinal purposes only, the extent of taxation, the implementation of potency limits, or age restrictions. Following this analysis may illustrate why marijuana should attain legal status for both medicinal and recreational purposes, with corresponding regulations for each.

### BACKGROUND

Before embarking into this analysis, definitional and contextual groundwork must clarify and inform the discussion. At a basic level, what is marijuana? How and why is it used, and what are the effects? Once this is established, the discussion will move into snapshots of the various countries and assessing the justifications and overall effectiveness of their respective policies.

Marijuana broadly refers to the flower of the cannabis plant.<sup>4</sup> Marijuana is typically smoked in the form of a "joint" (or marijuana cigarette) or some form of smoking apparatus such as a pipe.<sup>5</sup> However, it may also be consumed in an edible form, often cooked into common foods such as brownies, refined into concentrated oils, or even absorbed through topical ointments and lotions.<sup>6</sup> The usage of marijuana arises in medicinal, recreational, and religious contexts.

Usage of marijuana as a medicine traces back over ten thousand years.<sup>7</sup> Modern healthcare still utilizes medicinal marijuana to this day to lessen the impacts of numerous severe and debilitating symptoms,<sup>8</sup> and researchers believe they may find new applications for marijuana as a potential cure to

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4 NAT'L INST. ON DRUG ABUSE, *What is Marijuana?* (Dec. 2019), <https://www.drugabuse.gov/publications/drugfacts/marijuana>.

5 POTGUIDE.COM, *How to Consume Marijuana: Flower, Edibles, Hash and More*, <https://potguide.com/learn/marijuana-consumption-101/> (last visited June 13, 2021).

6 *Id.*

7 *Marijuana – The First Twelve Thousand Years*, SCHAFFER LIBR. DRUG POL'Y, <http://www.druglibrary.org/schaffer/hemp/history/first12000/1.htm> (last visited June 13, 2021).

8 Marijuana has demonstrated effectiveness in mitigating the symptoms of nausea associated with chemotherapy for cancer treatment, AIDS, depression, arthritis, Parkinson's, Alzheimer's, glaucoma, seizure disorders, psychosis, anorexia, and much more. Anne Harding, *Medical Marijuana*, WEBMD (Nov. 4, 2013), <https://www.webmd.com/pain-management/features/medical-marijuana-uses> (last visited Feb. 17, 2019); see also Jen Christensen, *10 Ways Medical Marijuana Can Be Used to Treat Disease*, CNN (Apr. 16, 2015, 12:11 PM), <https://www.cnn.com/2015/04/15/health/marijuana-medical-advances/index.html>.

diseases such as cancer.<sup>9</sup> For example, strong evidence suggests the effectiveness of marijuana as a safer alternative to opiates and other pain killers,<sup>10</sup> the usage of which has been described as an “epidemic” causing addiction, overdose, and death.<sup>11</sup> The adverse side effects of marijuana are few and generally benign, particularly when compared to the aggregate benefits the drug bestows.<sup>12</sup>

People have also used marijuana as a recreational drug. Using marijuana triggers the release of dopamine in the brain, a chemical tied to the reward center of the brain and associated with pleasure.<sup>13</sup> The recreational effects stem from the general feelings of joy, relaxation, and heightened sensory perception.<sup>14</sup> Marijuana usage has achieved popularity in American pop culture, through movies, music, and celebrities heralding the recreational

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9 While studies have not yet shown that THC and CBD (essentially the “active ingredients” of marijuana) can officially “cure” cancer, lab reports confirm that both chemicals kill cancer cells and further research is being conducted. AM. CANCER SOC’Y, *Marijuana and Cancer* (Aug. 4, 2020), <https://www.cancer.org/treatment/treatments-and-side-effects/complementary-and-alternative-medicine/marijuana-and-cancer.html>.

10 Peter Grinspoon, *Medical Marijuana*, HARV. HEALTH BLOG (Apr. 10, 2020), <https://www.health.harvard.edu/blog/medical-marijuana-2018011513085>. Further, unlike NSAIDs such as Advil, marijuana is safe for people with kidney disorders. *Id.* Marijuana legalization decreases aggregate opioid overdoses. Kerry Waddell & Michael G. Wilson, McMaster Health F., *Examining the Impact of Decriminalizing or Legalizing Marijuana for Recreational Use* (July 31, 2017), <https://www.mcmasterforum.org/docs/default-source/product-documents/rapid-responses/examining-the-impact-of-decriminalizing-or-legalizing-cannabis-for-recreational-use.pdf?sfvrsn=10>.

11 Am. Med. Ass’n, *Recent Selected Quotes from AMA letters to Congress, the Administration, Interviews, Letters-to-the-Editor and Op-Eds Related to the Nation’s Opioid Epidemic*, <https://www.end-opioid-epidemic.org/wp-content/uploads/2018/04/Recent-selected-quotes-opioid-epidemic-with-links-FINAL.pdf> (last visited Feb. 17, 2019).

12 Natalya N. Kogan & Raphael Mechoulam, *Cannabinoids in Health and Disease*, 9 DIALOGUES CLINICAL NEUROSCI. 413 (2007); see also Nora D. Volkow, Ruben D. Baler, Wilson M. Compton & Susan R.B. Weiss, *Adverse Health Effects of Marijuana Use*, 370 NEW ENG. J. MED. 2219 (2014) (stating side effects including addiction, impaired memory and motor function, altered brain development/cognitive function, and bronchitis). It is nearly impossible to reach an overdose on marijuana that results in death. Melia Robinson, *Here’s How Much Marijuana It Would Take to Kill You*, INDEPENDENT (Nov. 8, 2017, 3:20 PM), <https://www.independent.co.uk/news/health/how-much-marijuana-take-to-kill-you-fatal-weed-a8043856.html>. This is a stark contrast to legalized plants such as tobacco, which kills more than eight million people per year. WORLD HEALTH ORG., *Tobacco* (May 27, 2020), <http://www.who.int/news-room/fact-sheets/detail/tobacco>.

13 Erik B. Oleson & Joseph F. Cheer, *A Brain on Cannabinoids: The Role of Dopamine Release in Reward Seeking*, 2 COLD SPRING HARBOR PERSPS. MED. 1, 9 (2012).

14 Eric Perez & L. Renee Watson, *The Facts About Recreational Marijuana*, U. ROCHESTER MED. CTR., <https://www.urmc.rochester.edu/encyclopedia/content.aspx?contenttypeid=1&contentid=1925> (last visited June 13, 2021).

effects<sup>15</sup> such as “the giggles,”<sup>16</sup> “the munchies,”<sup>17</sup> and making music and other forms of media generally more appealing.<sup>18</sup> The idea that marijuana is a “gateway” drug is dubious at best because no causal link between marijuana usage and later usage of more dangerous drugs has been established.<sup>19</sup> Overall, research on the effects of marijuana may have been stifled as a result of its illegality, preventing a full understanding of the impacts of marijuana.<sup>20</sup>

Various religions also condone the usage of marijuana as part of their spiritual canon. Perhaps most famously, Rastafarians view marijuana as sacred, the usage of which, they argue, is explicitly encouraged by the text of the Christian Bible.<sup>21</sup> Additionally, members of the Hindu faith drink Bhang, a marijuana-based beverage, a part of religious holidays.<sup>22</sup>

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15 Tara Mahadevan, *Above the Law: Marijuana in Pop Culture*, HUNDREDS (Dec. 16, 2015), <https://thehundreds.com/blogs/content/marijuana-pop-culture>.

16 Marijuana usage has been known to induce laughter. Bailey Rahn, *Why Does Marijuana Make You Laugh?*, LEAFLY (Dec. 22, 2015), <https://www.leafly.com/news/science-tech/why-does-cannabis-make-you-laugh>.

17 Marijuana usage stimulates the user’s appetite. Lisa Drayer, *Why Does Smoking Pot Give you the Munchies?*, CNN (Apr. 20, 2018, 4:29 AM), <https://www.cnn.com/2018/04/20/health/why-weed-causes-munchies-food-drayer/index.html>.

18 Tom Barnes, *Here’s Why Music Sounds So Much Better When You’re High, According to Science*, MIC (Apr. 15, 2020), <https://mic.com/articles/141296/here-s-why-music-sounds-so-much-better-when-you-re-high-according-to-science#.Ma1Yg63o7>.

19 Adi Jaffe, *Is Marijuana a Gateway Drug?*, PSYCH. TODAY (July, 24, 2018), <https://www.psychologytoday.com/us/blog/all-about-addiction/201807/is-marijuana-gateway-drug>. A gateway drug refers to something done as an experiment on the path toward trying harder drugs. *Id.*

20 Katie Sola, *Medical Marijuana Research Being Stifled by US Government*, INDEPENDENT (Oct. 20, 2015, 5:57 PM), <https://www.independent.co.uk/news/world/americas/us-government-is-stifling-research-into-medical-marijuana-a6701651.html>.

21 Rastafari is a spin-off of Christianity and Judaism that burgeoned in Harlem, New York, that eventually became prominent in Jamaica. One of the founders of the faith cited Genesis 1:29 to support the usage of marijuana: “And the Earth brought forth grass, and herb yielding seed after his kind, and the tree yielding fruit, whose seed was in itself, after his kind: and God saw that it was good.” Ephrat Livni, *Here’s Why You Should be Celebrating 4/21, Not 4/20*, QUARTZ (Apr. 21, 2017), <https://qz.com/964162/marijuana-is-a-sacred-plant-with-holy-powers-in-this-abrahamic-faith-that-doesnt-celebrate-420/>. Jamaica, with the world’s largest percentage of practicing Rastafarians, had previously legalized marijuana usage only for religious purposes before recently legalizing for medicinal purposes. *Who Can Smoke Ganja Under Jamaica’s New Marijuana Law?*, NEGRIL HOTELS (Mar. 31, 2016), <http://www.negrilhotels.com/blog/2016/03/who-can-smoke-ganja-under-jamaicas-new-marijuana-law/>; see also Madison Margolin, *Now Decriminalized, Could Jamaica Become Destination for Legal Weed?*, ROLLINGSTONE (Aug. 20, 2018, 3:09 PM), <https://www.rollingstone.com/culture/culture-features/jamaica-legal-weed-rastafari-criminalized-711745/>.

22 Marijuana is mentioned in Hindu sacred texts as early as 2000 BC, as one of the faith’s five sacred plants with a guardian angel living in the leaves. Jann Gumbiner, *History of Cannabis in India*, PSYCH. TODAY (June 16, 2011), <https://www.psychologytoday.com/us/blog/the-teenage-mind/201106/history-cannabis-in-india>. Bhang is consumed at multiple Hindu holidays, such as Holi.

Countries predominantly connected to these religions treat marijuana for religious purposes uniquely,<sup>23</sup> but such discussion is largely beyond the scope of this note.

For historical purposes, much of the world has previously agreed to a series of treaties that outlaw marijuana. Perhaps the most prominent is the Single Convention on Narcotic Drugs,<sup>24</sup> a United Nations Convention treaty signed in 1961 with 154 international parties.<sup>25</sup> This convention made it so that all non-medical consumption of marijuana would be banned across the world.<sup>26</sup> It stands to reason that many signatory countries may have written their drug laws to implement this treaty.<sup>27</sup> While the basic reference of these treaties is relevant, the topic which they cover is outside of the purview of this paper.

With the definition of marijuana set out alongside the contexts and justifications for usage, this note will begin by elaborating on the extreme outer boundaries of legal treatment. On one pole lies Singapore, with their mandatory death penalty for mere possession. On the other pole sits Uruguay, a country with full medicinal and recreational legality. Then, this note will show how Italy takes a more moderate approach with legalized industrial hemp that opens the door for “cannabis light,” a low potency

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Ankita Rao, *India's 'High' Holiday*, ATLANTIC (Mar. 17, 2014), <https://www.theatlantic.com/international/archive/2014/03/indias-high-holiday/284448/>. Shiva, a Hindu deity, is said to offer marijuana as a gift to his people. Danielle Preiss, *Shiva is a God Who Loves Marijuana – And So Do Many of Her Followers*, NPR (Mar. 7, 2016, 3:10 PM), <https://www.npr.org/sections/goatsandsoda/2016/03/07/469519964/shiva-is-a-god-who-likes-marijuana-and-so-do-many-of-his-followers>. It has been argued that Bhang is exempted under India's drug laws. Manoj Mitta, *Recreational Use of Marijuana: Of Highs and Laws*, TIMES OF INDIA (Nov. 10, 2012, 11:08 AM), <https://timesofindia.indiatimes.com/india/Recreational-use-of-marijuana-Of-highs-and-laws/articleshow/17165524.cms?referral=PM>. However, it seems possible from a cursory reading that Bhang would be included in the ban as a “drink prepared therefrom” under Narcotic Drugs and Psychotropic Substances Act, 1985, § 2(iii)(c) (India).

<sup>23</sup> See *supra* notes 21–22 and accompanying text.

<sup>24</sup> Single Convention on Narcotic Drugs, Mar. 30, 1961, 520 U.N.T.S. 151.

<sup>25</sup> *Id.* Every country discussed in this note is listed as a party to the treaty. Status of Single Convention on Narcotic Drugs, UNITED NATIONS TREATY COLLECTION, [https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=VI-15&chapter=6](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=VI-15&chapter=6) (last visited June 13, 2021).

<sup>26</sup> *The Plenipotentiary Conference for the Adoption of a Single Convention on Drugs*, 1962 UNITED NATIONS OFF. ON DRUGS & CRIME BULL. ON NARCOTICS 40. It would seem that the inclusion of the term “non-medical” when referring to marijuana would allow for medicinal usage.

<sup>27</sup> “International treaties like the Single Convention on Narcotic Drugs are best understood as a *baseline* for laws created in each individual nation. Each nation that accepts the treaty as a signatory must implement the treaty as a domestic law—they can make the law stricter, but they can't make the law *less* strict. The Single Convention on Narcotic Drugs casts its shadow over every nation that has accepted it as binding international law. In other words, it can't be violated, reformed, or ignored by any individual nation.” FINDLAW, *The Single Convention on Narcotic Drugs* (Feb. 28, 2019), <https://criminal.findlaw.com/criminal-charges/the-single-convention-on-narcotic-drugs.html>.

version of marijuana similar in principle to 3.2 percent beer.<sup>28</sup> Finally, the United States, sitting indecisively on the proverbial fence, will be detailed with some references to the different treatments among various localities within the nation.

### 1. *Singapore's Mandatory Death Penalty*

In Singapore, marijuana is illegal under the Misuse of Drugs Act (“MDA”).<sup>29</sup> Section 5 of MDA deals with the distribution of drugs (which includes marijuana under the law),<sup>30</sup> MDA § 8 covers possession and consumption,<sup>31</sup> and MDA § 8A outlaws Singapore residents from consuming drugs outside of the nation’s borders.<sup>32</sup> In addition to traditional methods, such as searching a person or premises, MDA § 8 can be enforced via MDA § 31, which allows Singaporean officials to administer a drug test, the failure of which is sufficient to constitute possession.<sup>33</sup> To decline to be

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<sup>28</sup> 3.2% beer is a low-alcohol version of standard beer utilized as a form of limited alcohol prohibition in the United States. *Say Goodbye to the 3.2 Beer*, AM. CRAFT BEER (Nov. 11, 2016), <https://www.americancraftbeer.com/say-goodbye-3-2-beer/>.

<sup>29</sup> Misuse of Drugs Act (2008) Cap. 185 (2008) (Sing.).

<sup>30</sup> *See id.* at § 5, stating:

- 1) Except as authorised by this Act, it shall be an offence for a person, on his own behalf or on behalf of any other person, whether or not that other person is in Singapore —
  - a. to traffic in a controlled drug;
  - b. to offer to traffic in a controlled drug; or
  - c. to do or offer to do any act preparatory to or for the purpose of trafficking in a controlled drug.
- 2) For the purposes of this Act, a person commits the offence of trafficking in a controlled drug if he has in his possession that drug for the purpose of trafficking.

<sup>31</sup> *See id.* § 8 (stating “Except as authorized by this Act, it shall be an offence for a person have in his possession a controlled substance, or smoke, administer to himself or otherwise consume a controlled drug”).

<sup>32</sup> *See id.* § 8A, stating:

- 1) Section 8(b) shall have effect in relation to a person who is a citizen or a permanent resident of Singapore outside as well as within Singapore where he is found as a result of urine tests conducted under section 31(4)(b) to have smoked, administered to himself or otherwise consumed a controlled drug or a specified drug.
- 2) Where an offence under section 8(b) is committed by a person referred to in subsection (1) in any place outside Singapore, he may be dealt with as if that offence had been committed within Singapore.

<sup>33</sup> *See id.* § 31, stating:

- 1) Any officer of the Bureau, immigration officer or police officer not below the rank of sergeant may, if he reasonably suspects any person to have committed an offence under section 8(b), require that person to provide a specimen of his urine for urine tests to be conducted under this section.
- 2) A person who fails, without reasonable excuse, to provide a specimen of his urine within such time as may be required by any of the officers referred to in subsection (1) shall be guilty of an offence.

tested is considered obstructing the search, which is also an offense under MDA § 30, which punishes obstruction with a police officer's search.<sup>34</sup> A police officer may search somebody's property, vehicle, or person without a warrant if they reasonably suspect that a search is necessary to catch a violator of the crime under MDA § 24.<sup>35</sup>

To explain this in a hypothetical scenario, imagine a twenty-three-year-old Singaporean resident who studied in a foreign country during their final year of college. Prior to returning last month, the student tried marijuana with his friends. Now back home in Singapore, he goes out with his friends to a shopping center, where he shares a story about his travels and when he tried marijuana. A police officer overhears the conversation, and now suspects that the student has violated the law. This police officer may now

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<sup>34</sup> See *id.* § 30, stating:

It shall be an offence for a person to —

- a) obstruct any officer of the Bureau, police officer, officer of customs or other public officer in the exercise of any power under this Act;
  - b) fail to comply with any lawful requirement of any officer of the Bureau, police officer, officer of customs or other public officer in the execution of his duty under this Act;
  - c) fail, without reasonable excuse, to furnish such information in his possession as may be required by any officer of the Bureau, police officer, officer of customs or other public officer; or
  - d) furnish to any officer of the Bureau, police officer, officer of customs or other public officer any information which he knows or has reason to believe to be false.
- (2) In subsection (1), "public officer" includes any special police officer or member of the Vigilante Corps exercising any power under section 25.

<sup>35</sup> *Id.* § 24, stating:

- 1) Any officer of the Bureau, police officer not below the rank of Assistant Superintendent of Police or any police officer authorised by him or any senior officer of customs may at any time —
  - a. without a warrant enter and search any place or premises in which he reasonably suspects that there is to be found —
    - i. any controlled drug, controlled substance, drug specified in the Fifth Schedule, substance containing any drug specified in the Fifth Schedule or article liable to seizure; or
    - ii. a person who has committed or is reasonably suspected to have committed any offence under this Act or any seizable offence under the regulations;
  - b. search any person found in that place or premises; and
  - c. seize and detain any controlled drug, controlled substance, drug specified in the Fifth Schedule or substance containing any drug specified in the Fifth Schedule, which is found in that place or premises, or any article liable to seizure.
- 2) For the purpose of exercising his power under this section, an officer may, with such assistance as he considers necessary, break open any door, window, lock, fastener, floor, wall, ceiling, compartment, box, container or any other thing.

demand the student to take a drug test by hair follicle,<sup>36</sup> which can detect the presence of marijuana going back ninety days, without a warrant.<sup>37</sup> The student has no choice but to take the test because refusal is considered an automatic violation.<sup>38</sup> The student would then be guilty of violating the law under MDA § 8<sup>39</sup> and would be punished. Under the punishing guidelines, the student might spend a decade in prison for having traces of marijuana on a drug test and nothing more.<sup>40</sup> If he committed this offense twice, he might get thirteen years in prison and twelve strokes of a cane under MDA § 33.<sup>41</sup>

MDA § 5 distribution offenses are equally easy to prove and even more harshly punished. Offenders in possession of more than fifteen grams of marijuana<sup>42</sup> are presumed to have an intent to distribute under MDA § 17 unless it can be affirmatively proven otherwise.<sup>43</sup> That quantity, equivalent to about the size of an orange, can result in twenty years in prison and fifteen strokes of a cane.<sup>44</sup> Possession at a level of five hundred grams<sup>45</sup> brings about an automatic mandatory death penalty,<sup>46</sup> unless the accused person can satisfy MDA § 33B.<sup>47</sup> To do this, the accused person must prove that

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<sup>36</sup> See *id.* § 31A. This is substantively similar to § 31, but addresses hair follicle tests instead of urine. See *supra* note 33 and accompanying text.

<sup>37</sup> Carly Vandergrindt & Zara Risoldi, *How Long Does Weed (Marijuana) Stay in Your System?*, HEALTHLINE (May 6, 2019), <https://www.healthline.com/health/how-long-does-weed-stay-in-your-system#metabolization-time>.

<sup>38</sup> See *supra* note 34 and accompanying text.

<sup>39</sup> See *supra* notes 29-32 and accompanying text.

<sup>40</sup> Misuse of Drugs Act, sched. 2.

<sup>41</sup> *Id.* § 33A(2), stating:

Where a person who has been punished under subsection (1) is again convicted of an offence for consumption of a specified drug under section 8(b) or an offence of failure to provide a urine specimen under section 31(2), he shall on conviction be punished with —

- a) imprisonment of not less than 7 years and not more than 13 years; and
- b) not less than 6 strokes and not more than 12 strokes of the cane.

<sup>42</sup> Fourteen grams of marijuana is roughly equivalent to the size of an orange.

<sup>43</sup> See Misuse of Drugs Act, § 17.

<sup>44</sup> See *id.* sched. 2.

<sup>45</sup> Five hundred grams converts to about a pound of marijuana, which is approximately the size of a brick.

<sup>46</sup> See Misuse of Drugs Act, sched. 2.

<sup>47</sup> See *id.* § 33B, stating:

the court —

- a) may, if the person satisfies the requirements of subsection (2), instead of imposing the death penalty, sentence the person to imprisonment for life and, if the person is sentenced to life imprisonment, he shall also be sentenced to caning of not less than 15 strokes . . .
- 2) The requirements referred to in subsection (1)(a) are as follows:
  - a) the person convicted proves, on a balance of probabilities, that his involvement in the offence under section 5(1) or 7 was restricted —

their role in possessing was restricted only to transportation and that they either helped authorities significantly in disrupting the drug trade or that they suffered from “such abnormality of the mind that substantially impaired his mental responsibility.”<sup>48</sup> If the accused person can establish both of these elements, then the judge has discretion, but no obligation, to impose a life sentence and a minimum of fifteen strokes of a cane.<sup>49</sup>

The MDA imposes a low burden to establish a marijuana crime, where mere suspicion can trigger an offense. Further, a violation can carry harsh consequences, such as the death penalty, with few opportunities for lenience. However, this harsh penalty brings with it a remarkably strong deterrent effect.<sup>50</sup> Singapore actively enforces these laws, so the deterrent effect is not a phantom or a mirage.<sup>51</sup> Further, MDA § 34 offers some protection because it provides drug addicts with the opportunity for rehabilitation.<sup>52</sup> Strict laws like this are typical in Singapore; monitoring and

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- i. to transporting, sending or delivering a controlled drug;
  - ii. to offering to transport, send or deliver a controlled drug;
  - iii. to doing or offering to do any act preparatory to or for the purpose of his transporting, sending or delivering a controlled drug; or
  - iv. to any combination of activities in sub-paragraphs (i), (ii) and (iii); and
- b) the Public Prosecutor certifies to any court that, in his determination, the person has substantively assisted the Central Narcotics Bureau in disrupting drug trafficking activities within or outside Singapore.

The determination of whether an accused individual had “substantively assisted” is a matter of prosecutorial discretion. *Id.* § 33B(4).

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> For comparative purposes, 8.2 percent of the United Kingdom reportedly abuses cannabis, versus .005 percent in Singapore. The difference in marijuana abuse rate may suggest that the harsher laws are effective in deterring marijuana usage as a whole. Michael Aquino, *Drug Laws in Singapore: The Strictest on the Planet*, TRIP SAVVY (July 13, 2020), <https://www.tripsavvy.com/drug-laws-in-singapore-1629780>.

<sup>51</sup> From 2014 through 2016, ten people were killed and an additional seventeen were sentenced to death for drug offenses. AMNESTY INT’L, *Singapore: Executions Continue in Flawed Attempt to Tackle Drug Crime, Despite Limited Reforms* (Oct. 11, 2017, 2:51 PM), <https://www.amnesty.org/en/latest/news/2017/10/singapore-executions-continue-in-flawed-attempt-to-tackle-drug-crime/>.

<sup>52</sup> It has also been suggested that there is a societal push by businesses to reintegrate reformed drug abusers into the workplace in addition to drug rehabilitation centers. Michael Teo, *Singapore’s Drug Policy Keeps Drugs at Bay*, GUARDIAN (June 5, 2010, 11:00 AM), <https://www.theguardian.com/commentisfree/2010/jun/05/singapore-policy-drugs-bay>. However, compulsory drug rehabilitation can have mixed results, sometimes even exasperating the problem. D. Werb, A. Kamarulzaman, M.C. Meacham, C. Rafful, B. Fisher, S.A. Strathdee & E. Wood, *The Effectiveness of Compulsory Drug Treatment: A Systematic Review*, 28 INT’L J. DRUG POL’Y 1 (2016).

enforcement of the MDA is just as intensive as any other law, and as a result, Singapore experiences almost no crime.<sup>53</sup>

At first blush, it seems like the law in Singapore provides societal benefits as an effective deterrent against drug usage. This ignores some of the costs associated with such a law, though. The death penalty is controversial on its own,<sup>54</sup> especially when considering the high frequency at which Singapore utilizes capital punishment.<sup>55</sup> Further, Singapore is considered the unhappiest country in the world.<sup>56</sup> This may be in part because Singapore has a reputation for laws that hogtie the basic freedoms of the people living there.<sup>57</sup> Additionally, Singapore uses sixty-two thousand cameras to monitor its citizens,<sup>58</sup> which is likely expensive to administer.<sup>59</sup> It is difficult to weigh the competing costs of the scourge of drug addiction versus a draconian legal system that is arguably cruel and over-the-top.

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<sup>53</sup> Constant surveillance occurs throughout the country through over sixty-two thousand police-monitored closed-circuit television cameras, but the country can go hundreds of days without a single crime committed. Uptin Saiidi, *Singapore's Crime Rate is So Low That Many Shops Don't Even Lock Up*, CNBC (Jan. 16, 2016, 1:25 AM), <https://www.cnbc.com/2018/01/16/singapores-crime-rate-is-so-low-that-many-shops-dont-even-lock-up.html>.

<sup>54</sup> See generally THE DEATH PENALTY IN AMERICA: CURRENT CONTROVERSIES (Hugo Adam Bedau ed., 1997); *Singapore: Executions Continue in Flawed Attempt to Tackle Drug Crime, Despite Limited Reforms*, supra note 51 (stating that the mandatory death penalty for minor drug offense violates international law).

<sup>55</sup> Singapore is a world leader in total executions, which typically occur by hanging, with drug trafficking representing a strong majority of those executions. Lee Kuan Yew, Nat'l U. Sing., *Singapore's War on Drugs: A Historical Overview* (2018), [https://lkyspp.nus.edu.sg/docs/default-source/case-studies/20180223\\_singapores\\_war\\_on\\_drugs\\_final.pdf?sfvrsn=5ec9c0b\\_2](https://lkyspp.nus.edu.sg/docs/default-source/case-studies/20180223_singapores_war_on_drugs_final.pdf?sfvrsn=5ec9c0b_2).

<sup>56</sup> Only 46 percent of Singaporeans identify as "happy," the lowest rate in the entire world. *Why Does Singapore Top So Many Tables?*, BBC (Oct. 24, 2013), <https://www.bbc.com/news/world-asia-24428567>.

<sup>57</sup> For example, it is illegal to sell chewing gum in Singapore, punishable by a one hundred thousand dollar fine and two years in prison. There are also existing fines of one thousand dollars for spitting in public and three months in prison for jaywalking. Talia Avakian, *16 Odd Things that Are Illegal in Singapore*, BUS. INSIDER (Aug. 4, 2015, 11:49 AM), <https://www.businessinsider.com/things-that-are-illegal-in-singapore-2015-7>.

<sup>58</sup> See supra note 53 and accompanying text.

<sup>59</sup> While direct data on the expenditures for these cameras is unavailable, they can be inferred from other data sources. See generally Republic of Sing. Ministry of Fin., Revenue and Expenditure Estimates for the Financial year 2020/2021, 2020, Cm. 24 (Sing.). About 25 percent of Singapore's budget is spent on security. Aw Cheng Wei, *Spending on Security to Be 'Very Major' Budget Item*, STRAITS TIMES (Feb. 3, 2018, 5:00 AM), <https://www.straitstimes.com/singapore/spending-on-security-to-be-very-major-budget-item>. Singapore's increasing security spending has led to budgetary deficits and cuts to healthcare spending. Nisha Ramchandani, *Singapore Budget 2018: Ministries to Spend \$800 Billion*, BUS. TIMES (Feb. 20, 2018, 9:12 AM), <https://www.businesstimes.com.sg/government-economy/singapore-budget-2018/singapore-budget-2018-ministries-to-spend-s80-billion>.

Singapore is not the only country with a mandatory death penalty for possession of marijuana.<sup>60</sup> Japan's laws present a surprisingly strict approach under the Cannabis Control Law as well.<sup>61</sup> Article 24 of the enactment imposes mandatory prison sentences of up to ten years and fines up to three million yen (about twenty-five thousand dollars) for possession.<sup>62</sup> On the macro-legality spectrum, this places Japan on the severe end of the line, but not quite as severe as Singapore. Even with its strict regulation of marijuana usage and possession, Japan has experienced increased drug usage overall lately.<sup>63</sup> Further, despite a generally low overall drug usage rate, recidivism is extremely high.<sup>64</sup> The combination of increased drug usage and high recidivism rates might be an indictment on the limited effectiveness of Japanese laws both as a deterrent and as a means of rehabilitation.

## 2. *Uruguay's Total Legality*

The polar opposite of Singapore's laws come from Uruguay, where marijuana is legalized for both medicinal and recreational purposes. Purchasing marijuana in Uruguay is not easy though. A prospective buyer of marijuana in Uruguay must be 1) a Uruguayan citizen, 2) at the age of majority (eighteen or older), and 3) registered with the government prior to purchase.<sup>65</sup>

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60 United Arab Emirates also utilizes the death penalty for punishing marijuana possession in small amounts. U.S. DEP'T OF STATE, BUREAU OF CONSULAR AFFS., *United Arab Emirates*, TRAVEL.STATE.GOV <https://travel.state.gov/content/travel/en/international-travel/International-Travel-Country-Information-Pages/UnitedArabEmirates.html> (last visited June 13, 2021).

61 Taima torishimari hô [Cannabis Control Law], No. 124 of 1948 (Japan).

62 *See id.* art. 24.

1. Any person who unlawfully cultivates, imports to Japan or any other country, or exports from Japan or any other country cannabis shall be liable to penal servitude not exceeding 7 years.
2. Any person who commits an offense prescribed in the preceding paragraph for the purpose of gain shall be liable to penal servitude not exceeding 10 years or to both penal servitude not exceeding 10 years and a fine not exceeding 3,000,000 yen according to the circumstances.
3. An attempt to commit any of the offenses prescribed in the preceding two paragraphs shall be liable to punishment.

63 *Statistics of Japan's Rising Drug Use*, CABIN (Aug. 29, 2012), <https://www.thecabinchiangmai.com/blog/statistics-of-japan-s-rising-drug-use/>.

64 Masami Ito, *Dealing with Addiction: Japan's Drug Problem*, JAPAN TIMES (Aug. 23, 2014), <https://www.japantimes.co.jp/life/2014/08/23/lifestyle/dealing-addiction-japans-drug-problem/>.

65 Reuters, *Uruguay Pharmacies Start Selling Cannabis Straight to Consumers*, GUARDIAN (July 19, 2017, 11:24 AM), <https://www.theguardian.com/world/2017/jul/19/uruguay-marijuana-sale-pharmacies>.

Additionally, the purchase must be made from a government approved vendor that gets monitored and evaluated by an independent unit.<sup>66</sup> Only two brands are available for purchase, as mandated by law, and the marijuana sold is subject to potency restrictions.<sup>67</sup> The government controls all aspects of supply, including price, quality, and amount supplied, and then imposes a tax.<sup>68</sup> That tax rates fluctuate to retain competitive prices compared to the black market<sup>69</sup> rather than to generate business or taxes; which is merely a side effect in a more health-oriented policy.<sup>70</sup> Uruguayans are limited to ten grams of marijuana each week, which is tracked by a nationwide thumb-scanning system that prevents a buyer from simply purchasing ten grams from every vendor in the legalized market.<sup>71</sup>

Thus far, Uruguay struggles to meet the demand for legalized marijuana, as national shortages for the product have occurred.<sup>72</sup> Even selling at the meager price of one dollar per gram,<sup>73</sup> the government can generate twelve

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66 *Id.*; see also DRUG POL'Y ALL., *A Comparison of the World's Three Jurisdictions to Regulate Marijuana: Colorado, Washington and Uruguay* (May 14, 2014), <https://www.drugpolicy.org/sites/default/files/ComparisonofWorldsFirstThreeJurisdictionstoLegallyRegulateMarijuana.pdf>.

67 See *Uruguay Pharmacies Start Selling Cannabis Straight to Consumers*, *supra* note 65.

68 Jack Davies & Jan De Deken, *The Architect of Uruguay's Marijuana Legalization Speaks Out*, REASON (Dec. 15, 2013, 12:00 PM), <http://reason.com/archives/2013/12/15/the-architect-of-uruguays-marijuana-lega>.

69 The price of illegal marijuana has dropped, making illegal sales and production of marijuana less profitable both because of loss customers and because of lower prices. Will Carless, *Uruguay's Year in Weed: 3 Big Successes, 3 Burning Questions*, WORLD (Jan. 6, 2015, 9:00 PM), <https://www.pri.org/stories/2015-01-06/uruguay-s-year-weed-3-big-successes-3-burning-questions>. The registration requirement for vendors and monitoring of those vendors prevents leakage of marijuana into the black market. John Hudak, Geoff Ramsey & John Walsh, Brookings Ctr. for Effective Pub. Mgmt., *Uruguay's Cannabis Law: Pioneering a New Paradigm* (2018), [https://www.brookings.edu/wp-content/uploads/2018/03/gs\\_032118\\_uruguaye28099s-cannabis-law\\_final.pdf](https://www.brookings.edu/wp-content/uploads/2018/03/gs_032118_uruguaye28099s-cannabis-law_final.pdf).

70 John Walsh & Geoff Ramsey, Brookings Ctr. for 21st Century Sec. & Intel., Latin Am. Initiative, *Uruguay's Drug Policy: Major Innovations, Major Changes* (2016), <https://www.brookings.edu/wp-content/uploads/2016/07/Walsh-Uruguay-final.pdf>.

71 Uki Goñi, *Uruguay, the First Country Where You Can Smoke Marijuana Wherever You Like*, GUARDIAN (May 27, 2017, 2:50 PM), <https://www.theguardian.com/society/2017/may/27/marijuana-legalisation-uruguay-seen-half-measure-users>.

72 *Uruguay, 1st Nation to Legalize Pot, Struggles to Keep Up with Demand*, CBS NEWS (June 13, 2018, 9:50 AM), <https://www.cbsnews.com/news/uruguay-marijuana-legalization-pot-shortage-demand-outpaces-farmers/>.

73 Tom McKay, *One Year After Uruguay Legalized Marijuana, Here's what It's Become*, MIC (Dec. 9, 2014), <https://mic.com/articles/106094/one-year-after-uruguay-legalized-marijuana- here-s-what-it-s-become#.2hs7omGY3>. The Uruguayan government also doesn't want to leave marijuana to the market because otherwise more marijuana will be sold when the idea, counterintuitively, is to reduce the amount of marijuana sold. *Id.* Additionally, the law seeks to generally combat drug cartels and their business. Erin Weber, *Uruguay Marijuana Legalization: One Year Later*, GLOB. CITIZEN (Mar. 26, 2016), [www.globalcitizen.org/en/content/uruguay-marijuana-legalization-one-year-later/](http://www.globalcitizen.org/en/content/uruguay-marijuana-legalization-one-year-later/). The idea earned the Uruguay president a nomination for the Nobel Prize. *Id.* Cartels are worth fighting because

million dollars in tax revenue, which is profound for a country of only 3.3 million people.<sup>74</sup> That money is generally dedicated toward programs promoting awareness of the effects of marijuana and influencing public health through ad campaigns regarding other drugs.<sup>75</sup> Restrictions on potency may leave room for a black market, as there may be a demand for a higher quality product that the government still bans.<sup>76</sup> This leaves an area of opportunity for future lawmakers to capitalize on, ensuring that the legal market can actually meet public demands and fully eliminate the black market. The flexible rates are an interesting idea, but in a free market, the tax can be stable while the individual businesses set rates to compete with the black market. Also, the requirement of Uruguayan citizenship misses out on a potential market for tourism, even if the law is generally good for local pharmacies and has converted thousands of Uruguayan consumers to the legal marijuana market.<sup>77</sup>

Aside from the pure economics, there are other impacts of this law. Namely, crime rates have plummeted since legalizing marijuana.<sup>78</sup> However, more Uruguayans admit to using marijuana, while the average age of a person's first experience with marijuana has gotten slightly

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in addition to the distribution of dangerous drugs without regulation, they are responsible for the murders of hundreds of thousands of innocent people in multiple countries. Duncan Tucker, *Mexico's Most Wanted: A Guide to the Drug Cartels*, BBC NEWS (Mar. 27, 2018), <https://www.bbc.com/news/world-latin-america-40480405>.

<sup>74</sup> See *supra* note 68.

<sup>75</sup> *Id.*

<sup>76</sup> See Chris Frey, 'I Deliver to Your House': Pot Dealers on Why Legalization Won't Kill the Black Market, GUARDIAN (June 6, 2018, 9:00 PM), <https://www.theguardian.com/world/2018/jun/06/canada-will-cannabis-legalization-affect-black-market>; Sikang Song, Effects of Regulation Intensity on Marijuana Black Market After Legalization (July 10, 2019) (M.A. thesis, Portland State University), [https://pdxscholar.library.pdx.edu/cgi/viewcontent.cgi?article=6115&context=open\\_access\\_etds](https://pdxscholar.library.pdx.edu/cgi/viewcontent.cgi?article=6115&context=open_access_etds) – (explaining that that Uruguay's restrictions broadly encourage the black market); Beau Kilmer & Rosalie L. Pacula, *Greening the Black Market: Understanding and Learning from the Diversification of Cannabis Supply Laws*, 112 ADDICTION 1128 (2017) (highlighting the insufficiency of data to that prevents the reaching of conclusions, but nonetheless explaining there are indications that potency could be a factor).

<sup>77</sup> Sofía Carreño, *The Economic Impacts of Marijuana Legalization in Uruguay*, LATIN AM. POST (Aug. 3, 2018), <https://latinamericanpost.com/22433-the-economic-impacts-of-the-legalization-of-marijuana-in-uruguay>. Even if the laws have been good for pharmacies, for some reason, many pharmacies are not signing up. The Noffs Team, *The How, When and Why of Uruguay*, NOFFS (July 3, 2017), <https://noffs.org.au/blog/the-how-when-and-why-of-uruguay/>.

<sup>78</sup> Joseph Misulonas, *Crime Rate in Uruguay has Plummeted Since Legalizing Marijuana*, CIVILIZED (Feb. 7, 2018), <https://www.civilized.life/articles/crime-rate-drop-uruguay-marijuana-legalization/>. Of course, it could be argued that this has occurred simply because an entire crime has been taken off the books. However, even if no other crimes (such as drug related violence) are lessened outside of marijuana offense, this still have a strong impact on judicial efficiency and the cost of law enforcement.

younger.<sup>79</sup> While this may indicate that the prevalence of marijuana has increased and the government's efforts to limit usage has failed, it's likely that a large percentage of this increase is simply prior users that are now willing to admit to usage because they don't fear punishment. Additionally, the law may reduce consumer's exposure to other more harmful drugs and increases access to medical marijuana.<sup>80</sup> Uruguay offers mixed results and effects,<sup>81</sup> but it is important to keep the context of fighting cartels in mind.<sup>82</sup> Uruguay's legalization of marijuana imposes too many restrictions to take full advantage of the economic and public welfare benefits, settling for a half-way approach incapable of exploring the real opportunities presented by marijuana legalization.

Recently, Canada also fully legalized marijuana. Because the legislation passed in 2018, just prior to the writing of this note, the overall costs and benefits cannot be definitely ascertained at this time. However, for comparative purposes, the new Canadian Cannabis Act ("CCA") can be summarized as follows: in Canada, any adult age eighteen or older may acquire, grow, and/or consume small amounts of marijuana.<sup>83</sup> Beyond that, § 8 of the CCA allows an adult over the age of eighteen to consume and possess small amounts of marijuana with no caps on potency. Further, the law forbids and punishes selling to children, taking marijuana across Canadian borders, and driving under the influence. In addition, marijuana

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79 Maria Fernanda Boidi, José Miguel Cruz, Rosario Queirolo & Emily Bello-Pardo, Wilson Ctr., *Marijuana Legalization in Uruguay and Beyond* (2015), [https://www.wilsoncenter.org/sites/default/files/Marijuana%20Legalization%20in%20Uruguay%20and%20Beyond\\_brief%20report\\_v3%20\(2\).pdf](https://www.wilsoncenter.org/sites/default/files/Marijuana%20Legalization%20in%20Uruguay%20and%20Beyond_brief%20report_v3%20(2).pdf).

80 Walsh & Ramsey, *supra* note 70.

81 Uruguay's approach has been referred to as a "middle ground" that neither criminalizes nor commercializes. Magdalena Cerdá & Beau Kilmer, *Uruguay's Middle-Ground Approach to Cannabis Legalization*, 42 INT'L J. DRUG POL'Y 118 (2017).

82 Weber, *supra* note 73. Mexican cartels have conducted operations in Uruguay. Michael Lohmuller, *Is Uruguay the New Argentina of Drug Trafficking?*, INSIGHT CRIME (May 23, 2016), <https://www.insightcrime.org/news/brief/is-uruguay-the-new-argentina-of-drug-trafficking/>. The very same Mexican cartel discovered doing business in Uruguay has been described as a "superpower" in the illegal drug business, and is responsible for over thirty-eight hundred murders in only two months. Christopher Woody, *Crystal Meth 'Superpower': An Upstart Cartel is Climbing to the Top of Mexico's Narco World*, BUS. INSIDER (Oct. 11, 2016, 1:29 AM), <https://www.businessinsider.in/Crystal-meth-superpower-An-upstart-cartel-is-climbing-to-the-top-of-Mexicos-narco-underworld/articleshow/54802838.cms>. Cartels will likely not be capable of competing with legalized marijuana. German Lopez, *Can Uruguay Kill Drug Cartels by Legalizing Marijuana?*, VOX (June 12, 2014, 2:20 PM), <https://www.vox.com/2014/6/12/5798194/can-uruguay-kill-drug-cartels-by-legalizing-marijuana>. Mexico has considered following in marijuana legalization to battle cartels as well. Julia Love, *Mexico Moves Toward Major Rollback of Marijuana Prohibition*, REUTERS (Nov. 6, 2018, 3:27 PM), <https://www.reuters.com/article/us-mexico-drugs/mexico-moves-toward-major-rollback-of-marijuana-prohibition-idUSKCN1NB2R6>.

83 Cannabis Act, S.C. 2018, c 16 (Can.).

must be produced, packaged, and sold according to requirements specified throughout the act, including inspections and a national tracking system. Medicinal marijuana will continue under the existing regime.<sup>84</sup> The new law takes an extra step to expressly lay out the goals of the legislation at the outset in § 7 of the CCA.<sup>85</sup> Time will tell if the new laws pay off in achieving those goals, but it is worth noting that business is already booming.<sup>86</sup>

### 3. Italy's "Cannabis Light"

Italy falls somewhere in the middle of the spectrum, but slightly aligned toward legalization with marijuana allowed for medical uses and decriminalized for recreational purposes. In Italy, marijuana is explicitly listed as a banned controlled substance.<sup>87</sup> For possession, an offender who agrees to never break this particular law again will be left with a warning.<sup>88</sup> If the offender is a minor, their family will be notified.<sup>89</sup> A repeat offense results in an administrative punishment, such as suspension of driving licenses and travel restrictions.<sup>90</sup> At any point, an offender may voluntarily postpone hearings to seek drug addiction treatment.<sup>91</sup> If the offender opts for that and fails to complete the program within a specified time period for no valid reason, then they will be subject to surveillance impositions such as curfews and mandatory check-ins in addition to the aforementioned administrative punishment.<sup>92</sup> For trafficking, these penalties become dramatically more severe, with up to twenty years imprisonment and a fine of up to 250,000 Euro, with smaller penalties allowed for lesser quantities.<sup>93</sup>

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<sup>84</sup> *Cannabis for Medical Purposes Under the Cannabis Act: Information and Improvements*, CANADA (May 19, 2021), <https://www.canada.ca/en/health-canada/services/drugs-medication/cannabis/medical-use-cannabis.html>.

<sup>85</sup> The general aims are to limit usage by children, regulate the production of cannabis, promote awareness of the risks associated with cannabis, and reduce the burden on the justice system. Over forty-eight thousand arrests occurred annually in Canada, with eighty percent of those arrests being for possession. *Cannabis Legalization and Regulation*, CANADA DEP'T JUST. (Feb. 3, 2021), <https://www.justice.gc.ca/eng/cj-jp/cannabis/>.

<sup>86</sup> Canadian marijuana businesses are already publicly traded and valued in the billions of dollars. Kristine Owrarn, *With \$5-Billion in Constellation Deal, Canopy Growth Is Emerging as the Google of Pot*, FIN. POST (Aug. 22, 2018), <https://financialpost.com/cannabis/with-5-billion-constellation-deal-canopy-growth-is-emerging-as-the-google-of-pot>.

<sup>87</sup> *Country Legal Profiles*, EUR. MONITORING CTR. FOR DRUGS & DRUG ADDICTION, <https://www.emcdda.europa.eu/html.cfm/index5174EN.html?pluginMethod=eldd.countryprofiles#> (last visited Feb. 17, 2019) (select "Italy" from "Select Profile" dropdown menu).

<sup>88</sup> *Id.*

<sup>89</sup> *Id.*

<sup>90</sup> *Id.*

<sup>91</sup> *Id.*

<sup>92</sup> *Id.*

<sup>93</sup> *Id.*

Medicinally, people may obtain and use marijuana for specified medical purposes, the price of which is fixed by law.<sup>94</sup> The product used for medical marijuana is remarkably low in THC, but rather high in CBD by design.<sup>95</sup>

The real area of interest in Italy though is the hemp industry. The Italian government legalized industrial hemp to combat wheat shortages but neglected to regulate the buds of the hemp plant.<sup>96</sup> This loophole has led to a product known as “cannabis light,” a product similar to marijuana with significantly lower THC levels. The Italian authorities cannot touch products with less than 0.2% THC, which is legal as industrial hemp, but the consumption is still illegal.<sup>97</sup> That means that vendors are selling this marijuana light as “collector’s items” not intended for consumption, but people still consume it for the mild effects.<sup>98</sup> The result is a legal, but completely unregulated market worth over 40 million euros.<sup>99</sup>

Italy, a country with a reputation for its organized crime, has seen a steady decrease in the overall crime rate, violent crime rate, and property crime rate since passing these laws.<sup>100</sup> Marijuana crimes, however, have increased, and overall drug crimes decreased until 2016, when the rate started to rise again in concert with the new industrial hemp laws. This

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94 Tim Marcin, *Marijuana Legalization in Italy: Pot Laws Eased for Growers Cultivating Medical Cannabis*, INT’L BUS. TIMES (Jan. 5, 2016), <https://www.ibtimes.com/marijuana-legalization-italy-pot-laws-eased-growers-cultivating-medical-cannabis-2267841>; Nadia Ferrigo & Ilario Lombardo, *Medical Marijuana Made in Italy is “Impossible to Find”*, *Pharmacies, “It’s Not Worth It”*, LA STAMPA (June 19, 2019, 8:06 PM), <https://www.lastampa.it/2017/09/17/esteri/medical-marijuana-made-in-italy-is-impossible-to-find-pharmacies-its-not-worth-it-i45LxyTynSu41VeEftCMjL/pagina.html>.

95 S. Zaami, A. Di Luca, N.M. Di Luca & G. Montanari Vergallo, *Medical Use of Cannabis: Italian and European Legislation*, 22 EUR. REV. FOR MED. & PHARMACOLOGICAL SCIS. 1161 (2018). To understand what THC and CBD are, see *supra* note 9 and accompanying text. Angus MacKinnon, *Marijuana, Made in Italy: Inside the Military Police Cannabis Lab*, LOCAL IT (Feb. 1, 2017, 8:48 AM), <https://www.thelocal.it/20170201/cannabis-made-in-italy-inside-the-military-police-cannabis-lab>.

96 Lorenzo Tondo, *‘It Saved Our Business’: Italian Farmers Turn Low into High with Cannabis*, GUARDIAN (Aug. 30, 2018, 6:10 AM), <https://www.theguardian.com/world/2018/aug/30/it-saved-our-business-italy-farmers-turn-to-cannabis-hemp>. The hemp can be used for food, fabric, fuel, and more. Elisabetta Povoledo, *Italians Can’t Get Enough of a Hemp Product That’s Illegal to Eat or Smoke*, INDEPENDENT (May 5, 2018, 11:26 AM), [https://www.independent.co.uk/news/long\\_reads/cannabis-light-italy-hemp-flowers-canapa-mundi-medical-marijuana-a8319471.html](https://www.independent.co.uk/news/long_reads/cannabis-light-italy-hemp-flowers-canapa-mundi-medical-marijuana-a8319471.html). Hemp and marijuana, while not the same, are essentially biological cousins with different levels of THC. *Hemp vs. Marijuana*, THINK HEMPY THOUGHTS, <http://sites.miis.edu/thinkhempthoughts/hemp-vs-marijuana/> (last visited June 14, 2021).

97 Povoledo, *supra* note 96.

98 *Id.*

99 *Nasca la New Canapa Economy, Aumentano di 10 Volte i Terreni Coltivati*, COLDIRETTI (May 9, 2018), <https://www.coldiretti.it/economia/cannabis-light-spinge-boom-coltivazione-canapa>

100 STATISTICA, *Crime in Italy – Statistics and Facts* (Feb. 16, 2021), <https://www.statista.com/topics/4051/crime-in-italy/>.

coincides with “some increase” in marijuana usage.<sup>101</sup> One problem with the fixed price of medical marijuana is pharmacies have refused to sell it because it is impossible for pharmacies to make a profit, resulting in a shortage, and thus the Italian military has become the key producer of marijuana.<sup>102</sup> On one hand, military production has reduced the distribution costs to offset the fact that the state does not help cover medical marijuana expenses,<sup>103</sup> but this has also been criticized.<sup>104</sup>

Portugal, like Italy, takes a unique approach to marijuana law in the form of full decriminalization of possession. Arrests for possession of less than a ten day supply of marijuana does not result in prison time or heavy fines.<sup>105</sup> Instead, offenders must appear before a “dissuasion panel,” and repeat offenders are admitted into various forms of therapy.<sup>106</sup> The drugs themselves are still illegal, and traffickers still face prison sentences, but the penalties for usage have shifted toward a focus on rehabilitation.<sup>107</sup> Since its decriminalization, marijuana usage in Portugal has steadily declined, indicating a general effectiveness of the program.<sup>108</sup> The cost of the program is modest, using only .05% of GDP.<sup>109</sup> Recently, Portugal legalized marijuana for medicinal usage as well.<sup>110</sup> Portugal decriminalized all types of drugs, including heroin, cocaine, and amphetamines, achieving even more positive results, indicating the effectiveness of decriminalization as a whole.<sup>111</sup>

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101 Map: Expert Perceptions of Trend Changes in the Use of Cannabis, UNITED NATIONS OFF. ON DRUGS & CRIME (2014), [http://www.unodc.org/wdr2016/field/2.2.\\_Trend\\_Cannabis.pdf](http://www.unodc.org/wdr2016/field/2.2._Trend_Cannabis.pdf).

102 Ferrigo & Lombardo, *supra* note 94.

103 Maurizio Bifulco & Simona Pisanti, *Medicinal Use of Cannabis in Europe*, 16 EMBO REPS. 130 (2015).

104 Anna Momigliano, *In Italy, the Army Provides Medical Marijuana. And Some Say That's a Problem*, WASH. POST (Dec. 1, 2017), [https://www.washingtonpost.com/world/europe/in-italy-the-army-provides-medical-marijuana-and-thats-a-problem/2017/11/29/339e027e-d454-11e7-9ad9-ca0619edfa05\\_story.html](https://www.washingtonpost.com/world/europe/in-italy-the-army-provides-medical-marijuana-and-thats-a-problem/2017/11/29/339e027e-d454-11e7-9ad9-ca0619edfa05_story.html).

105 Samuel Oakford, *Portugal's Example: What Happened After it Decriminalized All Drugs, from Weed to Heroin*, VICE NEWS (Apr. 19, 2016, 2:05 PM), [https://news.vice.com/en\\_us/article/59eqqk/ungass-portugal-what-happened-after-decriminalization-drugs-weed-to-heroin](https://news.vice.com/en_us/article/59eqqk/ungass-portugal-what-happened-after-decriminalization-drugs-weed-to-heroin).

106 *Id.*

107 *Id.*

108 Eur. Monitoring Ctr. for Drugs & Drug Addiction, *Portugal: Country Drug Report 2017* (2017), <http://www.emcdda.europa.eu/system/files/publications/4508/TD0116918ENN.pdf>.

109 *Id.*

110 Andrei Khalip, *Portugal's Parliament Legalizes Cannabis-Based Medicines*, REUTERS (June 15, 2018, 9:39 AM), <https://www.reuters.com/article/us-portugal-health-cannabis/portugals-parliament-legalizes-cannabis-based-medicines-idUSKBN1JB1X4>.

111 Success with other drugs include lower overdose rates and reduced prevalence of HIV/AIDS as a result of sharing needles. Chris Ingraham, *Portugal Decriminalised Drugs 14 Years Ago – And Now*

#### 4. *United States – the Country that Sits on the Fence*

United States, also falls somewhere in the middle as a country that is friendlier to marijuana than Japan, but less so than Italy. This results from the sticky federalism<sup>112</sup> issues associated with the country, as the national government has made marijuana illegal, but many individual states refuse to enforce the national law.<sup>113</sup> This results in a law that can at times be toothless. However, the federal government still seeks to enforce its own laws through the Drug Enforcement Administration (DEA).

The disconnect within United States stems from the Controlled Substances Act of 1970, which made marijuana illegal at the federal level.<sup>114</sup> The United States Supreme Court ruled that the national government has the power to criminalize marijuana at the national level under the commerce clause in *Gonzales v. Raich*.<sup>115</sup> In *United States v. Oakland Cannabis Buyers*, the court held that there will be no exception to the federal law for medical usage.<sup>116</sup> Marijuana is listed as a Schedule I drug, meaning it is viewed as having a high probability of abuse and no medical usage, and is placed in the same category as drugs such as heroin and placed in a higher schedule than cocaine and opium.<sup>117</sup>

Interestingly, synthetic forms of marijuana are classified as Schedule V, meaning the potential for abuse is low, and there are medically accepted uses.<sup>118</sup> Possession of small amounts of marijuana in the United States may be punished with a year in prison and one thousand dollars in fines for first-time offenders, ratcheting up to three years and five thousand dollars with

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*Almost Nobody Dies from Overdosing*, INDEPENDENT (June 7, 2015, 6:59 AM), <https://www.independent.co.uk/news/world/europe/portugal-decriminalised-drugs-14-years-ago-and-now-hardly-anyone-dies-from-overdosing-10301780.html>; Naina Bajekal, *Want to Win the War on Drugs? Portugal Might Have the Answer*, TIME (Aug. 1, 2018, 6:09 AM), <http://time.com/longform/portugal-drug-use-decriminalization/>.

<sup>112</sup> For discussion on mechanics of federalism, see Erwin Chemerinsky, Jolene Forman, Allen Hopper & Sam Kamin, *Cooperative Federalism and Marijuana Legislation*, 62 UCLA L. REV. 74 (2015).

<sup>113</sup> German Lopez, *Marijuana is Illegal Under Federal Law, Even in States that Legalize It*, VOX (Nov. 14, 2018, 4:14 PM), <https://www.vox.com/identities/2018/8/20/17938372/marijuana-legalization-federal-prohibition-drug-scheduling-system>.

<sup>114</sup> List of Controlled Substances in Alphabetical Order, DRUG ENF'T AGENCY (May 10, 2021), [https://www.deadiversion.usdoj.gov/schedules/orangebook/c\\_cs\\_alpha.pdf](https://www.deadiversion.usdoj.gov/schedules/orangebook/c_cs_alpha.pdf).

<sup>115</sup> *Gonzales v. Raich*, 545 U.S. 1 (2005).

<sup>116</sup> *United States v. Oakland Cannabis Buyers' Coop.*, 532 U.S. 483 (2001).

<sup>117</sup> 21 U.S.C. § 812 (2016).

<sup>118</sup> Thomas Mitchell, *Why This Colorado Law Firm is Upset Over DEA's Rescheduling of CBD Medication*, WESTWORD (Sept. 28, 2018, 1:53 PM), <https://www.westword.com/marijuana/colorado-law-firm-upset-over-deas-rescheduling-of-cbd-medication-epidiolex-10844306>.

mandatory minimum sentences for repeat offenders.<sup>119</sup> However, there is a record of people receiving life sentences without the chance for parole for mere possession in states where the law is stricter than the federal government.<sup>120</sup> Penalties for distribution vary depending on the amount of marijuana possessed but can result in up to life imprisonment with a ten million dollar fine.<sup>121</sup>

Over time, the federal treatment of marijuana has softened substantially. As of 2014, the United States Congress passed the Rohrabacher-Farr Amendment that prevents the federal government from interfering with state-level marijuana laws.<sup>122</sup> There have even been discussions of legalization at the federal level.<sup>123</sup> This comes in light of widespread support by voters for pro-marijuana legislation<sup>124</sup> and numerous states decriminalizing or legalizing marijuana either for medicinal or recreational uses.<sup>125</sup>

One such state, Colorado, can serve as a case study because it explicitly allows both medicinal and recreational marijuana under its state constitution. Under Amendment 20,<sup>126</sup> state residents over the age of

119 21 U.S.C. § 844 (2010).

120 Editorial, *Outrageous Sentences for Marijuana*, N.Y. TIMES (Apr. 14, 2016), <https://www.nytimes.com/2016/04/14/opinion/outrageous-sentences-for-marijuana.html>.

121 *Federal Drug Penalties*, ILL. WESLEYAN UNIV., [https://www.iwu.edu/counseling/Federal\\_Drug\\_Laws.htm](https://www.iwu.edu/counseling/Federal_Drug_Laws.htm) (last visited June 14, 2021).

122 H. amend. 748, H.R. 4660, 113th Cong. (2014); *see also* United States v. Marin All. for Med. Marijuana, 372 F.3d 1047 (2015).

123 Madina Toure, *Kirsten Gillibrand Signs onto Cory Booker's Marijuana Legalization Bill*, OBSERVER (Feb. 14, 2018, 3:52 PM), <https://observer.com/2018/02/kirsten-gillibrand-cory-booker-marijuana-reform/>.

124 Art Swift, *Support for Legal Marijuana Use up to 60% in the US*, GALLUP (Oct. 19, 2016), <https://news.gallup.com/poll/196550/support-legal-marijuana.aspx>.

125 German Lopez, *Marijuana Has Been Legalized in 1011 States and Washington, DC*, VOX (June 25, 2019, 12:22 PM), <https://www.vox.com/identities/2018/8/20/17938336/marijuana-legalization-states-map>; *see also supra* note 113 and accompanying text.

126 This was an amendment to the constitution of the state of Colorado. *Colorado Medical Use of Marijuana, Initiative 20 (2000)*, BALLOTEDIA, [https://ballotpedia.org/Colorado\\_Medical\\_Use\\_of\\_Marijuana\\_Initiative\\_20\\_\(2000\)](https://ballotpedia.org/Colorado_Medical_Use_of_Marijuana_Initiative_20_(2000)) (last visited June 14, 2021). For more on this, see the discussion on federalism *supra* note 112 and accompanying text. The constitution reads:

- (a) Effective June 1, 1999, it shall be an exception from the state's criminal laws for any patient or primary care-giver in lawful possession of a registry identification card to engage or assist in the medical use of marijuana, except as otherwise provided in subsections (5) and (8) of this section.
- (b) It shall be an exception from the state's criminal laws for any physician to:
  - ii. Advise a patient whom the physician has diagnosed as having a debilitating medical condition, about the risks and benefits of medical use of marijuana or that he or she might benefit from the medical use of

eighteen with certain debilitating health conditions may receive a prescription for small amounts of medicinal marijuana.<sup>127</sup> The patient then registers and is given a renewable license to possess marijuana for medicinal purposes valid for one year.<sup>128</sup> This allows both the patient and a prospective pre-approved vendor to engage in a marijuana transaction.

Possession of quantities beyond the allowed amounts is still punishable, but medical necessity is allowed as an affirmative defense.<sup>129</sup> Usage of marijuana may not occur in a public place, and it may not be used in a dangerous manner, including the operation of a vehicle while under the influence of marijuana.<sup>130</sup> Children may use marijuana if they are diagnosed by two physicians, briefed on the potential harms, and then approved by the state's board.<sup>131</sup> Insurance is not liable to pay for marijuana related expenses, and employers are not obligated to accommodate marijuana usage.<sup>132</sup> The marijuana is taxed at 2.9 percent,<sup>133</sup> and the city of Denver has imposed an additional mandatory 4.31 percent sales tax.<sup>134</sup>

The recreational use of marijuana in Colorado is governed by Amendment 64 to the state's constitution.<sup>135</sup> For the stated intent of

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marijuana, provided that such advice is based upon the physician's contemporaneous assessment of the patient's medical history and current medical condition and a bona fide physician-patient relationship; or

- iii. Provide a patient with written documentation, based upon the physician's contemporaneous assessment of the patient's medical history and current medical condition and a bona fide physician-patient relationship, stating that the patient has a debilitating medical condition and might benefit from the medical use of marijuana.

No physician shall be denied any rights or privileges for the acts authorized by this subsection.

COLO. CONST. art. XVIII, § 14 (Lexis, Lexis through Nov. 2020 general election).

<sup>127</sup> *Id.*

<sup>128</sup> *Id.*

<sup>129</sup> *Id.* art. XVIII, § 14(2).

<sup>130</sup> *See id.* art. XVIII § 16(6),

<sup>131</sup> *Id.* art. XVIII, § 14.

<sup>132</sup> *Id.*

<sup>133</sup> Max Savage Levenson, *Marijuana Tax Rates: A State-by-State Guide*, LEAFLY (Mar. 15, 2021), <https://www.leafly.com/news/industry/marijuana-tax-rates-by-state#colorado>.

<sup>134</sup> Denver, Colo. Tax Guide, Topic No. 95, Marijuana – Medical and Retail (2019), [https://www.denvergov.org/content/dam/denvergov/Portals/571/documents/TaxGuide/TaxGuideTopic95\\_MarijuanaMedicalAndRetail.pdf](https://www.denvergov.org/content/dam/denvergov/Portals/571/documents/TaxGuide/TaxGuideTopic95_MarijuanaMedicalAndRetail.pdf).

<sup>135</sup> *See* COLO. CONST. art. XVIII, § 16(3) (Lexis, Lexis through Nov. 2020 general election).

Notwithstanding any other provision of law, the following acts are not unlawful and shall not be an offense under Colorado law or the law of any locality within Colorado or be a basis for seizure or forfeiture of assets under Colorado law for persons twenty-one years of age or older:

efficiently utilizing law enforcement resources, generating public revenue, and enhancing personal freedom, the state of Colorado legalized marijuana for individuals within state limits over the age of twenty-one, treating it in a manner similar to alcohol.<sup>136</sup> Recreational users may possess half of the amount that a medical user may have.<sup>137</sup> In the name of privacy, transactions are not monitored beyond business standards, such as proof of age.<sup>138</sup> Marijuana retailers also have advertising restrictions, security requirements, and other licensing standards.<sup>139</sup> There is a 2.9 percent sales tax plus an additional 10 percent excise tax on the sale of retail marijuana,<sup>140</sup> and a 15 percent excise tax for wholesalers.<sup>141</sup> The same provisions relating to impaired driving, employer obligations, etc. that existed in Amendment 20 also exist in Amendment 64.<sup>142</sup>

This approach might stem from the backdrop of the War on Drugs, the term associated with the efforts made by the United States to enforce the criminality of drugs. Estimates show that the War on Drugs costs about 78.5 billion dollars per year of tax revenue.<sup>143</sup> In return for over a trillion dollars

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- (a) Possessing, using, displaying, purchasing, or transporting marijuana accessories or one ounce or less of marijuana.
  - (b) Possessing, growing, processing, or transporting no more than six marijuana plants, with three or fewer being mature, flowering plants, and possession of the marijuana produced by the plants on the premises where the plants were grown, provided that the growing takes place in an enclosed, locked space, is not conducted openly or publicly, and is not made available for sale.
  - (c) Transfer of one ounce or less of marijuana without remuneration to a person who is twenty-one years of age or older.
  - (d) Consumption of marijuana, provided that nothing in this section shall permit consumption that is conducted openly and publicly or in a manner that endangers others.
  - (e) Assisting another person who is twenty-one years of age or older in any of the acts described in paragraphs (a) through (d) of this subsection.

<sup>136</sup> *Id.* art. XVIII, § 16(1).

<sup>137</sup> *See supra* note 126 and accompanying text.

<sup>138</sup> *See* COLO. CONST. art. XVIII, § 16(5) (Lexis, Lexis through Nov. 2020 general election):

In order to ensure that individual privacy is protected, notwithstanding paragraph (a), the department shall not require a consumer to provide a retail marijuana store with personal information other than government-issued identification to determine the consumer's age, and a retail marijuana store shall not be required to acquire and record personal information about consumers other than information typically acquired in a financial transaction conducted at a retail liquor store.

<sup>139</sup> *Id.* art. XVIII, § 16(5)(a)(XII).

<sup>140</sup> Levenson, *supra* note 133.

<sup>141</sup> COLO. DEP'T OF REV., *Excise 23: Excise Tax on Retail Marijuana*, <https://tax.colorado.gov/marijuana-excise-tax>. (Last visited July 8, 2021).

<sup>142</sup> *See supra* note 126.

<sup>143</sup> Dana Feldman, *Doc Series "The Trade": The War on Drugs Costs the US \$78B per year*, FORBES (Feb. 9, 2018), <https://www.forbes.com/sites/danafeldman/2018/02/09/doc-series-the-trade-the-war-on-drugs-costs-the-u-s-over-78b-a-year/#3d2f24bd2c1b>.

spent since 1971,<sup>144</sup> the United States can claim the largest prison population in the world, more than half of which is incarcerated for drug offenses, while still having the highest amount of drug users in the world.<sup>145</sup> More than half of those drug arrests have been for marijuana, with 88% of those arrests being for mere possession.<sup>146</sup>

The process has been described as racist, with minorities disproportionately targeted despite similar usage rates across racial demographics.<sup>147</sup> Those costs could change to a 8.7 billion dollar surplus if marijuana were legalized, a potential net gain of nearly one hundred billion dollars.<sup>148</sup> Further, if marijuana were legalized, an additional 1.1 million jobs could be created by 2025.<sup>149</sup> All of this rigmarole and missed opportunity has come, at least in part, because of a plant that more than half of the country has tried and almost a fourth actively uses.<sup>150</sup> Additionally,

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144 Richard Branson, *War on Drugs a Trillion-Dollar Failure*, CNN (Dec. 7, 2012, 6:05 PM), <https://www.cnn.com/2012/12/06/opinion/branson-end-war-on-drugs/index.html>. For reference, Apple is the first American company to reach a trillion dollars in valuation – that’s enough to buy one million different people in San Francisco individual apartments for a million dollars per apartment. Ryan Suppe, *How Much Is \$1 Trillion? Well, Apple Could Buy Everyone in San Francisco an Apartment.*, USA TODAY (Sept. 1, 2018, 9:55 AM), <https://www.usatoday.com/story/tech/talkingtech/2018/08/02/how-comprehend-trillion-dollars/890715002/>. Further, the collective net worth of Jeff Bezos, Bill Gates, Warren Buffett, and Mark Zuckerberg would only add up to roughly a third of a trillion dollars. Kerry A. Dolan, Jennifer Wang & Chase Peterson-Withorn, *World’s Billionaires List: The Richest in 2021*, FORBES, <https://www.forbes.com/billionaires/#version:static> (last visited June 14, 2021).

145 *Id.* Consider also the negative impact this has on the individual people. Even after paying their dues to society, many people, particularly men of minority backgrounds, struggle to find employment after they are released. Binyamin Applebaum, *Out of Trouble, but Criminal Records Keep Men Out of Work*, N.Y. TIMES (Feb. 28, 2015), <https://www.nytimes.com/2015/03/01/business/out-of-trouble-but-criminal-records-keep-men-out-of-work.html>; see also Kai Wright, *Boxed In: How a Criminal Record Keeps You Unemployed for Life*, NATION (Nov. 6, 2013), <https://www.thenation.com/article/archive/boxed-how-criminal-record-keeps-you-unemployed-life/>. Further, while in prison, the people are subjected to rape stabbings, while receiving no healthcare, on top of numerous other well-documented issues with the American prison system. Timothy Williams, *Inside a Private Prison: Blood, Suicide and Poorly Paid Guards*, N.Y. TIMES (Apr. 3, 2018), <https://www.nytimes.com/2018/04/03/us/mississippi-private-prison-abuse.html>.

146 *Marijuana Arrests by the Numbers*, AM. CIV. LIBERTIES UNION, <https://www.aclu.org/gallery/marijuana-arrests-numbers> (last visited June 14, 2021).

147 Nick Wing, *Marijuana Prohibition Was Racist from the Start. Not Much has Changed.*, HUFFINGTON POST (Jan. 25, 2014), [https://www.huffingtonpost.com/2014/01/14/marijuana-prohibition-racist\\_n\\_4590190.html](https://www.huffingtonpost.com/2014/01/14/marijuana-prohibition-racist_n_4590190.html).

148 Palash Ghosh, *The Pros and Cons of Drug Legalization in the US*, INT’L BUS. TIMES (Oct. 19, 2010, 6:40 PM), <https://www.ibtimes.com/pros-cons-drug-legalization-us-246712>.

149 Jeremy Berke, *Marijuana Legalization Could Inject Over \$130 Billion into US Tax Coffers By 2025 — If the Trump Administration Stays Hands-Off*, BUS. INSIDER (Jan. 13, 2018, 10:00 AM), <https://www.businessinsider.com/cannabis-to-add-a-million-jobs-132-billion-tax-revenue-to-us-by-2025-2018-1>.

150 Christopher Ingraham, *11 Charts that Show Marijuana Has Truly Gone Mainstream*, WASH. POST (Apr. 19, 2017, 4:00 AM), <https://www.washingtonpost.com/news/wonk/wp/2017/04/19/11-charts-that-show-marijuana-has-truly-gone-mainstream/>.

the DEA fails to catch over ninety percent of drugs traded in the United States. Considering the costs of the project and the general ineffectiveness of it, the War on Drugs is considered by many to be an abject failure and waste of time and resources.<sup>151</sup>

In the rogue state of Colorado, the marijuana business has generated over a billion dollars' worth of revenue from marijuana in less than a year, resulting in 617 million dollars for the state from taxes, while providing jobs to almost 35,000 people.<sup>152</sup> Those tax dollars are only calculated directly from marijuana, not including the indirect savings of reducing incarceration and law enforcement costs while increasing revenue from newly available income taxes and sales taxes on goods those 35,000 new consumers have purchased.<sup>153</sup> Most of that money goes toward education and schools, with some going toward substance abuse programs and low-income housing.<sup>154</sup>

Due to the recent legalization, Colorado has experienced a "green rush," with people flocking to the state to take advantage of the new industry, resulting in the second-fastest growing population and fourth-fastest growing economy in the country.<sup>155</sup> Statistically, there has been no uptick in marijuana usage in any demographic, including children,<sup>156</sup> with opponents of the marijuana legalization movement conceding that fears relating to overall consumption and usage by children were unfounded in retrospect. On top of all of that, opioid deaths have dropped.<sup>157</sup> Furthermore,

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151 See Christopher J. Coyne & Abigail R. Hall, *Four Decades and Counting: The Continued Failure of the War on Drugs*, CATO INST. (Apr. 12, 2017), <https://www.cato.org/publications/policy-analysis/four-decades-counting-continued-failure-war-drugs>; Renee Hoagenson, *War on Drugs Is an Abject Failure*, COLUMBIA TRIB. (June 25, 2017, 1:01 AM), <https://www.columbiatribune.com/news/20170625/war-on-drugs-is-abject-failure>.

152 Erika Gonzalez, *Marijuana's Huge Impact on Colorado, by the Numbers*, FOX DENVER (Jan. 4, 2018, 10:58 PM), <https://kdvr.com/2018/01/04/marijuana-huge-impact-in-colorado-by-the-numbers/>.

153 Mike Adams, *Marijuana Legalization Makes Black Markets Better in Prohibition States*, FORBES (Nov. 13, 2018, 5:39 PM), <https://www.forbes.com/sites/mikcadams/2018/11/13/marijuana-legalization-makes-black-market-better-in-prohibition-states/?sh=55177be82633>.

154 Michael Roberts, *Here's Where Your Colorado Marijuana Tax Dollars Go*, WESTWORD (Apr. 18, 2018, 5:30 AM), <https://www.westword.com/news/heres-where-your-colorado-marijuana-tax-dollars-go-10214271>.

155 *Colorado Population Growth Since Legalization*, RINO SUPPLY CO. (Mar. 27, 2017), <https://www.rinosupply.com/colorado-population-growth-since-legalization/>.

156 Colo. Dep't of Pub. Health & Enf't, *Retail Marijuana Pub. Health Advisory Comm., Monitoring Changes in Marijuana Use Patterns* (2016), <https://drive.google.com/file/d/0B0tmPQ67k3NVc2lFeDFoMUJ1N2c/view>.

157 Christopher Ingraham, *Legal Marijuana Is Saving Lives in Colorado, Study Finds*, WASH. POST (Oct. 16, 2017), <https://www.washingtonpost.com/news/wonk/wp/2017/10/16/legal-marijuana-is-saving-lives-in-colorado-study-finds/>.

both the violent crime rate and property crime rate have decreased as much as 10%.<sup>158</sup>

There are, however, some drawbacks to legalization in Colorado. For one, there is some concern that the business has gotten too large, running in the face of the idea of moderation, as most marijuana sales come from just over a fifth of the consumers.<sup>159</sup> Colorado marijuana, which now outclasses marijuana from the Mexican cartels to the point that they no longer attempt to compete,<sup>160</sup> has been illegally transported across state lines to fund the black market in neighboring states that still prohibit marijuana.<sup>161</sup> Even with all of the newly generated revenue directed toward education, test scores have remained stable<sup>162</sup> and teachers are complaining about lack of pay as the money generated by marijuana is not enough to cover Colorado's deficit in the education budget.<sup>163</sup> Further, the traffic accident rate has risen with many of the drivers having marijuana in their systems, but the number of people impaired by marijuana involved in accidents has dropped.<sup>164</sup> As with every set of laws examined, the results are mixed.

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158 Brian Heuberger, *Despite Claims, Data Show Legalized Marijuana Has Not Increased Crime Rates*, COLO. POL. (Mar. 22, 2017), [https://www.coloradopolitics.com/news/despite-claims-data-show-legalized-marijuana-has-not-increased-crime-rates/article\\_64dd25c9-bcb1-5896-8c62-735e953da28a.html](https://www.coloradopolitics.com/news/despite-claims-data-show-legalized-marijuana-has-not-increased-crime-rates/article_64dd25c9-bcb1-5896-8c62-735e953da28a.html).

159 German Lopez, *The Case Against Marijuana Legalization*, VOX (Nov. 14, 2018, 4:14 PM), <https://www.vox.com/identities/2018/8/20/17938414/big-marijuana-legalization-corporations-advertising>. The argument presented in this article about market share follows the same logic as saying, "people who like chocolate consume more chocolate than people who dislike it." *Id.*

160 Michael Roberts, *Marijuana: Is Colorado Pot So Good That It's Making Mexican Cartels Want to Take Over?*, WESTWORD (May 5, 2014, 9:50 AM), <https://www.westword.com/news/marijuana-is-colorado-pot-so-good-that-its-making-mexican-cartels-want-to-take-over-5826794>.

161 Ben Markus, *Colorado's Still Exporting Black-Market Cannabis Because It Makes Tons Of Money In Other States*, CPR NEWS (June 12, 2019), <https://www.cpr.org/2019/06/12/colorados-still-exporting-black-market-cannabis-because-it-makes-tons-of-money-in-other-states/>.

162 *Colorado SAT and PSAT Data and Results*, COLO. DEP'T EDUC. (Aug. 11, 2020), <https://www.cde.state.co.us/assessment/cosatdataandresults>.

163 Kathleen Foody, *Money from Pot Taxes a 'Drop In The Bucket' to Solve Colorado Teacher Funding Problems*, DENVER POST (Apr. 27, 2018, 9:23 AM), <https://www.denverpost.com/2018/04/27/marijuana-money-colorado-education-funding/>. While marijuana revenue may be insufficient, marijuana is not to blame for the funding issues because it works to ease the pains of underfunding in Colorado education. *Id.*

164 David Olinger, *Mixed Findings on Colorado Marijuana, Traffic Deaths*, GAZETTE (June 13, 2020), [https://gazette.com/news/mixed-findings-on-colorado-marijuana-traffic-deaths/article\\_ec6a8f4c-a722-11e8-9c81-17b5312abb33.html](https://gazette.com/news/mixed-findings-on-colorado-marijuana-traffic-deaths/article_ec6a8f4c-a722-11e8-9c81-17b5312abb33.html).

### THE PROBLEM

Uniformity in marijuana laws across the various countries of the world simply does not exist. Instead, a broad spectrum ranging from full legality to mandatory death penalties with seemingly infinite nuanced approaches demarcating the degrees in between offers wildly diverse methods for analysis and impacts on society. With the recent trends and controversies around the world on marijuana, it has become more relevant than ever to assess the policies underlying marijuana legislation and what practices best suit a society's interests.

### SUGGESTED APPROACH

When addressing the costs and benefits of different approaches to regulating marijuana, it becomes helpful to establish baseline criteria for evaluation. First, this note will discuss the minuscule harm of the marijuana offense itself and compare it to the heavy costs of enforcement. Next, the practicality of decriminalization in respect to harm mitigation will be expounded on, alongside the benefits of medicinal usage of marijuana and commercial usage of industrial hemp. Finally, the economic gain of legalization in terms of both business and tax revenue will be explored. After reviewing the various costs and benefits, the legalization of marijuana will present the most logical route because it creates the most opportunity for societal utilitarian gain.

To begin, the usage of marijuana does not harm society, primarily because it does minimal harm to the individual users.<sup>165</sup> Marijuana usage has been described by neuropsychopharmacologists as “exceptionally safe.”<sup>166</sup> Unlike alcohol, short-term usage of marijuana will not on its own result in death when taken in large amounts.<sup>167</sup> Further, alcohol has nearly double the dependency rate of marijuana.<sup>168</sup> In terms of long-term usage, marijuana poses no substantial threat of brain damage, whereas alcohol

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<sup>165</sup> See *supra* notes 7–19 and accompanying text.

<sup>166</sup> Sharon Kirkey, *Cannabis Will Soon Be as Readily Available as Alcohol, but How Does Pot Affect You Compared to Booze?*, NAT'L POST (June 20, 2018), <https://nationalpost.com/news/alcohol-vs-cannabis-everything-you-need-to-know-before-you-choose-a-vice>.

<sup>167</sup> Joe Brownstein, *Marijuana vs. Alcohol: Which is Really Worse for Your Health?*, LIVE SCI. (Jan. 21, 2014), <https://www.livescience.com/42738-marijuana-vs-alcohol-health-effects.html>.

<sup>168</sup> Olga Khazan, *Is Marijuana More Addictive Than Alcohol?*, THE ATLANTIC (Sep. 17, 2014), <https://www.theatlantic.com/health/archive/2014/09/is-marijuana-more-addictive-than-alcohol/380183/>.

does.<sup>169</sup> While marijuana usage among children has caused problems, the average age of a marijuana user is thirty-seven years old, indicating that children are not necessarily using marijuana.<sup>170</sup> Additionally, the usage of marijuana represents an individualized choice with no impact whatsoever on other people. Whatever minor harm is endured is voluntary and does not rise to a level that requires punishment because of that. By extension, because marijuana usage is generally harmless, marijuana distribution also poses a minute amount of harm to society. When taken together, marijuana does not present significant social harm. In turn, marijuana does not reach the moral wrongness worthy of criminalization.<sup>171</sup>

Beyond the fact that marijuana usage is not worth punishing, the drastic measures taken to punish marijuana users around the world do more harm than good. For example, the usage of the death penalty in Singapore likely represents a gross over-punishment of the alleged crime. Capital punishment imposes dramatic costs in exchange for almost no benefit, even as a deterrent.<sup>172</sup> As an irrevocable and heavy punishment, the death penalty simply does not fit the crime of marijuana usage. Further, imprisonment does not fit the crime either, particularly in the United States. In addition to the financial cost of imprisonment,<sup>173</sup> prisons fail at the rehabilitation of the accused.<sup>174</sup> It does not make sense to waste money on punishing somebody with prison if doing so does not help rehabilitate the marijuana user, especially when the underlying crime is a minor harm at most. Punishment for marijuana simultaneously over-punishes the offense and under-corrects the offender. Therefore, even if a society deems marijuana punishment worthy, the current punishment systems for marijuana are untenable, inefficient, and ineffective.

Removing punishment and criminalization from viability, the next logical step is decriminalization. The Portuguese have experimented with

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<sup>169</sup> Honor Whiteman, *Alcohol 'More Damaging to Brain Health Than Marijuana'*, MED. NEWS TODAY (Feb. 12, 2018), <https://www.medicalnewstoday.com/articles/320895.php>.

<sup>170</sup> *What Does the Average Cannabis Consumer Look Like?*, HEADSET (Jan. 17, 2020), <https://www.headset.io/blog/what-does-the-average-cannabis-consumer-look-like>; see also *supra* notes 147–50 and accompanying text.

<sup>171</sup> *Retributive Justice*, STAN. ENCYC. PHIL. (July 31, 2020), <https://plato.stanford.edu/entries/justice-retributive/#Pun>.

<sup>172</sup> Rob Warden, *Reflections on Capital Punishment*, 4 NW. J.L. & SOC. POL'Y 329 (2009).

<sup>173</sup> Matt Ferner, *The Full Cost of Incarceration in the U.S. Is Over \$1 Trillion, Study Finds*, HUFFINGTON POST (Sept. 13, 2016, 5:01 PM), [https://www.huffingtonpost.com/entry/mass-incarceration-cost\\_us\\_57d82d99e4b09d7a687fde21](https://www.huffingtonpost.com/entry/mass-incarceration-cost_us_57d82d99e4b09d7a687fde21).

<sup>174</sup> *Too Many Prisons Make Bad People Worse. There is a Better Way*, ECONOMIST (May 27, 2017), <https://www.economist.com/international/2017/05/27/too-many-prisons-make-bad-people-worse-there-is-a-better-way>.

decriminalization with great success.<sup>175</sup> The law emphasizes rehabilitation and recovery, recognizing that addiction is a disease<sup>176</sup> worth treating rather than punishing. This makes intuitive sense because just as a society should not punish somebody merely for having cancer, society should not punish somebody for their addictions. However, Portuguese decriminalization intended to target dangerous drugs such as heroin more so than marijuana, even though marijuana was included in the drafting. This could be because marijuana, although still a drug, does not present as much danger or addictiveness as dangerous drugs.<sup>177</sup> Regardless, the fact remains that decriminalization has correlated with a decreased drug usage rate in Portugal.<sup>178</sup> Moreover, the rehabilitation program has been cheap and cost-effective.<sup>179</sup> This would indicate that decriminalization presents a more effective means of dealing with marijuana than punishment.

Since decriminalization offers a practical method of dealing with marijuana, society should consider how to make the system better. It might make sense to allow marijuana usage for medical purposes. After all, marijuana has at the very least proven itself as an effective medication and pain reliever, while possibly presenting an opportunity to potentially treat other disease cures.<sup>180</sup> While further research is needed on some medicinal aspects, marijuana surely acts as a safer alternative to opioids, which are addictive and deadly.<sup>181</sup> It does not seem like good governance to keep an effective medication out of the hands of the public when a more dangerous alternative is already allowed. Beyond that, the legalization of industrial hemp<sup>182</sup> might be considered, as Italy has done. Hemp can act as a raw material in the production of textiles, paper, manufacturing materials, and food, while serving as an alternative to plastic and timber.<sup>183</sup> Italian farmers laud the move, as their businesses were saved during a wheat shortage.<sup>184</sup>

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<sup>175</sup> See *supra* notes 105–11 and accompanying text.

<sup>176</sup> *Is Addiction a Disease?*, P'SHIP TO END ADDICTION (July 2020), <https://www.centeronaddiction.org/what-addiction/addiction-disease>.

<sup>177</sup> *Supra* notes 19–20.

<sup>178</sup> See *supra* notes 105–11 and accompanying text.

<sup>179</sup> *Id.*

<sup>180</sup> See *supra* notes 7–20 and accompanying text.

<sup>181</sup> *Opioids: Addiction, Withdrawal and Recovery*, ADDICTIONS & RECOVERY (May 31, 2021), <https://www.addictionsandrecovery.org/opioid-opiate-recovery.htm>.

<sup>182</sup> In the United States, industrial hemp has been illegal for over eighty years. *The Truth Behind Hemp in the United States*, MINISTRY HEMP, <https://ministryofhemp.com/hemp/legal/> (last visited June 14, 2021).

<sup>183</sup> Ernest Small & David Marcus, *Hemp: A New Crop With New Uses for North America*, in *TRENDS IN NEW CROPS AND NEW USES* 284 (Jules Janick & Anna Whipkey eds., 2002), <http://www.industrialhemp.net/pdf/small.pdf>.

<sup>184</sup> See *supra* note 96 and accompanying text.

The legalization of industrial hemp opens an entirely new industry for many countries, improving the economy as new businesses sprout up and more jobs are created in turn. Also, it presents an environmentally friendly substitute for timber and plastic, the negative environmental impacts of which are well documented.<sup>185</sup> Decriminalization can expand to include the legalization of medicinal marijuana for health benefits and industrial hemp for economic and environmental benefits, improving the system regulating marijuana.

Having considered marijuana regulation generally, this note can now confront the idea of recreational legalization. Looking at Uruguay, their version of marijuana legalization missed opportunities and failed to capitalize. For example, it is unlikely that Uruguay will be able to eliminate the black market so long as there are potency and supply restrictions. By capping the strength of recreational marijuana at a low potency<sup>186</sup> and limiting the amount of marijuana in the legal market, the demand for marijuana remains unmet.<sup>187</sup> When the demand in legal markets cannot be met, consumers go to illegal markets.<sup>188</sup> This undermines one of the principles supporting legalization in Uruguay: fighting the black market, particularly drug cartels. Further, the marijuana industry in Uruguay is state-owned, which could limit the amount of wealth that the market can generate as it operates inefficiently.<sup>189</sup> Uruguay did not go far enough in its legalization efforts to utilize the benefits of legal marijuana.

Comparing Uruguay to Colorado reveals how legalization to the fullest extent creates net gains for society through business development and tax revenue. Colorado's market is much more open than Uruguay's, and the results show those gains. New, small marijuana businesses have flourished

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<sup>185</sup> Deforestation has led to a loss of forty-six percent of the world's trees, which contributes to global climate change. Christina Nunez, *Climate 101: Deforestation*, NAT'L GEOGRAPHIC (Feb. 7, 2019), <https://www.nationalgeographic.com/environment/global-warming/deforestation/>. One-hundred fifty million tons of plastic circulate in the ocean, endangering many species as plastic does not degrade. Chelsea Ritschel, *Why Is Plastic Bad for the Environment and How Much is in the Ocean?*, INDEPENDENT (Apr. 18, 2018, 2:25 PM), <https://www.independent.co.uk/life-style/plastic-bad-environment-why-ocean-pollution-how-much-single-use-facts-recycling-a8309311.html>.

<sup>186</sup> Associated Press, *Long Lines, \$1.30 Grams Mark Uruguay's Legal Cannabis Debut*, LEAFLY (July 20, 2017), <https://www.leafly.com/news/politics/long-lines-1-30-grams-mark-uruguays-legal-cannabis-debut>.

<sup>187</sup> See *supra* note 72 and accompanying text.

<sup>188</sup> Amy Fontinelle, *How Black Markets Work*, INVESTOPEDIA (June 25, 2019), <https://www.investopedia.com/articles/economics/12/mechanics-black-market.asp>.

<sup>189</sup> For a summary of the argument that state-owned enterprises are intrinsically inefficient, see Olena Balbekova, Peking Univ., Inst. of S.-S. Coop. & Dev., *Inefficiency of State-Owned Enterprises*, [http://www.academia.edu/32916209/Inefficiency\\_of\\_State-Owned\\_Enterprises](http://www.academia.edu/32916209/Inefficiency_of_State-Owned_Enterprises) (last visited June 14, 2021).

throughout the state, creating new jobs for both marijuana cultivation and sales,<sup>190</sup> plus the extra benefits of tourism,<sup>191</sup> marijuana accessories,<sup>192</sup> and more.<sup>193</sup> Job creation stimulates the economy by boosting the purchasing power of the workers, who can spend more in the economy, and spread wealth throughout.<sup>194</sup> Additionally, new income and sales created from the new consumers can both be taxed. Tax money can go toward many public uses, such as roads, healthcare, education, and more. That does not even factor in the tax applied directly to the sale of marijuana, which has generated loads of money for education already.<sup>195</sup> When combined with the drop in crime rates, the relief of budgetary expenses, lowering drug usage, and dropping rates of marijuana-impaired drivers involved in car accidents, the legalization of marijuana creates a net gain for society.

#### CONCLUSION

After comparing the different approaches to marijuana law around the world, this note concludes that the legalization of marijuana represents the best option for society. Marijuana has medicinal uses and many consumers demand recreational marijuana, yet most countries have elected to criminalize it. With many countries reconsidering their approaches to marijuana, the menu of available options available should be analyzed. The spectrum of different laws covering marijuana offers stark contrasts. On the extreme, Singapore imposes a mandatory death penalty for possession, and Uruguay has legalized recreational marijuana on a limited basis. In between the polar ends of the spectrum, Italy has legalized industrial hemp which incidentally led to a “cannabis light” market. On the other hand, the United States seems unable to make up its mind on how to treat marijuana. All of these countries though should push toward the complete legalization of marijuana. The crime of using marijuana poses minimal harm, the means of

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190 There have even been reviews written about different strains of marijuana as if it were a fine wine. See, e.g., Herbert Fuego, *Why Colorado Tokers Love Chemmy Jones*, WESTWORD (Jan. 23, 2019, 5:53 AM), <https://www.westword.com/marijuana/chemmy-jones-why-colorado-tokers-love-this-strain-11111749>.

191 Nick Kovacevich, *The Next Big Thing in Cannabis: Tourism*, FORBES (Aug. 16, 2018, 6:32 PM), <https://www.forbes.com/sites/nickkovacevich/2018/08/16/the-next-big-thing-in-cannabis-tourism/?sh=6109a7b45d9b>.

192 Stephanie Faris, *How to Open a Headshop*, BIZFLUENT (Nov. 21, 2018), <https://bizfluent.com/how-7562302-open-headshop.html>.

193 Kim Lachance Shandrow, *9 Business Ideas for People Looking to Cash in on the Marijuana Boom*, GREEN ENTREPRENEUR (Oct. 6, 2016), <https://www.greenentrepreneur.com/slideshow/282008>.

194 See *supra* notes 140–58 and accompanying text.

195 See *supra* notes 140–58 and accompanying text.

punishment are ineffective and overly harsh, and economies can grow with legalization. As such, legalization presents the best approach for society in approaching the regulation of marijuana.

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