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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

GENERATING REVENUE FROM CANNABIS **LEGALISATION**

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The prospectus of generating revenue from cannabis is vast and legalisation of cannabis will assist in reducing social stigma and increasing the country's economic worth. The global market for cannabis (legal and illegal, medical, and recreational) has generated an estimate of 350 billion in USD.¹ India will benefit greatly if it decides to dip its hand into this goldmine. In India, cannabis is argued to be cultivated since more than 3000 years ago as early as 900 BC, as ayurvedic medicine.² While cannabis was considered as a 'poor man's narcotic', it was by no means rare in usage.³

The term cannabis in NDPS Act is used to refer to all the products that are derived from any genus of the plant Cannabis. The two major compounds of cannabis are delta-9-tetrahydrocannabinol [THC], the psychoactive compound, and cannabidiol [CBD]. The speciality of this plant is that most parts of it has some or the other purpose, if India legalises cannabis, it can capitalise generate revenue on all the parts of this plant. The flowers of the plant or buds is where the fame resides. It is used as a psychoactive drug and people smoke or make edibles out of them. The variety of food products that can be made out of cannabis in general is limitless and the possibilities of earning revenue directly proportional. The next part is the leaves of the plant and in India bhang is a popular product of the leaves, Thandai a milkshake made from bhang which is a very popular drink during Holi. Leaves are also used for medicinal purposes because they do not have a major intoxicating factor. Next, hash or charas which is made from the resin of the plant in concentrated amounts which also result in a mellow high. The seeds of the plant can be used to make hemp seed oil for medicinal purposes, they are argued to be one of the most nutritionally complete food, they contain 35% protein and all essential amino acids. They are also

¹ Devangshu Datta. "Economics of cannabis: Can India grab a share of the \$350 bn global market?". The Business Standard. Accessed May 9, 2022

² Kuddus, M., I. Ginawi, and A. Al-Hazimi. "CANNABIS SATIVA: AN ANCIENT WILD EDIBLE PLANT OF INDIA". Emirates Journal of Food and Agriculture, Vol. 25, no. 10, June 2013, pp. 736-45, doi:<https://doi.org/10.9755/ejfa.v25i10.16400>. Accessed May 9, 2022

³ Khagesh guatam, Cannabis Indica: Perception vs Potential. OakBridge Publishing. ISBN: 9789391032845 Accessed May 9, 2022

rich in fatty acids.⁴ The roots of the plants also have medicinal use and can be used to treat conditions of fever, inflammation, burns etc. Cannabis roots contain no cannabinoids. We can see that almost every part of the plant has some value or the other, it can easily become a multi-billion dollar industry if cannabis is legalised. Now, if the State does not make cannabis legally accessible there is no scope of it generating revenue from any of these avenues.

In India, The Narcotic Drugs and Psychotropic Substances Act (NDPS Act) of 1985 regulates the use of narcotic drugs in Indian medicine. It classifies three substances as narcotic drugs in the context of cannabis under S.2(iii): (a) charas, that is, the separated resin, crude or purified, obtained from the cannabis including hashish oil or liquid hashish; (b) ganja, the flowering or fruiting tops of the cannabis plant (*excluding the seeds and leaves when not accompanied by the tops*), by whatever name they may be known or designated; and (c) any mixture, with or without any neutral material, of any of the above forms of cannabis or any drink prepared therefrom. The NDPS Act in India does not classify cannabis leaves as narcotic drugs. Only when they are attached to the cannabis plant or its flowering or fruiting tops, or when they contain resin from the cannabis plant, are they classified as narcotic drugs. There is no conclusive logical connection that can be made as to why the seeds and leaves were left out, however this is the reason why India still consumes bhang (edible made from cannabis plant leaf) for the last 27 years. Therefore, leaves when not accompanied by flowering top and seeds are technically legally accessible at this moment in India.

In 2016, the Uttarakhand government made an important step forward by legalising the licenced cultivation of low-THC hemp. Madhya Pradesh has considered doing so since then. The Union Government also allowed research and development in Uttar Pradesh in 2019. Though there is money to be made, jobs to be created, and innovation to be encouraged here, legislative restrictions have hampered supply chains.

FSSAI issued a notification on 15th November 2021, stating, “The hemp seed, hemp seed oil and hemp seed flour shall be sold as food or used as an ingredient in a food for sale subject to conforming standards.” The notification clarified that hemp seeds are “seeds obtained from an industrial variety of Cannabis sativa plants in which the concentration of THC is 0.3% w/w or less” With the clarification of hemp seeds being legally accessible, more businesses will enter the hemp market, contributing to the ever-expanding global hemp industry. Many food items

⁴ <https://www.treadwellfarms.com/blogs/cbd-education/parts-of-the-cannabis-plant-unique-attributes-and-uses-abound>

containing hemp seeds and hemp seed oil will join the market in the next few years, increasing availability across the food industry and providing customers with more healthy food options along with generating immense revenue. If industry projections are correct, the global hemp business will reach a breakthrough graph of potential in the next five years.

Elasticity and Demand of Cannabis

To understand the scope of cannabis industry we must estimate the effect on the demand equation on the decriminalisation or legalisation of the same. Liberalization will most likely increase the demand for drugs in the short term. Further, it would also increase the access and the supply of cannabis, due to the absence of risk of potential charges. This will increase the equilibrium price of cannabis and further help the economy.⁵

According to the Ministry of Social Justice's National Survey report on substance use in India, 2.8 percent of Indians aged 10 to 75 are cannabis users. Which results is 3.1 crore individuals.⁶ According to a study, New Delhi and Mumbai were placed on the top ten list of most cannabis consuming cities in the world. Consuming 38.26 metric tonnes and 32.38 metric tonnes of cannabis respectively.⁷ Consumption of cannabis is widely spread. A researcher in American Jurisdiction had back in 2001 highlighted the demand function of cannabis to be inelastic, specifically -0.06, which basically means that a hike in 16.67 % price will result in a decline of demand by 1%.⁸ This is more or less likely to be the case now even in India, unless major price changes occur, users will continue to use cannabis. The demand is unlikely to reduce. A study by the Colorado Department of Public Health & Environment, 2016 has stated that marijuana use [among Colorado residents] has not changed since legalization either in terms of the number of people using or the frequency of use among users.⁹ More research may be required by the trend till date seems to be the same.

Some of the avenues of generating revenue are discussed. Legalisation would open channels for a well-regulated trade model, inviting capital revenues from sales tax and excise tax from

⁵ Nikola Kovic. Economic Benefits of Marijuana Legalisation. Central University Department of Economics. 2014

⁶ Cannabis Price Index (ABCD 2018)

⁷ Meera Navlakha, 'Study Finds Delhi and Mumbai are Among the Top 10 cities in Cannabis Consumption Globally' (Vice, 10 September 2019) < https://www.vice.com/en_in/article/bjwj7q/study-findsdelhi-and-mumbai-are-among-the-top-10-cities-incannabis-consumption-globally>

⁸ Pascula RL., Grossman M, Chaloupka FJ, O'Malley PM, Johnston LD, Farrelly MC Marijuana and Youth. *Risky Behaviour among Youth: An Economic Analysis*. Ed. J

⁹<https://illinoisepi.files.wordpress.com/2018/11/ilepi-pmcfr-financial-impact-of-legalizing-marijuana-in-illinois-final.pdf>

legitimate economic channels.¹⁰ It would attract incomes from jobs associated directly and indirectly with the sale, purchase, and manufacture of cannabis and investment opportunities into businesses and the industry. Furthermore, it would also eliminate enforcement costs.¹¹ Marijuana virtually creates an opportunity for every major discipline, agriculture, medicine, retail, government, tourism and hospitality inter alia.¹² Though most of the research available is with respect to the American jurisdiction, the leading authority in legalizing cannabis, the data can be used to draw a parallel hypothesis for India; even though it might not be exactly replicated into the Indian scenario, the basic idea is to show that on the whole the cannabis industry can be beneficial to the development of an economy.

Tourism

The legalisation of cannabis is the next tourist attraction. It has immense prospective in the global travel industry. Considering the case of Colorado, one of the earliest states to legalize cannabis in 2014, the local newspaper, The Denver Post recorded a new tourism record at USD 19.1 billion being spent by 7.7 million visitors. The influx of visitors sparked the speculation of cannabis induced travel. A local office commissioned survey found that around 4% of the visitors came for legal cannabis. Another non-state governed study in Colorado in 2018 found that from a sample of 330 odd tourists almost 50% strongly agreed that marijuana was their primary reason for travel.¹³ The Colorado Department of Revenue¹³ recorded a collection of USD 1.3 billion from legal cannabis and tourism being a growing factor.¹⁴ In 2011 a researcher found that around 10% of the visitors in Amsterdam came to visit the cannabis marketing ‘coffeeshop’.¹⁵ A survey conducted by the MMGY Travel Intelligence¹⁶ arrived to the conclusion that 29% of all leisure travellers are interested in cannabis related activities.

The impact of tourism can be observed on two levels: direct and indirect. Where direct expenditure concerns tourism products of marijuana and marijuana-related products; and indirect impact refers to the economic benefit which occurs from the purchase of other goods due to the

¹⁰ Khagesh guatam, Cannabis Indica: Perception vs Potential. OakBridge Publishing. ISBN: 9789391032845 Accessed May 9, 2022

¹¹ Ibid Accessed May 9, 2022

¹² <https://journals.sagepub.com/doi/full/10.1177/2158244016679213>

¹³ Taylor, Lorraine L. (2018). Defining Marijuana Tourism. Journal of Hospitality & Tourism Research, (), 109634801880461-. doi:10.1177/1096348018804610

¹⁴ <https://www.firstrand.co.za/media/1932/denise-slabbert-weed-tourism.pdf>

¹⁵ MacCoun, R. J. (2011). What can we learn from the Dutch cannabis coffeeshop system? Addiction: Policy Case Studies, 106, 1899-1910

¹⁶ <https://www.arizonafoothillsmagazine.com/health-and-fitness/cbd-cannabis/cannabis-tourism-opportunities-issues-and-strategies-by-enlightn/>

influx of tourists. The motivation of cannabis consumption can be identified into four categories: experimentation, pleasure orientation, quest for authenticity, and ease of purchasing.¹⁷ Tourism attraction spots draw in a large number of these visitors. Destinations such as a 115,000 sq. foot growing facility and dispensary in Las Vegas¹⁸, trying CBD or THC concoctions and edibles, spa treatments with CBD products, courses such as “Introductory Cooking with Cannabis”, etc.¹⁹

One such tourist destination spot in India is a famous village of Malana in the Himachal. The speciality of this village is a concentrated strain of charas which has a substantially high THC level. It is termed as the ‘Malana Cream’ and 10g of it is sold anywhere between Rs, 1500 to Rs. 8000 depending on its purity²⁰, while it is sold for around INR. 16,000 reportedly in Amsterdam.²¹

Taxation and Licencing:

The first and most direct form is taxation, in the form of sales and excise tax. Several states in the USA have already legalised and created tax regulations in place which provide a steady funding for the State. Marijuana sales in Colorado and Washington have been higher than predicted in recent years, leading to greater tax collections. Colorado received more than \$302 million in medical and recreational marijuana taxes and fees in 2019²². Colorado till date has a 12 billion dollars revenue in sales, reported by the Colorado Department of Revenue.²³

Since January 2018, California's cannabis sales have raised \$413 million in excise tax, \$98.9 million in cultivation tax, and \$335.1 million in sales tax²⁴. The Massachusetts Cannabis Control Commission stated in November 2019 that gross sales of marijuana vendors in the first year totalled \$393.7 million. The same could be the future of India when cannabis is legalised. However, tax market returns for India are only a speculation and based on assumptions of black market returns.

¹⁷ Taylor, Lorraine L. (2018). *Defining Marijuana Tourism*. *Journal of Hospitality & Tourism Research*, (), 109634801880461-. doi:10.1177/1096348018804610

¹⁸ <https://techcrunch.com/2020/03/23/inside-planet-13-the-worlds-largest-cannabis-dispensary/>

¹⁹ <https://www.forbes.com/sites/michaelgoldstein/2021/10/09/can-cannabis-tourism-help-revive-the-travel-industry/?sh=54a286e27fbc>

²⁰ <https://indianexpress.com/article/explained/what-is-mallana-cream-himachal-pradesh-cannabis-7098907/>

²¹ <https://www.gqindia.com/content/indias-most-famous-weed-tourism-spot-is-now-off-limits>

²² Colorado Department of Revenue. "Marijuana Sales Reports", <https://cdor.colorado.gov/data-and-reports/marijuana-data/marijuana-sales-reports>. Accessed May 9, 2022

²³ <https://cdor.colorado.gov/data-and-reports/marijuana-data/marijuana-sales-reports>

²⁴ California Department of Tax and Fee Administration. "California Department of Tax and Fee Administration Reports Cannabis Tax Revenues for the Third Quarter of 2019", <https://www.cdtfa.ca.gov/news/19-26.htm>" Accessed May 9, 2022.

India could also create license fees on producing and selling cannabis adding to its revenue. Colorado has raised, on average, \$12.9 million per year in cannabis-related fees since its adult-use market launched in 2014.²⁵ Oklahoma has raised more than \$26 million by licensing 10,428 cannabis businesses — more per capita than any other state — and charging a fee of \$2,500 per license.²⁶

Job Opportunities:

A plethora of income earning opportunities arise from the legalisation of cannabis. New infrastructure would need to be created to set up dispensaries and marijuana nurseries. Cannabis business can be divided into two categories, direct businesses, and auxiliary services.

Wherein direct businesses relate to the labour in direct contact with the plant. These include: i) breeders, the people responsible for developing new strains through selective breeding and cross breeding, and developing new strains of premium quality. ii) Cultivators manage greenhouses and mass grow cannabis. They maintain healthy and high-quality plants in generally synthetic farms. iii) Manufacturers – are responsible for processing the harvested product and creating value added products such as concentrated extracts, edibles and topicals.²⁷ iv) Dispensaries – the vendors of distributing cannabis. They assist in guiding the people in choosing their desired product variant. v) Transportation and logistics – the groundwork for transporting the cultivated product into the hands of the people.

Auxiliary services include jobs that work in tandem with the direct businesses, they can include a wide range of activities such as construction, packaging, professional services. Secondary industries associated with legal cannabis but not directly involved in its cultivation and distribution such as software development, financial services etc.

Investment Opportunity:

Legalisation of marijuana would assist in creating a whole industry under which investors could pool funds to create their portfolios. The prospectus of cannabis growth is immense and is expected to grow exponentially in the next half decade. It is already a billion-dollar industry in the US only considering the few states that have legalised it. A green signal on listing cannabis

²⁵ Colorado Department of Revenue, "Marijuana Tax Data"

²⁶ Oklahoma Medical Marijuana Authority, Application and Licensing Report, May 1, 2020

²⁷ Adam Uzialko. Cannabis Industry Growth Potential for 2022. Business News Daily <https://www.businessnewsdaily.com/15812-cannabis-industry-business-growth.html> Accessed May 9, 2022

business on stock exchange would also allow for international investments in India to further generate revenue for the country.

Elimination of Enforcement costs:

The expenditure for prosecution of production, possession and trafficking of cannabis is not dismissible. Though it is hard to categorize State's expenditure on drugs separately, a 2016 analysis by Jeffrey Miron²⁸ estimates that \$ 6,036.9 million is spent annually on marijuana prohibition enforcement in the whole of the United States.

With the legalization of cannabis there would be no need to enforce state and border security of regulating illegal transport, manufacture, and sale of cannabis. The number of cases in the courts would also reduce if cannabis was no longer a crime, if it is removed from the list of substances under the NDPS Act, there would be no requirement of fine as well, as well as removing a whole section of frequent cases from appearing in court while also reducing prison overcrowding.

There is money to be made, jobs to be created, an agricultural sector to be boosted, climate change to be fought, and tax income to be generated if India takes decisive action in favor of deregulation. The recreational and industrial cannabis markets appear to be on the approach of significant expansion. Though China controls global supply, the country's hold on the market may weaken if corporations consider transferring supply chains out of the country, as they have done in 2020. The Government annually loses out an enormous amount of revenue from not legalizing this widely consumed substance. Legalization of cannabis would open up a whole new industry for economic development of the country. The scope of revenue from cannabis is immense and the sooner the government recognizes this the sooner they start collecting this untapped revenue. This potential, however, is not exclusive to India. Other countries may soon follow, enticed by the UN's classifications and economic prospects. In the world of cannabis, India cannot afford to fall behind. In many ways, keeping up with the times should be instinctive — as it has long been a part of the country's culture. It cannot let a few decades of stigma prevent it from celebrating its past and, more significantly, what may be a bright future.

²⁸ Jeffery Miron. The Budgetary Effects of Ending Drug Prohibition. TAX AND BUDGET BULLETIN NO. 83. Cato Institute.