

THE CONSUMPTION OF MARIJUANA FROM A LEGAL AND PHILOSOPHICAL VIEWPOINT

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ABSTRACT: *In this note I argue that the decriminalization (or authorization) of marijuana use should be considered with an eye to the evil it avoids instead of to the good it seeks. The debate about the decriminalization/permission of the consumption of marijuana in Mexico is set within the context of the individual freedom and the damage to health produced by its consumption. Other related issues result from this approach, such as individual responsibility and the duty of the State to seek the social good. How can one justify the decriminalization of marijuana considering the duty of the state? How can the harmful craving for it be understood given the alleged natural inclination towards personal well-being (axiom of Western culture)? The response has to do with the exercise of power by the State, in the definition of what is healthy and harmful, normal and pathological, because the concepts “healthy” and “harmful” have ideological uses (in the sense of the 18th Brumaire of Louis Napoleon). Secondly, we cannot ignore the discomfort caused by social life, due to the demands on public duty at the expense of private interests. This results in a tension between the individual and society that is only mitigated by tolerance for drug abuse, alcohol or permission of “red zones,” because only in this way are social conflicts dissipated.*

KEY WORDS: *Liberty, responsibility, human dignity, health, disease, responsibility of the State, social tensions, Marijuana, decriminalization.*

RESUMEN: *La discusión sobre la despenalización/venia del consumo de marihuana en México se establece dentro del contexto de la libertad individual y el daño que produce su consumo a la salud. Derivado de este enfoque se encuentran otros temas relacionados, como el de la responsabilidad individual y el deber del Estado de procurar el bien social. ¿Cómo justificar la despenalización de la marihuana frente al deber del Estado? ¿Cómo entender el deseo de su consumo nocivo frente a la supuesta inclinación natural al bienestar personal (axioma de la cultura Occidental)? La respuesta transita a través del ejercicio del poder*

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por parte del Estado, en la definición de lo sano y dañino, normal y patológico, porque los conceptos “sano” y “dañino” tienen usos ideológicos (en el sentido del 18 Brumario de Luis Napoleón).¹ En segundo término, no puede soslayarse el malestar que provoca la vida social, debido a las exigencias para con el deber público en detrimento de los intereses particulares. Esto tiene como resultado una tensión entre individuo y sociedad que solamente se mitiga con la tolerancia al uso de drogas, alcohol o concurrencia a “zonas rojas,” porque sólo así se distienden los conflictos sociales. De esta forma, se concluye que la despenalización (o autorización) del consumo de marihuana debe verse por el lado del mal que evita y no por el bien que procura (para la salud física).

PALABRAS CLAVE: *Libertad, responsabilidad, dignidad humana, salud, enfermedad, responsabilidad del Estado, tensiones sociales, marihuana, despenalización.*

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I. INTRODUCTION

This note will analyze the problem of marijuana use in Mexico taking into account the following points: first, the freedom of the individual as conceived by the Supreme Court of Justice of the Nation in the resolution of Minister Alfredo Gutierrez Ortiz Mena. In this first point we must consider two issues: the justification of the decriminalization of marijuana together with the responsibility of the State towards the common good, and its consumption by the individual aware of the harm and committed to his own well being. Second, the exercise of power from the concepts of health and disease, normal and pathological, which will aim to determine the ideological elements (in the

¹ KARL MARX, 18 BRUMAIRE DES LOUIS NAPOLEON BONAPARTE. (Digitale Bibliothek. Berlin 2002) (1883).

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