

It Is Legal and Everyone Is Using: Does Halakhah Permit Recreational Marijuana? Reassessment of Rav Moshe Feinstein's Teshuvah

By: SHARON GALPER GROSSMAN

“Though I had experimented with alcohol, I never really enjoyed drinking. Marijuana was a different story. When I was high, I experienced a pervasive sense of calm and clarity. I felt effusive, funny, outgoing, and at ease in a way I had never known before,”¹ writes a physician on the Massachusetts Medical Society website after his recovery from a marijuana addiction that destroyed his career and family.

As he describes, the most common reasons for using recreational marijuana are relaxation (66%), stress relief (59%) and anxiety (53%).² Although under U.S. law marijuana continues to be classified as a Schedule I drug, rendering use and possession illegal, eleven states have legalized it for recreational purposes and thirty-three states have legalized it for medical purposes. Internationally, Canada and Uruguay have legalized recreational marijuana, while Spain, the Netherlands, South Africa, and Peru have enacted policies that permit use. Since legalization, its use by adults has increased substantially.³ Marijuana is the third most popular recreational drug in America (behind only alcohol and tobacco),

¹ http://www.massmed.org/Physician_Health_Services/Helping_Yourself_and_Others/Success_Story_Reasons_to_Give_--_A_Personal_Story/#.XIUTq6gzY2w.

² <https://cdn2.hubspot.net/hubfs/3324860/NFD-CannabisConsumerReport-ExecSummary-v6.pdf>.

³ Cerdá M, et al., “Association between Recreational Marijuana Legalization in the United States and Changes in Marijuana Use and Cannabis Use Disorder From 2008 to 2016,” *JAMA Psychiatry* (November 13, 2019): <https://doi.org/10.1001/jamapsychiatry.2019.3254>.

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and the most commonly used illicit drug.⁴ Nearly 94 million Americans have tried it; 25 million in the past year and 22.2 million in the past month, while 14 million use it regularly despite laws in many areas that ban it. A recent Pew Research Report indicates that an overwhelming majority of U.S. adults (91%) believe that marijuana should be legal. Marijuana has become part of everyday life for millions of Americans.⁵ In light of the legalization of recreational marijuana and its increasing public acceptance and consumption, we must ask—does *Halakhab* permit use of recreational marijuana?

A number of *poskim* have forbidden the use of recreational marijuana,⁶ including Rav Shlomo Zalman Auerbach,⁷ Rav Chanan Aplalov,⁸ Rav Eliezer Shlomo Shik,⁹ Rav Ezra Basri,¹⁰ Rav Chaim Yosef David Weiss of Antwerp,¹¹ and Rav Yaakov Ariel.¹² Rav Yaakov Zalmanovitch permits marijuana for medical use but prohibits it recreationally.¹³ In a personal letter, the Lubavitcher Rebbe expressed his disapproval of marijuana.¹⁴ Rav Moshe Feinstein published the most detailed *teshuvah* on recreational marijuana in 1973.¹⁵ He prohibited use for the following reasons

1. It harms the body
2. It impairs judgement
3. It interferes with *tefillah* and the performance of *mitzvot*
4. It leads to addiction
5. It violates *kibbud av v-em*, the obligation to honor one's parents.
6. It violates *kedoshim tihyu*, the obligation to be holy

⁴ Cerdá et al., “Association between Recreational Marijuana Legalization.”

⁵ <https://www.washingtonpost.com/news/wonk/wp/2017/04/19/11-charts-that-show-marijuana-has-truly-gone-mainstream/>.

⁶ <http://halacha.co/%D7%A9%D7%99%D7%9E%D7%95%D7%A9-%D7%91%D7%A1%D7%9E%D7%99%D7%9D/>.

⁷ מעדני שלמה עמ תלא.

⁸ בשו"ת אשר חנן (ח"ה סי' לט).

⁹ הרב אליעזר שלמה שיק (מוהרא"ש) בספרו אשר בנחל (חל"ד עמ' לד).

¹⁰ הרב עזרא בצרי (מבית הדין הרבני הגדול) בספרו דיני ממונות (ח"ד עמ' קיז-קיח).

¹¹ קונטרס ובחרת בחיים (וייס, עמ' כ).

¹² יעקב אריאל מאהלי תורה עמוד 195-198.

¹³ <https://www.makorrishon.co.il/nrg/online/11/ART2/484/993.html?hp=11&cat=1102>.

¹⁴ <http://halacha.co/%D7%A9%D7%99%D7%9E%D7%95%D7%A9-%D7%91%D7%A1%D7%9E%D7%99%D7%9D/>.

¹⁵ Iggerot Moshe Yoreh De'ah III:35.

7. It leads to the violation of many other prohibitions and is thus *me-issurim hamorim*, among the most severe prohibitions.

In March 2018, Rav Dr. Baruch Finkelstein, a recognized scholar of Rav Feinstein's writings, published a detailed analysis of Rav Feinstein's *teshuvah* on marijuana from which he argued that this prohibition against recreational marijuana no longer applies.¹⁶

He stated that Rav Feinstein had difficulty finding concrete reasons to prohibit marijuana and struggled to find reasons to justify his position. He suggested that the permissive atmosphere that accompanied use in the 1970s and the lack of familiarity with the true qualities of the product influenced Rav Feinstein's position. After analyzing each of Rav Feinstein's reasons for prohibiting recreational marijuana, he argued that none of them still applies.

Is Rav Feinstein's categorical prohibition of recreational marijuana still relevant? I would like to address each of his reasons for prohibiting recreational marijuana and assess its contemporary validity in light of emerging medical data regarding the dangers of this substance and the current legal and social reality.

Although societal acceptance of recreational marijuana has risen dramatically since the publication of Rav Feinstein's *teshuvah*, the potency of THC, the primary psychoactive component in cannabis, has also increased, leading to concerns that the consequences of marijuana use might be more severe today than in the past. In light of the dramatically higher concentration of THC—almost ten-fold—I argue that Rav Feinstein's position regarding the dangers of recreational marijuana has even more validity today than it did when he first presented it.

Marijuana Harms the Body

Rav Finkelstein noted that available medical data has not proven that cannabis is harmful, especially since no one has died of cannabis overdose, and that it does not pose a *sakanah vada'it* or even a *safeik sakanah*. In addition, because society has embraced cannabis use and many have used it without harm, he believes that it falls under *shomer peta'im Hashem*.

Available medical data underestimate the true risks of cannabis, as it has been illegal until recently and older studies looked at the effect of

¹⁶ Rav Dr. Baruch Finkelstein, "הקנאביס בהלכה".
<https://www.beithillel.org.il/wp-content/uploads/2019/07/%D7%A7%D7%A0%D7%90%D7%91%D7%99%D7%A1-%D7%91%D7%94%D7%9C%D7%9B%D7%94.pdf>

doses substantially smaller than they are today. Emerging data suggest not only that marijuana is not harmless, but that it is even more harmful than we realize. Emergency departments in Colorado, where marijuana is legal, report a doubling of cannabis-related visits, a five-fold increase in visits due to mental illness, and a nine-fold increase in marijuana-related hospital admissions over the last five years, reflecting increased usage due to legalization and the greater dangers of increased THC concentrations.¹⁷

The dangers of recreational marijuana start at the dispensary and include concerns regarding driving under its influence and short- and long-term risks.

Most of the recreational marijuana available for sale is not tested for safety. The California Bureau of Cannabis reports that it has only 57 labs statewide to test millions of pounds of marijuana, and they test only 5% of the products. Steep Hill, the first marijuana safety-testing lab, believes that half of the products are contaminated with chemicals or dangerous bacteria.¹⁸ Marijuana shop employees not trained in medicine or pharmacology are giving medical advice that might be harmful to patients, such as recommending marijuana for treatment of pregnancy-related nausea and vomiting.¹⁹

Studies show that marijuana significantly impairs judgment, motor coordination, and reaction time, and that there is therefore a direct relationship between blood THC concentration and impaired driving ability; having marijuana in one's system increases the risk of motor vehicle accidents by 97%.^{20,21} Nonetheless, in 2018, 12 million (4.7%) U.S. residents reported driving under the influence of marijuana.²² In Colorado, cannabis-related traffic fatalities have risen sharply since legalization.²³ No amount of marijuana is safe when one is driving, and no one knows

¹⁷ Roberts BA, "Legalized Cannabis in Colorado Emergency Departments: A Cautionary Review of Negative Health and Safety Effects," *West J Emerg Med.* 2019;20(4):557–572. doi:10.5811/westjem.2019.4.39935.

¹⁸ <https://abc7news.com/2965470/>.

¹⁹ Dickson B, et al., "Recommendations from Cannabis Dispensaries about First-Trimester Cannabis Use," *Obstet Gynecol*, 2018 June; 131(6): 1031–1038.

²⁰ Hostiuc S, et al., "The Association of Unfavorable Traffic Events and Cannabis Usage: A Meta-Analysis," *Front Pharmacol*, 2018; 9:99.

²¹ Hostiuc S, et al., "The Association of Unfavorable Traffic Events," *Front Pharmacol*, 2018; 9:564.

²² <https://www.cdc.gov/mmwr/volumes/68/wr/mm6850a1.htm>.

²³ Salomonsen-Sautel S, et al., "Trends in Fatal Motor Vehicle Crashes Before and After Marijuana Commercialization in Colorado," *Drug Alcohol Depend*, 2014 Jul 1; 140:137-44.

how long one should wait between smoking marijuana and driving. Studies also suggest specific links between marijuana use and adverse consequences in the workplace, such as increased risk for injury or accidents.²⁴

Though death from marijuana is rare, it is possible to overdose on the drug and to experience extreme confusion, anxiety, paranoia, panic, an accelerated heart rate, delusions or hallucinations, increased blood pressure, and severe nausea or vomiting. In some cases, these reactions can lead to unintentional injury such as a car crash, fall, or poisoning. In areas where recreational marijuana is legal, children's accidental ingestion of the substance has grown increasingly common.²⁵ Massachusetts, which has legalized cannabis, saw the number of cannabis-related calls to poison control involving children and teenagers, double in the last year; they are at particular risk regarding cannabis edibles.²⁶ While we can teach children not to ingest medicines, they are unlikely to be able to distinguish between an ordinary brownie and one containing marijuana, which could be life threatening.²⁷

With regard to the long-term risks of use, cannabis does not appear to cause lung cancer (although it is difficult to determine this definitively, as many who use marijuana also smoke cigarettes), but it is associated with an aggressive form of testicular cancer.²⁸ Cannabis increases the risks of strokes and heart attacks; in the first hour after use, the risk of heart attack rises nearly five-fold.^{29,30,31} Cannabis impairs sperm func-

²⁴ Macdonald S, et al., "Testing for Cannabis in the Workplace: a Review of the Evidence," *Addict Abingdon Engl.*, 2010;105(3):408-416. doi:10.1111/j.1360-0443.2009.02808.x.

²⁵ Wang GS, et al., Association of Unintentional Pediatric Exposures with Decriminalization of Marijuana in the United States," *Ann Emerg Med*, 2014; 63:684.

²⁶ Jennifer M. Whitehill, et al., "Incidence of Pediatric Cannabis Exposure Among Children and Teenagers Aged 0 to 19 Years Before and After Medical Marijuana Legalization in Massachusetts," *JAMA Network Open*, 2019 doi: 10.1001/jamanetworkopen.2019.9456.

²⁷ Although there are no reports of death, two unrelated, otherwise healthy adolescent males (aged 17 and 18 years) collapsed while playing sports, hours after smoking what they believed to be marijuana. They went into cardiac arrest and were successfully resuscitated.

²⁸ Daling JR, et al., "Association of Marijuana Use and the Incidence of Testicular Germ Cell Tumors," *Cancer*, 2009;115(6):1215-1223. doi:10.1002/cncr.24159.

²⁹ Mittleman MA, et al., "Triggering Myocardial Infarction by Marijuana," *Circulation*, 2001;103(23):2805-2809. doi:10.1161/01.CIR.103.23.2805.

tion.³² Chronic use can lead to Cannabinoid Hyperemesis Syndrome—recurrent episodes of severe nausea, vomiting, and dehydration and can lead to kidney failure, electrolyte abnormalities, and skin burns, since hot showers provide temporary relief.^{33,34,35,36,37} Until recently this syndrome was rare and few doctors recognized it. But it has become more common with the increase in marijuana use. In Colorado, incidence has doubled. Researchers estimate that one-third of those who smoke twenty or more days per month experience symptoms, suggesting that approximately three million Americans are likely to develop it.³⁸

This medical data confirms the fact that recreational marijuana is harmful. Rav Shlomo Zalman Auerbach³⁹ and Rav Chaim Yosef David Weiss of Antwerp⁴⁰ prohibit recreational marijuana. However, even if medical literature had not firmly and definitively established the long-term dangers of recreational marijuana, even the suspicion that it is dangerous would be sufficient to forbid its use. Rama writes that even a *safek sakanah*, the possibility that a behavior is dangerous, creates a prohibition.^{41,42} If the obligation to protect one's health is Biblical, based on the verse “*ve-nishmartem me'od li-nafshotekhem*,” or “guard your health ex-

³⁰ Hackam DG, “Cannabis and Stroke: Systematic Appraisal of Case Reports,” *Stroke*, 2015; 46:852.

³¹ Rumalla K, et al., “Recreational Marijuana Use and Acute Ischemic Stroke: A Population-Based Analysis of Hospitalized Patients in the United States,” *J Neurol Sci*, 2016; 364:191.

³² Du Plessis SS, et al., “Marijuana, Phytocannabinoids, the Endocannabinoid System, and Male Fertility,” *J Assist Reprod Genet*, 2015; 32:1575.

³³ Chocron, Y, et al., “Cannabinoid Hyperemesis Syndrome,” *BMJ (Clinical research ed.)* (19 July 2019): 366:14336. doi:10.1136/bmj.14336.

³⁴ Wallace, Erik A, et al., “Cannabinoid Hyperemesis Syndrome: Literature Review and Proposed Diagnosis and Treatment Algorithm,” *Southern Medical Journal* (1 September 2011): 104 (9): 659–664.

³⁵ Galli JA, et al., “Cannabinoid Hyperemesis Syndrome,” *Curr Drug Abuse Rev*, 2011;4(4):241-249.

³⁶ Chocron, Y, “Cannabinoid Hyperemesis Syndrome.”

³⁷ Lapoint, Jeff, et al., “Cannabinoid Hyperemesis Syndrome: Public Health Implications and a Novel Model Treatment Guideline,” *Western Journal of Emergency Medicine* (2018): 19 (2): 380–386.

³⁸ Alaniz VI, et al., “Cannabinoid Hyperemesis Syndrome: A Cause of Refractory Nausea and Vomiting in Pregnancy,” *Obstet Gynecol*, 2015;125(6):1484–6.

³⁹ מעדני שלמה עם קמה.

⁴⁰ קונטרס ובהרת בחיים (וייס, עמ' כ).

⁴¹ Rav Spitz Y. “Smoking and Halacha,” *Ohr Samayach* 2015; August 1. Available at: <http://bit.ly/2IZPpTA>.

⁴² Rav Moses Isserles (1530–1572). *Shulhan Arukh, Yoreh De'ab* 116:5.

ceedingly,”⁴³ then a *safelek sakanah* becomes a *safelek de-oraita*, a case of doubt regarding a Biblical prohibition, which is even more stringent.^{44,45} The *halakbic* principle “*hamira sakanta me-isura*,” danger is more stringent than a halakhic prohibition, further supports a strict approach to situations where there is even a suspicion of danger.⁴⁶ Thus, the *Beit Din* in Jerusalem concluded that although experts disagree over the dangers of marijuana, the possibility that it is harmful renders it prohibited.⁴⁷

Shomer Peta'im Hashem

Avodah Zarah 30b, *Niddah* 31a, *Yevamot* 72a, and *Shabbat* 129b cite the *halakbic* principle “*shomer peta'im Hashem*,” that G-d protects the simple, to permit dangerous behaviors in which many have engaged without harm. Society has embraced cannabis use, and furthermore, some who use it are not even harmed. Many therefore believe that *shomer peta'im Hashem* should apply. *Poskim*, however, have defined when the principle permits dangerous behavior. *Niddah* 31a uses it to explain why a couple may engage in intercourse on the ninetieth day of a woman's pregnancy, which was considered to be dangerous. If they could determine this day, intercourse would be forbidden, but since they cannot, they may engage in it and rely on the principle to protect them. Thus, *shomer peta'im Hashem* does not apply when the danger is known and certain. However, some also extend it to situations where the danger is known but the risk is small. Rav Ya'akov Ettlinger, *Binyan Tz'ion*, no 137, distinguished between a certain and immediate danger, which would be forbidden, and a potential, future danger, which would be permitted. Based on this distinction, Rav JD Bleich explained that *shomer peta'im Hashem* permits a woman to engage in unrestricted marital relations even though the potential ensuing pregnancy could endanger her life,⁴⁸ as the risks of pregnancy are remote. In his *teshuvah* regarding the permissibility of smoking, Rav Feinstein explained that this principle applies to circumstances

⁴³ Deuteronomy 4:15.

⁴⁴ A Ruling by the Va'ad Halakhah, Rav Asher Bush, Chairman, “The Prohibition of Smoking in Halacha,” *The Rabbinical Council of America*, 2006; June 30. Available at: <http://bit.ly/2Xl3vra>.

⁴⁵ Greenwald Y, “Holy Smokes! A Halachic Discussion Regarding E-Cigarettes. Are E-Cigarettes Problematic from a Halachic Standpoint?” May 21, 2017. Available at: <http://bit.ly/2FKqRMp>.

⁴⁶ A Ruling by the Va'ad Halakhah, Rav Asher Bush, Chairman. “The Prohibition of Smoking in Halacha.”

⁴⁷ בפסקי דין ירושלים (ח"ז עמ' תקמ בראשות האב"ד הרב אברהם דוב לויין).

⁴⁸ Bleich, JD, “Smoking,” *Tradition* 16, no. 4 (1977).

where there is *safeik sakanah*, a possible danger, and society has demonstrated its willingness to accept this risk.⁴⁹ He noted that Rambam, *Hilkehot De'ot* 4:5, does not prohibit fatty food, although *Hilkehot Rotzeah* 11:4 obligates the removal of a dangerous obstacle. Based on Rambam's omission of a prohibition against eating fatty foods, Rav Feinstein discouraged but permitted fatty foods, because most people enjoy them without harm. He put smoking in this same category, reasoning that the vast majority of people smoke without harm and therefore society accepts it. Tellingly, Rav Feinstein did not apply *shomer peta'im Hashem* to recreational marijuana, presumably because he believed that it posed a danger and society had not demonstrated a willingness to accept its risks.⁵⁰

Although recreational marijuana might pose an immediate and acute danger, impairing judgment within minutes after use and causing cannabis hyperemesis, the majority of Americans are willing to accept the "attendant dangers involved."⁵¹ Should *shomer peta'im Hashem* now apply to recreational marijuana, in light of its legalization and increasing acceptance? Are the dangers of recreational marijuana certain, merely possible, or so few that they are of no consequence? The analysis above suggests that the dangers of recreational marijuana are known and are serious. *Shomer peta'im Hashem* cannot justify using a substance with such dangers even if society embraces them. Rav Feinstein did not apply *shomer peta'im Hashem* to genetic testing for Tay Sachs because the risks are known and can be averted. Though recreational marijuana is becoming increasingly acceptable, its dangers are known and easily averted, and thus *shomer peta'im* should not apply. Further, the principle does not permit the violation of the prohibition against addiction, and the *mitzvot* of *kibbud horim* and *kedoshim tihyu*.

⁴⁹ *Iggerot Moshe, Hoshen Mishpat* II:76.

⁵⁰ In 1977, Rav JD Bleich (Bleich, JD "Smoking," *Tradition* 16, no. 4 (1977)) discussed the *halakhic* permissibility of smoking cigarettes and concluded that their use was permitted based on *shomer peta'im Hashem* because the danger is not immediate and "the majority of smokers do not compromise their health and do not face premature death as a result of cigarette smoking." In addition, society accepted the attendant dangers involved. He reiterated this statement in 1983 (Bleich JD, "Survey of Recent Halakhic Literature: Smoking," *Tradition* 23, no. 2 (1983)).

⁵¹ Keyhani S, et al. "Risks and Benefits of Marijuana Use: A National Survey of U.S. Adults," *Ann Intern Med.* 2018;169:282–290. [Epub ahead of print 24 July 2018]. doi: <https://doi-org.ezp-prod1.hul.harvard.edu/10.7326/M18-0810>.

***Shomer Peta'im* in Special Populations**

Pregnant Women

Women's use of recreational marijuana during pregnancy increased from 2009 to 2017.⁵² Seventy-one percent of pregnant women who used cannabis believed that there was only a slight risk or none at all in using it once or twice a week.⁵³ In Maryland, nearly two-thirds (62%) of pregnant cannabis users reported that they would increase their use while pregnant, if cannabis were legalized.⁵⁴ Since legalization in Colorado, the THC concentration in the meconium of newborns has increased by 69%, reflecting increased maternal use.⁵⁵ This suggests that pregnant women are likely to disregard the dangers of recreational marijuana. However, marijuana use during pregnancy can affect the newborn's brain development and result in low birth weight, hyperactivity, poor cognitive function, and have other long-term consequences.^{56,57,58,59,60,61}

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- ⁵² Young-Wolff KC, et al. "Self-reported Daily, Weekly, and Monthly Cannabis Use Among Women Before and During Pregnancy," *JAMA Netw Open*, 2019;2(7):e196471. doi:10.1001/jamanetworkopen.2019.6471.
- ⁵³ Ko JY, et al., "Prevalence and Patterns of Marijuana Use among Pregnant and Nonpregnant Women of Reproductive Age," *Am J Obstet Gynecol*, 2015;213(2):201.e1-201.e10.
- ⁵⁴ Mark K, et al., "Pregnant Women's Current and Intended Cannabis Use in Relation to Their Views Toward Legalization and Knowledge of Potential Harm," *J Addict Med*, 2017;11(3): 211-216. doi:10.1097/ADM.000000000000299.
- ⁵⁵ Jones JT, et al., "A Comparison of Meconium Screening Outcomes as an Indicator of the Impact of State-Level Relaxation of Marijuana Policy" [abstract from 2015 annual meeting of the College on Problems of Drug Dependence], *Drug Alcohol Depend*, 2015;156:e104-e105.
- ⁵⁶ Bertrand, KA, et al., "Marijuana Use by Breastfeeding Mothers and Cannabinoid Concentrations in Breast Milk," *Pediatrics* (2018), 142(3). doi:10.1542/peds.2018-1076.
- ⁵⁷ Metz TD, Stickrath EH, "Marijuana Use in Pregnancy and Lactation: A Review of the Evidence," *Am J Obstet Gynecol*, 2015;213(6):761-778.
- ⁵⁸ "Effects While Pregnant or Breastfeeding," (2017, March 02), <https://www.colorado.gov/pacific/marijuana/effects-while-pregnant-or-breastfeeding>.
- ⁵⁹ Brents LK, "Marijuana, the Endocannabinoid System and the Female Reproductive System," *The Yale Journal of Biology and Medicine*, 89(2), 175-191.
- ⁶⁰ "The Health Effects of Cannabis and Cannabinoids: Current State of Evidence and Recommendations for Research," *National Academies of Sciences, Engineering, and Medicine*, 2017. Washington, DC: The National Academies Press.
- ⁶¹ Crume et al., "Cannabis Use During the Perinatal Period in a State with Legalized Recreational and Medical Marijuana: The Association Between Maternal

The American College of Obstetricians and Gynecologists⁶² and the American Academy of Pediatrics categorically warn against use of marijuana during pregnancy.⁶³ The U.S. Surgeon General has stated, “No amount of marijuana use during pregnancy or adolescence is known to be safe. Until and unless more is known about the long-term impact, the safest choice for pregnant women and adolescents is not to use marijuana.”⁶⁴ In his *responsa* regarding the permissibility of cigarettes, Tzitz Eliezer cites government-issued warnings as evidence to situations in which *shomer peta'im* no longer applies, since they prove that the risks are known and that society no longer accepts them.⁶⁵ These collective and unequivocal warnings against use of marijuana in pregnancy disqualify application of *shomer peta'im Hashem* to this population.

Adolescents

Similarly, one might also incorrectly assume that increasing adolescent use and acceptance of marijuana make it permissible because of *shomer peta'im Hashem*. Indeed, for adolescents, marijuana use is second only to alcohol.⁶⁶ In 2017, approximately 9.2 million of 12- to 25-year olds reported having used it in the past month, and 29% more started doing so.⁶⁷ In addition, high school students' perception of the harm from

Characteristics, Breastfeeding Patterns, and Neonatal Outcomes,” *J Pediatr*, 2018;197:90-96.

⁶² “Marijuana Use During Pregnancy and Lactation,” American College of Obstetricians and Gynecologists: Committee Opinion No. 722. *Obstet Gynecol*, 2017;130(4):e205-e209.

⁶³ Ryan et al., “Marijuana Use During Pregnancy and Breastfeeding: Implications for Neonatal and Childhood Outcomes,” *Pediatrics*, 2018, 142(3):e20181889.

⁶⁴ <https://www.hhs.gov/surgeongeneral/reports-and-publications/addiction-and-substance-misuse/advisory-on-marijuana-use-and-developing-brain/index.html>.

⁶⁵ *Tzitz Eliezer* 15:39.

⁶⁶ Elsohly, MA, et al., “Changes in Cannabis Potency Over the Last 2 Decades (1995-2014): Analysis of Current Data in the United States,” *Biological Psychiatry* (2016), 79(7), 613-619, doi:10.1016/j.biopsych.2016.01.004.

⁶⁷ “Key Substance Use and Mental Health Indicators in the United States: Results from the 2017 National Survey on Drug Use and Health,” Substance Abuse and Mental Health Services Administration, (HHS Publication No. SMA 18-5068, NSDUH Series H-53, 2018). Rockville, MD: Center for Behavioral Health Statistics and Quality, Substance Abuse and Mental Health Services Administration.

regular marijuana use has been steadily declining over the last decade,⁶⁸ probably because of its legalization. However, *shomer peta'im Hashem* cannot justify their use, because federal and state law prohibit adolescents' use, sale, and possession of marijuana, and because research shows that the dangers to brain development (which continues until age 25) are substantial, affecting attention, memory, school performance, life-satisfaction, decision-making, and motivation for as long as one month after abstinence.^{69,70,71,72}

Marijuana Destroys the Mind, "מקלקל את הדעת"

Rav Finkelstein argued that cannabis has no long-term effect on the mind, and any acute effects disappear immediately after smoking it. He claimed that even if cannabis were to impair cognition, its calming effect improves one's mind, "*tikkun ha-da'at*," and opens it to new horizons, offsetting any potential detriments. He argued that cannabis soothes the nerves and that just as one is allowed to incur the risk of plastic surgery to improve one's appearance, one should be allowed to incur the risks of marijuana to improve one's mood.

However, medical data shows that the vast majority of people use recreational marijuana in order to get high,⁷³ to achieve a state of קלקול דעת, clouded judgement. Recreational marijuana profoundly damages judgment and cognition, and these effects can persist after one discontinues cannabis use. Cannabis acutely impairs attention, concentration,

⁶⁸ Johnston, L. D., Miech, R. A., O'Malley, P. M., Bachman, J. G., Schulenberg, J. E., & Patrick, M. E. (2019). Monitoring the Future national survey results on drug use 1975-2018: Overview, key findings on adolescent drug use. Ann Arbor: Institute for Social Research, University of Michigan.

⁶⁹ Pujol, J, et al., "When Does Human Brain Development End? Evidence of Corpus Callosum Growth Up to Adulthood," *Annals of Neurology* (1993), 34(1), 71-75, doi:10.1002/ana.410340113.

⁷⁰ Levine, A, et al., "Evidence for the Risks and Consequences of Adolescent Cannabis Exposure," *Journal of the American Academy of Child & Adolescent Psychiatry* (2017), 56(3), 214-225. doi:10.1016/j.jaac.2016.12.014.

⁷¹ Meruelo AD, et al., "Cannabis and Alcohol Use, and the Developing Brain," *Behav Brain Res*, 2017;325(Pt A):44-50. doi:10.1016/j.bbr.2017.02.025.

⁷² Meier MH, et al. "Persistent Cannabis Users Show Neuropsychological Decline from Childhood to Midlife," *Proc Natl Acad Sci USA*, 2012. Oct 2; 109(40) E2657-64 doi 10.1073/pnas.1206820109. Epub 2012 Aug 27.

⁷³ Patrick ME, et al., "Reasons for Marijuana Use Among Young Adults and Long-Term Associations With Marijuana Use and Problems," *J Stud Alcohol Drugs*, 2016;77(6):881-888. doi:10.15288/jsad.2016.77.881.

memory, and learning, and greater effects appear with increasing doses.⁷⁴ Unlike alcohol, which impairs only for hours after use, marijuana's negative effects can last for days or weeks.^{75,76} As a result, daily users of marijuana might be functioning at a reduced intellectual level most or all of the time.

Cannabis not only impairs judgment but also contributes to mental illness. Cannabis use causes psychosis, which can lead to schizophrenia, and exacerbates schizophrenia for those who already suffer from it.⁷⁷ Researchers estimate that 13% of schizophrenia cases stem from cannabis use.⁷⁸ Cannabis is also associated with the later development of mood disorders, anxiety disorder, depression, and bipolar disorder.⁷⁹

Chronic cannabis use impairs short-term memory, and the more one smokes, the greater the impairment. One study showed that for each additional five marijuana-years of exposure, users' verbal memory dropped 0.13 standardized units lower than that of those who had never used marijuana, corresponding to a mean of half of all participants remembering one less word from a list of 15 words for every 5 years of use.⁸⁰

Rav Hannan Appelow from Modiin Ilit points out that the detrimental effects of marijuana on memory violate the prohibition against forgetting Torah.⁸¹ *Mishnah Avot* 3:8 writes, "Rabbi Dostai ben Rav Yannai said in the name of Rav Meir, whoever forgets one word of his

⁷⁴ Curran HV, et al. "Keep Off the Grass? Cannabis, Cognition and Addiction," *Nat Rev Neurosci*, 2016; 17:293.

⁷⁵ Schweinsburg AD, et al., "The Influence of Marijuana Use on Neurocognitive Functioning in Adolescents," *Curr Drug Abuse Rev*, 2008;1(1):99-111.

⁷⁶ M. Kathryn Dahlgren, et al., "Drug and Alcohol Dependence," <https://doi.org/10.1016/j.drugalcdep.2019.107771> 0.

⁷⁷ Schoeler T, et al. "Continued Versus Discontinued Cannabis Use in Patients with Psychosis: A Systematic Review and Meta-Analysis," *Lancet Psychiatry*, 2016; 3:215.

⁷⁸ Zammit S, et al. "Self-Reported Cannabis Use as a Risk Factor for Schizophrenia in Swedish Conscripts of 1969: Historical Cohort Study," *BMJ* 2002;325(7374):1199.

⁷⁹ Blanco C, et al. "Cannabis Use and Risk of Psychiatric Disorders: Prospective Evidence from a US National Longitudinal Study," *JAMA Psychiatry*, 2016; 73:388.

⁸⁰ Auer R, et al. "Association Between Lifetime Marijuana Use and Cognitive Function in Middle Age: The Coronary Artery Risk Development in Young Adults (CARDIA) Study," *JAMA Intern Med*. 2016;176(3):352–361.

⁸¹ *Sh"ut Asher Hannan* 8:39.

study, scripture accounts it to him as if he were mortally guilty.”⁸² Similarly, we see in *Yoma* 38b that, “Rabbi Elazar further said, one who causes himself to forget a matter of his studies ultimately causes exile for his children,” which Ritva explains as a prohibition against acting **deliberately** to cause one’s self to forget Torah. *Smag* (*Lo Ta’aseh* 13) and *Smak* 15, include the prohibition against forgetting Torah as a negative commandment. Rav Appelow points out that recreational marijuana, which has been proven to impair memory, violates the prohibition. The user is no different from someone who knowingly performs any action that destroys his brain’s memory cells.

Why is *kilkul da’at*, mind-altering, prohibited? The Lubavitcher Rebbe offers several reasons. In a personal conversation, he explained that marijuana gives you a false sense of something. But after the initial experience, when you try to grab hold of it and define it, the sensation slips into the realm of fantasy. This is because it’s not coming from the inside; it’s coming from the outside. Therefore, he said, it’s not a legitimate means to a religious experience.⁸³ Rav Adin Steinsaltz writes, “I once heard from the Lubavitcher Rebbe... that the opinion of the Torah in general is that the person should be the master over his or her self, and enslavement of any sort is wrong. Can a person still be the master over himself when involved with drugs and other addictive substances?”⁸⁴ In a response to a 1977 query, the Lubavitcher Rebbe, wrote that his opposition to marijuana use was “more and more so. The very question is startling.” Why was this? In a 1965 letter to a student in Cambridge, Massachusetts, regarding LSD, he wrote,

The claim that the said drug can stimulate mystical insight, etc., is not the proper way to attain mystical inspiration. The Jewish way is to go from strength to strength, not by means of drugs and other artificial stimulants.

Similarly, Rav JB Soloveitchik wrote,

People speak about religious experiences today, trying to stimulate religious experiences with drugs or all kinds of acrobatics while actually engaging in idolatrous practices. But one cannot get a reli-

⁸² *Devarim* 4:9.

⁸³ http://jemedial.org/email/newsletter/My_Encounter/5-10-14.pdf.

⁸⁴ https://www.chabad.org/blogs/blog_cdo/aid/1171699/jewish/The-Problem-With-Drugs.htm.

gious experience—that is, a Jewish religious experience—without utilizing the materials of *Halakhab*.⁸⁵

Marijuana to Relieve Tension

Many use marijuana to relieve tension. Does *Halakhab* permit one to engage in dangerous behavior and bodily harm, *hovel*, for this kind of non-medical benefit? In three *teshuvot*, Rav Feinstein stated that one may endanger oneself for nonmedical benefit. In *Iggerot Moshe, Hoshen Mishpat* I:103, he permitted donating blood for financial compensation though blood drawing violates the prohibition of *hovel*. In *Iggerot Moshe, Hoshen Mishpat* II: 65 he allowed dieting, which involves the infliction of pain and hunger by depriving oneself of food for non-medical purposes, purely to improve one's appearance. In *Iggerot Moshe, Hoshen Mishpat* III:66, he permitted a young woman to undergo plastic surgery to beautify herself and relieve *tza'ar*, pain because the surgery is "*l-tovata*," for her benefit. If one may inflict a wound for financial benefit, induce hunger to relieve the mental anguish of being overweight, and incur the risk of plastic surgery to relieve the distress of a physical defect, should one not be allowed to incur the risks of marijuana to improve one's mood? Rav Feinstein's reasoning suggests not. While these three *teshuvot* permit incurring risk for non-medical benefit, they do not justify use of marijuana to relieve tension. Rav Feinstein concluded that inflicting a wound is prohibited even for a real need; he permitted blood drawing only because Talmudic precedent allowed it and because today blood can be drawn with minimal *tza'ar*. Dieting is far less dangerous than recreational marijuana and in most cases has medical benefit. Plastic surgery involves a one-time risk leading to permanently improved satisfaction with one's body, whereas marijuana use involves daily risks (which persist for many days) to improve one's mood temporarily. The justification for incurring the risks of plastic surgery is that it is "*l-tovata*." It is hard to argue that recreational marijuana, with all of the physical, mental, and substance abuse risks, qualifies as "*l-tovata*," even if it helps to relieve tension. In addition, the justification for incurring the risk of plastic surgery is *tza'ar*, mental anguish, an emotional pain that is far more serious than the stress and tension of daily life. Furthermore, although recreational marijuana, like blood drawing, dieting, and plastic surgery, poses a physical risk, it also causes cognitive impairment. Additionally, it is counterproductive. Research indicates that using cannabis to calm one's nerves

⁸⁵ *Out of the Whirlwind* (NJ: Ktav for Toras HoRav, 2003) p. 9.

is dangerous; at low levels, cannabis can relax the user, but at higher doses, it can increase anxiety.⁸⁶

Marijuana Leads to Addiction

Rav Finkelstein argued that only a small number of users become addicted and that an even smaller number progress to hard drugs.

Medical data invalidate these claims. Research indicates that recreational marijuana does lead to addiction. One in eight cannabis users has cannabis use disorder.^{87,88} People who begin using marijuana before the age of 18 are four to seven times more likely to develop a marijuana use disorder than are adults.⁸⁹ In 2015, about four million people in the United States met the diagnostic criteria for a marijuana use disorder and its prevalence is increasing.⁹⁰ Cannabis use and cannabis use disorder are associated with increased likelihood of cigarette⁹¹ and alcohol use, as well as alcohol use disorder, opioid use disorder, cocaine use disorder, and “club-use disorder” (methamphetamine), suggesting that cannabis might be a gateway drug to other licit and illicit substances.^{92,93} The increased incidence of cannabis use disorder, and the increased potency of

⁸⁶ Tambaro S, Bortolato M, “Cannabinoid-Related Agents in The Treatment of Anxiety Disorders: Current Knowledge and Future Perspectives,” *Recent Pat CNS Drug Discov*, 2012;7(1):25-40.

⁸⁷ Hasin DS, et al. “Prevalence of Marijuana Use Disorders in the United States Between 2001-2002 and 2012-2013,” *JAMA Psychiatry*, 2015; 72(12):1235-1242. doi:10.1001/jamapsychiatry.2015.

⁸⁸ Hasin DS, “Prevalence of Marijuana Use Disorders,” 1858.

⁸⁹ Winters KC, Lee C-YS, “Likelihood of Developing an Alcohol and Cannabis Use Disorder During Youth: Association with Recent Use and Age,” *Drug Alcohol Depend*, 2008;92(1-3):239-247, doi:10.1016/j.drugalcdep.2007.08.005.

⁹⁰ Results from the 2015 National Survey on Drug Use and Health: Detailed Tables, SAMHSA, CBHSQ. <http://www.samhsa.gov/data/sites/default/files/NSDUH-DETabs-2015/NSDUH-DETabs-2015/NSDUH-DETabs-2015.htm> and Cerdá M, Mauro C, Hamilton A, et al. “Association Between Recreational Marijuana Legalization in the United States and Changes in Marijuana Use and Cannabis Use Disorder From 2008 to 2016,” *JAMA Psychiatry*.

⁹¹ Agrawal A, et al., “The Co-Occurring Use and Misuse of Cannabis and Tobacco: A Review,” *Addiction*, 2012; 107:1221.

⁹² Hayley AC, et al., “DSM-5 Cannabis Use Disorder, Substance Use and DSM-5 Specific Substance-Use Disorders: Evaluating Comorbidity in a Population-Based Sample,” *Eur Neuropsychopharmacol*, 2017; 27:732.

⁹³ Hughes JR, et al. “Attempts to Stop or Reduce Daily Cannabis Use: An Intensive Natural History Study,” *Psychol Addict Behav*, 2016; 30:389.

marijuana have only increased the risk of addiction since Rav Feinstein authored his *teshuvah*.⁹⁴

Addiction in *Halakhah*

Several sources suggest that *Halakhah* prohibits addiction. *Pesahim* 113a states, “Rav said to Hiyya, his son, ‘do not drink medications.’” Rashi explains that drugs are forbidden because they lead to addiction and wasting money. Rashbam bans their use unless no other medicine is available, suggesting that the prohibition against addiction is so strong that one may not turn to drugs even for medical use. Why is addiction prohibited? *Bava Metzriah* 10a derives from Vayikra 25:55, “For unto Me the children of Israel are servants; they are My servants, and not servants to servants.” In other words, the Jewish people must serve G-d and no other being or object. Jews may be enslaved only to G-d. Addiction enslaves the individual to an object, substance, or person, and prevents him from serving his true master, G-d. Over one hundred years ago, Chafetz Chaim prohibited smoking because it leads to addiction. He vehemently chastised smokers, asking them, “Who permitted you to become so accustomed to cigarettes?”⁹⁵ Rav Hayyim Yosef David Weiss⁹⁶ cited the potential for addiction as a critical reason for the prohibition against marijuana. In his *teshuvah* regarding smoking cigarettes, Rav Feinstein reiterated the prohibition against addiction to any substance.⁹⁷

Marijuana Addiction Compared to Other Addictions

In his rejection of Rav Feinstein’s argument that marijuana leads to addiction, Rav Finkelstein suggests that the propensity to addiction alone does not render marijuana halakhically prohibited. If halakha prohibited items which lead to addiction, addictive products such as coffee, coca cola, energy drinks, cigarettes, alcohol and pain medicine would also be forbidden. He points out that halakha permits these products though some are more addictive and harmful than marijuana.

⁹⁴ Mehmedic Z, et al., “Potency Trends of Δ 9-THC and Other Cannabinoids in Confiscated Cannabis Preparations from 1993 to 2008,” *J Forensic Sci*, 2010;55(5):1209-1217, doi:10.1111/j.1556-4029.2010.01441.x.

⁹⁵ חפץ חיים - ליקוטי אמרים פרק יג.

⁹⁶ קונטרס ובהרת בחיים (וייס, עמ' כ).

⁹⁷ *Hoshen Mishpat* 2:76.

Comparing marijuana to coffee or coca cola is flawed reasoning, as they do not impair cognition or increase the risk of traffic accidents, emergency room visits, or psychiatric diagnoses of addiction. In addition, the Diagnostic and Statistical Manual of Mental Disorders (DSM-5) does not classify caffeine addiction as a psychiatric disorder. The comparison with cigarettes is also flawed, as virtually all modern *poskim* prohibit their use;^{98,99} Rav Feinstein, who never prohibited the use of cigarettes, clearly prohibited nicotine addiction.¹⁰⁰ The comparison with pain medicines does not stand either. *Tzitz Eliezer* permits pain medicine, despite its addictive potential, but not for recreational use,¹⁰¹ only under a physician's supervision, and only to relieve physical pain due to illness.¹⁰²

Comparing marijuana to alcohol is also problematic. Although *Halakhab* permits the use of alcohol, it prohibits intoxication. Rambam *Hilkebot De'ot* 5:3 writes,

Whosoever intoxicates himself is a sinner, contemptible, and brings about the loss of his wisdom.

Similarly in *Hilkebot Shvitat Yom Tov* 6:20, he writes, "It is impossible to serve G-d, neither from joking, nor from light-headedness, nor from drunkenness." *Halakhab* permits alcohol consumption only if it does not lead to inebriation.

Why does *Halakhab* distinguish between alcohol and marijuana, prohibiting any amount of marijuana yet permitting alcohol in moderation? First of all, the primary purpose of recreational marijuana is to achieve a high, a form of intoxication, and *Halakhab* forbids intoxication. Second, in many places the possession and consumption of marijuana is illegal regardless of the quantity, and is thus halakhically prohibited based on *dina de-malkhuta dina*. In addition, the pharmacologic effects of marijuana are quite different than those of alcohol. THC levels rise in blood immediately after smoking cannabis, causing a high within seconds of inhalation, and remain in blood and urine for more than a month after ingestion. Its psychoactive effects occur immediately and peak after 30 minutes but can persist for several hours. Acute cannabis

⁹⁸ A Ruling by the Va'ad Halakhah, Rav Asher Bush, Chairman. "The Prohibition of Smoking in Halakhah."

⁹⁹ <https://www.rmmj.org.il/userimages/951/1/PublishFiles/960Article.pdf>.

¹⁰⁰ *Hoshen Mishpat* 2:76.

¹⁰¹ *Tzitz Eliezer* 13:87.

¹⁰² *Tzitz Eliezer* 13:87.

use impairs decision-making and concentration.¹⁰³ No one has yet been able to define a safe level of THC in the blood; some geographic areas consider a THC level below 5ng/ml acceptable, but one can reach this level after just a few puffs. Any more than that causes drug intoxication and interferes with driving.¹⁰⁴ In contrast, the blood alcohol level that leads to impaired driving is known and defined. A few sips of beer will not lead to intoxication and are unlikely to affect one's judgment,¹⁰⁵ whereas a few puffs of cannabis can.¹⁰⁶ Nor do we know the amount of time one needs to wait to drive a car after smoking cannabis. Although any amount of marijuana is harmful, nearly a third of the users in one study believed that driving under the influence of marijuana is somewhat safer or much safer than driving under the influence of alcohol.¹⁰⁷

Does Marijuana Violate the Obligation of *Kibbud Av V-Em*?

Rav Finkelstein believes that marijuana may only violate *kibbud av v'em*, honoring one's parents, when used by students in a yeshiva. One might take issue with this narrow assumption, but even if we accept it, the number of students using cannabis is substantial and growing. In 2016, 9% of eighth graders, 24% of tenth graders and 36% of twelfth graders reported using cannabis.¹⁰⁸ He cites *Yalkut Yosef* 240:1-2, which states that a child who causes his parents emotional pain does not violate *kibbud av v-em* as this mitzvah applies to matters that relate directly to the parents and not to those who merely cause the parents anguish. Thus in his view, a child who causes his parents emotional distress by using recreational marijuana would not violate this obligation. However, *Yalkut*

¹⁰³ Crean RD, et al., "An Evidence Based Review of Acute and Long-Term Effects of Cannabis Use on Executive Cognitive Functions," *J Addict Med*, 2011;5(1):1-8. doi:10.1097/ADM.0b013e31820c23fa.

¹⁰⁴ <https://lcb.wa.gov/mj-education/safety>.

¹⁰⁵ Texas A&M University, "You Booze, You Lose: Even Small Amount of Alcohol Affects Driving Skills," *ScienceDaily*, 19 September 2002.

¹⁰⁶ <https://www.boulderweekly.com/features/weed-between-the-lines/how-will-i-know-if-irsquom-one-toke-over-the-line/>.

¹⁰⁷ Keyhani S, et al., "Risks and Benefits of Marijuana Use: A National Survey of U.S. Adults," *Ann Intern Med*, 2018;169:282-290. [Epub ahead of print 24 July 2018]. doi: <https://doi-org.ezp-prod1.hul.harvard.edu/10.7326/M18-0810>.

¹⁰⁸ Johnston, L. D., Miech, R. A., O'Malley, P. M., Bachman, J. G., Schulenberg, J. E., & Patrick, M. E. (2019). Monitoring the Future national survey results on drug use 1975-2018: Overview, key findings on adolescent drug use. Ann Arbor: Institute for Social Research, University of Michigan.

Yosef adds that even if the son's behavior in this situation does not violate *kibbud av v-em*, it violates the commandment to fear one's parent.¹⁰⁹

Parental approval of recreational marijuana has increased since the seventies. In a 2017 survey asking twelfth graders how their parents would feel about occasional or regular use, 17% believed that their parents would approve of occasional use, compared to 8% in 1979; 13% believed their parents would approve of regular use, compared to 4% in 1979. (In 2017, students were also more likely to believe that their parents would disapprove of cigarettes and binge drinking than they had been in 1979).¹¹⁰ Still, this study confirms that the vast majority of parents continue to disapprove of use and for them, the knowledge that their child uses marijuana might cause emotional anguish. In this situation, children who use marijuana are violating the commandment of *kibbud av v-em*.

Bava Metz'ia 32b and *Yevamot* 5b teach that honoring one's parents does not override rabbinic or Biblical prohibitions. *Shulhan Arukh, Yoreh De'ah* 240, states that if a parent tells the child to violate a positive or negative commandment, whether Biblical or rabbinic, the child must not listen. Thus, even if parents approve of their children using recreational marijuana, their permission is not sufficient to allow their children to violate the prohibitions against doing so.

Marijuana Use Violates the *Mitzvah* of *Kedoshim Tihyu*

Rav Feinstein argued that recreational marijuana violates the *mitzvah* of *kedoshim tihyu*, "Be Holy,"¹¹¹ according to Ramban's interpretation. According to Ramban, *kedoshim tihyu* prohibits lecherous behavior with one's wife or guzzling excessive quantities of alcohol. Rav Finkelstein argued that recreational marijuana does not violate *kedoshim tihyu* because it is not harmful. The research, however, clearly confirms that recreational marijuana does cause harm. Furthermore, Rav Yaakov Ariel cites *kedoshim tihyu* as the Biblical source for the prohibition against recreational marijuana.¹¹² Performing *mitzvot* requires complete dedication to

¹⁰⁹ *Yalkut Yosef, Kibbud Av v-Em* 240:2.

¹¹⁰ Miech, R. A., Johnston, L. D., O'Malley, P. M., Bachman, J. G., Schulenberg, J. E., & Patrick, M. E. (2018). Monitoring the Future national survey results on drug use, 1975–2017: Volume I, Secondary school students. Ann Arbor: Institute for Social Research, The University of Michigan. Available at <http://monitoringthefuture.org/pubs.html#monographs>.

¹¹¹ *Vayikra* 19:2.

¹¹² יעקב אריאל מאהלי תורה עמוד 195-198.

Torah, not just the external trappings. Without constant striving for Torah, one can become *naval be-r'shut ha-Torah*, one who follows the formal dictates of Torah but desecrates its spirit.¹¹³ Rav Yaakov Ariel concludes that recreational marijuana, which by definition removes the user from a life of consciousness and activities that ground him in reality, unequivocally violates *kedoshim tihyu*.

Marijuana Leads to Debauchery and Licentiousness

Poskim have associated marijuana with debauchery and licentiousness, a linkage that might originate in the Bible. Ramban and *Midrash Rabbah* (*Bemidbar* 25:1) ask how the women of Midian succeeded in their seduction of the Jews. Both state that they plied the men with wine to intoxicate them. However, Osrei La-Gefen in his commentary on *Parshat Balak* suggests that they added “grass” (marijuana) to the wine, which induced hallucination and intoxication.¹¹⁴ Those who partook despised and rejected *mitzvot* and were overcome by apathy, giving up on prayer. They perceived everything as equal and descended into worshipping false gods and then into licentiousness. They also violated the prohibition of *lo taturu*, the warning to avoid thinking about *avodah zarah*; the prohibition *al tijnu el ha-elilim*, do not turn to gods; and the constant *mitzvah* to fear G-d.

The contention that marijuana leads to licentious behavior is no less valid today than it was in 1973. Current data continue to associate marijuana use with risky sexual behavior.¹¹⁵ The dangers of the women of Midian, who might have seduced the Jewish people with marijuana, are enduring and ageless. Rav Finkelstein argued that the times have changed since Rav Feinstein wrote his *teshuvah*. In 1973, marijuana was part of the counter-culture movement of marginalized youth. According

¹¹³ Rav Yaakov Ariel offers the following example: One can be careful with all of the *kashrut* laws regarding wine, insuring that the vineyard is *kosher l'mehadrin*, that there is no possibility of *orlah* or *tevel*, and that all of the workers observe Shabbat. However, if the vintner is a gluttonous drunk and his table covered with vomit, he is not holy, but *tamei*. Keeping *mitzvot* according to *halakhab* obligates us to aspire to holiness and not be satisfied with fulfilling *mitzvot* according to their external framework.

¹¹⁴ Osrei La-Gefen as cited in <http://halacha.co/%D7%A9%D7%99%D7%9E%D7%95%D7%A9-%D7%91%D7%A1%D7%9E%D7%99%D7%9D/>.

¹¹⁵ Fielder RL, et al., “Predictors of Sexual Hookups: A Theory-Based, Prospective Study of First-Year College Women,” *Arch Sex Behav*, 2013;42(8):1425–1441. doi:10.1007/s10508-013-0106-0.

to Rav Finkelstein, Rav Feinstein's *teshuvah* was specifically and exclusively directed at yeshiva students and rebellious youth who were experimenting. As recreational marijuana is no longer limited to rebellious youth and has spread to mainstream society, he posited that the *teshuvah* no longer applies. However, in the conclusion of his *teshuvah*, Rav Feinstein explicitly extended the prohibition to all of society, not just youth, and clearly applied it to all ages, subcultures, and social organizations.

Rav Moshe Tendler's Position

In February 2020, Rav Moshe Tendler, Rav Feinstein's son-in-law, stated in reference to his father-in-law's *teshuvah*, "Of all his *teshuvot*, this one I thought was innocuous. (I) did not see anything to object to except the exact language that he used, which made it sound more forbidden than the world had accepted. It is forbidden. Of all his *responsa* he was saying what is believed to be a universal truth. To become addicted, Rav Feinstein held, was giving up part of your willpower. To become addicted to anything is a violation of *halakhab*. It is forbidden to become addicted to any drug. All addiction is bad for you and some addictions are worse than others... especially addictions that impact the physiological system. The inability to satisfy the addiction has led many people in desperation to do other forbidden acts like stealing from relatives. Therefore, the reality is that those people (who use recreational marijuana) are addicted. They have to go to great lengths to break that addiction. That is *issur* number one. Number two, there are medical side effects that are recognized by most authorities. Rav Feinstein was convinced that this (recreational marijuana) is dangerous.... I do not think that there is any disagreement among people who have studied the field in a professional way... that it is harmful to an individual. Now marijuana specifically there is enough in the literature to say that it has specific cerebral or mental affects, which may be impairing an individual long after he stops the addiction. Those are the main reasons that Rav Feinstein held that it is *assur*... I don't understand why there is any serious analysis of his words that leads to another conclusion."

Rav Tendler does not believe that the *teshuvah* applied only to the permissive culture of the seventies; he holds it to be universal and timeless.

On September 19, 2019, in response to legalization of recreational marijuana in the state of Illinois, Rav Yona Reiss, the *av beit din* of the Chicago Rabbinical Council, and several other distinguished Chicago

rabbinic leaders issued a statement prohibiting its use in the strongest terms and reaffirming Rav Feinstein's *teshuvah*.¹¹⁶ After consultation with experts, it concluded that "the data is clear that there are long-term health consequences, risk of addiction, and increased danger of permanent cognitive impairment" especially for teenagers and young adults. It added, "Unlike the ritual use of wine or alcohol, there is no tradition of using such substances under any circumstances, and no consideration of *shomer peta'im Hashem*."

Conclusion

Although some U.S. states and several countries have legalized recreational marijuana, and although public acceptance of this substance has grown, rising THC concentrations and increasing access render it potentially more dangerous than it was when Rav Feinstein wrote his *teshuvah* forbidding Jews to use it. ❧

¹¹⁶ Public letter distributed by Chicago Rabbinical Council, September 20, 2019.