DRUG PROHIBITION IS BOTH WRONG AND UNWORKABLE

Tibor R. Machan

Introduction

Many are growing increasingly skeptical of the claims by government officials about winning the war against drugs. Should this war be supported because a smaller percentage of teenagers use marijuana, or should it be opposed because a larger percentage of teenagers and young adults use cocaine and crack in the USA? Should people be optimistic when multi-billion dollar shipments of cocaine are confiscated, or pessimistic that seizures continue to increase yet have such little impact on price and consumption? Drug prohibition was doomed to failure from the start, no less so than alcohol prohibition, and the best alternative is an immediate return to complete legalization of such drugs.

Suppression of voluntary trade mostly drives the market underground and adds a criminal element, or so history teaches. So, the trade and use of drugs should not be prohibited and any abuse must be dealt with by means of education, moral fortitude, willpower, and social institutions, without benefit of coercive force of arms. Unfortunately this proposition is not obvious in our so called 'free' societies – perhaps due to the widespread conviction that individual responsibility is merely a relic of ancient philosophy and religion and the modern, scientific age has superseded the need for these. But this is wrong and shortly it will be obvious why.

The war on drugs received several major increases in funding during the 1980s, and the U.S. military is now heavily involved in drug-law enforcement. Despite these increased resources we are no closer to success with drug prohibition than communism is at creating a 'new economic

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man'. The fact that a full array of illegal drugs is available for sale throughout the Federal prison system, the Pentagon, and in front of the Drug Enforcement Administration building in Washington, D.C., demonstrates that little has been accomplished.

One lofty goal of drug prohibition was to prevent crime by removing access to mind-altering drugs. The great tragedy is that prohibition has created a vast new area of criminal activity – crimes such as robbery, burglary, and prostitution committed in order to pay for the high prices of illegal drugs. It is well documented that drug users commit crimes to pay the high prices brought on by prohibition and that wealthy addicts do not. And of course the vast smuggling operations on the USA – Mexican border have involved murders galore. Yet the futile 'war' is continued.

The rate of crimes with victims increased during the alcohol prohibition of the 1920s only to decline rapidly in 1933, the year Prohibition was repealed. Crime continued to decline until the mid-1960s and has been increasing ever since. For instance, the prison population increased by 35 percent between 1984 and 1988 in the USA. During that period the 'criminals on parole' population increased by over 50 percent! More innocent bystanders are being killed, more school systems are infected, and more neighborhoods are destroyed by the growing problems of prohibition.

The 1990 arraignment of Washington, DC, Mayor Marion Barry was a notorious media event, but in fact drug prohibition has been corrupting the political process for a very long time. This corruption is not confined to the United States. A look around the globe shows that countries that produce, process, and sell illegal drugs are also afflicted with corrupt political systems – consider several of them in Southeast Asia, Lebanon, Mexico, Afghanistan, and many in South America.

The American government occasionally reports with great pride that a smaller percentage of teenagers are regular marijuana smokers. What is left out of such press releases is that consumption of virtually every other type of

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drug has increased and that the number of reported deaths associated with illegal drug use continues to skyrocket. New types of drugs such as smokable cocaine and synthetic opiates are being introduced onto the streets at an alarming rate. The switch from marijuana to the more potent and dangerous drugs is arguably directly attributable to the enforcement of drug laws.

Prohibition forces black market suppliers to take precautions against detection. This ever present profit-making incentive takes on several forms such as:

1. Producing only the most potent form of a drug.
2. Switching from low potency drugs, such as marijuana, to high potency drugs, such as cocaine and heroin.
3. Inventing and producing more potent drugs, such as 'designer drugs', which are synthetic opiates thousands of times more potent than opium.

These results have been labeled accurately in the popular press the 'Iron Law of Prohibition'.

The history of drug prohibitions reveals that black markets produce low quality, high potency, and extremely dangerous products. The most powerful weapon of these black marketeers is not the gun, but the ability to stay at least one step ahead of law enforcement.

The population of the United States is growing older and more affluent. Normally these demographic changes would reduce drug use and addiction. Even habitual heroin users stabilize their habits and mature out of addiction if they survive the war on drugs. However, these beneficial trends have been far outweighed by the increased severity of the effects of prohibition. In fact, we would be surprised if prohibition actually did work. Any law or program that undermines individual responsibility and liberty has little chance of enhancing a democratic and free market society.

Most people now agree that prohibition is not working – the dispute is over what to do about it. Many argue that we

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don't have the right people in charge, but we have been changing the guard (and the law) now for over 150 years. Others argue that we just haven't done enough, but things have only become worse as we devote more of our resources and surrender our liberties to this cause. The support for prohibition rests on the fact that people cannot contemplate the obvious alternative – legalization.

The most important point to make is that if one has the right to his or her life, this implies that one also has the right to do with it what one will provided this doesn't involve aggression. And while it is possible that drug – as well as, of course, alcohol – consumption has side effects that can spill over on others who may be injured by junkies and traders, most such side effects are more sensibly attributed to prohibition itself. The high profits from illegal drug trade make such trade appealing to young people, especially members of poor minorities. That, too, would vanish once legalization occurred.

This is not the place to defend the right to one's life and the implied right to the liberty to live as one chooses if it is done peacefully but the crux of the argument is that everyone has the responsibility to conduct himself or herself morally and this would be impossible if other people had the authority to interfere with one's peaceful conduct. Thus the sovereignty of individuals is fundamental and that implies that how one uses or abuses oneself is a basic right of everyone. (Those who dispute this have a fundamentally different conception of social life, construing everyone to be the property of the community or state!)

The Benefits of Legalization

Legalization has many obvious benefits. The first is of course that it will place responsibility for drug abuse within the private sector, that is, the individuals who will make free choices as to whether to indulge or abstain. Then, also, anticipated lower prices would mean that drug users would

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no longer have to resort to crime to pay for their habits. With the tremendous profits gone, corruption of public officials would be reduced, and because Westerners and, especially, Americans constitute a bulk of world consumption, political corruption worldwide would be reduced.

Government budgets at the Federal, state, and local levels could be cut as entire programs are dismantled. However, one thing legalization would *not* do is balance government budgets. There is no way that tax rates on drugs could be raised high enough to offset the enormous federal deficit. Furthermore, high tax rates would encourage the black market to continue, people would still commit crimes to pay the high prices, and politicians would still be involved in corruption.

Legalization will create jobs in the private sector. People will be employed making heroin, cocaine, and marijuana for recreational, medical and other legitimate users. All of these products have legitimate uses and may have as-yet-undiscovered ones. Marijuana (hemp) will be a valuable (and environmentally safe) source of products such as paper, fiber, fuel, budding materials, clothing, animal and bird food, medicine and medicinal preparations, and a protein source for humans. It can be grown in a variety of climates and sod types and grows well without chemical fertilizers or pesticides.

The repeal of drug prohibitions will allow police, courts, and prisons to concentrate on real criminals while at the same time greatly reducing the number of crimes committed to pay for drugs. No longer will judges be forced to open prison doors because of overcrowding. The courts and police will be better able to serve and protect – crime will pay a lot less! Street gangs will deteriorate without their income from illegal drug sales.

The people involved and methods of producing and selling drugs will change dramatically. The current dealers of drugs will not survive in a competitive marketplace. Large companies will produce and distribute these drugs on a national scale. In such an environment the drugs will

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be less potent and less dangerous. Consumers will be safer and better informed – changes in the product will be consumer-driven. The producers will face many legal constraints such as negligence and product liability laws. The threat of wrongful death suits and class action lawsuits will also constrain their behavior.

It is not surprising that these products were much safer before drug prohibition. The makers of Bayer Aspirin sold heroin pills that were safe enough to prescribe to babies, and the Coca-Cola Company used cocaine in its product. These products were generally non-poisonous, non-toxic, and non-lethal. The three major free market drugs – alcohol, caffeine, and nicotine – are substantially safer today than they were 10 or 30 years ago. The average potency of all three continues to decrease over time.

Constructive debate can overcome political and ideological maneuvering only if people clearly understand the differences between prohibition and legalization. Prohibition is simply a piece of legislation enforced by use of law officers, guns, and prisons. Prohibition is *not* drug education, drug treatment centers, rehabilitation centers, serf-help programs such as Alcoholics Anonymous, religion, family, friends, doctors, help hot-lines, and civic organizations. 'Just Say No' does not have to leave because we say goodbye to prohibition.

'Private Prohibitions'

In discussing the problems of drug abuse many people feel that legalization would only reduce the prices of drugs and therefore only increase the amount and severity of drug abuse. People would be smoking marijuana in McDonald's, the school bus driver would be shooting up heroin, and airplane pilots would be snorting cocaine before takeoff. This confusion results from a failure to distinguish between prohibition and private contractual regulations.

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Restaurants could prevent people from smoking marijuana just as they have the right to prevent people from smoking cigarettes or from entering without shoes or a shirt. Airlines, railroads, and nuclear power plants have the right and incentive to contract with their workers, for example, not to drink alcohol on the job. These 'private prohibitions' are generally aimed at the most significant problems of drug use such as safety. Not only are they specifically targeted, they are better enforced – co-workers, customers, unions, insurance companies, and management also benefit from such restrictions and therefore contribute to enforcement. The use of private restrictions and drug testing will be enhanced after the repeal of prohibition.

While not all aspects of prohibition and legalization are discussed here, enough has been said to refute many of the myths of legalization and to make the question of quantity consumed a non-issue. Re-legalization is the admission of government's failure in pursuit of a lofty goal, not a ringing endorsement of drug abuse.

Legalization has been labeled immoral by prohibitionists, but nothing could be further from the truth. Reliance on individual initiative and responsibility is no sin. It is not only the key to success in the battle against drug abuse, it is also a reaffirmation of traditional American values. How can someone make a moral choice when one is in fact forced into a particular course of action? How is the fabric of society strengthened when we rely on guns and prisons to enforce behavior rather than letting behavior be determined by individual responsibility and family upbringing?

The sooner we move toward re-legalization, the sooner we can begin the process of healing the scars of prohibition, solving the problems of drug abuse, and curing this nation's addiction to drug laws.

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