

Intercollegiate **Review**

PUBLISHED BY THE INTERCOLLEGIATE STUDIES INSTITUTE

End the Drug War: The American People Are Not the Enemy

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March 3, 2014

This article is the first installment in the symposium “What’s Wrong with Drugs?” Contributions to this symposium represent the opinions of each author. Stayed tuned for contributions from [Matthew Feeney](#), [Gavin McInnes](#), and [Anthony Esolen](#). [Read the symposium introduction below](#).

Drug use is bad. Arresting people for using drugs is worse. With the states of Colorado and Washington leading the way, the federal government should drop criminal penalties against those who produce, sell, and consume drugs.

Prohibition always was a dubious policy for a people who called their country the land of the free. Early restrictions on tobacco and alcohol use failed. The so-called Drug War has been no better. Unfortunately, the latter campaign has always been a violent, often deadly, assault on the American people.

There’s no obvious moral reason to demonize the use of mind-altering substances which are widely employed around the globe. Obviously, drugs can be abused, but so can most anything else. That some people will misuse something is no argument for prohibition. Even the Bible only inveighs against alcohol intoxication, not use. In his short book, [The War on Drugs is a War on Freedom](#), Christian writer Laurence Vance makes a powerful case against the Drug War.

Some people still may abhor drug use as a matter of personal moral principle, but the criminal law should focus on *interpersonal* morality, that is, behavior which directly affects others. Basing criminal strictures on intra-personal morality essentially puts government into the business of soul-molding, a task for which it has demonstrated little aptitude. And if morality is one’s concern, it would be foolish to let politicians make such moral distinctions as celebrating use of alcohol while punishing use of marijuana.

Moreover, whatever one’s morals, the Drug War has failed. As Nobel Laureate Milton Friedman observed, “we need not resolve the ethical issue to agree on policy. Prohibition is an attempted cure that makes matters worse for both the addict and the rest of us.”

Drug prohibition has failed in almost every way, leaving extremely high use while yielding all of the counterproductive impacts of criminalization. Our decades-long commitment to legal restrictions has the following real-world impacts. It

- raises drug prices,
- generates enormous profits for criminal entrepreneurs,
- forces even casual consumers into an illegal and often violent market,
- causes heavy users to commit crimes to pay for higher-priced drugs,
- leaves violence as the ultimate arbiter in disputes among users and dealers,
- wastes vast amounts on enforcement efforts,
- corrupts officials and entire institutions, and
- undermines individual liberties.

All this, and drugs remain widely used. If a policy with those outcomes is not a “failure,” what would be?

The direct enforcement costs run more than \$40 billion a year and affect every level of government. Forgone tax revenue is even greater. With Uncle Sam effectively bankrupt and many states carrying obligations akin to those of Greece, the Drug War is a wasteful diversion from far more pressing needs.

Attempting to suppress an enduring and profitable trade also has corrupted virtually every institution it has touched—police, prosecution, judiciary, the Drug Enforcement Agency, and even the military. The problem is even worse in other nations, such as Mexico.

Perhaps the most perverse impact of the Drug War has been to injure and kill users. Far from protecting people from themselves, prohibition actually makes drug use more dangerous. For instance, actor Philip Seymour Hoffman chose to use heroin, but he could never be certain as to its quality, purity, and potency. And he had no way to hold his suppliers accountable for negligently or fraudulently endangering his life. Criminalization also encourages dealers to traffic in substances which are both more concealable and valuable—which usually means more concentrated, and dangerous.

Threatening addicts with jail also makes them less likely to acknowledge their problems and seek assistance. The drug war encourages needle-sharing by IV drug users, which promotes the spread of AIDS and hepatitis. Fear of prosecution causes doctors to under-prescribe painkillers for the sick, while Washington fights to keep marijuana off-limits to the ill, despite evidence that it helps some people suffering from a variety of ailments.

Nor is there any way to run a war against tens of millions of Americans without sacrificing the constitutional liberties of all of us. The drug trade is a classic “self-victim” crime without a complaining witness. Thus, government must rely on intrusive and draconian enforcement procedures: informants, surveillance, wiretaps, and raids. Innocent people are injured and sometimes killed during the increasingly militarized raids.

Normal constitutional rules don't apply. Lawyers talk of the "drug exception" to the Fourth Amendment. Cops admit to lying to justify arrests. Prosecutors acknowledge relying on dubious testimony to win convictions. Judges apply mandatory minimum penalties for even minimal offenses.

The crusade against drug use has turned the supposed land of the free into a prison state. Between 1980 and 2000, the number of people under criminal justice control in one form or another *tripled* to six million. Of nearly 14 million arrests in 2009, 1.7 million were for drug crimes, almost *three times* the number arrested for violent offenses. Nearly half of drug arrests were for marijuana. Drug offenders account for more than half of federal convicts. Roughly one fifth of state prisoners are in for drug crimes.

Ironically, the Drug War has created new and more dangerous crimes. The drug laws more than drug use are "crimogenic." For instance, unlike alcohol—which makes one more likely both to commit and be victim of a crime—heroin and marijuana promote passivity. Moreover, by inflating the price of drugs, the Drug War goads addicts to steal.

The worst crimes grow out of a well-funded illegal marketplace. As during Prohibition, violence becomes the ultimate business guarantee. Moreover, abundant drug revenues subsidize gangs and organizations which branch out into other crimes, from kidnapping to terrorism.

The Global Commission on Drug Policy concluded: "increased arrests and law enforcement pressures on drug markets were strongly associated with increased homicide rates and other violent crimes." Even the late James Q. Wilson, who supported drug prohibition, admitted, "It is not clear that enforcing the laws against drug use would reduce crime. On the contrary, crime may be caused by such enforcement." In nations such as Afghanistan, Colombia, Mexico, and Peru, drug trafficking organizations engage in open warfare, often with their respective governments.

One still could imagine attempting to justify the Drug War if it worked, in the sense of eliminating drug use. However, drug prohibition has accomplished little in this regard, having the most impact where it is least needed. Observed Mary M. Cleveland: "Most people choose not to use illicit drugs even when they have cheap and easy access to them. Enforcement can have some effect on light users; regular and problem users will get their drugs even in prison. Drug treatment and changes in social norms have far more influence on drug use than enforcement because they affect individuals' attitudes."

Government figures indicate that nearly half of Americans older than 12 have tried illegal drugs. Tens of millions of people use with some regularity. High school students report that drugs are easily accessible. Drug use persists even in countries where governments execute dealers.

Ironically, there is no correlation between increased enforcement and decreased consumption. The *Economist* magazine observed: "There is no correlation between the harshness of drug laws and the incidence of drug-taking: citizens living under tough regimes (notably America but also Britain) take more drugs, not fewer."

Frustration with the Drug War obviously was manifested in the decision by voters in Colorado and Washington to legalize recreational marijuana use. Uruguay has done the same, with pressure rising in other Latin American nations to shift away from prohibition. Former presidents of Brazil, Colombia, and Mexico are urging a “Drug Peace.”

America’s states could experiment. Drugs could be sold with varying restrictions (such as we impose on alcohol and tobacco). The specific treatment of individual substances could be based on assessments of harm and the possible impact on others.

Greatest law enforcement efforts should remain directed at kids. That actually would be easier in a semi-legal gray rather than illegal black market.

Legalization would not be a scary jump into the unknown. Portugal decriminalized all drugs a decade ago. Great Britain, the Netherlands, and Switzerland have permitted some legal drug use. Cocaine, heroin, and marijuana once were legal in the U.S., but America did not turn into a nation of addicts. A dozen American states previously decriminalized marijuana use and many more have legalized the use of medical marijuana. While these policies have not been problem-free, none have seen challenges approaching those caused by criminal prohibition.

Indeed, the upside potential of legalization is enormous. Robert MacCoun and Peter Reuter wrote in [*Drug War Heresies*](#), “Reductions in criminal sanctioning have little or no effect on the prevalence of drug use (i.e., the number of users).” Even if “relaxed drug laws increase the prevalence of use . . . , the additional users will, on average, use less heavily and less harmfully than those who would have also used drugs under prohibition.”

People should not abuse drugs. It might be best if they didn’t use them at all. However, that is no justification for a war against drug users, arresting many and endangering all. Indeed, we all pay the price from increased crime and decreased liberties.

American governments at all levels should terminate the Drug War. It is time to stop treating the American people as the enemy.

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