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Editorial & Production
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Marijuana Possession Decriminalized in Argentina

Jacob Sullum | August 26, 2009, 4:31pm

Yesterday Argentina's Supreme Court unanimously **ruled** that punishing adults for private marijuana use that does not harm others is unconstitutional. It therefore rejected the arrests of five men caught with a few joints in their pockets. The Cato Institute's Juan Carlos Hidalgo **says** the ruling hinged on the Argentine constitution's **privacy clause** (PDF):

The private actions of men which in no way offend public order or morality, nor injure a third party, are only reserved to God and are exempted from the authority of judges. No inhabitant of the Nation shall be obliged to perform what the law does not demand nor deprived of what it does not prohibit.

It's a matter of opinion, of course, which actions "offend public order or morality," but it's implausible to argue that private (and therefore unobserved), consensual activity of any sort does so. Likewise, one would be hard pressed to show how an adult smoking pot in the privacy of his home thereby harms third parties. According to CNN, "Supreme Court Justice Carlos Fayt, who at one time supported laws that make personal use of marijuana illegal, told the state-run Telam news agency that 'reality' changed his mind." Similar reasoning underlies the 1975 Alaska Supreme Court **decision** that legalized private possession of marijuana in small amounts, based on the state constitution's privacy clause (although that ruling left the door open to new evidence concerning the harm that pot smokers cause to themselves).

The Argentine Supreme Court's decision came less than a week after Mexico **eliminated** criminal penalties for possessing small quantities of marijuana and various other drugs. Hidalgo says Brazil and Ecuador may take similar steps.

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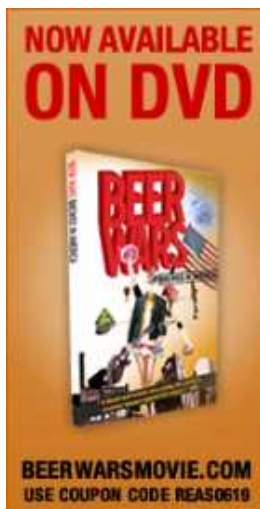
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Xeones | August 26, 2009, 4:38pm | <#>

The private actions of men which in no way offend public order or morality, nor injure a third party, are only reserved to God and are exempted from the authority of judges.

I'm thinking our Bill of Rights could have used a similar amendment.

TrickyVic | August 26, 2009, 4:52pm | <#>

Offending public order or morality is the root of many of our bullshit laws. So it wouldn't help as much as you think.

James Anderson Merritt | August 26, 2009, 5:29pm | <#>

Yeah, I'm going to say that the Argentine court might let stand, for instance, a law against enjoying child porn cartoons ("no child was molested or exploited in the making of this film"), even if done only in the privacy of one's own, well-hidden safe room.

On the other hand, I think Xeones has a point. Reading the excerpt from the Argentine Constitution, I also found myself wondering why our own Constitution was not more forthcoming in describing its own presumptions of liberty and privacy.

James Anderson Merritt | August 26, 2009, 5:29pm | <#>

So are the dominoes FINALLY beginning to fall, or is something else going on here?

Steve | August 26, 2009, 5:30pm | <#>

Still, drug use, even private harms society. Drug users are less productive and are out sick more often, and have more accidents. They also increase health care costs for us all. That is why it is logical that it is illegal.

Danny | August 26, 2009, 5:31pm | <#>

Come on, these things happened in practically 3rd world countries, so their actions should always be seen as a step back. You don't get progress from such countries. Progress comes exclusively from countries only as awesome as the US, which is pretty much only the US. Sucks to be everybody else, I guess.

IceTrey | August 26, 2009, 5:31pm | <#>

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That's a simple one. Any action involving the initiatory use of force, threats of force or fraud.

TrickyVic,

Public morality is objective morality. Most of the bullshit laws such as the one referenced in the article deal with subjective morality.

Danny | August 26, 2009, 5:33pm | #

Good idea, Steve. Let's destroy and dismantle all pharmaceutical and alcohol companies since they are drugs, too. Pharmaceuticals are expensive, and most of them are just placebos anyway!

IceTrey | August 26, 2009, 5:34pm | #

Steve'

People who eat too much sugar get fat and the same results occur as you stated. Should sugar be illegal? What about alcohol? Tobacco? Etc....

Danny | August 26, 2009, 5:35pm | #

Yes yes and yes, IceTrey. Gosh, this is easy. Cars should be banned, too. They are WAY too risky.

Steve | August 26, 2009, 5:38pm | #

People who eat too much sugar get fat and the same results occur as you stated. Should sugar be illegal? What about alcohol? Tobacco? Etc....

No, that is a slippery slope, and those things, except tobacco can be used safely in moderation. Usage can be controlled by taxes.

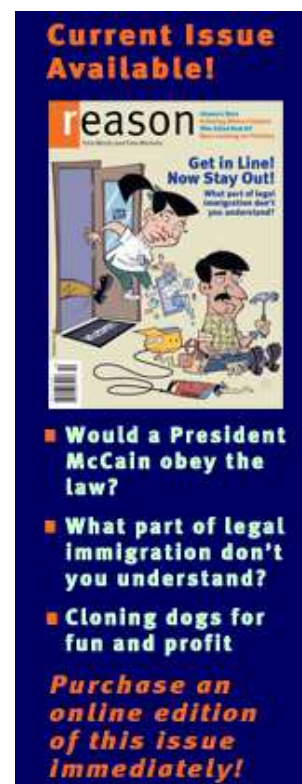
Tobacco will eventually be illegal.

polio robot | August 26, 2009, 5:39pm | #

Great news. It's nice to know that a country famous for 'disappearances', military juntas and nazi relocation is a little more free than us.

Alice Bowie | August 26, 2009, 5:41pm | #

Say Yes to Drugs ... and no to all those lies u c on TV...



...KEEP DOPE ALIVE...

Vivas Las Drogas

[Danny](#) | August 26, 2009, 5:49pm | <#>

"...those things, except tobacco can be used safely in moderation."

Really? What does "safely" mean anyway? There are people who smoke all their lives and live longer lives than others that don't smoke.

And slippery slope? Are you kidding? People are actually seriously regulating fatty foods. They are already taxing them as another "sin" that you could live without, so you should be taxed more for it. The next logical step is to outlaw them altogether. You really can't see that?

[James Ard](#) | August 26, 2009, 5:50pm | <#>

Come on, Reason. Anyone but a fool can see that Steve is nothing but a thread boosting creation of the staff.

[Danny](#) | August 26, 2009, 5:51pm | <#>

Also, people by the name of "Steve" are infinitely more likely to require health care than people named "SDF:Lnas;ldgnweg", so we should outlaw the name "Steve".

Don't ask me how to pronounce that.

[Danny](#) | August 26, 2009, 5:52pm | <#>

There are people stupid enough to believe those things, James, as sad as it is.

[wingnutx](#) | August 26, 2009, 6:17pm | <#>

Sure, drug use has some negative effects on society, but not nearly to the extent that prohibition does.

[James Ard](#) | August 26, 2009, 6:18pm | <#>

Thanks for ruining a great day, Danny.

[TrickyVic](#) | August 26, 2009, 6:23pm | <#>

""Public morality is objective morality. Most of the bullshit laws such as the one referenced in the article deal with subjective morality.""

I don't think government is going to ask you when it's starts passing laws that offend morality, it's going to define them as it see fit.

TrickyVic | August 26, 2009, 6:25pm | #

Make that passing laws to prevent the offense of morality.

TrickyVic | August 26, 2009, 6:31pm | #

IceTrey, think of it this way. Our government and the highest court in our land can't properly define infringement as it sits in the second amendment. If they can't use a dictionary to find the definition of one word, they will be way lost with concepts like public order and morality.

Gene Berkman | August 26, 2009, 6:42pm | #

Back in the 1970s Spain legalized possession of Cannabis. Reason Magazine ran a news item on it. Next to the news item about Spain legalizing hashish, Audio-Forum had an ad for Spanish language learning courses. Good ad placement, I thought!

Chrystal K. | August 26, 2009, 6:45pm | #

Time to move to Argentina.

IceTrey | August 26, 2009, 6:51pm | #

TrickyVic,

You said, "Offending public order or morality is the root of many of our bullshit laws.". This is incorrect. Offending PRIVATE order or SUBJECTIVE morality is the root of many bullshit laws. These laws outlaw private activities which is why the court overthrew the case.

OscarC | August 26, 2009, 7:11pm | #

This is our opportunity to put our money where our mouth is. Join us in California by donating or volunteering for the California Cannabis Initiative who is working hard at bringing us the Tax, Regulate, and Control Cannabis Act of 2010 to the ballot box. Lets end this needless war that has drained our local, state and federal treasuries and has destroyed more families and lives than any drug itself could have ever done.

To join or help the fight go to
www.californiacannabisinitiative.org

Oscar Chavez
California Cannabis Initiative
San Bernardino County Coordinator

Elemenope | August 26, 2009, 8:14pm | <#>

So are the dominoes FINALLY beginning to fall, or is something else going on here?

What's absolutely fascinating from my point of view is the Obama Administration's reaction to this. Namely, it's basic lack of reaction. When Mexico first tried to do this back in 2006 I believe, the Bush Administration raised all holy hell and Fox backed off. This time, not a peep except some non-committal "we'll wait and see how it goes" type statements.

Huh.

TallDave | August 26, 2009, 9:36pm | <#>

Wow, sanity is spreading.

Robert | August 26, 2009, 11:17pm | <#>

I think 1.2 of their constitution gives a clue as to what would offend morality, by supporting the Catholic Apostolic Church. It would seem that with an established church, its ministry would be the official experts on morality. Note that it doesn't say that which offends morality must be legislated against, only that it may be. So if **either** the Catholic church or the legislature says it's OK, it is. Presumably the Catholic Apostolic Church had determined that marijuana possession was not immoral, or at least had not determined and publicized that it was immoral.

Art-P.O.G. | August 27, 2009, 3:32am | <#>

Steve must be Juanita's husband.

Cabeza de Vaca | August 27, 2009, 9:37am | <#>

"Steve must be Juanita's husband."

J sub D will be heart broken.

Concerned Mom | August 27, 2009, 10:24am | <#>

Won't somebody PLEASE think of the children?

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