On November 2, California will vote on Proposition 19, a measure to legalize marijuana. Advocates believe Prop 19 will generate a major budgetary windfall and unleash an economic boom in marijuana-related industries while reducing crime, corruption and Mexican drug violence.

Prop 19 opponents fear it will increase marijuana and other drug use via the gateway effect and spur the alleged negatives of use, such as crime or diminished health.

Most claims on both sides are exaggerated or misleading. Legalizing marijuana is the right policy for California and the nation. But in considering Prop 19, everyone should start with a balanced assessment of its likely impact.

California has long been at the forefront of the push-back against marijuana prohibition. The state decriminalized marijuana in 1975, meaning it eliminated criminal penalties for possession of small amounts. California then legalized medical marijuana in 1996. Plus, in 2009, U.S. Attorney General Eric Holder said the federal government would not interfere with medical marijuana in states where it is legal under state law.

Prop 19 goes a step further by legalizing all marijuana use for adults 21 or older as well as production and sales. Thus marijuana would be a legal product under California law.

Full legalization sounds like a major policy change. But under existing law, marijuana is almost legal in many respects. Almost anyone can get a prescription for medical marijuana, and prices are not much elevated compared with a legal market. So legalization would have minimal impact on use. This means that concerns over the negatives of use — valid or not — are irrelevant.

Legalization would be a significant change in that marijuana production and sale would move above ground. State and local governments could then tax it. California is expecting $1.4 billion in additional tax revenue from legalization, along with reduced criminal justice expenditure.

In a recent Cato Institute paper, however, Kate Waldock and I estimate that California could collect only $352 million in addition revenue. This amount is not trivial, but it is minor compared with California's budget deficit. California might also see a reduction of around $960 million in expenditure on arrests, prosecutions and prisons, but only by laying off police, judges and prison guards. This is politically painful, so it may not happen.

Legalization advocates also believe that bringing the market above ground will spur related industries, such as head shops or marijuana cafes. Most of this economic activity, however, is already present; legalization just recognizes it officially. Marijuana cafes, for example, will shift business from medical marijuana dispensaries, or bars, without a major net increase.

What about Prop 19's effect on crime? Critics believe marijuana causes criminal behavior, as in "reefer madness," but these claims have no empirical support.

Legalizers argue black markets are violent and corrupt, so legalization should reduce crime. This view is well-founded, but because the California's marijuana market is close to legal, the reduction in crime will be modest. Likewise, much Mexican drug violence relates to cocaine and methamphetamines, so marijuana legalization will have a small impact.

Perhaps the most important caveat about Prop 19 is that it only legalizes marijuana under state law.

The federal government's prohibition will remain in place, so the federal government could still enforce that prohibition in California. This happened for medical marijuana under the Bush administration, and under the alcohol Prohibition of the 1920s and early '30s, when the federal government enforced prohibition in states that had not banned alcohol.

Prop 19 advocates have assumed that the Obama administration would tolerate legalized marijuana, as it does now for medical marijuana. This always seemed unlikely, however. Federal abdication would give the Republicans a huge issue and suggest that states can ignore federal laws they oppose, such as "Obamacare."

And just last week, Holder announced that the federal government strongly opposes Prop 19 and will aggressively enforce federal marijuana prohibition in California, regardless of Prop 19's outcome.

Prop 19's passage could mean a Supreme Court showdown, which California would lose. In the 2005 *Gonzalez v. Raich* case, the court held that the Constitution's commerce clause allows the federal government to bar individuals from cultivating marijuana on their own property for their own medicinal use. Reasonable people dispute the ruling, but the Supreme Court's conservative-to-liberal ratio has not changed. So the court will again invoke the commerce clause, wrongly, to justify a federal ban on full legalization.

On many fronts, Prop 19 might have less impact than proponents or opponents suggest. But Prop 19 might generate benefits.

If Prop 19 passes, this will encourage other states to legalize. And if enough states do so, the pressure on the federal government could pass a tipping point.

In a free society, the presumption must be that people can smoke, snort, eat or inject whatever they wish, so long as they do not harm others. The burden of proof should rest on those who would ban marijuana, not those who want it legal. That burden has never been met.

By adopting Prop 19, California can restore a presumption of liberty. That is reason enough.

- Discussion
- Follow Ups

Regarding Opinion

Don't Buy the Hype on Pot Legalization

Thank You for your Comment

We review some comments before they're posted. For more on our comment policy, please see our FAQ.

- 

  78,000 people disagree with you every year

  "Legalizers argue black markets are violent and corrupt, so legalization should reduce crime . This view is well-founded, but because the California's marijuana market is close to legal, the reduction in crime will be modest."

  http://www.canorml.org/news/2009arrests.html

  In 2009, there were 17,008 felony and 61,164 misdemeanor marijuana arrests, for a total of 78,172. In 2008, there were 17,126 felonies and 61,388 misdemeanors, for a total of 78,514. This was the highest number of arrests since marijuana was decriminalized in 1976.

  Arrests for other drugs have been declining. Narcotics (heroin & cocaine) arrests plummeted to 43,956, down 17% since last year. Arrests for dangerous drugs have fallen 33% since 2006.

  Nice try though, Jeffrey.

  - pierider October 22, 2010 2:04AM

  Reply to this Recommend **(0)**

  Thank You for your Comment

  We review some comments before they're posted. For more on our comment policy, please see our FAQ.

- 

  Jailers of flowers

  "California might also see a reduction of around $960 million in expenditure on arrests, prosecutions and prisons, but only by laying off police, judges and prison guards. This is politically painful, so it may not happen."

  Those 78,000 people I just mentioned, would rather be at home with the people who love them, and don't care too much about the jobs of police, judges, and prison guards whom the state has hired, at deficit spending, for the express purpose of prosecuting them and persecuting them for a flower.

  Nice try again Jeffrey, but still a FAIL.

  - pierider October 22, 2010 2:09AM

  Reply to this Recommend **(0)**

  Thank You for your Comment

  We review some comments before they're posted. For more on our comment policy, please see our FAQ.

- 

A good start

"Perhaps the most important caveat about Prop 19 is that it only legalizes marijuana under state law."

That's called a good start.

- pierider October 22, 2010 2:10AM

Reply to this Recommend **(0)**

Thank You for your Comment

We review some comments before they're posted. For more on our comment policy, please see our FAQ.

- 

Truth from the Bible

Jesus said, Whatsoever ye would that men should do to you, do ye even so to them. (Matthew 7:12).

I know I would not want my child sent to jail with the sexual predators, or my aging parents to have their house confiscated and sold by the police, over a little marijuana. (And in California, you can still lose your house, your freedom, and your kids for growing even one single plant, even under the new "decriminalization" rule.)

We can change the world when we vote.

- Concerned Parent October 22, 2010 9:20AM

Reply to this Recommend **(0)**

Thank You for your Comment

We review some comments before they're posted. For more on our comment policy, please see our FAQ.

Popular Tags

- obama presidency
- science
- associated press
- marijuana

- Op-Ed
- opinion
- politics
- legal

- research
- obama
- congress
- medical marijuana

Search
powered by Google™