

The Moral Liberal

Drug Decriminalization Has Failed?

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Free Enterprise Zone, The Freeman, David Boaz

Michael Gerson, former speechwriter for President George W. Bush and now a columnist for the *Washington Post*, has denounced libertarianism as “morally empty,” “anti-government,” “a scandal,” “an idealism that strangles mercy,” guilty of “selfishness,” “rigid ideology,” and “rigorous ideological coldness.” (He’s starting to repeat himself.)

In his May 9 column, “[Ron Paul’s Land of Second-Rate Values](#),” he went after Rep. Paul for his endorsement of drug legalization in the Republican presidential debate. “Dotty uncle,” he fumed, alleging that Paul has “contempt for the vulnerable and suffering.” Paul holds “second-rate values,” he added.

What did Paul do to set him off? He said that adult Americans ought to have the freedom to make their own decisions about their personal lives—from how they worship, to what they eat and drink, to what drugs they use. And he mocked the paternalist mindset: “How many people here would use heroin if it were legal? I bet nobody would say, ‘Oh yeah, I need the government to take care of me. I don’t want to use heroin, so I need these laws.’”

Gerson accused Paul of mocking not paternalists but addicts: “Paul is not content to condemn a portion of his fellow citizens to self-destruction; he must mock them in their decline.” Gerson wants to treat them with compassion. But let’s be clear: He thinks the compassionate way to treat suffering people is to put them in jail. And in the California case *Brown v. Plata*, the Supreme Court just reminded us what it means to hold people in prison:

California’s prisons are designed to house a population just under 80,000, but . . . the population was almost double that. The State’s prisons had operated at around 200% of design capacity for at least 11 years. Prisoners are crammed into spaces neither designed nor intended to house inmates. As many as 200 prisoners may live in a gymnasium, monitored by as few as two or three correctional officers. As many as 54 prisoners may share a single toilet. Because of a shortage of treatment beds, suicidal inmates may be held for prolonged periods in telephone-booth-sized cages without toilets.

Gerson knows this. His May 27 column quoted this very passage and concluded, “[I]t is absurd and outrageous to treat [prisoners] like animals while hoping they return to us as responsible citizens.”

Gerson contrasted the “arrogance” of Paul’s libertarian approach to the approach of “a Republican presidential candidate [who] visited a rural drug treatment center outside Des Moines. Moved by the stories of recovering young addicts, Texas Gov. George W. Bush talked of his own struggles with alcohol. ‘I’m on a walk. And it’s a never-ending walk as far as I’m concerned. . . . I want you to know that your life’s walk is shared by a lot of other people, even some who wear suits.’”

Gerson seems to have missed the point of his anecdote. Neither Bush nor the teenagers in a Christian rehab center were sent to jail. They overcame their substance problems through faith and personal responsibility. But Gerson and Bush support the drug laws under which more than 1.5 million people a year are arrested and some 500,000 people are currently in jail.

Our last three presidents have all acknowledged they used illegal drugs in their youth. Yet they don’t seem to think—nor does Gerson suggest—that their lives would have been made better by arrest, conviction, and incarceration. If libertarianism is a second-rate value, where does hypocrisy rank?

Gerson seems to have a fantastical view of our world today. He writes, “[D]rug legalization fails. The de facto decriminalization of drugs in some neighborhoods—say, in Washington, D.C.—has encouraged widespread addiction.”

This is mind-boggling. What has failed in Washington, D.C., is drug prohibition. As Mike Riggs of *Reason* magazine wrote, “I want to know where in D.C. one can get away with slinging or using in front of a cop. The 2,874 people arrested by the MPD for narcotics violations between Jan. 1 and April 9 of this year would probably like to know, too.”

Michelle Alexander, author of *The New Jim Crow*, writes, “Crime rates have fluctuated over the past few decades—and currently are at historical lows—but imprisonment rates have soared. Quintupled. And the vast majority of that increase is due to the War on Drugs, a war waged almost exclusively in poor communities of color.” Michael Gerson should ask Professor Alexander for a tour of these neighborhoods where he thinks drugs are de facto decriminalized.

In a recent Cato Institute report, Jeffrey Miron of Harvard University estimated that governments could save \$41.3 billion a year if they decriminalized drugs, an indication of the resources we’re putting into police, prosecutions, and prisons to enforce the war on drugs.

What Gerson correctly observes is communities wracked by crime, corruption, social breakdown, and widespread drug use. But that is a result of the failure of prohibition, not decriminalization. This is an old story. The murder rate rose with the start of alcohol Prohibition, remained high during Prohibition, and then declined for 11 consecutive years when Prohibition ended. And corruption of law enforcement became notorious.

Drug prohibition itself creates high levels of crime. Addicts commit crimes to pay for a habit that would be easily affordable if it were legal. Police sources have estimated that as much as half the property crime in some major cities is committed by drug users. More dramatically, because drugs are illegal, participants in the drug trade cannot go to court to settle disputes, whether between buyer and seller or between rival sellers. When black-market contracts are breached, the result is often some form of violent sanction.

When Gerson writes that “responsible, self-governing citizens . . . are cultivated in institutions—families, religious communities and decent, orderly neighborhoods,” he should reflect on what happens to poor communities under prohibition. Drug prohibition has created a criminal subculture in our inner cities. The immense profits to be had from a black-market business make drug dealing the most lucrative endeavor for many people, especially those who care least about getting on the wrong side of the law. Drug dealers become the most visibly successful people in inner-city communities, the ones with money and clothes and cars. Social order is turned upside down when the most successful people in a community are criminals. The drug war makes peace and prosperity virtually impossible in inner cities.

There is a place where drugs have been decriminalized, not just de facto but in law. Maybe Gerson should have cited it instead of Washington, D.C. Trouble is, it doesn’t make his point. Ten years ago Portugal decriminalized all drugs. Recently Glenn Greenwald [studied the Portuguese experience](#) in a study for the Cato Institute. He reported, “Portugal, whose drug problems were among the worst in Europe, now has the lowest usage rate for marijuana and one of the lowest for cocaine. Drug-related pathologies, including HIV transmission, hepatitis transmission and drug-related deaths, have declined significantly.”

Drug decriminalization fails? It just ain’t so.

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