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A New Era for U.S. Drug Policy?

Jim Webb Says America's Justice System Is Broken and Drug Policy Is Largely to Blame; Is Portugal's Liberal Approach a Model?



The last few months are "the first time I've ever felt that the wind is at my back and not in my face" when it comes to drug policy reform, said Ethan Nadelmann, director of the Drug Policy Alliance. "There's a tremendous amount of momentum across the board." (CBS)



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Marijuana users in states where it's legal take a breath of fresh air as federal government guidelines recommend focusing on criminal prosecution.

(CBS) This story was written by **Ken Millstone** as part of a CBSNews.com special report on the evolving debate over marijuana legalization in the U.S. [Click here for more of the series, Marijuana Nation: The New War Over Weed.](#)

Ethan Nadelmann is feeling good. Really good.

As the founder and executive director of the Drug Policy Alliance, Nadelmann has long advocated for the liberalization of U.S. drug laws -- specifically, making marijuana legal, regulated and taxed and ending criminal penalties on the possession and use of all other drugs.

For most of that time the Alliance has been relegated to the fringe of serious policy discussions, a space long occupied - or so the stereotype goes - by radical libertarians and readers of the marijuana enthusiast magazine High Times.

But things are changing. The last few months are "the first time I've ever felt that the wind is at my back and not in my face," Nadelmann said. "There's a tremendous amount of momentum across the board."

Consider the developments of the last year. In March, Virginia Sen. Jim Webb introduced a bill calling for a wholesale overhaul of the criminal justice system in the United States. Our system is crippling large, he argued,

and marred by wrongful incarcerations, poor rehabilitative treatment and mental health care and a price tag of \$44 billion a year on prisons alone.

Webb called the situation a "national disgrace," and said the elephant in the room is sky-high incarceration rates for drug users due to the U.S.'s 40-year-old War on Drugs.

California, the first state to make marijuana legal for medical use, is considering [a bill to legalize and tax marijuana](#) for all residents; it had its first hearing in the state assembly last week. Massachusetts [voted to decriminalize](#) small amounts of marijuana. The attorney general of Arizona has said that legal marijuana might be an answer to the Mexican drug cartel violence spilling over into his state.

[Breckenridge Votes to Legalize Pot](#)

And a [Gallup poll](#) released last month shows that support for national marijuana legalization has climbed steadily since the early 1980s, recently hitting an all-time high of 44 percent.

"That is the most extraordinary poll result as I have seen in all my years working in this," Nadelmann said. "We haven't changed our position, but we are basically more and more part of the mainstream discussion." He likens the situation to movements like gay rights and civil rights that made rapid strides in relatively short periods.

"We're getting awfully close to something that looks a lot like a tipping point," he said.

The recent reform push hasn't been limited to the United States, either. In August, Mexico, with little fanfare, [passed a bill](#) decriminalizing the possession and use of small amounts of all narcotics, including marijuana, cocaine, heroin and methamphetamines. The U.S. - in what drug reform advocates see as a promising sign - made no criticism of the change. (The George W. Bush administration persuaded then Mexican President Vicente Fox not to sign an identical measure in 2006.) [Argentina](#) has passed its own decriminalization bill and [Brazil](#) and Ecuador are considering similar measures.

None of this means that liberalizing drug laws in the United States is going to be easy for Nadelmann and his allies. Webb's bill, which is being heard Thursday in the Senate Judiciary Committee, has amassed 34 Senate co-sponsors - including Republicans Lindsey Graham and Olympia Snowe - and drawn broad support from justice advocacy groups.

But according to Webb spokeswoman Jessica Smith, "Twenty-one amendments have been filed in Judiciary that speak to our bill. They're largely from the Republicans [and] I imagine a large amount of them are going to be about drug policy. ... They don't want to go home and say 'I'm legalizing drugs.'"

Charles Grassley, R-Iowa, offered [an amendment](#) explicitly forbidding any recommendations that even discuss drug decriminalization or legalization.

To be clear, Webb's bill does not call for drug legalization or even focus on drug policy exclusively. Instead, it would appoint a bipartisan, blue-ribbon commission to make recommendations on reforming the criminal justice system as a whole.

"We have 5 percent of the world's population. We have 25 percent of the world's known prison population," Webb said when he introduced the bill. "We have an incarceration rate in the United States - the world's greatest democracy - that is five times as high as the incarceration rate of the rest of the world."

"There's only two possibilities here," he continued. "Either we have the most evil people on earth living in the United States or we are doing something dramatically wrong in terms of how we approach the issue of criminal justice."

Webb's bill calls for a hard look at drug policy with all options on the table. He has talked about "overincarceration" and the "criminalization" of drugs - phrases that have been taboo until now in mainstream drug policy discussions. One talking point: the United States had 41,000 drug offenders in prison in 1980. Now the number is more than half a million - a 1,200 percent increase. And many of those are non-violent offenders jailed only for possession.



(CBS)

"We can't have a debate about our criminal justice system if we just ignore the drug part of it," Smith said and the goal of the bill is to dispassionately consider all options for reform. "States across the country - their budgets are being completely eaten up by incarceration. ... Is it effective? Is it cost effective? Are we doing the right thing here when we lock people up?"

Left: Webb

In the early 1970s, Richard Nixon appointed a former Republican governor, Raymond Shafer, to lead a similar commission to examine marijuana. The commission's [report](#) recommended the decriminalization of personal use and questioned the constitutionality of harshly criminal marijuana policy generally.

Nixon repudiated the recommendations, but the commission's findings were no aberration, according to Nadelmann.

"The same thing happens almost every time," he said. "If you actually set up a commission that is truly independent ... inevitably they come up with recommendations that favor significant reform."

Portugal: A Case Study

In 2001, Portugal decriminalized not just marijuana but all drugs - heroin, cocaine, methamphetamine. Drug use has held steady overall, but declined in several key demographics, including teenagers. Drug-related crime plummeted. So did overdoses and HIV from needle use.

Last year, the libertarian-leaning Cato Institute sent the writer Glenn Greenwald to Portugal to report on the country's experience in the nearly eight years since decriminalization.

Greenwald, a former attorney who [blogs at Salon.com](#), is best known for his liberal positions on civil liberties, torture, and the Bush administration. He said he has never written about drug policy before and went to gather empirical evidence on Portugal's outcomes. (Greenwald lives in Brazil and speaks fluent Portuguese.) The result was a strongly positive 30-page report published by Cato in April.

"In the 1990s they probably had the single worst problem with drug abuse and related pathologies of any country in Europe. Crime was through the roof," Greenwald said in an interview in September. "They felt like they had a huge crisis on their hands ... The more they criminalized the worse it got."

Continued

- [1](#)
- [2](#)
- [3](#)
- [Next](#)

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