

Medium

The War on Drugs is a War on Human Nature

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Ross Ulbricht, the founder of the Dark Web site Silk Road, is currently serving a double life plus 40 year sentence for drug trafficking and other related charges. Last May, the United States Court of Appeals for the Second Circuit upheld his conviction. Ulbricht appealed the Second Circuit's decision to the Supreme Court. Today, the Supreme Court denied to hear Ulbricht's appeal.

Ulbricht's brief, written by Supreme Court veteran Kannon Shanmugam, made interesting and persuasive Fourth Amendment and Sixth Amendment arguments that the Court should have considered. Yet, while Ulbricht's case does raise interesting Constitutional questions, we shouldn't forget that Ulbricht's case also raises perhaps even more important moral questions.

Customers using Silk Road could buy illegal drugs using the pseudonymous cryptocurrency Bitcoin. Because users paid in Bitcoin and Silk Road ran on Tor—an anonymous Internet browser—law enforcement had a hard time uncovering Ulbricht, who went by the name Dread Pirate Roberts.

Gary Alford, an Internal Revenue Service agent assigned to the Silk Road case, uncovered Ulbricht's email. Alford had a hunch that whoever Dread Pirate Roberts was must have had an early interest in Tor. After searching for Tor URLs around the time Silk Road came online Alford found a Shroomery.org posting where a user by the name Altoid talked about a “service that claims to allow you to buy and sell anything online anonymously.”

A little more Googling later revealed that someone using the username Altoid had asked, “How do I connect to a Tor hidden service using curl in php?” in a March 2013 posting at Stack Overflow. The email address associated with the username was rossulbricht@gmail.com. Alford's finding was initially ignored by his colleagues, but later proved crucial in the hunt for Dread Pirate Roberts, which ended when FBI agents arrested Ulbricht at a San Francisco library on October 1st, 2013.

Ulbricht faced a number of charges related to drug trafficking, money laundering, computer hacking, as well as charges for orchestrating a murder-for-hire scheme. However, the

government later dropped the murder-for-hire charges. It could not show that anyone had been murdered as a result of Ulbricht's solicitations. Two of the Silk Road users Ulbricht asked to carry out a murder turned out to be undercover agents who faked the murder for which they were paid. Another alleged murder looks likely to have been a rather elaborate scam.

Despite the government not pursuing the murder-for-hire charges, Federal District Judge Katherine Forrest cited the supposed plots at sentencing, saying,

That there had been no confirmation of any of the deaths does not eliminate the fact that he directed violence and directed the use of violence.

Later, Judge Forrest criticized Ulbricht and his libertarian ideology, calling his argument about the moral ambiguity of drug dealing "privileged" and declaring drug trafficking to be "just wrong":

some view that there is a moral ambiguity about some of the drug distribution. There is no moral ambiguity about it. It was just wrong. And that is what our democratic process had said and there is a way to change the law but it is not by doing what occurred.

Judge Forrest went on to cite the dangers of illegal drugs such as their addictive properties and their associated third party harms. She concluded by sentencing Ulbricht to one 40 year sentence and two life sentences. There is no possibility of parole in the federal prison system. Ulbricht is currently serving his sentence in a high-security prison outside of Florence, Colorado.

When looking back on the Silk Road saga it is easy to get lost in the Hollywood-worthy features of the story: a young idealist, drugs, hitmen, cryptography, federal investigations. No wonder the story grabbed the Coen brothers' attention.

But once you strip away the all of the drama of Ulbricht's story you're left with a relatively simple and tragic tale that illustrates the immorality of the War on Drugs, one of the most evil government-sanctioned policy since slavery.

Judge Forrest's comments at sentencing were misguided, but they did go straight to the moral issue at stake in the case. According to Forrest, drug distribution is, according to democratic process, "just wrong." This widespread moral pronouncement is incorrect, and goes to the heart of why the War on Drugs is at its core a war on human nature.

There is nothing morally abhorrent about wanting to change your mental state. For thousands of years we've been deliberately consuming all kinds of mind-altering substances. Our drug-taking habits and their associated hallucinations and highs have been documented and preserved over the years in pottery, literature, sculpture, song, theatre, and painting.

Bronze Age rock carvings near the Pegtymel River in northeastern Russia depict arctic foxes and wolves, deer hunting expeditions, as well as other features of ancient Siberian life.¹ They also show humanoid figures with distinctive *Amanita muscaria* mushrooms emerging from their heads.² Use of this mushroom to induce hallucinations is documented among various Siberian tribes. In 1736 a Swedish colonel taken prisoner by Russian forces during the Great Northern War published his observations of, among other things, local poor Koryak people drinking the

urine of those who had ingested *Amanita muscaria* in order to enjoy its effects.³ Despite Soviet attempts to stamp the practice of taking hallucinogenic mushrooms—going so far according to one account to drop shamans from helicopters—the practice endures.⁴

Ancient Siberians weren't the only ones who took mushrooms for psychotropic effect. Religious mushroom consumption is mentioned in the Popol Vuh, an ancient Mayan Quiché epic poem.⁵ Members of the Mayan Quiché civilization in modern day Guatemala made mushroom-human hybrid sculptures, murals, and pictures similar to those seen on the rocks near the Pegtymel River.⁶ The Spanish conquerors weren't fans of mushroom consumption, and tortured those found using mushrooms for religious or recreational purposes.⁷ This attempt at prohibition failed, with mushroom consumption moving underground and continuing to this day.⁸

It would take a whole book series to outline the effects alcohol has had on human culture. In Europe the ancient Greeks took part in cults dedicated to the god of wine and ritual madness. The Romans enjoyed their fair bit of drinking too while also noting alcohol consumption in other cultures, with the historian Tacitus remarking that daylong drinking disgraced no one in the Germanic tribes he discussed.⁹ Hundreds of years later the English would undergo the “Gin Craze,” prompting Parliament to pass a series of bills aimed at quelling gin consumption.

English drug-taking wasn't reserved to alcohol. In the nineteenth century Londoners visited opium dens. In the Victorian era an Englishman suffering from a bad cough could visit a country market to buy laudanum, which was 10 percent opium.

Cocaine was also available. Indeed, one of the greatest Victorian protagonists, Sherlock Holmes, injected himself with a “seven percent solution” of cocaine. Queen Victoria, the Pope, and Thomas Edison were fans of Vin Mariani, a cocaine and claret mixture.¹⁰

Vin Mariani inspired former Confederate officer John Pemberton, a drug store owner from Columbus, Georgia, to sell his own cocaine mixture. He called his concoction “Pemberton's French Wine Coca.”¹¹ Because the county where Pemberton lived was a dry county he had to remove the alcohol from his cocaine drink. His non-alcoholic version contained kola nut extract. This non-alcoholic version of the “Pemberton's French Wine Coca” drink was the first iteration of a beverage that would eventually become the world's most popular fizzy drink: Coca Cola.

By now it should be obvious that when discussing drug policy it is more appropriate to use the term “re-legalization” rather than “legalization.” For the majority of human (let alone American) history many of the substances customers bought on the Silk Road were not only legal, they were sold in markets, pharmacies, and stores all across the world. This commercial activity was hardly universally condemned. When Judge Forrest declared that selling drugs is “just wrong” she was making a morally confused claim.

It's true, as Judge Forrest said, that lawmakers have passed prohibitions on certain substances. But it's not the case that the government prohibiting a substance or behavior makes consuming that substances or engaging in that behavior wrong.

There is little overlap between illegal and immoral behavior. Plenty of immoral actions are legal. It's immoral to commit adultery, act selfishly, and waste your kids' college tuition money on

cars. But it's not illegal. The inverse is also true; plenty of moral actions are illegal or in violation of local ordinances. Making flower arrangements without the state's permission, selling people food in your home, and letting homeless people sleep in your basement are only some examples.

So why did lawmakers decide to outlaw certain psychotropic substances? The motivation for lawmakers vary. Some are genuinely puritanical, other are motivated by vile racial prejudices, but more often than not lawmakers have misconstrued the dangers associated with drugs.

One of the most racist and misinformed drug warriors in American history, the first Commissioner of the Federal Bureau of Narcotics Harry Anslinger, made pronouncements that today sound like parody:

"Marijuana is an addictive drug which produces in its users insanity, criminality, and death."

"...the primary reason to outlaw marijuana is its effect on the degenerate races."

"Reefer makes darkies think they're as good as white men."

"Marijuana is the most violence-causing drug in the history of mankind."

These claims are absurd, and when a 1944 report from the New York Academy of Medicine questioned marijuana prohibition Anslinger, a man with no experience as a scientist, called the report unscientific.

Drug policy and science being misaligned is an ongoing problem. Some of the most dangerous drugs, such as alcohol, are legal, while drugs with fewer dangerous third party effects, such as heroin, remain illegal. Alcohol producers are free to transport and sell their goods. They use lawyers rather than bullets to resolve disputes. They take steps to ensure their products don't poison their customers. This is because they operate in a legal market, which is far preferable to a violent and unpredictable black market. If you're the kind of person who likes to use alcohol to change your mental state you're in a much better position than someone who might prefer a hallucinogen or a stimulant like cocaine.

Many drug warriors suffer from a lack of imagination when it comes to drug policy, imagining that a legal drug market wouldn't change how drugs are consumed or made very much. Heroin and methamphetamine are dangerous to buy on street corners in large part because of the risk of violence and the chance of being poisoned by a contaminated product. In a legal market heroin, which is very similar to other opioids, and methamphetamine, a stimulant almost identical to adderall, would be sold, produced, and made in very different ways than they are now. In a legal drug market we'd see the emergence of products like Vin Mariani and laudanum. It's not surprising that in the wake of marijuana legalization we saw marijuana bath bombs and CBD oil arrive on the market, and we should expect to see similar innovation after other drug policy liberalizations.

It's always risky to make predictions about policy and public attitudes. With that in mind, here are a few predictions:

Within a few decades (say, 2050) a majority of Americans will believe that consuming currently prohibited substances should not be a criminal offense. A majority of Americans will look at the War and Drugs and be horrified that such a barbaric policy continues. Legislation will lag behind these changing attitudes, but eventually the drug prohibitions we're used to will be abandoned and replaced with decriminalization or legalization. Sadly, Ulbricht will almost certainly be behind bars when this long overdue change takes place. While I'm sure it's of little help to him now, Ulbricht can perhaps take some comfort in knowing that his harsh sentence will one day be widely viewed as a tragic miscarriage of justice.

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