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Marijuana Legalization in California

By JEFFREY A. MIRON
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In November 2010, California voters will consider a ballot initiative that would legalize marijuana in the state. The proposed law includes restrictions on sale and use, such as a minimum purchase age of 21, but the bill gives marijuana roughly the same legal status as alcohol. Early polls suggest the measure will pass, although full-scale debate has not yet occurred.

Marijuana legalization is a far bigger step than decriminalization or medicalization, which have already occurred in California and other states. Decriminalization legalizes possession of small amounts of marijuana, but it does not eliminate the underground market or permit easy taxation. Medicalization is closer to legalization, but it still leaves producers and consumers in a legal gray area and collects less revenue than legalization.

Should California, or the country, legalize marijuana? Yes, for a multitude of reasons.

Legalization will move the marijuana industry above ground, just as the repeal of alcohol prohibition restored the legal alcohol industry. A small component of the marijuana market might remain illicit—moonshine marijuana rather than moonshine whiskey—but if regulation and taxation are moderate, most producers and consumers will choose the legal sector, as they did with alcohol.

Legalization would therefore eliminate most of the violence and corruption that currently characterize marijuana markets. These occur because, in underground markets, participants cannot resolve disputes via non-violent mechanisms such as lawsuits, advertising, lobbying, or campaign contributions. Instead, producers and consumers in these markets use violence to resolve disputes with each other and bribery or violence to resolve disputes with law enforcement. These features of “vice” markets disappear when vice is legal, as abundant experience with alcohol, prostitution, and gambling all demonstrate.

Legalization would result in numerous other benefits. Medical marijuana patients would no longer suffer legal limbo or social stigma from using marijuana to treat nausea from chemotherapy, glaucoma, or other conditions. Infringements on civil liberties and racial profiling would decline, since victimless crimes are a key cause of such police behavior. Quality control would improve because sellers could advertise and establish reputations for a consistent product, allowing consumers to choose low or high-potency marijuana.

Legalization would also generate budgetary savings for state and federal governments, both by eliminating expenditures on enforcement and by allowing taxation of legalized sales. I recently estimated that the net impact would be a deficit reduction of about \$20 billion per year, summed over all levels of government.

The one impact of legalization that might be undesirable is an increase in marijuana use, but the magnitude of this increase is likely to be modest. The repeal of alcohol prohibition in the U.S. produced about a 20 percent increase in use, while Portugal's 2001 de facto legalization of marijuana did not cause any measurable increase; indeed, use was lower afterward. Across countries, use rates for marijuana show little connection to the strictness of the prohibition regime. The Netherlands has virtual legalization, for example, yet use rates do not greatly differ

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from those in the United States.

An increase in marijuana use, moreover, is not necessarily bad. If the ballot initiative passes, people who would like to use marijuana but abstain due to prohibition would be able to consume responsibly; legalization would allow them to enjoy marijuana without fear of arrest or incarceration and without concern over quality. Some new users might generate adverse consequences for themselves or others, such as driving under the influence, but most irresponsible users are disregarding the law and consuming already.

Legalization will not, of course, eliminate all negatives of marijuana use. But just as the harms of alcohol prohibition were worse than the harms of alcohol itself, the adverse effects of marijuana prohibition are worse than the unwanted consequences of marijuana use. Legalization is therefore the better policy.

The ideal way to legalize marijuana is for the federal government to end its ban, while allowing each state to regulate and tax marijuana as it sees fit. This would circumvent the complicated constitutional issues that will arise if the California initiative passes, as federal law would still prohibit marijuana.

But California's initiative is nevertheless a valuable step, since the federal government is not yet ready to legalize. The California bill brings attention to the issue and, if adopted, will encourage other states and the federal government to follow suit.

The U.S. experiment with marijuana prohibition is just as misguided as was its earlier experiment with alcohol prohibition. We learned our lesson once; it is time to learn it again.

*Jeffrey A. Miron is a senior lecturer and the Director of Undergraduate Studies in the Department of Economics at Harvard University and is a senior fellow at the Cato Institute. Miron is the author of *Libertarianism, from A to Z*. This piece reflects the author's personal views and not those of Harvard University or its Department of Economics.*

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