

ISSUE

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Should Marijuana Be Legalized?

YES: Ethan A. Nadelmann, from "An End to Marijuana Prohibition: The Drive to Legalize Picks Up," *National Review* (2004)

NO: Charles D. Stimson, from "Legalizing Marijuana: Why Citizens Should Just Say No," *The Heritage Foundation* (2010)

Learning Outcomes

After reading this issue, you will be able to:

- Discuss the number of persons arrested and imprisoned for marijuana violations in the United States.
- Discuss the annual costs of enforcing marijuana laws in the United States.
- Discuss J. S. Mill's position on the nature and limits of power that can be legitimately exercised by society over an individual.
- Discuss whether marijuana is a "gateway" drug.
- Discuss the present legal status of "medical marijuana."
- Discuss the potential benefits of keeping marijuana illegal.
- Discuss the following statement: "Public support for the 'drug war' is more about moral values or fears than rational public safety measures."

ISSUE SUMMARY

YES: Ethan A. Nadelman, the founder and director of the Drug Policy Alliance contends that contemporary marijuana laws are unique among American criminal laws because no other law is both enforced so widely and yet deemed unnecessary by such a substantial portion of the public; enforcing marijuana laws also wastes tens of billions of taxpayer dollars annually.

NO: Charles D. Stimson of the Heritage Foundation argues that marijuana legalization will increase crime, drug use, and social dislocation—the exact opposite of what pro-legalization advocates promise. Moreover, he believes that there is substantial evidence to suggest that legalizing marijuana would lead to greater problems of addiction, violence, disorder, and death.

Should people be free to smoke marijuana without fear of criminal sanctions? Or, does smoking marijuana harm society as a whole as well as the drug user? A recent study by the Sentencing Project, a Washington-based think tank, has concluded that the drug war in the United States has shifted significantly in the past decade from a focus on hard drugs to marijuana law enforcement. Is this focus on marijuana suppression an effective or efficient way to spend our tax dollars? Moreover, is

it good social policy to use criminal punishment to try to prevent people from using marijuana? The answers to these questions defy an easy resolution; however, some things are very clear about marijuana usage in the United States.

First, large numbers of people are affected by the stringent enforcement of our nation's marijuana laws. A recent study found that approximately 700,000 people are arrested on marijuana charges each year, and 60,000 are confined to jails and prisons. Moreover, approximately

87 percent of marijuana arrests are for nothing more than simple possession of small quantities (Drug Policy Alliance, "Warning: Marijuana Causes Drug Czar to Behave Irrationally, Act Paranoid and Waste Billions of Dollars," May 4, 2005, <http://drugpolicy.org>). Second, the costs to taxpayers to enforce marijuana laws are considerable. The annual price tag for enforcing marijuana laws is approximately \$10–15 billion.

Moreover, recent studies suggest that a large number of Americans appear to favor decriminalization of marijuana. One poll suggests that 72 percent of Americans believe that fines, not imprisonment, are appropriate sanctions for violating marijuana laws. Moreover, approximately 80 percent of the people surveyed supported medical marijuana use.

In his classic essay "On Liberty," nineteenth-century philosopher John Stuart Mill discussed the nature and limits of power that can be legitimately exercised by society over an individual. Stated Mill:

[T]he sole end for which mankind are warranted, individually or collectively, in interfering with the liberty of action of any of their number is self-protection. That the only purpose for which power can rightfully be exercised over any member of a civilized community, against his will, is to prevent harm to others. His own good, either physical or moral, is not a sufficient warrant. He cannot rightfully be compelled to do so or forbear because it will be better for him to do so, because it will make him happier, because, in the opinions of others, to do so would be wise or even right.

Is the decision to use marijuana properly left to the realm of individual conscience? Or, is society merely trying to protect itself? The authors of the YES and NO selections have very different viewpoints on this issue.

Ethan A. Nadelmann, founder and director of the Drug Policy Alliance, believes that "the criminalization of marijuana is costly, foolish, and destructive." For example, Alabama currently imprisons people convicted three times of simple marijuana possession for 15 years to life. Moreover, foreign-born residents can be deported, and a parent's marijuana use may be the basis for taking away his or her children or placing them in foster care. Observes Nadelmann: "No one has ever died from a marijuana overdose, which cannot be said of most other drugs."

Charles D. Stimson, of the Heritage Foundation, disputes Nadelmann's contentions and believes that legalizing marijuana will increase crime, drug use, and social dislocation. Moreover, he believes that there is substantial evidence to suggest that legalizing marijuana would lead to greater problems of drug addiction, violence, disorder, and death.

So, which position is the correct one? Would the legalization of marijuana have dire consequences for society? Should society interfere with an individual's decision to smoke a joint in his or her living room at 10:00 PM on a Saturday night while eating a pepperoni pizza and watching a movie on television? What about persons undergoing medical treatment who believe that their conditions are somehow improved by smoking marijuana: Should they have access to legal marijuana without any fear of criminal prosecution?



YES**Ethan A. Nadelmann**

An End to Marijuana Prohibition: The Drive to Legalize Picks Up

Never before have so many Americans supported decriminalizing and even legalizing marijuana. Seventy-two percent say that for simple marijuana possession, people should not be incarcerated but fined: the generally accepted definition of "decriminalization." Even more Americans support making marijuana legal for medical purposes. Support for broader legalization ranges between 25 and 42 percent, depending on how one asks the question. Two of every five Americans—according to a 2003 Zogby poll—say "the government should treat marijuana more or less the same way it treats alcohol: It should regulate it, control it, tax it, and only make it illegal for children."

Close to 100 million Americans—including more than half of those between the ages of 18 and 50—have tried marijuana at least once. Military and police recruiters often have no choice but to ignore past marijuana use by job seekers. The public apparently feels the same way about presidential and other political candidates. Al Gore, Bill Bradley, and John Kerry all say they smoked pot in days past. So did Bill Clinton, with his notorious caveat. George W. Bush won't deny he did. And ever more political, business, religious, intellectual, and other leaders plead guilty as well.

The debate over ending marijuana prohibition simmers just below the surface of mainstream politics, crossing ideological and partisan boundaries. Marijuana is no longer the symbol of Sixties rebellion and Seventies permissiveness, and it's not just liberals and libertarians who say it should be legal, as William F. Buckley Jr. has demonstrated better than anyone. As director of the country's leading drug-policy-reform organization, I've had countless conversations with police and prosecutors, judges and politicians, and hundreds of others who quietly agree that the criminalization of marijuana is costly, foolish, and destructive. What's most needed now is principled conservative leadership. Buckley has led the way, and New Mexico's former governor, Gary Johnson, spoke out courageously while in office. How about others?

A Systemic Overreaction

Marijuana prohibition is unique among American criminal laws. No other law is both enforced so widely and harshly and yet deemed unnecessary by such a substantial portion of the populace.

Police make about 700,000 arrests per year for marijuana offenses. That's almost the same number as are arrested each year for cocaine, heroin, methamphetamine, Ecstasy, and all other illicit drugs combined. Roughly 600,000, or 87 percent, of marijuana arrests are for nothing more than possession of small amounts. Millions of Americans have never been arrested or convicted of any criminal offense except this. Enforcing marijuana laws costs an estimated \$10–15 billion in direct costs alone.

Punishments range widely across the country, from modest fines to a few days in jail to many years in prison. Prosecutors often contend that no one goes to prison for simple possession—but tens, perhaps hundreds, of thousands of people on probation and parole are locked up each year because their urine tested positive for marijuana or because they were picked up in possession of a joint. Alabama currently locks up people convicted three times of marijuana possession for 15 years to life. There are probably—no firm estimates exist—100,000 Americans behind bars tonight for one marijuana offense or another. And even for those who don't lose their freedom, simply being arrested can be traumatic and costly. A parent's marijuana use can be the basis for taking away her children and putting them in foster care. Foreign-born residents of the U.S. can be deported for a marijuana offense no matter how long they have lived in this country, no matter if their children are U.S. citizens, and no matter how long they have been legally employed. More than half the states revoke or suspend driver's licenses of people arrested for marijuana possession even though they were not driving at the time of arrest. The federal Higher Education Act prohibits student loans to young people

convicted of any drug offense; all other criminal offenders remain eligible.

This is clearly an overreaction on the part of government. No drug is perfectly safe, and every psychoactive drug can be used in ways that are problematic. The federal government has spent billions of dollars on advertisements and anti-drug programs that preach the dangers of marijuana—that it's a gateway drug, and addictive in its own right, and dramatically more potent than it used to be, and responsible for all sorts of physical and social diseases as well as international terrorism. But the government has yet to repudiate the 1988 finding of the Drug Enforcement Administration's own administrative law judge, Francis Young, who concluded after extensive testimony that "marijuana in its natural form is one of the safest therapeutically active substances known to man."

Is marijuana a gateway drug? Yes, insofar as most Americans try marijuana before they try other illicit drugs. But no, insofar as the vast majority of Americans who have tried marijuana have never gone on to try other illegal drugs, much less get in trouble with them, and most have never even gone on to become regular or problem marijuana users. Trying to reduce heroin addiction by preventing marijuana use, it's been said, is like trying to reduce motorcycle fatalities by cracking down on bicycle riding. If marijuana did not exist, there's little reason to believe that there would be less drug abuse in the U.S.; indeed, its role would most likely be filled by a more dangerous substance.

Is marijuana dramatically more potent today? There's certainly a greater variety of high-quality marijuana available today than 30 years ago. But anyone who smoked marijuana in the 1970s and 1980s can recall smoking pot that was just as strong as anything available today. What's more, one needs to take only a few puffs of higher-potency pot to get the desired effect, so there's less wear and tear on the lungs.

Is marijuana addictive? Yes, it can be, in that some people use it to excess, in ways that are problematic for themselves and those around them, and find it hard to stop. But marijuana may well be the least addictive and least damaging of all commonly used psychoactive drugs, including many that are now legal. Most people who smoke marijuana never become dependent. Withdrawal symptoms pale compared with those from other drugs. No one has ever died from a marijuana overdose, which cannot be said of most other drugs. Marijuana is not associated with violent behavior and only minimally with reckless sexual behavior. And even heavy marijuana smokers smoke only a fraction of what cigarette addicts smoke. Lung cancers involving only marijuana are rare.

The government's most recent claim is that marijuana abuse accounts for more people entering treatment than any other illegal drug. That shouldn't be surprising, given that tens of millions of Americans smoke marijuana while only a few million use all other illicit drugs. But the claim is spurious nonetheless. Few Americans who enter "treatment" for marijuana are addicted. Fewer than one in five people entering drug treatment for marijuana do so voluntarily. More than half were referred by the criminal-justice system. They go because they got caught with a joint or failed a drug test at school or work (typically for having smoked marijuana days ago, not for being impaired), or because they were caught by a law-enforcement officer—and attending a marijuana "treatment" program is what's required to avoid expulsion, dismissal, or incarceration. Many traditional drug-treatment programs shamelessly participate in this charade to preserve a profitable and captive client stream.

Even those who recoil at the "nanny state" telling adults what they can or cannot sell to one another often make an exception when it comes to marijuana—to "protect the kids." This is a bad joke, as any teenager will attest. The criminalization of marijuana for adults has not prevented young people from having better access to marijuana than anyone else. Even as marijuana's popularity has waxed and waned since the 1970s, one statistic has remained constant: More than 80 percent of high-school students report it's easy to get. Meanwhile, the government's exaggerations and outright dishonesty easily backfire. For every teen who refrains from trying marijuana because it's illegal (for adults), another is tempted by its status as "forbidden fruit." Many respond to the lies about marijuana by disbelieving warnings about more dangerous drugs. So much for protecting the kids by criminalizing the adults.

The Medical Dimension

The debate over medical marijuana obviously colors the broader debate over marijuana prohibition. Marijuana's medical efficacy is no longer in serious dispute. Its use as a medicine dates back thousands of years. Pharmaceuticals containing marijuana's central ingredient, THC, are legally sold in the U.S., and more are emerging. Some people find the pill form satisfactory, and others consume it in teas or baked products. Most find smoking the easiest and most effective way to consume this unusual medicine, but non-smoking consumption methods, notably vaporizers, are emerging.

Federal law still prohibits medical marijuana. But every state ballot initiative to legalize medical marijuana has been approved, often by wide margins—in California,

Washington, Oregon, Alaska, Colorado, Nevada, Maine, and Washington, D.C. State legislatures in Vermont, Hawaii, and Maryland have followed suit, and many others are now considering their own medical-marijuana bills—including New York, Connecticut, Rhode Island, and Illinois. Support is often bipartisan, with Republican governors like Gary Johnson and Maryland's Bob Ehrlich taking the lead. In New York's 2002 gubernatorial campaign, the conservative candidate of the Independence party, Tom Golisano, surprised everyone by campaigning heavily on this issue. The medical-marijuana bill now before the New York legislature is backed not just by leading Republicans but even by some Conservative party leaders.

The political battleground increasingly pits the White House—first under Clinton and now Bush—against everyone else. Majorities in virtually every state in the country would vote, if given the chance, to legalize medical marijuana. Even Congress is beginning to turn; last summer about two-thirds of House Democrats and a dozen Republicans voted in favor of an amendment co-sponsored by Republican Dana Rohrabacher to prohibit federal funding of any Justice Department crackdowns on medical marijuana in the states that had legalized it. (Many more Republicans privately expressed support, but were directed to vote against.) And federal courts have imposed limits on federal aggression: first in *Conant v. Walters*, which now protects the First Amendment rights of doctors and patients to discuss medical marijuana, and more recently in *Raich v. Ashcroft* and *Santa Cruz v. Ashcroft*, which determined that the federal government's power to regulate interstate commerce does not provide a basis for prohibiting medical-marijuana operations that are entirely local and non-commercial. (The Supreme Court let the *Conant* decision stand, but has yet to consider the others.)

State and local governments are increasingly involved in trying to regulate medical marijuana, notwithstanding the federal prohibition. California, Oregon, Hawaii, Alaska, Colorado, and Nevada have created confidential medical-marijuana patient registries, which protect bona fide patients and caregivers from arrest or prosecution. Some municipal governments are now trying to figure out how to regulate production and distribution. In California, where dozens of medical-marijuana programs now operate openly, with tacit approval by local authorities, some program directors are asking to be licensed and regulated. Many state and local authorities, including law enforcement, favor this but are intimidated by federal threats to arrest and prosecute them for violating federal law.

The drug czar and DEA spokespersons recite the mantra that "there is no such thing as medical marijuana,"

but the claim is so specious on its face that it clearly undermines federal credibility. The federal government currently provides marijuana—from its own production site in Mississippi—to a few patients who years ago were recognized by the courts as bona fide patients. No one wants to debate those who have used marijuana for medical purposes, be it Santa Cruz medical-marijuana hospice founder Valerie Corral or National Review's Richard Brookhiser. Even many federal officials quietly regret the assault on medical marijuana. When the DEA raided Corral's hospice in September 2002, one agent was heard to say, "Maybe I'm going to think about getting another job sometime soon."

The Broader Movement

The bigger battle, of course, concerns whether marijuana prohibition will ultimately go the way of alcohol Prohibition, replaced by a variety of state and local tax and regulatory policies with modest federal involvement. Dedicated prohibitionists see medical marijuana as the first step down a slippery slope to full legalization. The voters who approved the medical-marijuana ballot initiatives (as well as the wealthy men who helped fund the campaigns) were roughly divided between those who support broader legalization and those who don't, but united in seeing the criminalization and persecution of medical-marijuana patients as the most distasteful aspect of the war on marijuana. (This was a point that Buckley made forcefully in his columns about the plight of Peter McWilliams, who likely died because federal authorities effectively forbade him to use marijuana as medicine.)

The medical-marijuana effort has probably aided the broader anti-prohibitionist campaign in three ways. It helped transform the face of marijuana in the media, from the stereotypical rebel with long hair and tie-dyed shirt to an ordinary middle-aged American struggling with MS or cancer or AIDS. By winning first Proposition 215, the 1996 medical-marijuana ballot initiative in California, and then a string of similar victories in other states, the nascent drug-policy-reform movement demonstrated that it could win in the big leagues of American politics. And the emergence of successful models of medical-marijuana control is likely to boost public confidence in the possibilities and virtue of regulating non-medical use as well.

In this regard, the history of Dutch policy on cannabis (i.e., marijuana and hashish) is instructive. The "coffee shop" model in the Netherlands, where retail (but not wholesale) sale of cannabis is defacto legal, was not legislated into existence. It evolved in fits and starts following

the decriminalization of cannabis by Parliament in 1976, as consumers, growers, and entrepreneurs negotiated and collaborated with local police, prosecutors, and other authorities to find an acceptable middle-ground policy. "Coffee shops" now operate throughout the country, subject to local regulations. Troublesome shops are shut down, and most are well integrated into local city cultures. Cannabis is no more popular than in the U.S. and other Western countries, notwithstanding the effective absence of criminal sanctions and controls. Parallel developments are now underway in other countries.

Like the Dutch decriminalization law in 1976, California's Prop 215 in 1996 initiated a dialogue over how best to implement the new law. The variety of outlets that have emerged—ranging from pharmacy-like stores to medical "coffee shops" to hospices, all of which provide marijuana only to people with a patient ID card or doctor's recommendation—play a key role as the most public symbol and manifestation of this dialogue. More such outlets will likely pop up around the country as other states legalize marijuana for medical purposes and then seek ways to regulate distribution and access. And the question will inevitably arise: If the emerging system is successful in controlling production and distribution of marijuana for those with a medical need, can it not also expand to provide for those without medical need?

Millions of Americans use marijuana not just "for fun" but because they find it useful for many of the same reasons that people drink alcohol or take pharmaceutical drugs. It's akin to the beer, glass of wine, or cocktail at the end of the workday, or the prescribed drug to alleviate depression or anxiety, or the sleeping pill, or the aid to sexual function and pleasure. More and more Americans are apt to describe some or all of their marijuana use as "medical" as the definition of that term evolves and broadens. Their anecdotal experiences are increasingly backed by new scientific research into marijuana's essential ingredients, the cannabinoids. Last year a subsidiary of *The Lancet*, Britain's leading medical journal, speculated whether marijuana might soon emerge as the "aspirin of the 21st century," providing a wide array of medical benefits at low cost to diverse populations.

Perhaps the expansion of the medical-control model provides the best answer—at least in the U.S.—to the question of how best to reduce the substantial costs and harms of marijuana prohibition without inviting significant increases in real drug abuse. It's analogous to the evolution of many pharmaceutical drugs from prescription to over-the-counter, but with stricter controls still in place.

It's also an incrementalist approach to reform that can provide both the control and the reassurance that cautious politicians and voters desire.

In 1931, with public support for alcohol Prohibition rapidly waning, President Hoover released the report of the Wickersham Commission. The report included a devastating critique of Prohibition's failures and costly consequences, but the commissioners, apparently fearful of getting out too far ahead of public opinion, opposed repeal. Franklin P. Adams of the *New World* neatly summed up their findings:

Prohibition is an awful flop.
We like it.
It can't stop what it's meant to stop.
We like it.
It's left a trail of graft and slime
It don't prohibit worth a dime
It's filled our land with vice and crime.
Nevertheless, we're for it.

Two years later, federal alcohol Prohibition was history.

What support there is for marijuana prohibition would likely end quickly absent the billions of dollars spent annually by federal and other governments to prop it up. All those anti-marijuana ads pretend to be about reducing drug abuse, but in fact their basic purpose is sustaining popular support for the war on marijuana. What's needed now are conservative politicians willing to say enough is enough: Tens of billions of taxpayer dollars down the drain each year. People losing their jobs, their property, and their freedom for nothing more than possessing a joint or growing a few marijuana plants. And all for what? To send a message? To keep pretending that we're protecting our children? Alcohol Prohibition made a lot more sense than marijuana prohibition does today—and it, too, was a disaster.

ETHAN A. NADELMANN is a highly respected critic of U.S. and international drug control policies. He received his BA, JD, and PhD degrees in political science from Harvard University as well as a masters degree in international relations from the London School of Economics. In 1994, with the support of George Soros, he founded the Lindesmith Center, a leading drug policy institute. He serves presently as director of the Lindesmith Center—Drug Policy Foundation. Nadelmann's works have been published in *Science*, *Rolling Stone*, *National Review*, *The Public Interest*, *Daedalus*, and various other publications.

Charles D. Stimson



Legalizing Marijuana: Why Citizens Should Just Say No

The scientific literature is clear that marijuana is addictive and that its use significantly impairs bodily and mental functions. Marijuana use is associated with memory loss, cancer, immune system deficiencies, heart disease, and birth defects, among other conditions. Even where decriminalized, marijuana trafficking remains a source of violence, crime, and social disintegration. . . .

The . . . campaign, [to legalize marijuana] like previous efforts, downplays the well-documented harms of marijuana trafficking and use while promising benefits ranging from reduced crime to additional tax revenue. In particular, supporters of the initiative make five bold claims:

1. "Marijuana is safe and non-addictive."
2. "Marijuana prohibition makes no more sense than alcohol prohibition did in the early 1900s."
3. "The government's efforts to combat illegal drugs have been a total failure."
4. "The money spent on government efforts to combat the illegal drug trade can be better spent on substance abuse and treatment for the allegedly few marijuana users who abuse the drug."
5. "Tax revenue collected from marijuana sales would substantially outweigh the social costs of legalization."

As this paper details, all five claims are demonstrably false or, based on the best evidence, highly dubious.

Further, supporters of [legalization] simply ignore the mechanics of decriminalization—that is, how it would directly affect law enforcement, crime, and communities. Among the important questions left unanswered are:

- How would the state law fit into a federal regime that prohibits marijuana production, distribution, and possession?
- Would decriminalization, especially if combined with taxation, expand market opportunities for the gangs and cartels that currently dominate drug distribution?

- Would existing zoning laws prohibit marijuana cultivation in residential neighborhoods, and if not, what measures would growers have to undertake to keep children from the plants?
- Would transportation providers be prohibited from firing bus drivers because they smoke marijuana?

No one knows the specifics of how marijuana decriminalization would work in practice or what measures would be necessary to prevent children, teenagers, criminals, and addicts from obtaining the drug.

The federal government shares these concerns. Gil Kerlikowske, Director of the White House Office of National Drug Control Policy (ONDCP), recently stated, "Marijuana legalization, for any purpose, is a non-starter in the Obama Administration." The Administration—widely viewed as more liberal than any other in recent memory and, for a time, as embodying the hopes of pro-legalization activists—has weighed the costs and benefits and concluded that marijuana legalization would compromise public health and safety.

[V]oters, if they take a fair-minded look at the evidence and the practical problems of legalization, should reach the same conclusion: Marijuana is a dangerous substance that should remain illegal under state law. . . .

Unsafe in Any Amount: How Marijuana Is Not Like Alcohol

Marijuana advocates have had some success peddling the notion that marijuana is a "soft" drug, similar to alcohol, and fundamentally different from "hard" drugs like cocaine or heroin. It is true that marijuana is not the most dangerous of the commonly abused drugs, but that is not to say that it is safe. Indeed, marijuana shares more in common with the "hard" drugs than it does with alcohol.

A common argument for legalization is that smoking marijuana is no more dangerous than drinking alcohol and

that prohibiting the use of marijuana is therefore no more justified than the prohibition of alcohol. As Jacob Sullum, author of *Saying Yes: In Defense of Drug Use*, writes:

Americans understood the problems associated with alcohol abuse, but they also understood the problems associated with Prohibition, which included violence, organized crime, official corruption, the erosion of civil liberties, disrespect for the law, and injuries and deaths caused by tainted black-market booze. They decided that these unintended side effects far out-weighed whatever harms Prohibition prevented by discouraging drinking. The same sort of analysis today would show that the harm caused by drug prohibition far out-weighs the harm it prevents, even without taking into account the value to each individual of being sovereign over his own body and mind.

At first blush, this argument is appealing, especially to those wary of over-regulation by government. But it overlooks the enormous difference between alcohol and marijuana.

Legalization advocates claim that marijuana and alcohol are mild intoxicants and so should be regulated similarly; but as the experience of nearly every culture, over the thousands of years of human history, demonstrates, alcohol is different. Nearly every culture has its own alcoholic preparations, and nearly all have successfully regulated alcohol consumption through cultural norms. The same cannot be said of marijuana. There are several possible explanations for alcohol's unique status: For most people, it is not addictive; it is rarely consumed to the point of intoxication; low-level consumption is consistent with most manual and intellectual tasks; it has several positive health benefits; and it is formed by the fermentation of many common substances and easily metabolized by the body.

To be sure, there are costs associated with alcohol abuse, such as drunk driving and disease associated with excessive consumption. A few cultures—and this nation for a short while during Prohibition—have concluded that the benefits of alcohol consumption are not worth the costs. But they are the exception; most cultures have concluded that it is acceptable in moderation. No other intoxicant shares that status.

Alcohol differs from marijuana in several crucial respects. First, marijuana is far more likely to cause addiction. Second, it is usually consumed to the point of intoxication. Third, it has no known general healthful properties, though it may have some palliative effects.

Fourth, it is toxic and deleterious to health. Thus, while it is true that both alcohol and marijuana are less intoxicating than other mood-altering drugs, that is not to say that marijuana is especially similar to alcohol or that its use is healthy or even safe.

In fact, compared to alcohol, marijuana is not safe. Long-term, moderate consumption of alcohol carries few health risks and even offers some significant benefits. For example, a glass of wine (or other alcoholic drink) with dinner actually improves health. Dozens of peer-reviewed medical studies suggest that drinking moderate amounts of alcohol reduces the risk of heart disease, strokes, gallstones, diabetes, and death from a heart attack. According to the Mayo Clinic, among many others, moderate use of alcohol (defined as two drinks a day) "seems to offer some health benefits, particularly for the heart." Countless articles in medical journals and other scientific literature confirm the positive health effects of moderate alcohol consumption.

The effects of regular marijuana consumption are quite different. For example, the National Institute on Drug Abuse (a division of the National Institutes of Health) has released studies showing that use of marijuana has wide-ranging negative health effects. Long-term marijuana consumption "impairs the ability of T-cells in the lungs' immune system to fight off some infections." These studies have also found that marijuana consumption impairs short-term memory, making it difficult to learn and retain information or perform complex tasks; slows reaction time and impairs motor coordination; increases heart rate by 20 percent to 100 percent, thus elevating the risk of heart attack; and alters moods, resulting in artificial euphoria, calmness, or (in high doses) anxiety or paranoia. And it gets worse: Marijuana has toxic properties that can result in birth defects, pain, respiratory system damage, brain damage, and stroke.

Further, prolonged use of marijuana may cause cognitive degradation and is "associated with lower test scores and lower educational attainment because during periods of intoxication the drug affects the ability to learn and process information, thus influencing attention, concentration, and short-term memory." Unlike alcohol, marijuana has been shown to have a residual effect on cognitive ability that persists beyond the period of intoxication. According to the National Institute on Drug Abuse, whereas alcohol is broken down relatively quickly in the human body, THC (tetrahydrocannabinol, the main active chemical in marijuana) is stored in organs and fatty tissues, allowing it to remain in a user's body for days or even weeks after consumption. Research has

shown that marijuana consumption may also cause "psychotic symptoms."

Marijuana's effects on the body are profound. According to the British Lung Foundation, "smoking three or four marijuana joints is as bad for your lungs as smoking twenty tobacco cigarettes." Researchers in Canada found that marijuana smoke contains significantly higher levels of numerous toxic compounds, like ammonia and hydrogen cyanide, than regular tobacco smoke. In fact, the study determined that ammonia was found in marijuana smoke at levels of up to 20 times the levels found in tobacco. Similarly, hydrogen cyanide was found in marijuana smoke at concentrations three to five times greater than those found in tobacco smoke.

Marijuana, like tobacco, is addictive. One study found that more than 30 percent of adults who used marijuana in the course of a year were dependent on the drug. These individuals often show signs of withdrawal and compulsive behavior. Marijuana dependence is also responsible for a large proportion of calls to drug abuse help lines and treatment centers.

To equate marijuana use with alcohol consumption is, at best, uninformed and, at worst, actively misleading. Only in the most superficial ways are the two substances alike, and they differ in every way that counts: addictiveness, toxicity, health effects, and risk of intoxication.

Unintended Consequences

Today, marijuana trafficking is linked to a variety of crimes, from assault and murder to money laundering and smuggling. Legalization of marijuana would increase demand for the drug and almost certainly exacerbate drug-related crime, as well as cause a myriad of unintended but predictable consequences.

To begin with, an astonishingly high percentage of criminals are marijuana users. According to a study by the RAND Corporation, approximately 60 percent of arrestees test positive for marijuana use in the United States, England, and Australia. Further, marijuana metabolites are found in arrestees' urine more frequently than those of any other drug.

Although some studies have shown marijuana to inhibit aggressive behavior and violence, the National Research Council concluded that the "long-term use of marijuana may alter the nervous system in ways that do promote violence." No place serves as a better example than Amsterdam.

Marijuana advocates often point to the Netherlands as a well-functioning society with a relaxed attitude toward

drugs, but they rarely mention that Amsterdam is one of Europe's most violent cities. In Amsterdam, officials are in the process of closing marijuana dispensaries, or "coffee shops," because of the crime associated with their operation. Furthermore, the Dutch Ministry of Health, Welfare and Sport has expressed "concern about drug and alcohol use among young people and the social consequences, which range from poor school performance and truancy to serious impairment, including brain damage."

Amsterdam's experience is already being duplicated in California under the current medical marijuana statute. In Los Angeles, police report that areas surrounding cannabis clubs have experienced a 200 percent increase in robberies, a 52.2 percent increase in burglaries, a 57.1 percent increase in aggravated assault, and a 130.8 percent increase in burglaries from automobiles. Current law requires a doctor's prescription to procure marijuana; full legalization would likely spark an even more acute increase in crime.

Legalization of marijuana would also inflict a series of negative consequences on neighborhoods and communities. The nuisance caused by the powerful odor of mature marijuana plants is already striking California municipalities. The City Council of Chico, California, has released a report detailing the situation and describing how citizens living near marijuana cultivators are disturbed by the incredible stink emanating from the plants.

Perhaps worse than the smell, crime near growers is increasing, associated with "the theft of marijuana from yards where it is being grown." As a result, housing prices near growers are sinking.

Theoretical arguments in favor of marijuana legalization usually overlook the practical matter of how the drug would be regulated and sold. It is the details of implementation, of course, that will determine the effect of legalization on families, schools, and communities. Most basically, how and where would marijuana be sold?

- Would neighborhoods become neon red-light districts like Amsterdam's, accompanied by the same crime and social disorder?
- If so, who decides what neighborhoods will be so afflicted—residents and landowners or far-off government officials?
- Or would marijuana sales be so widespread that users could add it to their grocery lists?
- If so, how would stores sell it, how would they store it, and how would they prevent it from being diverted into the gray market?
- Would stores dealing in marijuana have to fortify their facilities to reduce the risk of theft and assault?

The most likely result is that the drug will not be sold in legitimate stores at all, because while the federal government is currently tolerating medical marijuana dispensaries, it will not tolerate wide-scale sales under general legalizational statutes. So marijuana will continue to be sold on the gray or black market.

The [movement to legalize marijuana] does not answer these or other practical questions regarding implementation. Rather, it leaves those issues to localities. No doubt, those entities will pass a variety of laws in an attempt to deal with the many problems caused by legalization, unless the local laws are struck down by California courts as inconsistent with the underlying initiative, which would be even worse. At best, that patchwork of laws, differing from one locality to another, will be yet another unintended and predictable problem arising from legalization as envisioned under this act.

Citizens also should not overlook what may be the greatest harms of marijuana legalization: increased addiction to and use of harder drugs. In addition to marijuana's harmful effects on the body and relationship to criminal conduct, it is a gateway drug that can lead users to more dangerous drugs. Prosecutors, judges, police officers, detectives, parole or probation officers, and even defense attorneys know that the vast majority of defendants arrested for violent crimes test positive for illegal drugs, including marijuana. They also know that marijuana is the starter drug of choice for most criminals. Whereas millions of Americans consume moderate amounts of alcohol without ever "moving on" to dangerous drugs, marijuana use and cocaine use are strongly correlated.

While correlation does not necessarily reflect causation, and while the science is admittedly mixed as to whether it is the drug itself or the people the new user associates with who cause the move on to cocaine, heroin, LSD, or other drugs, the RAND Corporation reports that marijuana prices and cocaine use are directly linked, suggesting a substitution effect between the two drugs. Moreover, according to RAND, legalization will cause marijuana prices to fall as much as 80 percent. That can lead to significant consequences because "a 10-percent decrease in the price of marijuana would increase the prevalence of cocaine use by 4.4 to 4.9 percent." As cheap marijuana floods the market both in and outside of California, use of many different types of drugs will increase, as will marijuana use.

It is impossible to predict the precise consequences of legalization, but the experiences of places that have eased restrictions on marijuana are not positive. Already, California is suffering crime, dislocation, and increased

drug use under its current regulatory scheme. Further liberalizing the law will only make matters worse.

Flouting Federal Law

Another area of great uncertainty is how a state law legalizing marijuana would fit in with federal law to the contrary. Congress has enacted a comprehensive regulatory scheme for restricting access to illicit drugs and other controlled substances. The Controlled Substances Act of 1970 prohibits the manufacture, distribution, and possession of all substances deemed to be Schedule I drugs—drugs like heroin, PCP, and cocaine. Because marijuana has no "currently accepted medical use in treatment in the United States," it is a Schedule I drug that cannot be bought, sold, possessed, or used without violating federal law.

Under the Supremacy Clause of the Constitution of the United States, the Controlled Substances Act is the supreme law of the land and cannot be superseded by state laws that purport to contradict or abrogate its terms. The RCTCA proposes to "reform California's cannabis laws in a way that will benefit our state" and "[r]egulate cannabis like we do alcohol." But the act does not even purport to address the fundamental constitutional infirmity that it would be in direct conflict with federal law. If enacted and unchallenged by the federal government, it would call into question the government's ability to regulate all controlled substances, including drugs such as Oxycontin, methamphetamine, heroin, and powder and crack cocaine. More likely, however, the feds would challenge the law in court, and the courts would have no choice but to strike it down.

Congress has the power to change the Controlled Substances Act and remove marijuana from Schedule I. Yet after decades of lobbying, it has not, largely because of the paucity of scientific evidence in support of a delisting.

California, in fact, is already in direct violation of federal law. Today, its laws allow the use of marijuana as a treatment for a range of vaguely defined conditions, including chronic pain, nausea, and lack of appetite, depression, anxiety, and glaucoma. "Marijuana doctors" are listed in the classified advertising sections of newspapers, and many are conveniently located adjacent to "dispensaries." At least one "doctor" writes prescriptions from a tiny hut beside the Venice Beach Boardwalk.

This "medical marijuana" law and similar ones in other states are premised on circumvention of the Food and Drug Administration (FDA) approval process. "FDA's drug approval process requires well-controlled clinical trials that provide the necessary scientific data upon which FDA makes its approval and labeling decisions." Marijuana,

even that supposedly used for medicinal purposes, has been rejected by the FDA because, among other reasons, it "has no currently accepted or proven medical use."

The lack of FDA approval means that marijuana may come from unknown sources, may be adulterated with foreign substances, or may not even be marijuana at all. Pot buyers have no way to know what they are getting, and there is no regulatory authority with the ability to go after bogus manufacturers and dealers. Even if one overlooks its inherently harmful properties, marijuana that is commonly sold is likely to be far less safe than that studied in the lab or elsewhere.

Marijuana advocates claim that federal enforcement of drug laws, particularly in jurisdictions that allow the use of medical marijuana, violates states' rights. The Supreme Court, however, has held otherwise. In 2002, California resident Angel Raich produced and consumed marijuana, purportedly for medical purposes. Her actions, while in accordance with California's "medical marijuana" law, clearly violated the Controlled Substances Act, and the local sheriff's department destroyed Raich's plants. Raich claimed that she needed to use marijuana, prescribed by her doctor, for medical purposes. She sued the federal government, asking the court to stop the government from interfering with her right to produce and use marijuana.

In 2006, the Supreme Court held in *Gonzales vs. Raich* that the Commerce Clause confers on Congress the authority to ban the use of marijuana, even when a state approves it for "medical purposes" and it is produced in small quantities for personal consumption. Many legal scholars criticize the Court's extremely broad reading of the Commerce Clause as inconsistent with its original meaning, but the Court's decision nonetheless stands. . . .

Bogus Economics

An innovation of the campaign in support of [legalization] is its touting of the potential benefit of legalization to the government, in terms of additional revenues from taxing marijuana and savings from backing down in the "war on drugs." The National Organization for the Reform of Marijuana Laws (NORML), for example, claims that legalization "could yield California taxpayers over \$1.2 billion per year" in tax benefits. According to a California NORML Report updated in October 2009, an excise tax of \$50 per ounce would raise about \$770 million to \$900 million per year and save over \$200 million in law enforcement costs per year. It is worth noting that \$900 million equates to 18 million ounces—enough marijuana for Californians to smoke one billion marijuana cigarettes each year.

But these projections are highly speculative and riddled with unfounded assumptions. Dr. Rosalie Liccardo Pacula, an expert with the RAND Corporation who has studied the economics of drug policy for over 15 years, has explained that the California "Board of Equalization's estimate of \$1.4 billion [in] potential revenue for the state is based on a series of assumptions that are in some instances subject to tremendous uncertainty and in other cases not validated." She urged the California Committee on Public Safety to conduct an honest and thorough cost-benefit analysis of the potential revenues and costs associated with legalizing marijuana. To date, no such realistic cost-benefit analysis has been done.

In her testimony before the committee, Dr. Pacula stated that prohibition raises the cost of production by at least 400 percent and that legalizing marijuana would cause the price of marijuana to fall considerably—much more than the 50 percent price reduction incorporated into the state's revenue model. Furthermore, she noted that a \$50-per-ounce marijuana tax was not realistic, because it would represent a 100 percent tax on the cost of the product. . . .

Other Negative Social Costs

In addition to its direct effects on individual health, even moderate marijuana use imposes significant long-term costs through the ways that it affects individual users. Marijuana use is associated with cognitive difficulties and influences attention, concentration, and short-term memory. This damage affects drug users' ability to work and can put others at risk. Even if critical workers—for example, police officers, airline pilots, and machine operators—used marijuana recreationally but remained sober on the job, the long-term cognitive deficiency that remained from regular drug use would sap productivity and place countless people in danger. Increased use would also send health care costs skyrocketing—costs borne not just by individual users, but also by the entire society.

For that reason, among others, the Obama Administration also rejects supporters' economic arguments. In his speech, Kerlikowske explained that tax revenue from cigarettes is far outweighed by their social costs: "Tobacco also does not carry its economic weight when we tax it; each year we spend more than \$200 billion and collect only about \$25 billion in taxes." If the heavy taxation of cigarettes is unable even to come close to making up for the health and other costs associated with their use, it seems doubtful at best that marijuana taxes would be sufficient to cover the costs of legalized

marijuana—especially considering that, in addition to the other dangers of smoking marijuana, the physical health effects of just three to four joints are equivalent to those of an entire pack of cigarettes.

Other claims also do not measure up. One of the express purposes of [legalizing] initiative[s] is to “put dangerous, underground street dealers out of business, so their influence in our communities will fade.” But as explained above, many black-market dealers would rationally choose to remain in the black market to avoid taxation and regulation. Vibrant gray markets have developed throughout the world for many products that are legal, regulated, and heavily taxed. Cigarettes in Eastern Europe, alcohol in Scandinavia, luxury automobiles in Russia, and DVDs in the Middle East are all legal goods traded in gray markets that are wracked with violence. In Canada, an attempt at a \$3 per pack tax on cigarettes was greeted with the creation of a black market that “accounted for perhaps 30 percent of sales.” . . .

In sum, legalization would put additional strain on an already faltering economy. In 2008, marijuana alone was involved in 375,000 emergency room visits. Drug overdoses already outnumber gunshot deaths in America and are approaching motor vehicle crashes as the nation’s leading cause of accidental death. It is true that taxing marijuana sales would generate some tax revenue, but the cost of handling the influx of problems resulting from increased use would far outweigh any gain made by marijuana’s taxation. Legalizing marijuana would serve only to compound the problems already associated with drug use.

Social Dislocation and Organized Crime

The final two arguments of those favoring legalization are intertwined. According to advocates of legalization, the government’s efforts to combat the illegal drug trade have been an expensive failure. Consequently, they argue, focusing on substance abuse and treatment would be a more effective means of combating drug abuse while reducing the violence and social ills stemming from anti-drug enforcement efforts.

There is no doubt that if marijuana were legalized, more people, including juveniles, would consume it. Consider cigarettes: While their purchase by people under 18 is illegal, 20 percent of high school students admit to having smoked cigarettes in the past 30 days. Marijuana’s illegal status “keeps potential drug users from using” marijuana in a way that no legalization scheme can replicate “by

virtue of the fear of arrest and the embarrassment of being caught.” With increased use comes increased abuse, as the fear of arrest and embarrassment will decrease. . . .

Keeping marijuana illegal will undoubtedly keep many young people from using it. Eliminate that criminal sanction (and moral disapprobation), and more youth will use the drug, harming their potential and ratcheting up treatment costs.

Educators know that students using marijuana underperform when compared to their non-using peers. Teachers, coaches, guidance counselors, and school principals have seen the negative effect of marijuana on their students. The Rev. Dr. D. Stuart Dunnan, Headmaster of Saint James School in St. James, Maryland, says of marijuana use by students:

The chemical effect of marijuana is to take away ambition. The social effect is to provide an escape from challenges and responsibilities with a like-minded group of teenagers who are doing the same thing. Using marijuana creates losers. At a time when we’re concerned about our lack of academic achievement relative to other countries, legalizing marijuana will be disastrous.

Additionally, making marijuana legal . . . will fuel drug cartels and violence, particularly because the drug will still be illegal at the national level. The local demand will increase . . . but reputable growers, manufacturers, and retailers will still be unwilling—as they should be—to produce and distribute marijuana. Even without the federal prohibition, most reputable producers would not survive the tort liability from such a dangerous product. Thus, the vacuum will be filled by illegal drug cartels.

According to the Department of Justice’s National Drug Threat Assessment for 2010, Mexican drug trafficking organizations (DTOs) “have expanded their cultivation operations in the United States, an ongoing trend for the past decade. . . . Well-organized criminal groups and DTOs that produce domestic marijuana do so because of the high profitability of and demand for marijuana in the United States.”

Legalize marijuana, and the demand for marijuana goes up substantially as the deterrence effect of law enforcement disappears. Yet not many suppliers will operate legally, refusing to subject themselves to the established state regulatory scheme—not to mention taxation—while still risking federal prosecution, conviction, and prison time. So who will fill the void?

Violent, brutal, and ruthless, Mexican DTOs will work to maintain their black-market profits at the expense

of American citizens' safety. Every week, there are news articles cataloguing the murders, kidnappings, robberies, and other thuggish brutality employed by Mexican drug gangs along the border. . . . Thus, marijuana legalization will increase crime, drug use, and social dislocation across the state of California—the exact opposite of what pro-legalization advocates promise.

Conclusion

Pro-marijuana advocates promoting [legalization] invite Californians to imagine a hypothetical and idyllic “pot market,” but America's national approach to drug use, addiction, and crime must be serious, based on sound policy and solid evidence.

In 1982, President Ronald Reagan adopted a national drug strategy that took a comprehensive approach consisting of five components: international cooperation, research, strengthened law enforcement, treatment and rehabilitation, and prevention and education. It was remarkably successful: Illegal drug use by young adults dropped more than 50 percent.

Reagan was right to make drug control a major issue of his presidency. Illegal drugs such as marijuana are responsible for a disproportionate share of violence and social decline in America. Accordingly, federal law, representing the considered judgment of medical science and the nation's two political branches of government, takes the unequivocal position that marijuana is dangerous and has no significant beneficial uses.

[States] cannot repeal that law or somehow allow its citizens to contravene it. Thus, [they have] two options. By far the best option is to commit itself seriously to the federal approach and pursue a strategy that attempts to prevent illegal drug use in the first place and reduce the

number of drug users. This may require changes in drug policy, and perhaps in sentencing guidelines for marijuana users charged with simple possession, but simply legalizing a harmful drug—that is, giving up—is not a responsible option.

The other option is to follow the above path in the short term while conducting further research and possibly working with other states in Congress to consider changes in federal law. Although those who oppose the legalization of marijuana have every reason to believe that further, legitimate scientific research will confirm the dangers of its use, no side should try to thwart the sober judgment of the national legislature and sister states.

In short, no state will likely be allowed to legalize marijuana on its own, with such serious, negative cross-state spillover effects. Yet even if [a state] could act as if it were an island, the legalization route would still end very badly. There is strong evidence to suggest that legalizing marijuana would serve little purpose other than to worsen the state's drug problems—addiction, violence, disorder, and death. While long on rhetoric, the legalization movement, by contrast, is short on facts.

Note

For references and supporting documentation accompanying this article go to www.heritage.org.

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