

## **DRUG POLICY AND PROGRAM**

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In this essay I first try to describe what the basic principles of a drug policy might be like in a good society. Then I offer a program on drugs for the left to pursue today, one that attempts to be consistent with these principles, though constrained by current realities. The utopian vision is not without its uncertainties, but in some respects it is less tentative than the programmatic section, a reflection of the fact that the drug problem, like many other problems, may simply not be soluble under our present system.

### **Drugs in the Good Society**

In a good society, many of the most important factors that promote drug abuse in the United States today would not be present.

Crack addiction in particular is notoriously a product of the desperation of our inner cities: homelessness, worsening poverty, and continuing racism. To those whose prospects for getting a job are so dismal and whose adult life expectancy in the richest country on earth is below that in Bangladesh, the use of crack or heroin or PCP has a certain appeal. Family disintegration also breeds drug abuse, and though family problems have many sources, the current Depression-level economic conditions in urban America are surely a major cause.<sup>1</sup>

Another factor that encourages drug abuse among people of all income levels is alienation. A society that merely provided for its citizens' economic well-being could still be abysmally alienating. Being forced to defer to the whims of bosses or an all-knowing Central Committee, to perform mindless work, or to adhere to narrow cultural norms: these generate alienation. A good society would have to give people substantial control over their lives, opportunities to engage in creative work, and diverse cultural options. In a society that did these things, the temptations of drug abuse would be minimal.

This is not to say that no one would be unhappy. There will always be unrequited love, frustrated personal goals, illness, and death. But the number of depressed people in a decent society would be far less than today, and humane mental health services would be available to help deal with the problems. Those few individuals who nonetheless became drug abusers would be an even smaller number, easily dealt with by the public health system, not the criminal justice system.

Drug addiction in the United States is also driven by the capitalist profit motive. Corporations pushing the drug with the most serious public health consequences --

tobacco, responsible each year for nearly 400,000 deaths<sup>2</sup> -- spend \$1 billion a year on direct advertising and more than \$2 billion on other promotions.<sup>3</sup> Cigarette company executives maintain that advertising only gets smokers to switch brands, with no effect on total sales. But, as the former chairperson of advertising giant McCann-Erickson commented: "This is complete and utter nonsense. The industry knows it is nonsense. I am always amused by the suggestion that advertising, a function that has been shown to increase consumption of virtually every other product, somehow miraculously fails to work for tobacco products."<sup>4</sup> Alcohol, the drug with the second highest death toll (about 100,000 a year),<sup>5</sup> is likewise massively advertised, particularly to young people. In a good society where private interests did not benefit from drug addiction, no effort would be made to glamorize nicotine and alcohol. To be sure, a non-capitalist bureaucracy might have an interest in pushing drugs on its own population (to pacify them or to extract money from them), but a democratically-organized non-capitalist society would have no interest in encouraging its young people to stupefy or kill themselves.

Some drug addiction may have a biochemical basis: alcoholism, in particular, is suspected of having a genetic component. In the United States today, someone who might have such a predisposition but yet who would like an occasional high or convivial entertainment has no legal options. The choices are either to forego these pleasures entirely or risk the very real and very serious dangers of alcoholism. If this person used marijuana for the occasional high, there would be clear benefits to the individual (and to society in terms of less chronic illness, less violence, and so on). A society that provided drug options would have fewer cases of biologically caused addiction.

In the contemporary United States there is a strong component of our culture that opposes pleasure. We can see this particularly in many of the existing sex education programs that emphasize abstinence. Abstinence, it is said, is the only way to be safe from AIDS, pregnancy, and other dangers. But if these health concerns were the real motive, rather than a hostility to pleasure, why not teach students how to masturbate?<sup>6</sup> Likewise, there are real dangers to drugs. Some are inherently harmful, some are harmful only if misused or abused. A good society would warn people about the first category and educate people how to properly use those in the second. Pleasure is good.

Yes, drug highs are artificial. But aside from sex and listening to whale songs, watching the sunset, and eating alfalfa sprouts, most pleasures are artificial. Reading a cheap novel or watching a movie -- these aren't real, they are escapes from reality and they are pleasurable. If someone spent all day at the movies, seven days a week, this would be a problem. Aside from the fact that the individual would be unable to perform his or her fair share of work, this sort of movie obsession would preclude experiencing other sorts of pleasures. But there is nothing wrong with going to an occasional film, artificial though it may be; in fact denying oneself any such pleasures (that is, being a workaholic) may itself be harmful. Drug-induced pleasures are no different.

Although marijuana is a far more benign substance than alcohol and nicotine, it is not without its dangers (smoking it, for example, is bad for the lungs). In a good society, a society committed to furthering pleasurable opportunities for its citizens, research would continually be done on finding safer drugs and safer ways of using them.

At the same time that American culture displays a hostility to pleasure, there is the contradictory value of pleasing oneself regardless of the social consequences. Indeed, this is in some sense the fundamental value of capitalism: capitalism works only if most people are thoroughly self-regarding, oblivious to the suffering their actions may cause to others. In a good society people will not be saints, but the thrust of decent economic and political systems would be to make us take account of others, to see that our fates are intertwined, that if our neighbor suffers, we will be hurt too. Education in the contemporary United States aimed at convincing people that they should be socially responsible in their sexual and drug-taking activities is hindered by the fact that such responsibility runs counter to the prevailing ethic of selfishness (and sexism) reinforced in all other spheres of life. Being told not to drink and drive by the likes of George Bush or drug czars William Bennett and Bob Martinez is not likely to be very compelling. On the other hand, a society that tries to promote socially responsible behavior in all realms will have a much better chance of discouraging anti-social drug behavior.

Would all drugs be legal in a good society? To ban a drug because it might be misused seems as foolish as banning baseball bats because they might. We do ban chain saws without safety guards because the social benefit of unguarded chain saws is negligible while the risks of accident are high. We need, then, to weigh the potential benefits of the drug against the likelihood of misuse. It would make sense to ban drugs that uncontrollably or unpredictably led to anti-social behavior. Alcohol can (and does) lead to violence, but most drinkers can regulate their intake to avoid violent behavior. Hypothetically, there might be a drug that leads to violent behavior whose intake cannot be regulated because its effects are random or incompletely understood. (PCP is apparently such a drug.) Drugs that cause direct social harm should be illegal.

What if the high provided by such a drug were so exquisite that people wanted to use it despite the harmful social consequences? Perhaps we could set up rubber rooms for people who wanted to go berserk for a few hours. Otherwise we should have no more problem with outlawing the drug than we would with outlawing rape or other socially harmful activities that may give pleasure to some.

What about drugs that are harmful only to the user? In a good society, for reasons given above (the lack of poverty and alienation, the lack of glamorizing advertisements, the availability of safer alternatives), the number of people who would want to use such drugs would not be large. But there might be some, and they ought to be legally allowed to do so. Public health education ought to discourage such use (just

as we try to discourage the eating of foods high in cholesterol) and every support service ought to be available to help people break their habit (as they are not available today). But ultimately if some enjoy the activity enough despite the harm it may cause, they should be as free to pursue it as they are to skydive.

The distinction between things that harm only the user and those that hurt society is a standard distinction in political theory. The rise of the welfare state, however, has made the distinction somewhat unclear. Since tax money pays for the health care of the very poor, it can be argued that anything the poor do to their own health affects all of society. On one level, this claim is correct, and many (if not all) things that are said to be simply private decisions in fact have social consequences. But should this give society a say in those "private" decisions? In a society with a socialist economy, everything anyone does will have social implications, but we will have to be careful not to allow this to become the basis for authorizing society to dominate everyone's private life. A good society ought to value diversity, and this means that people will have to be allowed to choose to do what others, even a majority, judge to be inadvisable.

The relative roles of the individual and society in making decisions ought to be proportional to the consequences of the decision on each. Thus, even though my eating habits may have a social impact (in terms of my ultimate health care costs or my work productivity) they affect me far more and the decisions ought to be essentially mine. Society ought to provide information on the repercussions of my actions on myself and on society, and sometimes ought to urge one particular behavior rather than another, but ultimately I must have the right to decide. In some situations society might ban particular uses of a drug that have a substantial social impact (say, smoking cigarettes in a restaurant) while discouraging but permitting private use.

Under these principles, marijuana, heroin and other opiates, hallucinogens, nicotine, alcohol, and possibly cocaine<sup>7</sup> would be legal. Only those drugs which caused direct social harm (probably PCP, possibly crack, among others) would be banned. Of the legal drugs, those that could not be used safely (cigarettes and, when serious studies are undertaken, maybe others) would be strongly discouraged, with support to help end addiction. For those that could be used safely, education would emphasize how to do so.

Two complex issues remain to be considered. What about taking drugs during pregnancy: is this a private or a public matter? And what about children: should most drugs be legal for them as well?

On the first matter, it is crucial to keep in mind that mothers want to have healthy babies. The reasons why a pregnant woman might nevertheless continue taking drugs that are harmful to her fetus are some combination of ignorance and addiction. In the U.S. today, where so many women are without adequate prenatal care, ignorance is



widespread. In addition, war on drugs rhetoric makes many people skeptical of government-provided health advice. Presumably, these would not be problems in a decent society. In the case of addiction, most women are enough in control to realize that they need treatment for the sake of their babies. In the U.S., however, (to quote from a study by the U.S. General Accounting Office) "demand for drug treatment uniquely designed for pregnant women exceeds supply." The "lack of adequate treatment capacity and appropriate services is the primary barrier to treatment for many women." Women reported waiting as long as a month to get into treatment, which means an additional month of harm to the fetus.<sup>8</sup> This too, one would hope, would not be a problem in a decent society.

Might there be a woman in a good society, neither addicted nor ignorant, but just so into pleasure that she values her high over the health of her fetus? If so, it is hard to imagine that she wouldn't have gotten an abortion given that motherhood is likely to interfere with her pleasure for far more than nine months. In any event, if one is concerned about the health of the baby (as one ought to be), it is clear that the criminal justice system is not the appropriate mechanism for dealing with the problem. To quote the GAO again: "Criminal prosecution of women with drug-exposed infants, while rare, has occurred, and has created fear of prosecution among pregnant women, discouraging them from seeking treatment."<sup>9</sup>

Children and drugs is a more complicated issue. Some distinctions between adults and children are not based solely on adult hypocrisy: a mind-altering substance has more deleterious effects on someone still trying to establish her or his identity than on an adult; likewise, adolescents' view of their own invulnerability makes them less well-suited to judging the pros and cons of an action with long-term consequences (which is why many societies have found that teenagers make such good cannon fodder). These characteristics are probably natural developmental traits of adolescents, rather than a product of growing up in an alienating society, though one can't be sure. On the other hand, as cigarette advertisers have long been aware, the surest way to encourage kids to do something is to tell them that they can't, while adults can. In 1975, a marketing research report prepared for the tobacco giant Brown & Williamson gave this advice on reaching young smokers: "Present the cigarette as one of a few initiations into the adult world... part of the illicit pleasure category of products and activities."<sup>10</sup> A reasonable policy might be to prohibit children from taking drugs that are rarely used, since without the constant example of adult usage (and without advertising) there wouldn't be much temptation to break the law. For frequently used drugs (say alcohol or marijuana) it probably makes more sense to permit their use while working to establish strong cultural norms on what are appropriate use levels at different ages. This may seem a utopian solution, but given that 85% of high school students use alcohol illegally,<sup>11</sup> prohibition obviously has its drawbacks as well.

### **A Program for Today**

In some respects drugs are a side issue in America today. No drug policy, no matter how ingenious, is likely to be effective as long as the government refuses to attend to the urgent social agenda. Studies report that most drug treatment programs, for example, have a very low success rate, but that the best predictor of treatment success is whether the addict has a job.<sup>12</sup> This shouldn't be surprising. If people are driven to abuse drugs by the hopelessness of their lives, a treatment program that returns addicts to the same hopeless life isn't going to work. On the other hand, if American society were to funnel massive resources into serving human needs, the drug problem would become much less serious almost regardless of the particular drug policy followed. So why does drug policy matter?

It matters because the current war on drugs makes the prospects for addressing the social agenda even more remote.

- \* The war on drugs diverts us from the real problems. Much of the \$10 billion a year in direct drug war costs have not been added to the budget, but taken out of other programs: immigrant assistance, the Economic Development Administration, public housing subsidies, and juvenile justice.<sup>13</sup>
- \* The drug war strengthens those institutions in American society most antithetical to the necessary social agenda -- the police, the prisons, the military, and organized crime. Government funds have poured into the first two, and expected cuts in the defense budget have been slowed using the rationale of the drug war. According to the Presidential Commission on Organized Crime, the drug trade is the mob's main source of revenue.<sup>14</sup> "There's no question," declared a U.S. lawyer for the Medellin drug cartel, "the U.S. crackdown is good for business."<sup>15</sup>
- \* The drug war forces addicts to support their habits by crimes that make the cities more dangerous and less livable. Businesses that might provide jobs and investment, and dedicated teachers and residents with skills that might have contributed to the community have been frightened away.
- \* The drug war puts the blame for the nation's ills on the poor and the dark-skinned, reducing still further society's concern for their plight.
- \* The drug war furthers the spread of AIDS, which is currently decimating inner cities. Clean needle exchanges could help even while drugs remain illegal, but criminalization keeps addicts from health services and forces many into prostitution, both of which spread HIV infection.
- \* And the drug war condemns to the wasteland of jail or the asocial morass of drug trafficking a whole generation of young people who might help the

country reorder its priorities. It is estimated that in Washington D.C., one quarter of the black male population will be involved with drug selling before their 30th birthday.<sup>16</sup>

If the war on drugs could work -- that is, if it could succeed in ridding the country of the scourge of drug abuse -- some might argue that despite its excesses and overblown rhetoric it deserves our support. Some go even further and suggest that we haven't really tried serious repression yet as a solution to the drug problem.<sup>17</sup> But widespread use of the death penalty has failed to stop drug abuse in Malaysia<sup>18</sup> or Khomeini's Iran.<sup>19</sup> The strictest narcotics legislation in the United States was the Rockefeller Drug Law of the early 1970s with high mandatory minimum sentences, including life imprisonment for selling or possessing more than a fraction of an ounce of heroin, even for 16 year olds.<sup>20</sup> As one study summarized the results: "So far as we can tell, it caused essentially no decrease in heroin activity, but did lead to a drop in the number of heroin offenders arrested and convicted, a considerable increase in the court and correctional resources necessary to process those apprehended, and a significant increase in the overcrowding of the state's prison system."<sup>21</sup>

The current level of drug repression in the United States has overwhelmed the criminal justice system. What the American Bar Association called "extraordinary" efforts to arrest and prosecute drug offenders have not controlled the drug problem, but have overburdened the police, the courts, the prisons, and the probation system.<sup>22</sup> Three quarters of a million people are arrested each year on drug charges, the majority of them solely for possession, usually of marijuana.<sup>23</sup> In Florida under former Governor and now drug czar Bob Martinez, a tough drug law with mandatory minimum sentences forced the state to release murderers from prison early to make room for the drug offenders.<sup>24</sup> With an incarceration rate second only to South Africa in the industrialized world, the U.S. has not reduced its drug problem, and indeed the prison system itself is swimming in illicit drugs.<sup>25</sup>

Going after the small time drug dealers and users not only overwhelms the criminal justice system, but it encourages rampant police corruption and infringements upon civil liberties. Since drug dealing is a crime with no complainant, the discretion of individual police officers determines whether an arrest is made, a situation that breeds bribery and extortion. Additionally, the lack of a complainant means that police need to use undercover operations, informers, and intrusive surveillance, all of which are readily abused.<sup>26</sup> The alternative strategy -- that of just going after Mr. Big -- is equally futile. Mr. Big (it's never Ms. Big) is in fact easily replaced, and oftentimes it is his replacement who supplies police with the evidence.<sup>27</sup> Given the job prospects in the inner cities, the conviction of a drug dealer, rather than serving as a deterrent, is like an advertisement for a replacement.<sup>28</sup>

Nor are the prospects for the drug war any more promising on the borders or in foreign countries where illicit drugs are grown and processed -- even if we ignore the

U.S. complicity in the drug trade when it served Washington's larger political agenda in Indochina, Central America, or elsewhere.<sup>29</sup>

Almost every U.S. official who has thought about the problem at all has concluded that it is impossible to interdict drugs crossing the U.S. border.<sup>30</sup> The U.S. coast line is 90,000 miles long, and 600 vessels, 700 private aircraft, 1,200 commercial flights, 20,000 containers, 25,000 motor vehicles, and 800,000 people enter the country each day.<sup>31</sup> As the Bush administration acknowledged, though without drawing the obvious conclusion: "Every time we disrupt or close a particular trafficking route, we have found that traffickers resort to other smuggling tactics that are even more difficult to detect."<sup>32</sup> A Pentagon-sponsored study of the prospects for more effective interdiction concluded that "interdiction probably cannot much further reduce the availability of cocaine and marijuana."<sup>33</sup> Marijuana, because of its greater bulk, is easier to stop at the border, but the result of interdiction efforts has been to stimulate domestic cultivation of marijuana (one quarter is now home-grown), while encouraging many smugglers to turn to cocaine, which is more easily concealed and transported.<sup>34</sup>

If the United States is unable to suppress the growing of marijuana within its own territory, it will have even more difficulty eradicating the coca plant or opium poppy in Third World countries.<sup>35</sup> Moreover, even if we were able to totally destroy foreign coca and opium crops, synthetic drugs, with probably more dangerous side effects, could easily be produced in clandestine U.S. laboratories.<sup>36</sup> In short, repression -- whether at home or abroad -- cannot solve the drug problem.

One fundamental flaw in current drug policy is that it denies the distinction between drug use and drug abuse. But the distinction is a real one. Evidence shows that a majority of heroin users are not addicts,<sup>37</sup> and that occasional users are able to take it for pleasure with few negative side effects.<sup>38</sup> Crack has been portrayed in the media as instantly addictive. ("Using it even once can make a person crave cocaine for as long as they live," Peter Jennings exclaimed on "World News Tonight."<sup>39</sup>) In fact, it takes a few months of smoking crack to become addicted.<sup>40</sup> The official guess is that 20-25% of cocaine users will become chronic abusers.<sup>41</sup> This is not to say that heroin or cocaine are harmless. But occasional use causes negligible harm to society, and the harm to the individual is generally far less than that caused by spending time in jail, getting a criminal record, or losing one's job.

By encouraging the view that the crucial line is between zero use and use, instead of between use and abuse, current policy is ill-equipped to confront the real problems. There is, for example, a real problem with predatory crime, but reducing the number of people who occasionally use drugs will not affect its incidence at all.<sup>42</sup> By criminalizing all drug use, social sanctions that might keep moderate users from abuse are replaced by a criminal milieu which discourages moderation.<sup>43</sup> Current drug education is inevitably handicapped by the fact that whatever information is taught, the message ultimately is zero tolerance.<sup>44</sup> The result is that false information is often



taught, with predictable results. As a Bush administration official acknowledged: "If the kids find out you're lying, they'll think you're lying about other things too"<sup>45</sup> (which they are, but not about the fact that crack addiction is bad for you).

Government officials have spoken optimistically of their progress in the war on drugs. There are good reasons to doubt their numbers -- the most accurate data show hard-core cocaine users to be four times as numerous as the administration claims<sup>46</sup> -- but even on their own terms, administration figures provide no cause for satisfaction. They show that the number of people who reported using cocaine at least once in the last year declined nearly fifty percent from 1985 to 1990, but that those reporting daily cocaine use increased 37%.<sup>47</sup> "The first goal of our strategy," declared William Bennett, "is to reduce the number of Americans who choose to use drugs."<sup>48</sup> By administration figures, this first goal was met, yet the problem has gotten worse.

What is the alternative to the current war on drugs? Our first priority, to repeat, must be to urge the funding of human needs: providing jobs, education, and health care. But as part of our program, we must call for the controlled legalization of drugs, at least of marijuana and the opiates.

Some right-wingers have urged uncontrolled legalization, letting the free market do what it will. Under this model, drugs would be freely available and widely advertised, just as cigarettes and alcohol are now.<sup>49</sup> A left-wing drug policy can have no illusions about the free market. Not only must we oppose the free market for currently illegal drugs, we ought to oppose it for cigarettes and alcohol as well. We ought to call for an end to all drug advertising and all drug pushing. (The drug pusher is a myth when it comes to illicit drugs, because the illegal market is too unstable and the dangers of dealing with strangers too great for drug sellers to give away free samples.<sup>50</sup> But in the legal market cigarette companies give out free samples, not to mention posters and prizes.)

In fact, the only way to really end drug advertising and promoting is to nationalize the alcohol and tobacco companies. This may seem extreme as a plank in a program for today, but the record of the cigarette companies should help us convince our fellow citizens that such a step is necessary. Cigarette ads invariably feature beautiful models in order to make smoking more glamorous. Critics appealed to the companies' social conscience and asked them to stop this practice. The Tobacco Institute responded, "What do they want us to use for a model, a hobo wearing a torn raincoat and standing in front of a porno store? We have a product to sell."<sup>51</sup> When cigarette ads were barred from TV in the U.S., the tobacco companies started sponsoring sporting events, thereby getting their brand name displayed on the screen for hours at a time. In Belgium, when cigarette ads were restricted, Marlboro advertised its matches and lighters, which just happened to use the same models, the same cowboy and horse, and the same logo as its cigarettes.<sup>52</sup>

The problem is not just that ads glamorize harmful substances, but that the economic clout of the cigarette companies creates strong incentives for those dependent on advertising revenues not to offend their sponsors. A 1982 study by the American Council on Science and Health, for example, found that magazines that ran a lot of cigarette ads -- among them Cosmopolitan, Mademoiselle, and Ms. -- tended to underplay the health risks of cigarettes in their articles.<sup>53</sup> Newsweek even had a cover story on the causes of cancer without a section on cigarettes.<sup>54</sup> Today, even a cigarette ad ban wouldn't give the media the courage to tell the truth about smoking, because the tobacco companies have become diversified: Philip Morris, for example, now owns General Foods and controls its advertising budget.<sup>55</sup> Thus, a few years ago Readers Digest (which has always refused cigarette ads) rejected a supplement by the American Heart Association for fear of offending the food company advertisers which were owned by tobacco firms.<sup>56</sup>

Bans on cigarette ads have been shown to cut smoking (not so much among established smokers, but among new smokers).<sup>57</sup> If we nationalize the tobacco companies, we can prevent them from getting around the ban, and the smoking reduction should be even greater. This is the same model that ought to be followed for alcohol and other drugs as well.

To be sure, governments can and do behave just as irresponsibly as private firms.<sup>58</sup> Taiwan, for example, calls its government-produced cigarette "Long-Life."<sup>59</sup> In the U.S., government advertising for government-run lotteries has probably created more self-destructive gamblers than the numbers racket ever did. Many states have used the lottery as a way to balance the budget in lieu of raising taxes, judging this to be the most politically acceptable way to generate funds. To prevent this sort of thing, we should demand that the nationalized drug company be run under the office of the Surgeon General, with all proceeds earmarked exclusively for treating problems of drug abuse.

Along with controlled legalization there must be massive funding of education and treatment programs. This does not exist today. Leaving aside for the moment the futility of the "Just Say No" approach to drug education, only one state in fifty has been given enough funds to deliver what the Bush administration considers an effective drug education message to all of its students. A majority of states don't have enough funds to reach even one third of their students.<sup>60</sup> The administration claims that fifty percent of all drug addicts could be helped by treatment, yet fewer than half of these have received treatment.<sup>61</sup> New York City, with licensed treatment capacity for 42,000 drug abusers, has an estimated 550,000 addicts.<sup>62</sup> A study by the U.S. General Accounting Office found that in five of eight cities studied there were lengthy waiting lists for treatment; in Atlanta the wait was a year, with many receiving inadequate or even no treatment at all.<sup>63</sup> In prison, fewer than one out of seven addicts received treatment; in 1989 alone, 3.6 million criminal drug users were released without receiving treatment.<sup>64</sup> Only one school system in the entire country (Little Rock) hopes to provide full

insurance for drug and alcohol abuse treatment to all its students; this is to be paid for not out of government funds but from private contributions, which so far have covered only a quarter of the costs.<sup>65</sup>

Some Democrats have proposed sharply increasing spending on education and treatment while keeping drugs illegal. There is no doubt that this would be a great improvement over the existing war on drugs, but many of the negative features of current policy would remain.

First, treatment is likely to be less effective under conditions of criminalization. Mention has already been made of how arresting pregnant women frightens many away from treatment. Fear of punishment has caused others as well to shun medical assistance. Len Bias, the young basketball player who overdosed, died because his friends, scared of the police, waited until after his third seizure before calling an ambulance.<sup>66</sup>

Second, many of the most serious medical emergencies resulting from drug use are actually consequences of the illegality of drugs rather than inherent properties of the drugs. On the street, drugs are adulterated, subjecting users to potentially toxic substances and making it impossible to know the exact dose one is taking.<sup>67</sup>

More fundamentally, however, treatment and education are unlikely to be very successful without massive reinvestment in our cities. And that reinvestment is unlikely as long as the drug war rages. If we persist in criminalizing so many of our urban youth, who will employ them? How can a teacher or parent convince young people to work hard when drug dealers are the successful role models?<sup>68</sup>

Drug addiction doesn't usually turn law abiding citizens into criminals, but there is no doubt that addiction increases the crime rate, not because of the pharmacological properties of the drugs, but because of their price.<sup>69</sup> (A crack addict typically needs \$1,000 a week.)<sup>70</sup> And it is the crime, far more than the drug abuse itself, that makes our urban centers so unlivable. As Kurt Schmoke, the African-American mayor of Baltimore, put it: "It is very easy for people living in communities where drugs are not a problem (and those are becoming fewer all the time) to argue that drug-related violence cannot justify decriminalization. But if you have to live with that violence day in and day out -- as millions of people in large urban areas do -- and live in terror of being gunned down, robbed or assaulted, or having the same occur to one of your loved ones, you soon start wanting results."<sup>71</sup>

The drug war, by fueling organized crime, police corruption, and violations of civil liberties, sets back the progressive movements that must be mobilized to bring about social justice. The mob in the United States has not established death squads to use against the left as have the narco-traffickers in Colombia, but it does provide the thugs and corrupt union leaders who debilitate the labor movement. Police forces are

never on the side of progressive politics, but widespread corruption makes them even less susceptible to public control. And outrageous laws violating civil liberties have been enacted without much protest because they have been aimed at evil drug dealers, but can always be used against anyone with unpopular views.

As long as this drug war continues, the underlying social roots of addiction are not likely to be addressed.

### **Controlled Legalization in Practice**

Any policy of controlled legalization has to decide how currently illegal drugs would be made available. If drugs were sold inexpensively, then there would be the danger that many new users and new abusers would purchase it. On the other hand, if drugs were made expensive (using the additional proceeds to fund treatment programs and the like) then addicts would still need to turn to crime to support their habits (and they wouldn't even have their usual option of drug-dealing to make some money).

A two-tiered approach would seem to make the most sense. Addicts should be able to get affordable drugs at government supported clinics, while recreational users should have to pay high prices. The idea here is to minimize the incentive to crime among the former group, while discouraging too frequent use among the latter. Drugs whose abuse does not lead to crime (marijuana, for example) would only have a recreational price. Recreational prices would be proportional to the harm of the drug as a way to encourage use of the less harmful alternative. For example, because of its greater dangers to society and to the individual, alcohol would be priced higher than marijuana.<sup>72</sup>

Addicts would not simply be handed their fix and sent on their way. They would need to meet with doctors and social workers who would try to determine the best strategy for the individual addict. For some, gradually weaning would make sense; for others methadone maintenance or heroin maintenance; and for still others every effort would be made to switch them to a safer drug or means of administration. For all, treatment would be offered and urged. (And the left would have to keep reminding the public that for treatment to really work, there must be full employment.) To really to their job, these clinics would have to provide the full range of medical and social services to addicts, services that of course we should demand for all citizens. In the Netherlands, where heroin use is illegal but treated as a public health not a law enforcement problem, some 60-80% of drug addicts are estimated to be in touch with health and welfare institutions.<sup>73</sup> This makes addiction a far less damaging condition both for society and for the addict.

One problem with a two-tiered system is leakage: addicts who get their drugs at the cheaper price may try to sell them to others, undercutting the recreational price. To



do this, of course, the addict would have to forego taking the drug him- or herself, which is something addicts tend not to like to do. But some addicts, presumably, would be able to dupe the doctors into believing they need more than they actually do. This would create an illicit market of sorts, but, as one expert on drugs and crime has noted, it would likely resemble the current illicit market for amphetamines and tranquilizers, which presents fewer organized-crime problems than does the current system.<sup>74</sup> Moreover, people who want to use illegal drugs today have no choice but to break the law; under controlled legalization the temptations to law-breaking (buying on the illicit market) would be less powerful since one can still get the drug legally, though at a higher price.

There would be less danger that organized crime would undercut the recreational price. Although addicts are not a majority of drug users, they use a disproportionate share of drugs. So once they are removed from the market, the demand for drugs should decline considerably, and this reduced demand would make it hard for drug trafficking organizations to maintain profits at prices much below those of the government. In addition, users would likely be willing to pay more for assurances of quality control, just as prescription drug abusers today seem to be willing to pay for the security of the brand name.

The biggest question raised by any system of legalization is what would happen to the number of drug addicts? Some claim that the number would swell to 60 million or even half the adult population of the United States.<sup>75</sup> There are good reasons to believe that these dire predictions are wholly unwarranted.

The critical question, it must be kept in mind, is not the number of drug users, but the number of abusers. And even then some of those who become drug abusers may switch from alcohol or nicotine abuse, which might be more harmful.<sup>76</sup> (In the late 19th century, opiates were considered by doctors to be a useful substitute to get alcoholics off alcohol.<sup>77</sup> In the other direction, China's much heralded success at dealing with opium addiction may not have been such a public health triumph: two-thirds of Chinese men now smoke cigarettes, which is predicted to have a devastating impact on China's mortality rate in coming years.<sup>78</sup>)

Under legalization, the recreational price of drugs might well be more than the current illegal price. Even so, since the drug would be far safer and one wouldn't have to risk arrest or, more importantly, the dangers of travelling into high crime areas, one would expect the number of users to go up.<sup>79</sup> But there is no fixed relationship between the number of users and the number of abusers. (As noted above, current U.S. policy might well have the effect of reducing the former while increasing the latter.) Presumably, those who are most likely to abuse drugs are those who are willing to use today when it is illegal; put another way, those who now avoid drug use because of the various dangers of the illegal drug market are less likely than current users to become abusers.<sup>80</sup> Thus, we would expect the number of abusers under legalization not to rise

proportionately nearly as much as the number of users.

Some use drugs precisely because it is an illegal activity: it is a way to express disdain for social convention and rejection of society's values. Few addicts determine to become abusers: it won't happen to them, they believe, so they can flaunt social mores by living on the wild side. But if the social norm became opposition to abuse rather than use, much of the appeal would be lost.

Where use is not shunned, social conventions often develop that help people avoid abuse. This is not invariably the case: France, for many years, had extremely high levels of social drinking combined with one of the world's worst alcoholism problems.<sup>81</sup> But France also did negligible alcohol education. In fact, there were no laws against drunk driving until 1962,<sup>82</sup> and when the government belatedly tried to warn against the dangers of alcohol abuse, the powerful wine lobby took out ads declaring "Water is for frogs." But public health efforts are apparently finally beginning to take effect.<sup>83</sup> So to promote the development of social norms encouraging moderation, under controlled legalization massive education against drug abuse would be undertaken. And the education would have a level of credibility lacking in the zero tolerance messages of nicotine-addicted William Bennett,<sup>84</sup> in the exhortations by White House-endorsed "Just-Say-No" officials that we turn in drug-using family members to the police,<sup>85</sup> or in the "pleasure is sin" sermons delivered from pulpits and government offices.

In those places where marijuana has been decriminalized (Alaska, Oregon for a time, the Netherlands, etc.), studies show no discernible effect on the number of users or the frequency of use.<sup>86</sup> On the other hand, the record for heroin decriminalization has not been very encouraging, but it is important to see how the policies that have been tried have differed from controlled legalization.

Britain used to allow doctors to prescribe heroin to addicts; in the late 1960s the law was changed so that only special clinics could do so. The heroin problem remained quite minimal until the 1980s, when the number of addicts grew rapidly. But the new addicts were in no way a result of the clinics (in fact, the number of clinic patients who were being maintained on heroin in the mid-eighties was under 200<sup>87</sup>). The new addicts were people for whom heroin had been treated exactly the same way as it is in the U.S., that is, it was totally illegal for them and was smuggled into the country.<sup>88</sup> Additionally, the less dangerous drug marijuana has always been illegal in Britain, and indeed the bulk of the British law enforcement effort has been aimed at this drug rather than heroin.<sup>89</sup> Finally, it should be noted that the rise in addiction in Britain coincides with the disintegration of the British welfare state under Thatcher, and the heroin addiction is correlated with high levels of unemployment.<sup>90</sup> Even so, the British addiction rate is still about a tenth that of the United States.<sup>91</sup>

Some European countries have decriminalized possession of small amounts of

drugs for personal use, while still going after the drug dealers.<sup>92</sup> Such a policy has the major advantage of not turning a large fraction of the population into criminals, but it has other serious drawbacks. Because selling is illegal, quality control is absent and overdoses are common; organized crime continues to reap the profits; and, since prices are high, addicts must still steal to support their habits. In addition, the policy seems often not to have been combined with a comprehensive program of drug education and treatment. In any event, the drug education message is obscured by the policy: instead of the crucial distinction being use versus misuse, it becomes defined as personal use versus selling (a difficult distinction to sustain morally given that those who personally use need sellers).

The Netherlands has permitted the sale of cannabis in coffee houses and, while heroin is illegal, the government emphasizes harm reduction in its handling of hard drugs. Its marijuana use rate is below that of the U.S. and its heroin addiction rate is typical for Western Europe and lower than in the United States, even though it is inflated by the inclusion of foreigners attracted by the more tolerant Dutch attitude.<sup>93</sup> More importantly, the harm to society and to the addict from drug dependence is far less in the Netherlands than in the U.S.: the spread of HIV infection has levelled off due to needle exchanges; instead of being forced to be outlaws, addicts are given a government-subsidized union to advocate for their rights; and the police reluctance to use informers and undercover operations has kept the level of violence down.<sup>94</sup>

If controlled legalization were to drastically increase the level of drug abuse in the inner cities, which have already suffered so disproportionately from the ravages of drugs, there might be good reason to reject the legalization option. But the risks of such a policy are actually far less in the urban areas than elsewhere. Those who want to use drugs in these areas today don't have any problem in finding a dealer; they are not deterred by the dangers of traveling to a dangerous neighborhood since they already live there; they are not deterred by law enforcement officials because the police are so ineffective in preventing ghetto crime and are held in such low regard by ghetto residents.<sup>95</sup> And the temptations in the form of the financially successful drug dealer are extremely powerful. In short, those who want to use drugs are largely doing so. Likewise, those in the inner cities who despite their poverty are sufficiently obedient to the law to refrain from drug use today are likely to respect other relevant authorities who would continue to warn against the dangers of drug abuse: parents, teachers, religious leaders, or political organizers.

So far, the issue of cocaine, and especially crack, has been ignored. The effects of crack are still not very well understood: the extent to which it may cause violence, the dangers of unpredictable overdoses, the degree to which one can function at a job while addicted. Until more is known about it, it probably makes sense to keep crack illegal. It might seem that this just leaves the biggest problem untouched. But first, the legalization of other drugs may shift some crack users to less harmful alternatives. Second, the dangers of leaving crack illegal -- the continued crime, etc. -- are no worse

than the situation today. As our knowledge about crack increases, after we've had some experience with legal marijuana and opiates, an informed decision could be made on crack.

Some other objections to legalization point to the greater dangers of family violence, reckless driving, or reckless operation of subways and so on. If people abuse their families or drive recklessly or mug someone because of drug misuse, these actions of course would still be illegal under drug legalization. Those who committed such actions would be subject to criminal sanction and, where appropriate, could be given the option of treatment as an alternative to punishment. The effectiveness of such coercive treatment is debatable, but in any event it can be just as available under legalization as it is today. Insuring the safety of our subways by random urine tests is not only highly objectionable on grounds of invasion of privacy, but is not very effective. If the goal is to have subway drivers (or other machine operators) whose reaction time is sufficiently quick to maintain safety, then tests of reaction should be given. (One might have to play and win a little Nintendo-like game before being able to turn on the motor.) This would prevent those who were impaired for some non-drug related reason (say, exhaustion) from endangering the public, and, if hooked up to the ignition of automobiles, such a device would assure far more traffic safety than laws on arbitrary alcohol blood content levels whose effects vary from individual to individual and which are difficult to enforce.

It would be wrong to suggest that controlled legalization would not involve problems. One of the incentives to maturing out of addiction is the hassle of maintaining one's habit, an incentive that would be lessened under legalization.<sup>96</sup> Some right-wingers would try to use the availability of dangerous drugs as an excuse to dismantle the Food and Drug Administration and other regulatory agencies.<sup>97</sup> An increase in the number of addicts on the public charge might undermine support for the welfare system.<sup>98</sup> And, finally, large numbers of people would still be driven by poverty, misery, and alienation to throw away their lives on drugs.

These are real problems. But no solution to the drug problem can be more than a palliative under capitalism. The problems from continuing the drug war, however, are even more serious. Controlled legalization alone won't end the drug crisis. But it may make it slightly easier to undertake the massive reconstruction of American society that is so desperately needed.



## NOTES

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5. Dorothy P. Rice et al., The Economic Costs of Alcohol and Drug Abuse and Mental Illness: 1985, report submitted to the Department of Health and Human Services, San Francisco: Institute for Health and Aging, University of California, 1990, p. 2.
6. See Michelle Fine, "Sexuality, Schooling, and Adolescent Females: The Missing Discourse of Desire," Harvard Education Review, vol. 58, no. 1, Feb. 1988, pp. 29-53.
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9. GAO, Women's Set-Aside..., pp. 5, 20. Katha Pollitt notes various hypocritical aspects of the current "fetal rights" movement: the first woman convicted for giving birth to a baby who tested positive for cocaine had sought treatment and been turned away; judges who order pregnant addicts to jail don't order treatment programs to accept them; concern for fetal health does not seem to include providing the mother with access to health care or even a place to live; it is precisely the inaccessibility of abortion for many poor women that forces many addicts to give birth to unhealthy babies; and some would give the fetus more

rights not just than the mother but than a two-year old (for example, we don't require parents to undergo medical procedures for the benefit of their child, though women have been ordered by courts to undergo Caesarian sections against their will and against the advice of their doctors). See Katha Pollitt, "A New Assault on Feminism," The Nation, 26 March 1990, pp. 409-18. See also Wendy Chavkin, "Mandatory Treatment for Drug Use During Pregnancy," JAMA, vol. 266, no. 11, Sept. 18, 1991, who points out that pregnant women have been "categorically excluded from most drug treatment programs." Mandatory treatment, she comments, means that we illogically try to protect the fetus by sending those who do not comply with treatment to prison, where drugs are readily available and prenatal care is not. For racial aspects of this issue, see Dorothy E. Roberts, "Punishing Drug Addicts Who Have Babies: Women of Color, Equality, and the Right of Privacy," Harvard Law Review, vol. 104, no. 7, May 1991.

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18. James Ostrowski, "Thinking About Drug Legalization," in The Crisis in Drug Prohibition, ed. David Boaz, Washington, DC: Cato Institute, 1990, p. 68; Alfred W. McCoy, The Politics of Heroin: CIA Complicity in the Global Drug Trade, Lawrence Hill, 1991, p. 409.
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