

Drugs, Economics, and Liberty

BY WALTER E. WILLIAMS



Only a few people would dispute that narcotics can harm people, whether that harm is in the form of damage to the body, mental and physical dependency, or threats to social relationships. However, there is not nearly as much consensus as to what the correct public response to narcotics use and sales is. Ideas range from decriminalization to outright prohibition.

Let's start by acknowledging that there is no question whatsoever that the sale and use of narcotics in our country could be virtually eliminated. It could be accomplished at a monetary cost far less than the hundreds of billions spent so far in the nation's "war on drugs." We could suspend habeas corpus and constitutional guarantees against unreasonable searches to more easily gather evidence on people who use or sell drugs. We could make those arrested bear the burden of proof of innocence and on conviction summarily execute them. Countries with far less wealth and far fewer police resources than ours have used that strategy to reduce drug use, and so could we. Thankfully, I think most Americans would, and should, recoil in disgust at that kind of drug-war strategy. So we have to examine less draconian measures. A few thoughts on the economics of drug trade might give us guidance.

There's no mystery why people use mind-altering drugs. It makes them feel good, at least temporarily. That's not only true of cocaine, heroin, and marijuana; it's also true of mind-altering products like cigarettes, cigars, coffee, tea, wine, and whiskey. There's considerable evidence that many people prefer their vices in a diluted form. Hence, the popularity of filtered cigarettes, light beer, wine coolers, and mixed drinks. The same seems to be true, at least to some extent, about illicit drugs.

When what are seen as vices are legally prohibited, supply responses change people's behavior. Imagine there's a supplier of illegal marijuana. Government steps up its efforts to stop its supply by increasing interdiction efforts, along with stiffer fines and prison sentences. Which is easier to conceal and transport—a million dollars' worth of marijuana or a million dollars' worth of cocaine? Obviously, it's cocaine because there is far less bulk per dollar of value. Thus one effect of prohibition is the tendency towards increased sales and use of more concentrated forms of drugs that can include products such as crack cocaine, ice, and meth.

Another impact of prohibition is on prices. To supply the addiction needs of those who are not able to pay the prohibition-induced higher prices of cocaine, producers will seek to find cheaper substitutes such as crack. This is borne out by the fact that crack is far more popular among poorer addicts than wealthier ones.

Illegality, high prices, and high profits, coupled with greater government drug-interdiction efforts, also encourage entry by suppliers who are more ruthless and innovative, and who have a lower regard for civility and the law. Panty-waisted, petty, and otherwise law-abiding practitioners are ousted. In addition, since the courts are unavailable to enforce agreements made among traders, as in the case of legal transactions, disputes are more likely to be settled through violence.

Yet another supply response to prohibition, largely ignored in the drug debate, is the inevitable tendency toward corruption of public officials. Today's drug trade, like the 1920s' prohibited liquor trade, could not flourish

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ish without official corruption. It's not difficult to see how police officers, customs inspectors, and other law-enforcement officers earning \$50,000, \$60,000, or \$70,000 a year could succumb to the temptation of \$5,000 or \$10,000 bribes to look the other way. No doubt there are elected officials who are also tempted by bribes. Even otherwise law-abiding non-drug-using parents are quieted by money and expensive gifts from their children who are involved in the drug trade.

The war on drugs restricts supply and raises prices. When one drug operation is busted up, another one emerges virtually overnight to take its place. When the DEA, FBI, and local police make a big drug bust, law-abiding citizens should not be jubilant. Instead, they should expect higher prices, leading to more ruthlessness among drug users and buyers, more crime and corruption, and greater social costs.

Another very dangerous cost of the war on drugs is that it has given respectability to the violation of our constitutional guarantees. Civil-forfeiture laws have been enacted, in clear violation of the Fifth Amendment, under which property can be confiscated without due process. A parent can have his automobile or house confiscated if, even when unbeknown to the parent, his offspring uses those things in connection with drug use or sales. Anti-money-laundering laws violate our rights to privacy in our transactions. Murderers and rapists have been freed from crowded prisons to make room for nonviolent drug users.

From the demand, or personal use, side of the drug issue, what should we do? Lysander Spooner (1808–1887), one of the great American thinkers of the nineteenth century, suggested that while vices may be self-destructive or offensive, like all peaceful, voluntary activities they should remain outside the province of law and government. The vices Spooner referred to include: “gluttony, drunkenness, prostitution, gambling, prize-fighting, tobacco-chewing, smoking and snuffing,

opium-eating, corset-wearing, idleness, waste of property, avarice, hypocrisy, etc.” Spooner added that if practitioners of these and other vices cannot be reformed voluntarily, if they go on to what other men call destruction, then they must be permitted to do so. He reminds us that the maxim of law is there can be no crime without criminal intent to invade the property or person of another.

People practice vices for what they perceive as their own happiness—not to violate the rights of another. In a free society people have the right to destroy their own lives but not those of others. When government coercion is used to promote virtue, there cannot be liberty. However, there is conduct that people might engage in under the influence of narcotics such as: impaired driving, robbery and burglary to fund their habit, and other acts that threaten the rights of others. Such acts are already criminal and should be punished.

We Americans have to ask ourselves if there is a better way to deal with the drug problem. I think there is. We need to focus more on the demand side of the drug problem. After all, most people don't use marijuana, cocaine, and heroin. The reason they don't has nothing to do with its price or the fact it's illegal. Their decision has much more to do with their values and common sense. Rather than near-exclusive reliance on the law and government, I believe greater and longer-lasting gains can be made through civil society, where we can cajole, admonish, and teach people about the destructive effects of narcotics—and ostracize them if necessary.

It is foolhardy to have a public policy that forces people hell-bent on destroying their own lives to become violent criminals and destroy the lives of innocents in the process. It is also foolhardy for society to create circumstances in which official integrity is compromised and our constitutional guarantees are violated. **THE**