

Drugs, Economics, and Liberty

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No one disputes that narcotics do harm to people. However, there is not nearly as much consensus as to what is the correct public response to narcotics use and sales. Let's start by acknowledging that there is no question whatsoever that narcotic use and sales in our country can be virtually eliminated. It can be accomplished at a monetary cost far less than the tens of billions spent so far in the nation's "war on drugs." We could suspend habeas corpus and constitutional guarantees against unreasonable search to more easily gather evidence on people who use or sell drugs. We can make those arrested bear the burden of proof of innocence and, on conviction, summarily execute them. Countries with far less wealth and police resources than ours have used that strategy and so could we. I think most Americans would, and should, recoil at that kind of drug war strategy. So we have to examine less draconian alternatives. 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 about cocaine, heroin, and marijuana use; it's also true about mind-altering products like cigarettes, cigars, coffee, tea, wine, and whiskey. There's considerable evidence that people prefer their vices in 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 vices are legally prohibited, some supply responses change people's behavior. Imagine there's a supplier of illegal marijuana. Government steps up its efforts to stop his 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 toward increased sales and use of more concentrated forms of vice such as crack cocaine and ice.

Prohibition also has an impact 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.

Another effect of illegality, high prices, and high profits, coupled with greater government drug interdiction efforts, is that it encourages entry by suppliers who are more ruthless, innovative, and have a lower regard for civility and the law. Pantywaist, petty, 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.

Another supply response to prohibition, largely ignored in the drug debate, is the inevitable tendency toward corruption of government officials. Today's level of drug trade, and for that matter the 1920s prohibited liquor trade, could not flourish without official corruption. It's not difficult to see how police officers, customs inspectors, and other law enforcement officers, earning \$30,000 or \$40,000 a year, can succumb to the temptation of thousand-dollar bribes to look the other way. No doubt there are politicians, who oversee lawmen, who are also tempted by bribes. Even otherwise law-abiding parents are quieted by money and expensive gifts from their children who are involved in some aspect of the drug-dealing trade.

The "war on drugs" restricts supply and raises prices. When we bust up one drug operation, another one emerges virtually overnight to take its place. When drug warriors make a big drug bust,

law-abiding citizens shouldn't be that jubilant. Instead, we should expect higher prices, more ruthless participants, more crime, corruption, and greater social costs.

Another 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 where property can be confiscated without due process in clear violation of the Fifth Amendment. A parent can have his automobile or home confiscated if, unbeknownst to the parent, his offspring is involved in drug usage or sales in the same. Anti-money-laundering laws violate our rights to privacy in our transactions. Murderers and rapists have been freed from prison to make room for nonviolent drug users.

From the demand, or personal use, side of the drug issue, what should we do? Lysander Spooner (1808-1897), one of the great American thinkers of the nineteenth century, suggests 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., 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 other words, 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 criminal and should be punished.

We Americans have to ask ourselves if there is a better way to fight the drug scourge. I think 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 that 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 cajole, admonish, teach, and ostracize people about the use and destructive effects of narcotics. It is foolhardy to have public policy that forces people who are hell-bent on destroying themselves to become violent criminals and destroy innocent people in the process. It is also foolhardy for society to create circumstances where we compromise official integrity and personal liberties in the name of a war on drugs that has been increasingly shown to be a failure.