The Medical Profession and Illicit Drugs

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In my first installment in this series, I argued that physicians should yield their status as gatekeepers for prescription drugs, as it infringes on patients' liberties by requiring permission from doctors to buy life-improving drugs, and the empirical evidence indicates that this policy does not infer any safety to the general population. I alluded to the fact that the gatekeeper status was a leg holding up the table where drug warriors eat - the two policies are hard to justify without the presence of the other.

What does the War on Drugs have to do with paternalism in medicine? Well, as I stated in my introduction, paternalism in health matters is not the domain of health professionals alone, but increasingly the government as well. The War on Drugs is unique in that in combines the paternalistic actions of both. And when all is said and done, both gain from this paternalistic policy. I would stop short of accusing health professionals of supporting the War on Drugs **because** they gain from it, but it certainly contributes to the inertia of support for policy change that is called for by the evidence I shall present.

The Drug Enforcement Agency has this to say about drug prohibition:

> We've been fighting it for 120 years. In 1880, many drugs, including opium and cocaine, were legal. We didn't know their harms, but we soon learned. We saw the highest level of drug use ever in our nation, per capita. There were over 400,000 opium addicts in our nation. That's twice as many per capita as there are today. And like today, we saw rising crime with that drug abuse. But we fought those problems by passing and enforcing tough laws and by educating the public about the dangers of these drugs. And this vigilance worked—by World War II, drug use was reduced to the very margins of society. And that's just where we want to keep it. With a 95 percent success rate — bolstered by an effective, three-pronged strategy combining education/prevention, enforcement, and treatment — we shouldn't give up now.

They make a lot of claims here, most of which will be addressed in short order.

The American Medical Association takes the following view of drug prohibition:

> (The AMA) encourages the undertaking of comprehensive research into the potential effects, both positive and adverse, of relaxing existing drug prohibitions and controls and, that, until the findings of such research can be adequately assessed, the AMA reaffirm its opposition to drug legalization.

To be honest, this stated policy is more open-minded than I expected to find from the AMA when I researched this article. So for present and future members of the AMA who have not had the privilege of seeing the evidence, allow me the honors.

I think it is important to look at drug prohibition from a historical perspective. At the turn of the century, according to USC law professor Charles Whitebread, it is believed that between two and five percent of the US population was **addicted** to what are considered today to be illicit drugs. That's the number cited today for people who **use** illicit drugs. That's amazing. Certainly drug prohibition has had a much greater impact on drug use than I am proposing. Not so fast. When you look deeper into why this was so, you understand that these people were becoming addicted because they did not know what they were taking. Most "medicines" of the day were simply various concoctions of opium/morphine and alcohol. These were marketed as cures for every ailment under the sun.

In 1906, along came the Food and Drug Act which essentially created the FDA. This act required product labels on these medicines to inform the user what they were taking. What happened? Most people who preferred not to be addicted to morphine stopped taking the medicines. As professor Whitebread states, "The Pure Food and Drug Act of 1906, not a criminal law, did more to reduce the level of addiction than any other single statute we have passed in all of the times from then to now."

Then came the Harrison Narcotics Control Act of 1914 which set a high tax on the non-medicinal sale of narcotics. It was the fist federal law to criminalize drug use, but not in the way we do it today. It placed a prohibitively high tax on opium, so that to buy it without paying the tax, you were breaking the law - tax evasion. Indeed, this law was federally enforced by the Department of Treasury. It is important to remember that this was a time where federalism was well-respected and "states rights" was protected. Thus, a federal criminal prohibition was not held to be constitutional. And so in a matter of a few years, when Congress wanted to ban alcohol, they had the courtesy not to abuse their powers and actually change the US Constitution (how the federal drug laws are constitutional today and not then is beyond me).

The 18th Amendment, ratified in 1917 and taking effect in 1920, set the stage for America's first experiment with drug prohibition. Its history has been chronicled before and in great detail, so I won't go through it again. Needless to say, use declined modestly, crime rates exploded, we all got the point, and the experiment ended in 1933. But to say we learned our lesson for good would be laughable.

Marijuana was targeted federally in 1937, but had been subject to numerous state bans years before that. But the 1937 legislation has a fascinating history chronicled by professor Whitebread here. I won't go into it in depth, but it involved all of two hours of testimony from Congressmen who labeled marijuana "an addictive drug," spokesmen from hemp-using industries rope, resins, and bird-seed, and a representative of the AMA who claimed "The American Medical Association knows of no evidence that marihuana is a dangerous drug." There you have it. Marijuana was criminalized and it’s never really been back.

All of these events culminated in the broad prohibition of drugs that occurred in the 60's and 70's. Presidents Johnson and Nixon initiated the War on Drugs as we have come to know it with the passing of the Drug Abuse Control Amendment of 1965, the Comprehensive Drug Abuse Prevention and Control Act of 1970, and the formation of the Drug Enforcement Agency in 1973. From there we have come to a point in time where we expend in excess of $30 billion per year, and many other indirect expenditures, to fund illicit drug prohibition.

What I find most interesting in this history is how the justifications for prohibition have evolved. Today it is for reasons of health and crime, but in times past different reasons were articulated. The present justifications were sometimes mentioned, but the two main reasons were puritanical moralism and overt racism. The moral justification is pretty straightforward, so let me focus on the racist.

Almost every law enacted in the century-long history of prohibition can be credibly linked to persecution of racial minorities and fears of racial miscegenation. Many of the state and federal opium laws (including Harrison's) used overt anti-Chinese propaganda to rally support. According to prohibitionists, the opium was being used as a tool by the Chinese to lure white women into sex. It just so happened that this group was a source of cheap labor taking American jobs. This scenario was mirrored by movements against cocaine use (a popular drug used at the time by many) with regard to Southern blacks. According to the Drug Policy Alliance, "The New York Times published a story that alleged 'most of the attacks upon white women of the South are the direct result of the 'cocaine-crazed' Negro brain.' The story asserted that 'Negro cocaine fiends are now a known Southern menace'." And once again, marijuana prohibition garnered much support, documented in legislative records, by parlaying fears of Mexicans. It's telling that many of these, and other, laws were justified on racist grounds. It leads to me to wonder if yesterday's explicit justifications are today's implicit ones.

But while racist roots are a good reason to be skeptical of today's drug policies, it is not definitive evidence of bad policy. To examine that further, we must now look at what empirical evidence has to say.

Just this month, Boston University economist and drug war economics expert Jeffrey Miron published Drug War Crimes," a short elegant analysis of drug prohibition policy. With a simple direct argument, he states the underlying assumption with regard to the Drug War and presents the empirical evidence (his own and the work of others) relevant to these assumptions. In the end he examines the collateral effects of prohibition and wraps it all up with a normative analysis of the costs and benefits to conclude that legalization should be favored by a large margin over prohibition.

To start, Miron gives us empirical evidence that the decrease in drug use due to the War on Drugs is most likely a very modest one. His main pieces of evidence regard data from alcohol prohibition of the 1920's and 30's and international statistics from other Western countries, many of whom have liberalized drug laws. His data, while admittedly not the strongest, indicate that

across-the-board legalization of illegal drugs would cause an increase in use from 0-50% (most likely much closer to 0). Far less, he claims, than the orders of magnitude threatened by drug warriors. He concludes, "And since other alleged benefits of prohibition, such as reduced crime, improved productivity, or better health, depend on the decrease in consumption, these benefits are likely modest as well." His stance on this point is bolstered by many researchers cited whose data indicate similar findings. In addition, he suggests, quite rightly I believe, that prohibition curtails the use of the most modest users, those least likely to be violent or use otherwise irresponsibly. The bottom line is that it is really hard to tease the truth from this historical experiment, but the weight of the evidence support Miron and others over the drug warriors.

Next Miron moves to the violence associated with drug use. As stated above, one of the underlying assumptions of the drug war is that drug use causes violence and prohibition decreases this violence. In what I think is the most damning evidence against our prohibition policy, Miron shows that it most likely **increases** violence, and that this amount of violence **varies directly** to the level of enforcement. There are two main reasons why this is so. Removing a drug dealer from the market causes the remaining dealers to violently compete for the vacuum left behind. And enforcement against non-violent drug use takes resources away from combating violent non-drug-related crime. According to his numbers, the changes in homicide rates in the US over the past century almost perfectly match the changes in expenditure for drug and alcohol prohibition. Now Miron quickly points out that one could make a plausible argument that the causation could go either way: either increased enforcement causes increased violence, or increased violence causes more enforcement. Three pieces of evidence give great weight to Miron's side, though. First, the homicide rate jumps drastically following alcohol prohibition and fall back to the baseline directly following its repeal. Second, a look at the data shows that a vast majority, around 85%, or "drug-related" homicides were not perpetrated while either actor was under the influence. Most of these events occur due to the disputes arising from a black market. Last, a look at across-country data reveal that countries with similar drug use rates compared to the US, but with much lower levels of enforcement, have much lower homicide rate (by an order of magnitude).

None of which to say is definitive evidence. However, as Miron asserts:

> ...The exact degree to which prohibition induces violence is difficult to pin down. But the standard defense of prohibition assumes enforcement *reduces* (emphasis his) violence, in stark contrast to these results. Thus, whatever its limitations, the evidence provides no support for prohibition.

From here Miron jumps into his normative analysis of the drug war and he examines the collateral costs and benefits of drug prohibition. First he differentiates between rational and irrational drug use. Rational use is defined as that which is responsibly done and which brings pleasure to the user, much like millions do with regard to alcohol. He states that while the reduction in use described above would be considered by many to be a benefit of prohibition, the elimination of rational use, regardless of how big one thinks that amount is, would actually have to be regarded honestly as a **cost**. Indeed if something brings pleasure to an individual at no cost to society, its disappearance is most certainly a negative thing. On the other hand, irrational use

is what we imagine when we talk about drug use. Miron describes the irrationality of drug use consisting of two variables: the addictiveness of drugs and the amount of harm to the users' health. I'll get into this later, but Miron and others have provided data that indicate drug warriors, with the help of physicians and public health experts, have overstated these effects.

Second, Miron discusses the externalities of drug use that many often bring up in debate. These include: those injured in driving and work-related accidents committed by those under the influence and unborn babies harmed by abusing mothers. Some of these effects are not as large, according to data that he presents, as some have led us to believe. But more importantly, these externalities can occur from legal substances also, and their presence per se does not constitute a valid argument for prohibition. Indeed, many of these can be handled via legal avenues that traditionally punish or compensate for unjust harm to innocents.

Last, the War on Drugs has led to some extremely negative collateral damage. It has negative health effects, namely the under-treatment of pain and contributing to the spread of HIV in IV drug users. It has negative economic effects because it costs $33 billion per year. It has negative diplomatic effects by causing the US to interfere in the domestic policies of other nations. It has contributed to the racial divide here in the United States. It has led to vast amounts of corruption in government and law enforcement agencies. It has supported terrorism by driving drug prices up and giving an economic boon to terrorist organizations. It has led to the erosion of civil liberties by lending incentive for unconstitutional searches and seizures. And it has eroded liberty in general, by solidifying the erroneous idea that the government can tell us what we can and can not put into our own bodies.

From all this, Miron comes to the overwhelming conclusion that the War on Drugs is awful policy, and I have to say I agree. In fact, it continues to baffle me how so few people can come to the same conclusion. I applaud Miron on his intelligent efforts in this cause.

I find this persuasive, yet most people, including physicians, would never be able to get their brains around the fact that drugs are addictive and unhealthy. Indeed they are, but these qualities apply to many substances and behaviors in this world that are not prohibited. So these facts alone do not justify present drug policy. Many would argue, however, that these effects are so much greater with current illegal drugs, that they require special legal attention.

The most damning statement ever made about a drug has been "it's so addictive, that you can be come hooked after using it just once." This has been applied to many drugs, including heroin, cocaine, and amphetamines among others. I have heard it spoken within the walls of my own medical school by respectable physicians. And it is utterly false. It relies on a theory of pharmacologic action and physical dependence that physicians would not believe when applied to any other drug or medicine. So why are they so credulous to the claims about illicit drugs? This is an important question because health professionals has played the largest role in spreading these myths that support government policy.

A look at the data, summarized by Jacob Sullum in his book "Saying Yes: In Defense of Drug Use" sheds light on the truth. The National Household Survey on Drug Abuse found that out of 3 million American who have ever used heroin, 15% had used it the past year, 4% in the last month, and presumably much less use it on a daily basis. Hardly indicative of an instantaneously addictive drug. Likewise, of the people who have tried crack cocaine, 1.1% had used in the last year, 0.3% in the last month. Sullum writes, "In other words, 93 percent of the people who have tried a drug said to be instantly addictive were not using it even as often as once a month." Finally, of the people who reported to ever have used methamphetamine, 6% claimed use in the past month. What is striking about all these figures is the fact they are not out of line with the numbers cited for cigarette and alcohol use. An the fact that every one of these substances has been tagged with the infamous title "Most Addictive Substance Known To Man" is indicative of how disingenuous researchers (almost always government funded) and policy makers are when they discuss this issue.

Aside from the addictive nature of the drugs, health professionals also often exaggerate their adverse health effects. Marijuana fries your brain and reduces your intelligence. Stimulants will cause your heart to explode. Steroids will give you liver cancer. PCP will send you into violent uncontrollable rages. All of these drugs (like all other drugs) have harmful pharmacologic characteristics. And none of these would be confused with, say, and apple a day. Yet again, a look through the medical literature leads one to the conclusion that many of these "facts" are based on anecdotal evidence and less-than-optimally modeled experiments. Statistics pulled form autopsy reports are often used to show the number of people whose death is associated with drug X. But many of these quoted statistics ignore that they often are huge doses of drug X, and more importantly are mixed with drugs Y, Z, A, B, and C. And we can't ignore that some of the adverse health effects are **caused** by prohibition. Impurities and improper dosing resulting from products sold in a black market. AIDS and hepatitis spread through sharing of illegal needles. Injecting, itself a risky procedure, is produced by the incentive to get "more bang for your buck" when using artificially expensive drugs. But again, even the true adverse health effects don't justify their prohibition when seen in light of the fact that legal recreational drugs, namely tobacco and alcohol, are as unhealthy if not more so.

Why do physicians allow the wool to be pulled over their eyes? Some, indeed, truly believe these statements. Yet others perpetuate these myths without so much as a critical thought. One answer is that physicians are no different from the general population in their fears of illegal drugs. They fear their social dangers, they fear their children growing up lured into a world of crime and addiction. These are legitimate fears, even if I believe them to be based on false premises.

Yet physicians are in a privileged position to understand the truth, and a cynical person (who would be me on some days) might wonder if they have something to gain from willful ignorance. I can think of three reasons why this could happen. First, physicians being who they are, value health over most things and value health more than the average person. This in and of itself is not scandalous or even controversial. It's a simple fact of human nature that a person will value the central facets of his life more than other things and more than the average person will. Fashion designers value clothes and fashion more than the average person. Teachers value education more. So it goes without saying that physicians would support discontinuing the use

of substances with potentially harmful effects. I don't even have a problem with that - my problem arises when they support a harmful prohibition of said substances.

The other two reasons are a tad more sinister. I have discussed previously the status of gatekeepers for prescription drugs that physicians presently hold. Economically, this is profitable for them because it increases the demand for their services. It goes without saying that an across-the-board legalization of illegal drugs would call into question this legal gatekeeper status. How could one justify allowing heroin to be sold legally but requiring a prescription for Lipitor? Similarly, the banning of certain drugs, used by people to treat their own depression, anxiety, and pain, forces those people, if they do not want to break the law, to seek the help of a physician to treat these with legal substances (not sold over-the-counter). Indeed the ever-increasing use of drugs (especially by psychiatrists) to treat behavioral and mental "disease" has blurred the distinction between "medicinal" drugs and "recreational" drugs. And even if the drugs used by physicians are considered safer than the illicit kind, it is insulting to patient autonomy to deny them access to drugs theat may actually work better for them. Sullum writes:

> Psychiatrists have been defining an ever-lengthening list of mental states as disorders to be treated with psychoactive substances. The medical excuse for drug use is so powerful that it can justify giving stimulants to inattentive schoolboys, tranquilizers to anxious travelers, and happy pills to melancholy teenagers - provided an MD approves. Taking MDMA to overcome shyness is drug abuse, but prescribing Paxil to treat "social anxiety disorder" is good medicine. Legally, the distinction between medical and non-medical is clear. Conceptually, it has never been blurrier.

All of this makes me wary of motives, but is understandable given the culture we live in. However, I am insulted by some of the attitudes I see around the hospital I work. People complain about "drug-seekers," those demonic heathens who are forced to be less-than-forward about their intentions for visiting the doctor. I am sure it is frustrating to be a practicing physician and have to spend time dealing with this, when you trained for so long to deal with more interesting medical problems. But there is a solution - and it does not involve more interference from the DEA. Relinquish complete control of the substances these people are seeking - and they'll stop coming to your office. I find it a little hypocritical when some physicians complain about the phenomenon that is a direct consequence of a policy many support and from which they directly benefit.

I can't get through a whole one of these without talking about personal liberty. When you get down to it, doesn't it strike anyone as unjust that we can force someone from putting a substance into their own body, and then throw them in jail if they do? And isn't it hypocritical that two people can go to a party and talk about the evils and immorality of drug use while partaking of a few drinks? And isn't in shameful that we have gotten to this point after a history of racism, misinformation, puritanism, and abuse of power?

I will repeat something I have said before - the War On Drugs is the biggest civil rights violation imposed on the citizens of the United States since the last Jim Crow law was repealed. Its injustice knows no boundary of race, sex, religion, etc. It affects us all, either directly or indirectly. The one thing I would feel I can accomplish with this is to begin to persuade members of the AMA and fellow health professionals to realize the harm our drug policies cause and lead the charge for their repeal. Do it for justice. Do it for liberty. Do it for our health.

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