

DRUG DECRIMINALIZATION A PRAGMATIC APPROACH

a note from underground

by

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After over 20 years the "war on drugs" is clearly a dismal failure. Hundreds of billions of dollars have been spent, tens of thousands of people imprisoned, thousands of lives lost to violence. Huge criminal cartels created by enormous profits and led by well-armed warlords have corrupted police, judges, and politicians around the world. Criminal gangs have even bought and controlled entire countries, like Columbia and now perhaps Mexico.

Millions of citizens live in fear, believing illegal drugs to be a demonic threat to themselves and their children. Nevertheless, millions of people continue to use various illicit psychoactive substances, the vast majority of them without doing significant harm to themselves or others.

Many of us in the psychedelic community remember that a generation ago, the social and legal atmosphere was very different. All of us hope to someday once again pursue our scientific, religious and psychological explorations openly, without the constant threat of loss of freedom. Many of us have become increasingly frustrated seeking to further that goal. Not a few have given it up as a lost cause. We therefore offer this modest proposal.

How did we get into this mess?

After World War II, pharmaceutical researchers discovered or developed an unprecedented number of new psychoactive chemicals. Research chemists and pharmacologists at pharmaceutical companies and universities found or created dozens of chemicals that showed promise as tranquilizers, sleeping pills, mood elevators, appetite suppressants, religious analogues, etc. Albert Hoffman's discovery of LSD at Sandoz was perhaps the most remarkable product of this search. A period of fertile academic and amateur exploration followed. It is an indication of how things have changed that in 1958, Gordon Wasson, amateur psychedelic mushroom explorer and vice president at The Morgan Bank, appeared on the cover of Life Magazine and openly spoke about the experiments he and his wife were doing in this field.

In the 1960s the largest cohort of young people in history encountered these drugs. A adventurous few embarked on an intoxicating trip that (depending on your point of view), represented either the greatest leap forward of the human mind to date, or the biggest threat to civilization since the atom bomb. The typically American enthusiasm for new (and old) psychoactives was followed by a typical prohibitionist reaction, like that earlier in the century against heroin, cocaine, marijuana, and alcohol.

The argument, advanced by Timothy Leary and others, that use of the new psychedelic drugs was an extension of our cherished freedom of thought failed to halt the backlash of the '60s and '70s. So the psychonauts, whether serious researchers, religious visionaries or recreational pranksters, joined the stoners, junkies, speed freaks and cokeheads in the criminal underground.

In the years since Ronald Reagan escalated the "War on Drugs" in the early '80s, Americans have spent "nearly \$300 billion to stem the flow—with 'no discernible impact on either price or availability' as even the State Department admits." (*The Economist*, November 15, 1997).

The costly campaign to eliminate illegal drug use has not stopped the growth of the underground. It now harbors not only a very large number of relatively harmless (low social cost) users, but a much smaller number of warlords, gangs and abusers (incurring high social costs). As a by-product, this campaign has produced an entrenched and politically-powerful special interest group of "drug warriors" that now includes enforcers, bureaucrats, politicians, spies, drug-testing companies, etc.

In the meanwhile, pharmacologists have established scientifically that drug-induced brain states are analogues of "natural" brain states. The "designer drug" battles of the 80s led to further prohibitions that come very close to outlawing natural states of mind. Fueled by the success of new neurotransmitter drugs (e.g., Prozac), psychopharmacological researchers are developing a new understanding of brain biochemistry, drug activity and chemical dependence. This new paradigm is gradually undermining (at least among the scientifically sophisticated) the officially sanctioned superstitions about psychoactive drugs. Nevertheless, drug war propaganda and the violent side-effects of prohibition have millions of citizens convinced that psychoactive drugs are demonic forces. Even in the psychedelic community, the belief in inherently "good" versus "bad" drugs is commonplace.

How to use consequentialist arguments, a case study

Recently, Zarkov was called for jury duty on a case where the defendant was accused of selling heroin outside a high school. The range of opinions in the jury pool is instructive. Most of the potential jurors were very emotionally antidrug, expressing fear for their children or their own safety.

An older African American declared that all heroin dealers should be shot on sight; most of the jury pool seemed to think this a good idea. An old hippie gave the "freedom of mind" speech, which went over with the jury pool like a lead balloon. When questioned by the prosecutor on his beliefs, Zarkov gave a variant on the consequentialist argument — that is, that the observable consequences of the drug laws are far worse than what could possibly happen if drugs were legal. He gave special emphasis to how nonusers would have much less to fear if drugs were decriminalized, in contrast to the present situation.

The prosecutor was incredulous. The judge allowed Zarkov to give lengthy answers to the prosecutor's and defense attorney's questions. Despite the prosecutor's agitated attempts to get Zarkov thrown off the jury as unfit, the judge made the prosecution use up one of its own peremptory challenges to keep him off the jury. Whether the judge merely found this entertaining, or was using it as an opportunity to bait the prosecutor was not clear. However, it was clear that this line of argument made an impact on several of the potential jurors.

So, what do we do now?

Various legal arguments for decriminalization of certain psychoactives (psychedelics, entheogens) have been tried repeatedly and failed. These include religious freedom (recently defeated by the US Supreme Court), and privileged use under the supervision of therapists. The medical marijuana argument is a limited approach. While no doubt helping to raise public awareness that the government is lying about drugs, it is not likely to lead to decriminalization of other psychoactive chemicals.

We need new arguments that can serve as wedges to start the long slow process of change toward a society that decriminalizes psychoactive drug use for any purpose: scientific, therapeutic, religious, psychedelic or recreational.

So we suggest a new pragmatic approach that will ally us with a host of others, including libertarians, certain conservatives, enlightened police, lawyers and judges. We can also join the proponents of serious political experiments in drug liberalization in Holland, Switzerland and California. We can marshal many different viewpoints and arguments without sounding like a wacko special-interest group.

Please note that we do not distinguish among the psychoactives. We believe that special pleading for psychedelics, plant substances, entheogens and psychotherapeutics has already failed. In fact, these arguments are too alien and emanate from too small a special-interest group to ever win over the necessary majority of voters. This means we must give up cherished positions based on millennial utopianism and religious freedom. Even if true, the beliefs in which these positions are rooted are too esoteric for most ordinary citizens to understand or accept.

However, the present situation is so bad that it is not just reasonable, but emotionally persuasive, to argue that decriminalization has to be an improvement over the sorry status quo. We don't have to claim that our drugs will save the world. We needn't resort to demonizing the drugs we don't like. We don't even have to prove that drugs are safe. Very importantly, we don't need to defend drug use or admit to using drugs in order to promote decriminalization. This consequentialist or comparative advantage line of argument (see sidebar) can recruit nonusers, even people who are against drug use, as well as otherwise law-abiding users who in the present legal situation remain underground.

Although we are not optimists, we believe the debate against drug prohibition is winnable in the long run. But not with the arguments that we in the psychedelic community find most emotionally compelling (freedom, religion, therapy).

Rather, let us appeal to simple American economic and social pragmatism, a position that can bring us a variety of allies who (let's be honest) have much more credibility with ordinary Americans than we will ever have. And let us put forth arguments that the ordinary nondrug-using voter can understand and accept (see sidebar).

This campaign may well take another 10 to 30 years of concerted effort. Let's start now.

Stay high and stay free!

Garcie & Zarkov

Why drugs should be decriminalized

A sample line of argument

The present situation is appalling: violent criminals, police corruption, government subversion, overloaded judicial and prison systems, dangerously contaminated and toxic drugs, billions of dollars wasted.

These evils are for the most part caused by drug prohibition, which artificially raises prices and encourages armed violence. The parallels with alcohol Prohibition should be obvious and can be quoted from respectable publications (c.f., *The Economist*). The entrenched bureaucracy of drug warriors has a personal interest in continuing the war. They do not hesitate to lie to and manipulate the public for political power and money.

In the meanwhile, millions of otherwise productive and law-abiding drug users risk imprisonment and loss of livelihood, wasteful and expensive alternatives to these people remaining free and productive.

Psychoactive drugs can indeed be dangerous. Direct negative consequences include overdoses, dependence, individual irresponsibility, damage to health, driving under the influence, etc. However, society tolerates alcohol abuse and tobacco use at social costs much higher than the direct social cost of all illicit drugs. Furthermore, the risks of psychoactive drug use could be better mitigated in a decriminalized society where good scientific research and trustworthy information could replace official propaganda and widespread ignorance among users.

Therefore, decriminalization can only be a significant improvement over the present miserable situation. It will:

Save billions of dollars that could be spent more productively.

Free the police for more important work (including mopping up after the consequences of 20 years of armed drug warfare) and eliminate a huge source of corruption and violence.

Unclog courts and prisons.

Improve international relations.

Promote safer drugs and safer drug use by allowing open scientific research, accurate information and honest education.

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