Against the Legalization of Drugs

James Q. Wilson — February 1990

In 1972, the President appointed me chairman of the National Advisory Council for Drug Abuse Prevention. Created by Congress, the Council was charged with providing guidance on how best to coordinate the national war on drugs. (Yes, we called it a war then, too.) In those days, the drug we were chiefly concerned with was heroin. When I took office, heroin use had been increasing dramatically. Everybody was worried that this increase would continue. Such phrases as “heroin epidemic” were commonplace.

That same year, the eminent economist Milton Friedman published an essay in *Newsweek* in which he called for legalizing heroin. His argument was on two grounds: as a matter of ethics, the government has no right to tell people not to use heroin (or to drink or to commit suicide); as a matter of economics, the prohibition of drug use imposes costs on society that far exceed the benefits. Others, such as the psychoanalyst Thomas Szasz, made the same argument.

We did not take Friedman’s advice. (Government commissions rarely do.) I do not recall that we even discussed legalizing heroin, though we did discuss (but did not take action on) legalizing a drug, cocaine, that many people then argued was benign. Our marching orders were to figure out how to win the war on heroin, not to run up the white flag of surrender.

That was 1972. Today, we have the same number of heroin addicts that we had then—half a million, give or take a few thousand. Having that many heroin addicts is no trivial matter; these people deserve our attention. But not having had an increase in that number for over fifteen years is also something that deserves our attention. What happened to the “heroin epidemic” that many people once thought would overwhelm us?

The facts are clear: a more or less stable pool of heroin addicts has been getting older, with relatively few new recruits. In 1976 the average age of heroin users who appeared in hospital emergency rooms was about twenty-seven; ten years later it was thirty-two. More than two-thirds of all heroin users appearing in emergency rooms are now over the age of thirty. Back in the early 1970’s, when heroin got onto the national political agenda, the typical heroin addict was much younger, often a teenager. Household surveys show the same thing—the rate of opiate use (which includes heroin) has been flat for the better part of two decades. More fine-grained studies of inner-city neighborhoods confirm this. John Boyle and Ann Brunswick found that the percentage of young blacks in Harlem who used heroin fell from 8 percent in 1970-71 to about 3 percent in 1975-76.

Why did heroin lose its appeal for young people? When the young blacks in Harlem were asked why they stopped, more than half mentioned “trouble with the law” or “high cost” (and high cost is, of course, directly the result of law enforcement). Two-thirds said that heroin hurt their health; nearly all said they had had a bad experience with it. We need not rely, however, simply on what they said. In New York City in 1973-75, the street price of heroin rose dramatically and its purity sharply declined, probably as a result of the heroin shortage caused by the success of the Turkish
government in reducing the supply of opium base and of the French government in closing down heroin-processing laboratories located in and around Marseilles. These were short-lived gains for, just as Friedman predicted, alternative sources of supply—mostly in Mexico—quickly emerged. But the three-year heroin shortage interrupted the easy recruitment of new users.

Health and related problems were no doubt part of the reason for the reduced flow of recruits. Over the preceding years, Harlem youth had watched as more and more heroin users died of overdoses, were poisoned by adulterated doses, or acquired hepatitis from dirty needles. The word got around: heroin can kill you. By 1974 new hepatitis cases and drug-overdose deaths had dropped to a fraction of what they had been in 1970.

Alas, treatment did not seem to explain much of the cessation in drug use. Treatment programs can and do help heroin addicts, but treatment did not explain the drop in the number of new users (who by definition had never been in treatment) nor even much of the reduction in the number of experienced users.

No one knows how much of the decline to attribute to personal observation as opposed to high prices or reduced supply. But other evidence suggests strongly that price and supply played a large role. In 1972 the National Advisory Council was especially worried by the prospect that U.S. servicemen returning to this country from Vietnam would bring their heroin habits with them. Fortunately, a brilliant study by Lee Robins of Washington University in St. Louis put that fear to rest. She measured drug use of Vietnam veterans shortly after they had returned home. Though many had used heroin regularly while in Southeast Asia, most gave up the habit when back in the United States. The reason: here, heroin was less available and sanctions on its use were more pronounced. Of course, if a veteran had been willing to pay enough—which might have meant traveling to another city and would certainly have meant making an illegal contact with a disreputable dealer in a threatening neighborhood in order to acquire a (possibly) dangerous dose—he could have sustained his drug habit. Most veterans were unwilling to pay this price, and so their drug use declined or disappeared.

Reliving the Past

Suppose we had taken Friedman’s advice in 1972. What would have happened? We cannot be entirely certain, but at a minimum we would have placed the young heroin addicts (and, above all, the prospective addicts) in a very different position from the one in which they actually found themselves. Heroin would have been legal. Its price would have been reduced by 95 percent (minus whatever we chose to recover in taxes.) Now that it could be sold by the same people who make aspirin, its quality would have been assured—no poisons, no adulterants. Sterile hypodermic needles would have been readily available at the neighborhood drugstore, probably at the same counter where the heroin was sold. No need to travel to big cities or unfamiliar neighborhoods—heroin could have been purchased anywhere, perhaps by mail order.
There would no longer have been any financial or medical reason to avoid heroin use. Anybody could have afforded it. We might have tried to prevent children from buying it, but as we have learned from our efforts to prevent minors from buying alcohol and tobacco, young people have a way of penetrating markets theoretically reserved for adults. Returning Vietnam veterans would have discovered that Omaha and Raleigh had been converted into the pharmaceutical equivalent of Saigon.

Under these circumstances, can we doubt for a moment that heroin use would have grown exponentially? Or that a vastly larger supply of new users would have been recruited? Professor Friedman is a Nobel Prize-winning economist whose understanding of market forces is profound. What did he think would happen to consumption under his legalized regime? Here are his words: “Legalizing drugs might increase the number of addicts, but it is not clear that it would. Forbidden fruit is attractive, particularly to the young.”

Really? I suppose that we should expect no increase in Porsche sales if we cut the price by 95 percent, no increase in whiskey sales if we cut the price by a comparable amount—because young people only want fast cars and strong liquor when they are “forbidden.” Perhaps Friedman’s uncharacteristic lapse from the obvious implications of price theory can be explained by a misunderstanding of how drug users are recruited. In his 1972 essay he said that “drug addicts are deliberately made by pushers, who give likely prospects their first few doses free.” If drugs were legal it would not pay anybody to produce addicts, because everybody would buy from the cheapest source. But as every drug expert knows, pushers do not produce addicts. Friends or acquaintances do. In fact, pushers are usually reluctant to deal with non-users because a non-user could be an undercover cop. Drug use spreads in the same way any fad or fashion spreads: somebody who is already a user urges his friends to try, or simply shows already-eager friends how to do it.

But we need not rely on speculation, however plausible, that lowered prices and more abundant supplies would have increased heroin usage. Great Britain once followed such a policy and with almost exactly those results. Until the mid-1960′s, British physicians were allowed to prescribe heroin to certain classes of addicts. (Possessing these drugs without a doctor’s prescription remained a criminal offense.) For many years this policy worked well enough because the addict patients were typically middle-class people who had become dependent on opiate painkillers while undergoing hospital treatment. There was no drug culture. The British system worked for many years, not because it prevented drug abuse, but because there was no problem of drug abuse that would test the system.

All that changed in the 1960′s. A few unscrupulous doctors began passing out heroin in wholesale amounts. One doctor prescribed almost 600,000 heroin tablets—that is, over thirteen pounds—in just one year. A youthful drug culture emerged with a demand for drugs far different from that of the older addicts. As a result, the British government required doctors to refer users to government-run clinics to receive their heroin.

But the shift to clinics did not curtail the growth in heroin use. Throughout the 1960′s the number of addicts increased—the late John Kaplan of Stanford estimated by fivefold—in part as a result of the diversion of heroin from clinic patients to new users on the streets. An addict would
bargain with the clinic doctor over how big a dose he would receive. The patient wanted as much as he could get, the doctor wanted to give as little as was needed. The patient had an advantage in this conflict because the doctor could not be certain how much was really needed. Many patients would use some of their “maintenance” dose and sell the remaining part to friends, thereby recruiting new addicts. As the clinics learned of this, they began to shift their treatment away from heroin and toward methadone, an addictive drug that, when taken orally, does not produce a “high” but will block the withdrawal pains associated with heroin abstinence.

Whether what happened in England in the 1960’s was a mini-epidemic or an epidemic depends on whether one looks at numbers or at rates of change. Compared to the United States, the numbers were small. In 1960 there were 68 heroin addicts known to the British government; by 1968 there were 2,000 in treatment and many more who refused treatment. (They would refuse in part because they did not want to get methadone at a clinic if they could get heroin on the street.) Richard Hartnoll estimates that the actual number of addicts in England is five times the number officially registered. At a minimum, the number of British addicts increased by thirtyfold in ten years; the actual increase may have been much larger.

In the early 1980’s the numbers began to rise again, and this time nobody doubted that a real epidemic was at hand. The increase was estimated to be 40 percent a year. By 1982 there were thought to be 20,000 heroin users in London alone. Geoffrey Pearson reports that many cities—Glasgow, Liverpool, Manchester, and Sheffield among them—were now experiencing a drug problem that once had been largely confined to London. The problem, again, was supply. The country was being flooded with cheap, high-quality heroin, first from Iran and then from Southeast Asia.

The United States began the 1960’s with a much larger number of heroin addicts and probably a bigger at-risk population than was the case in Great Britain. Even though it would be foolhardy to suppose that the British system, if installed here, would have worked the same way or with the same results, it would be equally foolhardy to suppose that a combination of heroin available from leaky clinics and from street dealers who faced only minimal law-enforcement risks would not have produced a much greater increase in heroin use than we actually experienced. My guess is that if we had allowed either doctors or clinics to prescribe heroin, we would have had far worse results than were produced in Britain, if for no other reason than the vastly larger number of addicts with which we began. We would have had to find some way to police thousands (not scores) of physicians and hundreds (not dozens) of clinics. If the British civil service found it difficult to keep heroin in the hands of addicts and out of the hands of recruits when it was dealing with a few hundred people, how well would the American civil service have accomplished the same tasks when dealing with tens of thousands of people?

Back to the Future
Now cocaine, especially in its potent form, crack, is the focus of attention. Now as in 1972 the
government is trying to reduce its use. Now as then some people are advocating legalization. Is
there any more reason to yield to those arguments today than there was almost two decades ago?¹

I think not. If we had yielded in 1972 we almost certainly would have had today a permanent
population of several million, not several hundred thousand, heroin addicts. If we yield now we
will have a far more serious problem with cocaine.

Crack is worse than heroin by almost any measure. Heroin produces a pleasant drowsiness and,
if hygienically administered, has only the physical side effects of constipation and sexual
impotence. Regular heroin use incapacitates many users, especially poor ones, for any productive
work or social responsibility. They will sit nodding on a street corner, helpless but at least
harmless. By contrast, regular cocaine use leaves the user neither helpless nor harmless. When
smoked (as with crack) or injected, cocaine produces instant, intense, and short-lived euphoria.
The experience generates a powerful desire to repeat it. If the drug is readily available, repeat use
will occur. Those people who progress to “bingeing” on cocaine become devoted to the drug and
its effects to the exclusion of almost all other considerations—job, family, children, sleep, food,
even sex. Dr. Frank Gawin at Yale and Dr. Everett Ellinwood at Duke report that a substantial
percentage of all high-dose, binge users become uninhibited, impulsive, hypersexual,
compulsive, irritable, and hyperactive. Their moods vacillate dramatically, leading at times to
violence and homicide.

Women are much more likely to use crack than heroin, and if they are pregnant, the effects on
their babies are tragic. Douglas Besharov, who has been following the effects of drugs on infants
for twenty years, writes that nothing he learned about heroin prepared him for the devastation of
cocaine. Cocaine harms the fetus and can lead to physical deformities or neurological damage.
Some crack babies have for all practical purposes suffered a disabling stroke while still in the
womb. The long-term consequences of this brain damage are lowered cognitive ability and the
onset of mood disorders. Besharov estimates that about 30,000 to 50,000 such babies are born
every year, about 7,000 in New York City alone. There may be ways to treat such infants, but
from everything we now know the treatment will be long, difficult, and expensive. Worse, the
mothers who are most likely to produce crack babies are precisely the ones who, because of
poverty or temperament, are least able and willing to obtain such treatment. In fact, anecdotal
evidence suggests that crack mothers are likely to abuse their infants.

The notion that abusing drugs such as cocaine is a “victimless crime” is not only absurd but
dangerous. Even ignoring the fetal drug syndrome, crack-dependent people are, like heroin
addicts, individuals who regularly victimize their children by neglect, their spouses by
improvidence, their employers by lethargy, and their coworkers by carelessness. Society is not
and could never be a collection of autonomous individuals. We all have a stake in ensuring that
each of us displays a minimal level of dignity, responsibility, and empathy. We cannot, of
course, coerce people into goodness, but we can and should insist that some standards must be
met if society itself—on which the very existence of the human personality depends—is to
persist. Drawing the line that defines those standards is difficult and contentious, but if crack and
heroin use do not fall below it, what does?
The advocates of legalization will respond by suggesting that my picture is overdrawn. Ethan Nadelmann of Princeton argues that the risk of legalization is less than most people suppose. Over 20 million Americans between the ages of eighteen and twenty-five have tried cocaine (according to a government survey), but only a quarter million use it daily. From this Nadelmann concludes that mat most 3 percent of all young people who try cocaine develop a problem with it. The implication is clear: make the drug legal and we only have to worry about 3 percent of our youth.

The implication rests on a logical fallacy and a factual error. The fallacy is this: the percentage of occasional cocaine users who become binge users when the drug is illegal (and thus expensive and hard to find) tells us nothing about the percentage who will become dependent when the drug is legal (and thus cheap and abundant). Drs. Gawin and Ellinwood report, in common with several other researchers, that controlled or occasional use of cocaine changes to compulsive and frequent use “when access to the drug increases” or when the user switches from snorting to smoking. More cocaine more potently administered alters, perhaps sharply, the proportion of “controlled” users who become heavy users.

The factual error is this: the federal survey Nadelmann quotes was done in 1985, before crack had become common. Thus the probability of becoming dependent on cocaine was derived from the responses of users who snorted the drug. The speed and potency of cocaine’s action increases dramatically when it is smoked. We do not yet know how greatly the advent of crack increases the risk of dependency, but all the clinical evidence suggests that the increase is likely to be large.

It is possible that some people will not become heavy users even when the drug is readily available in its most potent form. So far there are no scientific grounds for predicting who will and who will not become dependent. Neither socioeconomic background nor personality traits differentiate between casual and intensive users. Thus, the only way to settle the question of who is correct about the effect of easy availability on drug use, Nadelmann or Gawin and Ellinwood, is to try it and see. But that social experiment is so risky as to be no experiment at all, for if cocaine is legalized and if the rate of its abusive use increases dramatically, there is no way to put the genie back in the bottle, and it is not a kindly genie.

Have we Lost?

Many people who agree that there are risks in legalizing cocaine or heroin still favor it because, they think, we have lost the war on drugs. “Nothing we have done has worked” and the current federal policy is just “more of the same.” Whatever the costs of greater drug use, surely they would be less than the costs of our present, failed efforts.

That is exactly what I was told in 1972—and heroin is not quite as bad a drug as cocaine. We did not surrender and we did not lose. We did not win, either. What the nation accomplished then
was what most efforts to save people from themselves accomplish: the problem was contained and the number of victims minimized, all at a considerable cost in law enforcement and increased crime. Was the cost worth it? I think so, but others may disagree. What are the lives of would-be addicts worth? I recall some people saying to me then, “Let them kill themselves.” I was appalled. Happily, such views did not prevail.

Have we lost today? Not at all. High-rate cocaine use is not commonplace. The National Institute of Drug Abuse (NIDA) reports that less than 5 percent of high-school seniors used cocaine within the last thirty days. Of course this survey misses young people who have dropped out of school and miscounts those who lie on the questionnaire, but even if we inflate the NIDA estimate by some plausible percentage, it is still not much above 5 percent. Medical examiners reported in 1987 that about 1,500 died from cocaine use; hospital emergency rooms reported about 30,000 admissions related to cocaine abuse.

These are not small numbers, but neither are they evidence of a nationwide plague that threatens to engulf us all. Moreover, cities vary greatly in the proportion of people who are involved with cocaine. To get city-level data we need to turn to drug tests carried out on arrested persons, who obviously are more likely to be drug users than the average citizen. The National Institute of Justice, through its Drug Use Forecasting (DUF) project, collects urinalysis data on arrestees in 22 cities. As we have already seen, opiate (chiefly heroin) use has been flat or declining in most of these cities over the last decade. Cocaine use has gone up sharply, but with great variation among cities. New York, Philadelphia, and Washington, D.C., all report that two-thirds or more of their arrestees tested positive for cocaine, but in Portland, San Antonio, and Indianapolis the percentage was one-third or less.

In some neighborhoods, of course, matters have reached crisis proportions. Gangs control the streets, shootings terrorize residents, and drug-dealing occurs in plain view. The police seem barely able to contain matters. But in these neighborhoods—unlike at Palo Alto cocktail parties—the people are not calling for legalization, they are calling for help. And often not much help has come. Many cities are willing to do almost anything about the drug problem except spend more money on it. The federal government cannot change that; only local voters and politicians can. It is not clear that they will.

It took about ten years to contain heroin. We have had experience with crack for only about three or four years. Each year we spend perhaps $11 billion on law enforcement (and some of that goes to deal with marijuana) and perhaps $2 billion on treatment. Large sums, but not sums that should lead anyone to say, “We just can’t afford this any more.”

The illegality of drugs increases crime, partly because some users turn to crime to pay for their habits, partly because some users are stimulated by certain drugs (such as crack or PCP) to act more violently or ruthlessly than they otherwise would, and partly because criminal organizations seeking to control drug supplies use force to manage their markets. These also are serious costs, but no one knows how much they would be reduced if drugs were legalized.

Addicts would no longer steal to pay black-market prices for drugs, a real gain. But some, perhaps a great deal, of that gain would be offset by the great increase in the number of addicts. These people, nodding on heroin or living in the delusion-ridden high of cocaine, would hardly
be ideal employees. Many would steal simply to support themselves, since snatch-and-grab, opportunistic crime can be managed even by people unable to hold a regular job or plan an elaborate crime. Those British addicts who get their supplies from government clinics are not models of law-abiding decency. Most are in crime, and though their per-capita rate of criminality may be lower thanks to the cheapness of their drugs, the total volume of crime they produce may be quite large. Of course, society could decide to support all unemployable addicts on welfare, but that would mean that gains from lowered rates of crime would have to be offset by large increases in welfare budgets.

Proponents of legalization claim that the costs of having more addicts around would be largely if not entirely offset by having more money available with which to treat and care for them. The money would come from taxes levied on the sale of heroin and cocaine.

To obtain this fiscal dividend, however, legalization’s supporters must first solve an economic dilemma. If they want to raise a lot of money to pay for welfare and treatment, the tax rate on the drugs will have to be quite high. Even if they themselves do not want a high rate, the politicians’ love of “sin taxes” would probably guarantee that it would be high anyway. But the higher the tax, the higher the price of the drug, and the higher the price the greater the likelihood that addicts will turn to crime to find the money for it and that criminal organizations will be formed to sell tax-free drugs at below-market rates. If we managed to keep taxes (and thus prices) low, we would get that much less money to pay for welfare and treatment and more people could afford to become addicts. There may be an optimal tax rate for drugs that maximizes revenue while minimizing crime, bootlegging, and the recruitment of new addicts, but our experience with alcohol does not suggest that we know how to find it.

The Benefits of Illegality

The advocates of legalization find nothing to be said in favor of the current system except, possibly, that it keeps the number of addicts smaller than it would otherwise be. In fact, the benefits are more substantial than that.

First, treatment. All the talk about providing “treatment on demand” implies that there is a demand for treatment. That is not quite right. There are some drug-dependent people who genuinely want treatment and will remain in it if offered; they should receive it. But there are far more who want only short-term help after a bad crash; once stabilized and bathed, they are back on the street again, hustling. And even many of the addicts who enroll in a program honestly wanting help drop out after a short while when they discover that help takes time and commitment. Drug-dependent people have very short time horizons and a weak capacity for commitment. These two groups—those looking for a quick fix and those unable to stick with a long-term fix—are not easily helped. Even if we increase the number of treatment slots—as we should—we would have to do something to make treatment more effective.
One thing that can often make it more effective is compulsion. Douglas Anglin of UCLA, in common with many other researchers, has found that the longer one stays in a treatment program, the better the chances of a reduction in drug dependency. But he, again like most other researchers, has found that drop-out rates are high. He has also found, however, that patients who enter treatment under legal compulsion stay in the program longer than those not subject to such pressure. His research on the California civil commitment program, for example, found that heroin users involved with its required drug-testing program had over the long term a lower rate of heroin use than similar addicts who were free of such constraints. If for many addicts compulsion is a useful component of treatment, it is not clear how compulsion could be achieved in a society in which purchasing, possessing, and using the drug were legal. It could be managed, I suppose, but I would not want to have to answer the challenge from the American Civil Liberties Union that it is wrong to compel a person to undergo treatment for consuming a legal commodity.

Next, education. We are now investing substantially in drug-education programs in the schools. Though we do not yet know for certain what will work, there are some promising leads. But I wonder how credible such programs would be if they were aimed at dissuading children from doing something perfectly legal. We could, of course, treat drug education like smoking education: inhaling crack and inhaling tobacco are both legal, but you should not do it because it is bad for you. That tobacco is bad for you is easily shown; the Surgeon General has seen to that. But what do we say about crack? It is pleasurable, but devoting yourself to so much pleasure is not, a good idea (though perfectly legal)? Unlike tobacco, cocaine will not give you cancer or emphysema, but it will lead you to neglect your duties to family, job, and neighborhood? Everybody is doing cocaine, but you should not?

Again, it might be possible under a legalized regime to have effective drug-prevention programs, but their effectiveness would depend heavily, I think, on first having decided that cocaine use, like tobacco use, is purely a matter of practical consequences; no fundamental moral significance attaches to either. But if we believe—as I do—that dependency on certain mind-altering drugs is a moral issue and that their illegality rests in part on their immorality, then legalizing them undercuts, if it does not eliminate altogether, the moral message.

That message is at the root of the distinction we now make between nicotine and cocaine. Both are highly addictive; both have harmful physical effects. But we treat the two drugs differently, not simply because nicotine is so widely used as to be beyond the reach of effective prohibition, but because its use does not destroy the user’s essential humanity. Tobacco shortens one’s life, cocaine debases it. Nicotine alters one’s habits, cocaine alters one’s soul. The heavy use of crack, unlike the heavy use of tobacco, corrodes those natural sentiments of sympathy and duty that constitute our human nature and make possible our social life. To say, as does Nadelmann, that distinguishing morally between tobacco and cocaine is “little more than a transient prejudice” is close to saying that morality itself is but a prejudice.
The Alcohol Problem

Now we have arrived where many arguments about legalizing drugs begin: is there any reason to treat heroin and cocaine differently from the way we treat alcohol?

There is no easy answer to that question because, as with so many human problems, one cannot decide simply on the basis either of moral principles or of individual consequences; one has to temper any policy by a common-sense judgment of what is possible. Alcohol, like heroin, cocaine, PCP, and marijuana, is a drug—that is, a mood-altering substance—and consumed to excess it certainly has harmful consequences: auto accidents, barroom fights, bedroom shootings. It is also, for some people, addictive. We cannot confidently compare the addictive powers of these drugs, but the best evidence suggests that crack and heroin are much more addictive than alcohol.

Many people, Nadelmann included, argue that since the health and financial costs of alcohol abuse are so much higher than those of cocaine or heroin abuse, it is hypocritical folly to devote our efforts to preventing cocaine or drug use. But as Mark Kleiman of Harvard has pointed out, this comparison is quite misleading. What Nadelmann is doing is showing that a legalized drug (alcohol) produces greater social harm than illegal ones (cocaine and heroin). But of course. Suppose that in the 1920’s we had made heroin and cocaine legal and alcohol illegal. Can anyone doubt that Nadelmann would now be writing that it is folly to continue our ban on alcohol because cocaine and heroin are so much more harmful?

And let there be no doubt about it—widespread heroin and cocaine use are associated with all manner of ills. Thomas Bewley found that the mortality rate of British heroin addicts in 1968 was 28 times as high as the death rate of the same age group of non-addicts, even though in England at the time an addict could obtain free or low-cost heroin and clean needles from British clinics. Perform the following mental experiment: suppose we legalized heroin and cocaine in this country. In what proportion of auto fatalities would the state police report that the driver was nodding off on heroin or recklessly driving on a coke high? In what proportion of spouse-assault and child-abuse cases would the local police report that crack was involved? In what proportion of industrial accidents would safety investigators report that the forklift or drill-press operator was in a drug-induced stupor or frenzy? We do not know exactly what the proportion would be, but anyone who asserts that it would not be much higher than it is now would have to believe that these drugs have little appeal except when they are illegal. And that is nonsense.

An advocate of legalization might concede that social harm—perhaps harm equivalent to that already produced by alcohol—would follow from making cocaine and heroin generally available. But at least, he might add, we would have the problem “out in the open” where it could be treated as a matter of “public health.” That is well and good, if we knew how to treat—that is, cure—heroin and cocaine abuse. But we do not know how to do it for all the people who would need such help. We are having only limited success in coping with chronic alcoholics. Addictive behavior is immensely difficult to change, and the best methods for changing it—living in drug-free therapeutic communities, becoming faithful members of Alcoholics Anonymous or Narcotics Anonymous—require great personal commitment, a quality that is,
alas, in short supply among the very persons—young people, disadvantaged people—who are often most at risk for addiction.

Suppose that today we had, not 15 million alcohol abusers, but half a million. Suppose that we already knew what we have learned from our long experience with the widespread use of alcohol. Would we make whiskey legal? I do not know, but I suspect there would be a lively debate. The Surgeon General would remind us of the risks alcohol poses to pregnant women. The National Highway Traffic Safety Administration would point to the likelihood of more highway fatalities caused by drunk drivers. The Food and Drug Administration might find that there is a nontrivial increase in cancer associated with alcohol consumption. At the same time the police would report great difficulty in keeping illegal whiskey out of our cities, officers being corrupted by bootleggers, and alcohol addicts often resorting to crime to feed their habit. Libertarians, for their part, would argue that every citizen has a right to drink anything he wishes and that drinking is, in any event, a “victimless crime.”

However the debate might turn out, the central fact would be that the problem was still, at that point, a small one. The government cannot legislate away the addictive tendencies in all of us, nor can it remove completely even the most dangerous addictive substances. But it can cope with harms when the harms are still manageable.

Science and Addiction

One advantage of containing a problem while it is still containable is that it buys time for science to learn more about it and perhaps to discover a cure. Almost unnoticed in the current debate over legalizing drugs is that basic science has made rapid strides in identifying the underlying neurological processes involved in some forms of addiction. Stimulants such as cocaine and amphetamines alter the way certain brain cells communicate with one another. That alteration is complex and not entirely understood, but in simplified form it involves modifying the way in which a neurotransmitter called dopamine sends signals from one cell to another.

When dopamine crosses the synapse between two cells, it is in effect carrying a message from the first cell to activate the second one. In certain parts of the brain that message is experienced as pleasure. After the message is delivered, the dopamine returns to the first cell. Cocaine apparently blocks this return, or “reuptake,” so that the excited cell and others nearby continue to send pleasure messages. When the exaggerated high produced by cocaine-influenced dopamine finally ends, the brain cells may (in ways that are still a matter of dispute) suffer from an extreme lack of dopamine, thereby making the individual unable to experience any pleasure at all. This would explain why cocaine users often feel so depressed after enjoying the drug. Stimulants may also affect the way in which other neurotransmitters, such as serotonin and noradrenaline, operate.
Whatever the exact mechanism may be, once it is identified it becomes possible to use drugs to block either the effect of cocaine or its tendency to produce dependency. There have already been experiments using desipramine, imipramine, bromocriptine, carbamazepine, and other chemicals. There are some promising results.

Tragically, we spend very little on such research, and the agencies funding it have not in the past occupied very influential or visible posts in the federal bureaucracy. If there is one aspect of the “war on drugs” metaphor that I dislike, it is its tendency to focus attention almost exclusively on the troops in the trenches, whether engaged in enforcement or treatment, and away from the research-and-development efforts back on the home front where the war may ultimately be decided.

I believe that the prospects of scientists in controlling addiction will be strongly influenced by the size and character of the problem they face. If the problem is a few hundred thousand chronic, high-dose users of an illegal product, the chances of making a difference at a reasonable cost will be much greater than if the problem is a few million chronic users of legal substances. Once a drug is legal, not only will its use increase but many of those who then use it will prefer the drug to the treatment: they will want the pleasure, whatever the cost to themselves or their families, and they will resist—probably successfully—any effort to wean them away from experiencing the high that comes from inhaling a legal substance.

If I am Wrong . . .

No one can know what our society would be like if we changed the law to make access to cocaine, heroin, and PCP easier. I believe, for reasons given, that the result would be a sharp increase in use, a more widespread degradation of the human personality, and a greater rate of accidents and violence.

I may be wrong. If I am, then we will needlessly have incurred heavy costs in law enforcement and some forms of criminality. But if I am right, and the legalizers prevail anyway, then we will have consigned millions of people, hundreds of thousands of infants, and hundreds of neighborhoods to a life of oblivion and disease. To the lives and families destroyed by alcohol we will have added countless more destroyed by cocaine, heroin, PCP, and whatever else a basement scientist can invent.

Human character is formed by society; indeed, human character is inconceivable without society, and good character is less likely in a bad society. Will we, in the name of an abstract doctrine of radical individualism, and with the false comfort of suspect predictions, decide to take the chance that somehow individual decency can survive amid a more general level of degradation?

I think not. The American people are too wise for that, whatever the academic essayists and cocktail-party pundits may say. But if Americans today are less wise than I suppose, then
Americans at some future time will look back on us now and wonder, what kind of people were they that they could have done such a thing?

Footnotes

1 I do not here take up the question of marijuana. For a variety of reasons—its widespread use and its lesser tendency to addict—it presents a different problem from cocaine or heroin. For a penetrating analysis, see Mark Kleiman, Marijuana: Costs of Abuse, Costs of Control (Greenwood Press, 217 pp., $37.95).

About the Author

James Q. Wilson, a veteran contributor to COMMENTARY, is the Ronald Reagan professor of public policy at Pepperdine University in California.
Drugs: Should Their Sale and Use Be Legalized?

"Your condition is serious, Mr. Reynolds, but fortunately I recently scored some excellent weed that should alleviate your symptoms."

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William J. Bennett

William J. Bennett, born in Brooklyn in 1943, was educated at Williams College, the University of Texas, and Harvard Law School. Today he is most widely known as the author of The Book of Virtues: A Treasury of Great Moral Stories (1993), but he has also been a public servant, Secretary of Education, and a director of the National Drug Control Policy. In 1989, during his tenure as "drug czar," he delivered at Harvard the address that we reprint. Among his recent publications are The Broken Hearth: Reversing the Moral Collapse of the American Family (2001) and Why We Fight: Moral Duty and the War on Terrorism (2002).
Drug Policy and the Intellectuals

...The issue I want to address is our national drug policy and the intellectuals. Unfortunately, the issue is a little one-sided. There is a very great deal to say about our national drug policy, but much less to say about the intellectuals—except that by and large, they're against it. Why they should be against it is an interesting question, perhaps more a social-psychological question than a properly intellectual one. But whatever the reasons, I'm sorry to say that on properly intellectual grounds the arguments mustered against our current drug policy by America's intellectuals make for very thin gruel indeed.

I should point out, however, that in the fields of medical and scientific research, there is indeed serious and valuable drug-related work going on. But in the great public policy debate over drugs, the academic and intellectual communities have by and large had little to contribute, and little of that has been genuinely useful or for that matter mentally distinguished.

The field of national drug policy is wide open for serious research and serious thinking on both the theoretical and the practical levels; treatment and prevention; education; law enforcement and the criminal-justice system; the proper role of the federal government versus state and local jurisdictions; international diplomacy and foreign intelligence—these are only a few of the areas in which complex questions of policy and politics need to be addressed and resolved if our national drug strategy is to be successful. But apart from a handful of exceptions—including Mark Moore and Mark Kleiman here at the Kennedy School, and Harvard's own, or ex-own, James Q. Wilson—on most of these issues the country's major ideas factories have not just shut down, they've hardly even moved up.

It's not that most intellectuals are indifferent to the drug issue, though there may be some of that, too. Rather, they seem complacent and incurious. They've made up their minds, and they don't want to be bothered with further information or analysis, further discussion or debate, especially when it comes from Washington. What I read in the opinion columns of my newspaper or in my monthly magazine or what I hear from the resident intellectual on my favorite television talk show is something like a developing intellectual consensus on the drug question. That consensus holds one or both of these propositions to be self-evident: (a) that the drug problem in America is absurdly simple, and easily solved; and (b) that the drug problem in America is a lost cause.

As it happens, each of these apparently contradictory propositions is false. As it also happens, both are disputed by the real experts on drugs in the United States—and there are many such experts, though not the kind the media like to focus on. And both are disbelieved by the American people, whose experience tells them, emphatically, otherwise.

The consensus has a political dimension, which helps account for its seemingly divergent aspect. In some quarters of the far Right there is a tendency to assert that the drug problem is essentially a problem of the inner city, and therefore that what it calls for, essentially, is quarantine. "If those people want to kill themselves off with drugs, let them kill themselves off with drugs," would be a crude but not too inaccurate way of summarizing this position. But this position has relatively few adherents. On the Left, it is something else, something much more prevalent. There we see whole cadres of social scientists, abetted by whole armies of social workers, who seem to take it as a given that the problem facing us isn't drugs at all, it's poverty, or racism, or some other equally large and intractable social phenomenon. If we want to eliminate the drug problem, these people say, we must first eliminate the "root causes" of drugs, a hopelessly daunting task at which, however, they also happen to make their living. Twenty-five years ago, no one would have suggested that we must first address the root causes of racism before fighting segregation. We fought it, quite correctly, by passing laws against unacceptable conduct. The causes of racism was an interesting question, but the moral imperative was to end it as soon as possible and by all reasonable means: education, prevention, the media and not least of all, the law. So too with drugs.

What unites these two views of the drug problem from opposite sides of the political spectrum is that they issue, inevitably, in a policy of neglect. To me that is a scandalous position, intellectually as well as morally scandalous. For I believe, along with those I have named as the real experts on drugs, and along with most Americans, that the drug problem is not easy but difficult—very difficult in some respects. But at the same time, and again along with those same experts and with the American people, I believe it is not a lost cause but a solvable one. I will return to this theme, but let me pause here to note one specific issue on which the Left/Right consensus has lately come to rest; a position around which it has been attempting to build national sentiment. That position is legalization.

It is indeed bizarre to see the likes of Anthony Lewis and William F. Buckley lining up on the same side of an issue; but such is the perversity that the so-called legalization debate engenders. To call it a "debate," though, suggests that the arguments in favor of drug legalization are rigorous, substantial, and serious. They are not. They are, at bottom, a series of superficial and even disingenuous ideas that more sober minds recognize as a recipe for a public policy disaster. Let me explain.

Most conversations about legalization begin with the notion of "taking the profit out of the drug business." But has anyone bothered to examine carefully how the drug business works? As a recent New York Times article vividly described, instances of drug dealers actually earning huge sums of money are relatively rare. There are some who do, of course, but most people in the crack business are the low-level "runners" who do not make much money at all. Many of them work as prostitutes or small-time criminals to supplement their drug earnings. True
a lot of naive kids are lured into the drug world by visions of a life filled with big money and fast cars. That's what they think the good life holds for them. But the reality is far different. Many dealers, in the long run, don't benefit. The reality is that selling drugs is a business, not a way to make a living. Many dealers end up in prison, and their business becomes a form of slavery. They are forced to work long hours, with little pay, and, as the Times pointed out, no health benefits either. In many cases, steady work at McDonald's over time would in fact be a step up the income scale for these kids. What does straighten them out, it seems, is not a higher minimum wage, or less stringent laws, but the dawning realization that dealing drugs invariably leads to murder or to prison. And that's exactly why we have drug laws—to make drug use a wholly unattractive choice.

Legalization, on the other hand, removes that incentive to stay away from a life of drugs. Let's be honest—there are some people who are going to smoke crack whether it is legal or illegal. But by keeping it illegal, we maintain the criminal sanctions that persuade most people that the good life cannot be reached by dealing drugs.

The big lie behind every call for legalization is that making drugs legally available would "solve" the drug problem. But has anyone actually thought about what that kind of legalized regime would look like? Would crack be legal? How about PCP? Or smokable heroin? Or ice? Would they all be stocked at the local convenience store, perhaps just a few blocks from an elementary school? And how much would they cost? If we taxed drugs and made them expensive, we would still have the black market and crime problems that we have today: if we sold them cheap to eliminate the black market cocaine at, say, $10 a gram—then we would succeed in making a daily dose of cocaine well within the allowance budget of most sixth-graders. When pressed, the advocates of legalization like to sound courageous by proposing that we begin by legalizing marijuana. But they have absolutely nothing to say on the tough questions of controlling other, more powerful drugs, and how they would be regulated.

As far as marijuana is concerned, let me say this: I didn't have to become drug czar to be opposed to legalized marijuana. As Secretary of Education I realized that, given the state of American education, the last thing we needed was a policy that made widely available a substance that impairs memory, concentration, and attention span; why in God's name foster the use of a drug that makes you stupid?

Now what would happen if drugs were suddenly made legal? Legalization advocates deny that the amount of drug use would be affected. I would argue that if drugs are easier to obtain, drug use will soar. In fact, we have just undergone a kind of cruel national experiment in which drugs became cheap and widely available: That experiment is called the crack epidemic. When powder cocaine was expensive and hard to get, it was found almost exclusively in the circles of the rich, the famous, or the privileged. Only when cocaine was dumped into the country, and a $3 vial of crack could be bought on street corners did we see cocaine use skyrocket, this time largely among the poor and disadvantaged. The lesson is clear: If you're in favor of drugs being sold in stores like aspirin, you're in favor of boom times for drug users and drug addicts. With legalization, drug use will go up, way up.

When drug use rises, who benefits and who pays? Legalization advocates say that the cost of enforcing drug laws is too great. But the real question—the question they never ask—is what does it cost not to enforce those laws. The price that American society would have to pay for legalized drugs, I submit, would be intolerably high. We would have more drug-related accidents at work, on the highways, and in the airways. We would have even bigger losses in worker productivity. Our hospitals would be filled with drug emergencies. We would have more school kids on dope, and that means more dropouts. More pregnant women would buy legal cocaine, and then deliver tiny, premature infants. I've seen them in hospitals across the country. It's a horrid form of child abuse, and under a legalization scheme, we will have a lot more of it. For those women and those babies, crack has the same effect whether it's legal or not. Now, if you add to that the costs of treatment, social welfare, and insurance, you've got the price of legalization. So I ask you again, who benefits, who pays?

What about crime? To listen to legalization advocates, one might think that street crime would disappear with the repeal of our drug laws. They haven't done their homework. Our best research indicates that most drug criminals were into crime well before they got into drugs. Making drugs legal would just be a way of subsidizing their habit. They would continue to rob and steal to pay for food, for clothes, for entertainment. And they would carry on with their drug trafficking by undercutting the legalized price of drugs and catering to teenagers, who, I assume, would be nominally restricted from buying drugs at the corner store.

All this should be old news to people who understand one clear lesson of prohibition. When we had laws against alcohol, there was less consumption of alcohol, less alcohol-related disease, fewer drunken brawls, and a lot less public drunkenness. And contrary to myth, there is no evidence that Prohibition caused big increases in crime. No one is suggesting that we go back to Prohibition. But at least we should admit that legalized alcohol, which is responsible for some 100,000 deaths a year, is hardly a model for drug policy. As Charles Krauthammer has pointed out, the question is not which is worse, alcohol or drugs. The question is can we accept both legalized alcohol and legalized drugs? The answer is no.

So it seems to me that on the merits of their arguments, the legalizers have no case at all. But there is another, crucial point I want to make on this subject, unrelated to costs or benefits. Drug use—especially heavy drug use—destroys human character. It destroys dignity and
autonomy, it burns away the sense of responsibility, it subverts productivity, it makes a mockery of virtue. As our Founders would surely recognize, a citizenry that is perpetually in a drug-induced haze doesn’t recognize, a citizenry that is perpetually in a drug-induced haze doesn’t bode well for the future of self-government. Libertarians don’t like to hear this, but it is a truth that everyone knows who has seen drug addiction up close. And don’t listen to people who say drug users are only hurting themselves: They hurt parents, they destroy families, they ruin friendships. And let me remind this audience, here at a great university, that drugs are a threat to the life of the mind: anyone who values that life should have nothing but contempt for drugs. Learned institutions should regard drugs as the plague.

That’s why I find the surrender of many of America’s intellectuals to arguments for drug legalization so odd and so scandalous. For the past three months, I have been traveling the country, visiting drug-ridden neighborhoods, seeing treatment and prevention programs in action, talking to teachers, cops, parents, kids. These, it seems, are the real drug experts—they’ve witnessed the problem firsthand. But unlike some prominent residents of Princeton, Madison, Cambridge, or Palo Alto, they refuse to surrender. They are in the community, reclaiming their neighborhoods, working with police, setting up community activities, getting addicts into treatment, saving their children.

Too many American intellectuals don’t know about this and seem not to want to know. Their hostility to the national war on drugs is, I think, partly rooted in a general hostility to law enforcement and criminal justice. That’s why they take refuge in pseudosolutions like legalization, which stress only the treatment side of the problem. Whenever discussion turns to the need for more police and stronger penalties, they cry that our constitutional liberties are in jeopardy. Well, yes, they are in jeopardy, but not from drug policy: On this score, the guardians of our Constitution can sleep easy. Constitutional liberties are in jeopardy, instead, from drugs themselves, which every day scorch the earth of our common freedom. Yes, sometimes cops go too far, and when they do they should be held accountable. But these excursions from the law are the exception. Meanwhile drug dealers violate our rights everyday as a rule, as a norm, as their modus operandi. Why can’t our civil libertarians see that?

When we are not being told by critics that law enforcement threatens our liberties, we are being told that it won’t work. Let me tell you that law enforcement does work and why it must work. Several weeks ago I was in Wichita, Kansas, talking to a teenage boy who was now in his fourth treatment program. Every time he had finished a previous round of treatment, he found himself back on the streets, surrounded by the same cheap dope and tough hustlers who had gotten him started in the first place. He was tempted, he was pressured, and he gave in. Virtually any expert on drug treatment will tell you that, for most people, no therapy in the world can fight temptation on that scale. As long as drugs are found on any street corner, no amount of treatment, no amount of education can finally stand against them. Yes, we need drug treatment and drug education. But drug treatment and drug education need law enforcement. And that’s why our strategy calls for a bigger criminal justice system: as a form of drug prevention.

To the Americans who are waging the drug war in their own front yards every day, this is nothing new, nothing startling. In the San Jose section of Albuquerque, New Mexico, just two weeks ago, I spoke to Rudy Chavez and Jack Candelaria, and police chief Sam Baca. They had wanted to start a youth center that would keep their kids safe from the depredations of the street. Somehow it never worked—until together they set up a police station right in the heart of drug-dealing territory. Then it worked. Together with the cops, the law-abiding residents cleared the area, and made it safe for them and their children to walk outside their homes. The youth center began to thrive.

Scenes like this are being played out all across the country. I’ve seen them in Tulsa, Dallas, Tampa, Omaha, Des Moines, Seattle, New York. Americans—many of them poor, black, or Hispanic—have figured out what the armchair critics haven’t. Drugs may threaten to destroy their neighborhoods, but they refuse to stand by and let it happen. They have discovered that it is possible not only to fight back, but to win. In some elite circles, the talk may be only of the sad state of the helpless and the hopeless, but while these circles talk on, the helpless and the hopeless themselves are carrying out a national drug policy. They are fighting back.

When I think of these scenes I’m reminded of what John Jacob, president of the Urban League, said recently: Drugs are destroying more black families than poverty ever did. And I’m thankful that many of these poor families have the courage to fight drugs now, rather than declaring themselves passive victims of root causes.

America’s intellectuals—and here I think particularly of liberal intellectuals—have spent much of the last nine years decrying the social programs of two Republican administrations in the name of the defenseless poor. But today, on the one outstanding issue that disproportionately hurts the poor—that is wiping out many of the poor—where are the liberal intellectuals to be found? They are on the editorial and op-ed pages, and in magazines like this month’s Harper’s, telling us with an ignorant sneer that our drug policy won’t work. Many universities, too, which have been quick to take on the challenges of sexism, racism, and ethnocentrism, seem content on the drug issue to wag a finger at us, or to point it mindlessly at American society in general. In public policy schools, there is no shortage of arms control scholars. Isn’t it time we had more drug control scholars?

The current situation won’t do. The failure to get serious about the drug issue is, I think, a failure of civic courage—the kind of courage shown by many who have been among the main victims of the drug scourge. But it betokens as well a betrayal of the self-declared mission of
intellectuals as the bearers of society's conscience. There may be reasons for this reluctance, this hostility, this failure. But I would remind you that not all crusades led by the U.S. government, enjoying broad popular support, are brutish, corrupt, and sinister. What is brutish, corrupt, and sinister is the murder and mayhem being committed in our cities' streets. One would think that a little more concern and serious thought would come from those who claim to care so deeply about America's problems.

So I stand here this afternoon with a simple message for America's pundits and academic cynics: Get serious about drug policy. We are grappling with complicated, stubborn policy issues, and I encourage you to join us. Tough work lies ahead, and we need serious minds to focus on how we should use the tools that we have in the most effective way.

I came to this job with realistic expectations. I am not promising a drug-free America by next week, or even by next year. But that doesn't mean that success is out of reach. Success will come—I've seen a lot of it already—in slow, careful steps. Its enemies are timidity, petulance, false expectations. But its three greatest foes remain surrender, despair, and neglect. So, for the sake of their fellow citizens, I invite America's deep thinkers to get with the program, or at the very least, to get in the game.
STANFORD -- Twenty-five years ago, President Richard M. Nixon announced a "War on Drugs." I criticized the action on both moral and expediential grounds in my Newsweek column of May 1, 1972, "Prohibition and Drugs":

"On ethical grounds, do we have the right to use the machinery of government to prevent an individual from becoming an alcoholic or a drug addict? For children, almost everyone would answer at least a qualified yes. But for responsible adults, I, for one, would answer no. Reason with the potential addict, yes. Tell him the consequences, yes. Pray for and with him, yes. But I believe that we have no right to use force, directly or indirectly, to prevent a fellow man from committing suicide, let alone from drinking alcohol or taking drugs."

That basic ethical flaw has inevitably generated specific evils during the past quarter century, just as it did during our earlier attempt at alcohol prohibition.

1. **The use of informers.** Informers are not needed in crimes like robbery and murder because the victims of those crimes have a strong incentive to report the crime. In the drug trade, the crime consists of a transaction between a willing buyer and willing seller. Neither has any incentive to report a violation of law. On the contrary, it is in the self-interest of both that the crime not be reported. That is why informers are needed. The use of informers and the immense sums of money at stake inevitably generate corruption -- as they did during Prohibition. They also lead to violations of the civil rights of innocent people, to the shameful practices of forcible entry and forfeiture of property without due process.

   As I wrote in 1972: "... addicts and pushers are not the only ones corrupted. Immense sums are at stake. It is inevitable that some relatively low-paid police and other government officials -- and some high-paid ones as well -- will succumb to the temptation to pick up easy money."

2. **Filling the prisons.** In 1970, 200,000 people were in prison. Today, 1.6 million people are. Eight times as many in absolute number, six times as many relative to the increased population. In addition, 2.3 million are on probation and parole. The attempt...
to prohibit drugs is by far the major source of the horrendous growth in the prison population.

There is no light at the end of that tunnel. How many of our citizens do we want to turn into criminals before we yell "enough"?

3. **Disproportionate imprisonment of blacks.** Sher Hosonko, at the time Connecticut's director of addiction services, stressed this effect of drug prohibition in a talk given in June 1995:

"Today in this country, we incarcerate 3,109 black men for every 100,000 of them in the population. Just to give you an idea of the drama in this number, our closest competitor for incarcerating black men is South Africa. South Africa -- and this is pre-Nelson Mandela and under an overt public policy of apartheid -- incarcerated 729 black men for every 100,000. Figure this out: In the land of the Bill of Rights, we jail over four times as many black men as the only country in the world that advertised a political policy of apartheid."

4. **Destruction of inner cities.** Drug prohibition is one of the most important factors that have combined to reduce our inner cities to their present state. The crowded inner cities have a comparative advantage for selling drugs. Though most customers do not live in the inner cities, most sellers do. Young boys and girls view the swaggering, affluent drug dealers as role models. Compared with the returns from a traditional career of study and hard work, returns from dealing drugs are tempting to young and old alike. And many, especially the young, are not dissuaded by the bullets that fly so freely in disputes between competing drug dealers -- bullets that fly only because dealing drugs is illegal. Al Capone epitomizes our earlier attempt at Prohibition; the Crips and Bloods epitomize this one.

5. **Compounding the harm to users.** Prohibition makes drugs exorbitantly expensive and highly uncertain in quality. A user must associate with criminals to get the drugs, and many are driven to become criminals themselves to finance the habit. Needles, which are hard to get, are often shared, with the predictable effect of spreading disease. Finally, an addict who seeks treatment must confess to being a criminal in order to qualify for a treatment program. Alternatively, professionals who treat addicts must become informers or criminals themselves.

6. **Undertreatment of chronic pain.** The Federal Department of Health and Human Services has issued reports showing that two-thirds of all terminal cancer patients do not receive adequate pain medication, and the numbers are surely higher in nonterminally ill patients. Such serious undertreatment of chronic pain is a direct result of the Drug Enforcement Agency's pressures on physicians who prescribe narcotics.
7. **Harming foreign countries.** Our drug policy has led to thousands of deaths and enormous loss of wealth in countries like Colombia, Peru and Mexico, and has undermined the stability of their governments. All because we cannot enforce our laws at home. If we did, there would be no market for imported drugs. There would be no Cali cartel. The foreign countries would not have to suffer the loss of sovereignty involved in letting our "advisers" and troops operate on their soil, search their vessels and encourage local militaries to shoot down their planes. They could run their own affairs, and we, in turn, could avoid the diversion of military forces from their proper function.

Can any policy, however high-minded, be moral if it leads to widespread corruption, imprisons so many, has so racist an effect, destroys our inner cities, wreaks havoc on misguided and vulnerable individuals and brings death and destruction to foreign countries?

*Milton Friedman, the Nobelist in economics, is a senior research fellow at the Hoover Institution.*

A [tribute](/taxon/tribute) and [bio](/taxon/bio)

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Stop the Drug War now.
Elliott Currie

Elliott Currie, a graduate of Roosevelt University in Chicago, was a lecturer in the Legal Studies Program at the University of California, Berkeley, and vice chair of the Eisenhower Foundation in Washington, D.C., an organization that supports drug-abuse-prevention programs. We reprint an essay that appeared in the journal Dissent in 1993; the essay is a slightly revised version of a chapter that first appeared in one of Currie’s books, Reckoning: Drugs, the Cities, and the American Future (1993).

Toward a Policy on Drugs

One of the strongest implications of what we now know about the causes of endemic drug abuse is that the criminal-justice system’s effect on the drug crisis will inevitably be limited. That shouldn’t surprise us in the 1990s; it has, after all, been a central argument of drug research since the 1950s. Today, as the drug problem has worsened, the limits of the law are if anything even clearer. But that does not mean that the justice system has no role to play in a more effective strategy against drugs. Drugs will always be a “law-enforcement problem” in part, and the real job is to define what we want the police and the courts to accomplish.

We will never, for reasons that will shortly become clear, punish our way out of the drug crisis. We can, however, use the criminal-justice system, in small but significant ways, to improve the prospects of drug users who are now caught in an endless loop of court, jail, and street. And we can use law enforcement, in small but significant ways, to help strengthen the ability of drug-ridden communities to defend themselves against violence, fear, and demoralization. Today the criminal-justice system does very little of the first and not enough of the second. But doing these things well will require far-reaching changes in our priorities. Above all, we will have to shift from an approach in which discouraging drug use through punishment and fear takes central place to one that emphasizes three very different principles: the reintegration of drug abusers into productive life, the reduction of harm, and the promotion of community safety.

This is a tall order, but, as we shall see, something similar is being practiced in many countries that suffer far less compelling drug problems than we do. Their experience suggests that a different and more humane criminal-justice response to drugs is both possible and practical. Today, there is much debate about the role of the justice system in a rational drug policy—but for the most part, the debate is between those who would intensify the effort to control drugs through the courts and prisons and those who want to take drugs out of the orbit of the justice system altogether. I do not think that either approach takes sufficient account of the social realities of drug abuse; and both, consequently, exaggerate the role of regulatory policies in determining the shape and seriousness of the problem. But those are not the only alternatives. In between, there is a range of more promising strategies—what some Europeans call a “third way”—that is more attuned to those realities and more compatible with our democratic values.

One response to the failure of the drug war has been to call for more of what we’ve already done—even harsher sentences, still more money for jails and prisons—on the grounds that we have simply not provided enough resources to fight the war effectively. That position is shared by the Bush administration and many Democrats in Congress as well. But the strategy of upping the ante cannot work; and even to attempt it on a large scale would dramatically increase the social costs that an overreliance on punishment has already brought. We’ve seen that the effort to contain the drug problem through force and fear has already distorted our justice system in fundamental ways and caused a rippling of secondary costs throughout the society as a whole. Much more of this would alter the character of American society beyond recognition. And it would not solve the drug problem.

Why wouldn’t more of the same do the job?

To understand why escalating the war on drugs would be unlikely to make much difference—short of efforts on a scale that would cause unprecedented social damage—we need to consider how the criminal-justice system is, in theory, supposed to work to reduce drug abuse and drug-related crime. Criminologists distinguish between two mechanisms by which punishment may decrease illegal behavior. One is “incapacitation,” an unlovely term that simply means that locking people up will keep them—as long as they are behind bars—from engaging in the behavior we wish to suppress. The other is “deterrence,” by which we mean either that people tempted to engage in the behavior will be persuaded otherwise by the threat of punishment (“general deterrence”), or that individuals, once punished, will be less likely to engage in the behavior again (“specific deterrence”). What makes the drug problem so resistant to even very heavy doses of criminalization is that neither mechanism works effectively for most drug offenders—particularly those most heavily involved in the drug subcultures of the street.

The main reason why incapacitation is unworkable as a strategy against drug offenders is that there are so many of them that a serious attempt to put them all—or even just the “hard core”—behind bars is unrealistic, even in the barest fiscal terms. This is obvious if we pause to recall the sheer number of people who use hard drugs in the United States. Consider the estimates of the number of people who have used drugs during the previous year provided annually by the NIDA (National Institute on Drug Abuse) Household Survey—which substantially understates the extent of hard-drug use. Even if we exclude the more than 20 million people who used marijuana in the past year, the number of hard-drug users is enormous; the survey estimates over six million
cannabis users in 1991 (including over a million who used crack), about 700,000 heroin users, and 5.7 million users of hallucinogens and inhalants. Even if we abandon the aim of imprisoning less serious hard-drug users, thus allowing the most conservative accounting of the costs of incapacitation, the problem remains staggering: by the lowest estimates, there are no fewer than two million hard-core abusers of cocaine and heroin alone.

If we take as a rough approximation that about 25 percent of America's prisoners are behind bars for drug offenses, that gives us roughly 300,000 drug offenders in prison at any given point—and this after several years of a hugely implemented war mainly directed at lower-level dealers and street drug users. We have seen what this flood of offenders has done to the nation's courts and prisons, but what is utterly sobering is that even this massive effort at retribution has barely scratched the surface: according to the most optimistic estimate, we may at any point be incarcerating on drug-related charges about one-eighth of the country's hard-core cocaine and heroin abusers. And where drug addiction is truly endemic, the disparity is greater. By 1989 there were roughly 20,000 drug offenders on any given day in New York State's prisons, but there were an estimated 200,000 to 250,000 heroin addicts in New York City alone. To be sure, these figures obscure the fact that many prisoners behind bars for nondrug offenses are also hard-core drug users; but the figures are skewed in the other direction by the large (if unknown) number of active drug dealers who are not themselves addicted.

Thus, though we cannot quantify these proportions with any precision, the basic point should be clear: the pool of serious addicts and active dealers is far, far larger than the numbers we now hold in prison—even in the midst of an unprecedented incarceration binge that has made us far and away the world's leader in imprisonment rates.

What would it mean to expand our prison capacity enough to put the majority of hard-core users and dealers behind bars for long terms? To triple the number of users and low-level dealers behind bars, even putting two drug offenders to a cell, would require about 300,000 new cells. At a conservative estimate of about $100,000 per cell, that means a $30 billion investment in construction alone. If we then assume an equally conservative estimate of about $25,000 in yearly operating costs per inmate, we add roughly $15 billion a year to our current costs. Yet this would leave the majority of drug dealers and hard-core addicts still on the streets and, of course, would do nothing to prevent new ones from emerging in otherwise unchanged communities to take the place of those behind bars.

It is not entirely clear, moreover, what that huge expenditure would, in fact, accomplish. For if the goal is to prevent the drug dealing and other crimes that addicts commit, the remedy may literally cost more than the disease. Although drug addicts do commit a great deal of crime, most of them are very minor ones, mainly petty theft and small-time drug dealing. This pattern has been best illuminated in the study of Harlem heroin addicts by Bruce Johnson and his co-workers. Most of the street addicts in this study were "primarily thieves and small-scale drug distributors who avoided serious crimes, like robbery, burglary, assault." The average income per nondrug crime among these addicts was $35. Even among the most criminally active group—what these researchers called "robber-dealers"—the annual income from crime amounted on average to only about $21,000, and for the great majority—about 70 percent—of less active addict-criminals, it ranged from $5,000 to $13,000. At the same time, the researchers estimated that the average cost per day of confining one addict in a New York City jail cell was roughly $100, or $37,000 a year. Putting these numbers together, Johnson and his co-workers came to the startling conclusion that it would cost considerably more to lock up all of Harlem's street addicts than to simply let them continue to "take care of business" on the street.

If we cannot expect much from intensified criminalization, would the legalization of hard drugs solve the drug crisis?

No: it would not. To understand why, we need to consider the claims for legalization's effects in the light of what we know about the roots and meanings of endemic drug abuse. First, however, we need to step back in order to sort out exactly what we mean by "legalization"—a frustratingly vague and often confused term that means very different things to different interpreters. Many, indeed, who argue most vehemently one way or the other about the merits of legalization are not really clear just what it is they are arguing about.

At one end of the spectrum are those who mean by legalization the total deregulation of the production, sale, and use of all drugs—hard and soft. Advocates of this position run the gamut from right-wing economists to some staunch liberals, united behind the principle that government has no business interfering in individuals' choice to ingest whatever substances they desire. Most who subscribe to that general view would add several qualifiers: for example, that drugs (like alcohol) should not be sold to minors, or that drug advertising should be regulated or prohibited, or (less often) that drugs should be sold only in government-run stores, as alcohol is in some states. But these are seen as necessary, if sometimes grudging, exceptions to the general rule that private drug transactions should not be the province of government intervention. For present purposes, I will call this the "free-market" approach to drug control, and describe its central aim as the "deregulation" of the drug market.

Another approach would not go so far as to deregulate the drug trade, but would opt for the controlled dispensation of drugs to addicts who have been certified by a physician, under strict guidelines as to amounts and conditions of use. Something like this "medical model," in varying forms, guided British policy toward heroin after the 1920s. Under the so-called British system, addicts could receive heroin from physicians or clinics—but the private production and distribution of
heroin was always subject to strong penalties, as was the use of the drug except in its medical or "pharmaceutical" form. (A small-scale experiment in cocaine prescription is presently being tried in the city of Liverpool.) Since the seventies, the British have largely abandoned prescribing heroin in favor of methadone—a synthetic opiate that blocks the body's craving for heroin but, among other things, produces less of a pleasurable "high" and lasts considerably longer. The practice of dispensing methadone to heroin addicts came into wide use in the United States in the 1960s and remains a major form of treatment. Methadone prescription, of course, does not "legalize" heroin, and the possession or sale of methadone itself is highly illegal outside of the strictly controlled medical relationship.

Still another meaning sometimes given to legalization is what is more accurately called the "decriminalization" of drug use. We may continue to define the production and sale of certain drugs as crimes and subject them to heavy penalties, but not punish those who only use the drugs (or have small amounts in their possession), or punish them very lightly—with small fines, for example, rather than jail. Something close to this is the practice in Holland, which is often wrongly perceived as a country that has legalized drugs. Though drug use remains technically illegal, Dutch policy is to focus most law-enforcement resources on sales, especially on larger traffickers, while dealing with users mainly through treatment programs and other social services, rather than the police and courts.

Another aspect of Dutch policy illustrates a further possible meaning of legalization: we may selectively decriminalize some drugs, in some amounts, and not others. The Dutch, in practice—though not in law—have tolerated both sale and use of small amounts of marijuana and hashish, but not heroin or cocaine. A German court has recently ruled that possession of small amounts of hashish and marijuana is not a crime, and, indeed, marijuana possession has largely been decriminalized in some American states, though usually as a matter of practical policy rather than legislation.

Let me make my own view clear. I think much would be gained if we followed the example of some European countries and moved toward decriminalization of the drug user. I also think there is a strong argument for treating marijuana differently from the harder drugs, and that there is room for careful experiment with strictly controlled medical prescription for some addicts. For reasons that will become clear, decriminalization is not a panacea; it will not end the drug crisis, but it could substantially decrease the irrationality and inhumanity of our present punitive war on drugs.

The free-market approach, on the other hand, is another matter entirely. Some variant of that approach is more prominent in drug-policy debates in the United States than in other developed societies, probably because it meshes with a strongly individualistic and antigovernment political culture. Indeed, the degree to which the debate over drug policy has been dominated by the clash between fervent drug "warriors" and equally ardent free-market advocates is a peculiarly American phenomenon. Much of that clash is about philosophical principles, and addressing those issues in detail would take more space than we have. My aim here is simply to examine the empirical claims of the free-market perspective in the light of what we know about the social context of drug abuse. Here the free-market view fails to convince. It greatly exaggerates the benefits of deregulation while simultaneously underestimating the potential costs.

There is no question that the criminalization of drugs produces negative secondary consequences—especially in the unusually punitive form that criminalization has taken in the United States. Nor is there much question that this argues for a root-and-branch rethinking of our current punitive strategy—to which we'll return later in this essay—especially our approach to drug users.

But proponents of full-scale deregulation of hard drugs also tend to gloss over the very real primary costs of drug abuse—particularly on the American level—and to exaggerate the degree to which the multiple pathologies surrounding drug use in America are simply an unintended result of a "prohibitionist" regulatory policy. No country now legalizes the sale of hard drugs. Yet no other country has anything resembling the American drug problem. That alone should tell us that more than prohibition is involved in shaping the magnitude and severity of our drug crisis. But there is more technical evidence as well. It confirms that much (though, of course, not all) of the harm caused by endemic drug abuse is intrinsic to the impact of hard drugs themselves (and the street cultures in which drug abuse is embedded) within the context of a glaringly unequal, depriving, and deteriorating society. And it affirms that we will not substantially reduce that harm without attacking the social roots of the extraordinary demand for hard drugs in the United States. Just as we cannot punish our way out of the drug crisis, neither will we escape its grim toll by deregulating the drug market.

The most important argument for a free-market approach has traditionally been that it would reduce or eliminate the crime and violence now inextricably entwined with addiction to drugs and with the drug trade. In this view it is precisely the illegality of drug use that is responsible for drug-related crime—which, in turn, is seen as by far the largest part of the overall problem of urban violence. Criminal sanctions against drugs, as one observer insists, "cause the bulk of murders and property crime in major urban areas." Because criminalization makes drugs far more costly than they would otherwise be, addicts are forced to commit crimes in order to gain enough income to afford their habits. Moreover, they are forced to seek out actively criminal people in order to obtain their drugs, which exposes them to even more destructive criminal influences. At the same time, the fact that the drug trade is illegal means both that it is lucrative and that the inevitable conflicts and
disputes over "turf" or between dealers and users cannot be resolved or moderated by legal mechanisms, and hence are usually resolved by violence.

For all of these reasons, it is argued, outlawing drugs has the unintended, but inevitable, effect of causing a flood of crime and urban violence that would not exist otherwise and sucking young people, especially, into a bloody drug trade. If we legalize the sale and use of hard drugs, the roots of drug-related violence would be severed, and much of the larger crisis of criminal violence in the cities would disappear.

But the evidence suggests that although this view contains an element of truth, it is far too simplistic—and that it relies on stereotypical assumptions about the relationship between drugs and crime that have been called into serious question since the classic drug research of the 1950s. In particular, the widely held notion that most of the crime committed by addicts can be explained by their need for money to buy illegal drugs does not fit well with the evidence.

In its popular form, the drugs-cause-crime argument is implicitly based on the assumption that addict crime is caused by pharmacological compulsion—as a recent British study puts it, on a kind of "enslavement" model in which the uncontrollable craving for drugs forces an otherwise law-abiding citizen to engage in crime for gain. As we've seen, however, a key finding of most of the research into the meaning of drug use and the growth of drug subcultures since the 1950s has been that the purely pharmacological craving for drugs is by no means the most important motive for drug use. Nor is it clear that those cravings are typically so uncontrollable that addicts are in any meaningful sense "driven" to crime to satisfy them.

On the surface, there is much to suggest a strong link between crime and the imperatives of addiction. The studies of addict crime by John Ball and Douglas Anglin and their colleagues show not only that the most heavily addicted commit huge numbers of crimes, but also that their crime rates seem to increase when their heroin use increases and to fall when it declines. Thus, for example, heroin addicts in Ball's study in Baltimore had an average of 235 "crime days" per year when they were actively addicted, versus about 65 when they were not. In general, the level of property crime appears in these studies to go up simultaneously with increasing intensity of drug use. One explanation, and perhaps the most common one, is that the increased need for money to buy drugs drives addicts into more crime.

But a closer look shows that things are considerably more complicated. To begin with, it is a recurrent finding that most people who both abuse drugs and commit crimes began committing crimes before they began using drugs—meaning that their need for drugs cannot have caused their initial criminal involvement (though it may have accelerated it later). George Vaillant's follow-up study of addicts and alcoholics found, for example, that, unlike alcoholics, heroin addicts had typically been involved in delinquency and crime well before they began their career of substance abuse. While alcoholics seemed to become involved in crime as a result of their abuse of alcohol, more than half of the heroin addicts (versus just 5 percent of the alcoholics) "were known to have been delinquent before drug abuse." A federal survey of drug use among prison inmates in 1986, similarly, found that three-fifths of those who had ever used a "major drug" regularly—that is, heroin, cocaine, methadone, PCP, or LSD—had not done so until after their first arrest.

Other studies have found that for many addicts, drug use and crime seem to have begun more or less independently without one clearly causing the other. This was the finding, for example, in Charles Faupel and Carl Klockars's study of hard-core heroin addicts in Wilmington, Delaware. "All of our respondents," they note, "reported some criminal activity prior to their first use of heroin." Moreover, "perhaps most importantly, virtually all of our respondents reported that they believed that their criminal and drug careers began independently of one another, although both careers became intimately interconnected as each evolved."

More recent research shows that the drugs-crime relationship may be even more complex than this suggests. It is not only that crime may precede drug use, especially heavy or addictive use, or that both may emerge more or less independently; it is also likely that there are several different kinds of drugs-crime connections among different types of drug users. David Nurco of the University of Maryland and his colleagues, for example, studying heroin addicts in Baltimore and New York City, found that different kinds of addicts could be distinguished by the type and severity of their crimes. Like earlier researchers, they found that most addicts admitted large numbers of crimes—mainly drug dealing and small-scale property crime, notably shoplifting, burglary, and fencing. Others were involved in illegal gambling and what the researchers called "deception crimes"—including forgery and con games—and a relatively small percentage had engaged in violent crime. On the whole, addicts heavily involved in one type of crime were more likely to be involved in others; as the researchers put it, they tended to be either "dealers or dealers," but rarely both. About 6 percent of the addicts, moreover, were "uninvolved"—they did not commit crimes either while addicted or before, or during periods of nonaddiction interspersed in the course of their longer addiction careers.

The most troubling group of addicts—what the researchers called "violent generalists"—were only about 7 percent of the total sample, but they were extremely active—and very dangerous; they accounted for over half of all the violent crimes committed by the entire sample. Moreover, revealingly, the violent generalists were very active in serious crime before they became addicted to narcotics as well as during periods of nonaddiction thereafter—again demonstrating that the violence was not dependent on their addiction itself. Nurco and his colleagues measured the addicts' criminal activity by what they called 'crime days' per