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The Drug Problem—Is There an Answer?*

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THE PURPOSE of this article is to challenge current public policy on drugs and drug abuse, a policy which prohibits and criminalizes with respect to certain drugs, while it freely permits—even encourages—the use of others. Our national policy sees these prohibited drugs as evil and their users as depraved. Our policy and laws declare war on the importation, production, possession, and use of many substances, the most common being opium, heroin, morphine, cocaine and marijuana. We aim to discourage their growth and production throughout the world, to interdict them at our borders, to search out and destroy the drugs that find their way in, and to convict and imprison all persons who traffic in them. But this is a no-win war.

Consider these headlines and highlights from daily papers of the past 15 years:

1972 SEIZURES UP BUT IMPORTS RISE

HEROIN IMPORTS REACH $1.2 BILLION IN 5 YEARS

1973 DOPE EPIDEMIC CONTINUES

VETERAN DRUG AGENT ESTIMATES SEIZURES AT 5 TO 15 PERCENT

1979 U.S. SAYS BANKS, LAWYERS HANDLE DRUG TRADE CASH

GOOD GUYS LOSING NARC WAR TO ORGANIZED CRIME

ILLICIT UNTAXED PROCEEDS FROM DRUGS REACH ESTIMATED $40 BILLION A YEAR

1981 $10 THOUSAND A DAY HEROIN RING SMASHED

ILLICIT DRUGS GENERATE $54 BILLION RETAIL SALES

1982 FBI ENTERS DRUG FIGHT

1986 SUSPECT ABANDONS $6 MILLION CASH TO AVOID ARREST

$226 MILLION COCAINE CACHE NETTED

U.S. SENDS TROOPS TO HIT COCAINE SOURCES IN BOLIVIA

LAST CONTINGENT OF U.S. TROOPS RETURNS FROM BOLIVIA (four months later)

1987 BOLIVIA DRUG LORDS AGAIN RULE JUNGLE

$44 MILLION IN COKE SEIZED

And on and on—and we are seizing less than 15 percent of what crosses our borders.

Laws and law enforcement cannot win the drug war. Stephen Morse, professor of law, psychiatry, and behavioral sciences at the University of Southern California, wrote in 1986:

> Although the level of use fluctuates because of variables beyond our control, the never-ending war is inexorably being lost. Despite the cycles of alarm, action, and reassurance, current estimates of the yearly value of the illicit drug trade range as high as $110 billion . . . Criminal laws and enforcement cannot reduce the supply of, or the demand for, illicit drugs at an acceptable cost.[1]

A speaker, observed on TV news, addressing a graduating class of Illinois police officers at the Los Angeles Police Academy in December 1986, said flatly, "We are totally losing the war on drugs." John Lawn, chief of the Federal Drug Enforcement Administration, declared, "I no longer believe law enforcement can win the war on drugs."[2]

Morse said further:

> There is nothing new about the most recent proposals to wage a war against drugs. For once we should ask—What possible reason is there to believe that spending more money now, even lots of it, on the usual programs is likely to have any more than temporary limited success, if any.

Why do we have our present mind-set; how did we come by our present attitudes and policy? They have developed in *this* century, yet a hundred years ago

*Adapted from an address given January 13, 1987, before the University Club of Claremont, California.

[1] Stephen J. Morse, "We Can't Win A Drug War: Law Enforcement Won't Cut Supply or Demand," *Los Angeles Times*, 14 August 1986, p. 7.

[2] Bill Farr and Carol McGraw, "Drug Enforcers Losing Nation's Cocaine War," *Los Angeles Times*, 21 September 1986, p. 1.

when there was no "drug problem" the proportion of persons addicted to opiates in relation to the total population was virtually the same as it is now.[3]

At the turn of the century discussions of addiction, limited as they were, were found for the most part only in medical journals. The public was unaware of a drug problem, the police were unaware of a drug problem, and drug laws and enforcement apparatus were non-existent. Discovering what brought about the change requires a brief review of some interesting history. The following sketch is synthesized from an article by Captain Joseph D. McNamara, New York City Police Department, now retired.[4]

In the late 1890's an uprising by secret societies in China, nicknamed the "Boxers," and the slaughter of hundreds of foreigners triggered an invasion by joint United States, British, German, French, Russian, and Japanese military forces and capture of Peking. In the aftermath two former missionaries, Mary and Margaret Leitch, saw an opportunity to generate pressure on Britain to renegotiate treaties with China which had required China to allow imports of Indian-grown opium shipped by the British.

The Leitches succeeded in getting before the President of the United States a petition signed by 21 missionary boards requesting the President to use his influence to change the British position. The International Reform Bureau shortly thereafter asked the Secretary of State for a hearing and informed him that it represented 33 missionary societies whose congregations made up more than one-half the population of the nation. Government response came quickly. The scope of the national and international conferences that followed broadened to include concern about the evils of opium throughout the world. Religious groups, the WTCU, the National Temperance Society, and the Anti-Saloon League all rallied to the cause. It had become apparent that the possibility of arousing public opinion in the United States was much greater if the public believed that opium was also an American problem. An international opium conference was held in 1909, and in the same year, with considerable pressure from the President and the Secretary of State, Congress passed the Opium Exclusion Act.

Two years later the Secretary of State asked Congress to amend the Act because of the "enormous misuse of opium in the United States," and, as we shall see, the request bore fruit in another 3 years.

The zeal of the temperance groups seems rather curious. Before 1900 none of the reform literature ever mentioned drugs. The "problem"—if there was a problem—had always been there. A study done by two medical researchers in the 1920's traced narcotics use to colonial times. It is clear that the type of drug use targeted by the anti-opium group existed long before they took up the cause, but it had been regarded as a *medical* and not a *criminal* problem.

The heat stayed on. Legislative efforts were based, not on firm statistics as a measure of the problem, but on estimates made by reform groups. These groups succeeded in defining the problem in criminal terms, and the Congress accepted that view. In 1914 the Harrison Narcotics Act was passed, ostensibly as a revenue measure. The following year the Supreme Court upheld a conviction under the Act and made clear its view that the Act's intent was not to produce revenue but control drugs. Thus drug suppression became Federal policy.

Medical doctors were not barred by the Act from dispensing narcotics to persons under their care. Subsequent court decisions however gradually moved toward a position forbidding doctors to prescribe drugs to addicts for any reason. By 1922, enforcement agents, under the notion that addiction is a willful act deserving of punishment, were exercising such vigorous control over the medical profession that narcotic clinics across the country had to be shut down. Thousands of addicts who had been receiving treatment had the door slammed in their faces. There was no way they could avoid breaking the law. A black market quickly developed, and addicts became branded as criminals.

The punitive legislation did not eradicate drug use. It simply made it a crime—and spawned the tremendously costly problem we face today.

Aside from the narcotics enforcement problem, what is the impact of our policy of suppression? A news item in December 1986 quoted Chief Daryl Gates, Los Angeles Police Department, as saying, "Major crimes reported in Los Angeles rose more than four percent this past year, much of it attributable to increases in narcotics trade and street gang violence."[5] A Temple University study on the link between heroin addiction and crime found that 237 addicts committed more than 500,000 crimes during an 11-year period (192 per addict per year). It concluded, "It is opiate use itself which is the principal cause of high crime rates among addicts."[6] Only through crime can a habit be supported.

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[3] Joseph D. McNamara, "The History of United States Anti-Opium Policy," *Federal Probation*, June 1973, pp. 15-21.

[4] Ibid.

[5] David Freed, "Gates Blames Drugs, Gangs for 4% Rise in L.A. Crime," *Los Angeles Times*, 25 December 1986, p. 1.

[6] Ronald J. Ostrow, "Drug Use Is Cause of Crime, Study Finds," *Los Angeles Times*, 21 March 1981, p. 1.

James Vorenberg, Harvard University professor of law, and executive director of the President's Crime Commission under a former administration, wrote several years ago:

> We also know that each year there are thousands of new drug addicts, most of whom are driven by their addiction and the nation's drug policy to prey on their fellow citizens in order to get money to buy heroin.
>
> The present drug enforcement policy which by requiring addicts to get their supply illicitly, puts tremendous pressure on them to rob, steal, prostitute themselves, or sell drugs to raise money.[7]

To sell, each new user must find new buyers, and the incidence of use is constantly increasing.

National drug policy has skewed our perspective. Our view has become distorted with respect to other pressing social problems. Our attention has been diverted. National policy outlaws some drugs and encourages the use of others. Consider nicotine. Our government supports tobacco growers, but the gross effects of tobacco use annually take 500,000 lives. Thus the mass effect is far more deadly than the use of cocaine. The number of deaths resulting from illicit drug use approximate 6 percent of those attributable to tobacco.[8] And what about alcohol? Between Christmas Eve 1986 and the following Sunday morning, 44 people died on California highways alone because of drunk driving. One hundred thousand deaths a year may be traced to alcohol abuse.[9] Chicago's medical examiner has said that every day he examines the remains of some bodies overdosed on drugs. But every day he examines many more bodies of dead pedestrians, dead motorists, dead swimmers, and fire casualties where alcohol is to blame.[10] We are waging an irrational and unconscionably costly war against the addictive substances that cause fewer than 5 percent of all drug-related deaths.

Another aspect of our policy is its impact on Third World nations. A recent news story reported that in Colombia, *narcoficantes*, as they are called, have become so wealthy and powerful that they offered to pay off the government's foreign debt of $13.5 billion, transfer their assets from foreign banks to Colombia, and surrender their processing laboratories in exchange for a guarantee of prosecution in Colombia where they could expect more lenient treatment than in the United States.[11] In countries that become our suppliers such as Colombia, Peru, and Bolivia, addiction reportedly is soaring. And now Thailand has become a major marijuana producer to meet U. S. demands.

What is the impact on American youth, given the hypocritical stance that some drugs are OK and others are not? We are sending mixed signals which are an invitation to distrust and rebellion. Also consider the impact on families—children watching as parents flaunt the law, and some even reporting parents to police. Is this really the kind of society we want?

Why have we lost the war? It is not the fault of the hard-working law enforcement personnel. The answer is simple. Our efforts for the past 70 years have been based on a myth—the myth that human behavior can be changed by legislation. Dr. J. D. Reichard, former medical director of the Federal Narcotics Hospital at Lexington, Kentucky, said:

> There are a great many unhappy, maladjusted people in the world. As far back as there are records, we find that human beings have been attempting to make life less unendurable, or if you wish, more comfortable, by the use of chemical substances.[12]

Passing more repressive laws or throwing more billions of dollars into enforcement will not solve the problem. So what is the answer?

First, we have to learn to live with a problem—a health problem called drug abuse—just as we must live with alcoholism and venereal diseases and other health problems we don't like. Next, we need to develop massive educational programs—backed by equally massive funding—directed primarily at children and young people but reaching all levels and segments of society.

Third, we need to make drastic changes in our laws. It has been suggested that perhaps we should model after the British, with a system under which certified addicts could get their drugs from clinics, hospitals, or doctors at minimal cost. This is not the answer. Suppose we had terminated prohibition in 1933 only to the extent of dispensing liquor to alcoholics through clinics and doctors. Preposterous!

We need to repeal all laws that impinge on the free flow of opium and coca derivatives and marijuana. Cocaine, heroin, morphine, opium, and marijuana should be produced or processed by recognized, legitimate pharmaceutical companies and should be available without prescription to all adults. Purity

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[7] James Vorenberg, "The War on Crime: The First Five Years," *The Atlantic Monthly*, May 1972, pp. 64 and 68.

[8] R. T. Ravenholt, "Addiction Mortality in the United States, 1980: Tobacco, Alcohol, and Other Substances," report of hearing entitled "Beer and Wine Advertising: Impact of Electronic Media," Committee on Energy and Commerce, U. S. House of Representatives, 99th Congress, 1st Session—Subcommittee on Telecommunications, Consumer Protection, and Finance, 21 May 1985, p. 328.

[9] Ibid.

[10] Paul Harvey, "Alcohol Is a Big Menace," *Pomona (CA) Progress Bulletin*, 11 November 1986, p. B-2.

[11] Cecelia Rodriguez, "Colombia Suffers a Narcotics Overdose," *Los Angeles Times*, 28 December 1986, Opinion Section, p. 2.

[12] J. D. Reichard, M.D., Address to U. S. Probation Officers Training Conference, August 1944.

and potency should be subject to the same governmental standards as apply to other pharmaceuticals, and prices should be controlled to assure that no one need seek illicit sources.

Would such a course produce an increase in drug use? Not likely. *The nation is now awash in illicit drugs.* Anyone who wants them can get them. Conceivably there could be an initial increase, but for those who first try drugs for the thrill of doing something extra-legal or for the kicks they find in taking a chance, those incentives will be gone. For those who get started because a pusher needs another new buyer (a substantial proportion), that incentive will be gone. For those who are addicted and want medical help, they will be able to turn to doctors who are free to provide treatment without fear of harassment or prosecution. Parenthetically it is interesting to note here that despite the ready availability of cocaine, its use among high school students actually decreased in 1987.[13]

The main effect will be that the rug is pulled from under the big-time syndicates by completely cutting off the demand for illicit drugs, and the thousands involved in the gigantic distribution system will no longer have a market.

Consider what could be done with the billions of dollars now wasted in a futile game of cops and robbers. Only a fraction of that amount would support vital educational programs, and treatment facilities could be provided on a massive scale.

Change cannot come easily even when the need is recognized. Pressure to maintain the status quo will come from three principal sources. First is the large segment of those who will hold to the view that such a change is morally wrong. Second are those who make up the vast drug-law enforcement network. Their jobs are on the line. Third are those who comprise the syndicates and organizations who dominate and control the importation and distribution of illicit drugs. They will stop at nothing and will spare no expense. They will be the first to lock-step with moral and religious groups and will finance any effort that will protect their turf.

In the long term change will come. Perhaps not in this century, but the tide is bound to turn.

A letter to the Los Angeles *Times* written by a Los Angeles County deputy district attorney concluded with these words:

> It's time to give fresh thought to the drug problem. The fact that cocaine is illegal is destroying Colombia. Drug laws are also corrupting public officials in our own country, clogging our courts, and encouraging the growth of new organized crime enterprises that begin with illegal drug distribution but quickly spread to other illegal activities.
>
> Also, an enormous number of robberies, burglaries, and other crimes are committed by persons seeking funds to buy high-priced illegal drugs. The solution is legalization.[14]

Maybe you and I see it differently, but we will never find an answer to our present dilemma until we are willing to question the truth of beliefs we have absorbed and unless we constantly re-examine why we believe what we believe. This is what I hope every thoughtful American will do.

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[13] Jerry Estill (Associated Press), "Cocaine Use Down for High School Seniors," *Pomona Progress Bulletin,* 14 January 1988, p. A-3.

[14] Richard J. Chrystie, "Letters to the Editor," *Los Angeles Times,* 10 January 1987, Metro Section.