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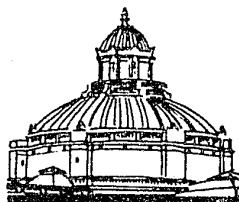
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DRUG LEGALIZATION: PRO AND CON

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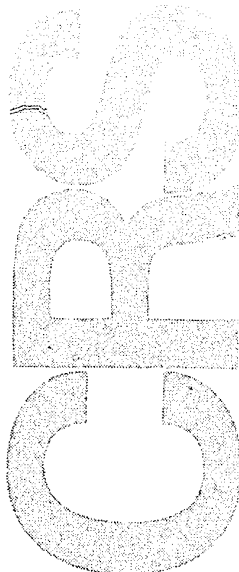
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DRUG LEGALIZATION: PRO AND CON

SUMMARY

Concern and frustration over the continuing national drug problem have generated a revival of calls to eliminate some or all of the Federal and State restrictions on selected drugs subject to widespread abuse. Proponents of such a course may take widely differing approaches in arguing their case, but they have in common the notion that the corrupting effects of the illicit drug industry are so threatening to society, in the United States as well as in the principal producing and transiting countries, that something must be done to "take the profit out of drugs." Opponents hold generally that legalization would lead to increased use accompanied by a further erosion of the values upon which the strength of the Nation depends.

Although the term "legalization" is used in a number of ways, those who recommend it as a way of taking the profit out of drug trafficking are assumed to be thinking of an over-the-counter mode of distribution. Schemes for making such a drug as heroin legally available only to persons already addicted--in controlled, perhaps government-run maintenance programs--constitute a separate issue, which is not specifically addressed by the arguments summarized in this report.

DRUG LEGALIZATION: PRO AND CON

INTRODUCTION

Recent calls for "legalization" of several prohibited or highly restricted drugs have revived a discussion that was vigorous in the U.S. in the 1960s and early 1970s. Now as then, the term is used in a confusing number of ways. It can mean one thing in relation to the narcotic drug heroin but something very different in relation to marihuana, i.e., the various drug products derived from *Cannabis sativa L.* Moreover, proponents of change in the existing controls differ among themselves as to the specifics of "legalization" in each instance.

Few advocates of drug legalization, other than libertarians, propose that heroin or similar opiates be sold to the general public in an over-the-counter mode. In the United States, discussions of "legalized" heroin have for the most part centered on the question of whether it is desirable to make the drug available, through medical institutions, to persons already dependent upon it. The principal difference among adherents of such a course has been with regard to whether dispensing and prescribing should be limited to specialized and especially licensed (or government-run) clinics, or be allowed by licensed physicians generally. Also in dispute has been the question of whether the drug should be administered only in the course of a treatment regimen designed to cure or whether indefinite maintenance, for the sole purpose of keeping the

drug user comfortable, should additionally be permitted. Because the debate over narcotic maintenance is so inherently different from the issue of legalization in the more general sense, it will not be treated in this report.

When it comes to marihuana and cocaine, "legalization" means, to most people, an over-the-counter mode of distribution similar to that of alcohol-- i.e., with limitations on the age of purchasers and with some form of government supervision of production, quality and marketing. Cocaine, it should be noted, is currently a legal drug in the United States when used according to statutorily prescribed procedures and for recognized medical purposes. Unlike heroin and marihuana, which are classified under Schedule I of the Controlled Substance Act, the category of dangerous drugs for which there is no accepted medical use in the U.S., cocaine is assigned to Schedule II, the most restrictive of the medical schedules.

There have also been proposals to legalize marihuana and heroin solely for limited medical purposes: marihuana for use in suppressing nausea in cancer patients who are undergoing chemotherapy and in the reduction of ocular pressure due to glaucoma;¹ heroin for use as an analgesic in the treatment of terminal cancer patients. Such proposals would, by transferring the drug to Schedule II in each instance, take it out of the prohibited category and put it on a level with cocaine, morphine, and other potent therapeutic substances. These schemes, while making the drug "legal," would nevertheless require a highly restrictive system of distribution and use and would fail to address any of the major issues raised by the proponents of legalization. They would

¹ Such treatment is presently being provided, as allowed by statute, through experimental programs operating under protocols approved by the Drug Enforcement Administration and the Food and Drug Administration.

provide no less incentive for the maintenance of illicit markets. Opponents of such proposals either question the need for additional therapeutic substances for the purposes indicated, or they maintain that the present system, which allows controlled experimentation with prohibited drugs, provides sufficient flexibility to accommodate medical and scientific needs. In any event, they fear the potential for diversion in loosening existing controls.

Finally, note needs to be taken of so-called "decriminalization" laws and proposals. Such schemes have generally applied only to possession and, so far as can be determined, have been proposed only with respect to marihuana and cocaine.² Production and distribution remain criminal violations under such an approach, and simple possession becomes a civil offense, under some current State statutes subject only to a fine. As in the case of proposals for limited therapeutic use of heroin and marihuana, or for a restrictive system of narcotic addict maintenance, decriminalization holds no direct promise of "taking the profit out of drugs."

ARGUMENTS FOR LEGALIZATION

1. Prohibition doesn't work. Experience has shown that. If there is a demand for a substance, especially because of its pleasure-giving value, people will find a way to get it.

² Among the first in recent years to advocate cocaine decriminalization were Lester Grinspoon and James B. Bakalar. See their: Cocaine. New York, Basic Books, 1976. p. 232-237.

2. Black markets generated by the demand for drugs--because they are prohibited or because their availability has been highly restricted--have insidious side effects:

- a. They are the source of great wealth to lawless segments of the society--and as such, the source of great power within the society. [This can be true both in the consumer and in the producer countries.]
- b. The enhanced wealth and power of the beneficiaries of black market commerce often result in the following:
 - (1) their infiltration of legitimate industry and commerce, with an attendant weakening of business ethics;
 - (2) an ability on their part to corrupt other institutions of the society--most notably the criminal justice and political institutions;
 - (3) price inflation, because of the large sums amassed and spent;
 - (4) a corrupting of the values and goals of some segments of the society--including youth generally. The successful trafficker provides a role model for adolescents in many communities, apparently even in the case of some middle-class youth in this and other industrial countries of the West.
- c. They generate crime. In addition to the crimes committed in violation of drug statutes, and in connection with such violation (e.g., by traffickers against each other) there are the crimes committed by drug users in order to buy drugs (at inflated black market prices).
- d. If widely patronized--as during Prohibition (and, with respect to marihuana and cocaine markets, currently), they encourage disrespect for the law in general.
- e. They are one more aspect of the "underground economy," the growth of which has so alarmed government officials in recent years. Government at all levels is deprived of revenues because of this development.

3. Prohibition or substantial restrictions on the availability of a substance are a denial of freedom. (There are those who hold, for example, that the freedom to experiment with altered states of consciousness is in the same category as freedom of speech or religion).

4. The state shouldn't try to regulate private behavior as long as it has no adverse impact on others.³ The use of dangerous drugs is harmful only to the user; he should have the right to "name his own poison."

5. It is inconsistent to allow the marketing of alcohol and tobacco, two very dangerous and life-threatening drugs, and at the same time to prohibit marihuana and cocaine, whose dangers--in the view of many--are not nearly so well established, or at least no greater. This inconsistency leads to a disrespect for the law and frequently to an active distrust of government generally.

6. The effort to enforce a prohibitory system of drug regulation is fruitless in the long run, and it is enormously expensive. On the Federal level alone, we are now spending in the neighborhood of \$2.5 billion a year to enforce drug laws and to curb production and international drug traffic, an increase of nearly seven thousand percent since 1969.⁴ Add only direct State and local enforcement expenditures, and the total comes to approximately \$8

³ In his essay On Liberty, John Stuart Mill states the essential libertarian view that "the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others. His own good, either physical or moral, is not a sufficient warrant."

⁴ Ethan Nadelmann estimates that Federal, State and local governments are spending some \$8 billion annually on direct drug law enforcement and billions more on indirect costs. See his "U.S. Drug Policy: a Bad Export," Foreign Policy, spring 1988.

billion annually, according to one estimate.⁵ Even so, many proponents of vigorous eradication and interdiction efforts maintain these amounts are inadequate.

7. The Nation's criminal justice system is overburdened by the processing of drug law violators. Such offenders constituted over one-third of Federal prison admissions during fiscal year 1986, compared to 22 percent during fiscal year 1980.⁶ Moreover, a recent GAO study reports that officials of six major cities describe their courts, prosecutors, jails, and treatment centers as already overloaded and unable to handle the increased number of arrests resulting from special operations.⁷ Legalization would provide relief and help make the system work properly again.

8. Along with the expense of enforcing a prohibitory system goes the accompanying development of a bureaucracy, with its inherent propensity toward further expansion, warranted or not.⁸

⁵ Ibid. Dr. Edelman estimates that the States and localities are spending "billions more" for such indirect costs as imprisonment for drug offenders.

⁶ U.S. Bureau of Justice Statistics. Federal Offenses and Offenders: Drug Law Violators, 1980-86. Special Report. June 1988. p. 6.
Also during FY 1986, 12,285 defendants charged with Federal drug law violations were convicted in Federal courts--an increase of 134 percent over 1980. Ibid., p. 1.

⁷ U.S. General Accounting Office. Controlling Drug Abuse: a Status Report. Washington, U.S. Government Print. Off., 1988. p. 19. (GAO/GGD-88-39)

⁸ The National Commission on Marihuana and Drug Abuse, in its 1973 report coined the phrase "drug abuse industrial complex" to describe the phenomenon. Although referring primarily to Federal treatment and prevention programs, the Commission's following observations might also be taken as valid with respect to "law enforcement" functions of the Federal drug control effort:

Emergence of a drug abuse industrial complex ensured

(continued...)

9. Added to the cost in dollars of a prohibition policy are the unquantifiable but important diplomatic debits of pursuing an antidrug strategy abroad. The pressure we have applied to drug-producing and drug-transiting countries has created friction which could work to our disadvantage in the future. We are obliged to ask the question, "Have the results thus far been worth such a risk?"

10. Despite the new studies now being cited as proof that dangerous drug use is a cause of crime--especially in the case of heroin--the basic question has yet to be answered: "Does drug use cause crime or is the use of drugs by crime-prone individuals a characteristic of their culture?" Neither the Temple University study, the Rand study, nor the Drug Use Forecasting program (see references to these studies on page 13 of this report) contains any evidence incompatible with the general theory that it is people already prone to crime who become drug users in consequence of a general pattern of accepted subculture behavior. And although the Temple study shows that criminal drug-users commit more crime while in a state of "addiction" than when not in such a state, we are still left with the question: "Is the higher rate of criminality while in the addicted state due simply to the need for funds to support a habit

8 (...continued)

perpetuation of the crisis psychology surrounding the drug problem. Since public funding is in large measure a function of public concern, agencies and programs had reason to maintain the country's anxiety about drugs.

. . . In short, the professed goal of social policy is to reduce or eliminate drug use, but the government's response produces financial incentives to magnify the problem. The system seems to reward failure or status quo rather than success; it guarantees a continuing sense of crisis. [U.S. National Commission on Marihuana and Drug Abuse. Drug Use in America: Problem in Perspective. Second Report of the Commission. Washington, 1973. p. 282.]

that would not be so costly if the drug were legal?" The fact that drugs and crime "go together" does not necessarily mean that drug use is a principal cause of crime.

11. At least marihuana should be legalized (or "decriminalized") in order to attract drug users away from more dangerous substances. An enforcement policy in the Netherlands that is tantamount to decriminalization, in effect for a dozen years, is credited by Dutch officials for a decline in heroin use during that period.⁹ Moreover, the ability to buy and use marihuana through a "soft drug market", unharrassed, is seen as keeping a young drug experimenter from being exposed to pushers of "hard" drugs.¹⁰

12. The only lasting way to reduce the nontherapeutic use of drugs is through reduction in demand. Though not easy to achieve, a reduction is possible--as has happened in the case of cigarette smoking, for example.

13. Because taking drugs for the pleasure of it is natural, attempts by society to prevent it are doomed to failure. Andrew Weil says: "Remember that wanting to feel high is not a symptom of mental illness or an unhealthy need to escape from reality. It is normal to want to vary your consciousness."¹¹

14. Legalizing would do away with the attraction of "forbidden fruit."

15. Individuals who become chronically dependent on drugs are, like alcoholics, sick people. It is therefore both inhumane and irrational to

⁹ Kupfer, Andrew. What to Do About Drugs. [Part of Special Report] Fortune, June 20, 1988. p. 40.

Note that laws against marihuana and hashish sale and possession are still in effect; they are not enforced against anyone found with less than 30 grams.

¹⁰ Ibid.

¹¹ Weil, Andrew and Winifred Rosen. Chocolate to Morphine: Understanding Mind-Active Drugs. Boston, Houghton Mifflin, 1983. p. 5.

punish them for behavior they cannot help. Drug abuse is a public health problem, not a criminal justice one.

16. Rather than prohibit drugs for which there is a demand, the wise society would seek to "domesticate" their use, i.e., develop conventions under which the drugs can be used socially "in a controlled fashion and with moderation."¹²

ARGUMENTS AGAINST LEGALIZATION

1. It is not at all clear that prohibition doesn't work. True, what is required to make it work is the sustained commitment of government. In the United States system this means all levels of government. Indications are that during the early Seventies the combination of the Turkish ban on opium cultivation and increased domestic enforcement efforts was successful in bringing about a substantial reduction in heroin consumption in the U.S. Moreover, one view of alcohol prohibition is that it was not a failure, as often proclaimed, but successful in that it kept the consumption rate much lower than it would otherwise have been.¹³

2. Those who are presently urging legalization because "the war against drugs is a failure" base their position on the fact that drugs continue to be imported, sold and used in the U.S. But might the problem not be much greater if the war had not been waged? Moreover, one very important indicator of the

¹² Grinspoon and Bakalar, Cocaine, p. 233.

¹³ See, e.g.,: Aaron, Paul, and David Musto. Temperance and Prohibition in America: A Historical Overview. In: Moore, Mark H. and Dean R. Gerstein, eds. Alcohol and Public Policy: Beyond the Shadow of Prohibition. Washington, National Academy Press, 1981. p. 164-165.

extent of usage, the annual survey of high school students conducted by a team of social scientists at the University of Michigan, shows significant declines in marihuana use over the past ten years, and--in 1987--not only a sharp drop in cocaine use but a substantial change in attitudes toward the drug.¹⁴

2. Proponents of legalization start from the premise that the abuse of dangerous drugs--in particular of opiates, cocaine and marihuana--is not such a threat to society as to warrant the costs, both monetary and social, of a prohibitory system. But many researchers have compiled evidence of the dangers and potential dangers of all three of these drugs. To be sure, some psychoactive drugs pose a greater potential risk for a greater number of people than others. Nevertheless, all three drugs under discussion have been shown to have deleterious effects on the health--either physical or mental or both--of the average user.¹⁵ Even if it were simply a matter of the incompatibility of

¹⁴ University of Michigan Institute for social Research. Use of Licit and Illicit Drugs by America's High School Students. Washington, U.S. Govt. Print. Off., 1975+ (annually). ("Monitoring the Future" project, funded by the National Institute on Drug Abuse)

¹⁵ A report to Congress by the National Institute on Drug Abuse makes the following points:

Cocaine

Three out of four cocaine users interviewed who called the 800-COCAINE "helpline" reported a loss of control over their use; two-thirds were unable to stop despite repeated attempts.

Nine out of 10 users interviewed in the 800-COCAINE sample reported serious emotional and physical consequences of use.

Cocaine appears to stimulate the brain's reward system so intensely and directly that profound dependence is readily produced in animals and man when the drug is habitually used and freely available.

There is now laboratory evidence in humans that tolerance to the mood-elevating effects of cocaine develops rapidly, requiring increased doses
(continued...)

regular psychoactive drug use with the socioeconomic system that prevails in this country, that alone would be reason to seek to curb it--since it means the drug user will probably become unable to function within that system.

4. There is no good reason to believe that drug use would not be increased by legalization. A fact proponents tend to overlook is that a substantial number of people are deterred by the fear of legal sanctions. Moreover, the existence of the sanctions serves as an important statement of policy by the society. Doing away with them would "send a message" that drug

15 (...continued)
even during periods of "binge" use.

Overdose deaths involving as little as 20 mg (a gram = 1000 mg or 1/28th of an ounce) have occurred in individuals sensitive to the drug.

Marihuana

Marihuana use is associated with greater use of other drugs, with decreased participation in conventional activities, with a history of psychiatric hospitalization, with lower self-perceived psychological well being, and with greater involvement in other socially deviant activities.

A study of marihuana use by adolescents found it is used as a means of escaping from reality problems and relieving stress and reinforces the subject's unwillingness to face these problems.

Heroin

Recent advances in our understanding of the mechanisms of action of the opiates and of the role of naturally occurring opiate-like substances in the body provide a neurochemical basis for believing opiate addiction is a disease that may involve neurophysiological differences between addicts and non-addicts.

U.S. National Institute on Drug Abuse. Drug Abuse and Drug abuse research. Second Triennial Report to Congress from the Secretary of Health and Human Services. Rockville, Md., The Institute, [1986?] pp. 6-8, 10.

Dr. Wayne Wiebel of the University of Illinois School of Public Health was recently quoted as saying that cocaine is "probably the most addictive substance that our society has ever used on a widespread basis." Should Drugs Be Legal? Newsweek, May 30, 1988. p. 38.

use now carries little or no social stigma. In addition, many people-- especially juveniles--would interpret the move as implying that such use is no longer considered hazardous.¹⁶

5. Proponents of legalization argue that drug misuse is a "victimless crime," an offense only by virtue of statute. This is a simplistic view, one that entirely overlooks the emotional damage a drug user can inflict upon his family, but more important the harm he does to society in general. If the "epidemic" explanation of drug abuse is correct¹⁷--and there is much evidence in its favor--drug users have a strong propensity to try to make converts. And once a practice becomes established among a leadership group, the force of "peer pressure" to spread it further, especially among juveniles, is well documented. In this light, the society that imposes sanctions against non-therapeutic drug use and that takes steps to control the supply of abusable

¹⁶ Harvard psychiatrist Robert Coles says that legalization would be a "moral surrender of far-reaching implications about the way we treat each other." A specialist in child psychiatry, he maintains that young people 'need the societal order to say we stand for something.' Thinking the Unthinkable. Time, May 30, 1988. p. 16.

Columbia University pharmacologist Gabriel Nahas maintains that "history shows that when illicit addictive drugs are socially accepted and easily available, they are widely consumed, and their use is associated with a high incidence of individual and social damage." The Decline of Drugged Nations. Wall Street Journal, July 11, 1988. P. 18. (In this article, Dr. Nahas reviews the experience of the 15th Century Moslem world with cannabis, Peru with coca, 19th and 20th Century China with opium, Egypt with cocaine and heroin in the 1920s, Japan with amphetamines in the 1950s, and England with heroin since the 1950s.)

¹⁷ Typically, theories of this sort posit the existence of a segment of the population particularly prone to drug-taking behavior, a "subculture." Availability of the drug, combined with the proneness or vulnerability of such individuals, produces an epidemic that runs its course through the group. See, e.g.: (1) Johnson, Bruce D. Marijuana Users and Drug Subcultures. New York, Wiley, 1973; and (2) Bejerot, Nils. Addiction to Pleasure. In: U.S. National Institute on Drug Abuse. Theories on Drug Abuse. Washington, 1980. (Research Monograph 30).

drugs is doing no more than the society that inoculates against smallpox or that protects itself from the incursion of infected persons or materials from abroad.

6. The conventional wisdom that dangerous drug use causes crime was for a long time questioned by students of the problem and generally derided by proponents of legalization. For years most studies indicated that among drug users with criminal histories the criminal behavior preceded the drug use. A new conventional wisdom was developed that held the principal reason drug users committed crime was to support their drug habits, something necessary only because the drugs were illegal and therefore overpriced. However, within the past several years, a number of studies have cast doubt on this hypothesis. First, the so-called "Temple University study"--of opiate addicts arrested or identified by the Baltimore police between 1952 and 1971--showed that the extent of their criminality was affected by addiction status. When in the state of addiction, or of heavy drug use, 237 male addicts committed one or more crimes during 248 days per year; when not addicted, they had only 41 crime-days per year. The research team concluded that the estimated 450,000 daily heroin users in the country at that time were committing over 50 million crimes a year.¹⁸ Second, a Rand Corporation study published in 1982, based on

¹⁸ Ball, John C., Lawrence Rosen, John A. Flueck and David N. Nurco. *The Criminality of Heroin Addicts When Addicted and When Off Opiates*. 1980. ((NIDA) Research Grant ROI DA 01375). See also the statement by Dr. Ball in: U.S. Congress. Senate. Committee on the Judiciary. Subcommittee on Juvenile Justice. *Career Criminal Life Sentence Act of 1981*. Hearings, 97th Cong., 1st Sess., Oct. 26, 1981. Washington, U.S. Govt. Print. Off., 1981.

a survey of inmates in California prisons, found that addicted offenders had committed nine times as many property crimes as nonaddicted offenders.¹⁹

The results of a 1987 study by the U.S. Justice Department provide strong support for the Temple and Rand findings. Testing of all males arrested for serious crimes in twelve major cities, during a given period of time, revealed that from one half to three-fourths had recently used illicit drugs. Most of those tested were charged with such crimes as burglary, larceny, and assault; relatively few were charged with drug offenses.²⁰

7. The absolute libertarian holds that society should not try to regulate conduct that does no harm to others and that drug use is an instance of such conduct. Even if it were true that the abuse of dangerous drugs poses no threat to anyone but the abuser himself, a position that can be challenged (see above), this view appears to find all individuals capable of making rational decisions. Moreover, it seems to deny any special obligation on the part of the society--through its mechanisms of government--to the person who has not yet reached adult status. In a complicated society such as ours, it is hardly justifiable to say that a child's family has the sole responsibility for seeing that he doesn't engage in harmful behavior, in this instance behavior that could not only damage his health but also establish patterns that prevent him from developing into a functioning member of the adult community. This perception--that a laissez-faire policy with respect to dangerous and abusable drugs recognizes no special vulnerability of the young and no special

¹⁹ Chaiken, Jan and Marcia, Varieties of Criminal Behavior, 1982.

²⁰ U.S. National Institute of Justice. Drug Use Forecasting (DUF). Washington [the Institute] January 1988.

responsibility of society to protect the young--may well be the most strongly felt reaction against legalization schemes.

8. The ultimate consequence of unrestricted freedom--an ideal promoted by many opponents of government restrictions on such behavior as illicit drug use--is anarchy. No democratic society could long survive the discard of all attempts to regulate behavior. The ideal of freedom for the individual needs always to be balanced by the recognition of the requirements of other individuals and of the society as a whole. Once the truth of this premise is granted, the question becomes: what forms of behavior constitute a threat to others or to society as a whole?

9. The idea that a drug problem as widespread as that which exists in the United States can be solved only by education or by other prevention efforts is a product of wishful thinking. A widely respected Swedish authority on drug abuse, Dr. Nils Bejerot, says:

Regardless of the level of cultural development of any society, historically a reduction in the prevalence of drug abuse and drug addiction have not been accomplished without a general, restrictive policy aimed at the drug market and the addiction milieu.

. . . Historically, analysis of the efforts in Germany to eliminate cocaine in the 20s, in the United States to combat heroin in the 30s, anti-opium smoking in China during the 50s, and attempts to eliminate the intravenous use of amphetamines in Japan during the 50s, yield a single consistency.

. . . It was not until legally restrictive measures were instituted against the drug abuser himself, prohibiting consumption and possession, that noticeable changes took place. It is the addict himself who is the

"motor" of the drug abuse machinery . . . the upper echelon of suppliers can always be replaced.²¹

10. Proponents of legalization of some illicit drugs--most notably marihuana--have come up with some interesting but questionable estimates of the amount of government revenues that might be generated through the taxation of the production and distribution of currently illicit drugs. The flaw in such estimates stems from the difficulty in predicting with any accuracy the price in a free market of a hitherto illegal drug. And if the government were to establish a "base price"--through taxation--that was too high, there might still be a black market incentive, based on cost.

11. When proponents of legalization argue that drug use is a health problem and therefore should not be criminalized, they bring up the basic metaphysical question, "To what extent, if any, can man exercise free will?" The view that sees individuals compelled to a given form of behavior, or once engaged upon it as unable to alter it without medical assistance, has helped to undermine the criminal justice system generally. To remain viable, a society must be able to hold individuals accountable for their actions.

12. The notion that the best way of handling the problem of dangerous drugs is to domesticate their [nontherapeutic] use--i.e., to develop a social tradition in which the drugs can be used "in a controlled fashion and with moderation"²²--is one that ignores the difficulties of bringing about this

²¹ Bejerot, Nils. Address to the Ninth Annual International Conference on Youth and Drugs, sponsored by the National Parents' Resources Institute on Drug Education (Pride), Atlanta, April 7-9, 1983. Quoted in: Drug Market and Addicts Must Be Targets of Restriction. U.S. Journal of Drug and Alcohol Dependence, May 1983. p. 22.

²² Grinspoon and Bakalar, Cocaine, 1976, p. 22.

kind of change. Grinspoon and Bakalar, who--along with Norman Zinberg--have applauded such a course as the "most sensible and humane way"²³ have also provided the appropriate rebuttal:

Unfortunately, domestication cannot be instituted by decree. Certain characteristics of the drugs themselves and the way they are manufactured may make it difficult; for example, alcoholism has probably become a more serious problem since alcohol was first concentrated as distilled liquor, and opium is more dangerous in the form of morphine and heroin. Besides, if a society does not have the habit of moderation in using a drug, legal action and persuasion are not likely to introduce it against the force of history and cultural tradition. (Emphasis added.)²⁴

13. The idea that the drug problem can be attributed to the lure of "forbidden fruit", which would be dissipated by legalization, is not very well supported by the American experience with alcohol. Repeal of Prohibition can hardly be said to have caused Americans to lose interest in drinking.

14. Many of the pro-legalization arguments are predicated on a perception of the effects of such a course on middle-class Americans and ignore the hazards, to less privileged and less disciplined persons, of the unrestricted access to dependence-producing drugs.²⁵

15. Although legalization would cut government spending on drug law enforcement, it could lead to much higher costs for the care of indigents whose drug use creates medical problems. Likewise, private health care costs could

23 Ibid.

24 Ibid.

25 A recent Newsweek article quotes Mitchell Rosenthal, president of Phoenix House Foundation, as calling legalization proposals a case of "writing off hundreds and hundreds of thousand of people, their families and their children." Should Drugs Be Legal? Newsweek, May 30, 1988. p. 38.

increase substantially, as could general economic costs arising from absenteeism, reduced work efficiency, and so forth.

16. Proponents of legalization sometimes argue that since our society tolerates the use of the potentially harmful drugs alcohol and tobacco, to be consistent it should extend this tolerance to such substances as cocaine and marihuana. Another point of view sees the acceptance of alcohol and tobacco as grounded in long-established usage and questions the wisdom of broadening the spectrum of dangers. The question is asked: Because a society--for whatever reason--chooses to take the risk of tolerating certain forms of potentially dangerous behavior, must it therefore accept all risks of a similar nature? In the case of dangerous drugs, must there be no exceptions? Should phencyclidine (PCP) and lysergic acid diethylamide (LSD) be made freely available also?

17. Also with regard to the point made by legalization proponents as to the dangers of alcohol and tobacco, there is substantial evidence that the kinds of risks that derive from the drugs in question--to the individual and to society--are much greater.²⁶

²⁶ Dr. Gabriel G. Nahas, a pharmacologist at Columbia University's College of Physicians and Surgeons, makes the following points:

While the legal, addictive drugs tobacco (nicotine), alcohol (in small amounts), and coffee (caffeine) do not impair mental acuity, cocaine, heroin and marijuana do, even in minute quantities. Furthermore, the addictive potential of illicit addictive drugs is greater than for licit drugs. It takes very low exposure to cocaine or heroin to become dependent on these drugs, as reported in epidemiological studies of drug-consuming populations.

Among those who drink alcoholic beverages worldwide, 8% consume daily amounts that are damaging to their health and to society. Epidemiological studies of the populations of marijuana and hashish, cocaine and opiate consumers show that about 50%, 90% and 95%, respectively, of the consumers
(continued...)

18. If we remove the restrictions from heroin, cocaine, and marihuana only, solely on the grounds that they are currently the most widely used or threatening of the abused drugs, what will we do when other controlled substances become fashionable and begin to be sold illegally? Is our system to be merely reactive?

19. It may be, as Andrew Weil and Winifred Rosen put it in their book Chocolate to Morphine, that "it is normal to want to vary your consciousness." The important question is, however: must it entail so many risks, both for the person and his community? Weil himself observes that the human body, on its own, possesses extraordinary capacities for altering consciousness. Most people learn how to control and change moods in ways that don't involve the use of drugs. Despite their apparent glorification of all forms of consciousness experimentation, Weil and Rosen themselves counsel young people to "consider getting their highs without putting chemicals into themselves."²⁷

26 (...continued)

will use these drugs daily, in doses damaging to their health and to society, when they are readily available.

The Decline of Drugged Nations. Wall Street Journal, July 11, 1988. p. 18.

²⁷ Weil, Andrew and Winifred Rosen, Chocolate to Morphine. Quoted in: Mind Matters. Washington Post, June 5, 1983. p. K5.

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