

# Government Drug Prohibition

*More and more ordinary people, elected officials, newspaper columnists, economists, doctors, judges and even the Surgeon General of the United States have concluded that the effects of our drug control policy are at least as harmful as the effects of drugs themselves.*

After decades of criminal prohibition and intensive law enforcement efforts to rid the country of illegal drugs, violent traffickers still endanger life in our cities, a steady stream of drug offenders still pour into our jails and prisons, and tons of cocaine, heroin and marijuana still cross our borders with their wares.

Not only is prohibition a proven failure as a drug control strategy, but it subjects otherwise law abiding citizens to arrest, prosecution and imprisonment for what they do in private. In trying to enforce the drug laws, the government violates the fundamental rights of privacy and personal autonomy that are guaranteed by our Constitution. The ACLU believes that unless they do harm to others, people who use them should not be punished—even if they do harm to themselves. There are better ways to control drug use, ways that will ultimately lead to a healthier, freer and less crime-ridden society.

## *Currently Illegal Drugs Have Not Always Been Illegal*

During the Civil War, morphine (an opium derivative and cousin of heroin) was found to have pain-killing properties and soon became the main ingredient in several patent medicines. In the late 19<sup>th</sup> century, marijuana and cocaine were put to various medicinal uses—marijuana to treat migraines, rheumatism and insomnia, and cocaine to treat sinusitis, hay fever and chronic fatigue. All of these drugs were also used recreationally, and cocaine, in particular, was a common ingredient in wines and soda pop—including the popular Coca Cola.

At the turn of the century, many drugs were made illegal when a mood of temperance swept the nation. In 1914, Congress passed the Harrison Act, banning opiates and cocaine. Alcohol prohibition quickly followed, and by 1918 the U.S. was officially a “dry” nation. That did not mean, however an end to drug use. It meant that, suddenly, people were arrested and jailed for doing what they had previously done without government interference. Prohibition also meant the emergence of a black market, operated by criminals and marked by violence—much like today.

*Prohibition also meant the emergence  
of a black market, operated by  
criminals and marked by violence.*

Criminal prohibition, the centerpiece of U.S. drug policy has failed miserably. Since 1981, tax dollars to the tune of more than \$200 billion have been spent trying to prevent Columbian cocaine, middle and far eastern heroin, Jamaican and Mexican marijuana from penetrating our borders. Yet the evidence is that for every ton seized, hundreds more get through. Hundreds of thousands of otherwise law-abiding people have been arrested and jailed for drug possession. Between 1968 and 1992, the annual number of drug – related arrests increased from 200,000 to over 1.5 million. One-third of those were marijuana arrests, most for mere possession.

The best evidence of prohibition's failure is the government's current war on drugs. This war, instead of employing a strategy of prevention, research, education and social programs designed to address problems such as permanent poverty, long-term unemployment and deteriorating living conditions in our inner cities, has employed a strategy of law enforcement. While this military approach continues to devour billions of tax dollars and send tens of thousands of people to prison, illegal drug trafficking thrives, violence escalates and drug abuse continues to debilitate lives.

Those who benefit the most from prohibition are organized crime barons, who derive income from the illegal drug trade. Indeed the criminal drug laws protect drug traffickers from taxation, regulation and quality control. Those laws also support artificially high prices and assure that commercial disputes among drug dealers and their customers will be settled not in courts of law, but with automatic weapons in the streets and neighborhoods across the nation. Today's drug prohibition has spawned a culture of drive-by shootings, kidnappings, murder and other gun-related crimes. Just as people who were drunk did not commit most of the 1920s violence, people who are high on drugs do not commit most of the drug-related violence today.

*Drugs are here to stay—let's reduce their harm.*

The universality of drug use throughout human history has led some experts to conclude that the desire to alter consciousness, for whatever reasons, is a basic human drive. People in almost all cultures, in every era, have used psychoactive drugs. Native South Americans take coca breaks the way we, in this country take coffee breaks. Native North Americans use peyote and tobacco in their religious ceremonies the way Europeans use wine. Alcohol is the drug of choice in Europe, the U.S. and Canada, while many Muslim countries tolerate the use of opium and marijuana.

Some people, hearing the words “drug legalization,” imagine pushers on street corners passing out cocaine to anyone who wants it—even children. But that is what exists today under prohibition. Consider the legal drugs, alcohol and tobacco: Their potency, time and place of sale and purchasing age limits are set by law. Similarly warning labels are required on medicinal drugs, and some of these are available by prescription only.

### *What the U.S. Would Look Like After Repeal*

After federal alcohol prohibition was repealed, each state developed its own system for regulating the distribution and sale of alcoholic beverages. The same could occur with currently illegal drugs. For example, states could create different regulations for marijuana, heroin and cocaine.

Ending prohibition would bring one very significant benefit: It would sever the connection between drugs and crime that today blights so many lives and communities. In the long run, ending prohibition could foster the redirection of public resources toward social development programs, legitimate economic opportunities (that would help in this uncertain economy) and add tax revenue for state governments thus enhancing the safety, health and well-being of the entire society.

excerpts from ACLU briefing paper