

Marijuana Legalization: Panacea in the War on Drugs or Stoners Blowing Smoke?

Written by Luke M. Herrington

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LUKE M. HERRINGTON, AUG 24 2012

Violence is ravaging the northern frontiers of Mexico, just shy in fact, of the U.S.'s southern border. The Mexican Drug War, a conflict between rival cartels and the Mexican government, has claimed more than 55,000 lives since the now-lame-duck-president, Felipe Calderón, first assumed office in December 2006 and launched a military crackdown on the drug gangs. [1] The cartels of Latin America in general and the violence in Mexico more specifically, represent a major security, political, and economic concern for the U.S.; yet, it is the demand generated by the U.S. market that sustains these criminal operations. Indeed, accuses Calderón, the problem of drugs in Mexico also begins with guns in the U.S., where a chain of gun shops along the U.S.-Mexican border appears to deliberately cater to the Mexican market. Weapon trafficking is no doubt an enormous part of the problem, as the recent scandal over the controversial Bureau of Alcohol, Tobacco, and Firearms (ATF) program, fast and furious, limns. However, in part, because the U.S. is at "the heart of global drug demand," and in part because it is the single largest "spender in terms of enforcement resources," the U.S. dominates the global anti-narcotics regime. Unfortunately, asserts Moisés Naím, this has led to the entrenchment of "efforts to stop the supply of drugs rather than to reduce or manage their demand." [2]

Source control, as it is known, is the preferred anti-narcotics strategy of the U.S., and it incorporates such tactics as police and military actions to arrest and incarcerate dealers, kill cartel leaders, shutdown smuggling operations and trafficking networks, and to destroy raw materials where produced. [3] Yet, where drug policy has failed to evolve, Latin American cartels have usurped the benefits of globalization to achieve the opposite. U.S.-led crop-fumigation projects in Colombia meant to destroy cocaine fields, for instance, have been met by the cartels with the application of innovative agronomy techniques to coca production. This has yielded "new strains of the [...] plant that are resistant to herbicides." They are also leafier, and larger, producing purer, more potent cocaine. [4] In addition to being one of the primary forces widening the profit margins for South and Central American cartels, source control represents the very origin of power for Mexican cartels, for it is at the U.S.-Mexican border where narcotic trafficking generates its largest returns vis-à-vis the associated risk. In other words, the Mexican cartels with geographical proximity to the U.S. control the physical vectors along which illegal drugs must approach the superpower. As such, notes Naím, it is "the single most lucrative bottleneck in the drug supply chain, the point where the most value is added." [5]

With a drug thirsty market just north of the border, and the potential for enormous profit, it is no wonder that Mexican cartels, such as Los Zetas, are waging an all-out war to undermine the primacy of the longstanding Sinaloa Cartel. In a war that has literally seen human heads tossed into school yards, torsos hung-up on meat-hooks, and mutilated bodies strewn about alongside a road leading to Texas, it is clear that the stakes are high for the U.S. However, the so-called war on drugs—born out of the source control strategy—seems to have accomplished little. [6]

Research Question and Method

If the U.S., Mexico, and the rest of the world really intend to undermine these organizations, might there be a better way? Can the legalization of drugs, such as marijuana, function as a strategy to undermine Latin American cartels? Two obvious answers come to mind. In theory, legalization could hurt the cartels, but it might not. Answering these

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questions can be challenging, and few have attempted to do so in a meaningful way. Thus, what follows is a dialogue between proponents and opponents of the legalization strategy. First, Fulton T. Armstrong argues in *Foreign Policy* that the drug war must end, and he is supported in his argument by Ioan Grillo, the author of a *Time* op-ed suggesting that legalization will hurt the cartels. Second, Elizabeth Dickinson maintains in *Foreign Policy* that the cartels are too versatile for legalization to hinder their operations, and her arguments are supported by a RAND corporation report echoing her sentiments. Of course, the proceeding dialogue will be supplemented where necessary by news articles, reports, and additional sources.

Legalization Will Hurt the Cartels

A chorus of Latin American leaders think legalization will undermine the cartels, and they advocate it as a new strategy in the war on drugs. In March, Otto Perez Molina, the president of Guatemala, announced his interest in legalizing drugs in an effort to fight the cartels, including the Zetas, who were allegedly behind a May 2011 attack that left 27 dismembered workers on a farm in northern Guatemala. Molina, however, is not the only leader to suggest that drug legalization could help stem the rising tide of drug-related violence in Latin America. In fact, former Mexican President Vicente Fox also supports the legalization of marijuana, [7] as do César Gaviria, Ernesto Zedillo, Fernando Henrique Cardoso, and Ricardo Lagos, former presidents of Colombia, Mexico, Brazil, and Chile respectively. [8] The government of Uruguay is also agitating for legalization. There, officials announced that marijuana legalization and regulation may be used to help fight cocaine use and abuse. The government also says it would sell the drug directly, tracking buyers in the process and limiting the black market's ability to usurp this new supply. [9]

Grillo agrees. He suggests that mass-burnings of marijuana in Mexico, for instance, a hallmark in source control, do more to illustrate exactly how hulking the narco-economic edifice of the cartel's drug industry really is, than it does to elucidate how Mexico constantly hammers their organizations. It also demonstrates that U.S. demand for product will continue to encourage the flow of marijuana and, by extension, other drugs over the border. Citing a narrowly defeated attempt by California voters to legalize marijuana, and petitioners in Colorado promoting a referendum to do the same, Grillo highlights the fact that campaigns for legalization view the Mexican Drug War "as a reason to change U.S. drug laws." Moreover, these campaigners argue that "American ganja smokers are giving billions of dollars to psychotic Mexican drug cartels, [...] and legalization is the only way to stop the war." [10] Grillo concedes that the cartels have morphed into diversified, 21st century firms with entrenched profit sources well beyond the scope of the marijuana industry. Nevertheless, he concludes, legalization as a strategy in the war on drugs could still do more in the effort to undermine cartel profits than the U.S. Drug Enforcement Agency (DEA) and the Mexican army ever have. Legalization "might not kill the Mexican cartels," he says, however it certainly could inflict a deep wound upon their organizations.

Armstrong accuses the U.S. of failure in its war on drugs, and asserts that the violence in Mexico is only one consequence. Despite the tightening of post-9/11 border regulations, tons of cocaine and marijuana continue to pass into the U.S. and billions of dollars in illicit money and weapons are passing into Mexico. Traditional policies hardly curb this two-way flow of illicit traffic, in essence, because secondary and tertiary criminal lieutenants are prepared to fill the void when their leaders are arrested or killed. Indeed, General Charles H. Jacoby, Jr., the leader of U.S. Northern Command (NORTHCOM), testified before the U.S. Senate, stating that the "decapitation strategy" may succeed in killing key drug figures, but "it 'has not had an appreciable effect' in thwarting the drug trade." [11]

The Mexican government has even started rethinking its approach. Instead of focusing on the interdiction of drugs bound for U.S. markets, Mexican authorities are starting to focus more on their citizens' safety. Obama Administration officials, for their part, have chastised Latin American leaders for debating the legalization strategy, whilst also stressing the importance of shared responsibility to the Mexican government. In spite of this, the U.S. has done little on its end to stem the actual demand for illicit drugs. Armstrong believes U.S. policymakers

must launch a serious dialogue here [in America] on legalizing, or at least decriminalizing, the drugs. It's not a perfect solution, but it's better than no solution at all. [...] The United States needs a strategy to win the war or to settle it. [12]

Indeed, if shared responsibility means anything, it means that the U.S. must do its part not to enable the continuation

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of the drug wars. That means that in addition to the possible legalization or decriminalization of marijuana (and other drugs for that matter), the U.S. must slow the flood of weapons and cash, the cartels' *raison d'être*. [13]

Most importantly, legalization could undermine Latin American cartels by removing from marijuana, the so-called "gateway effect." As has happened in other countries, such as Portugal, where decriminalization has been experimented with on a large scale, isolating marijuana from the black market makes it more difficult for drug dealers to push "harder" narcotics on individuals using marijuana. More will be said on this subject below, but for now, suffice it to say that this has the potential to undermine the cartels—perhaps the foundations of the black market itself—across the board, from the ground up. [14]

Legalization Will Not Hurt the Cartels

Elizabeth Dickinson agrees that the war on drugs has not stopped violence in Mexico or prevented its escalation. That said, she maintains it has taken a toll on the drug trade itself. Take, for example, the global cocaine market. Since 1995, cocaine has lost more than half of its value; once a nearly \$165 billion enterprise, the market today is only worth \$88 billion. So, while the war on drugs may not be stifling the violence, as a strategy, this approach works in regards to one important metric: the flow of narcotics. Still, the opponents of prohibition seem to believe that the only answer to the "narco-troubles" of the world is legalization. Legalize drugs and the cartels, incapable of reaching "their piece of the global illicit drug pie," would starve overnight. This epistemology seems too naive to Dickinson, so she asks if legalization (especially in the U.S.) really would work as a strategy in war against Latin America's cartels. [15]

Dickinson argues that legalization cannot work for an important reason: thanks to the benefits of globalization, cartels have diversified. Naím concurs that Mexican cartels have benefited, especially by offering partnerships to Colombian suppliers, other Mexican gangs, and new groups, such as Russians, Ukrainians, and Chinese. In this way, the Mexican cartels can take advantage of their geographical location to involve themselves in almost every aspect of the black market. Mexican cartels are organizations based off of territorial control. In fact, these organizations help their fellow traffickers access the U.S., extracting tolls of up to 60% of the value of a shipment in the process. Obviously, cartel operations no longer just focus on the meagre \$88 billion cocaine trade, or the export of marijuana to the U.S. Various cartels are also involved in trafficking opiates and amphetamines. Additionally, money laundering, extortion, and protection rackets diversify cartel portfolios. Moreover, they are involved in illegal immigration and human trafficking, as well as the arms trade, and the illicit oil trade, which itself is worth more than the entire cocaine market in Mexico. [16]

The illicit oil trade is one of the most alarming aspects of cartel diversification, and it represents one of the primary reasons why legalization might not work. Oil is one of Mexico's largest legitimate exports, but cartels have siphoned off and attempted to sell an estimated \$300 million in stolen crude to U.S. companies. Obviously, every country is different, but this would problematise the Uruguayan model of selling marijuana to fight cocaine if it were implemented in Mexico. Essentially, "if the cocaine trade dried up, the cartels would still have access to an equally large source of revenue." [17] According to Beau Kilmer, Jonathan P. Caulkins, Brittany M. Bond, and Peter H. Reuter, the authors of "Reducing Drug Trafficking Revenues and Violence in Mexico," a RAND Corporation Report on California's attempt to legalize marijuana, the legalization of the drug in the U.S. most populace state would also have little effect on the cartels' profit margins. California only accounts for a seventh of marijuana consumption in the U.S., and domestic production there is already very high. Thus, if the referendum on marijuana legalization had passed, the cartels' "drug export revenue losses would [have been] very small, on the order of 2-4 percent," assume the authors of the report. In fact, they go on, the only way legalization in California could have hurt the cartels would have been if the state smuggled its marijuana crop to the rest of the U.S. at a rate too low for the cartels to have competed. [18]

U.S. President Barack Obama also remains unconvinced. While admitting his willingness to debate the matter of legalization, the president refuses to acquiesce on the matter, saying that the legalization debate will not lead to consensus or decreased cartel activity. On the contrary, he argues that the real solutions to the cartel problem include improving the economy, strengthening the rule of law in places like Mexico, and building sound law

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enforcement infrastructures. [19]

The Debate

According to the United Nations Office of Drugs and Crime (UNODC), 230 million people—a meagre 5% of the planet's adult population—used illicit narcotics at least once in 2010. [20] Marijuana: A Chronic History, a History channel documentary that first aired that same year, indicates that 20 million of those people were Americans that regularly consume marijuana (or cannabis) only. This is, of course, to say nothing of the 100 million Americans that have tried the substance at least once in their lives. [21] This data is significant, partly because it corroborates the results of a World Health Organization (WHO) survey that reveals the U.S. to be the world's leading consumer of both licit and illicit drugs, including marijuana, cocaine, and alcohol. [22] In an era when declinists seem convinced that U.S. hegemony is waning, perhaps the 'stoners' of the nation can take comfort in the fact that their country still leads in narcotics use.

Or can they? Aside from the health risks and other dangers associated with drug use, the violence in Mexico offers little cause for celebration, arguably the only thing that unites them with the U.S. government in regards to drug policy. Keeping in step with Obama Administration policies, the U.S. Department of Justice (DOJ) and DEA claim that the "legalization of drugs will lead to increased use and increased levels of addiction. Legalization has been tried before, and failed miserably." [23] Ergo, historical precedent indicates that periods of lax narcotics laws are accompanied by higher rates of drug abuse. Looking at the case of Alaska, where the state's Supreme Court ruled in 1975 that adults could possess marijuana for personal consumption, the DOJ and DEA claim that use among 12 to 17-year-olds rocketed to more than twice the nation's average. Switzerland too, experimented with drug liberalization, allowing heroin addicts to openly purchase and inject drugs without intervention or control in what came to be referred to as Needle Park. However, maintain the DOJ and DEA, the surrounding neighbourhoods degenerated rapidly. When crime and violence spiked, authorities were forced to close the park in 1992. [24]

The government's arguments are ontologically unsatisfying politically motivated rhetoric. These tautological arguments are all different ways of saying the same thing over and over again. Since the government is starting from the ontological position that drugs are bad, the methodology used to draw its conclusions may be suspect. For instance, what other factors contributed to skyrocketing drug use among Alaskan drug youth? Could it have simply been that Alaska is a boring state to live in? After all, recent studies on the legalization of medical marijuana find no correlating rise in illicit teen use of the drug. [25] Moreover, advocates of legalization generally prefer strict regulation, which makes the example of Needle Park sound more like the anarchy of Mogadishu than Amsterdam's coffee shops.

The cases proffered by the government also do not mesh with the experiences of other countries that have started decriminalizing or legalizing drugs. As of 2010, as many as fifteen nations had "eliminated or reduced [the] criminal penalties for [possessing] marijuana." [26] In countries, such as Portugal and the Netherlands, this has diminished the size of the black market for drugs. Portugal has decriminalized all drugs, and adopted a new focus on treatment for addicts. Consequently, crime, teen use, and HIV transmission are all down in Portugal. In the Netherlands too, teen marijuana use is lower than in the U.S., adult use is about the same, and the transition to hard drugs is much less prevalent. By bringing marijuana into the legitimate economy, they have separated it from the black market, where hard drugs are often pushed onto buyers. In essence, this removal of the "gateway effect," undermines many arguments against the legalization of marijuana, and shows that users will not be forced to buy cocaine, for instance, when all they want is marijuana. [27]

Dickinson's methodology, and by extension her ontology, is more appealing. She uses a synthesis of data and literature to demonstrate the epistemological flaws of the pro-legalization camp. Illustrating that legalization will not have a significant quantitative impact on the cartels makes it appear to be a less useful strategy in the war on drugs. Unfortunately, she also draws upon the RAND report, which itself seems to start from an ontological basis not incompatible with that of the U.S. government. As such, it makes two mistakes. First, it assumes that Californian legalization of marijuana would have little impact on cartels because it already produces its own marijuana. Failing to consider the possibility that a national effort to legalize the drug would create an economy of scale, the report never

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considers that legalization could be an effective strategy if California were not alone. Second, it fails to consider the opposite, logical inference, that the reason California is largely free of trafficked marijuana is because it has already legalized the drug's production, sale, and consumption for medical purposes. Full scale legalization might not hurt the cartels that much, because it already has.

On the other hand, there are those that believe the legalization of marijuana will only aggravate the cartels, as they seek to move into the U.S. in a greater effort to control the otherwise legal product. Some have linked murders at medical marijuana dispensaries in California to the cartels, but this could have more to do with the fact that these are cash intensive businesses, providing incentive for petty theft. Truthfully, though, cartels may already be present in U.S. cities, and on federal lands, where they grow marijuana in an effort to avoid detection at the U.S.-Mexican border. Legalization or decriminalization, and formal regulation may be the best way to undermine cartels already operating in the U.S. [28]

Policy Considerations

Whether or not governments around the world really want to consider decriminalization or legalization as a strategy in the fight against the cartels of Latin America, there are some considerations policymakers need to take. First, legalization and decriminalization are no panacea in the war on drugs. Cartels have already diversified, so the odds of marijuana legalization being the illicit narcotics industry's Achilles' heel seems slim. Nevertheless, marijuana legalization may undermine their businesses, and function as part of an overarching strategy meant to eliminate the cartels and illicit drug trade. That means that the traditional police and military actions of the classical war on drugs may be necessary to finish dismantling these organizations, so long as it is coupled with the other innovative strategies. Arms trafficking is another major problem, so if the U.S. reenacted its assault weapons ban, that would go a long way toward supplementing and complimenting these two approaches, chiefly by removing the cartels' biggest supply of weapons.

Second, as long as sufficient programs exist to help treat addicts, then the real, primary concern for policymakers should be less about increased use, abuse, or addiction and more about the means by which criminal cartels might seek to adapt. That said, just consider the history of prohibition. As bootleggers and moonshiners, especially in and around Missouri's Ozark region, were put out of work by the re-legalization of alcohol, they started concocting new products, and eventually invented methamphetamine. To this day, Missouri has the dubious honour of being regarded as the meth capital of the world. Cartels might try to get their hands on the licit marijuana supply chain inside the U.S., but the real concern ought to be the synthetic drugs they might invent. Already, people everywhere are being alerted to these new, artificial drugs, some sold as "spice," others as bath salts. The end of prohibition was the dawn of amphetamines, so policymakers must be cautious about legalizing marijuana simply because another, more potent, more dangerous substance could rise to take its place.

Third, if legalization is considered, policymakers should not give up on improving social, economic, and judicial programs that might help win the drug war. Taken in conjunction with the police and military actions, improved rule of law and anti-corruption measures might go a long way in the war on drugs.

Fourth, legalization may violate treaty obligations under international law, and necessitate the formation of a new anti-narcotics regime. As hegemon though, the U.S. could lead the way in both the legalization or decriminalization of marijuana, and the structuring of a reformed war on drugs based on these considerations. Finally, reflecting those that a more conservative approach than that of Portugal, policymakers should shy away from legalizing harder drugs, like heroin, meth, and cocaine. These are proven to be far more dangerous than marijuana, but also, isolating marijuana from the black market will reduce demand for those drugs by eliminating the "gateway effect." Taken together, these considerations really could become the basis of a new strategy in the war on Latin America's cartels.

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