Drug Policy Debate

Introduction

Since the mid 1980’s the US has approached our illicit drug problems by “waging the War on Drugs.” We have spent billions upon billions upon billions and locked up millions of people and still there is no compelling evidence that the US drug problem has gotten better. Perhaps it has even gotten worse. Actually our approach to the US drug problem has remained fairly constant since drugs were made illegal in the early 1900’s, it is just since the 1980’s that we’ve begun to be more punitive and using the “War on Drugs” metaphor.

Drug usage rates certainly fluctuate somewhat over time but remain relatively constant and the availability of illegal drugs has not lessened. Clearly, a person can still buy any drug they want on the streets, and you want to know the dirty little secret about the War on Drugs? You can lock people up in prison for using drugs and that person can still buy any drug they want in prison [although it costs more in prison than on the streets].

Drug Policy Options Exist on a Spectrum or Continuum

There has been considerable debate in academia on what we should do about our drug problem. The goal of this lecture is to describe some of the drug policy options.

Some of these polices are quite different, but some are similar or related. When two policies seem similar it is because they are! Think about some drug policies as existing on a continuum or spectrum where there can be considerable overlap between them. There is often not definite discrete difference between some of these terms.

So while it is easy to come up with discrete differences between legalization and prohibition, it is more difficult to do the same between some versions of legalization and decriminalization/harm reduction – they simply share a lot of guiding philosophies. So I am giving you this spectrum as a sort of conceptual framework. If you see some overlap or similarities between some of the models, then that is because they have a lot in common.
Secondly there is no “one type” of any drug policy. There is no “one type” of legalization, but many types. The same could be said for all of the drug policy options – there is no one single type of decriminalization or prohibition. One can craft different types of legalization strategies, or prohibition strategies, etc.

One way to conceptualize the various drug policy options is to pretend they exist on a spectrum or continuum or “number line.” From left to right there would be:

- Libertarian legalization
- Legalization
- Decriminalization/harm reduction
- Prohibition
- Punitive prohibition

Very short descriptions of these five types

Libertarian legalization – the most extreme form of legalization where all drugs are legal. The most extreme versions but no restrictions on the sale of drugs and the less extreme would do things like restrict the sale to minors, etc. But in an extreme version of legalization all drugs are available to be bought and sold.

Legalization – a general term to describe all the various types of drug legalization. The underlying philosophy is that people have been using drugs for thousands of years to get high, and you are wasting vast amounts of public resources by attempting to discourage drug use using the criminal justice system – it’s just not going to work. Creativity is the only limit for the type of legalization scheme one can concoct. Legalizers want to stop treating drug abuse as a criminal problem and instead treat it as a public health problem. This differs from libertarian legalization, in that most legalization policies envision massive taxation and major government regulation the market.

Decriminalization – this policy still keeps drugs illegal but removes the criminal penalties associated with possessing small amounts of drugs. Think of it like a traffic ticket as opposed to a jail sentence. You still can’t possess drugs but we are not going to lock you up in jail/prison if you are caught with small amounts of them. Some versions keep criminal penalties for “big time dealers.”

Harm Reduction – this does not focus as much on whether or not a drug is legal or illegal, but rather seeks to reduce the harms drug have on the lives of users. The underlying
philosophy is to work with drug users and have them adopt practices that reduce harmful behaviors. The classic example of harm reduction is giving clean needles to injection drug users because when they share dirty needles it spreads diseases like HIV/AIDS and hepatitis.

**Prohibition** – the basic idea is to keep all drugs [typically excluding alcohol and tobacco] illegal and to attempt to discourage drug use from criminal penalties via the criminal justice system. Prohibition tends to emphasize the drug problem as a “criminal problem” to be fixed via the criminal justice system.

**Punitive Prohibition** – not only are drugs illegal and we impose criminal penalties for possession but we impose stiff or severe or very punitive criminal penalties. So not only are we going to lock you up, but we are going to lock you up for a long time.

More In Depth Discussion of Drug Policy Options

Recall our various policy options

Libertarian legalization  legalization  decriminalization/harm reduction  prohibition  punitive prohibition

While I will discuss these five basic types, please be aware that there is no “one kind” of legalization or one kind of prohibition. There can be mixtures of all sorts and creativity is the only constraint. For example we practice a drug policy where alcohol is legal but other intoxicants are illegal. You could have a type of legalization where only marijuana is legal but all the other “harder” drugs are still illegal. So just be aware that a country’s drug policy can combine many ideas to form an “ideal” public strategy to address their drug problem. So for example, Holland has decided to legalize alcohol, tobacco, and to [de-facto] legalize cannabis, while still making all other drugs illegal.

Recall also there is overlap between some of these categories.
Libertarian Legalization

On the far left [or actually far right politically] of the spectrum are those who advocate a Libertarian legalization.” This is an extreme viewpoint that believes that literally all drugs should be legal. Depending upon ones brand of libertarianism one can even go so far as to say not only should all drugs be legal, but also the government should have no role whatsoever in taxing or regulating the sale and manufacture of drugs. That is a pretty extreme view but there are some versions of libertarian style legalization where all drugs are legal but restrictions are put on sales [like no sales to minors]. This standpoint has gotten a lot of attention due to some rather extreme conservatives who have advocated for drug legalization such as Milton Freidman the economist, William F. Buckley the political commentator, and former Secretary of State George Shultz. There are some rather left wing academics who have advocated this view too, although probably not from such a libertarian stance.

Legalization

As Ethan Nadlemann argues there is not “one kind” of legalization. We could chose to make all drugs legal with various restrictions, but we could have all sorts of versions of legalization.

- marijuana legalization only
- medical model similar methadone maintenance for all drugs, where you get a prescription for your drug of choice from your doctor
- removing criminal sanctions but taking great regulatory steps to restrict consumption. would transfer resources from punishment to education and treatment (although this standpoint is best described as “decriminalization.”)

Regardless of the exact type of legalization, the basic idea is that the criminal justice system is never going to solve our drug problems. Rather than making drug users criminals, our drug problems should be approached from a public health and/or medical standpoint. People have been using drugs for thousands of years and one will never ever get rid of use. Legalization advocates would point out that the US went on a massive imprisonment binge for drug related offenses and have not made an appreciable dent in our drug problem. They would suggest it is impossible [or at least economically wasteful] to “teach” a person to quit using drugs by locking them up in a cage. They would also point out that the law enforcement system will never get rid of drug dealers. [And actually, it is because drugs are illegal that makes drug dealing so profitable in the first place!] There is so much money to be made in selling illegal drugs that there
will never ever be a shortage of people willing to take the risks. So you can arrest and imprison a 
drug dealer for very long periods of time [and we do this in the US], but eventually another one 
“pops up” to take his/her place.

By the way this is known as the “push down – pop up” phenomenon or dynamic. You 
can push down drug dealing in one country or neighborhood but another country or neighborhood 
pops up to take its place. One example of this is the cultivation of opium poppies to make opium 
[heroin comes from opium]. When the Taliban were in power in Afghanistan, there was very little 
if any opium production there – opium production had been “pushed down” by the Taliban. But 
parts of South East Asia [and Latin America] increased their production to meet the world 
demand (opium production “popped up” in South East Asia and Latin America). Once the US 
overthrew the Taliban after 9/11, opium production in Afghanistan sky rocketed – it was not being 
“pushed down.”

The same push down pop up dynamic has happened with cocaine in South America and 
methamphetamine production in the US and Mexico. Recall there used to be a much larger 
number of “meth labs” in the US than there are now. The US “pushed down” on meth labs and 
they did not disappear – they simply moved to Mexico. (The vast majority of the illegal drugs 
entering the US come through Mexico.)

Back to the story of “generic” legalization; it differs from libertarian legalization, in that most 
legalization policies envision massive taxation and major government regulation the market. In 
fact most mainstream legalization schemes would massively tax the sale and production of drugs 
in an attempt to help pay for drug treatment and drug education and other health concerns 
related to the consumption of drugs. Also most legalization schemes would have the 
government regulate the drug industry in significant ways in an attempt to lower the various 
dangers associated with drug use.

Think about all the ways in which the government regulates the sale and production of 
alcohol in an attempt to lower the risks of drinking alcohol– these sort of things would happen with 
other drugs. At minimum they would restrict sales to minors, where and when you could buy and 
consume drugs, require manufactures to maintain purity and list the strength on the container.

In summary there are many kinds of drug legalization possible and creativity is the only 
real constraint. But the basic idea is to stop trying to solve drug problems with the criminal justice
system and instead treat drug problems as a public health issue – sort of how we do it with alcohol.

The Middle Ground of Decriminalization or Harm Reduction

Decriminalization

A “middle ground” between legalization and prohibition is **decriminalization**. Decriminalization still keeps drugs illegal but removes the criminal penalties associated with its use [and possibly manufacture and distribution]. Think of it like a traffic ticket as opposed to a jail sentence. You still can’t possess drugs but we are not going to lock you up in jail/prison if you are caught with them. We may make you go to treatment or even make you pay a fine but we are not going to teach you to stop using drugs by locking you up. The general idea here is to still attempt to discourage drug use by keeping it illegal, but to replace criminal penalties with a sort of public health approach.

There are all kinds of decriminalization schemes one can imagine. For example, one type suggests decriminalizing the possession of small amounts of drugs that a user would have, yet still have legal penalties for larger amounts [i.e. “big time” dealers]. So you may not want to lock up the basic user or addict, but still want to incarcerate the larger dealers or manufacturers.

Holland (The Netherlands) effectively decriminalizes small amounts of cannabis [marijuana and hashish], yet keeps criminal penalties for larger amounts of cannabis and still keeps criminal penalties for all the other illicit drugs. Holland wants to keep the cannabis user a normal citizen while still criminalizing large-scale cannabis growing and selling as well as the dealing of “harder drugs.”

Harm Reduction

Related to decriminalization is **harm reduction**. They suggest that the goal of a “drug free society” is unrealistic and people are always going to use drugs to get high. The idea here is to reduce the harms associated with drug use. Certainly they would advocate some sort of decriminalization at the least. (Getting put in jail causes harm.) However, the main idea is to develop programs and policies that mitigate the harms drug can do to users.
A short description of harm reduction

Taken from article “Real Opposition, Real Alternatives: Reducing the Harms of Drug Use and Drug Policy,” by Reinarman and Levine in Crack in America.

The authors claim that harm reduction has come about primarily from the failures of punitive prohibition policies that have not only failed to reduce the problems related to drug use, but have exasperated them. They mention that there are a number of respectable people from all sides of the political spectrum who have come out against punitive prohibition policies. Some of these critics are surprising in this regard including former Secretary of State under Regan George Schultz, Nobel prize winning free-market economist Milton Friedman of Stanford University, and William F. Buckley the conservative writer and talk show host, not to mention prominent police chiefs and legislators.

Harm reduction really started as a grassroots movement by people who provided services to drug addicts. They simply started providing services (sometimes technically illegal) that reduced the harms drugs did in their clients’ lives – such as needle exchange, HIV counseling, condom supply – without trying to eliminate drug use per se. Coming out of the frustrations of trying to push abstinence on heroin users, harm reduction philosophy does not adhere to the “the inherent disapproval of drug use that has been the essence of temperance, prohibitionist, and drug war ideologies.”

The model’s first premise is that abstinence cannot be the only goal of drug policy or of agencies providing services to drug users.” (page 356) In this context abstinence would tend to mean that a person completely stops using all drugs, perhaps including alcohol. The people working with heroin addicts in Liverpool England figured out that they were not going to be successful drawing clients into programs that insisted on abstinence first. Meaning, they were trying to help heroin addicts come into a treatment program, but if they required that addicts stopped using heroin first, before entering the program, very few of the addicts were interested in getting treatment. However, abstinence could be the end goal of a list of harm reduction practices.

The second guiding principle is that drug users are often alienated from conventional society and this leads them in the direction of more harm, not less harm. Thus they strive to provide user-friendly non-judgmental services that users value and trust. Contact is made in the
context that helps empower drug users to take intermediate steps towards reducing the risks of drug use. The idea is to not isolate drug users, but integrate them into the community as best as they can. They want to encourage drug users to take responsibility for their drug use and its consequences.

Lastly it should be understood that “harm reduction is now more of a philosophy or perspective on dealing with drug problems than it is a precise set of activities.” page 357. It is constantly evolving and changing in attempts to help drug user mitigate the risks of drug use such as HIV, drug treatment, health services, and even lobbying for the repeal of harsh prohibitionist laws that inflict “needless” harm on the lives of drug users.

It is fair to say that US alcohol policy is based upon the notion of harm reduction. It is “based on the assumption that most drinkers care about their health and are capable of making reasonable decisions. Alcohol policy recognizes that most users are not abusers, distinguishes among different types of alcohol according to risk, monitors quality and purity, and requires that alcohol content be listed on each container…Just as important, by keeping drinkers integrated into conventional society, alcohol policy subjects them to the full range of informal social controls that helps most of them keep their drinking within bounds. None of this involves the massive imprisonment of drinkers for possessing or consuming alcohol.” page 358

Reinarman and Levine even go so far as to argue that the type of harm reduction the US practices with alcohol is applicable to “harder” drugs as well and that punitive prohibition does very little to reduce the harms we suffer due use of harder drugs, “As we suggest in Chapter 4, a small minority of illicit drug user seeks extreme drug experiences. For all its harms over the course of the twentieth century, punitive prohibition has done almost nothing to reduce this phenomenon.” page 359.

Prohibition

This is the easiest drug policy to explain as it is the one with which most Americans are familiar. Prohibitionists believe that we should continue to keep drugs illegal and approach our problems associated with drug use from a criminal justice standpoint.
So the way to reduce demand for drugs is to threaten users with criminal penalties, typically jail or prison, in an attempt to discourage drug use. [To be fair, a prohibitionist policy can also incorporate drug education and treatment as a way to reduce the demand for drugs, while still using criminal penalties for those users who are caught by the police. However, in a prohibition policy the emphasis is on the criminal justice system, not the public health approaches of education and treatment. ]

Potential drug consumers are supposed to avoid trying and using drugs because they are afraid of getting caught and punished by the criminal justice system. Users are supposed to either motivated to quit drugs because they are scared of being labeled a criminal [and possibly sent to prison]. And if users get fined, placed on probation, sent to jail, or prison [these are the ways we label someone a criminal in our society], that experience is supposed to motivate them to quit drugs. We lock up many of our drug users, especially repeat offenders who are likely “addicts,” and the experience of being locked up is supposed to motivate them to quit using drugs. [Again, to be fair, drug treatment can be a part of a prohibitionist policy, used voluntarily for users before they are caught by the police and also as a strategy to help users quit after they get caught and punished by the criminal justice system. But again prohibition stresses criminal punishment rather than a public health approach.]

The way to reduce the supply of drugs is to bust local drug dealers, catch bigger drug dealers transporting drugs, and even to attempt to reduce the supply of drug plant farming and production in source countries, such as Latin America, South East Asia, etc. The idea is that we will reduce the supply enough where it will raise the retail prices; due to the increased price drug users will make a rational economic decision to discontinue drug use. Some zealots even go so far as to pretend we can eventually completely eliminate the supply of drugs via these supply reduction strategies – that is fantasy and unrealistic, but some people pretend it’s possible.

Generally speaking US drug policies are squarely centered in this theoretical camp, although US drug policy is best described as Punitive Prohibition.

**Punitive Prohibition**

Punitive prohibition is also easy to describe to students familiar with the US, because the US practices not only a prohibitionist drug policy, but also an extremely punitive type of
prohibition. Punitive prohibition differs from “regular” prohibition simply because the criminal penalties are harsher, stiffer, or more punitive.

So not only do we want to lock people up, but we want to lock them up for long periods of time. A punitive prohibition policy not only places emphasis on the use of criminal penalties, but also uses very harsh criminal penalties. So if you compare the US [which practices punitive prohibition] to another country [that practices “regular prohibition”] while both may lock up a drug user, the US will lock them up for a longer period of time. That is really the only difference between punitive and so-called “regular” prohibition – stiffer or harsher criminal penalties.

The Argument for Prohibition


This author rightly points out that there is no perfect drug policy. Regardless of the policy, there will be a “bill to pay.” He correctly points out that both prohibition and legalization will lower some costs and raise others. Thus the question becomes which policy provides the lowest overall bill for society to pay. He ends up arguing against legalization by focusing upon the moral costs of heavy drug abuse in our society. I disagree with his viewpoint, but he provides the most defensible intellectual argument for prohibition that I’ve seen. So if you support the War on Drugs, you should use his argument to defend your position.

Wilson strengthens his argument in two ways: he focuses on heavy abusive drug use and he makes a moral argument.

He acknowledges that that there is such a thing as a “controlled user,” but he strengthens his argument by concerning himself only the most destructive or problem users. He is correct to say that those drug users with the most extreme drug consumption patterns cause the most damage to society. So he predicates his argument on focusing upon a strategy that will keep the number of extreme drug users as small as possible.
The moral reason for attempting to discourage drug use is that the heavy consumption of certain drugs is destructive of human character…the pleasure or oblivion they produce leads many users to devote their lives to seeking pleasure or oblivion and to do so almost regardless of the cost in ordinary human virtues, such as temperance, fidelity, duty, and sympathy. The dignity, autonomy, and productivity of many users, already impaired by other problems, is destroyed.” (523)

Furthermore, even if one is unconcerned with character formation heavy drug users hurt others and thus we need to regulate their behavior. These heavy users are unlikely to be healthy people, productive workers, good parents, reliable neighbors, attentive students, or safe drivers...We all pay for drug abuse in lowered productivity, more accidents, higher insurance premiums, bigger welfare costs, and less effective classrooms." (524)

Society pays a “bill” for any drug policy

He focused the debate [rightly in my mind] on the idea that a society is going to pay the "costs" of drug use in any policy situation. In short, society must pay bill for drugs whether we make them illegal or legal.

The question is whether the costs of drug use are likely to be higher when the drug is illegal or when it is legal. In both cases society must pay the bill. When the drug is illegal, the bill consists of the law enforcement costs [crime, corruption, extensive and intrusive policing], the welfare costs (poorer health, lost wages, higher unemployment benefits, more aid to families w/ dependent children, and various treatment and prevention programs) and the moral costs (debased and degraded people). When the drug is legal the bill will consist primarily of the welfare and the moral costs. Which bill will be higher? (525)

Let’s dissect his quote a bit. So he says there are three primary parts of the “bill” to be paid by society regardless of whether drugs are legal or illegal: law enforcement costs, moral costs, and welfare costs.

**Law enforcement costs** = these are highest when drugs are illegal and lower when they are legal. When they are illegal he states the costs are crime, corruption, extensive and intrusive policing. [For some reason he does not use actual figures nor does he include the real financial costs of enforcing drug laws when drugs are made illegal. Society spends massive money on the police, courts, and corrections when drugs are illegal.] When drugs are legal there is lower law
enforcement costs. However he rightly points out that there would still be some law enforcement costs if drugs are legal. If we make drugs illegal to minors, you have to enforce that law. He also rightly states that if we tax drugs, then the higher the tax then the greater the incentive to avoid paying it – thus the need to police tax cheats.

**welfare costs** (poorer health, lost wages, higher unemployment benefits, more aid to families w/ dependent children, and various treatment and prevention programs). He states that these are lowest when drugs are illegal because we are keeping the number of heavy drug abusers smaller. If we make drugs legal he says there will be more heavy drug abusers and we will have higher costs in this area. He makes it seem as if there would be a tremendous increase in these types of users, although our experiences with alcohol [and even other drugs] suggest he is over estimating the increase. His argument is based upon the idea that there is a whole bunch of people who really want to use marijuana, cocaine, heroin, methamphetamine, etc. and the only thing stopping them is because it’s illegal to use them.

**moral costs** = debased and degraded people. He states this bill is lowest when drugs are illegal because you have fewer heavy drug users. He thinks if you make drugs legal you will have more heavy drug users and thus higher moral costs.

Below is a summary of his argument about the “bill to be paid” for a drug policy.

**The bill if drugs are legal** = higher moral and welfare costs and lower law enforcement costs.

**The bill if drugs are illegal** = higher law enforcement costs and lower moral and welfare costs.

**Which total bill will be lower?**

He is absolutely correct say that society will pay the total bill of any drug policy and the correct question to ask is whether the total societal bill will be lower if drugs are legal or if drugs are illegal.

His opinion is the total bill society would have to pay would be higher if we drugs were made legal *because more people will use drugs due to lowered price and lowered difficulty*
of finding drugs. I think he overstates the potential increase of drug use, but he is entitled to his opinion.

He concludes we should continue to shoulder the high law enforcement costs of keeping drugs illegal in order to keep the number of heavy drug users as small as possible.

...debate over legalization will never be resolved...being aware of the issues will focus debate on right question... how can we minimize the sum of the law-enforcement, moral and welfare costs of drug use? If we want drugs to be illegal it is because we believe the very high law enforcement costs will be offset by lower moral and welfare costs. If we want drugs to be legal, it is because we believe the higher moral and welfare costs will be offset by the lower law-enforcement costs. In making this choice we are making an estimate of how large the drug using population will be in each case, and we are assigning a value to tangible but real moral costs. (Page 526-527)

“...let me be clear about my own views: I believe that the moral and welfare costs of heavy drug use are so large that society should bear the heavy burden of law enforcement, and its associated corruption and criminality, for the sake of keeping the number of people regularly using crack and heroin as small as possible. I also believe children should not be raised in communities where heroin and cocaine are sold at the neighborhood drug store. Obviously, there is some point at which the law enforcement costs might become too great for the gains they produce, but we are not at that point yet. I set my arguments forth in Wilson 1990.”

His footnote on page 527 is even more telling:

**My problems with Wilson’s argument**

First I will attack his assumption from the footnote. I think it is clear that he ignores the fact that there are currently many children who are "raised in communities where heroin and cocaine are sold at the neighborhood drug store." The neighborhood drug store is called the street corner you moron. These kids not only watch drug dealers take over their streets and playgrounds, but they get to play amongst violence, hookers, street junkies, etc to say nothing about playing on sidewalks littered with needles. So what about those kids? He either ignores them or does not care about them. And guess what? Those kids are poor, and in many places predominantly brown skinned. And lastly, who do you think bears the brunt of the law enforcement “costs?” It’s
the poor [and primarily browned skinned] people! Not “his” people. There are plenty of affluent
drug abusers and dealers who don’t get policed like the poor do.

Secondly he says that our sum costs will be lower if we keep drugs illegal, but he does not
ever attempt to provide real costs with some numbers. At least provide some data to back up
the claim. Certainly morals cannot be easily measured, but what are the law enforcement and
welfare costs in dollars? At least we know what the costs are when drugs are illegal. My rough
calculations show that we spend about 25 billion (2009 dollars) annually just on a federal level.
And, since most drug crimes are enforced at the state level, including the state costs would make
that 25 billion grow substantially. For example in 2006 I did some rough calculations for Hawaii, a
very small state! In 2006 we were spending roughly $20 million annually incarcerating non-
violet drug offenders – an this only includes prison costs, not jail, courts, police etc. If we
include the law enforcement costs of the states for enforcing drug laws the costs are certainly
much higher than my rough estimate. So that is a lot of law enforcement savings that could be
used to pay for the increased welfare costs.

Lastly moral costs are impossible to measure objectively, so I grant him his point. But
there are also moral costs he ignores. What are the moral costs of putting someone in prison for
doing drugs? What does that do to their character? It’s pretty clear that the experience of prison
messes most people up more than it helps them. Most people come out of prison less capable of
being productive citizens than when they went in. This is probably truer for non-violent drug
offenders, who get repeatedly victimized by the truly violent and dangerous thugs. I’m just
saying he should at least acknowledge and account for these costs.

Lastly, in all of these criticisms I am accusing him of a lack of integration of the social
environment with his arguments. The social landscape cannot be ignored from the argument, but
he does it in almost all places.

The good things about Wilson

In my opinion he clearly takes the most defendable position in support of Drug War --
morals. They are impossible to refute completely. You can only differ or point out other more
pressing moral questions, but as he clearly states above, he does not see those costs as being
so great as to abandon prohibition.
At the end of the article he does a better job of providing evidence for what he sees as the “way out” of the drug problem where he focuses on demand reduction and clearly states we are doing all we can do with supply reduction. He thinks you must motivate people to quit primarily through treatment and rightly points out that research shows that the most important determinant of successful drug treatment is keeping people in the program [reducing drop outs]. He states that the threat of incarceration is a good at keeping people in the program. It’s a valid viewpoint. He is also looking for an eventual biochemical cure to “drug abuse” which is at minimum many many years into the future.

The Argument for Legalization


There is a version of this article of same name from the journal Science linked in our course schedule.

I also add some data regarding the financial costs of drug prohibition that both updates Nadlemann and supplements some costs he ignores.

This essay makes an argument for us to at least consider legalization as a policy option. It looks at the costs of drug prohibition and how those may well in fact justify legalization in its place.

First legalization does not have to mean the Libertarian extreme

He points out that many people hear “drug legalization” and automatically think that means making all drugs legal without exception (the extreme libertarian type of drug legalization). He rightly suggests this is not true: we could craft a very thoughtful conservative type of legalization policy. We don’t necessarily have to make all drugs legal. For example, perhaps we just want marijuana to be legal? Or we could simply remove the criminal penalties [a de facto form of legalization] and transfer these law enforcement savings to drug education and treatment. We could make a medical model where addicts get prescriptions from doctors. The point is that there is not one kind of drug legalization; there are many possibilities.
Risks to legalization but we should still consider it

There are risks to any form of drug legalization but he gives three reasons to at least consider it:

See page 2 in web article from Science or bottom page 289 in crack in America

Drug policies that rely on criminal law enforcement are “significantly and inherently limited” in what they can achieve towards reducing drug use.

Prohibitionist policies are costly and counter productive. Essentially they cost a lot of money and cause more problems than they solve. One example is the Taliban or warlords or gangsters getting money from drug dealing, but there are others. For example one study suggests most crack related homicides are due to disputes in the illicit drug economy not because crack users are “too high” or need money to buy crack. When drugs are sold illegally we get a lot of other “collateral damage” or unintended consequences.

The risks of legalization may be less than what many suppose especially if implemented in a thoughtful manner.

Later in the article he presents what he calls the “logic of legalization” which argues against Wilson’s claim that legalization would mean a huge increase in the number of drug abusers. This is very important to his argument.

Limitations to Prohibition Policies

Limits to Supply Reduction strategies: these haven’t succeeded in past and are unlikely to do so in future.

The idea of most law enforcement practices is to reduce the supply of drugs and thus increase the price and lower demand. If we catch enough drug dealers and/or producers the price of drugs will go up and users will make a rational decision to not use drugs. Also dealers will be scared off, or we will catch enough dealers so that users won’t be able to “find” drugs to buy. That’s the theory of supply reduction. Nadleman argues supply reduction has never worked and is unlikely to work in the future. He wrote the article about 20 years ago, so time has proven him correct. Supply reduction does not work.
As a side note even James Q. Wilson argues that demand reduction is more effective than supply reduction, “We know that drug trafficking is driven by demand...and that by reducing that demand...will have a greater effect on the drugs-crime connection than reducing the supply.” [page 542]

**Eradication** = reducing supply of drugs in source countries

These efforts are limited because drugs such as marijuana, heroin, and even coca can be grown in so many different places, guerilla farming techniques, push down pop up phenomenon, and even political opposition in source countries (Shining Path in Peru and “Drug Lords” in SE Asia). Because of the low production costs of drugs in source countries eradication will never be very successful at raising retail prices to US consumers.

Furthermore, even crop substitution programs do not work: it is hard to convince a severely poor farmer who is essentially surviving to grow wheat, corn, rice, or beans if a drug crop [opium, coca, or marijuana] pays so much more. The choice to farm a drug crop and survive [and perhaps send your kid to school] versus a legitimate crop that does not pay enough to feed your family [let alone the other things in life] if not hard to understand. The world price of legitimate crops is very low due to mechanized farming, so a “dirt farmer” in Peru or SE Asia or Afghanistan struggles to make a living from legitimate crops. Thus many of these farmers supplement their income by growing drug crops. These are the reasons why the money the US spends on crop substitution in source countries is ultimately wasted.

**Interdiction** = “seizing” drugs on their way to market before they get to US border

We will never be successful because even though we’ve dramatically expanded our efforts in this area we can never interdict enough to make a dent. Agencies responsible admit there isn’t much more we can do in this area. Here is a cocaine example: Over the beginning of the War on Drugs in the 1980’s we put a tremendous amount of resources towards interdicting cocaine. What happened? The wholesale kilo price dropped 80% while purity increased from about 12% to about 60%. (That is the opposite of what you would want to happen if interdiction worked – you’d want prices to rise and purity to fall!) Furthermore, one study [cited in Wilson above] suggests that even if we somehow able to double the number of interdictions, the price would only increase by about 10%.
But his overall point is that with drugs “worth their weight in gold” there won’t ever be a shortage of drug dealers.

Enforcement = seizure and busting dealers w/in our own borders

He makes the argument that we’ve drastically escalated our policing of drug dealing and use and it has not made much of a dent.

The Financial Costs of Drug Prohibition

The basic idea is that drug prohibition costs our society billions upon billions of dollars annually. He gives just a limited scope of federal expenditures but the actual costs are much much higher. Think about some of the legal costs to drug prohibition: it costs approximately $30,000 per year to have a person in prison, the cost of the cops (federal, state, and local), and the courts (both federal and state, including sitting in jail awaiting trial).

Nadelmann gives some pretty staggering figures on how much we’ve spent, but they understate the total costs.

My supplementary very rough calculations ~ 24 billion (in 2008 dollars)

“Drug Czar” or White House Office of National Drug Control Policy (ONDCP) budget (2008): 13.7 billion


Federal Prisoners (mid year 2007): 95,446 x 30,000 = $2,863,380,000.00 = 2.8 billion

Source for number of prisoners: http://drugwarfacts.org/cms/?q=node/62 but website sources the BJS report

State Prisoners (year end 2005): 253,000 x 30,000=$7.590,000,000 = 7.59 billion
Source for number of prisoners: [http://drugwarfacts.org/cms/?q=node/62](http://drugwarfacts.org/cms/?q=node/62) but website sources the BJS report

<table>
<thead>
<tr>
<th></th>
<th>$</th>
<th>billions</th>
</tr>
</thead>
<tbody>
<tr>
<td>state prisoners</td>
<td>253,000</td>
<td>$30,000.00</td>
</tr>
<tr>
<td>fed prisoners</td>
<td>95,446</td>
<td>$30,000.00</td>
</tr>
<tr>
<td>drug czar</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>totals</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Please note that I have estimated $30,000 a year. Some states would be higher and some lower. For example in Hawaii it costs about $40,000 and in some private prisons on the mainland only $20,000. But these “per year” costs are probably conservative because they do not include the financial costs of building a prison and borrowing the money. Think about a house. If you pay $300,000 for your house, the interest rate on the payments over 30 years means you actually pay about three times as much or $900,000. So many prison cost estimates ignore the building costs of the prison, and the debt payment costs for the money borrowed to build the prisons. Thus I feel okay about my rough $30,000 estimate.

So a VERY rough estimate is 24 billion, and this excludes the policing and court costs on both federal and state levels!

**Costs include organized crime and street crime related to drug use and sales**

Very quickly, Nadelmann shows that the costs of drug prohibition also include drug business benefiting organized crime as well as contributing to various sorts of street crime (drug sales, economic crime to buy drugs, violent crime by drug traffickers). So these costs would be lowered with a legalization regime.

1. all drug related crimes would cease to be crimes [possession, selling, producing].
2. users that commit property and violent crimes to pay for drugs would go down because the retail cost of drugs would drop dramatically under legalization.
3. legalization would remove from the criminal subculture the lucrative illegal drug market. systemic violence amongst drug dealers. this would certainly drop

**Other Costs of Prohibition**

1. residents of drug ridden neighborhoods suffer from systematic violence and seeing drug dealing as only viable economic option
2. the unseen costs of the wide spread violation of drug laws -- moral argument about respect for the rule of law -- kind of weak but an argument none the less.
3. tainted drugs in illicit economy -- primarily heath costs due to this and overdoses
4. HIV and needles
5. Those who could benefit from medical marijuana
6. Morals -- the only ones who are consistent are those like the Mormons who eschew all drugs legal and illegal
7. loss of liberty as a moral argument

The billions spent on criminal justice could be saved and used for education and treatment.

Benefits of legalization for naught if millions more drug users created

He rightly notes that legalization will increase drug users but by an unknown amount and if it creates millions and millions of more users then the benefits of legalization will be for naught. However, he argues that this is unlikely to happen because of the logic of legalization: a) most illegal drugs are not as dangerous as commonly believed and b) those types of drugs and methods of ingestion that are most risky are least likely to be widely practiced “because they are so obviously dangerous.”

Argues we won’t see dramatic increase in drug users as we see with alcohol

Example of alcohol and how most use moderately, but doubts the number of drug users will be as high as alcohol.

**Marijuana use tends to be moderate:** “This suggests in part that daily mj use is typically a phase through which people pass afterwards their use becomes more moderate.”

Even most “hard drug” users don’t abuse drugs

What we know about cocaine suggests only 3% of 18-25 year olds who tried cocaine had at least one period of problematic use. (see bottom p. 302 in crack in America and page 10 from science)

**Most important part: you can start small and reverse course if things go badly**

The most important part he makes about legalization is it is not an “all or nothing” thing. You can start small (perhaps just legalizing marijuana) and see how it goes. If things get out of hand you can correct the course, or even reverse it if need be.

“it is not an all or nothing alternative…political realities ensure any shift towards legalization will evolve gradually with ample opportunity to halt, reevaluate, and redirect drug policies…”

(page 13 from Science)
Summary

The costs of legalization are uncertain, but our current costs are known and they are very high. He states we should be willing to honestly acknowledge that our current approach is not working and at least consider all policy options honestly.