

On Drugs and Democracy

By Inge Fryklund , August 6, 2012 .

The UN Office of Drug Control (UNODC) has thoroughly documented the violence, crime, and corruption linked with the worldwide heroin and opium trade. The U.S. news media report every day on the mayhem and corruption of government officials caused by the drug wars in Mexico, Colombia, and other points south of our border. In Afghanistan, the Taliban tax the opium trade and protect poppy farmers from eradication, fueling the insurgency and our 11-year war.

However, these problems are all consequences of drug prohibition, not of the drugs themselves. In legal terms, drugs are *malum prohibitum* (wrong because prohibited by law) rather than *malum in se* (inherently wrong, such as theft or murder). During the U.S. experiment with Prohibition (1920-1933), alcohol was *malum prohibitum*; as soon as it was legalized, it again became a normal regulated, traded, and taxed consumer product.



We need to rethink our prohibition of drugs. What problem are we trying to solve by making drugs illegal? Have we chosen the most effective and affordable solution? Are the collateral consequences worth it?

We should start with the premise that neither demand for drugs nor the drugs themselves can be eliminated. UNODC estimates the ultimate street value of drugs originating in southern Afghanistan, primarily Helmand and Kandahar, as \$68 *billion*. Where there is demand, there will be supply. If Afghan supplies were reduced, production would simply move elsewhere—as it did when it moved into Afghanistan in the 1980s after being pushed out of Southeast Asia's Golden Triangle.

Prohibition of Alcohol

The American experience of Prohibition is instructive.

The U.S. ban on alcohol served primarily to corrupt public officials and endanger the public. Supplying the unabated demand for alcohol required traffickers to pay bribes to police and politicians. As prices increased as a result, cutting quality was one way to keep the retail price down, which resulted in deaths from adulterated products. Moreover, the rise of violent, organized crime during this period—required to move the product and handle disputes within the trade—created criminal organizations that endure to this day.

The Prohibition experiment was relatively short-lived. Part of the impetus for repeal was that Prohibition was not having the intended effect of cutting either alcohol use or the social problems resulting from its abuse (the potential for alcohol tax revenues in the midst of the Great Depression was another factor). Whatever successes the experiment had were outweighed by the costs in corruption and violence, not to mention widespread public cynicism and hypocrisy.

Most importantly, the substantial and unanticipated costs of Prohibition were borne almost entirely by the United States. It was our own police and elected officials who were corrupted. It was our own cities afflicted by the criminal patronage networks battling over turf. We never attempted to force other countries to make the trade in alcohol illegal or participate in our war on alcohol.

The day after Prohibition was repealed, beer distributors no longer had to turn to the Mafia for enforcement of their franchise agreements. They took their disputes to court. The collateral violence largely stopped, and corrupt politicians and police suddenly lost a source of income. Product quality could be standardized. States could make individual decisions about regulating and taxing alcohol.

Of course, the social problems—particularly family violence—that were the ostensible reason for Prohibition continued, as they do to this day. My own experience as a prosecutor in Domestic Violence Court in Chicago in the 1980s is illustrative. If it hadn't been for alcohol-related crimes, the court could have been closed. Alcohol had adverse effects on families that many other drugs did not have.

But by 1933, we had come to the realization that prohibition was an ineffective way to address abuse and indeed sidelined attempts to address alcoholism and family violence. There is still no simple solution to these problems, but we understood then that any response must directly address the problem. We as a society have come to terms with the inescapable downsides of a product that the public insists on having but that is subject to abuse. We have struck a balance since realizing that criminalizing the trade in alcohol only made everything worse.

Exporting the Problem

Federal statute criminalized narcotics beginning in 1914. There was no nationwide public advocacy campaign as there was leading up to Prohibition. Legislation seems to have been driven primarily by racial fears—of “cocaine-crazed Negroes” raping white women and “Chinamen” in California both using opium and seducing white women into becoming opium addicts. Perhaps there was political value in coming out against the evil of drug use by disfavored groups when it seemed costless to do so.

But we now know a great deal about the worldwide costs in violence, crime, and corruption of making drugs illegal. If the downsides of our drug policy are now so clear, why haven't drugs (opium and heroin as well as marijuana) been legalized? Why is the calculation different from that made *vis a vis* ending Prohibition?

After spending more than four years in Afghanistan and seeing first-hand the impact of our drug policies—consequences most Americans never see—I have come to the conclusion that we persist on this course primarily because the costs of our drug policies are borne by other countries, not by us. In contrast with our experience under Prohibition, the corruption of American police and politicians by the drug trade is a relatively minor problem. Demand within the United States is just not high enough to necessitate much bribery.

The serious corruption is instead all on the production end, and this we have succeeded in outsourcing to foreign countries. Our war on drugs is fought on the territories of countries such as Colombia, Honduras, and Mexico. The headless bodies in Mexico barely make the inside pages of American newspapers (imagine if dozens of mutilated bodies were dumped in suburban Maryland). We have requisitioned foreign turf for our war on drugs. Citizens of these countries have no voice in the matter. Their leaders' acquiescence to U.S. policies undercuts electoral accountability, and corruption of their police and courts undermines the rule of law. We have compromised democracy in our own hemisphere.

In Afghanistan, we have failed to connect the dots between drugs and corruption. At the July 2012 donors' conference in Tokyo, donor after donor urged President Karzai to combat corruption. However, as long as we insist on the illegality of poppy, we are making a demand that cannot possibly be met.

A country that supplies 80-90 percent of the world's demand for poppy products must necessarily be corrupt. To move the heroin, opium, and marijuana from field to market, officials and police can demand payment to look the other way (or engage in the trade themselves). The import of chemicals for processing requires the cooperation of customs and border police. Even the poppy eradication process itself has been corrupted, as officials target the fields of rivals while protecting their own. And any eradication in one area inevitably pushes production to another, simply pushing a bubble around in a balloon.

Afghan citizens are well aware of the suitcases full of dollars that leave Kabul Airport every day for Dubai. While kickbacks from development and military contracts are undoubtedly involved, drug profits in particular have to be moved out of the country. In Helmand Province, district chief of police positions are reportedly purchased for sums as high as \$150,000 (and that is only the initial payment, not the yearly "rent"), and the chief expects to recoup his investment. District governors, appointed by the president, are merely shifted in musical-chairs fashion around the province when citizens or the U.S. military complains about corruption.

The Karzai government has also chosen not to implement those provisions of the 2004 Afghan constitution that call for the election of mayors and district and city councils. Instead, these councils do not exist, and all local officials report to the president. One can only imagine that all these officials are in place for a reason. For example, the mayor of Kandahar, a city of 800,000, is a presidential appointee, not answerable to local citizens. As a result, prior to his assassination in 2011, the president's brother, Ahmed Wali Karzai, had a free hand in managing affairs in Kandahar province. As in Latin America, democratic accountability is the loser. The money at stake is so overwhelming that honest and accountable government cannot be implemented without changing the drug nexus. The incentives are just too strong.

The "L" Word

If opium and heroin (as well as marijuana) were legalized, what would happen? Corrupt Afghan officials would suddenly lose a source of income, as poppy is illegal in Afghanistan primarily at U.S. insistence. The Taliban would be unable to extract protection money from farmers, or tax the drug trade. The war might wind down to a speedy conclusion, and Afghanistan could fund its own development and security forces out of sales of a legal commodity. Latin American democracy too would undoubtedly be strengthened and violence would decrease.

The U.S. government could save all the money it now spends on the DEA, interdiction, and drug prosecutions. States could make their own decisions about drugs. Local police and sheriffs could quit chasing after pot growers (who could now standardize and advertise product quality and potency), and devote scarce public safety budgets to the crimes that the average citizen prioritizes. State prisons that are overwhelmed with drug offenders could downsize. Of course, the entire anti-drug enterprise of U.S. officials and government contractors, greased by U.S. security assistance to drug producer nations, would drastically downsize too—and so the anti-drug lobby seeking to preserve its livelihood would undoubtedly be a political force in opposition. Likewise the manufacturers of medicinal morphine who have a monopoly on licensed poppy from India.

On the demand side of the equation, prices might well drop as the costs of paying protection were

eliminated. It's possible that usage would increase, but users don't seem to have much difficulty obtaining supplies right now. With all the resources freed from fighting an unwinnable war against drugs, we could attend to the social problems that facilitate certain kinds of drug use (heroin use being primarily a lower-class phenomenon) and result from substance abuse. There are many options to explore once the problem is defined honestly and resources are available for experimentation.

Even if the middle class doesn't care what happens to the lower class, the costs of prosecution and incarceration are a direct drain on the public purse, and an indirect drain as imprisonment itself causes family disruption and disintegration. Under a legalization regime, we would no longer have so many poorly educated young men with drug convictions rendered ineligible for future legitimate employment. Curtailed voting rights for those with felony convictions also means that individuals affected by drug laws have had no voice in changing them—a fundamental requirement of a democracy. Citizens in the 1930s could vote their interest in repealing Prohibition. These rights must be restored.

The immediate response to potential drug legalization is usually, "Why do you want our children hooked on drugs?!" (The rationales of 1914 are no longer mentioned.) Remember, however, that those campaigning for repeal of Prohibition did not say, "We're in favor of alcohol-induced family violence." Or, "Let's have more alcohol-related carnage on the highways." People were quite aware of the problems—which continued during Prohibition as before and since. We as a society concluded in 1933, however, that prohibition was an ineffective way of dealing with this particular societal ill, and that illegality created second- and third-order effects that were far worse than the evil that Prohibition was supposed to address.

As with alcohol, we need to be honest with ourselves about the costs and benefits of our social policies and recognize that not all problems have comprehensive or entirely satisfactory solutions. We can only do our best to make decisions that take into consideration all of the costs and benefits of our choices and not pretend that moral crusades are costless. We need to address honestly the morality of foisting upon other countries the violence, corruption, and damage to democracy caused by U.S. drug policies and driven by U.S. demand.

Legalization is the only solution to the problem of Afghan and Latin American violence and corruption—and the less obvious but more insidious problems of poverty, over-incarceration, and the misallocation of public resources within the United States. Only legalization can change the worldwide nexus of drugs and criminality.