

The Exposed Market Way Out To Marijuana Control

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ABSTRACT: *This commentary evaluates regulatory frameworks for the legalized production, sale, and use of marijuana. Specifically, we argue that the primary goal of legalization should be the elimination of the illicit trade in marijuana and that maximizing market participation through open markets and personal cultivation is the best approach to achieving this goal. This argument is based on the assertion that regulatory models based on a tightly controlled government market will fail because they replicate the fatal flaws of the prohibition model. This commentary argues that an examination of the reasons for prohibition's failure; to wit, the inability of government to control the production of marijuana; completely undercuts the basic premise of a tightly controlled market, which depends on the ability of the government to control production. The public interest would be better served by an effective regulatory framework which recognizes and takes advantage of competitive market forces. This analysis argues that reducing teenage access to marijuana requires the elimination of an overcapitalized illicit market. Further, it asserts that this goal and maximization of tax revenue from a legal marijuana market are mutually exclusive objectives.*

KEYWORDS: *Decriminalization, Federal Prohibition, Legalization, Marijuana, Prosecutorial Discretion, Social Damage.*

INTRODUCTION

This article makes the case for the legalization of marijuana in a wide-open industrial, competitive market, including the provision for personal usage of small-scale production. Major improvements are taking place in the United States' marijuana regulations. These reforms are motivated largely by campaigns for voting measures aimed at bypassing state governments, attracting majority public support, and accelerating a decades-old pattern of state departure from the federal law prohibition regime [1]. In the catalogue of state strategies to opt out of the federal criminalization of the selling and possession of marijuana and the classification of marijuana as a substance equivalent to heroin in terms of individual and social damage, the outright legalization of the use and commercial trade of marijuana has incorporated decriminalization, prosecutorial discretion, conditional release, and medical marijuana exemptions[2].

So, what kind of legalization is best for the public interest now that legalization is on the table, so to speak? The response is easy: the sort that works where the abandoned prohibition policy has failed. That basic point does not seem to be recognized by many scholars. As with drug enforcement, the challenge is the question of control, and the truth of the new policy is that there is no control [3]. That is why states have been opting out of the strict federal ban, and will continue to do so. Some scholars and policy officials are now proposing fresh approaches focused on a desire to impose tight controls, easily missing the precise approach that produced the current mess. This paper reviews this viewpoint, builds on what the prohibition lesson should be, and extends this lesson to the protection of free market solutions to the issues and challenges of implementing effective legislation for the legal market for marijuana[4].

From whether to legalize marijuana to how to regulate a legal market, the debate about marijuana policy is shifting. There is strong criticism of the prohibition of marijuana, and there is general agreement among critics that it has failed and why it has failed. Criticism is also focused on the continuation of widespread and unchanged access to marijuana (especially for adolescents), the failure of the prohibition to provide medicinal access, racial inequalities in arrests for marijuana possession, and the cost of arrests for both individuals and community. The clash between state-level amendments, such as medical marijuana

regulations, and the continuing federal ban in the United States has addressed a large amount of controversy. This debate also focuses on a) ways of reconciling state changes with federal prohibition, and b) the state-level advantages of policy innovation[5].

A new round of debate has been created by the legalization of marijuana at the state level in Colorado and Washington in the United States, at the national level in Uruguay, and the possibility of further state action in the United States. The emphasis has turned to priorities, trends, future characteristics and other important issues related to regulatory mechanisms for the legal market for marijuana. In the journal *Addiction* and a panel discussion between Mark Klieman, Alison Holcomb, Sue Rusche, and Jonathan Rauch funded by the New American Foundation, examples of this discussion are contained in articles by Caulkins et.al and Room, along with additional commentaries by other contributors[6].

➤ *The value of frameworks:*

The legalization of marijuana poses many important issues for inquiry and debate, and stories like this raise far more questions than they can put to rest. However, this illustrates the need for this issue to be discussed in terms of regulatory structures and the general concepts they implement. The above discussion is intended to add new elements to the prospective regulatory policy for marijuana consideration, such as a) the failure of the prohibition reason, b) the empirical limitations on the ability of the government to enforce restrictions, and c) a more useful viewpoint or model for understanding the market-affecting powers. In scholarly review and/or policy study, there is a simplifying premise evident here and one that is sometimes lost. This is the Jeffersonian proposition that there should be a voice and a place in its formulation for citizens impacted by government action. In other words, the development of legislation for the legalization of marijuana needs feedback from and cooperation from growers and consumers to ensure that the voluntary enforcement needed for new policies to work is ensured. The importance of structures, then, is that they coordinate critical problems and make specific choices for stakeholders[7].

➤ *The three prototypes and their impression on competition and price:*

The existing regulatory model for marijuana is a prohibition in which the cultivation, sale and possession of marijuana are prohibited by criminal law and the resulting illicit market is regulated solely by a risk assessment method. Anyone who is prepared to bear the risk of criminal prosecution can enter the market and participate. The illegality of the economy serves as support for rates. In the sense of a risk premium, this is also clarified. It can, however, also be interpreted as a consequence of the lack of consumer protection; vendors are free to overcharge customers who do not have recourse. In other words, price fixing is a part of the black market as well. The implication is that competition is excellent and prices are high[8].

The second form of model under discussion allows for the legalization of marijuana and the interventionist model will be referred to here. There are two variants of this model: a government monopoly (such as alcohol sales in 18 states) and an access market determined by restricted government licences (such as the current legal market for marijuana in Washington State). It can be defined in terms of restricted market access, high costs, low levels of merchant competition and high tax revenue levels. In Glastris Klieman and Pederson, this technique is advanced in one form or another by Brannon, Cohen and McGowan, Klieman, Rauch, and Rusche. The consequence is that competition will be poor in either type, and prices will stay high[9].

As suggested here, the third model also provides for legalization, but is based on an open, competitive market approach instead. In this model, market entry is unregulated and there will be a large number of producers, apart from some perfunctory regulatory requirements; basically, anyone or any organization that is able to enter the market and willing to bear the risks will participate. Most notably, this concerns people who want to cultivate cannabis for their personal use and/or small-scale transfers to their friends and associates. This level of competition would result in considerably lower prices than the prices that exist or

will exist under the interventionist model in the current market. The outcome is that competition is going to be strong and rates will be low.

➤ *The Role of government:*

In the prohibition model, by using a single weapon, the government tries to exert power. This is frequently conceived in terms of criminal punishment, but in reality and in terms of market forces, by deciding entry costs, this is just an effort to manipulate the market. Through historical experience, the idea that criminal sanctions and law enforcement will curb this conduct has already been disproved. Via the use of three instruments: central planning, tax policy and consumer protection legislation, the interventionist model aims to control the economy. It is argued here that central planning is problematic when it comes to a product that is so quickly and widely generated without regard to government policy. Below, tax policy will be discussed. Regulations for consumer protection should be a part of any marijuana regulatory framework and are not at issue here.

With the use of economic powers and, like the interventionist model, consumer protection legislation, the competitive free market model aims to control the market. Via open access and personal cultivation, the introduction of existing producers into the market not only co-opts involvement in the illicit market, but also increases competition. A fair market has many of the same virtues of a broad republic, recalling the admonition of James Madison in Federalist that various factions retain independence through what has been referred to as the creation of a balance of power in modern times. This idea also applies in economic markets to rivals. Pluralism preserves liberty in political economies. Pluralism protects the customer in economic markets. Pluralism preserves the public interest in both sectors[10].

Instead of eliminating input from the existing market, the new regulated market must absorb it. Many current growers are afraid of a corporate takeover of the production of marijuana that would drive them out of the industry. However, if the goal of a controlled market is to eradicate or reduce the reach of the illegal market, old producers must have a position in the new market; otherwise, they will continue to manufacture and undermine the regulated market in much the same way as the prohibition is undermined. This argues against restricting the inclusion in the modern, legalized market of individuals with convictions for marijuana cultivation or delivery crimes. Pluralism preserves liberty in political economies. Pluralism protects the customer in economic markets. Pluralism preserves the public interest in both sectors.

CONCLUSION

Recognition that prohibition failed through an inability to regulate demand is what is lacking from most analyses. "A big part of the problem is that the federal government has a law that it can't enforce "A big part of the problem is that the federal government has a law it can't enforce. The compliance test must be passed by every new regulatory system for marijuana. There is an unenforceable continued prohibition of personal cultivation. This is not the only concern with the use of public policy, irrespective of rationale or goal, to promote the price of marijuana. High marijuana prices provide incentives for the cultivation of marijuana in a market for which there is no feasible way of limiting production by means of legislation or criminal sanctions.

The main problem with regard to public health in all of these systems is how to protect vulnerable communities. A good description of the problem is given by Danovitch:

"Marijuana has some potential benefits and some potential dangers, like most drugs... most of the risks associated with marijuana are mild in severity, the prevalence of use of marijuana indicates that some harmful effects are likely to be encountered by a large minority of the population. In addition, three groups are especially at risk for the adverse effects of marijuana: young people, people with males".

Each of these populations has specific characteristics that present challenges to public health. For either of them, Prohibition has not been able to offer defense. The need to protect these at-risk communities more efficiently is one of the more persuasive rationales for legalization. Commercialization can hinder attempts to prevent adolescents from using marijuana, but what Caulkins has referred to as "the intrinsic difficulty of changing teens' behavior" is the real issue. Even with a government monopoly, Klieman is reconciled with the prevalence of adolescent marijuana usage, stating that it will be safer for teenagers to get marijuana from quasi-legal channels than the black market, where they will potentially have access to harmful illicit drugs such as opiates, cocaine, and methamphetamine. Individuals with mental illness and pregnant or breastfeeding women are troublesome, as is the education of youth, and preventive and often interventionist measures are needed to counteract potentially dangerous conduct. There are more players in a competitive market and therefore more incentives to collaborate, finance and otherwise endorse such initiatives.

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