

Are America's Medical Marijuana Laws "A Way Out of the Crisis" or Just Bad Loopholes in Bad Laws. The American Experience. Putting Prohibition Ahead of the Patients and Public Safety. Hiding the Costs.

Summary of Speech by Richard Cowan to be delivered at PUBLIC HEARING ON "DRUG REFORM AND REGULATION, A WAY OUT OF THE CRISIS?"

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Given the current economic mess, and the growing recognition that marijuana prohibition is a counterproductive fraud, it is not surprising that people are looking at both the revenue potential from legalizing marijuana and the possible savings from ending prohibition.

At the same time, anti-prohibitionists look at the attempts to bring regulations to replace the black market, and hope that the various American state medical marijuana programs offer a way out of the current public health disaster. Recent developments have encouraged both of these trends.

Consequently, I have been requested to discuss the economic benefits of the legal regulation of cannabis, such as the potential tax revenues if the cannabis market were legally regulated, and the possible savings on medical and/or criminal justice costs due to the introduction of legal medical marijuana supplies in California and other states.

However, such is the absurdity of prohibition, it is extraordinarily difficult to find good numbers for any realistic economic cost/benefit analysis on marijuana prohibition.

First, estimates on the size of the current contraband cannabis market in the US range from \$10 billion to over \$110 billion! Similar unworkable guesstimates have been current in Canada, especially for "BC Bud", which is supposedly somewhere between a \$1 billion and \$7 billion per year. And somewhere between 10% and 90% of that was supposedly exported to the US. (And then there is the rest of Canada.)

Even if we knew the size of today's contraband market, we still would not know what would be the future average selling price of legal marijuana. How many people would grow their own? And how much would be bought at full retail, as in Dutch "coffee shops"? (They reportedly pay The Netherlands about 400 million Euros per year in taxes.) Consequently, we cannot realistically estimate the revenue potential from taxing legal marijuana.

It is also difficult to estimate the savings from allowing the medical use of cannabis. Inevitably, prohibitionists have used the uncertainty of these numbers as a reason to continue prohibition, as if not knowing the lost revenue or added costs caused by a government program is a reason to continue it!

With all of those caveats it is still possible to point to some very significant progress resulting from the public's rebellion against the suppression of cannabis. In California, Colorado and a few other states, some – but not all – of the patients who need medical cannabis have been able to get it. New cannabis products are appearing on the market, and where there is real competition, patients get a wider choice and better prices,

although generally these prices still largely reflect the black market, not some potentially “legal” market.

This is not just theoretical.

Among the various hats I wear, I am also an advisor to Weedmaps.com, whose business model encourages competition among dispensaries. Where there is sufficient “density”, the sellers have to compete on price, service and quality. Unfortunately, the police, politicians and bureaucrats want to minimize the number of dispensaries, which hurts the patients.

Inevitably, some dispensary owners have joined with the prohibitionists in hopes of suppressing competition.

Historically, the American political system was supposed to be an alliance of sovereign states, with a monetary union and a common market. The several states were supposed to be able to operate as laboratories to test different policies. Unfortunately, for good reasons and bad, the central authority has largely overwhelmed the rights of the members. Sound familiar here in Brussels?

Absurdly, the US federal government under Obama continues to deny that cannabis has any medical use whatsoever. Instead, they have chosen to allow some operations that are compliant with state laws, which is essentially a political evasion to appease law enforcement, while acknowledging that legalizing cannabis for medical use is supported by roughly 70% of the American people.

Because of federal opposition doctors cannot prescribe cannabis, only “recommend” it. Also, because pharmacies are under indirect federal control, they cannot sell cannabis, hence the need for cannabis “dispensaries”.

And, most doctors are still afraid, embarrassed or just plain ignorant about cannabis, and are unwilling even to recommend it, although it is legal for them to do so. (I am told that this is still a problem even in the Netherlands.) This has created a new “medical specialty” medical cannabis recommendation services, some of which are more professional than others. It is not at all clear how these measures might be relevant to Europe.

Nonetheless, there are important differences in the various state medical marijuana laws.

For example, only California law allows for cannabis to be used for “any other illness for which marijuana provides relief.” This provision actually mirrors federal laws under which any drug which has been approved for any use, can then be prescribed “off-label” by doctors for any condition, if they think it may provide relief. It has still been widely opposed by prohibitionists who want only very limited access to cannabis, and generally only after patients have suffered their way through every pharmaceutical that might work.

For example, in Colorado, the quack in charge of the state's medical marijuana program will not allow veterans who suffer from Post-Traumatic Stress Disorder (PTSD) to use cannabis, although many already do so illegally.

Sadly, many other veterans are committing suicide as a result of the side-effects of FDA approved drugs, such as Seroquel. Of course, changing the rules in Colorado would be helpful, but Veterans Affairs, the federal department supposed to help the veterans, does not allow its doctors to prescribe cannabis because it illegal under federal law.

How big is the problem? In New Mexico, the state just south of Colorado, PTSD accounts for more patients than any other of the state's 16 eligible debilitating conditions approved for medical marijuana treatment.

In short, opposition by the police and prosecutors, and timidity and ignorance among doctors, have combined to encourage the belief that only full legalization – meaning some regulatory model that removes cannabis from the black market so that adults can buy it as readily as alcohol or over-the-counter medications – will ultimately work

In the final chapter of his seminal work, *Marihuana, The Forbidden Medicine* (Yale University Press; 1993.), Dr. Lester Grinspoon concluded that we will not be able to realize the full medical potential of cannabis until it is completely legal for non-medical use.

Unfortunately, subsequent events have proven that he was all too right.

In January of this year, a spokesperson for the U.S. National Institute on Drug Abuse (NIDA) told the New York Times that the agency does "not fund research focused on the potential medical benefits of marijuana."

Under federal law, the agency must approve all clinical and preclinical research involving marijuana. NIDA strictly controls which investigators are allowed access to the federal government's lone research supply of pot – which is produced and stored at the University of Mississippi.

NIDA spokeswoman Shirley Simson told the Times: "As the National Institute on Drug Abuse, our focus is primarily on the negative consequences of marijuana use. We generally do not fund research focused on the potential beneficial medical effects of marijuana."

What does this mean to someone in Brussels, Bangkok, Bogota, or Barcelona?

NIDA presently directs and funds an estimated 85 percent of the world's research on controlled substances. In other words, the US government controls much of what passes as "science" concerning cannabis!

Consider this comment by the late William F. Buckley, Jr. a very Conservative opponent of the Drug War and a supporter of the complete legalization of cannabis:

"One of the problems that the marijuana-reform movement consistently faces is that everyone wants to talk about what marijuana does, but no one ever wants to look at what marijuana prohibition does.

"Marijuana never kicks down your door in the middle of the night. Marijuana never locks up sick and dying people, does not suppress medical research, does not peek in bedroom windows.

Even if one takes every reefer madness allegation of the prohibitionists at face value, marijuana prohibition has done far more harm to far more people than marijuana ever could."

In short, I think that reformers have to continue to focus on the harm done by prohibition rather than debate the risks in cannabis use. Nothing is harmless for everyone, under all conditions and at all doses, and "harmlessness" – which does not exist – is not the criterion for the legalization of anything. Or NOTHING would be legal!

And if "harmlessness" is to be a criterion for anything, why is it not a criterion for the use of state violence, i.e. prohibition?

What are the psychological risks of cannabis use? Good question. Better question: What are the psychological risks of being arrested?

And then there is the incessant lying.

There is one result of California's medical marijuana boom that is of relevance to our Dutch friends: Lying about California has become as much a part of the prohibitionist party line as lying about the Netherlands has been. And the opponents of medical marijuana dispensaries have much in common with opponents of the "coffee shop system."

We hear a lot about supposedly scandalous abuses of the system in which healthy people are able to get cannabis from "dispensaries", instead of buying it from poly-drug street dealers.

Of course, a few countries, starting with the Netherlands, and now Germany and Israel, have implemented some sort of medical cannabis program in which the plant is available by prescription, and I do hope that other countries will follow suit, but that simply will not work in much of the world.

The Western democracies, like the US and those in the EU, that profess concern about how their policies effect conditions in developing countries need to give very serious consideration to the suffering caused by the suppression of the medical use of cannabis in the poorest (and most authoritarian) countries.

It is totally impossible for these countries to establish costly programs to create exemptions for the medical use of a plant. If cannabis is not completely legal in those countries with impoverished medical programs and corrupt police, "medical cannabis" will be seen as contraband and become a source of even more violence and corruption.

And let me make very clear that “impoverished medical programs and corrupt police” is a term that could be used to describe much of the US.

Moreover, I have every reason to believe that medical cannabis is desperately needed in Mexico, Guatemala, Colombia, and every other country, but the suppression of cannabis in and of itself has created a monstrous public health emergency in the form of mass murders. Cannabis is not a cure for decapitation, but legalizing could prevent many such deaths.

While I strongly support creating whatever programs that will help sick, dying and disabled people get access to cannabis, Dr. Grinspoon was right. Only the full legalization will work in the real world. What is the real priority for these countries medical cannabis policies? Protecting the patients, or protecting prohibition?

At this point let me address a topic that seems to be important in the European debate that is almost never mentioned in the US debate: The various “anti-drug” treaties, starting with the Single Convention. The reason that these treaties are never mentioned in the US is very simple. If the American people were told that we cannot legalize marijuana because of some “UN treaty”, support for legalization would soar overnight! Of course, these treaties were mostly the work of the US prohibitionist establishment, so it makes even less sense for any other country to feel bound by them, and in any case, there have been so many fundamental changes since they were ratified that they are worse than irrelevant.

For example, consider just the direct costs of marijuana prohibition in the US, which arrests over 800,000 Americans per year. Harvard economics professor Jeffrey A. Miron estimates that legalizing marijuana would save \$13.7 billion per year nationally. California’s share is estimated as 1.87 billion.

I don’t doubt Miron’s math, but I am sure that he would agree that the real economic costs go far beyond his calculations. For example, we don’t know the indirect costs of having a marijuana possession arrest record have been on the average future earnings of the 20 million Americans who have been arrested over the last 40 years. For some, it has been a minor inconvenience, while for others it has been disastrous, and we are not talking about “pain and suffering” – or even death – just the actual economic costs.

In any case, calculating the obvious direct costs of law enforcement resources used on marijuana prohibition completely misses the point. Frankly, it is very unlikely that law enforcement budgets will be cut significantly as a result of legalizing marijuana, but the economic *value* of law enforcement resources can never be determined by their direct costs.

In January of 2009, The Seattle Post-Intelligencer carried an extraordinary article by Paul Shukovsky about how the FBI was aware for years of “pervasive and growing” fraud in the mortgage industry that played a major role in creating the present mess, because after the terrorist attacks of 2001, “about 2,400 agents were reassigned to counterterrorism duties.”

Shukovsky reported that even though the Bush Administration “was thoroughly briefed on the mortgage fraud crisis and its potential to cascade out of control with devastating

financial consequences... (it) made the decision not to give back to the FBI the agents it needed to address the problem.”

If law enforcement resources are misused to arrest marijuana users instead of going after violent criminals – or terrorists – or fraudsters – what did they really cost us? And we should not think that even that begins to count the economic value of freedom.