

Prohibition to Progression: The Evolving of U.S. Drug Policy

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Drug policy in the U.S has clearly witnessed a dramatic change; from the prohibitionist approaches of the early 20th century to the legalization of marijuana, the way drugs are regulated has transformed entirely. Drug policy has evolved in the United States for over a century, and raises issues that are now considered controversial to the nation: the protection of individual rights, the appropriate level of government intervention, and federal versus state authority. Drug laws in the United States have evolved from prohibitionist legislation like the 1914 Harrison Narcotics Tax Act, to more progressive measures, as seen through the legalization of marijuana, reflecting a shift towards the prioritization of individual and state sovereignty. Legal challenges to federal prohibition of addictive substances reinforces the idea that states can—and perhaps should—wield greater autonomy in shaping drug laws.

United States drug regulation seems to be in tandem with prevailing societal attitudes and political agendas. That is, government drug policy aligns with the culture of the time period and generally reflects broader social concerns. The early 20th century was defined by its rigid, prohibitionist stance to drug regulation. This approach was fueled by both the temperance movement and societal fears over drug abuse amongst minority populations in particular. The abuse of drugs like opiates, cocaine, and marijuana was increasing in severity in the 1900's, and they were often associated with African Americans, immigrants, and lower-class white citizens. Furthermore, drug use in the media often associated addictive drugs to ethnic minorities. The association of drugs with lower status individuals only exacerbated the distaste for them.

The 1914 Harrison Narcotics Tax Act was one of the first impactful pieces of drug legislation. It emerged to quell the growing concerns over the opiate addiction that predominantly existed in urban and ethnic communities. It controlled the flow of narcotics by essentially criminalizing non-medical drug use. The Harrison Act ensured that doctors would only prescribe these drugs out of medical necessity and would prohibit maintenance doses of them, unless intended to cure addiction. Enforcement of this law even led to the prosecution of doctors who prescribed it too liberally. Narcotics manufacturers and sellers were required to register with the Bureau of Internal Revenue so that the U.S Treasury Department could monitor distribution. In essence, the Harrison Act taxed and regulated the narcotics industry. In the decades that followed, the scope of federal drug regulation expanded. The 1937 Marijuana Tax Act criminalized cannabis through excessive occupational taxation. However, the creation of this Act was arguably not entirely created as a result of medical consensus or scientific research, rather by racial prejudice. The increasing popularity of jazz and swing music drew white elite interest into black communities. Unfortunately, black musicians were often associated with marijuana use. This triggered a fear amongst white elites for the social and moral effects of drugs like marijuana, and associated black communities with drugs. By targeting cannabis, minority groups could also be equally targeted. Harry Anslinger, leader of the Federal Bureau of Narcotics, capitalized on these fears in his campaign against marijuana. To justify prohibition, he often portrayed marijuana as a drug that caused violence and madness, both of which seemed to exist in marginalized populations.

The 1970 Comprehensive Drug Abuse Prevention and Control Act marked a significant landmark in drug policy because it created a modern drug scheduling system. It scheduled drugs based on their uses, including medical, safety, and abuse potential. The War on Drugs gained

momentum in the following years. Richard Nixon labeled drugs as “public enemy number one,” and his administration expanded the scope of the drug control agenda. Nixon established the Drug Enforcement Administration (DEA). Reagan’s administration further expanded drug regulation by establishing minimum sentencing for crack cocaine through the 1986 Anti Drug Abuse Act. The act harshly targeted crack cocaine as opposed to powder cocaine; crack cocaine is primarily found in black communities while powder cocaine in white, wealthy populations. This led to an uprising in imprisonment of Black Americans for nonviolent drug offenses.

By the late 1900’s and early 2000s, public attitudes towards drug policies started to dramatically change. Decades worth of harsh drug laws hadn’t actually decreased drug abuse. The public began questioning whether or not criminalization-based approaches were truly effective. One of the first steps taken in a lenient direction was Proposition 215. Proposition 215 made California the first state to legalize medical marijuana. This policy set a precedent for other states to follow, and by the early 2010s, dozens of states had legalized medical marijuana. This proved that regulated cannabis markets could thrive without wreaking havoc on society. In 2012, Colorado and Washington legalized marijuana for recreational purposes. This directly challenged federal law which classified marijuana as a dangerous drug with a high potential for abuse. Despite this, the federal government, particularly under the Obama administration, refrained from interfering with these state policies. The Department of Justice issued the Cole Memorandum, which instructed prosecutors to be lenient on marijuana policies in states where it was legal, as long as a regulatory regime exists. This was a significant drug policy reform that is more liberal and grants states greater autonomy.

The expanding legalization of marijuana has created, however, significant legal concerns. When federal law and state law differ from each other, federal law will trump over it. However, the federal government shows reluctance in challenging state-legal marijuana programs despite their categorization as a harmful drug. Most cannabis companies are facing a range of challenges, but most notably they struggle to access banking services. As per federal financial regulations, marijuana businesses are unable to use traditional banking systems. This means that the industry is highly dependent on cash transactions. This makes cannabis businesses a target for mismanagement and security flaws. Some argue that federal action should be taken in order to make sure that the legal cannabis industry can operate securely, while other critics prefer harsher regulation policies in general.

Outside of marijuana, drug policies continue to evolve, particularly in response to the opioid crisis. Opioid related deaths have risen in the United States in recent years, especially due to the widespread use of prescription painkillers. Policymakers are attempting to attend to this crisis by advocating for a public health approach as opposed to a criminal justice approach. This could mean that the federal government is looking to expand access to addiction treatment services and create supervised injection sites. States like Oregon have also taken measures to decriminalize drug possession, like with the passage of Measure 110. This reduced criminal possession offenses to a civil violation as opposed to a misdemeanor. This policy reflects a growing consensus that addiction should be treated as a public health issue rather than a criminal justice issue.

Another substance on the decriminalization list are psychedelics like MDMA and psilocybin (magic mushrooms). Psychedelics have been effectively used to treat mental health disorders like depression and PTSD. Cities in California, Colorado, and Oregon, for example,

have actually established successful, regulated psilocybin therapy programs. Many believe that psychedelics could play an important role in the treating mental health disorders, and were too quickly characterized as dangerous based on cultural stigma and bias.

Even with these developments in drug decriminalization and legalization, resistance remains strong. Critics of lenient drug policies argue that they will only encourage substance abuse, especially amongst the youth. The widespread legalization of marijuana, for example, may result in increased rates of addiction; some worry that this may eventually lead to reduced workforce productivity. There are also fears regarding corporate control in the cannabis industry, and how companies seeking to dominate the market could potentially exploit consumers.

The future of U.S Drug policy will most likely be shaped by the debates on marijuana legalization. While the campaign for marijuana legalization is gaining momentum, it is still unclear if and when the federal government will embrace this reform completely and allow full state sovereignty. There is a growing recognition of the need for addiction treatment rather than harsh enforcement of drug policies, suggesting that the U.S is taking on a more humanitarian approach to drugs.

The ongoing conflict between state and federal drug laws highlights the need for greater state autonomy in drug policy decisions. The rigid federal approach that is based on prohibitionist policies, fails to account for the diverse cultural, economic, and public health factors that shape the nature of drugs in America. For example, the Controlled Substances Act which classifies substances under various categories, is increasingly at odds with states that recognize the medical and economic benefits of legalization. For instance, psychedelics and medical marijuana have been widely recognized for their ability to help with mental health disorders. The benefits of these drugs are concealed by the strict regulatory frameworks that

surround them. The legalization of cannabis has created a multibillion dollar industry that generates significant revenue for each respective state. In states like California, marijuana taxes have funded healthcare programs, infrastructure projects, public education, etc. Even traditionally conservative states can perceive the economic benefits provided through these industries. However, the strict federal policy that exists can hinder the potential benefits that could be provided by drugs.

As seen particularly in state legislation, U.S. drug policy is facing a trend of leniency. While the federal government drug policies have historically clung to prohibitionist ideas, this can cover up the potential benefits that can be gained by the decriminalization of drugs. States that have taken the lead on drug reforms can attest to the fact that flexibility in drug policy works, and can even reel in major economic benefits. The success of state-led legislation demonstrates the fact that a one-size-fits-all federal approach is outdated. As the nation continues to develop its drug laws, it is important to empower states to take the lead in order for policies to align with economic and cultural priorities.

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