

Drug Legalization: Rescuing Central America from the Claws of Crime

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I. Introduction

It is undeniable that the drug trade has taken a hold of Central American nations, subjecting its people to the destructiveness of organized crime.⁴ Mexico, the nation which was once the main artery of the drug trade flow toward the United States, made an effort to discourage this illegal business under President Felipe Calderón's term in office. However, tougher policies were unable to eliminate demand, and thus, this drug trade has only spread to the institutionally-weak Central American region. As a result, five out of the seven nations that constitute Central America are now on the United States' list of the 20 'major illicit drug transit or major illicit drug producing countries.'⁵ The unwavering and escalating crime rates brought about by the drug laws are leading to unprecedented violence in this region, with cases such as Honduras that now has the highest murder rate in the world⁶. Given that the illegality of the drug trade proves to be exacerbating crime and problems in the helpless nations of Central America, it is thus necessary to legalize this trade to effectively tackle the social ills battering the region.

In section II we discuss the drug trade and crime rates in Central America. Section III demonstrates the pervasiveness of the drug trade in Central America. Section IV is given over to demonstrating that where there is demand, there will be supply. In section V we maintain that the war against drugs is useless. The burden of section VI is to address an objection to legalization: that it would *increase* crime. In section VII we discuss the ethical implications of these policies. The topic of section VIII is moral values and legalization. We conclude in section IX with the claim that legalization will bring about more benefits than downsides.

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⁴ We would like to thank Guillermo Yeatts for help in making suggestions regarding an earlier draft of this article. All errors of commission and omission lie with the present authors, of course.

⁵ See, eg, Archibold, Randal C. and Damien Cave. March 24, 2011. "Drug wars push deeper into central america." New York Times. Retrieved from <http://ezproxy.loyno.edu/login?url=http://search.proquest.com/docview/858309146?accountid=12168> (accessed March 18, 2013).

⁶ See, The Economist. 2013. "Central America: Out of control." The Economist: The Americas. March 9; <http://www.economist.com/news/americas/21573108-first-two-reports-threat-rampant-violence-central-americas-small> (accessed April 14, 2013).

II. Drug Trade and Crime Rates in Central America

There is an evident correlation between drug trade⁷ and crime in Central American nations. Ever since the drug trade has risen in the region, crime has increased accordingly—and to unprecedented levels. Drug mafias have been driven to Central America due at least in part to stricter policies in Mexico, and they have set up mainly in Honduras⁸. This is posing a major problem for Central American nations because, ‘Whatever the weaknesses of the Mexican state, it is a Leviathan compared with the likes of Guatemala or Honduras.’⁹

It has been precisely this increase in the drug trade that has led to an unprecedented rise in crime. Because this commerce has to be conducted illegally, the costs of producing and delivering product to consumers involves further illegal steps that result in crime. For instance, take the path of a bag of cocaine coming from a laboratory in South America. This bag would likely pass through what has come to be known as the Northern Triangle, namely El Salvador, Guatemala and Honduras, to eventually reach consumers in northern countries such as the United States and Canada. Through its journey, it must be concealed at all costs, regardless of how many people are murdered, assaulted, or led to other illegal activities in the process of getting the drug delivered safely to its destination.¹⁰

What this means for the nations involved in this illegal trade is an increase in crime. Mexico had a murder rate of only 12 per 100,000 people in 2011, and this improvement is in part attributable to the decrease in drug trade-related crime in that country.¹¹ In contrast, since the drug trade has been increasing in Central America, Honduras’ murder

⁷ In our view, the drug trade, per se, is unobjectionable. In terms of boosting crime, it does not do any such thing. What causes murders is not the trade, but its prohibition. Given that marijuana, cocaine, heroin, etc. are prohibited by law, *then* trade in these substances boosts crime.

⁸ See especially, Archibold, Randal C. and Damien Cave. March 24, 2011. “Drug wars push deeper into central america.” New York Times. Retrieved from <http://search.proquest.com/docview/858309146> (accessed March 18, 2013).

⁹ See, eg, Marien, Michael. 2011. "The Drug War Hits Central America." World Future Review 3, no. 1: 177. Academic Search Complete, EBSCOhost (accessed March 18, 2013).

¹⁰ See generally, Bolton, Gene. October 16, 2012. “Drug Legalization in Latin America: Could it be the Answer?” Council on Hemispheric Affairs. <http://www.coha.org/drug-legalization-in-latin-america-could-it-be-the-answer/> (accessed March 18, 2013).

¹¹ See especially, Archibold, Randal C. and Damien Cave. March 24, 2011. “Drug wars push deeper into central america.” New York Times. Retrieved from <http://ezproxy.loyno.edu/login?url=http://search.proquest.com/docview/858309146?accountid=12168> (accessed March 18, 2013).

rate has escalated to 66.8 per 100,000 people as of 2011, giving it the highest level in the region. Every single nation in Central America has seen a sharp increase in crime rates, which have grown alongside the drug trade.¹² It is therefore evident that this activity is a major contributor to the unprecedented crime rates in the region.

Drowning helplessly in crime, people in Central America have taken their safety into their own hands. As in the rest of the region, Honduran citizens are beginning to form neighborhoods enclosed by high perimeter walls, with security guards and entry-phone systems. However, only those belonging to the working-class or higher can afford such security, which leaves the poor districts at the mercy of criminals.¹³

III. The Undeniable Pervasiveness Of The Drug Trade in Central America

Given that this trade is illegal, it has to be conducted behind closed doors, making the business much more costly, dangerous and therefore profitable.¹⁴ The most affected are those nations with vulnerable institutions and high rates of poverty, given that their leaders can be easily corrupted and residents easily lured into the profitable drug trade. This trade has infiltrated to such an extent in Central America that the region is no longer only a transit point for drugs, but it has also become a selling point. This is due to the fact that drug cartels are paying people with drugs that they cannot only resell, but also consume. Thus, there is the creation of a local market by drug dealers. In Honduras, they use the empty jungle as a landing point for 40 percent of the cocaine that is set to be delivered to the U.S., and they also pay their local helpers in the form of drugs. This, in turn, increases the overall demand in this region.

This method not only leads to an increase in the consumption of drugs, but also to addiction. Following addiction has come a boost in the demand for rehabilitation centers, leaving the few centers available completely full and unable to offer good quality service that actually rehabilitates patients and reintegrates them into society. This means many addicts are left without the possibility of obtaining treatment at all. The inability of Central American institutions to adequately address addiction is a hindrance to economic progress and the illegality of the drug trade is only worsening the situation by encouraging untreated addiction.

¹² See, eg, Marien, Michael. 2011. "The Drug War Hits Central America." *World Future Review* 3, no. 1: 177. Academic Search Complete, EBSCOhost (accessed March 18, 2013).

¹³ See, Archibold, Randal C. and Damien Cave. March 24, 2011. "Drug wars push deeper into central america." *New York Times*. Retrieved from <http://ezproxy.loyno.edu/login?url=http://search.proquest.com/docview/858309146?accountid=12168> (accessed March 18, 2013).

¹⁴ It serves as an entry restriction. Relatively few people have the necessary skills and risk-taking characteristics. It is the same with alcohol. During its prohibition, profits were gigantic. Before and afterward, there is no reason to think they would be higher than in any other "ordinary" industry.

At the current rate, addiction will only become an issue of greater magnitude. Between 250 and 350 tons of cocaine was trafficked through Guatemala in 2008, which was three times greater than the amount trafficked through both Mexico and the Caribbean combined¹⁵. This is a stark contrast to 10 years prior, when the entire Central America combined trafficked less cocaine than both Mexico and the Caribbean. What is worse, the drug trade has only risen in the region since then. Due to this drastic jump, Guatemala now faces an increase in corruption within its prisons and its government, which have both been infiltrated by the drug trade mafia. Socioeconomic ills as such are also faced by the rest of Central American countries.

The plague of institutional corruption feeds on the very illegality of the drug trade. As drug dealers are threatened because their business is illegal, they vie to avoid the obstacles of the trade. This drives them to develop corrupt ties in their societies to avoid getting caught. As crime increases in Central America, more government officials are being lured into the drug trade because it is more profitable than fulfilling their duties, and this is especially true of policemen given their relatively low salaries.¹⁶ This is only inhibiting legitimate law enforcement from occurring, as in Honduras where few crimes are investigated or punished even though the murder rate has doubled in recent years. In fact, the high profits from drugs, which increase as this business becomes more difficult, are luring officers into leaving their positions.¹⁷

Many of those who have not quit the force have decided to compliment their monthly wages by demanding a “war tax” from citizens with little political power, such as small business owners or taxi drivers. Overall, this ultimately discourages the progress of society and further increases the rate of crime. Without institutions that adequately enforce the law, there is virtually no one left to protect these defenseless citizens from both organized and non-organized crime, luring even more locals to participate in the drug trade and encouraging more dealers and consumers to establish themselves in the region. Prohibition is causing a “regional spiral” because ‘drugs and money in Central America have become hard to resist.’¹⁸

¹⁵ See especially, Marien, Michael. 2011. "The Drug War Hits Central America." *World Future Review* 3, no. 1: 177. Academic Search Complete, EBSCOhost (accessed March 18, 2013).

¹⁶ The monthly wages of officers are approximately of \$400 USD. This is not sufficient to supply their needs, which is why they resort to charging citizens the “war tax,” known locally as “impuesto de guerra.”

¹⁷ See, eg, The Economist. 2013. “Central America: Out of control.” *The Economist: The Americas*. March 9; <http://www.economist.com/news/americas/21573108-first-two-reports-threat-rampant-violence-central-americas-small> (accessed April 14, 2013).

¹⁸ See, Archibold, Randal C. and Damien Cave. March 24, 2011. “Drug wars push deeper into central america.” *New York Times*. Retrieved from <http://ezproxy.loyno.edu/login?url=http://search.proquest.com/docview/858309146?accountid=12168> (accessed March 18, 2013).

IV. Where There Is Demand, There Will Be Supply

Due to the increasing traffic of drugs through Central America, the trade is spreading like a virus and attaching itself to legitimate institutions and businesses in the region. Drug trade organizations, also known as DTOs, are exploring ways to expand their business to avoid getting caught by law enforcement agencies and to continue to supply the vast demand that exists around the world. To do this, DTOs are seeking new ties to increase their profits so that they can use the power provided by their vast funds to further their illegal pursuits.¹⁹

One example of additional business ventures that DTOs engage in is kidnap-ransoming. It is estimated that this can earn DTOs up to \$500 million annually.²⁰ Such crimes lead people to live in fear, and they encourage Central Americans to seek progress and respect of their human rights in other countries such as the U.S., often leading them to become undocumented migrants. DTOs are profiting from this, too, having installed a lucrative business of smuggling migrants illegally past the U.S. border. According to the Guatemalan Human Rights Commission, prior to the organized crime led by DTOs, only individuals provided this service and they could smuggle up to 20 people at a time. Now that DTOs have monopolized the migrant smuggling business, far more migrants are being smuggled and those who choose not to cross the border with DTOs are killed in their attempts to cross by other means. Today, the U.N. report on crime globalization estimates that this industry earns approximately \$6.6 billion, awarding more power to DTOs.²¹

DTOs are not only engaging in further illegal businesses²² as such to increase their profits and power in the Central American region. These organizations are also infiltrating legitimate businesses by offering greater profits to owners. The deal is that if the business owners and officials help DTOs hide their merchandise to be able to deliver it safely to its destination, they will receive great financial or commercial benefits for their help. That is the carrot. But there is also the stick: everyone from police officers to taxi

¹⁹ Bolton (2012) uses the example of PEMEX, the Mexican state-owned oil company. It is reported that this firm's local committee has lost nearly 40 percent of its production, which is equivalent to \$750 million USD, due to its oil being stolen by drug cartels that control the territory.

²⁰ Bolton estimates that kidnap ransoming is valued between \$200 million and \$500 million USD annually.

²¹ Bolton, *op. cit.*

²² It is sometimes argued that it is futile to legalize drugs; the criminals who now run this business will merely switch to other lucrative illegal practices, such as kidnap-ransoming, murder incorporated, smuggling migrants, car-jacking, etc. But these acts are *now* occurring, under prohibition. The causation is likely much the other way around. Instead of legalization shifting criminals to other illegal pursuits, it is the drug war, with its truly gargantuan profits, that enables this element to expand its base of operations.

drivers who refuse to cooperate are being killed.²³ As explained by Costa Rica's drug czar Mauricio Boraschi, DTOs are buying many assets -- farms, means of production, transportation -- to be able to deliver their drugs to their final destination without the interference of law enforcement.²⁴

Not only is corruption infiltrating businesses and law enforcement institutions, but it is also doing so with regard to the media, which is supposed to be the "watchdog" reporting these instances. Central America has seen an increase in targeted assassinations of journalists, with Honduras as the most salient case. In that country alone, at least 25 journalists have been killed between 2009 and 2012, and although unclear, their deaths are often linked to corruption and drug trafficking. Without a voice or means of defense, it is evident that the region cannot put up a fight against the drug lords, and thus, the only effective solution that remains is to legalize drugs.

V. The Useless War Against Drugs

One of the most basic arguments to the contrary is that the drug war has not failed; it is not time to back down. Supporters do not realize that drug consumption has actually decreased since the drug war started in the 1970s. This change in consumption is attributed to effective measures against drugs (Walters, 2012).^{25 26}

However, Walters' argument is not only unsound because there has been an increase in the use of certain drugs (crack cocaine and methamphetamine). It also does not take into account that prohibition makes it difficult, no, virtually impossible, to attain accurate information.²⁷

²³ The Economist (2013) estimated 60 taxi drivers were killed in 2012 after extortion attempts, as were 70 police officers. The latter face extortion as well, which has resulted in cases such as the teenage son of a former police chief being shot and killed.

²⁴ Ibid

²⁵ See, eg, Walters, John P. 2012. "Legalized Drugs: Dumber Than You May Think. The Weekly Standard. http://www.weeklystandard.com/articles/legalized-drugs-dumber-you-may-think_642178.html (accessed April 22, 2013).

²⁶ Walters was the drug czar for the George W. Bush administration. He explains Americans use drugs at lower rates today since systematic measurement began in 1979. According to him, Marijuana use has decreased the most, having lowered by almost half since its peak in the 70s.

²⁷ And it is also important to remember that the "consumer" is not the same as an "addict". It is one thing to consume a small amount of drugs on one occasion; it is an entirely different thing to be an actual addict. What should be considered the greater social problem: the increase of consumers (who may indulge only because it was forbidden), or the increase of addicts? Of course, the latter. In the United States there were 20 million people who tried drugs once in their lives in 1989, but only 25 percent who engaged in this practice in the previous month. And of those 25 percent, only 10 percent are considered drug addicts (Ostrowski, 1989). This distinction is important because resources must be focused on the by far more serious problems.

Judging from the high rates of drug traffic and its related crime in Central America, there must still be a considerable demand that all the supply passing through the region is aiming to reach, and by no means do all of the consumers participate in surveys. In consideration of these difficulties, it is hardly convincing to claim that the war against drugs is effective in reducing the size of this market. Given the alarming rates of crime in Central America, it is clear that prohibition has in fact been a complete failure instead. Every time that 'a successful interdiction occurs, drug prices and profits rise, and this only strengthens the drug gangs'.²⁸ The war against this trade ultimately only serves to encourage greater profits, strengthening DTOs and further encouraging trade itself. The Mexican experience is also one of the best examples of why drug criminalization is not working. In 2006 murders related to drug trafficking were only 62. This number grew to 16,700 in 2011. This is an increase of 26,835 percent with an average annual growth of 4,389 percent. And the number of crimes will likely continue growing if prohibition remains. The government spends billions of dollars to fight against this war, but crime and death increase along with the expenditure; so no efficient result can be seen. It is not only true that the opportunity cost of using those resources in other ways is enormous.²⁹ It is also the case that the funds spent on drug prohibition make a negative contribution to our society and economy.

VI. Crime from Legalization

Those who oppose legalization also believe that crime would ensue from such a legislative act. They argue that users would commit crimes by being under the influence of drugs. They add that consumers could not only be dangerous in interactions with others but even more so in operating cars and other vehicles.³⁰ Prohibition supporters argue that an "enormous increase in traffic fatalities"³¹ would surpass the amount of lives that would be saved from the decrease in crime after the legalization of drugs. However, if drugs were to be legalized, they would be regulated by highway authorities just as alcohol is now, a substance that can also cause similar impairment. Just as motorists cannot legally drive under a significant level of alcohol intoxication, the same would apply in this case. With such policies in place, the instances of operating vehicles under

²⁸ See, Block, Walter. January 18, 2007B. "Objections to drug legalization unfounded" The Maroon. <http://www.loyolamaroon.com/2.8031/objections-to-drug-legalizations-unfounded-1.1125956#.UWnA7iv5lOE> (accessed April 13, 2013).

²⁹ This brings to mind, in the view of many people, expenditures that the government could make in terms of welfare payments, support for the environment, military expansion, etc. However, there is also the opportunity cost of lowering taxes, allowing people to keep more of their hard-earned money for themselves. We must never lose sight of that alternative.

³⁰ See, eg, Kane, Joseph P. 1992. "The challenge of legalizing drugs." *America* 167, no. 3: 61-63. Academic Search Complete, EBSCOhost (accessed March 18, 2013).

³¹ See, Block, 2007B, also see Block, 2009.

the influence of drugs would be discouraged, and there would not be any likely increase in the proportion of traffic fatalities.

Legalizing drugs could actually decrease other associated crimes. When alcohol was prohibited, dealers in those products would engage in similar crimes as drug dealers engage at present. Now that alcohol is legal there are legitimate companies that produce, package and sell these beverages. These businesses pay taxes, just as any other legitimate firms,³² and they follow advertising regulations to discourage use by children and abuse by anyone, along with policies to handle intoxication. With legalization, the overall crime caused by the drug trade would decrease, just as it happened when alcohol was legalized. As Kane (1992) describes, 'Illegal drugs net astronomical profits for which people are willing to kill,'³³ and thus, legalizing drugs "would virtually eliminate the crimes that terrify us" along with other social ills brought by the illegality of the trade.

VII. Ethics, Government and Drugs

Intellectuals and politicians deliberate over which system is more efficient: legalization or prohibition. But beyond efficiency, is it ethical to prohibit drug consumption? It is important to analyze the issue of morality because if a measure is efficient but unethical it cannot be a valid solution. Efficiency alone is insufficient. Of course, addictive drugs have a bad press. Nevertheless, the fact that some substance harms the body does not mean the act of consumption is improper. Each individual³⁴ should be able to decide for himself whether to have a longer, vice-free and healthy life or a shorter, more indulgent one.

It is important to point out that in a free society we will have to accept that three things may occur:

- (a) Things we like
- (b) Things we do not like that violate our individual rights
- (c) Things we do not like but that do not violate our individual rights.

³² The present authors support legalization despite this fact, not because of it.

³³ See, Kane, Joseph P. 1992. "The challenge of legalizing drugs." *America* 167, no. 3: 61-63. Academic Search Complete, EBSCOhost (accessed March 18, 2013).

³⁴ We speak here, of course, only of adults. Children should be under adult supervision. And, for a parent to allow a child access to addictive drugs would be abusive. Thus, a law prohibiting drugs to children (as with alcohol) would require a very different analysis. As for adults, treating them like children is contrary to the democratic ethos of most western cultures. For, if an adult is so stupid as to require the nanny state to prohibit him from utilization of these substances, he is not smart enough to be given the vote. And, if he is judged warranted to have access to the ballot box, it is logically inconsistent to treat him as a child with drug (or alcohol) prohibition.

Only with regard to scenario (b) can the institutions of a free society intervene in defense of an individual. There is simply no legitimate place for government in scenario (c). If a person wants to consume drugs in the privacy of his own home, and he does not violate any third party rights we must ask ourselves: Where is the crime? There is no victim. Hayek (1960) made this point very well: 'Freedom necessarily means that many things will be done which we do not like. Our faith in freedom does not rest on the foreseeable results in particular circumstances but on the belief that it will, on balance, release more forces for the good than for the bad.'³⁵

In this regard, no truer words were ever said than these: "The act of getting high does not constitute a crime since that fact shall not prejudice third parties' rights"³⁶. The human action of consuming a drug can be considered a vice but not a crime,³⁷ to the extent that it does not violate rights of other persons. And vice is not equal to crime. In the first case the individual harms only himself, in the second there is another person involved, a true victim.

Of course, an obvious question arises: What happens if an individual gets high and then commits a crime? Individuals are free to act, but every action brings responsibility. So, should the forces of law and order do something if someone gets high and then, for example, commits a crime?

We can observe two positions here: (1) A free market with the absence of government or (2) A limited government.

In the first case, the free market will probably spontaneously generate a private police or private security industry.³⁸ Because of profit and loss incentives, private solutions tend to be far more effective than public ones. If it is the case, then the free market will provide a more efficient security for preventing crimes.³⁹

³⁵ See especially, Hayek, Friedrich. 1960. *The Constitution of Liberty*. Ed. Gateway. p. 31.

³⁶ See, eg, Benegas Lynch, Alberto (h). 2006. *La Tragedia de la Drogadicción: Una propuesta*. Ed. Lumiere. p. 179.

³⁷ See, Spooner, Lysander. 1875. *Vices Are Not Crimes: A Vindication Of Moral Liberty*. <http://www.mises.org/books/vicescrimes.pdf>

³⁸ See, eg, Tannehill, Morris and Linda Tannehill. [1970] 1984. *The Market for Liberty*, New York: Laissez Faire Books. See also, Tinsley, Patrick. 1998-1999. "With Liberty and Justice for All: A Case for Private Police," *Journal of Libertarian Studies*, Vol. 14, No. 1, Winter, pp. 95-100; http://www.mises.org/journals/jls/14_1/14_1_5.pdf. See also, Woolridge, William C. 1970. *Uncle Sam the Monopoly Man*, New Rochelle, N.Y.: Arlington House.

³⁹ There are actually more private than public police in numerous countries and in the world as a whole. See on this Bayley and Shearing, 1996; Evans, 2011; Nalla and Newman, 1991; Shearing and Stenning, 1988; Swol, Karen. 1997

In the second case, government can take three different courses of action: (a) Offensive; (b) Defensive; (c) Preventative.

Let us posit a limited government. Which course of action would it take? The offensive government violates individual rights. It is a nanny state. It seizes resources from some individuals to benefit others. This is the government that fights the war against drugs. But history gives us no cause for optimism down this path. In 1839 the Chinese Communist Party declared war against opium. They said that in two years opium would be eradicated. The objective was “successful” but, individual rights were violated on a wholesale basis and perhaps millions of people died.⁴⁰ A measure that brings so much grief cannot be considered “successful.” Offensive governments meddle in private affairs where they have no proper business. Penalties are usually based on the weight of the drug and not on its potency, which increases the incentive for drugs to become more and more dangerous.⁴¹

Governments cannot achieve their goals. They continue violating more and more property rights in an inept effort to do so. They listen in on phone conversations without warrants so as to interdict shipments. They encourage people to spy and denounce each other in exchange for money. Informers are paid for such activities.⁴² Some informers earn millions of dollars. The result: fathers denouncing their children and vice-versa; friends turning against each other. It seems that the war against drugs has generated mercenaries instead of soldiers. Do we really want our society set upon the path followed by East Germany and the Soviet Union?

All this is because governments cannot win⁴³ that war. Where is the limit? In spite of the inefficiency of governments, why should it be their role to take care of us in this matter? As Szasz points out:

“... the government (...) is supposed to be our servant, not our master; because it is expected to treat us as adult moral agents, not as irresponsible children or incompetent

⁴⁰ See especially, Sorman, Guy. 1993. *The Immigrant and the Drug Addict*. Ed. Vikas.

⁴¹ See especially, Benson, Bruce L. 1996. “Illicit Drugs and Crime”. *The Independent Institute*: http://www.independent.org/publications/policy_reports/detail.asp?type=full&id=2

⁴² See, Duke, Steven. 2000. “The Drug War on the Constitution”. *After Prohibition: An Adult Approach to Drug Policies in the 21st Century*. 2000. Ed. Cato Institute. pp. 41-59.

⁴³ Every time the statists win a battle, they weaken their side in the war. When the government interdicts a shipment of drugs and burns it (often this creates graft as the police sell the proceeds privately), the price of this economic good rises. *Ceteris paribus*, more profits may now be earned in the drug trade than before. But this just *empowers* the drug gangs. Imagine if every time an army dropped a bomb on an enemy it *strengthened* the latter. It would not take too much intelligence to see they could never win the war that way.

mental patients; and because we possess our inalienable rights as persons, not as the beneficiaries of the magnanimous state.”⁴⁴ ⁴⁵

The government is fighting an un-winnable war. And because it cannot prevail, it continually increases its violation of our personal and private property rights. In Sorman’s words, “The war against drugs seems to have created two kinds of addicts: addicts under the influence of their drug and bureaucrats under the influence of their war.”⁴⁶

A defensive government will be one that limits itself to punishing guilty individuals and compelling them to compensate victims. For example, if A steals a watch from B then the government punishes “A” and brings amends to “B.”

Finally, a preventive government would be one that tries to prevent crime before it happens. This case is different from a defensive government where individual “A” could be pointing a gun at individual “B”’s head and government can do nothing because it only acts in a defensive way. On the other hand, those who promote a preventive government will assert that government must act to prevent individual “A” from shooting individual “B.” In spite of legalization as the best option to solve the drug dilemma, a preventive government would do much less harm than an offensive one.⁴⁷

VIII. Moral Values and Legalization

What of the argument that legalizing something will send the message that our society should go ahead and “have at it?” According to Wehner drug legalization would send the signal that “Drug use is not a big deal.”⁴⁸ He recoils in horror from any such sentiment and concludes that legalizing drugs would be an irresponsible stance on behalf of government leaders. He argues that prohibition serves to protect children and leads them to become responsible adults. He explains that it is “the task of parents, schools, religious institutions and civic groups” to protect children and help shape their character by standing against drug legalization. He further argues that drug use is problematic “because of what it can do to the mind and soul.”

⁴⁴ See, Szasz, Thomas. [1992] 1996. *Our Right to Drugs*, New York: Syracuse University Press. p. 96.

⁴⁵ The nanny state is profoundly at odds with the concept of democracy. If people are so stupid that they need a guardian to control their lives, how can they be entrusted with the political vote? And if they can be, does that demonstrate that they are capable of running their own lives? How can they be allowed to control an entire country, when they are incapable of self-control?

⁴⁶ See, Sorman, Guy. 1993. *The Immigrant and the Drug Addict*. Ed. Vikas. p. 299.

⁴⁷ This is true if the preventive government does not cross the boundary and becomes an offensive state.

⁴⁸ See, Wehner, Peter. 2013. “GOP should stand firm against drug legalization.” *The Washington Post*: WP Opinions. http://articles.washingtonpost.com/2013-04-02/opinions/38216087_1_drug-legalization-drug-czar-gil-kerlikowske (accessed April 21, 2013).

While it is indeed undeniable that drugs can harm “the mind and soul,” the argument to legalize them is not at all synonymous with advocating their use. Legalizing drugs stands for making the trade and consumption of drugs legal to diminish the consequences that stem from their very illegality. The purpose of legalization is not to encourage the use of drugs. According to Block, ‘Abortion, gambling, prostitution, alcohol and homosexuality are no longer criminal offenses in civilized societies,’⁴⁹ and this has not encouraged a vast majority of our population to engage in any of these things. In fact, keeping drugs illegal attaches the lure of the forbidden to drugs, which actually makes them more tempting to society. With legalization, sellers would no longer find a need to lure youth into addiction, just as tobacco and alcohol sellers do not resort to any such thing in order to sell their products.

Initially, with the legalization of tobacco and alcohol, demand did increase, and this demand did not come solely from new addicts, or old ones, increasing their dosages. Rather, there was previously an issue of undercounting. Once legal, social users could for the first time feel comfortable admitting they consumed these products. When it comes to “newbie users” however, the legalization of drugs would not encourage many to begin using drugs. As Block argues, ‘Anyone who wants to, can shoot up right now’⁵⁰ even if drugs are illegal, so it is not necessary for drugs to be illegal to discourage people from using them.

There need not be any special laws set up to protect adults from starting to use newly legalized drugs, nor from increasing their usage, any more than such provisions were needed for beer, wine and liquor. Under legalization, these would all become private concerns, to be dealt with by psychologists, psychiatrists, and groups such as Alcoholics Anonymous and Narcotics Anonymous. In any case, if the “lure of the forbidden” effect is strong enough, drug use and abuse could be discouraged much more effectively than under prohibition.

The “War on Drugs” is such a dismal failure that the authorities cannot even prevent them from being used in maximum-security prisons. If they cannot do that, how can they even hope to do so for the society at large? In the United States, when President Nixon declared war on drugs in 1970, for years traffickers, users, transporters, etc., were put in jail. But the problem was that new inmates kept arising. More and more prisons were built to handle the greater supply of law violators. And this happened because

⁴⁹ See especially, Block, Walter. January 18, 2007B. “Objections to drug legalization unfounded” The Maroon. <http://www.loyolamaroon.com/2.8031/objections-to-drug-legalizations-unfounded-1.1125956#.UWnA7iv5IOE> (accessed April 13, 2013).

⁵⁰ See, Block, Walter. February 17, 2007C. “Rejoinder to Prof. Perlstein on Legalizing Drugs in New Orleans” LewRockwell.com. <http://www.lewrockwell.com/block/block74.html> (accessed April 13, 2013).

demand for drugs is so inelastic that profits are very high (because of the risk). There is no way government can win this war, because new traffickers will appear, lured by these gigantic profits. It is akin to fighting a hydra headed monster: you chop one head off, and another appears. On the other hand, legalization could bring respect, education and therapy for the better management of drugs in our society, as opposed to the current state of war that exists with illegal drugs.

IX. Legalization: More Benefits Than Downsides

With such pervasive crime battering the Central American region, the solution cannot possibly be to strengthen law enforcement and continue the futile and vicious war against drugs. As evidenced by the deep degree to which DTOs have engrained themselves in the social tissue of Central America, it is impossible to hold that even stricter laws are the answer. DTOs are only able to be so successful in their pursuits because of the exorbitant revenues they earn from the drug trade— funds which are only increased as it becomes more difficult for them to traffic drugs.

Walters argues that many nations have tried legalization in the past, only to return to prohibition.⁵¹ Examples he cites include Sweden, Britain, Portugal and even the Netherlands. Yet, it is evident that drug legalization has more benefits for the majority, and especially for the poor. This only demonstrates the error of those jurisdictions that have taken this tragic step backwards.

More importantly, it is necessary to acknowledge that unless all nations legalize the drug trade, black markets will continue to exist and people will still engage in crime. According to Bolton,⁵² keeping drugs illegal only encourages DTOs to become more deeply engrained in the social tissue of the most vulnerable nations, increasing crime rates and decreasing the quality of life even further. Additionally, addicts and dealers will flock to those nations where the trade is proliferating, such as Central American nations, making conditions worse for this region. If drugs remain illegal, people involved in the trade will only contribute to further increasing crime rates, but if they are legalized, much of the impetus would be taken out of criminal behavior.⁵³ There is also an economic benefit for the majority aspect, as Kane notes, ‘Americans wisely rejected the prohibition

⁵¹ See especially, Walters, John P. 2012. “Legalized Drugs: Dumber Than You May Think. The Weekly Standard. http://www.weeklystandard.com/articles/legalized-drugs-dumber-you-may-think_642178.html (accessed April 22, 2013).

⁵² See, Bolton, Gene. October 16, 2012. “Drug Legalization in Latin America: Could it be the Answer?” Council on Hemispheric Affairs. <http://www.coha.org/drug-legalization-in-latin-america-could-it-be-the-answer/> (accessed March 18, 2013).

⁵³ Presumably, DTOs fear legalization more than anyone else, with the possible exception of other beneficiaries, such as jailors, policemen, etc.

of alcohol and we are not considering it for tobacco because we realize the waste of money involved.⁵⁴

In the view of those against drug legalization, the daunting situation in Central America has become another bad reason to legalize drugs. However, this is in fact a compelling reason that makes legalization even more urgent. It is unrealistic to expect vulnerable Central America to deny participating in the profitable industry of the drug trade when the majority of its people live in conditions of poverty, and they struggle to find any sources of legal income. It is therefore urgent to legalize drugs—yet not only for the sake of Central Americans to live in peace, but also for the reduction of crime and social ills across the globe.

We have made the case that drug prohibition has been a disaster wherever it has been tried. However, accuracy requires us to concede that this policy does have some benefits and beneficiaries. Although many criminals die in this industry, successful ones do indeed gain financially. As well, based on their acceptance of bribes from drug lords, many policemen, judges, politicians, army officers and others in a position of trust have become very rich as well.⁵⁵ The prison industrial complex has also grown, creating lucrative jobs as wardens, guards, constructing jails, etc. Finally, Hollywood, novelists, book publishers, magazines have all profited from the drug war: without it many a movie, play, story, would have been bereft of a topic. Yet, as we have argued throughout, world-wide drug legalization is the definitive step that will bring peace to those in suffering from the drug trade and the war on drugs itself.

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⁵⁴ See, Kane, Joseph P. 1992. "The challenge of legalizing drugs." *America* 167, no. 3: 61-63. Academic Search Complete, EBSCOhost (accessed March 18, 2013).

⁵⁵ However, often these payments are accepted under duress, so we cannot infer benefits to the recipients.

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