

# Prohibition of cannabis

Is not achieving its aims in the US, and may even worsen outcomes



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A new report, *Tools for Debate: US Federal Government Data on Cannabis Prohibition*, focuses on the effects of the enforcement of drug prohibition in recent decades in the United States.<sup>1</sup> It shows that efforts to suppress the selling and use of cannabis increased substantially. Adjusting for inflation, the US federal antidrug budget increased from about \$1.5bn (£0.95bn; €1.1bn) in 1981 to more than \$18bn in 2002. Between 1990 and 2006, annual cannabis related arrests increased from fewer than 350 000 to more than 800 000 and annual seizures of cannabis from less than 500 000 lb (226 798 kg) to more than 2 500 000 lb. In the same period the availability of illicit cannabis and the number of users rose: the retail price of cannabis decreased by more than half, the potency increased, and the proportion of users who were young adults went up from about 25% to more than 30%. Intensified enforcement of cannabis prohibition thus did not have the intended effects.

The report then turns to “unintended consequences” of prohibition, arguing that both in the US and in countries supplying the markets of affluent countries, drug prohibition contributed to increased rates of violence because enforcement made the illicit market a richer prize for criminal groups to fight over. The report concludes with a brief discussion of the alternatives to prohibition—decriminalisation and legalisation—arguing that experience with regulation of alcohol and tobacco offers many lessons on how a regulated market in cannabis might best be organised.

The report’s conclusions on the ineffectiveness in the US of “supply control” (the conventional term for enforcement of drug prohibition) are in line with reviews of the evidence from a global perspective.<sup>2 3</sup>

*Tools for Debate* joins a bookshelf of reports from the past half century describing perverse effects of drug prohibition and charting ways out of the maze. So far, no government has dared to follow the thread all the way. Now, with the proposition of setting up a legal regulatory system on the California ballot in November,<sup>4</sup> the international drug prohibition system may find itself facing a non-violent popular revolution. Half a century after the present international system was consolidated by the 1961 Single Convention on Narcotic Drugs, the drug prohibition wave may finally be ebbing.

There is a precedent. A wave of alcohol prohibition swept over the international scene a century ago, with 11 countries adopting prohibition between 1914 and 1920.<sup>5</sup> Eventually the wave receded, with US repeal in 1933 marking the end of alcohol prohibition at the national level. Prohibition was replaced by restrictive regulatory regimes,<sup>6</sup> which restrained alcohol consumption and problems related to alcohol until these constraints were eroded by the neoliberal free market ideologies of recent decades.<sup>7</sup>

Because the international drug prohibition movement was originally an offshoot of the movement to prohibit alcohol,<sup>8</sup> a detailed examination of the experience with alcohol is particularly relevant. The RAND modelling of the effects of legalising marijuana in California projects an increase in consumption, probably a substantial one,<sup>9</sup> but experience with the repeal of alcohol prohibition shows that with substantial state regula-

tion, consumption can be constrained. However, the alcohol control regimes of that time were far more restrictive than they are now in the United Kingdom and in many English speaking jurisdictions.

Analysis shows that these strong alcohol regulatory systems limited the harms from drinking in the period before about 1960, but the lessons have not been applied to regulating cannabis or other drugs. In some places, state control instruments—such as licensing regimes, inspectors, and sales outlets run by the government—are still in place for alcohol and these could be extended to cover cannabis. For instance, state retail monopolies for off sale of alcohol in Canada (except Alberta), the Nordic countries (except Denmark), and several US states would provide workable and well controlled retail outlets for cannabis, as has been proposed in Oregon.

The US has a particular hurdle with respect to regulating cannabis: US court decisions on “commercial free speech” question restrictions on advertising and promotion of a legal product.<sup>10</sup> Barriers also exist at an international level. Psychoactive substances such as cannabis (and alcohol and tobacco) should be exempted from World Trade Organization free trade provisions.<sup>11</sup> The requirements in the drug control treaties for criminalisation of non-medical production and use need to be neutralised, at least with respect to domestic markets. For countries following this thread, adopting a new framework convention on cannabis control could allow a regulated legal domestic market,<sup>3</sup> while keeping in place international market controls as a matter of comity (whereby jurisdictions recognise and support each other’s internal laws).

The evidence from *Tools for Debate* is not only that the prohibition system is not achieving its aims, but that more efforts in the same direction only worsen the results. The challenge for researchers and policy analysts now is to flesh out the details of effective regulatory regimes, as was done at the brink of repeal of US alcohol prohibition.<sup>12</sup>

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