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Addicted to the Drug War

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Now that it is being rededicated as part of the war on terrorism, the hapless

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war on drugs will claim even more liberties and lives than it already has. While omnibus antiterrorism bills were being rammed past pliant populations in the U.S., Canada, and Britain, Tony Blair got on the drug tack by ominously pointing out that the avails from drugs finance roughly 25 percent of the world's terrorist activity.



Blair, whose New Labor is committed to a "curious blend of moralism and utilitarianism" (TLS, September 14), one that has enshrined in law coercive drug testing and compulsory treatment protocols, proclaimed that fighting terrorism must extend to the war on drugs. This implies that the war effort will entail a renewed assault on individuals for their consumption choices.

Last year alone, roughly 1.5 million Americans were arrested on drug charges, most of them for marijuana possession. Sure enough, since September 11, DEA agents have stepped up the savage crackdowns on infirm medical-marijuana users.

There is no denying that the drug trade is a source of revenue for al-Qaida and for armed insurrections the world over. However, had governments not outlawed these substances, profits would not be excessive, and criminals would be looking elsewhere for a quick fix. Had the trade not been outlawed, the \$400 billion worth of illegal trade per annum would not be in the hands of a criminal class whose market share is captured with guns.

The avails from drugs, moreover, would be much less likely to be funneled to unsavory causes if the trade were in the hands of legitimate law-abiding business. It is ironic that terrorists owe a debt of gratitude to governments for the solid financial base they enjoy.

Besides indirectly sponsoring terrorism, governments terrorize their citizens in more direct ways. While gangsters fight turf wars with other gangsters in order to maintain their upper hand in the lucrative market of illegal drugs, they don't go out of their way to assault their bread and butter, their drug-consuming clients. Drug dealers are not responsible for the incarceration on any given day of some 500,000 adults--100,000 of whom are nonviolent--in U.S. jails for drug taking. It is not drug lords that carry out unconstitutional assaults on adults because they happen to choose to consume marijuana, heroin, or cocaine, instead of alcohol, nicotine, or prescription

drugs. Governments do.

The brutal punishing of adults for the substances they ought to be able to ingest, inhale, or inject at their own peril is based on a parochial and moribund prior restraint argument. Policy wonks have arbitrarily decided that heroin consumption is potentially worse for individual and society than compulsive eating, bunjie jumping, gambling, alcohol consumption, fatty foods, or tobacco. This serves as a justification to trample the constitutional rights of people before the foreseeable harm comes to pass. Considering the extent and severity of its assault on otherwise peaceable people, the state's conduct in the war on drugs befits the conduct of a criminal class, albeit a criminal class that enjoys the protection of the law.

If we accept prior restraint arguments, then apply them we must ad absurdum. We would have to stop all teenagers from driving, all people from eating Twinkies, or all socialist parents from procreating, lest they too sire proponents of state theft. "As soon as we surrender the principle that the state should not interfere in any questions touching on the individual's mode of life," wrote Ludwig von Mises (<http://mises.org/liberal/ch1sec11.asp>) in 1927, "we end by regulating and restricting the latter down to the smallest details."

SUPPLY AND DEMAND

Despite the libertarian gush over the Hollywood motion picture *Traffic*, it was simply reiterating what seems obvious to almost all, except to President Bush's new drug czar, John Walters: The war on drugs is a dismal failure. Walters, who backs tough penalties for drug users and opposes the use of marijuana for medical purposes, intends to reinvigorate the flailing war. To make the thing hale and hearty again, the new chief of the U.S. antinarcotics operation has promised to shift the focus of his \$20 billion-a-year office to "the demand side of this problem."

The attempts to reduce demand can be traced as far back as the 1917 Harrison Act that outlawed cocaine and other illicit drugs. While the criminal penalties over the decades have become harsher and harsher, demand has actually grown apace. The government spends billions attempting to brainwash children into "Just Saying No" to drugs. In the process it has managed to create not much more than an ever looming forbidden fruit syndrome.

The urge to experiment with psychoactive drugs is seemingly as strong now as when, in "On Liberty," John Stuart Mill argued that the freedom to consume alcohol and opium is one of the most basic civil rights. It is unlikely to cease any time soon. Most moderate users, however, do not become addicts. This is the secret that is concealed by the addiction industry's hysterical chemical McCarthyism.

The irony becomes even greater when law enforcement turns its attentions to the supply side of the problem. In British Columbia, the media commend the Vancouver police force whenever it performs one of its sting operations. But what happens when supply is reduced? Why, prices shoot up. And what happens when prices go up? The potential profit causes a renewed influx of dealers into the trade, resulting in more crime. In the war on drugs, success is failure. A free market in drugs, however, will bring prices down drastically, inclining fewer pushers to enter the trade.

THE COSTS OF ILLEGAL MARKETS

Prohibition--not drug use--is responsible for the current crime and chaos. Prohibition makes the price of drugs far in excess of their cost of production. The production costs of common drugs are low. These chemicals are derived from hardy plants. A poppy is not an orchid. Neither is cannabis a particularly fragile plant. As with other

illegal commodities, the price is pushed up by the high costs of circumventing the law as well as by the reduced supply brought on by prohibition. The price of pure heroin for medicinal purposes is a fraction of its street price. The difference amounts to a state subsidy for organized crime.

Again, in British Columbia, policy pundits are perennially alarmed at the flood of extra-potent drugs into Vancouver's East Side area, where drug use is endemic. Last year there were over 200 overdoses. Why the surprise? Prohibition is directly related to the potency of drugs. Given the risks involved in circumventing the law, dealers would rather transport the more potent and lucrative drugs. Reduced to criminals by law and held to ransom by mercenary suppliers, consumers have no recourse to the courts when they are sold adulterated or poisoned substances.

To "deal with supply," it is now the habit of the U.S. to invade foreign countries, to seize property on finding miniscule amounts of dope, to search people willy-nilly, to break into their homes and threaten their safety, even kill them. While the motion picture *Traffic* did not warrant the gushing praise it got from libertarians, it did provide some sober lines. As the protagonist decreed, "[T]here is no sacred protection of property rights in our country. You grow marijuana on your farm, be it an ounce or an acre of plant, that farm can be seized, that farm can be sold." And you can be killed. . .

The U.S. has been able to make prohibition piety an integral part of its foreign policy. It's quite clear that President Bush's new warlord and his retinue will preserve the uniquely made-in-America flavor of the war. One of the ploys favored by Walters is the issuance of report cards, certifying or decertifying a nation in accordance with how its drug warriors perform. The U.S.'s drug strategy is predicated on ensuring prohibition is written into every international treaty and properly used as leverage in foreign agreements. Sweeping antiterrorism measures will further bolster these powers.

VOLUNTARY TRANSACTIONS

One question ought to loom large: When a drug purchaser and a drug seller make an exchange, is it voluntary? If it is voluntary, then both parties expect to benefit *ex ante*. A voluntary exchange is, by definition, always mutually beneficial inasmuch as, at the time of the exchange, the buyer valued the purchase more than the money he paid for it, and the seller valued the money more than the goods he sold.

Writing in the *Journal of Business Ethics* (1993), economist Walter Block (<http://mises.org/fellow.aspx?id=6>) points out that there will always be meddling third parties seeking to circumscribe and circumvent a voluntary activity not to their liking. Some feminists want to stop lovers of pornography from making or consuming it. Other busybodies would like to stop adults from gambling. These third parties have no place in a transaction between consenting adults, unless these transactions infringe directly--not foreseeably--on their property or person.

Any transaction that was at the time of occurrence voluntary, and hence beneficial to the participants, can, retrospectively, be denounced as harmful and regrettable. A litigious culture that shuns personal responsibility facilitates this. Consider the Sicamous, British Columbia, man who bought cocaine from the same dealer for ten years running. The drug consumer is now suing the dealer, alleging dealers "owe a duty of care to their customers." Is this the same kind of care the baker owes the obese buyer, or the local pub owner owes the alcoholic?

If the legislator has no place in a voluntary exchange between adults, what role can the state properly arrogate to itself?

THE ROLE OF THE STATE

The safest--to say nothing of most just--society is one that demands accountability from people, and treats them--so long as they are compos mentis--as if they have "initiative" and free will, for they do. Policymakers, however, don't get votes for fostering reliance; on the contrary, they get lifelong co-dependence from their voters for getting them off the hook.

Currently, instead of being punished and shamed, the therapeutic state exculpates, treats, and often rewards addicts who commit crimes. Crimes perpetrated under the influence are cast as a disease for which a lesser sentence is meted. Often, criminals like this even go on to become advocates, mainstream role models, and preachers of the gospel of abstinence. It gets worse: state subsidized treatment has the victim, the taxpayer, pay for the ostensible restitution of the criminal. This kind of inversion of the moral order shields the perpetrator from the consequences of his actions and guarantees recidivism.

Drug use is a choice and a private one. If people should be arrested, it is only for crimes they perpetrate against another's person and property. The correct solution is to visit the full force of the law on anyone who commits a crime against another's person or property. If an addict tosses a used needle in a public park, and a toddler steps on it, the addict must be made accountable for reckless endangerment. If the victim gets Hepatitis B or HIV--both diseases that can kill--the addict is complicit in attempted murder.

Incidentally, many libertarians have no difficulty stating that parks ought to be privatized in order to avoid the eventuality I describe. But they refuse to concede that, since the existence of public property is a reality, it is incumbent on government to manage this property as if it were private. These libertarians err on the side of libertinism by supporting the right of a bum to intimidate library-going children, or the right of the user to dispose publicly of his intravenous weapons.

When an employer is free to exercise property rights, he can implement a policy of compulsory testing as a prerequisite for employment. Should he refuse employment to a user, the user is free to either look elsewhere or quit the habit. In contrast to the state, members of the community cannot, unless they violate the law, take away a person's liberty or interfere with the integrity of his person or property. With its protected species and anti-discrimination regulation, the state disrupts the market's self-correcting mechanism.

The State must then exert its only mandate, and that is to protect people and their property from incurring unprovoked harm. Acting for the state, the criminal justice system must stop ameliorating punishment with a disease label or treatment protocol. Once the secular liberal state retreats from managing what people ingest, inhale, or inject, it will fall, once again, to custom and religion to reinvigorate those informal checks on behavior the therapeutic state has undermined. Shame, loss of face, being denied membership, excommunication, counseling, and support are some of the ways moral communities have, in previous eras, kept their members in check.

ADDICTION: VICE OR DISEASE?

The film *Traffic* grows heavy with portent when the protagonist takes a few drinks before dinner. In an attempt at some foolish equivalencies, or slippery-slope error, it's implied that the hard-working--if vocationally misguided--father's predinner drinks are on a par with the addiction of his slack-jawed teen. "We are all out of control" is the hysterical message. Neither is it without significance that *Traffic* ends with the twelve-step session. Had Oprah Winfrey made a grand entrée, the scene

could not have been more endorsing of the disease model of addiction. Lost in the hysteria is that most people, even when they help themselves regularly to a joint or indulge in a few drinks, choose not to descend into the addiction abyss or turn their backs on life's responsibilities.

On the issue of drugs, adherents of the left and right appear incapable of coming down from a shared high. Prohibitionists unanimously support outlawry, coerced treatment protocols (incidentally, the success the proponents of this treatment claim for it is no argument in its favor), and deny that people are capable of making conscious choices. Both hawk and harm-reductionist dove believe addiction is not a problem of behavior, but a disease as organic as cancer or diabetes.

There are, however, no genetic markers that distinguish the addict from the moderate user or the nonuser. There is no inherited mechanism that leads a person to be unable to control his substance use, to go on tremendous binges, or to leave off his connection to people and environments in order to consume a substance. The scientific evidence for brain-based addiction theories is shabby.

When people take drugs, their brain functioning changes. When they have sex, cuddle their toddler, or eat chocolate, similar changes occur in the same brain centers. Do changes in the brain tell us anything about the person's behavior or its motivation? Hardly. Can we draw conclusions about whether the connubially preoccupied is addicted to sex from the fact that certain centers in the brain--the very same centers that react when drugs are taken--perk up when said individual has sex? Of course not. When people recover from addiction--by any means at all--their brain functioning changes once again. This does not amount to saying that addiction is organic or biological in the sense that appendicitis or diabetes is.

Everything we do involves our brains, and brains alter their physical structure and functioning in response to the environment. We could just as well say that learning French is a biological accomplishment, though most of us would rather call it an intellectual achievement (John Winston Bush, Ph.D., unpublished Letter-to-an-Editor, SSCP Listserv).

Identifying activities as stimulating the cerebral pleasure centers fails to explain why people find different things pleasurable and why different people react in destructive, addictive ways to some of these things, while others incorporate them into a balanced overall lifestyle ("Medical Mumbo Jumbo Does not Explain Addiction," Ilana Mercer, *The Calgary Herald*, 2000).

REDUCING DRUG ADDICTION

Reducing addiction lies in withdrawing the perverse incentives that reinforce the maladaptive behavior. To use twelve-step locution, free treatment programs are "enablers." The dismal failure of state programs launched by the addiction industry and the high rates of recidivism alert us again and again to the fact that addicts quit when they decide to. And they are more likely to be nudged in that direction when made to shoulder the consequences of their lifestyle.

Currently, we don't have free-market insurance. It is legally impermissible to exclude or refuse to insure certain risky populations. Some self-destructive behavior has acquired disability status and hence is legally protected. If insurers cannot transfer to the addict the full costs of the risk he poses, they must make those of us who choose to watch our diets, exercise, and refrain from smoking or drug taking the repository for these costs. Legislative interference ensures we subsidize the lifestyle of the smoker, compulsive eater, drinker, and addict.

Over and above the immorality of forceful wealth distribution, socialized schemes (like the Canadian healthcare system) distribute wealth from the risk averse to the reckless, stealing from responsible adults, and rewarding the rash and imprudent.

Insurance on the free market would restore the right to discriminate between risk groups. With such discrimination comes the incentive on the part of the insured to avoid lifestyles or behaviors that incur costs.

If a society wishes to persist in pursuing a worldview where misdeeds are parlayed as diseases--where the thief is considered a kleptomaniac, the arsonist a pyromaniac, and the promiscuous a sex addict--it must at the very least stop forcing the majority of people to sponsor this deviance. In the absence of distribution schemes, these behaviors will become less prevalent.

CONCLUSION

A free market in drugs, aver the determinists, will bring prices down drastically and send demand rocketing, causing rampant addiction. These conclusions are based on assumptions not in evidence: There is no indication that, prior to prohibition, people flocked to the opium dens in proportionally greater numbers than contemporary addicts flock to the crack houses. In the same vein that biological hardwiring fails to explain this vice, addiction cannot be understood as a mere byproduct of environmental exigencies.

Try as the egalitarians do to whittle down the differences between people to simple schedules of reinforcement, they invariably fail. Not being laboratory rats, human behavior is mediated by--and cannot be explained without reference to--values, conscious choices, and probity of character or lack thereof.

Conversely, because drug taking--like most things--involves elements of choice, it would be inaccurate to blame the dire situation of addicts entirely on the absence of a competitive market. The impeded accessibility of drugs is not insignificant in the plight of the user. But, absent drugs, a person with such proclivities may well branch into other antisocial behavior.

It is not unreasonable to postulate, however, that, were addicts able to purchase drugs at market prices, and were they not forced to structure their lives around obtaining a fix, criminal conduct among users would be considerably reduced. These pragmatic predictions aside, prohibition is unconscionable and should no longer be finessed.

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