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Five Errors the *Washington Post* Should Have Caught About Marijuana

In recent years, the *Washington Post* has managed to strike a balance between pro- and anti-legalization opinion pieces (e.g. Rauch's "Let's Go Down the Aisle Toward Legalized Pot" and Wehner's "Republicans should just say no."). Importantly, even when the *Post* has published pieces that I disagree with, the basic facts presented have been correct.

Their history of consistent balance is why I nearly fell off my chair when I read Doug Fine's Sunday *Post* piece, "Five Myths About Legalized Marijuana." It's not just that I disagree with Fine about marijuana policy (indeed, we debated once on CNBC). What I find disturbing is that the *Post* published a piece containing numerous major factual errors without, it seems, much thought. These were not close calls. The numbers in Fine's article are easily challenged with a simple google search.

Here are the top five errors the *Post* should've caught:

(1) Error: "...16 states hav[e] decriminalized or legalized cannabis for non-medical use and eight more heading toward some kind of legalization..."

Let's be clear on which states are doing what:

Two states -- Colorado and Washington -- voted to legalize marijuana in November. They are currently writing the rules to govern that legalization. The Federal government has to make a pronouncement on legalization in these states, and today, one still cannot buy marijuana on the open market in Colorado and Washington (but in Colorado you can grow your own).

Seventeen states have "decriminalized" marijuana. This means that the possession of small amounts of marijuana is not treated as a criminal offense. In reality, many jurisdictions, whether they have that law or not, treat marijuana this way. In many places, an arrest simply means you get a ticket; in others, it can be more punitive (this is not to downplay the consequences of an arrest record -- something I discuss here).

Eighteen states (and DC) have legalized the use of marijuana as medicine. These laws vary widely -- in some states, that means you can say you have back pain and go to a "dispensary" to legally buy marijuana. In others, it means you'll have an affirmative defense in court.

Eight states are not heading to "some kind of legalization." In fact, in every single state legislature where legalization was introduced this year, legalization proposals failed. Even if you add up every state legalization advocates have hopes for in 2016, it's only five.

(2) Error: "When the United States' 40-year-long war on marijuana ends, the country is...going to see the transfer of as much as 50 percent of cartel profits to the taxable economy."

The Bush White House estimated that marijuana profits could represent 60 percent of revenues, but the Obama Administration disavowed that figure. And the independent RAND think tank analyzed it in 2010. RAND reported that marijuana exports are an important but not dominant source of revenue for Mexican drug cartels, estimating that "15-26 percent is a more credible range of the share of drug export revenues attributable to marijuana" at that time. That works out to around \$1.5 billion in cartel revenues coming from marijuana, versus a combined total of \$5 billion from cocaine, heroin, and methamphetamine. And that is to say nothing about their other major sources of income -- from kidnapping to extortion, to counterfeits, to other crimes. Consistent with this finding, the Mexican Institute of Competitiveness (IMCO), found that Mexican drug cartels could see their revenues drop between 20 and 33 percent as a result of marijuana legalization. The lead author wrote later that he thought, "...marijuana legalization would transform the Mexican drug trafficking organizations (in interesting and, as of yet, unpredictable ways), but it would certainly not eliminate them (not by itself, in any case)."

(3) Error: "[In] Portugal...youth drug use rates fell after all drugs were legalized there in 2001..."

OK. A few things: first, Portugal never legalized any drugs. In 2001, they made law what was basically already in practice (there and in most other European countries) by not criminalizing personal drug use. Now, they refer all drug users to panels of social workers who determine the next

course of action (dismissal, treatment referral, etc.). Also in 2001, Portugal increased its provision of treatment and prevention.

The result of these laws? It's difficult to say, since a number of other relevant changes took place in addition to this (relatively minor) change in the law. The European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), long considered the authority on drug statistics in Europe, compiled statistics showing an increase in lifetime prevalence rates for the use of cannabis, cocaine, amphetamines, ecstasy and LSD between 2001 and 2011. Those figures apply to the general population of Portugal, ages 15 to 64 years of age. The European School Survey Project on Alcohol and Other Drugs (ESPAD) survey of 15- and 16-year-olds shows an overall increase in the prevalence of marijuana use between 1999 and 2011, although there was an initial dip in use rates. Past-month prevalence for marijuana in that age group went from 5% in 1999, to 3% in 2003, to 6% in 2007, and finally up 9% in 2011. EMCDDA concluded that "the most recent ESPAD study corroborates the findings of the [UN World Health Organization] study, showing increasing consumption of illicit substances [in Portugal] since 2006." Besides the unjustified attribution of a causal effect to the change in policy, Fine largely based his assertion on "lifetime prevalence" statistics, which do not tell us anything about recent use. His analysis also stopped at 2007, when we have more recent data from ESPAD and EMCDDA that shows increased use from 2001 to 2011.

(4) Error: America's "100 million cannabis aficionados."

The Oxford English Dictionary defines "aficionado" as "a person who is very knowledgeable and enthusiastic about an activity, subject, or pastime." While it may be true that 100 million people have tried marijuana at least once, few of them have gone on to become regular users of the drug. In fact, there are only about 7% of Americans who regularly use marijuana (that's about 20 million people). 20 million aficionados? Maybe. 100 million? Definitely not.

(5) Error: "[It's a myth that] [l]aw enforcement officials oppose legalization."

Yes, there is one pro-legalization organization founded by those who have had careers in the law -- it's a mix of defense lawyers, ex-cops, ex-prosecutors, and others who have had careers related to law enforcement (I recently met a member of this group who told me that he used to "train law enforcement on public relations issues"). But it's hard to say with a straight face that law enforcement

opposition to legalization is a "myth" when almost every single major law enforcement group -- from the Fraternal Order of Police, to the International Association of Chiefs of Police, to the National Organization of Black Law Enforcement Executives -- has official positions against legalization. In California, the California Police Chiefs' Association, the California Narcotic Officers' Association, the California District Attorneys Association, the California District Attorney Investigators' Association, the California Peace Officers Association, the California State Sheriffs' Association, the Los Angeles County Police Chiefs Association, and the Peace Officers Association of Los Angeles County, as well as 40 County sheriffs, 32 police chiefs, and 31 district attorneys oppose efforts to legalize in the state.

The rest of Fine's piece makes further claims that are not supported by the best available evidence.

From an informal survey in a high school classroom, Fine suggests that marijuana is easier to get today than alcohol. The independent Politifact just rated this claim as "false," concluding that, "all the most recent, credible, national studies we found showed that teenagers report it's easier to get alcohol than marijuana." A Columbia University study looking at the time it takes youth aged 12-17 to obtain drugs found that 50% of youth reported that it would take a day or less to get alcohol. That is compared to 44% for tobacco, 34% for prescription drugs, and 31% for marijuana. Furthermore, 45% of kids said they would be completely unable to get marijuana, the highest percentage of any of the four substances. Another survey, Monitoring the Future, one of the most often cited survey of kids and drugs, found that nearly 58 percent of 8th graders said it was fairly easy or very easy to get alcohol compared with 37 percent saying the same of marijuana (10th and 12th graders also found it harder to get marijuana, albeit by smaller margins).

Although four times as many people smoke cigarettes than marijuana, and about eight times as many people drink alcohol than smoke marijuana today, Fine denies that if pot is legal, more people will use it. The nonpartisan RAND think tank estimated that if California legalized marijuana, its pre-tax price could fall by 80%, resulting in a significant increase in use (the magnitude of the increase in use depends on multiple factors).

Fine also denies that we will have another Big Tobacco on our hands, even though earlier this week, an ex-Microsoft executive announced that he will build "the Starbucks of marijuana" and help "mint more millionaires than Microsoft." Lest we forget that in the early 1970s, the last time this country was going down the road toward marijuana legalization, a consultant's report to one of the biggest tobacco

companies, Brown and Williamson, stated, "we have the land to grow it, the machines to roll it and package it, the distribution to market it. Estimates indicate that the market in legalized marijuana might be as high as \$10 billion annually."

Undoubtedly, drug policy is about weighing pros and cons (which usually means weighing bad options against worse ones). Clearly, I believe that the costs of legalization outweigh the possible benefits (as I argue here and here), and I have a hard time believing that American-style legalization will amount to anything less than the glamorization of alcohol and tobacco that we see today. Yes, it is possible to have an alternative view -- a \$30 billion black market is worth trying to eliminate, and folks studying how to do legalization best have come up with some laudable proposals (like bans on advertising).

But to present incorrect statements of fact in pieces meant to inform lawmakers and the public is unhelpful, if not harmful, to everyone. And the Post should know that.

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