Don’t Go to Pot

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The 50 states are sometimes called “laboratories of democracy.” Although the expression is intended to highlight in flattering terms how innovative they can be, it also suggests that the states’ political experiments can and do fail. In the event of failure, the hope must be that damage can be stopped at the state line. Today, the experiment of state-by-state marijuana legalization is failing before our eyes—and failing most signally where the experiment has been tried most boldly. The failure is accelerating even as the forces pushing legalization are on what appears to be an inexorable march.

In November 2012, the states of Colorado and Washington voted to legalize the sale of marijuana to any adult consumer. Advocates of legalization carried the vote with a substantial campaign budget, a few million dollars, and a brilliant slogan: “Drug dealers don’t ask for ID.” The implied promise: Marijuana legalization would be joined to tough enforcement to keep marijuana away from minors. After all, persistent and heavy marijuana use among adolescents has been shown to reduce their IQ as adults by 6 to 8 points. An Australian study of identical twins found that a twin who started using cannabis before age 17 was 3 times more likely to attempt suicide than the twin who did not. People in Colorado had good reason to worry about teen drug use. Colorado voters had approved a limited experiment with medical marijuana in 2000. A complex series of judicial and administrative decisions in the mid-2000s overthrew most restrictions on the dispensing of marijuana. Between 2009 and 2012, the number of dispensaries jumped past 500, and the number of medical cardholders multiplied from roughly 1,000 to more than 108,000.

With so many medical-marijuana card-holders walking about, it was simply inevitable that some would re-sell their marijuana to underage users. A 2013 study of Colorado teens in drug treatment found that 74 percent had shared somebody else’s medical marijuana. The number of occasions on which they had shared averaged over 50 times. According to a report by the Rocky Mountain High-Intensity Drug Trafficking Area, Colorado teens, by 2012, were 50 percent more likely to use marijuana than their peers in the rest of the country.

Debates about marijuana tend to travel pretty fast into the domain of libertarian ideology: *I’m a consenting adult, why can’t I do what I want?* Yet the best customers for the marijuana industry are not adults at all. The majority of people who try marijuana quit by age 30.

Adults in their twenties are significantly less likely than high school students to smoke; 14 percent of twentysomethings say they smoke marijuana, while 22.7 percent of 12th-graders smoke at least once a month, and 6.5 percent say they smoke every day.

Why do people quit using marijuana as they mature? Your guess is as good as anybody else's, but whatever the reason, the trend presents marijuana sellers with a marketing problem. Yet there is promising news from the emerging marijuana industry's point of view: People who start smoking in their teens are significantly more likely to become dependent than people who start smoking later: about 1 in 6, as opposed to 1 in 10. Start them young; keep them longer. Very rationally, then, the marijuana industry is rolling out products designed to appeal to the youngest consumers: cannabis-infused soda, cannabis-infused chocolate taffy, cannabis-infused jujubes.

The promise that legalization will actually protect teenagers from marijuana is false. So, too, are the other promises of the legalizers. It is false to claim that marijuana legalization will break drug cartels. Those cartels will continue to traffic in harder and more lucrative drugs, such as heroin, cocaine, and methamphetamine. Criminal cartels may well stay in the marijuana business, too, marketing directly to underage users. Public policy is about trade-offs, and marijuana users need to face up to the trade-off they are urging on American society. Legal marijuana use means more marijuana use, and more marijuana use means above all more teen marijuana use.

Proponents of marijuana legalization often question why the law bans marijuana but not alcohol or tobacco. One important difference is that alcohol and tobacco are drugs on the decline. Since 1980, per capita consumption of alcohol has dropped almost 20 percent. One-third of Americans smoked tobacco in 1980; fewer than one-fifth smoke today. The progress against drunk driving is even more remarkable: Fatalities caused by drunk drivers have decreased by more than half since 1982.

The reduction in tobacco and alcohol use has been hastened by increasingly restrictive laws that govern where and how these products may be consumed. Tobacco-smoking has been banned on planes, in restaurants, and in almost all public places. The drinking age, reduced in the 1970s from 21 to 18 in most states, was restored to 21 by federal action in the 1980s. Tobacco taxes have been steeply hiked. Bars that served intoxicated patrons face rising tort risk.
With marijuana, however, the law is heading in the opposite direction, and has been for some time. Since 1996, 20 states and the District of Columbia have approved "medical marijuana" laws, whereby people who obtain a prescription from a doctor can legally use or purchase marijuana. As in Colorado, many of these supposed medical regimes are degenerating into

legalization by another name. Oregon, for example: At the end of 2012, it was home to 56,531 medical-marijuana patients. The majority of these 56,000-plus permissions were approved by only nine doctors. One doctor—an 80-year-old retired heart surgeon in Yakima—approved 4,180 medical-marijuana applications in a span of 12 months. Only 4 percent of Oregon's medical-marijuana patients, as of the end of 2012, suffered from cancer. Only 1 percent were diagnosed with HIV/AIDS. The large majority, 57 percent, cited unspecified "pain" as the ailment for which treatment was sought. Yet none of the nine doctors who wrote the majority of the marijuana prescriptions was a pain specialist.

Fewer than 2 percent of California card holders have HIV, glaucoma, multiple sclerosis, or cancer: One survey found that the typical California medical-marijuana patient was a healthy 32-year-old man with a history of drug and alcohol abuse. Here, too, some doctors are signing thousands of recommendations after only the scantiest examination—or none at all. An NBC news investigator in Los Angeles visited one dispensary, was examined by a man who later proved to be an acupuncturist and massage therapist, and then received a prescription signed by a doctor who lived 67 miles away.

In the words of Los Angeles police chief Charlie Beck, most dispensaries are "for-profit businesses engaged in the sale of recreational marijuana to healthy young adults." By early 2012, Los Angeles contained almost eight times as many dispensaries as Starbucks coffee shops. The city became alarmed that the customers who congregated at these dispensaries were active in crimes from robbery to murder. By July, the City Council voted unanimously to shut down all of the nearly 800 known dispensaries in the city. The marijuana lobby succeeded in preventing that ban from going into effect, so the next year, the city government tried a different approach: a local referendum called Proposition D to cap the number of dispensaries at 135, raise taxes on marijuana sales, and forbid dispensaries to locate near primary, middle, and high schools. The proposition was approved, but this approach also proved ineffective. In the words of *Medical Marijuana Business Daily* (yes, it exists):

Officials have actually only forced about 70 dispensaries to close so far. While some other dispensaries shut down on their own to avoid legal troubles, most did not. That means at least 700—possibly more—illegal shops are still open.

"What happened is that we're really trying to put a Band-Aid on some crazy open wound, and it's not big enough to stop the bleeding," said Adam Bierman, who runs the consultancy MedMen. "Prop D as a concept is half decent, but there's really no way to enforce it."

Marijuana does possess certain medicinal properties. So does opium. But we don't allow unscrupulous quacks to write raw opium prescriptions for anyone willing to pay $65. And if we did, would anybody be surprised that the vast majority of opium buyers were not recovering from surgery—and that many of them shared or resold some of their opium to underage users?

Some older adults have a hard time crediting the dangers of marijuana use because they imagine the marijuana on sale today is the same low-grade stuff they smoked in college. The marijuana sold in the 1980s averaged between 3 and 4 percent THC, the psychoactive ingredient. Today's selectively bred marijuana averages over 12 percent THC, with some strains reaching 30 percent. Hundreds of YouTube videos will show you how to combust a marijuana wax with butane, to boost the THC content to 90 percent. As marijuana consumers shift from smoking to ingesting marijuana, they can ingest larger and larger doses of THC at a time. Since 2006, Colorado emergency rooms have seen a steep rise in the number of patients arriving panicked and disoriented from excess THC, including a near doubling of patients ages 13 and 14.
It's said that nobody ever died from a marijuana overdose. Nobody ever died from a tobacco overdose either, but that doesn't prove tobacco safe. Of all the dangers connected to marijuana, the most lethal is the risk of automobile accident. Marijuana-related fatal car crashes have nearly tripled across the United States in the past decade.Marijuana legalizers may counter: Can't we just extend laws against drunk driving to stoned driving?

Unfortunately, it's not so easy. What exactly defines marijuana impairment remains fiercely contested by an increasingly assertive marijuana industry. It took Colorado four tries to enact a legal definition of marijuana impairment: five nanograms of THC per milliliter of blood. Yet even once enacted, the standard remains very difficult to enforce. Alcohol impairment can be detected with a Breathalyzer. Marijuana impairment is revealed only by a blood test, and long-established law requires police to obtain a search warrant before a blood test is administered.

More important than catching impaired drivers after the fact is deterring them before they get behind the wheel. In the absence of a blood-testing kit, marijuana users themselves will find it difficult to know how much is too much. *Time* recently quoted a spokesperson for the Colorado Department of Transportation: "It's not like alcohol. People metabolize it differently. There are different potencies," the official said. "So there's really no solution in terms of saying 'you're now at the limit.' I just don't think there's enough research that we can say, 'Wait *x* amount of hours before getting on the road.' I don't know whether it's five hours or 10 hours or the next day. We just don't know."

Back in 2007, a survey by the National Highway Traffic Safety Administration found that on any given Saturday night, about 12 percent of drivers tested positive for alcohol; about 6 percent for marijuana. Since then, 10 more states and the District of Columbia have adopted medical-marijuana regimes, which surely means even more buzzed drivers on the roads.
Yet the most pervasive harm of marijuana may be psychic rather than physical. A battery of studies have found regular marijuana use to be associated with worse outcomes at school, social life, and work. I use the cautious phrase "associated with," because it's far from clear whether marijuana use is a cause or an effect of other problems—or (most likely) *both* cause and effect. An isolated, underachieving kid starts smoking marijuana. That kid then descends deeper into isolation and underachievement. Marijuana may not have been the "cause" of the kid's malaise, but it intensifies the malaise and may inhibit or even prevent his emergence from it.

The negative spiral of despondency leading to marijuana use, leading to deeper and more protracted despondency, makes the present moment a particularly unpropitious one for marijuana legalization. The United States is currently recovering feebly from the gravest economic crisis since the Great Depression. Prospects for young people especially have narrowed. Are we really going to say to them: "Look, we haven't got jobs for you, your chances at marriage are dwindling, you may be 30 before you can move out of your parents' place into a home of your own, but we'll make it up to you with pot, video games, and online porn"? They want to start life, but they are being offered instead only narcotic dreams.

As human beings, our judgment is not only imperfect, but is prone to fail in highly predictable ways. Insert a recurring charge onto our phone bill, and we will soon cease to notice it. We evolved under conditions where sugars and salt were scarce, and so we will eat far more than we need if given the chance. We overestimate our luck and will gamble our money in ways that make no mathematical sense. Our brains are wired for addictions. If a substance can trigger that addiction, it can overthrow all the reasoning and moral faculties of the mind.

Lucrative industries have arisen to exploit these weaknesses in ways highly harmful to their customers. And the bold irony is that when their practices are challenged, they'll invoke the very principles of individual choice and self-mastery that their industry is based on negating and defeating. So it was with tobacco. So it is with casino gambling. So it will be with marijuana.

Proponents of marijuana legalization do make a valid point when they worry that marijuana laws are enforced too punitively—and that this too punitive approach inflicts disparate punishment on minority users as compared with white users.

Ordinary marijuana users should receive civil penalties; repeat users belong in treatment, not prison; communities should experience law enforcement as an ally and supporter of local norms, not an outside force stamping young people with indelible criminal records for mistakes that carry fewer consequences for the more affluent and the better connected. It's also true, however, that these alternative methods can succeed only if the background rule is that marijuana is illegal. It's very often the threat of criminal sanction that impels users to seek the treatment they need, while still young enough to turn their lives around.

The illegal U.S. market for marijuana is already twice as big as the market for coffee. As that market is legalized, it will expand, and the industry that serves the market will be emboldened to hire lobbyists to promote its continued expansion. The vision offered by some academics of a legal but noncommercial marijuana market shows little realism about American government. American legislatures exhibit notoriously poor resistance against checkbook-wielding special interests.

The resistance will be all the weaker since the costs of marijuana legalization will be borne by people to whom American legislatures pay scant attention anyway. Marijuana retailers will be located most densely in America's poorest neighborhoods, just as liquor and cigarette retailing is now. Out of whose pockets will the marijuana taxes of the future be paid? Whose addiction and recovery services will be least well funded? In a society in which it is already sufficiently difficult for people to rise from the bottom, who'll find that their rise has become harder still?

About the Author

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