Legislating Morality:
Prohibitions & the Public Order

Historical Regulation Patterns
- Prostitution – threat to family? release valve?
- Contraception – most types illegal by 1850
- Abortion – AMA vs. midwives, 1850s, 1970s, +
  - Most successful, esp. w/ current turn (trimesters, miles)
- Gambling – Nat’l pastime, slowly embraced
  - More bet legally than spent on music, movies, & spectator sports combined – but freq = source of panic
- Alcohol 1919 to 1933, total failure
- Illegal Drugs – Anslinger & FBN, MTA 1937
- Pornography – 19thC limits, 1950s uproar, Net
  Sum: More tolerance, but more vigor in reactions

Lecture Outline
- Prohibition generally
  - Focus on Drugs
- Marijuana in the 20th Century
- Arguments
  - For Criminality
  - For Reform
  - Against Criminality

Criminological Effects (Drugs)
- Arbitrariness may weaken standards
  - Ineffective if logical and inconsistent
- Doesn’t reduce use
  - May increase use of other drugs
- Efficacy of law weakened by crime
  - Impairs the commitment of citizens
- Generates related crimes
- Reinforces organized crime
  - Revenue stream – plus prohib increases prices

Legislating Morality
- Norms & Deviance – contingent
  - No national (or other) standard

Alcohol Prohibition
- Started as moral movement & moral panic
- All 5 of those effects
  - Weaker, ineffective, inefficacy, >crime, \ org crime
  - Tremendous violence, neighborhood effects, etc.
  - Sound familiar?
- Rejected soundly as unsuccessful
Marijuana Prohibition

- Historical uses
  - Ancient – clothes, paper (4x trees; Bible, DOI)
  - American – Wash, Franklin, TJ (grew, France) – expected
  - Expanding uses – new gin 1920s as Hearst paper $
  - Expanding use – safer, more fun, less totalistic; jazz
- Rise of regulation
  - Expanding federal powers – CW, monop, labor, race
  - Expanding bureaucracy – Anslinger & Bureau of Narcotics
  - Social tensions – immigrants, labor, urbanization
  - Reefer Madness – violent Mexicans, crazy ladies
    - Reality: calmer, more attentive, etc.
  - Marijuana Taxation Act of 1937
  - But continued use – Hemp for Victory; Bush

End of Marijuana Prohibition

- Predictable impacts
  - Arrests, criminal records
  - Distraction
  - No medical involvement; no dosage/safety regs
- Start of turnaround
  - Env issues – earth day, pesticides for alts (cotton)
  - $ – pot vs crack, focus of law enf (“lowest priority”)
  - Law – individuality; geometry?
- Prohibition was a failed experiment
  - Decrim/L isn’t experimental – is the natural state

Myths Against Legalization

- Increased potency
  - Marginal, and not harmful
- Will encourage other drug use (Gateway)
  - Vast majority don’t do others
  - Prohibition is the gate
- “Environmental circumstances” not previous use
- Addiction/Dependence
  - Lacks “physical & psychological liability” of others
  - Very few seek treatment, usually court-ordered
  - More dangerous (cancer)
  - Less dangerous, lower %, & may even help prevent
  - But few US studies, & others (UK, Jamaica) – blunts
- Impairs drivers; > accidents
  - Very few, if any
  - Only 2 studies (attention/reactive) – not risk-taking
  - Cog studies show nil after several days/weeks of use
  - Effects not severe or long-lasting; users self-aware of them

Arguments against Criminality

- Focus/Choice
  - Not best reaction – precludes treatment
  - Ineffective, unenforceable, non–deterrent – futile?
  - Arbitrary: alcohol and tobacco more dangerous
  - Diverts time & resources from more serious crime
  - Risks violations of civil liberties (wiretapping, invasions)
- Encourages other crimes
  - Organized crime exists to meet illegal demand
  - illegality gives them control, resources, “power”
  - Encourages contact w/ criminals, & ergo other crime
  - Stigmatizes offender –> illegal economic income
  - Increases police (and other) corruption
  - Reduces respect for law; impairs legal credibility
  - Generates disrespect for law (efficacy)

Arguments for Criminality

- Need to protect individuals from themselves
- No crime is victimless
  - Drug use harms family members
  - Addiction generates other crimes, inc. to feed it
  - Laws do regulate behavior; more follow than not
  - Regardless, must uphold moral standards/values
  - The “right thing to do”
  - If illegal, more would do
  - More than alcohol?
  - Easy to get now – 87% can get pot, 32% do; coke 39/4
  - Use decreases when decriminalized – states, international
  - Who would smoke 7/11 Crack or Target heroin?

Arguments for Reform

- Legislator Morality doesn’t work
- Harm Reduction rather than criminality
  - Treat as a (public?) health issue
  - Prevention, treatment, rehabilitation
  - Needle exchange programs – Baltimore
  - Drug Courts – saves money, more efficacious
Other drugs?

- Harm Reduction and Drug Courts
  - Netherlands, Portugal
- Legalization Debate
  - Pot Shops & Medical Marijuana
  - Philosophical/Ideological – what limit?