

## **Medical & Crime-rate effects of Decriminalization of Marijuana & Treatment Programs: Portugal's Drug Decriminalisation Model**

By Gordon Wayne Watts (The Register), Thursday, September 17, 2014

This is the 3<sup>rd</sup> in a 4-part series on the various aspects in the debate about “Amendment 2,” Florida's proposed state constitutional amendment to legalise 'Medical Marijuana,' which will be on the ballot, this Election Day, Tuesday, November 04, 2014 – or sooner, for those who chose to vote early, at various polling locations, or vote absentee by postal mail. ~ Part I, addressing the 'Legal' aspects of the proposed amendment, showed clear and definite proof that even in states where “Medical Marijuana” was legalised and patients complied with state laws, ordinary citizens were sometimes arrested on Federal charges, due to the fact that Federal Law trumps all state law –even State Constitutions –something that is not a widely-known fact. Part II gave a fair and balanced, and fairly-complete Scriptural analysis, with both pro's and con's, using the Christian Bible (Old and New Testaments) as it source text. Both parts are currently front-page news on The Register (<http://GordonWatts.com> / <http://GordonWayneWatts.com>). Part IV endeavors to look at medical and health effects of marijuana.

In this 3<sup>rd</sup> installment, we shall be looking at Portugal's decriminalisation of all drugs to see if this model would work for America, looking at health and crime rate effects. **This matter is very tricky, so brace yourself...**

**The NY Times reports the following:** “In 2000, Portugal decriminalized the use of all illicit drugs, and developed new policies on prevention, treatment, harm reduction and reinsertion. Drug use is no longer a crime, but it is still prohibited. Possession of what a person would use in 10 days or less is no longer a matter for the courts. Users are referred to Commissions for Drug Addiction Dissuasion, which educate them, discourage them from consuming drugs and help them find treatment. The idea behind the new law is that drug addiction must be addressed as a health or social condition.”

**Source:** “Decriminalizing Possession of All Illicit Drugs,” By: João Castel-Branco Goulão, Portugal's national drug coordinator and the chairman of the European Monitoring Center on Drugs and Drug Addiction, Special to the New York Times, MARCH 17, 2014, <http://www.nytimes.com/roomfordebate/2014/03/17/lowering-the-deadly-cost-of-drug-abuse/decriminalizing-possession-of-all-illicit-drugs>

The strong claims about the sudden drop in drug use are confirmed elsewhere:

- “The evidence from Portugal since 2001 is that decriminalisation of drug use and possession has benefits and no harmful side-effects” (Headline) **Source:** “Treating, not punishing,” The Economist, Aug 27th 2009 | LISBON | From the print edition: <http://www.economist.com/node/14309861> Viz: <http://www.economist.com/printedition/2009-08-29>
- “Peter Reuter, a professor of criminology and public policy at the University of Maryland, like Kleiman, is skeptical. He conceded in a presentation at the Cato Institute that "it's fair to say that decriminalization in Portugal has met its central goal. Drug use did not rise." However, he notes that Portugal is a small country and that the cyclical nature of drug epidemics — which tends to occur no matter what policies are in place — may account for the declines in heroin use and deaths.” **Source:** “Drugs in Portugal: Did Decriminalization Work?,” By Maia Szalavitz, TIME, Sunday, Apr. 26, 2009, <http://content.time.com/time/health/article/0,8599,1893946,00.html>
- **Viz:** “Ten Years After Decriminalization, Drug Abuse Down by Half in Portugal,” By Erik Kain, FORBES, 7/05/2011 @ 3:09PM 424,398 views, <http://www.forbes.com/sites/erikkain/2011/07/05/ten-years-after-decriminalization-drug-abuse-down-by-half-in-portugal>

But, are the sudden drops in drug use attributable to decriminalisation of all illicit drugs? Many sources claim that the drop in drug use is, at least, partly due to treatment programs –or other factors:

- “Much of this reduction in the harm suffered by drug users, I believe, is due to the commissions' outreach, treatment programs and measures to protect users' health.” **Source:** “Decriminalizing Possession of All Illicit Drugs,” By: João Castel-Branco Goulão, NY Times, see above

- “the cyclical nature of drug epidemics — which tends to occur no matter what policies are in place — may account for the declines in heroin use and deaths.” *Source:* “Drugs in Portugal: Did Decriminalization Work?,” By Maia Szalavitz, TIME, see above

In fact, one policy brief, by Dr. John Carnevale, Ph.D., a veteran of the Office of National Drug Control Policy (ONDCP), and an internationally recognized expert in the field of drug policy, argues that Portugal’s Drug Decriminalisation is not a good Model for the U.S. ~ Among the points made were the following:

- “ As the authors themselves observed, “‘numerous challenges ‘make it impossible to attribute any changes in drug use or related harm directly to the fact or form of the Portuguese decriminalization.’”” They noted, for instance, that it was not possible to determine whether effects observed during the study period were causally linked to decriminalization or to the increased availability of treatment, in part because they were introduced around the same time.
- Were the policies altogether positive? Carnevale argued that they were not. Although the study’s authors documented that “‘problematic drug use, particularly IV drug use’” dropped, that drop was not statistically significant, and overall drug use by adults soared 53 percent between 2001 and 2007, rising from 7.8 percent to 12 percent.
- Portugal saw enrollments in drug treatment jump 63 percent during the study period – but, Carnevale said, there’s no correlation between increased treatment enrollment and decriminalization. Instead, Portugal’s implementation of diversion programs for drug offenders was the likely reason for the increase.

Carnevale concluded, “‘This study’s findings fail to offer insight into the effects of Portugal’s decriminalization policies within its own borders. Therefore, it is impossible for us to recommend it be used as a basis for any policymakers, in any country, to justify moving toward decriminalization.’” ”

*Source:* “Portugal’s Drug Decriminalization No Model for U.S., Expert Says,” Staff Report, Partnership for a Drug-Free America, March 30th, 2011, <http://www.drugfree.org/join-together/portugals-drug-decriminalization-no-model-for-u-s-expert-says> [LEGAL DISCLAIMER: Fair Use excerpts, for review or criticism for purposes of illustration or comment, and summary of an address or article, with brief quotations, in a news report – such as this one.]

**Editor’s Note:** One commenter on the article above suggested that, perhaps, overall drug use only appeared to increase because drug users, apparently unafraid of criminal charges now, were able to use bank accounts to pay for drugs, which allowed authorities to track drug use to a greater extent. Also, this author notes that drug cartels would have less incentive to engage in crime if, like after the repeal of alcohol prohibition, drugs became available. Furthermore, while increases in the availability of drugs –particularly if the government provided it – would be like “adding fuel to the fire,” at least if drugs were either decriminalised or outright legalised, the government could regulate both use and production –thereby reducing the chances that someone, purchasing marijuana off the streets, might die from contaminated marijuana, laced with other, stronger, drugs. But, the safe but legal” argument has also been used to defend abortion, and we all know that this argument does not justify a dangerous or deadly behaviour, be it drug use, abortion, or whatever. Lastly, however, it was pointed out by a friend that the government is strapped for cash, and -with the impending collapse of the U.S. Dollar –we have no business subsidising yet another trade, especially one which produces dangerous drugs.

So, to conclude our analysis of how decriminalising illicit drugs affects drug use and crime rate, we find conflicting data, even some suggesting that, perhaps, drug use may increase a bit; however, in all fairness to the truth, when alcohol was made illegal by Prohibition, crime soared, due to the fact that Organised Crime exploited the sinful nature of mankind:

“ The following are statistics detailing how much worse crime got:

- Police funding: INCREASED \$11.4 Million
- Arrests for Prohibition Law Violations: INCREASED 102+%
- Arrests for Drunkenness and Disorderly Conduct: INCREASED 41%
- Arrests of Drunken Drivers: INCREASED 81%
- Thefts and Burglaries: INCREASED 9%
- Homicides, Assault, and Battery: INCREASED 13%
- Number of Federal Convicts: INCREASED 561%
- Federal Prison Population: INCREASED 366%
- Total Federal Expenditures on Penal Institutions: INCREASED 1,000%

"Not only did the number of serious crimes increase, but crime became organized. Criminal groups organize around the steady source of income provided by laws against victimless crimes such as consuming alcohol or drugs, gambling and prostitution. In the process of providing goods and services those criminal organizations resort to real crimes in defense of sales territories, brand names, and labor contracts. "

**Source:** "Organized Crime and Prohibition," By: William A. Meredith ([wm731882@albany.edu](mailto:wm731882@albany.edu)), The University at Albany, UUNI 157M - Human ID and Technology, April 29, 2005, [http://www.albany.edu/~wm731882/organized\\_crime1\\_final.html](http://www.albany.edu/~wm731882/organized_crime1_final.html), Viz: <http://www.albany.edu/~wm731882>

**See also:** "Alcohol Prohibition Was A Failure," by Mark Thornton (O. P. Alford III Assistant Professor of Economics at Auburn University), Cato Policy Analysis No. 157, <http://www.cato.org/pubs/pas/pa-157.html>

“ According to its proponents, all the proposed benefits of Prohibition depended on, or were a function of, reducing the quantity of alcohol consumed. At first glance, the evidence seems to suggest that the quantity consumed did indeed decrease. That would be no surprise to an economist: making a product more difficult to supply will increase its price, and the quantity consumed will be less than it would have been otherwise.

Evidence of decreased consumption is provided by two important American economists, Irving Fisher and Clark Warburton.[3] It should be noted that annual per capita consumption and the percentage of annual per capita income spent on alcohol had been steadily falling before Prohibition and that annual spending on alcohol during Prohibition was greater than it had been before Prohibition.[4]

The decrease in quantity consumed needs at least four qualifications--qualifications that undermine any value that a prohibitionist might claim for reduced consumption. **First**, the decrease was not very significant. Warburton found that the quantity of alcohol purchased may have fallen 20 percent between the prewar years 1911-14 and 1927-30. Prohibition fell far short of eliminating the consumption of alcohol.[5]

**Second**, consumption of alcohol actually rose steadily after an initial drop. Annual per capita consumption had been declining since 1910, reached an all-time low during the depression of 1921, and then began to increase in 1922. Consumption would probably have surpassed pre-Prohibition levels even if Prohibition had not been repealed in 1933.[6] Illicit production and distribution continued to expand throughout Prohibition despite ever-increasing resources devoted to enforcement.[7] That pattern of consumption, shown in Figure 1, is to be expected after an entire industry is banned: new entrepreneurs in the underground economy improve techniques and expand output, while consumers begin to realize the folly of the ban.

**Third**, the resources devoted to enforcement of Prohibition increased along with consumption. Heightened enforcement did not curtail consumption. The annual budget of the Bureau of Prohibition went from \$4.4 million to \$13.4 million during the 1920s, while Coast Guard spending on Prohibition averaged over \$13 million per year.[8] To those amounts should be added the expenditures of state and local governments...

**The fourth qualification may actually be the most important:** a decrease in the quantity of alcohol

consumed did not make Prohibition a success. Even if we agree that society would be better off if less alcohol were consumed, it does not follow that lessening consumption through Prohibition made society better off. We must consider the overall social consequences of Prohibition, not just reduced alcohol consumption. Prohibition had pervasive (and perverse) effects on every aspect of alcohol production, distribution, and consumption. Changing the rules from those of the free market to those of Prohibition broke the link that prohibitionists had assumed between consumption and social evil. The rule changes also caused unintended consequences to enter the equation.

**The most notable of those consequences has been labeled the "Iron Law of Prohibition" by Richard Cowan.[9] That law states that the more intense the law enforcement, the more potent the prohibited substance becomes. When drugs or alcoholic beverages are prohibited, they will become more potent, will have greater variability in potency, will be adulterated with unknown or dangerous substances, and will not be produced and consumed under normal market constraints. [10] The Iron Law undermines the prohibitionist case and reduces or outweighs the benefits ascribed to a decrease in consumption.**”

**Source:** “Alcohol Prohibition Was A Failure,” by Mark Thornton (O. P. Alford III Assistant Professor of Economics at Auburn University), Cato Policy Analysis No. 157, <http://www.cato.org/pubs/pas/pa-157.html> (Emphasis added in bold-face and yellow highlighting for clarity; not in original) – [LEGAL DISCLAIMER: Fair Use excerpts, for review or criticism for purposes of illustration or comment, and summary of an address or article, with brief quotations, in a news report – such as this one.]

**So, the argument distills to a choice between the following 3 options regarding the various illicit drugs – marijuana included:**

1. “Legal” drugs;
2. “Illegal (but not criminal)” drugs;
3. “Totally Illegal” and outright criminal prohibition.

We know that Prohibition (option 3, above) was a failure, but we also know that alcohol is a major contributor to vehicular accidents, health problems, and social ills, like addiction and divorce. (This would imply that option 1, above, is also a bad idea.) So, what should we ask Lawmakers to do on the State and Federal levels?

On the State level, marijuana laws can not override Federal Laws, but can be persuasive in moving public opinion. Also, even if marijuana remains illegal, copying Portugal's method of devoting more resources to treatment & rehabilitation (and less to the criminal system) may prove useful. But, Portugal wisely has continued to keep Police & customs authorities suppressing drug trafficking, while at the same time adding resources that were once allocated to pursuing users. Any changes to U.S. Drug policy, then, would need to be made at the Federal (not state) level –by Federal Lawmakers, the U.S. Dept. of Justice, etc. While this author agrees that Portugal is very wise to continue to keep drug manufacturing, trafficking, and drug use illegal, it would seem that there is a greater “bang for the buck” in treatment and diversion programs, as opposed to the (more expensive) criminal system, which merely houses offenders – who often-times come out hardened criminals, with the latter condition worse than the former. Here, the offenses are tantamount to a traffic ticket or a civil violation –and with a mandate to appear before a 2 or 3 person panel of the 'Dissuasion Commission' or medical and legal experts –a solid dissuasion from using / abusing drugs, but not overkill. If Portugal's model is to be emulated, then Florida should NOT make Medical Marijuana legal at the state level, but, instead, ask Federal Lawmakers to remove marijuana from Schedule 1 status: Since even Cocaine is “Schedule 2” (and, therefore, can be studied and researched), why, then, is Marijuana “Schedule 1?”

#### **DEFINITIONS:**

- “No prescriptions may be written for Schedule I substances, and they are not readily available for clinical use. [line-break] NOTE: Tetrahydrocannabinol (THC, marijuana) is still considered a Schedule 1 drug by the DEA, even though some U.S. states have legalized marijuana for personal, recreational use or for medical use.” **Source:** “List of Schedule 1 Drugs,” DRUGS.COM,

<http://www.drugs.com/article/csa-schedule-1.html>

- “Schedule 2 (II) Drugs [line-break] The drug has a high potential for abuse. The drug has a currently accepted medical use in treatment in the United States or a currently accepted medical use with severe restrictions. Abuse of the drug may lead to severe psychological or physical dependence. [line-break] The following drugs are listed as Schedule 2 (II) Drugs by the Controlled Substances Act (CSA):...C-Topical Solution (Pro, More...) generic name: cocaine topical” **Source:** “Schedule 2 (II) Drugs,” DRUGS.COM, <http://www.drugs.com/schedule-2-drugs.html>

**Even Polk County (Florida) Sheriff, Grady Judd, the most vocal opponent of Florida's proposed 'Medical Marijuana,' amendment, agrees that Marijuana should be permitted for some medical uses, even if not by passing “Amendment 2”:**

“The Ledger: Would you favor a more narrowly worded version of the amendment?”

Judd: No, and I say that because I don't know what they might write, but I don't believe a constitutional amendment is the vehicle by which such law should be implemented. I think it should follow the process of Charlotte's web (a cannabis extract used for childhood epilepsy and other conditions) -- just passed the legislature and received the governor's signature. Certainly as you saw with Charlotte's web, that compound does not have the intoxicant or has a very, very low percentage of the intoxicant, but it has cannabinoids that will help, and the legislature saw the potential value in that and crafted a very tightly written law...”

**Source:** “Contrasting Views of Marijuana Color Debate Over Amendment 2,” By GARY WHITE, THE LEDGER”: [www.ledgerdata.com/medical-marijuana](http://www.ledgerdata.com/medical-marijuana)

**Sheriff Judd –and all other panelists in the recent 'Forum' debate on Medical Marijuana –also agreed on this:**

“There was one point of agreement among the panelists [including Judd]: All said marijuana should be removed from Schedule 1, the federal category reserved for drugs considered to have no medical value and a high risk of abuse. That listing makes it nearly impossible for scientists in the United States to conduct rigorous tests of marijuana's benefits and dangers.”

**Source:** “Polk Sheriff Grady Judd, John Morgan Face Off at Medical Marijuana Forum in Lakeland,” By Halifax Media Group, Herald-Tribune / Friday, August 29, 2014, By Gary White, THE LEDGER: <http://marijuana.heraldtribune.com/2014/08/29/polk-sheriff-grady-judd-john-morgan-face-medical-marijuana-forum-lakeland>

In conclusion, we faced the following the following 3 options regarding the various illicit drugs –marijuana included:

1. “Legal” drugs;
2. “Illegal (but not criminal)” drugs;
3. “Totally Illegal” and outright criminal prohibition.

Before we go any further, I want to draw on a historical overview of this question (“How 'illegal' should an act be?”) – I will use some Christian Bible accounts, but I must stress that while I, myself, accept this as my 'religious' book, I am not attempting to “push” my religion in this Position Paper –as this paper is on a purely political and legal subject. But, as the Christian Bible addresses this, I will use these historical accounts to illustrate a few points, and the law, in this example, will be the law of divorce.

Originally, divorce was prohibited –and, in fact, not even contemplated! (Genesis 1:27; 2:18-24; 5:2). And, to back that up, adultery (cheating, e.g., “effectively” divorcing by act, even if not in name) was also prohibited: “Thou shalt not commit adultery.” Exodus 20:14; Cf: Deuteronomy 5:18.

Later, however, divorce was permitted (Deuteronomy 24:1-3), due to the evil nature and hardness of the heart of the people of that day (Matthew 19:7-9; Mark 10:4-9).



However, it went even further than that in Ezra's time: In Ezra 9:1-3, the prophet laments the Israelites having taken foreign wives (not for reasons of prejudice -simply for being foreigners: Moses took a foreign wife, in fact, she was Black: Numbers chapter 12 chronicles that God had no problem and in fact, defended Moses!). So, in Ezra 10:1-5, we see the prophet of God MANDATING the people get divorces, and put away both their foreign wives AND any children that might be born unto them! So, we have these 5 differing standards for divorce and adultery in the Bible:

1. Divorce Mandatory (Ezra 9:1-3; Ezra 10:1-5ff)
2. Divorce Legal, but optional (Deuteronomy 24:1-3)
3. Divorce Illegal (Civil), but not punishable by death (Matthew 19:7-9; Mark 10:4-9)
4. Adultery Illegal (Criminal), and punishable by death by stoning (Leviticus 20:10; John 8:1-6)
5. Adultery Illegal (Matthew 5:27-28; Civil), but NOT punishable by death (John 8:7-11) by stoning

***So, what's my "take home message" from this 'Bible Study'?*** (No, I'm not trying to preach to you –at least, in this “Political and Legal” Position Paper: There's a time & place for 'preaching' – Ecclesiastes 3 – but that time/place is not here/now.)

**My take home message is this:** Legally persuasive case law from the chronicles of history (as recorded in the Christian Holy Bible) clearly show PROOF of the concept that Civil and Criminal Law CAN change over time. (Jesus said change was necessary for the “hardness,” e.g., evil nature, of their hearts.) Let's apply that to our earlier question. Here were the 3 options regarding the various illicit drugs –marijuana included:

1. “Legal” drugs;
2. “Illegal (but not criminal)” drugs;
3. “Totally Illegal” and outright criminal prohibition.

What would Jesus say if faced with this question? (For the purposes of this paper, we will assume that, since Jesus successfully faced a similar legal question, He is 'wise' and knows what would be best for each epoch of history.)

**Jesus might say:** Since we should not pollute our bodies, harmful use of drugs should be illegal AND criminal, but, due to the hardness of your hearts, that model is not working so well, and so you should keep the possession & personal use of drugs illegal –and highly regulated, but not “criminal”: Let it be a 'civil' penalty for personal use, but a 'criminal' penalty for production, sale, trafficking, and mass production (like Portugal). That would be 'workable' and also free us precious resources for treatment, education, and rehabilitation.

**Now, let's look at it from an “American” historical perspective, and see if we come up with the same answer that I estimate Jesus might say:**

So, which is the right option – the best option? Even Portugal does not make marijuana legal (only “decriminalised,” that is, like a traffic ticket). However, making drug use a criminal offense has not worked either (viz: Prohibition). So, perhaps the best policy is to do like Portugal does:

1. Make drug trafficking, sales, & Interstate Commerce a criminal offense, and bring police and customs to bear on this;
2. Keep drug use (for personal use) illegal, but decriminalise it, so that more resources can be brought to bear on treatment, and less on 'warehousing’ offenders. (We spend too much on our prison system as it is, as we incarcerate a higher percentage than any nation on earth[\*\*] –and instead of rehabilitation, they come out worse, making them hardened criminals upon leaving prison for a so-called 'minor' offense.)
3. Spend more resources on education, treatment, and even diversion programs (prevention is the best medicine). Treat drug use and abuse as the social and spiritual ill that it is, and employ both public and private sectors –government, civic, and religious organisations to educate the public on health, diet, lifestyle, and try to emulate and copy the successful models of other countries, like Japan and China,

which have lower cancer rates, longer life-spans, and less incidence of other preventable diseases.

[[\*\*]] “Since 2002, the United States has had the highest incarceration rate in the world. Although prison populations are increasing in some parts of the world, the natural rate of incarceration for countries comparable to the United States tends to stay around 100 prisoners per 100,000 population. The U.S. rate is 500 prisoners per 100,000 residents, or about 1.6 million prisoners in 2010, according to the latest available data from the Bureau of Justice Statistics (BJS).”

**Source:** “U.S. Has World's Highest Incarceration Rate,” By Tyjen Tsai and Paola Scommegna, Population Reference Bureau, August 2012: <http://www.prb.org/Publications/Articles/2012/us-incarceration.aspx>

**See also:** Paul Guerino, Paige M. Harrison, and William J. Sabol, Prisoners in 2010 (Revised) (Washington, DC: Bureau of Justice Statistics, 2011); and Sara Wakefield and Christopher Uggen, "Incarceration and Stratification," Annual Review of Sociology 36 (2010): 387-206: <http://www.bjs.gov/content/pub/pdf/p10.pdf>

“The United States has the highest prison population rate in the world, 716 per 100,000 of the national population, followed by St Kitts & Nevis (714), Seychelles (709), U.S. Virgin Is. (539), Barbados (521), Cuba (510),...”

**Source:** “World Prison Population List (tenth edition),” By Roy Walmsley, International Centre for Prison Studies, October 2013:

[http://www.prisonstudies.org/sites/prisonstudies.org/files/resources/downloads/wppl\\_10.pdf](http://www.prisonstudies.org/sites/prisonstudies.org/files/resources/downloads/wppl_10.pdf)

“The United States has about five percent of the world’s population and houses around 25 percent of its prisoners. In large part, that’s the result of the “war on drugs” and long mandatory minimum sentences, but it also reflects America’s tendency to criminalize acts that other countries view as civil violations.”

**Source:** “Land of the Free? US Has 25 Percent of the World’s Prisoners,” by Joshua Holland, December 16, 2013: <http://billmoyers.com/2013/12/16/land-of-the-free-us-has-5-of-the-worlds-population-and-25-of-its-prisoners>

**SOLUTION:** The unadulterated truth indicates that the 'War on Drugs' has been less successful in America, than in other countries, who offer a “more balanced” approach than excessive criminal justice system methods we employ. To be sure, if you do the crime, you must do the time, but there is a time and a season for everything: A time for prison, but also a time for rehab and treatment. The solution must have elements of both criminal justice system and treatment (and prevention, which is the best medicine: an ounce of prevention is worth a pound of cure).

The 'American' review of history comes up with the same answer as our review of 'Israeli' history in the Christian Holy Bible: Continue to keep drugs illegal, and impose criminal penalties for trafficking and mass production and sale, but to decriminalise “personal” drug use, making it a civil infraction (tantamount to a traffic ticket: Still good motive to avoid drugs, but not overkill). Both the Civil Government (Criminal Justice System: Cops & Courts & Lawmakers) as well as Civic and Religious organisations (churches, Alcoholics Anonymous, etc.) can play a role. Lastly, mothers and fathers, who play the chief role, should raise their children right so that this is not even a question: Strong families with a strong faith are a chief cornerstone to a successful foundation in our society. (And, so is God, and our faith in Him, but this, I add, as my personal belief –and helpful guidance, and not to preach or beat you over the head with a Bible.)

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