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The historian Charles Beard once said that historical narratives spring from one of three incompatible premises: Either history is chaos that defies interpretation, or it is cyclical, or it moves in a line in some direction. Beard judged all written history "an act of faith" in which historians had to choose one of these frames for the story they wanted to tell.[1]

Historians of American drug policy have favored Beard's cyclical approach, describing reform traditions that moved into and out of favor. Progressivism emerged first, then Liberalism, then the Drug War, and then a movement I'll call End the Drug War. Because ideas and generations do not enter and exit history on cue, there was some overlap among the reform traditions. Even so, each had distinctive periods of intensifying propaganda and legislative activity. Progressivism's crucial phase ran from 1906 to 1924; Liberalism's from 1962 to 1972; the Drug War's from 1971 to 1973 and again from 1977 to 1996; and End the Drug War's from 1996 to the present.

Each of these reform traditions included "soft" and "hard" camps. For example, progressive reformers divided over the question of whether the nonmedical use of alcohol and narcotic drugs should be regulated or prohibited outright. While the changes in reform fashion had many causes, the most obvious was the triumph of the hard-policy advocates, who invariably provoked a reaction that sent opinion in the other direction. This cyclical pattern repeated itself through the twentieth century, setting in motion a policy pendulum that seems likely to go on swinging, even as the drug war finally winds down.

American Drug-Policy Reform Traditions with Representative Goals and Tactics

Progressivism	Liberalism	Drug War	End the Drug War
Soft version: Temperance; restricted access (by age, hours, and prescription); state monopolies like the Gothenburg system	**Soft version:** End drug hysteria; destigmatize users; reform sentencing; rehabilitate rather than incarcerate drug addicts	**Soft version:** Restigmatization; more enforcement; more therapeutic communities; discourage all youthful drug use	**Soft version:** Harm reduction (NSPs, medically assisted recovery); use decriminalized; sentencing reform; medical marijuana
Hard version: Prohibition of nonmedical drug use (cigarettes and alcohol later exempted, cannabis added); denial of maintenance for nonmedical addicts	**Hard version:** British-style maintenance; methadone maintenance; marijuana decriminalization; abstinence not the only treatment goal	**Hard version:** Mandatory minimum sentences; asset forfeiture; mass incarceration; intensified interdiction and crop destruction	**Hard version:** Taxed recreational cannabis sales for adults; heroin maintenance programs; abolish Schedule I prohibitions on all psychoactive drugs

Progressivism

The first reform tradition, Progressivism, created the modern system of drug regulation and selective prohibition. Victorian reformers on both sides of the Atlantic had long worried that commercialized vices—particularly the liquor trade, gambling, prostitution, pornography, narcotics trafficking, and tobacco smoking—were spreading, as indeed they were. Industrialization, technological refinements, and improved transportation had made spirits, narcotics, and cigarettes cheaper, more potent, and more widely available. A transnational coalition of reformers attacked this commerce at home and abroad, including in colonies that derived much of their revenue from trade in opium and gin.

In America, the reformers crafted a variety of local ordinances, state laws, and federal statutes, the most important of which were enacted during the Progressive Era. But there was a

catch. While all progressives agreed that drug commerce should be reined in, they did not necessarily agree on the means, whether through regulation or strict prohibition of nonmedical use. Nor did they always agree on which psychoactive substances should be banned.

Bishop Charles Henry Brent, who served as a missionary bishop in the Philippines and witnessed the effects of the opium trade there, epitomized the soft progressive approach. Brent chaired the international opium conferences in 1909 and 1911–1912 and helped to create the modern treaty system to limit narcotic production to estimated medical needs. More than any other person, he inspired and shaped international narcotic control. But Brent, a liberal Episcopalian, parted company with his evangelical brethren on similar measures for alcohol control. Brent, in fact, opposed the Volstead Act of 1919, which prohibited beverage alcohol for other than home, medical, and sacramental purposes. Fellow progressive Woodrow Wilson likewise opposed the law, but Congress overrode the bedridden president's shakily signed veto.

The majority of Americans thought like Brent and Wilson and agreed with the soft progressive approach. But an unusual combination of circumstances—World War I, resurgent nativism, alternative revenue from the new income tax, malapportionment favoring "dry" rural voters, and creative single-issue politics—enabled hard progressives to secure ratification of the Eighteenth Amendment and veto-proof passage of the Volstead Act. In the same year, 1919, hard progressives celebrated a 5–4 Supreme Court ruling that upheld the Treasury Department's anti-maintenance interpretation of the Harrison Narcotic Act of 1914. (A pro-maintenance decision would have allowed legal drugs for addicts, regardless of their health or the origin of their condition.) Between 1895 and 1927, hard progressives even managed to persuade fifteen states to ban the sale, and sometimes the manufacture and use, of cigarettes. In 1924, Congress also forbade the manufacture of heroin.

Yet cracks soon began appearing in hard progressivism's façade. Perhaps most important was National Repeal in 1933, which commenced a steady decline in the number of dry states, counties, and municipalities. Cigarette manufacturers overcame all legal and social obstacles to turn their product into the great modern pacifier. And new habit-forming drugs, barbiturates and amphetamines, caught on in medical and nonmedical circles.

However, hard progressives still held sway at the Federal Bureau of Narcotics. The BON, as it was known, monitored supplies of opiates and cocaine, prosecuted traffickers, forbade nonmedical maintenance, isolated and stigmatized addicts, and urged states to adopt stricter uniform drug laws. Harry Anslinger, head of the BON from 1930 to 1962, also had an impact on federal legislation. In 1937 he urged Congress to make marijuana an illicit drug, which it did through the Marijuana Tax Act. In the 1950s Anslinger lobbied for mandatory minimum sentences, which Congress authorized in the 1951 Boggs Act and the 1956 Narcotic Control Act. State legislatures tagged along, enacting "Little Boggs Laws."

Liberalism

In the 1940s and 1950s a handful of liberal critics began challenging Anslinger's hard-line tactics and, more broadly, the double standard of American drug policy. The punitive demonization of narcotics, cocaine, and marijuana, combined with the lax regulation of licit drugs like alcohol, tobacco, and barbiturates, struck them as unwise and hypocritical. The authors of the 1944 LaGuardia Committee report found that marijuana smoking was less dangerous than supposed, and all but nonexistent among New York City school children. They were nonetheless shocked by students' widespread use of cigarettes, easily purchased from candy stores and street vendors.

Liberals wanted a policy that was longer on reason and shorter on zeal. They denied that illicit drug use necessarily produced aberrant behavior, or that it always led to addiction. When it did,

addicts should be treated and rehabilitated, not ostracized or forced into the black market. Expensive drugs caused addicts to commit crimes. Adulterated drugs caused them to drop dead. Maintenance had been tried successfully in Great Britain. Why not try it in America, at least on an experimental basis?

In 1958 the American Bar Association and the American Medical Association released an expert report that tactfully questioned the police approach and the denial of maintenance trials. The criticism enraged Anslinger, who accused the authors of coddling addicts and comforting communists. But by now such bullying did more harm than good. It provoked long-time critics such as Lawrence Kolb, the dean of the country's addiction researchers and the first medical superintendent of the federal narcotic hospital in Lexington, Kentucky, which opened in 1935. Kolb thought his patients' addictions were symptoms of mental disease, not perversions of character. They needed to be "supervised rather than repressed." He challenged hard-progressive propagandists, denounced long prison sentences, and, in 1962, issued a durable manifesto: "This country suffers less from the disease than from the misguided frenzy of suppressing it."[2]

Just as there were hard and soft progressives, there were hard and soft liberals. What separated soft liberals like Kolb from hard liberals were two issues around maintenance—who should get it, and for how long? The questions became pressing during the 1960s, when the physicians Vincent Dole and Marie Nyswander demonstrated that methadone, a long-acting synthetic narcotic that addicts took orally, was a highly effective maintenance drug. Methadone programs expanded rapidly in the wake of a national heroin-addiction epidemic in the late 1960s and early 1970s. Like other hard liberals, Dole and Nyswander questioned whether treatment should necessarily aim at abstinence. They believed that indefinite, high-dose methadone maintenance was the most realistic goal for many of their patients. Health and behavior were what mattered, not the presence or absence of opiates.

Hard liberals also tended to support marijuana decriminalization and tighter regulation of other drugs, including sedatives, stimulants, alcohol, and tobacco—the gist of Edward M. Brecher's 1972 bestseller, *Licit and Illicit Drugs*. The early 1970s was a time of ferment in drug policy and treatment, a moment when the old paradigm of double-standard progressivism seemed to be giving way to the more rational paradigm of public-health liberalism.

The War on Drugs

Then politics got in the way, which is why many people recall the early 1970s as both the golden age of medicalization *and* the beginning of the drug war. They are not wrong to do so. The new president, Richard Nixon, took a unique approach to drugs after he assumed office in 1969. An unusually protean politician, Nixon was a pragmatist who stitched together domestic policies out of disparate elements that suited his immediate political purposes. His eclecticism was on full display in his drug policy, which drew on all of the previous reform traditions.

For most drugs, Nixon favored expert-determined scheduling and prescription regulations—that is, soft progressivism. Liberals soft and hard supported portions of the 1970 Controlled Substances Act, which systematized drug scheduling, provided new money for public health approaches, and eliminated most mandatory minimum sentences, including those for cannabis possession. Nixon launched the Special Action Office for Drug Abuse Prevention and the National Institute on Drug Abuse, giving them unprecedented resources for treatment and research. And he listened to his advisers and backed methadone.

Yet Nixon also had a streak of hard progressivism. He believed that illicit drug use threatened the nation's future. During his 1962 California gubernatorial campaign, he had called for the death penalty for drug traffickers with multiple convictions. And, in 1971, Nixon officially launched his own drug war, which featured anti-drug rhetoric and photo ops. The following year,

Nixon's drug war took a harder turn with the rejection of the liberal Shafer Commission's report on marijuana and the establishment of the Office of Drug Abuse Law Enforcement, which coordinated sweeps against street dealers. In January 1973, after New York Governor Nelson Rockefeller proposed draconian drug laws, Nixon expressed frank admiration, captured on the White House tapes. In March 1973 Nixon attempted to follow suit, proposing that Congress enact minimum five-year terms for convicted heroin traffickers and life without parole for traffickers who had prior drug felonies.

Nixon's premature gambit to nationalize the Rockefeller Drug Laws got lost in the Watergate crisis. But the drug war toward which Nixon was veering sprang back to life in the late 1970s and early 1980s. The national mood was changing, as both economic and moral conservatives attacked the waning liberal political consensus. New Right activists accused liberals of fostering dependency and permissiveness, as demonstrated by the ongoing drug crisis. Heroin may have peaked, but cocaine and cannabis were more fashionable than ever. By 1979 two-thirds of high-school seniors had tried an illicit drug, most often marijuana.

The antidrug parents' groups that began forming in 1977 wanted marijuana restigmatized, zero tolerance, more resources for law enforcement, youth prevention programs, and tough-love treatment, including therapeutic communities geared toward abstinence. For these activists and their allies in the newly elected Reagan administration, methadone was worse than irrelevant. Let kids get high, work their way up to heroin, and *then* put them on methadone? That was the sort of twisted thinking you would expect from the "New York" psychiatric crowd.[3]

If First Lady Nancy Reagan provided the public face for the drug war's moralizing and budget-shifting phase, President George H. W. Bush provided the signature moment for its hard, carceral phase. On September 5, 1989, when he displayed to a national television audience a bag of crack allegedly seized near the White House, Congress had already passed two antidrug laws that

were bigger and harsher than anything from the 1950s. But Bush called for more punitive legislation. So did Senator Joe Biden, who delivered the Democrats' televised response. "Not tough enough," Biden said. He demanded more police, prosecutors, judges, and cells to lock up drug thugs "for a long time." Drug policy had become a partisan bidding game, which was why President Bill Clinton had little room for maneuver during his 1993–2001 administration.[4]

End the Drug War

Even so, the last of the four reform movements, End the Drug War, gained traction during the 1990s. Mass incarceration had decimated minority communities, yet produced no decline in the purity or availability of drugs. What Kolb had said in 1962, about the cure being worse than the disease, resonated in the age of AIDS. Harm-reduction researchers such as Don Des Jarlais, an international authority on HIV infection, supported needle and syringe programs—"NSPs"—to provide sterile injection equipment to users. Like liberals, harm-reductionists wanted addicts in treatment rather than in prison. Treatment included medically assisted recovery with methadone or, later, buprenorphine. Most harm-reductionists also favored medical marijuana, in part because they recognized its use in alleviating the symptoms of AIDS and other chronic diseases.

Today, harm reduction is in the ascendancy. Since 1996 twenty-three states and the District of Columbia have enacted medical marijuana laws, which the U.S. Justice Department has declined to trump with the Schedule I status of cannabis. Notoriously strict sentences for crack-cocaine convictions have been amended. Before his departure, Attorney General Eric Holder announced a review of the federal asset-forfeiture program and new clemency opportunities for drug offenders, efforts supported by conservatives worried about government overreach and rising prison costs.

Some reformers have demanded more sweeping changes, including recreational cannabis purchases by adults (so far enacted by four states), heroin maintenance clinics, and an end to all

Schedule I blanket prohibitions. At its limit, End the Drug War becomes libertarianism *à la* Milton Friedman, one of the earliest and most consistent critics of drug prohibition. Given the waning of the larger culture war that framed the drug war of the 1980s and 1990s and given the ongoing secular and libertarian drift of American culture, particularly among the young, it seems likely that at least some states will venture further down the legalization path.

This does not mean, however, that Beard's cyclical pattern is destined to turn into a line. If (and where) harm reduction evolves into drug libertarianism, it will produce another political reaction. Legalization undercuts black markets, but not gray markets. Drug diversion and youthful experimentation will remain sensitive political issues, just as overdoses and addiction will remain serious public health concerns. A good example is the aftermath of liberalized opioid prescribing for chronic pain patients, a movement promoted by pharmaceutical companies that bore commercial fruit in the mid-1990s. Oxycodone and hydrocodone sales rose sharply, but so did overdose deaths and addiction.[5] The result was state regulatory crackdowns and the rise of neo-progressive advocacy groups such as Physicians for Responsible Opioid Prescribing. To the extent that the legalization of marijuana (or any other drug) produces more addiction and more health and developmental problems, it will generate a similar pushback.

Given what we now know about the common neural pathways of substance and behavioral addictions, it is virtually certain that neo-progressives will aim at more than drugs. Among their likely targets are foods and beverages loaded with fat, salt, and sugar—the last the culprit in New York City Mayor Michael Bloomberg's abortive (or perhaps premature) 2012–2013 campaign against large soda drinks. Neo-progressives have also raised alarms about electronic gambling machines, addictive digital pastimes, and vaping. The basic historical problem, that commercial interests can hook us with products that are bad for us, has not gone away. In fact, it has gotten much worse. Therefore it is hard to imagine a future in which the regulatory impulse will simply go away. It is possible to

imagine a future in which we do not let the regulatory impulse run away. But that will require reining in two of the forces, political advantage and ideological messianism, that have destabilized drug policy for more than a century.

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[1] Charles A. Beard, "Written History as an Act of Faith," *American Historical Review,* 39 (Jan. 1934), 219–29. An early version of this article—mine, not Beard's—was presented at the Radcliffe Institute for Advanced Study, January 29, 2015. I acknowledge and thank conference co-hosts Philip Heymann and Mathea Falco.

[2] Lawrence Kolb and W. F. Ossenfort, "The Treatment of Drug Addicts at the Lexington Hospital," *Southern Medical Journal,* 31 (Aug. 1938), 917; Lawrence Kolb, *Drug Addiction: A Medical Problem* (1962), 169.

[3] The drug policies of Nixon and his presidential successors are described in Michael Massing, *The Fix* (1998) and David T. Courtwright, *No Right Turn: Conservative Politics in a Liberal America* (2010), chapters 4, 6, 9, and 10; "New York" at p. 161.

[4] Biden speech transcript, September 5, 1989, box II:979, Daniel Patrick Moynihan Papers, Library of Congress, Manuscript Division, Washington, D.C.

[5] Andrew Kolodny et al., "The Prescription Opioid and Heroin Crisis: A Public Health Approach to an Epidemic of Addiction," *Annual Review of Public Health,* 36 (2015), 559–74.