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ROOM DEBATE

A Running Commentary on the News

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What Will Mexico's New Drug Law Do?

By [The Editors](#)

Mexico last month adopted a law that decriminalizes the possession of small amounts of marijuana and harder drugs, including cocaine and heroin. Other countries in Latin America are considering similar changes in their laws, prompting antidrug groups in the U.S. to say that pressure from south of the border will push the United States toward decriminalization, if not legalization, of drugs.

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What effect will the new policy will have in Mexico and, possibly, in the United States? Will it draw so-called drug tourists from across the border? Is the Obama administration doing the right thing by taking a wait-and-see attitude, in contrast to the Bush administration's vehement opposition to a similar plan proposed in Mexico in 2006?

- [Tony Payan](#), political scientist
- [Jorge Castañeda](#), former foreign minister of Mexico
- [Calvina Fay](#), Drug Free America Foundation Inc.
- [Peter Reuter](#), professor of criminology
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A Modest *and* Gigantic Shift

Tony Payan is an associate professor of political science at the University of Texas at El Paso and is also on the faculty of the Universidad Autónoma de Ciudad Juárez.

Mexico decriminalized the possession (but not the production, trade, and distribution) of drugs. So did Argentina and Colombia. The move is, as politicians explain it,

designed to curb police corruption — bribing people when caught with small amounts of drugs.

The new policies in conservative Latin America reflect disillusionment with the United States war on drugs.

If they said any more about it, they would be wrong — and they know it, as they do not make any claims that this measure will result in less drug-related violence. Indeed, if they asked me, will decriminalization of the possession of small amounts of drugs save a single life in Ciudad Juárez, where there have been about 3,200 murders in 21 months, my answer would be a rotund no.

But decriminalizing drug possession is in and of itself a change of, paradoxically, gigantic and modest proportions. Gigantic because it is a solid first step to pave the way for 1) distinguishing between drug use and drug abuse 2) paving the way for fully medicalizing abuse, that is, reinforcing the idea that we should treat drug addicts much as alcoholics and offer them help instead of prison time, and 3) focusing state resources on the production, trafficking and distribution networks. But modest because it still commits governments to continue their war on drugs, just not on the user.

What is surprising is the fact that this change is coming from Latin America, a Catholic, largely conservative continent. This represents a cultural shift that may mean that Latin America is changing but also that it is increasingly disappointed with the American approach to drugs and the futility of its strategies and tactics.

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What Decriminalization?

Jorge Castañeda is the Global Distinguished Professor of Politics and Latin American and Caribbean Studies at New York University. He was foreign minister of Mexico from 2000 to 2003.

The recently approved new “drug” law in Mexico is in fact not a step toward decriminalization, but rather toward mandatory sentencing. Until last month,

possession of small (unspecified) amounts of drugs was not a criminal offense in Mexico; only the sale or purchase was. The new law establishes a minuscule limit on legal possession, meaning that today, almost anyone caught carrying any drug is subject to arrest, prosecution and jail.

If anything, the new law criminalizes drug use much more radically than before.

If anything, the new law criminalizes drug use much more radically than before, and it is probably for this reason that President Calderón signed it, and that the Obama administration has looked the other way. It will almost certainly not attract US “drug tourists” to Mexico, since the risk of being arrested for possession has grown considerably with the new law, whereas before the real risk was just a shakedown by the authorities.

The law actually is part of a campaign to justify President Calderón's war of choice on drugs by stating that drug consumption in Mexico has increased over the past 10 years. In fact, the government's own unpublished but leaked National Addiction Survey for 2008 shows that this is not the case. The growth of marijuana, heroin and metamphetamine consumption is flat in all categories (addiction, occasional use, at-least-once-in-a-lifetime use), and while cocaine addiction, for example, did rise from 300 000 victims in 2002 to 450 000 in 2008 (a 50 percent increase, or roughly 6 percent per year), it did so from a tiny baseline, for a tiny percentage (0.4 percent) of Mexico's population, a much smaller share than for the U.S., Western Europe and practically every country in Latin America.

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Danger of a Domino Effect

Calvina Fay is executive director of [Drug Free America Foundation Inc.](#)

Mexico's President Calderon got it wrong on decriminalizing drugs. I fear for the future of Mexico and the domino effect here at home.

Creating an environment where it is easier to use drugs will enhance the market for traffickers.

A better way to distinguish users from dealers is to increase drug courts and treatment

facilities and the frequency of referrals of low-level drug offenders into these programs. Drug courts save lives, holding users accountable while leveraging them into treatment.

Treating users as though they merely were speeding by imposing a minor fine is not in the best interest of Mexico's citizens. Ignoring the behavior or fining them eliminates the opportunity for meaningful intervention.

Drug users are not innocent. They support the vicious drug cartels. Without their demand for drugs, the supply side has no purpose. Since terrorists depend on the drug market to fund their activities, users are potentially aiding terrorism. Because drug traffickers are frequently linked with weapons and human trafficking, users are also supporting these activities.

Drugs put more impaired drivers on the highways, endangering others. They make workers less productive and less safe. Users utilize more health-care benefits, increasing insurance costs. In the U.S., about 75 percent of children in foster care are victims of drug-abusing parents and roughly 60 percent of domestic abuse and 80 percent of workplace thefts are drug-related. Drug use is linked to crime, school dropout, and teenage pregnancy. All of this will likely increase, further burdening Mexico's judicial system, which is already hanging by a thin thread.

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A Welcome Shift

Peter Reuter is a professor in the School of Public Policy and the Department of Criminology at the University of Maryland.

Mexico is one of several Latin American countries that want to avoid a war on local drug users — even as it deals with horrific violence arising from the international drug trade. The country has therefore considered decriminalizing the possession of illicit drugs for personal use.

Mexico's most severe drug-related crime and violence arise almost entirely from U.S. demand for illicit drugs.

Evidence from other countries suggests that decriminalization could be modestly helpful in addressing Mexico's recent difficulties. The most analogous recent experience is that of Portugal, which decriminalized drug possession in 2001. When these measures were implemented, critics feared that decriminalization would lead to increased drug use, and that drug users across the European Union would congregate there. To all outward appearances, decriminalization produced none of the feared effects. Given that drug users in Portugal were hardly ever arrested before 2001, the result was not surprising.

Mexico has been similarly restrained in enforcing its own drug possession laws. Removing the possible deterrent effect of criminal prosecution is thus unlikely to make much difference to the decision to experiment with drugs in Mexico. Given the corruption that has been revealed in endless scandals at all levels of Mexican drug enforcement, one major attraction of decriminalization is that it reduces the number of ways that local police can extort the populace, including U.S. college students sampling various intoxicants on their spring vacations.

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Fear-Mongering Is Unjustified

***Ethan Nadelmann** is executive director of the Drug Policy Alliance.*

The recent decriminalization of drug possession in Mexico is good for Mexico, good for the U.S., and consistent with the broader trend in Europe, Latin America and elsewhere.

The Jamaican drug tourism industry has nothing to fear from Mexico's reform.

The new law eliminates criminal penalties for possession of small amounts of drugs, authorizes treatment instead of incarceration for addicts, refrains from forcing "rehabilitation" on consumers who are not addicted, and legitimizes the ritual and cultural use of drugs like peyote. This should, in theory, result in fewer people being incarcerated for nothing more than drug use or possession, and allow police to focus on more serious crimes. Such reforms generally do not result in higher rates of drug

use — at least that's the evidence from other countries. And it will have no impact on President Calderon's battle with the major drug trafficking organizations.

It's hard to see the law encouraging "drug tourism" from the United States, and certainly nothing to compare with the "tourism" generated by Mexico's lower drinking age and easy access to lower cost pharmaceutical drugs. Nothing in the law authorizes the creation of Dutch-like coffee shops selling marijuana openly. The Jamaican tourism industry has nothing to fear from Mexico's reform. And Americans generally prefer the higher quality marijuana grown in our own country.

Why did the Obama administration refrain from criticizing the Mexican reform? Probably because it understands that it will have no impact on drug use or trafficking in the United States. But perhaps it also is coming to the conclusion that criminalization of drug possession typically does more harm than good.