

8-2014

## A historical analysis of the reasoning and rationale behind the federal prohibition of marijuana

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A HISTORICAL ANALYSIS OF THE REASONING  
AND RATIONALE BEHIND THE FEDERAL  
PROHIBITION OF MARIJUANA

A Thesis

by

CARLOS CARO

Submitted to the Graduate School of  
The University of Texas-Pan American  
In partial fulfillment of the requirements for the degree of  
MASTER OF ARTS

August 2014

Major Subject: History



A HISTORICAL ANALYSIS OF THE REASONING  
AND RATIONALE BEHIND THE FEDERAL  
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August 2014



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## ABSTRACT

Caro, Carlos., A Historical Analysis Of The Reasoning And Rationale Behind The Federal Prohibition Of Marijuana. Master of History (MA), August, 2014, 77 pp., references, 55 titles.

This thesis argues that the federal government first created and then maintained the prohibition of marijuana as a reflection of and reaction to, social, political and economic events happening at large in the U.S. and abroad. This thesis primarily compares and contrasts the treatment of marijuana by the federal government and society at large during the 1930s through the early 1980s by building upon scholars' previous links to race, ethnicity, class and morality to display a pattern of change that was convenient to the federal government's continued efforts to prohibit marijuana. This thesis demonstrates that changes in attitude and perception of marijuana at the federal level had little to do with the plant itself, but rather were products of the social, political and economic issues of the day.





## DEDICATION

The completion of my studies would not have been possible without the continuous love and support of my family and friends who have whole-heartedly supported my studies and the social causes in which I believe in. Thank you for your patience, love and continued wisdom.



## ACKNOWLEDGEMENTS

My thanks go to my thesis committee members: Dr. Michael Faubion, Dr. Brent Campney and Dr. Megan Birk. Their advice, wisdom, input, constructive criticism and range of knowledge helped elevate the quality of my intellectual capabilities. I would also like to thank my many friends including, James Alaniz, Victor Martinez, J.J. Guajardo Jr., J.J. Guajardo Sr., etc. for their valuable input, words of encouragement and unique viewpoints, all of which have helped enrich this study.



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## CHAPTER I

### ENGINEERING THE PROHIBITION OF MARIJUANA

The issue of marijuana's legality and its perceived effects on society is continually discussed and debated. Popular perception regarding marijuana's effects have evolved over roughly seventy seven years from a substance that was believed to have caused insanity and violence in the 1930s, to a substance that could potentially be a "gateway" to harsher drugs in the 1950s and finally into a substance that causes lethargy, laziness and kills motivation in the 1960s. The U.S. Government pushed these views in its vigorous anti-marijuana campaign beginning in the 1930s and continuing today, sometimes combining all of these arguments and/or contradicting earlier evidence in order to maintain the prohibition of marijuana.

This thesis focuses on the 1930s through the early 1980s and the changing reasoning and rationale for maintaining marijuana's illegality throughout the roughly fifty-year time frame that this study analyzes. This thesis argues that the federal government first created and then maintained the prohibition of marijuana as a reflection of and reaction to, social, political and economic events happening at large in the U.S. and abroad. This thesis contributes to existing scholarship by displaying several distinct patterns in which the federal government first created and then maintained the prohibition of marijuana. These patterns include the use of race/class as an underlying factor in prohibitory measures, the concept of the "other", middle class activism in shaping prohibitory measures and the "victimization" of an individual or group. In analyzing



these patterns it becomes clear that the prohibition of marijuana revolves as much around concepts of social control, and to an extent, the continued funding of the federal apparatus that enforces the prohibition, as it does aforementioned patterns. The use of primary and secondary documentation helps display an inherent pattern of change that came with each respective passing decade. In doing so, this thesis demonstrates that changes in attitude and perception of marijuana at the federal level had little to do with the plant itself, but rather were products of the political and social issues of the day.

This thesis begins with an analysis of existing secondary literature that identifies major arguments and patterns that scholars have made regarding the prohibition of marijuana. By analyzing and comparing what scholars across various fields of study have found, the racial and cultural implications behind the federal prohibition of marijuana become clear. While there is relatively little historical scholarship in circulation exclusively regarding the prohibition of marijuana, existing academic and popular literature helps integrate the themes of race, ethnicity, morality, class, culture and politics. Each respective author is arranged and discussed in one or more of the above themes. Scholars David F. Musto, Richard J. Bonnie, Charles H. Whitebread II and Jerome Himmelstein receive more attention since these authors are influential in the field of marijuana prohibition. Where the authors fall short is with regards to recognizing that the creation and continued maintenance of the federal prohibition of marijuana were merely, reflections of and reactions to, changes happening at large in the United States and abroad. While all of the authors agree that race played an overarching factor in outlawing marijuana; these scholars differ as to what motivated the use of racism among other factors in continuing the prohibition of marijuana. It is these differences that are discussed and explored.

A 1974 report entitled, *Drug Use, The Labor Market and Class Conflict*, outlined the perceived threat that Mexican immigrants posed with regards to social and labor controls in the American southwest. John Helmer and Thomas Vietorisz argue that because of a large labor surplus of Mexicans in the 1930s and increasing labor conflict against the group, there needed to be some sort of social controls put in place to control the Mexican population.<sup>1</sup> By linking marijuana with Mexicans and branding the substance as “evil”, this justified hostility towards this immigrant group and therefore made deportation and removal much easier.<sup>2</sup> Helmer and Vietorisz use labor as their approach as to why race was injected into the overall debate regarding marijuana prohibition at the federal level. The authors primarily use a Marxist view of prohibition by focusing on class and labor issues tied to the prohibition of marijuana, rather than primarily focus on social control and cultural issues that are believed to be at play with the 1937 Marijuana Tax Act. Helmer and Vietorisz’ work was funded by The Drug Abuse Council, Inc., which credits itself as a private, tax-exempt foundation that focuses on public policy evaluation in the area of drug use and abuse. Vietorisz is Professor Emeritus of the New School for Social Research in New York and teaches at Columbia/Cornell University.

David F. Musto, professor of child psychiatry/medical history at the Yale School of Medicine and author of *The American Disease: Origins of Narcotic Control* argues that as a result of the Great Depression, Mexican workers were unwelcomed in areas hit heavy by unemployment.<sup>3</sup> Therefore, the federal government through Harry J. Anslinger claimed that pressure for a federal measure against prohibition began at the local level, mostly from

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<sup>1</sup> John Helmer and Thomas Vietorisz, *Drug Use, The Labor Market and Class Conflict* (Washington D.C.: Drug Abuse Council Inc., 1974) 24.

<sup>2</sup> Helmer and Vietorisz, 25.

<sup>3</sup> David F. Musto, *The American Disease: Origins of Narcotic Control* (New York: Oxford University Press, 1999) 221.

southwestern states where alarm was directed towards the Mexican populace.<sup>4</sup> Yet little else is said with regards to marijuana prohibition in the form of the 1937 Marijuana Tax Act. There is no analysis of the reasoning or rationale for the passage of such a prohibitory measure against cannabis. Musto argues that the FBN cannot be blamed for the marijuana scare of the 1930s.<sup>5</sup> While the initial pressure for a federal anti-marijuana law originally came from the local level, as Anslinger claims, once Anslinger adopted the cause for a federal marijuana prohibition, the use and dissemination of skewed information and propaganda scare tactics began to occur right before the passage of the 1937 Marijuana Tax Act. While Anslinger may have avoided the early calls for federal marijuana prohibition, once he signed onto it, he made it a chief concern of the FBN. Although most marijuana apprehensions were done at the local level, Anslinger and the FBN were eager to display the “effectiveness” of the 1937 Marijuana Tax Act by displaying the number of arrests and continuing to promote half-truths and skewed information about cannabis and its effects on American society.<sup>6</sup> Although there is little evidence that funding was a factor in the initial push by the FBN for marijuana prohibition, the issue of funding the federal apparatus that enforces and relies on marijuana prohibition for economic bureaucratic survival becomes evident as a factor in the continued push and maintenance of marijuana prohibition.

Erich Goode, Professor Emeritus of Sociology at State University of New York at Stony Brook and Nachman Ben-Yehuda, professor of sociology at the Hebrew University of Jerusalem, analyze how Harry J. Anslinger, played heavily on the fears (particularly racial, ethnic and class) of the American public to demonize and eventually outlaw cannabis in 1937 through the

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<sup>4</sup> Musto, *The American Disease* 222-223.

<sup>5</sup> Musto, *The American Disease* 229.

<sup>6</sup> Musto, *The American Disease* 228.

Marijuana Tax Act.<sup>7</sup> Of particular interest is the manner in which these authors focused in on the hysteria that was caused and portrayed through the media as well as the racial fears of violent Mexican-Americans and African-Americans.<sup>8</sup> These scholars claim that what led to the 1937 Marijuana Tax Act was the racial hysteria that was created through sensationalism in the media. Larry Sloman, a writer whose background is in sociology, deviance and criminology makes an extremely similar argument with regards to the use of racism through sensationalism in the media.<sup>9</sup> Sloman points to early evidence of racism surrounding the marijuana debate with a call for Anslinger's dismissal from Senator Joseph Guffey of Pennsylvania in 1934. Anslinger had made use of the racially charged term "ginger-colored nigger" to describe African-American use of marijuana in a letter to district supervisors.<sup>10</sup>

Legal scholars Richard J. Bonnie and Charles H. Whitebread II have written one of the most comprehensive studies regarding the prohibition of marijuana with their work, *The Marijuana Conviction: A History of Marijuana Prohibition in the United States*. Bonnie and Whitebread II use science as the rationale for the injection of racism into the prohibition of marijuana. The authors attack the scientific basis of the 1937 Marijuana Tax Act. They argue that the prevailing view in the western scientific community in 1937 was that physical dependence was not characteristic of cannabis use.<sup>11</sup> However, this prevailing view among the scientific community in the United States was not shared and disseminated among the general public. Rather, the public was told through sensationalism in the press that marijuana was the "most

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<sup>7</sup> Erich Goode and Nachman Ben-Yehuda, *Moral Panics: The Social Construction of Deviance* (Malden: John Wiley & Sons, 2009) 199.

<sup>8</sup> Goode and Nachman, 201.

<sup>9</sup> Larry Sloman, *Reefer Madness: A History of Marijuana*, (New York: St. Martin's Press, 1998) 47.

<sup>10</sup> Sloman, 46.

<sup>11</sup> Richard J. Bonnie and Charles H. Whitebread II, *The Marijuana Conviction: A History Of Marijuana Prohibition In The United States*, (New York: Lindsmith Center, 1999) 140.

alarming” of the habit-forming drugs.<sup>12</sup> The scientific community shared similar biases against ethnic minorities and therefore had little interest in scientific accuracy or refuting the claims that were being publically made against cannabis.<sup>13</sup> With regards to crime and the reasoning that the federal government gave in its initial phase of prohibition in the 1930s, there existed no scientific/statistical evidence to support the association between marijuana and major criminal behavior as described by Anslinger and other proponents of marijuana prohibition.<sup>14</sup> Rather, it was the belief that those who consumed marijuana, namely Mexican-Americans and other ethnic minorities, were viewed in the eyes of white America as antisocial elements of American society.<sup>15</sup> Because minorities were viewed as, “the other”, they were often treated with hostility and suspicion by the general public, minority young men were viewed as violent and impulsive as well. Adding the possibility of loss of self-control and psychosis, marijuana helped fuel the general public’s fear about the substance and those associated with it, therefore, the negative elements of a social group are projected onto the substance itself. The same reasoning and rationale was applied to the Harrison Narcotic Act and the prohibition of alcohol decades earlier thus providing the impetus to follow the same patterns with the prohibition of marijuana.

In his 2004 work, *Legalizing Marijuana: Drug Policy Reform and Prohibition Politics*, Arizona Court of Appeals Judge, Rudolph J. Gerber, argues that marijuana’s demonization was fueled by cultural/racial factors rather than medical/criminal factors at the time of passage of the 1937 Marijuana Tax Act.<sup>16</sup> Gerber argues that with the rise in Mexican immigrants after the

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<sup>12</sup> Bonnie and Whitebread II, 141.

<sup>13</sup> Bonnie and Whitebread II, 51.

<sup>14</sup> Bonnie and Whitebread II, 151.

<sup>15</sup> Bonnie and Whitebread II, 151.

<sup>16</sup> Rudolph J. Gerber, *Legalizing Marijuana: Drug Policy Reform and Prohibition Politics*, (Westport: Praeger Publishers, 2004) 14.

Mexican Revolution of 1910, there was an increase in xenophobia and racism directed towards this population.<sup>17</sup>

Jerome L. Himmelstein, professor of sociology at Amherst College, argues that the image of marijuana in the 1930s was indirectly shaped by the stereotypes of Mexicans and blacks.<sup>18</sup> Marijuana, in the eyes of the author, became associated as a “killer weed” because of its association with minority groups who were deemed violent, i.e. blacks and Mexicans.<sup>19</sup> Michael Schaller, Regents Professor of History at the University of Arizona, describes morality as a theme with regards to the prohibitory measures made against marijuana.<sup>20</sup> Schaller argues that the passage of the 1937 Marijuana Tax Act reflected a moralistic rationale and motivation on the part of the federal government, rather than on the perceived effects (social/physical) that marijuana had on an individual.

Himmelstein argues that the link between minorities and marijuana was made to play up to xenophobia and racism in congress in order for the 1937 Marijuana Tax Act to stand a chance at passage.<sup>21</sup> While Himmelstein argues that marijuana was not used as part of anti-Mexican propaganda at the local level, he does leave open the possibility of Mexican influence at the national level with regards to the 1937 Marijuana Tax Act, yet he does not pursue this point any further in his work as it takes a broad look at marijuana in general rather than focus in on a particular time period.<sup>22</sup> Not straying far from this argument as well, Kathleen Ferraiolo reiterates previous arguments that efforts to outlaw marijuana was done so to target marginal groups in American society such as Mexican workers in the southwest and blacks in the deep

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<sup>17</sup> Gerber, 3.

<sup>18</sup> Jerome L. Himmelstein, *The Strange Career of Marihuana: Politics and Ideology of Drug Control In America*. (Westport: 1983) 93.

<sup>19</sup> Himmelstein, 93.

<sup>20</sup> Michael Schaller, “*The Federal Prohibition of Marihuana*”, *Journal of Social History* Vol. 4 No.1 (Autumn, 1970): 61-64.

<sup>21</sup> Himmelstein, 27.

<sup>22</sup> Himmelstein, 44.

South.<sup>23</sup> Himmelstein's work focuses broadly on the structure of ideology in society with regards to the shifting "public discussion" about marijuana users.<sup>24</sup> Himmelstein does not focus on the reasoning and the rationale for maintaining prohibition, but rather details the changing sociological view with regards to the marijuana user, not the historical impetus behind creating and maintaining the prohibition of marijuana.

From the fears of violence in the 1930s, marijuana now took on a different threat when discussed within the context of the Cold War and communism during the late 1940s and onward. Once the FBN made a link with marijuana to communism and heroin, the federal government latched on to that rationale in continuing the prohibition. Post World War II America, facing external and internal communist threats, responded by passing punitive criminal measures aimed at those that did not conform and using links to harder narcotics to continue the prohibition of marijuana. Primary documents presented in this thesis shine a light on the extraordinary links that the government was attempting to make between communism and narcotics in general, but marijuana specifically.

Shifting to the 1960s, there is a changing attitude with regards to marijuana prohibition and the charges leveled against the substance with regards to perceived effects, both on society and the individual. *Marihuana: A Signal of Misunderstanding* was a 1972 report created by the National Commission on Marijuana and Drug Abuse. The report, sponsored by the Nixon administration, states that three factors had led to the definition of marijuana as a major national problem: visibility, perceived threats and symbolism.<sup>25</sup> The federal commission recognized the fact that marijuana became an issue when use of marijuana left the realm of the "underprivileged

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<sup>23</sup> Kathleen Ferraiolo, "From Killer Weed to Popular Medicine", *The Journal of Public History* Vol. 19 No.2 (2007): 156.

<sup>24</sup> Himmelstein, 5.

<sup>25</sup> National Commission on Marijuana and Drug Abuse, *Marihuana: A Signal of Misunderstanding* (Washington D.C.: USGPO, 1972) 6-9.

socio-economic groups” and the likes of jazz musicians and artists.<sup>26</sup> The federal commission concluded that the reaction to classify marijuana as “addictive” was because of the social perception associated with those that used marijuana: “Aliens, prostitutes and persons at the bottom of the socio-economic ladder”.<sup>27</sup> The federal commission concluded that in the 1960s the perceived association had changed in the eyes of the public. No longer was marijuana associated with the “underprivileged socio-economic groups” and was now common among middle/upper class white college students.<sup>28</sup> This, the commission concluded, sparked an outcry from white Americans, who were unfamiliar with marijuana, save for the hysteria being pumped through the media. The rise of the New Left, coupled with the rise of anti-Vietnam war demonstrations also influenced the manner in which the federal government continued the prohibition of marijuana.

Eric Schlosser, an investigative journalist focusing on underground markets makes a similar argument in his work, *Reefer Madness-Sex, Drugs And Cheap Labor In The American Black Market*. Schlosser argues that marijuana’s continued demonization in the 1960s was because proponents of prohibition began to marginalize the users of marijuana in an attempt to have its use recede from white middle class settings and therefore demonize the plant once again as the substance of choice for antisocial elements in American society.<sup>29</sup> Schlosser uses class as the crux of his argument with regards to the changing perceptions of marijuana both on society and the individual in the 1960s. Authors Fox, Armentano and Tvert again assert the notion of class as a determinant of the changing perceptions of marijuana in the 1960s. They argue that it

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<sup>26</sup> National Commission on Marijuana and Drug Abuse, 7.

<sup>27</sup> National Commission on Marijuana and Drug Abuse, 104.

<sup>28</sup> National Commission on Marijuana and Drug Abuse, 7.

<sup>29</sup> Eric Schlosser, *Reefer Madness-Sex, Drugs and Cheap Labor In The American Black Market*, (New York: Mariner Books, 2004) 71.



was the countercultural revolution of the 1960s that caused a shift in thinking about marijuana.<sup>30</sup> Martin Booth an English novelist, who wrote about broad topics ranging from narcotics history to children's stories, authored *Cannabis-A History* in 2003, claims that the use of marijuana by members of the countercultural movement was done so as a display of discontent with the social happenings of the 1960s.<sup>31</sup> No longer was cannabis reserved and associated with the lowest of society since college-aged white youth began experimenting with marijuana. The authors go on to state that as marijuana began to make its way to middle class whites, pressure was placed on elected officials to reform marijuana policy.<sup>32</sup> Fox, Armentano and Tvert point to *Marihuana: A Signal of Misunderstanding* and claim that the suggestions made by the committee, which included the decriminalization of marijuana possession and its removal from the Schedule I substance list under federal law were ignored by President Nixon.<sup>33</sup>

Recent publications hold true to this argument regarding race, xenophobia and class in regards to marijuana prohibition. Sue Price, professor of politics at the University of Nottingham argues in her 2012 book, *Fixing Drugs: The Politics of Drug Prohibition*, that race has been a constant social driving force behind prohibition and enforcement of that prohibition.<sup>34</sup> Price goes on to reiterate that elite influences/groups were able to mobilize the racial/xenophobic fears of the general public (voters) and therefore persuaded elected officials to outlaw substances now known as “drugs”.<sup>35</sup> Sam Kamin, associate professor at University of Denver's Sturm College of Law and Christopher S. Morris, partner at Aguirre, Morris and Severson argue that the federal prohibition of marijuana is rooted in racism. Like Price, Kamin and Morris' arguments revolve

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<sup>30</sup> Steve Fox, Paul Armentano and Mason Tvert, *Marijuana Is Safer So Why Are We Driving People To Drink?*, (White River Junction: Chelsea Green Publishing, 2009) 55.

<sup>31</sup> Martin Booth, *Cannabis: A History* (New York: Picador, 2003) 271.

<sup>32</sup> Fox, et, al., 56.

<sup>33</sup> Fox, et, al., 57.

<sup>34</sup> Sue Price, *Fixing Drugs: The Politics of Drug Prohibition* (New York: Palgrave Macmillan, 2012) 39.

<sup>35</sup> Price, 41.

around current issues regarding marijuana and do not focus on the initial prohibitory measures of the 1930s, namely the 1937 Marijuana Tax Act, yet their arguments give good insight into how the debate over marijuana prohibition has shifted over the decades because of changing perceptions regarding the social/physical effects of marijuana.<sup>36</sup>

Since the Harrison Narcotic Act and the prohibition of alcohol share several major patterns in the manner in which each respective prohibitory measure was influenced and passed into law, an analysis of each restrictive measure helps understand the reasoning and rationale behind the federal prohibition of marijuana. Federal control over narcotics has been in play for over one hundred years since regulation, in the form of labeling, with the 1906 Pure Food and Drug Act. The act did not outlaw any narcotics, but was a way of forcing patent medicine manufacturers to list the contents of their products.<sup>37</sup> The first major federal law attempting regulation of narcotics was the 1914 Harrison Narcotic Act. This act targeted opium and its derivatives as well as cocaine and initially, cannabis as well.<sup>38</sup> The medical community, as early as 1914, was divided on the subject of cannabis. The National Wholesale Druggists Association had an issue with cannabis' initial inclusion in the Harrison Narcotic Act because it did not appear to be habit forming. In order for passage of the bill to occur, cannabis was removed as a prohibited narcotic and did not fall under federal control until 1937.

In *New York before Chinatown*, John Tchen describes how the representation of Chinese things, ideas and people from 1776-1882 shifted in a manner that coincided with shifts in

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<sup>36</sup> Sam Kamin and Christopher S. Morris, *Aspatore Special Report: The Impact of the Decriminalization and Legalization of Marijuana* (New York: Thomson Reuters/Aspatore, 2010) 6.

<sup>37</sup> Paul M. Gahlinger, *Illegal Drugs: A Complete Guide To Their History, Chemistry, Use and Abuse* (New York: Penguin, 2004) 58.

<sup>38</sup> Gahlinger, 59.

political, economic and social institutions.<sup>39</sup> Tchen's methodology in tracking the changes in public representation of the Chinese populace of New York City have great implications in analyzing the reasoning and rationale behind the federal prohibition of marijuana, and the continuance of the prohibition. This thesis utilizes and displays a concise pattern of marijuana's continued prohibition that coincides with the changing political/social and economic climate of the 1930s through the early 1980s.

From the late 1860s-1880s newspapers in New York City began taking a moralistic tone in depicting the Chinese population as filthy and made an association between the Chinese and gambling, race mixing and opium smoking.<sup>40</sup> Illustrations in newspapers, gave visual representation of innocent white women being victimized by non-whites, in this case, Chinese men.<sup>41</sup> During the first decade of the twentieth century the United States faced a proposed embargo by Chinese merchants over the treatment of Chinese nationals, causing the United States proposal for a conference of nations in Shanghai to discuss how best to deal with the opium issue in China as an apparent show of goodwill to the Chinese people.<sup>42</sup> Leading up to the newly-styled "Shanghai Opium Commission", the United States passed a law that excluded opium not intended for legitimate medical uses, which effectively banned opium imported for smoking, which was the preferred method of ingestion for the Chinese populace.<sup>43</sup> Enacted on February 9, 1909, the rush to pass the law was two-fold: one, to show member nations of the Opium Commission that the United States was trying to control opium use within its borders and two, target an unwanted Chinese populace. This will mark the beginning of a pattern that

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<sup>39</sup> John Kuo Wei Tchen, *New York before Chinatown: Orientalism and the Shaping of American Culture 1776-1882* (Baltimore: The Johns Hopkins University Press, 1999) XV.

<sup>40</sup> Tchen, 260.

<sup>41</sup> Tchen, 262.

<sup>42</sup> David F. Musto "The History of Legislative Control Over Opium, Cocaine and Their Derivatives" Druglibrary.org, April 22, 2014, <http://Druglibrary.org>

<sup>43</sup> Musto, *The History of Legislative Control Over Opium, Cocaine and Their Derivatives*, Druglibrary.org

displays federal attempts at narcotic control in the twentieth century were not aimed at the substance itself, but rather, were reactions to and reflections of the social, political and economic landscape in the United States.

Dr. Hamilton Wright, who oversaw preparations in the State Department for the Shanghai Conference proposed a domestic law that would be based on the federal government's power of taxation. Dr. Wright believed that taxation would result in detailed accounting of narcotics, from importation to their distribution and therefore prevent the potential for abuse.<sup>44</sup> This would not be the last time the federal government would use its power of taxation as part of its rationale for effectively outlawing a substance in question. Introduced in 1910, Wright's bill became known as the Foster Anti-Narcotics Bill after Congressman David Foster of Vermont. In addition to opium and cocaine, cannabis and chloral hydrate were added in for control as well, the same substances that required mandatory labeling on products under the Pure Food and Drug Act of 1906. The Foster Anti-Narcotics Bill would have levied heavy fines and one to five year sentences for failure to adhere to reporting and labeling standards. Due to the threat of heavy-handed force, the bill never came to the House floor for a vote.

The Sixty-Second Congress revisited the Foster Bill, now named the Harrison Bill after Francis Burton Harrison a New York City Democrat on the Foreign Relations Committee. Democrats controlled this session of Congress. Dr. Wright, who was still pushing for the now-styled Harrison Bill's passage, faced the challenge of convincing Southern Democrats to support the bill over fears of federal interference in local issues and business.<sup>45</sup> In doing so, Dr. Wright changed his method of persuasion to one that focused on the social impact of narcotics on African-Americans and society at large, especially the perceived effect of violence whilst under

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<sup>44</sup> Musto, *The History of Legislative Control Over Opium, Cocaine and Their Derivatives*, Druglibrary.org

<sup>45</sup> Musto, *The History of Legislative Control Over Opium, Cocaine and Their Derivatives*, Druglibrary.org

the influence of cocaine.<sup>46</sup> An article written in the *New York Times*, months before the passage of the Harrison Narcotics Act, described African-Americans as “negro-drug fiends” who used cocaine almost exclusively as a group.<sup>47</sup> The article describes a “negro” that was “running amuck in a cocaine frenzy” that withstood several gunshot wounds fired directly into him and claimed that cocaine made these “negro-drug fiends” better marksmen.<sup>48</sup> The *Times* article, written by a physician, described how police who had previous encounters with “negro drug fiends” were looking into acquiring higher caliber firearms to stop attackers under the influence of cocaine.<sup>49</sup> The only method to rid the populace of such a menace, according to the physician, was to imprison the “negro”. Language that played up to racial fears helped pass the Harrison Narcotic Act as well as the prohibition of alcohol and was ultimately, a factor in the passage of the Marijuana Tax Act of 1937. The language used in the *New York Times* article was an eerie foreshadowing of the rhetoric that is used to describe the drug user and the manner in which to deal with them.

As the Harrison Bill was debated, no one presented an alternative argument of the drugs up for control, except cannabis, which some had described as not habit forming or as less serious an issue as opium or cocaine, as such, it was dropped from the final draft of the bill.<sup>50</sup> Introduced by Representative Harrison in 1913 the House passed it and in 1914 the Senate followed suit with President Wilson signing it into law, December 17, 1914, effective March 1, 1915. It would take twenty-two years for marijuana to come under federal control, using in part, the same

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<sup>46</sup> Musto, *The History of Legislative Control Over Opium, Cocaine and Their Derivatives*, Druglibrary.org

<sup>47</sup> Edward, Huntington Williams “Negro Cocaine “Fiends” Are A New Southern Menace”. *New York Times* (1857-1922). Feb. 08, 1914. <http://search.proquest.com/docview/97567435?accountid=7116>

<sup>48</sup> Huntington Williams, <http://search.proquest.com/docview/97567435?accountid=7116>

<sup>49</sup> Huntington Williams, <http://search.proquest.com/docview/97567435?accountid=7116>

<sup>50</sup> Musto, *The History of Legislative Control Over Opium, Cocaine and Their Derivatives*, Druglibrary.org

racially charged tactics and motivation that Dr. Wright used to influence the passage of the 1914 Harrison Narcotics Act.

An analysis of the Harrison Narcotic Act is important as well, because it marks the criminalization of addiction and is the forerunner of the modern War on Drugs, which is briefly analyzed within the context of this thesis at its conclusion. The Harrison Narcotic Act did not seem as a prohibitory measure at first glance, but was rather a law for the orderly and licensed dispensing/prescribing of narcotics. The right of the physician to prescribe medication was not prohibited, doctors were only required to keep records of narcotics dispensed or prescribed. Physicians were only allowed to prescribe narcotics during their professional duties only. Since addiction was not a disease, the law enforcement argument went, an addict was not a patient and therefore the physician wasn't operating in his professional practice. This modus operandi was the way a law intended for the orderly marketing of drugs turned into a prohibition of supplying medicine to addicts, even with a physician's prescription and recommendation. Physicians were arrested under the interpretation of the Harrison Narcotic Act and it led the medical profession to be weary of prescribing opiates as it led to the possibility of legal and financial ruin.<sup>51</sup> An editorial that appeared in 1915 in *American Medicine* indicated that physicians weary of the penalties that the law provided, avoided drug addicts and their needs, as well as pharmacists, many of whom discontinued the sale of narcotics all together. This resulted in those seeking narcotics for legitimate or illegitimate purposes to go into the underworld to supply their need. In response to the outcry from the public regarding the negative consequences from the Harrison Narcotic Act, the Secretary of the Treasury created a commission to investigate the issue. One of the conclusions that he committee came up with was that illegal narcotic use had increased since

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<sup>51</sup> Edward M. Breecher and The Editors of Consumer Reports Magazine, "The Consumer Union Report on Licit and Illicit Drugs: Chapter 8 The Harrison Narcotic Act (1914)" *Consumer Reports Magazine*, 1972  
[HTTP://www.druglibrary.org](http://www.druglibrary.org)

the passage of the law. The 1918 committee called for stricter enforcement and state laws styled after the Harrison Narcotic Act. In 1924 Congress banned the importation of heroin altogether even for medicinal use. The criminalization of addiction, in conjuncture with the fanning of xenophobic flames will be a hallmark across all chronological periods regarding the prohibition of marijuana.

In considering the issue of xenophobia, social/political issues that lead to prohibition and the rationale for such a prohibition, it is important to have a brief analysis of the prohibition of alcohol as it provides a platform in the study of each aforementioned issue and lays the groundwork for the eventual federal prohibition of marijuana. The prohibition of alcohol marked the culmination of the rise of progressivism, feminism, unionism and socialism.<sup>52</sup> As with the Harrison Narcotics Act, the prohibition of alcohol did not occur overnight. Preceding the push for an all out prohibition against alcohol in the early twentieth century was the temperance movement of the late 1800s. Temperance called for the moderate, careful consumption of alcohol by the individual as opposed to an all out prohibition against it. The Women's Christian Temperance Union, organized in 1874 under the leadership of Francis S. Willard, strongly believed that temperance was able to bridge the equality gap between the sexes. While the principal issue that the WCTU rallied around was temperance, the WCTU expanded its visions beyond alcohol temperance to include progressive issues of the day such as labor conditions and various social reforms. The Anti-Saloon League, founded in 1893 by Rev. Howard Hyde, was unlike the WCTU and focused exclusively on alcohol prohibition; other social and political issues did not sidetrack it. After Willard's passing, the ASL for all practical purposes took charge and led the way towards prohibition.

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<sup>52</sup> Jane Long McGraw/National Commission on Marihuana and Drug Abuse, *History of Alcohol Prohibition* [HTTP//www.druglibrary.org](http://www.druglibrary.org)

The makeup of the various anti-alcohol groups was largely made up of middle class, white Anglo-Saxon Protestants (WASPs) who were facing the challenges of urban and industrial communities.<sup>53</sup> Progressives, who led the fight for prohibition sought to improve the lives of immigrants, through activism, education, charity and governmental reforms in what became known as the Americanization movement.<sup>54</sup> The negative effects of alcohol were seen as a cause of urban crime, dysfunctional families and decreased work productivity. Middle class progressives and prohibitionists did not consume alcohol, not because of a hatred of the substance, but because of the effects alcohol had on those who did not consume it within a clean and tidy middle class setting.<sup>55</sup> This classist mindset was enhanced by xenophobia, which was already a major social issue in the early twentieth century, driven by more than six million people immigrating from Southern and Eastern Europe from 1900-1915.<sup>56</sup> American Jews and Catholics were near unanimous in their opposition to prohibition.<sup>57</sup> Their opposition went beyond religious reasons as both groups could see the mask of the Ku Klux Klan hiding behind the banner of prohibition.<sup>58</sup> By the 1920s nativists began to use the excuse of immigrant law breaking of the Volstead Act to further fuel their hatred. Appearing again with the prohibition of marijuana, the aligning of a substance, in this case alcohol, with an unpopular section of the populace fans the flames of prohibitionist sentiment. Identifying the saloon and its associated offerings with the urban, immigrant working class further enraged prohibitionist sentiment by tapping into xenophobia, racism and classism that was operating in American society.

Nationalism became a central issues in the push for alcohol prohibition. As large manufacturing

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<sup>53</sup> Jane Long McGraw/National Commission on Marihuana and Drug Abuse, *History of Alcohol Prohibition* [HTTP//www.druglibrary.org](http://www.druglibrary.org)

<sup>54</sup> Daniel Okrent, *Last Call: The Rise And Fall Of Prohibition* (New York: Scribner, 2011) 48.

<sup>55</sup> Okrent, 48.

<sup>56</sup> Okrent, 236.

<sup>57</sup> Okrent, 186.

<sup>58</sup> Okrent, 186.



cities grew, as did mistrust of the immigrants they attracted. With the onset of World War I, hatred of immigrants grew. World War I gave prohibitionists fuel in depicting brewers and licensed retailers of alcohol as betraying the American serviceman. Brewers, most of whom were of German ancestry, were portrayed as wasting limited food resources by using massive amounts of grain in making alcohol, a figure quotes that the same amount of barley used in U.S. breweries could yield eleven million loaves of bread a day.<sup>59</sup> For prohibitionists, demonizing immigrants had always been part of the plan, yet with prohibition in place the prohibitionists continued to throw fuel into the xenophobic fire to further the cause.<sup>60</sup> Even though the *New York Times* had reported a reverse diaspora where immigrants were returning to their European countries of origin on a voluntary basis due to the prohibition of alcohol, the ASL attempted to push a bill in Congress to deport any immigrant found in violation of the Volstead Act. It never came to fruition. Congress' answer instead was the Immigration Restriction Act of 1924, which established a two percent quota based on the national origin of people already residing in the United States.<sup>61</sup> Congress did not use the 1920 census as a benchmark for quotas, but rather, relied on the 1890 census and therefore eliminated from the immigration equation quota, four million Italians, two million Eastern European Jews, one and a half million Polish Catholics and millions of other non-Nordics whose ancestors had not yet arrived to America before 1890. The law had support from the American Federation of Labor as a measure to protect native workers, the ASL supported the measure as well because at the core of the Immigration Restriction Act of 1924 was prohibition and those that seemingly were violating the Volstead Act.<sup>62</sup> It would not be the last time organized labor and prohibitionists let loose their fury and xenophobia in the name

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<sup>59</sup> Okrent, 98.

<sup>60</sup> Okrent, 237.

<sup>61</sup> Okrent, 238.

<sup>62</sup> Okrent, 239.

of jobs and the consumption of vices. The coming of the Great Depression, with the coupling of its social and political ills would see this sad scenario play out once again with marijuana.

In 1917, a resolution to prohibit the manufacture, sale, transportation or importation of alcoholic beverages in the United States was approved by Congress and sent to the states. It took one year and eight days for the Eighteenth Amendment to secure ratification. The Volstead Act, as the official name of alcohol prohibition was known, was enacted by Congress October 28, 1919 and took effect January 17, 1920.

By analyzing previous prohibitive measures, several patterns can be deduced that will be useful in analyzing the prohibition of marijuana and the continued maintenance of its prohibition. First, racism and class play major roles in the influencing of any prohibitive measures. With the Harrison Narcotics Act, proponents focused in on racial issues of violence surrounding African-American use of cocaine.<sup>63</sup> The same can be said with regards to the push for alcohol prohibition. Early calls for prohibitive measures against alcohol focused on the degradation of the family, specifically the violent abuse that women and children faced at the hands of the alcoholic. As prohibitive calls against alcohol were ramped up, attention was focused on the impoverished eastern European immigrant. Second, prior to any prohibitive measure taking hold there is always the introduction of the “other”, those that did not conform to white standards and cultural practices/behaviors. As was the case with the Chinese and their cultural practices, African-Americans and their perpetual “otherness” in post-reconstruction America, Eastern Europeans with their poverty in urban centers and therefore, were the perceived cause of urban blight and troubles. Third, before any prohibitive measure is set in stone there must be an outcry from the middle class. With regards to the targeting of the Chinese or alcohol in the late

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<sup>63</sup> Edward, Huntington Williams “Negro Cocaine “Fiends” Are A New Southern Menace”. *New York Times* (1857-1922). Feb. 08, 1914. <http://search.proquest.com/docview/97567435?accountid=7116>

nineteenth century it was Victorian middle class, white Anglo Saxon Protestants that stood at the forefront calling for social reform. Fourth, there must always be a “victimized” group that the “other” has offended or has the possibility to offend. Almost always, this “victimized” group is white women or “whiteness” in general and that becomes a rallying cry for restrictive measures. All elements described above appear in some form throughout the various social, political and economic shifts that mark the federal prohibition of marijuana and its upkeep. While marijuana throughout its prohibition has always been viewed as the “other”, its “otherness” was a creation of whom/what the plant was associated with. Mexican immigrants are the first indication of marijuana’s “otherness”. World War II, the rise of communism, the Cold War, the countercultural movement, all shifted the meaning of marijuana’s “otherness”, and therefore set about the manner in which marijuana’s prohibition was up kept with the changing social, political, and economic issues of the day.

From criminalization in 1937 to calls for reform in the early 1970s and to a return to heavy punitive measures in the 1980s, there are patterns of change in marijuana’s justification for prohibition that fluctuated with historical events such as the Great Depression, the rise of communism and the Cold War, as well as the social upheaval of the 1960s.

One important character worth noting, whose role in federal prohibition will be analyzed throughout, is Harry J. Anslinger, head of the Federal Bureau of Narcotics (FBN) and chief proponent of federal anti-marijuana measures. Anslinger was the son of immigrants and his first foray into law enforcement was investigating arson cases with the Pennsylvania Railroad. During World War I Anslinger worked as a diplomat with the State Department in Europe. Anslinger was eventually transferred to the Caribbean where he was instrumental in gaining British cooperation in anti-rum running activities. Because of his performance at his Caribbean post in

attempting to detour the smuggling of alcohol, Anslinger was promoted to work with the Treasury Department in the Bureau of Prohibition.<sup>64</sup> The Hoover administration of 1930 created the Bureau of Narcotics and because of Anslinger's extensive experience in the State and Treasury Department he was appointed as Commissioner of the Bureau of Narcotics, where he remained until his retirement in 1962.

A majority of the primary documents used were obtained through Pennsylvania State University's Harry J. Anslinger Papers collection or from the Papers of Harry J. Anslinger housed at the Truman Presidential Library in Independence, Missouri. Letters sent among federal officials, papers and presentations made regarding the prohibition of marijuana are among the primary source material that was gathered from these two institutions. While the majority of the primary documents used were sourced from the collections of a single individual, Harry J. Anslinger, it is important to note that this thesis checks for Anslinger's bias by comparing what the FBN/Anslinger were declaring against marijuana with the social/political events that were contemporary at the time, as well as looking at contemporary counter arguments that were made against the federal government such as the La Guardia Committee's report of 1944 and The National Commission on Marihuana and Drug Abuse's report, *Marihuana: A Signal of Misunderstanding* of 1972. In doing so, the aforementioned patterns found influencing previous prohibitory measures, begin to show up in regards to the prohibition of marijuana.

Chapter two will discuss the changing social perceptions of marijuana in the 1930s through the 1950s, by discussing and analyzing various newspaper clippings, articles, letters, memorandums and congressional hearings. Chapter two will also analyze the internal governmental perceptions of marijuana through analyzing local/state/federal reports and

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<sup>64</sup> James A. Swartz, *Substance Abuse in America: A Documentary and Reference Guide* (Santa Barbara: ABC-CLIO, 2012) 63.

speeches/correspondence of Anslinger and the FBN, as well as other so-called experts and professionals on the topic of marijuana. Chapter three will follow the same format as chapter two but will incorporate social and governmental perceptions of the 1960s through the early 1970s. Chapter four concludes this study by assessing the implications of these findings for future study and scholarship, as well as providing a look at how the argument in this thesis has carried through since the 1970s to today and has raised new questions regarding current models of prohibition.

In surveying the literature with regards to the racial and cultural implications around the federal prohibition of marijuana, several reoccurring themes become clear. Race has played a driving force in calling for the initial prohibitory measures made against cannabis, both at the local/state level as well as the eventual all-encompassing federal level in 1937. Ironically, it was in the 1960s when marijuana became associated with the white middle and upper classes that calls for reform came through and marijuana began to be reanalyzed from a different angle. Most of the authors whose work has been analyzed have all pointed to the early associations made between marijuana and groups viewed as lower on the social scale, i.e. Mexican laborers/blacks. In being able to have the public link marijuana with their racial fears/prejudices of blacks and Mexicans, the federal government was able to justify the outlawing of marijuana and therefore the persecution of these groups. The ever-changing reasoning and rationale behind the upkeep of the prohibition of marijuana is explained in detail in the following chapters.

## CHAPTER II

### THE FEDERAL RESPONSE TO MARIJUANA

“ We are told that the use of marijuana causes crime, yet no one from the Bureau of Prisons has been produced to show the number of prisoners who...have been addicted to marijuana”, proclaimed Dr. William Woodward of the American Medical Association before the House Ways and Means Committee in 1937.<sup>65</sup> Dr. Woodward was the only voice of objection over several days of hearings over the proposed Marijuana Tax Act, which would effectively outlaw marijuana and all of its components at the federal level. Dr. Woodward feared that the proposed Act would unnecessarily inhibit the medical field from conducting further research into the medicinal properties of marijuana. Dr. Woodward began to question the reasoning and rationale for such a bill, with the production of little evidence to back the claims that the federal government was making regarding addiction and crime. “You have been told that school children are great users of marijuana yet no one has been summoned from the Children’s Bureau to show...the habit among children”.<sup>66</sup> Notable testimony presented before U.S. Congress was that of Anslinger, Dr. James Munch whose experience with marijuana was limited to experimentation of the effects on dogs and was hand selected by Anslinger for expert testimony and that of Dr. Woodward, the lone voice of dissent.

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<sup>65</sup> U.S. House of Representatives, *Hearings on H.R. 6385*, PG. 87-88, 92.

<sup>66</sup> U.S. House of Representatives, 87-88, 92.

On the eve of the passage of the Marijuana Tax Act there was little to no scientific evidence to support the association between marijuana use and crime.<sup>67</sup> The only evidence presented to the House Ways and Means Committee, as well the Senate Finance Committee was anecdotal evidence from local law enforcement submitted by Anslinger.<sup>68</sup> Instead of scientific thought prevailing during the initial April 1937 hearings on the Marijuana Tax Act, it was societal issues that drove and dominated the discussions being held.<sup>69</sup> On a late afternoon on June 14, 1937 the House of Representatives of the 75<sup>th</sup> Congress passed the Marijuana Tax Act without use of a roll call vote, it went into effect October 1, 1937. The purpose of the Act, officially, was to impose an occupational tax upon dealers of marijuana, impose a transfer tax and create a registry and recording system to safeguard revenue. It was de facto illegalization, because in order to receive the stamp an individual had to incriminate themselves by first being in possession of marijuana. This conundrum is explored in chapter three.

In order to understand the perplexing and changing nature of marijuana's perceived effects on both society and the individual, it is first important to understand the historical background of the issue beginning with the 1930s when the substance was first outlawed at the federal level.

This chapter focuses on the 1930s and 1940s, analyzing the evolving and changing reasoning and rationale for creating and maintaining the prohibition of marijuana. In doing so, this chapter clearly demonstrates that the changes in attitude and perception of marijuana at the federal level had little to do with the plant itself, but rather, were products of political and social issues of the day. Starting with the Great Depression and moving on through the World War II

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<sup>67</sup> Bonnie and Whitebread II, 151.

<sup>68</sup> Bonnie and Whitebread II, 151.

<sup>69</sup> Bonnie and Whitebread II, 151.

years, this chapter analyzes various factors influencing the federal government's perceptions and attitudes towards marijuana.

Because of a shortage of employment opportunities and a declining economy, the federal government began a program of repatriation for Mexicans living in the United States from 1929-1939. In seeking someone to blame for the Great Depression, whites began to turn against Mexicans and the Mexican-Americans.<sup>70</sup> Laws were passed that prevented Mexicans from obtaining jobs in the public and private sectors and the systematic use of mass roundups and repatriation drives were frequently employed to remove as much of the populace from America as possible.<sup>71</sup> It was said that the massive drives were an attempt to rid as many Mexicans from welfare rolls and jobs that were held at Americans' expenses.<sup>72</sup> Not only were Mexicans targeted through the passage of various state and federal laws, labor groups also had a heavy influence in the targeting of this minority group as they were among the first to make the negative association of Mexican immigrants and marijuana in the context of the Great Depression and labor. Just as was seen with previous prohibitory measures against alcohol with the ASL, middle class female civic groups such as the General Federation of Women's Clubs pushed for a federal law against marijuana.<sup>73</sup> Mrs. Roberta Campbell Lawson, president of the General Federation of Women's Clubs, called on even more states to bring marijuana under their respective control and highlighted that there was no federal controls aimed at marijuana.<sup>74</sup>

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<sup>70</sup> Francisco E. Balderrama and Reymond Rodriguez, *Decade of Betrayal: Mexican Repatriation In The 1930s*. (Albuquerque: University of New Mexico Press, 2006) 1.

<sup>71</sup> Balderrama and Rodriguez, 1.

<sup>72</sup> Abraham Hoffman, *Unwanted Mexican Americans in the Great Depression: Repatriation Pressures, 1929-1939*. (VNR AG: Social Science, 1974) 2.

<sup>73</sup> Dallas Morning News, "National Campaign Against Marihuana is Federation Aim," *Dallas Morning News* January 16, 1937.

<sup>74</sup> Dallas Morning News, "Use Vote to Save U.S. Woman's Club President Urges", *Dallas Morning News*, October 4, 1937.



When the Great Depression hit, Mexicans were viewed as surplus labor in areas that were hardest hit by unemployment.<sup>75</sup> Even though Mexican labor was in high demand by the beet farming industry in Colorado, Michigan, Montana, and the Northwest, the American Federation of Labor favored strict bars against immigrant labor.<sup>76</sup> In fact, the American Federation of Labor has a long history of championing and sponsoring anti-immigration legislation dating as far back as the late 1800s.<sup>77</sup> The American Federation of Labor wanted to protect its members from outside elements, such as immigrants, especially Asians.<sup>78</sup> At the Federation's founding convention leaders called for stricter enforcement of the Chinese Exclusion Act.<sup>79</sup> Agricultural unions were mostly non-AFL affiliated in the west and mountainous states where migratory labor dominated.<sup>80</sup> The larger and more active unions, with the exception of predominantly Mexican unions, were affiliated with the AFL.<sup>81</sup> While the AFL didn't seem interested in organizing farm labor early in the 1930s, the union remained opposed to immigration as it was viewed as a threat to their workforce. Along with the long running anti-immigrant history of the AFL, various anti-immigrant groups were established during this time period as well, out of fear of racial mixing and competition for employment. The American Coalition, founded by John B. Trevor, was an umbrella group of over one hundred organizations whose goal was to "keep America American", had a prominent member write an op-ed in the September 15, 1935, edition of the *New York Times* that stated, "marihuana [sic], perhaps the most insidious of our narcotics

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<sup>75</sup> David F. Musto M.D., "The History of the Marihuana Tax Act of 1937" *Arch. Gen Psychiat.*, Volume 26 February 1972. 2013: [www.druglibrary.org/schaffer/hemp/history/mustomj1.html](http://www.druglibrary.org/schaffer/hemp/history/mustomj1.html)

<sup>76</sup> Musto M.D., "The History of the Marihuana Tax Act of 1937" [www.druglibrary.org/schaffer/hemp/history/mustomj1.html](http://www.druglibrary.org/schaffer/hemp/history/mustomj1.html)

<sup>77</sup> Julie Greene. *Pure and Simple Politics: The American Federation of Labor and Political Activism*. (Cambridge: Cambridge University Press, 1998) 82.

<sup>78</sup> Greene, 82.

<sup>79</sup> Greene, 82.

<sup>80</sup> Sidney C. Sufrin, "Labor Organization in Agricultural America 1930-35", *American Journal of Sociology* Vol. 43 No.4 (Jan. 1938): 548.

<sup>81</sup> Sufrin, 549.

is a direct by-product of unrestricted Mexican immigration”.<sup>82</sup> The author, C.M. Goethe, viewed the issues of marijuana, Mexican immigration, the Great Depression and labor shortages as all intertwined by remarking, “our nation has more than enough laborers”.<sup>83</sup> As a result of the Great Depression and the resulting competition for labor, Mexican workers were unwelcomed in areas hit hard by unemployment and in areas that had concentrated populations of Mexicans, fear of marijuana was most intense.<sup>84</sup> In other words, the white populace was projecting its fear of Mexican immigrants onto marijuana. With Mexicans viewed as competition for scarce employment opportunities, negative associations were made between marijuana and Mexicans that began at the local/state level and burst onto the national scene with the coming of the Great Depression.

It seems C.M. Goethe was not the only individual who viewed these issues as intertwined. The Asst. Secretary to the Secretary of the Treasury, wrote in response to a request for information in 1934 from the Secretary of State that the geographical patterns of wild/cultivated cannabis seems to follow a general pattern of Mexican migration.<sup>85</sup> In describing the area between Salt Lake City, Utah, and St. Anthony, Idaho, which were known as beet producing districts the Asst. Secretary described the hundreds of Mexicans employed as being “practically all addicted to smoking marijuana and planting the seed in secret patches”, a similar situation is described across the whole country wherever Mexicans were employed.<sup>86</sup> In the portion of the response entitled, “extent to which cries of violence have been traced to abuse of cannabis”, the author explains that up to fifty percent of violent crimes committed in “districts

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<sup>82</sup> Goethe, C.M. “Quotas”. *New York Times* (1923-Current File). Sept 15, 1935.  
<http://search.proquest.com/docview/101386873?accountid=7116>

<sup>83</sup> Goethe, <http://search.proquest.com/docview/101386873?accountid=7116>

<sup>84</sup> Musto, *The American Disease* 219-220.

<sup>85</sup> Letter, Asst. Secretary to the Secretary of the Treasury to Secretary of State Cordell Hull, 1934, File 17, Box 9, H.J. Anslinger Papers, Reports, Articles and Booklets Series 1835-1969, Pennsylvania State University.

<sup>86</sup> Letter, Asst. Secretary to the Secretary of the Treasury to Secretary of State Cordell Hull, 1934, File 17, Box 9, H.J. Anslinger Papers, Reports, Articles and Booklets Series 1835-1969, Pennsylvania State University.

occupied by Mexicans, Turks, Phillippinos (sic), Greeks, Spaniards, Latin-Americans and Negroes may be traced to the abuse of cannabis”<sup>87</sup> Prohibitory measures against marijuana at the federal level began with the association of the cannabis plant with ethnic minorities, Mexicans in particular.<sup>88</sup> Harry J. Anslinger believed that cannabis had a greater chance at the federal level of being outlawed if it were associated with minorities.<sup>89</sup> In describing the effects of marijuana among “Moslem” populations, Anslinger attributed marijuana addiction to three causes: One, the custom is part of tradition, two, the basis of Muslim character is indolence and three, Muslims lack any sense of family values.<sup>90</sup> Such harsh descriptions of Muslim populations, who ingested cannabis, can easily be applied to immigrant/racial minorities that were associated with marijuana, especially in the context and scope of the Great Depression, where ethnic and racial minorities were in competition for work. Harry J. Anslinger and the FBN did just that in a paper entitled, *The Abuse of Cannabis In The United States*, which was forwarded by a representative of the United States to the League of Nations’ Advisory Committee on Traffic In Opium and Other Dangerous Drugs, November 10, 1934. In the paper, Anslinger and the FBN state that the growth of marijuana can be

“...Accounted for by the fact that in the beet producing districts (of the United States), hundreds of Mexicans are employed to top beets and dig them for shipping to the sugar refineries. These Mexicans are practically all addicted to smoking marihuana (sic)...”<sup>91</sup>

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<sup>87</sup> Letter, Asst. Secretary to the Secretary of the Treasury to Secretary of State Cordell Hull, 1934, File 17, Box 9, H.J. Anslinger Papers, Reports, Articles and Booklets Series 1835-1969, Pennsylvania State University.

<sup>88</sup> Martin A. Lee, *Smoke Signals: A Social History of Marijuana-Medical, Recreational and Scientific*. (New York: Scribner, 2012) 51.

<sup>89</sup> Lee, 42.

<sup>90</sup> Causes of Cannabis Addiction, File 20, Box 9, Marijuana Addiction, 1930s. H.J. Anslinger Papers, Reports, Articles and Booklets Series 1835-1969, Pennsylvania State University.

<sup>91</sup> Paper, *The Abuse Of Cannabis In The United States*, 1934, Filed in Marihuana Documents 1928-36, Box 1, Papers of Harry J. Anslinger, Truman Presidential Library, Independence, Mo.

The FBN report suggested intent to make a connection between the group's goal of outlawing marijuana and removing immigrant laborers. Since 1907 and every subsequent economic recession since, a pattern has existed that ties economic issues such as unemployment, with a negative association with immigrant workers/groups, from there a social construct then forms around immigrants as scapegoats of a recession, anti-immigrant measures are offered as a solution to the economic crisis, the economic recession subsides and finally anti-immigrant furor fades away.<sup>92</sup> Following this logic, it is easy to see the reasons why cannabis was built as a negative social construct around a group of immigrant Mexicans during the Great Depression. Therefore, this pattern of immigrant hostility during times of economic recession would lend credence to the argument that the perceived effects of marijuana, both at the physical and social level by the federal government and its subsequent targeting for prohibition, revolved primarily around socio-political events at the time rather than the plant's supposed ill effects.

Mounting pressure from the general public, as well as state and local officials on the federal government to act on the issue of cannabis tended to follow a general sentiment in their overall tone. With the passage of the 1937 Marihuana Tax Act and the nation still in the midst of the Great Depression, the analogy of cannabis being associated with minorities in a negative connotation continued. Local pressure placed on the federal government, especially from the border state of California with its high population of Mexican residents, reflected a state of industrial conflict with regards to labor that intensified with the onset of the Great Depression.<sup>93</sup> There are striking parallels with the expulsion of the Chinese from the United States fifty years earlier, in saying that both the systematic targeting of a specific populace (Chinese/Mexican) and

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<sup>92</sup> Jorge A. Bustamante, "A Dialectical Understanding of the Vulnerability of International Migrants," in *Our North America: Social and Political Issues Beyond NAFTA*, ed. Julian Castro Rea (Farnham: Ashgate Publishing, Ltd., 2012) 118.

<sup>93</sup> Helmer and Vietorisz, 28.

that populace's association with a narcotic drug (opium/cannabis) happened because of social and economic reasons.<sup>94</sup> Typically the most ardent support for legal prohibition of narcotics has been when that given drug's effect has been associated with a fear about a specific minority.<sup>95</sup> Social factors such as race relations and power structures are at play when arguments in favor of prohibition have been made. Cocaine was associated with African-Americans; in that it would increase sexual appetite and would build enable them to withstand being shot.<sup>96</sup> Opium was negatively associated with Chinese because of fears it could facilitate sexual contact between Chinese and white Americans, and this train of thought was certainly a factor in its prohibition. Heroin was linked to a specific age group, namely youth associated with gangs, alcohol was linked to immigrants and urban waste, and marijuana was linked to Mexican origin peoples; its supposed effect upon that populace was inducing violence. Therefore, it would indicate a history of targeting a group that was in competition for labor and social resources during the Great Depression, rather than the supposed ill effects such as violence, insanity, etc. that the federal government was perpetuating during the 1930s.<sup>97</sup>

The information regarding marijuana and its association with violence and minorities does not stand up to statistical data. Reports indicating the average number of arrest rates and arrests for non-federal narcotic violators around the nation from 1934-1941, show that whites were arrested at rates ranging from nearly five to fifteen times more than African-Americans, Mexicans and Chinese.<sup>98</sup> Yet, nearly every complaint and letter received by the FBN from private citizens does not reflect this statistical reality, nor does the rhetoric that was used by the

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<sup>94</sup> Helmer and Vietorisz, 29.

<sup>95</sup> Musto, *The American Disease* 295.

<sup>96</sup> Musto, *The American Disease* 295.

<sup>97</sup> Letter, Asst. Secretary to the Secretary of the Treasury to Secretary of State Cordell Hall, 1934, File 17, Box 9, H.J. Anslinger Papers, Reports, Articles and Booklets Series 1835-1969, Pennsylvania State University.

<sup>98</sup> Helmer and Vietorisz, 26.

FBN and those in contact with the FBN. The targeting of marijuana first came about at the state level with regards to its supposed criminality among Mexicans, yet when the Great Depression struck and unemployment ran rampant, this group became unwelcomed and southwestern states began complaining to the federal government about this group's use of marijuana.<sup>99</sup> The purpose of doing so was to ease competition for labor and to rid the welfare rolls of Mexican immigrants. The majority of anti-marijuana propaganda at the federal level began in earnest during the mid-1930s after being pressured by states into acting on the issue of marijuana. It is clear that the manner in which marijuana was targeted was merely a reflection of the social, economic and political happenings of Depression Era America. Minorities and immigrants; Mexicans in particular, were viewed as a threat to society because of their marijuana use and the competition that they gave native workers in search of employment.<sup>100</sup>

Yet, what made civilians and federal officials believe that marijuana was a substance that caused violence had its roots in the stereotypes shaped by Mexicans and blacks.<sup>101</sup> Minority groups had long been seen as violent; therefore a minority group's use of marijuana was equated with violence as well.<sup>102</sup> Many letters to and by the FBN echo this sentiment. One writer used information from Anslinger and the FBN, to explain to his readers that approximately half of violent crimes committed were to be blamed on "Latin Americans, Filipinos, Spaniards and Negroes".<sup>103</sup> In the same article it is asserted that approximately eighty percent of all murders committed in San Antonio, Texas, were committed by Mexicans under the influence of

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<sup>99</sup> Kathleen Ferraiolo, "From Killer Weed to Popular Medicine", *The Journal of Public History* Vol. 19 No.2 (2007): 156.

<sup>100</sup> John F. Galliher and Allyn Walker, "The Puzzle of the Social Origins of the Marihuana Tax Act of 1937", *Social Problems* Vol. 24 No.3 (1977): 369.

<sup>101</sup> Himmelstein, 93.

<sup>102</sup> Himmelstein, 93.

<sup>103</sup> Wayne Gard, "Youth Gone Loco," *The Christian Century* (Chicago, Ill), June 29, 1938. 2013: [www.druglibrary.org/mags/youth\\_gone\\_loco.htm](http://www.druglibrary.org/mags/youth_gone_loco.htm)

cannabis.<sup>104</sup> Dr. Walter Bromberg, in describing the effect of cannabis during the Great Depression on American families, alleged that use of cannabis went up as a direct result of the Great Depression. The physician alleges that the areas most affected by cannabis were in states that directly border Mexico or wherever there was a high Latin-American population.<sup>105</sup> A letter addressed to Anslinger from a newspaper editor in Colorado, a locale where there was a large number of Mexican laborers, described the negative effects of marijuana on one “of our degenerate Spanish speaking residents” and describes the social situation among the Mexican population as, “low mentally, because of social and racial conditions”.<sup>106</sup> Anslinger wrote in a March 17, 1934 note, that marijuana is assuming “menacing proportions in New Mexico” and refers to cannabis as the “Southwest’s indigenous hop”.<sup>107</sup> A letter received by Anslinger on, April 20, 1934, described Mexicans going into frenzy after smoking marijuana and it being an issue with the Mexican community as a whole.<sup>108</sup> It is clear that the targeting and branding of marijuana as a substance of violence and for prohibition, had its roots in the issues going on at large in the United States with regards to Depression Era society and economy. Just four months after the passage of the Marihuana Tax Act, Anslinger in an article in the FBI Law Bulletin, clearly links marijuana to instances of rape, assault, murder, insanity and calls marijuana a more

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<sup>104</sup> Gard, [www.druglibrary.org/mags/youth\\_gone\\_loco.htm](http://www.druglibrary.org/mags/youth_gone_loco.htm)

<sup>105</sup> Article, Walter Bromberg M.D., The Menace of Marijuana by Walter Bromberg M.D., October 2, 1935, File 41, Box 9, Marijuana Reports 1926-41. H.J. Anslinger Papers, Reports, Articles and Booklets Series 1835-1969, Pennsylvania State University.

<sup>106</sup> Letter, John L. Dier to Harry J. Anslinger, September 4, 1936, File 17, Box 9, Marijuana 1933-44. H.J. Anslinger Papers, Reports, Articles and Booklets Series 1835-1969, Pennsylvania State University.

<sup>107</sup> Note, Harry J. Anslinger March 17, 1934, File 30, Box 9, Reports of Insanity Due to Marihuana 1930s. H.J. Anslinger Papers, Reports, Articles and Booklets Series 1835-1969, Pennsylvania State University.

<sup>108</sup> Letter, Sender not named in document To Harry J. Anslinger, April 20, 1934, File 30, Box 9, Reports of Insanity Due to Marihuana 1930s. H.J. Anslinger Papers, Reports, Articles and Booklets Series 1835-1969, Pennsylvania State University.

dangerous drug than heroin or cocaine when viewed with regards to causing crime and insanity.<sup>109</sup>

The aggression of Germany in Western Europe coupled with Japan terrorizing the Pacific and the entrance of the United States into World War II after the attack on Pearl Harbor led to a new approach and manner in which the Federal government maintained prohibition. With the onset of World War II, the FBN and Anslinger needed to remain relevant in wartime America. Limited appropriations, due to the war effort, led to the removal of many federal agencies and programs that were deemed unnecessary.<sup>110</sup> Because the FBN'S budget was not directly related to national defense, Anslinger attempted to link drug use, marijuana in particular, to the war effort.<sup>111</sup> Anslinger listed three areas of concern regarding the military and marijuana: First, Army personnel were deliberately caught with marijuana to obtain a discharge, second, young men used marijuana in an attempt to evade the draft and third, with the need for hemp, there was a shortage of FBN supervision of registered hemp fields, in which, Anslinger claimed, marijuana was illicitly grown and found its way to military personnel.<sup>112</sup> This displays how the federal government shifted its rhetoric to fit with the changing political atmosphere. It is important to note how at the core of the continuation of prohibition was the need for additional and continued funding, thus causing the federal government to modify its rhetoric against marijuana.

The entrance of the United States in World War II brought yet again a differing tone from the federal government with regards to cannabis hemp, the useful plant related to marijuana with minute traces of Tetrahydrocannabinol (THC, the active substance in marijuana that causes

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<sup>109</sup> Article, Narcotic Enforcement by H.J. Anslinger 1938, File 12, Box 1, Articles on Narcotics by Harry J. Anslinger, 1934-1959. H.J. Anslinger Papers, Reports, Articles and Booklets Series 1918-1970, Pennsylvania State University.

<sup>110</sup> Jonathon Erlen, Joseph F. Spillane, Rebecca Carroll, William Mcallister, Dennis B. Worthen *Federal Drug Control: The Evolution of Policy and Practice* (Boca Raton: CRC Press, 2004) 77.

<sup>111</sup> Erlen, et, al., 78.

<sup>112</sup> Erlen, et, al., 78.



intoxication), which was also outlawed by the 1937 Marijuana Tax Act.<sup>113</sup> Four years after the passage of the Marijuana Tax Act, the federal government in 1942 funded the War Hemp Industries Corporation to promote the farming and cultivation of cannabis hemp for the war effort. During that same year, the USDA released a film entitled *Hemp for Victory* that praises the many uses of cannabis hemp. No change was required with regards to the 1937 Tax Act; rather the federal government encouraged the farming of the crop.<sup>114</sup> In 1940 cannabis hemp had all been virtually wiped out in the United States, but in 1942 after American entrance in World War II and with hemp supplies cut off from the Philippine Islands, the federal government encouraged farmers to grow the illegal crop.<sup>115</sup> Approximately 20,000 farmers in Midwestern states registered under the federally funded War Hemp Industries Corporation to cultivate 30,000 acres of cannabis hemp.<sup>116</sup> While hemp is not the focus of this thesis, it stands as a testament to the nature of the federal government with regards to the manner in which a once illegal substance can easily have its status changed due to the changing social/political landscape of the day.

One of the first individuals to openly question marijuana prohibition was Mayor Frank LaGuardia of New York City. In 1939 Mayor LaGuardia created a special committee, assisted by the New York Academy of Medicine, to study the issue of marijuana use and its alleged effects on society and the individual as it related to New York City. Its final report was issued in 1944.<sup>117</sup> Mayor LaGuardia outright declared that the sociological, psychological and medical ills attributed to marijuana had largely been exaggerated.<sup>118</sup> LaGuardia was making reference to

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<sup>113</sup> Martin Booth, *Cannabis: A History*, (New York: Picador, 2003) 188.

<sup>114</sup> Booth, 192.

<sup>115</sup> Booth, 192.

<sup>116</sup> Booth, 192.

<sup>117</sup> Mayor's Committee on Marihuana, "The La Guardia Committee Report: The Marihuana Problem in the City of New York," *Mayor's Committee on Marihuana by the New York Academy of Medicine* (New York, NY: New York Academy of Medicine), 1944. 2013:

<http://www.druglibrary.org/schaffer/library/studies/lag/lagmenu.htm>

<sup>118</sup> Ibid.

various reports that were made in the 1930s and 1940s with regards to marijuana and social issues with information mostly provided by the FBN. Articles pertaining to marijuana from 1935-1940 were virtually all the same with regards to commentary and their lucid tales of violence at the hand of marijuana and virtually all were written by or written with information provided by the FBN.<sup>119</sup> It is these reports that LaGuardia referenced with regards to their exaggeration of violence and horror at the hands of marijuana. The committee questioned how reports from the South, New Orleans specifically, had such high rates of crime attributed to marihuana, hinting at sensationalism and possible racism. The LaGuardia Committee outright contradicted the information put forth by Anslinger and the FBN in finding that the use of marijuana does not lead to heroin, cocaine or morphine use and the committee found no correlation between marijuana use and the commission of major crimes. The report challenged most of the claims made against marijuana. Initially the report was well received within the scientific community and received praise from the Public Health Service and from the *Journal of the American Medical Association* (JAMA), yet when the final report was released the JAMA condemned the report and did a complete reversal of its initial praise.<sup>120</sup> What began to unfold with the LaGuardia Commission's report is that lucid tales of violence and woe at the supposed hands of marijuana, as put forth by the federal government in the 1930s, were unfounded and not accurate. Therefore, the LaGuardia Commission's findings back the assertion that the federal government played up to violence and fear as a reflection of the social, political and economic situation at the time in America, namely the Great Depression and its corresponding social issues i.e. immigration. Anslinger and the FBN were worried that any non-negative views about marijuana would encourage use and hamper law enforcement efforts. The 1945 JAMA

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<sup>119</sup> Himmelstein, 69.

<sup>120</sup> Himmelstein, 80.

condemnation is very similar in wording and tone to Anslinger's criticism of the initial LaGuardia report in a letter written to JAMA in 1943.<sup>121</sup> The initial JAMA report on the LaGuardia Commission's findings was positive, yet after Anslinger's letter of rebuttal to JAMA, the final JAMA report was damning of the commission's findings.<sup>122</sup> Based on subsequent collaborations between JAMA and Anslinger, that Anslinger more likely than not, wrote the 1945 JAMA condemnation of the LaGuardia Commission's findings himself.<sup>123</sup> The reason why this interference of criticism and discourse is important is that it shows the extent that the federal government was willing to go in order to manipulate the reasoning and rationale for a continued prohibition of marijuana, even in the face of changing logic and science.

Following World War II, a new era involving heavy political and military tension encompassed the world for most of the twentieth century. The Soviet Union and the United States, once wartime allies against German and Japanese aggression, were now bitter enemies over profound differences between communism and a capital based democracy. Following the conclusion of World War II, the Soviet Union aimed at total control over the Eastern Block states, while the United States embarked on a strategy of containment where communism was limited to where it existed. As with previous time periods the 1940s brought about a different image of marijuana and greatly affected the manner in which the federal government went about maintaining its prohibition. Rather than an image of violence, marijuana's "killer image" was replaced by the claim that it led to harder drug use, namely heroin from communist nations such as China.<sup>124</sup>

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<sup>121</sup> Himmelstein, 83.

<sup>122</sup> Himmelstein, 83.

<sup>123</sup> Bonnie and Whitebread II, 201.

<sup>124</sup> Himmelstein, 76.

In 1948 Anslinger described and once again changed, the rationale for a continued prohibition against marijuana; that new rationale was communism. In the late 1940s when Soviet troops occupied Eastern Europe and China's fall to communism, the United States faced the real possibility of a communist expansion elsewhere. The Central Intelligence Agency, created in 1947 by the National Security Act was the answer to this problem.<sup>125</sup> A clause within the Act allowed the CIA to create alliances with anyone, drug merchants as well, in attempting to combat the communist threat; this will be later explored in reviewing federal prohibition's fluidity. There was also an economic motive at play with Anslinger's attempt to link marijuana with communism. In linking communism with narcotic addicts Anslinger was able to double the budget of the FBN for the next five years after the fall of China to communism in 1949.<sup>126</sup>

The change in rationale regarding marijuana's prohibition adapted according to geopolitical fears about the spread of communism. The beginning of the Cold War was shaped with the real threat of nuclear destruction. The fear of communism sneaking and creeping its way into American society and political life in the late 1940s set into motion a series of events that were meant to root out communists at all levels of American society. President Truman launched the Loyalty-Security Program, which was designed to screen prospective government employees to be sure they weren't communists.<sup>127</sup>

Going one-step further, the House Un-American Activities Committee (HUAC) dragged otherwise law-abiding citizens before them to prove their loyalty to the United States and American way of life.<sup>128</sup> In exchange for ratting out other suspected communists, citizens were

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<sup>125</sup> Melissa Bull, *Governing The Heroin Trade: From Treaties to Treatment*, (Aldershot: Ashgate Publishing, Ltd., 2008) 76.

<sup>126</sup> Bruce Carruth and Thomas C. Rowe, *Federal Narcotics Laws and the War on Drugs: Money Down A Rat Hole*, (New York: Routledge, 2013) 54.

<sup>127</sup> Robert Sickels, *The 1940s*, (Westport: Greenwood Press, 2004) 12.

<sup>128</sup> Sickels, 12.

promised no repercussions. The HUAC hearings had a profound effect on the American psyche and it was against this new backdrop of a communist threat that marijuana prohibitionists found a new rallying cry; the threat of communism.

In congressional testimony given in 1948, Anslinger described how, “Marijuana leads to pacifism and Communist brainwashing...”<sup>129</sup> Commissioner Anslinger’s testimony to congress is a damning indictment of the federal government’s ever-changing attitude regarding marijuana around the social/political events of the day. It is curious to note how just a decade prior to Anslinger’s 1948 testimony in congress, marijuana was framed by Anslinger and the FBN as a violence inducing substance that causes rampant criminality. Of course, Anslinger was speaking in the context of the Great Depression and that colored the federal government’s description and depiction of marijuana to mainstream America. Now, the culprit was not economic hardship, but communism. In a sudden reversal of criticism lobbed at marijuana, the substance itself was no longer being promoted as a cause of violence and crime but rather a cause of, “pacification” and “Communist brainwashing”, as it was a convenient fit for the continuation of prohibition within the context of the Cold War.

In the span of ten years the federal government’s justification for the continuation of such a prohibition, went from a substance that induces violence, to one that “pacifies” the individual. It is also curious to note how the substance also went from being associated with minorities to being associated with communism; every cause must have its delegated “other” and outsider. In this case we see a shift of the concept of “other”, from racial minorities during the Depression Era years to communism (political ideology) during the Cold War. According to the Reader’s Guide to Periodical Literature sixteen articles were written about marijuana with a peak of six

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<sup>129</sup> Lee, 62.

between May 1945-April 1947.<sup>130</sup> In 1948 when Anslinger made his claim about Communism being linked to marijuana there were zero articles published during the May 1947-May 1949 time period regarding marijuana.<sup>131</sup>

This supposed link between communism and marijuana was little more than political hearsay to keep marijuana prohibition in the public discourse, and ultimately funding for such a prohibition, free flowing and uninterrupted in the new era of nuclear diplomacy. By being able to link marijuana with Communism and “redbaiting”, Anslinger and therefore the federal government were easily able to control the message being put on display regarding marijuana’s social and physical effects. The projection of blame on foreign nations, as was done with blaming communist countries such as the USSR/China with flooding U.S. streets with narcotics and with minorities, as cocaine and marijuana were once associated with the perceived ills of a racial group has allowed punitive measures to target specific groups.<sup>132</sup> This mindset dominates the tone of prohibition and influences the various punitive measures taken against cannabis depending on the social, political or economic issues of the day.

The coming of the Great Depression and the resulting economic/social downfall, served as a gift to Anslinger and the Bureau of Narcotics who capitalized on growing anti-immigrant/racial sentiment in order to target cannabis for prohibition. Over time, particularly during the Cold War and the Civil Rights Movement, the federal government changed its views on marijuana’s effects from one of violence, when emphasized with minorities’ use during a period of economic struggle, to a substance that makes one passive, apathetic and leads to harder drug use when discussed in the context of the Cold War.

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<sup>130</sup> Howard S. Becker, *Outsiders: Studies in the Sociology of Deviance*. (New York: The Free Press, 1973) 141.

<sup>131</sup> Becker, 141.

<sup>132</sup> Musto, *The American Disease* 298.

## CHAPTER III

### CHANGING TIMES, CHANGING RATIONALE

While the 1940s brought about marijuana's association with communism, the 1950s witnessed the introduction of new rhetoric against marijuana while still being framed within the context of the Cold War. The stepping stone/gateway hypothesis argues that marijuana use would subsequently lead to the use of harder drugs. Professor Himmelstein points out that of the six articles written about marijuana between 1949 and 1954, four focused on the stepping stone hypothesis.<sup>133</sup> The implementation of the stepping stone hypothesis by the FBN was very useful in that it spared the federal government the task of continuously having to respond to critics like Mayor LaGuardia's Commission. In doing so it allowed the federal government to argue that while marijuana use may be harmless in itself, it would eventually lead to heroin use, which prompted the upkeep of the prohibition.<sup>134</sup>

The Domino Theory was a Cold War term that dictated if communism was allowed in one country, then many more would fall to the evils of communism. Interestingly enough, Harry Anslinger used a similar mindset with regards to marijuana prohibition. Anslinger declared that just as with the Domino Theory, if one were to start with marijuana one would inevitably fall into the realm of hard narcotics such as heroin and that alone was enough reason to continue with the prohibition. Anslinger and the FBN have already proven their willingness to associate the ills

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<sup>127</sup> Himmelstein, 88.

<sup>134</sup> Himmelstein, 88.

of communism with cannabis. The federal government's evolving stance on marijuana has clearly been seen to evolve with the cultural and political happenings of the day. Whether or not the government was outright spreading disinformation or genuinely believed the rhetoric that it was spewing, their shift in reasoning and rationale for maintaining prohibition does seem to correlate with broader social issues that were occurring at the time. Marijuana, it seems, was a convenient scapegoat to be used in describing the negative elements of American society.

Communism and the threat of its spread were at the forefront of Anslinger's agenda during the 1950s and 1960s<sup>135</sup>. Zooming out in scope, the FBN looked the other way when France was complicit in Indochina opium traffic; it was because the federal government recognized France's importance in the context of the Cold War.<sup>136</sup> Instead Anslinger pinned blame on Communist China, even though the majority of heroin traffic was flowing through Southeast Asia, because it was convenient in the context of the Cold War.<sup>137</sup> If Anslinger and the federal government operated in such a manner then it is easy to see how the rhetoric for continuing the prohibition was nothing more than a part in a larger political ruse around Cold War politics, just as it was during the Depression era.

As the 1950s approached the federal government, through Anslinger made a new association with marijuana, namely communism and heroin.<sup>138</sup> Judge Twain Michelson of the Superior Court of the City and County of San Francisco appeared on a local radio broadcast in 1951 to proclaim that, "Red China, under the dictates of Red Russia" was offering to dump tons of heroin upon the shores of western nations with the sole purpose of weakening the peoples of

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<sup>135</sup> Alfred W. McCoy, *The Politics of Heroin: CIA Complicity In The Global Drug Trade* (Chicago: Lawrence Hill Books, 2003) 19.

<sup>136</sup> McCoy, 19.

<sup>137</sup> McCoy, 19 .

<sup>138</sup> Booth, 214.



those nations, the United States included.<sup>139</sup> With regards to narcotic addiction and its alleged association with communism, Judge Michelson explained how the “pestilence of drug addiction is on the move in this country and who can say that it is not a tributary of the deep, treacherous waters of Communism!” as the judge explains drug addiction and communism were intricately linked to one another.<sup>140</sup> In order to associate marijuana with heroin, Anslinger stated that heroin addicts first started off with marijuana before rising to the use of harder narcotics.<sup>141</sup> Never mind the fact that in 1937 Anslinger said quite plainly before Congress that marijuana did not lead to heroin use and it is no surprise that this was not caught by members of Congress, because most were unfamiliar with marijuana’s supposed effects and believed the FBN at its word that marijuana would lead to harder drug use, especially when viewed in the context of the Cold War. This new ideology was called, the “stepping stone theory”. The implementation of this theory was designed to meet the particular needs of the FBN regarding the growing skepticism of the dangers of marijuana use. In the 1950s the first reference to the stepping stone theory came in an FBN report in 1949 regarding youthful narcotic offenders.<sup>142</sup> There are several reasons as to why the stepping-stone theory came into play during discussions about marijuana in the 1950s. Data from 1949 reveals that the heroin user and the marijuana user were drawn from essentially the same age group, this made possible the idea that marijuana use was connected to heroin use, and idea that was corroborated by the testimony of heroin users who claimed to have begun their habit with marijuana.<sup>143</sup>

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<sup>139</sup> Radio Broadcast Transcript, Radio Broadcast, July 22, 1951, File 10, Box 3, H.J. Anslinger Papers, Reports, Articles and Booklets Series 1835-1969, Pennsylvania State University.

<sup>140</sup> Radio Broadcast Transcript, Radio Broadcast, July 22, 1951, File 10, Box 3, H.J. Anslinger Papers, Reports, Articles and Booklets Series 1835-1969, Pennsylvania State University.

<sup>141</sup> Associated Press, *State Times Advocate* of Baton Rouge, LA , March 27, 1951, 6.

<sup>142</sup> Bureau of Narcotics, *Traffic*, 1937, 53.

<sup>143</sup> Himmelstein, 87.

Anslinger pressed that marijuana made one docile, a pacifist in the face of communist aggression. Anslinger's editors at Funk and Wagnalls Company questioned these viewpoints in an internal memo. Anslinger was in the process of having his work, *Traffic In Narcotics*, published when his editors, a Mr. H. Ward and a Mr. Voorhees, questioned Anslinger's use of rhetoric in pinning wholesale narcotic smuggling from "Communist China", calling Anslinger's view and use of this rhetoric as "not a very balanced viewpoint".<sup>144</sup> The editors go on to question Mr. Anslinger's heavy handed approach when discussing his respective chapter on marijuana, going on to criticize his "unpleasantly self-righteous note" with regards to his approach to offenders of drug statutes and recommend that his writing be treated, "with more human understanding".<sup>145</sup> This would not be the last time publishers and the media would outright criticize Anslinger. In 1960, *The Nation* magazine criticized the manner in which Anslinger would present the federal government's argument in favor of prohibition as more of a means to eliminate discussion and dissention rather than foster it and intelligently make their point.<sup>146</sup> These few points of dissention will later turn into a chorus for change and reform once marijuana is associated with those of a different class.

Another process that helped influence the stepping stone theory was the fact that the heroin supply was cut during the World War II years and heroin dealers began to import marijuana on a large-scale basis.<sup>147</sup> After the end of the war, the heroin trade resumed and marijuana/heroin became available from the same sources/dealers, this in turn, increased the

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<sup>144</sup> Interoffice Memorandum, H. Ward to Mr. Voorhees, December 2, 1952, File 13, Box 3, H.J. Anslinger Papers, Reports, Articles and Booklets Series 1835-1969, Pennsylvania State University.

<sup>145</sup> Interoffice Memorandum, H. Ward to Mr. Voorhees, 1952, December 2, 1952, File 13, Box 3, H.J. Anslinger Papers, Reports, Articles and Booklets Series 1835-1969, Pennsylvania State University.

<sup>146</sup> Magazine Article, Stanley Meisler: Federal Narcotics Czar: Zeal Without Insight, February 20, 1960, Filed in The Commissioner of Narcotics-Harry J. Anslinger, Box 1, Papers of Harry J. Anslinger, Truman Presidential Library, Independence, Mo.

<sup>147</sup> Himmelstein, 88.

probability that persons who used one drug would use the other.<sup>148</sup> Yet, the federal government was either unwilling or unknowing to connect the dots with what the data represented. Rather, as we have witnessed in the 1930s and 1940s, the federal government was much too content with shaping the context of marijuana prohibition around the political climate of the day with Anslinger acting as the official public face of prohibition.

During the start of the Cold War drug users were viewed as a threat to national security and users were viewed as aiding and abetting communism.<sup>149</sup> In 1950s post war America, fear of communism was high, earlier American fears dealt with threats from the outside, the oncoming threat was now perceived to come from within America. After the Korean War, the media across America turned their attention to communism and narcotics.<sup>150</sup> The American public was familiar with this hysteria that was taking hold regarding communism, through the media and the HUAC hearings. Anslinger, in a means to stay relevant in Washington with regards to federal funding towards the FBN, lobbed charges of narcotics smuggling towards communist China that brought the policies of the FBN much more in line with that of American foreign policy.<sup>151</sup> Sensing President Truman's frustrations with the nation's hysteria, Anslinger tempered his language in the early 1950s, a smart move to maintain the favor of Truman, since Anslinger held an appointed position.<sup>152</sup> Anslinger in toning down his rhetoric did not resort to past tales of violence and horror that the government had relied on in the 1930s, and he didn't have to, because a small group in congress was holding on to the government's past claims of violence and insanity among drug users. Anslinger's arguments in the 1930s that were successful in

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<sup>148</sup> Himmelstein, 88.

<sup>149</sup> Lee, 64.

<sup>150</sup> Erlen, et. al., 78.

<sup>151</sup> David R. Bewley-Taylor, *The United States and International Drug Control, 1907-1997* (New York: Continuum, 2001) 108.

<sup>152</sup> Erlen, et. al., 79.

establishing prohibition and the ideology behind the initial prohibition carried through to the 1950s, albeit tweaked to match the political crisis of the day and its associated threats.<sup>153</sup> It turned the FBN into part of the government's anti-communist strategy and propelled Anslinger into a greater position of power in Washington from where he was able to help craft the Boggs Act .In order to contain marijuana and communism, since the federal government linked both, the FBN pushed for the passage of stricter penalties against marijuana with the Boggs Act in 1951.<sup>154</sup> The federal government, with the passage of the act in 1951, brought penalties that ranged from two years incarceration for possession of marijuana for the first offense, all the way up to twenty years for a third offense, of which no parole was afforded for second offenses onward.<sup>155</sup> In 1957 the practice of mandatory minimum sentencing was set into play with the Narcotic Control Act, which doled out mandatory minimums for nonviolent marijuana offenses and all in the context of the Cold War and the communist threat.<sup>156</sup> The political atmosphere created by 1950s McCarthyism and the Cold War played a heavy role in shaping drug policy in 1950s America. While linking illegal drug use to communist drug trafficking proved to be a successful strategy in promoting Anslinger to prominence, his charges against China was merely the exploitation of a political issue (Communist China in the context of the Cold War), to further the FBN's domestic interests against narcotics, marijuana included.<sup>157</sup>

Bonnie and Whitebread II describe a parallel between a re-emergence of postwar drug hysteria and the alarm of international communism.<sup>158</sup> The authors express a similar,

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<sup>153</sup> Erlen, et. al., 79.

<sup>154</sup> Booth, 215.

<sup>155</sup> Booth, 215.

<sup>156</sup> Himmelstein, 90.

<sup>157</sup> Bewley-Taylor, 109.

<sup>158</sup> Bonnie and Whitebread II, 209.

“uncomplicated remedy” in dealing with communism and the issue of narcotics.<sup>159</sup> For the communist threat the use of military force and the will to use it, regarding the issue of narcotics it was the implementation of harsher penalties and the compulsion to use and enforce them.<sup>160</sup> While the issues of narcotic control and the issue of international communism may not be one and the same, they were perceived to be no different in terms of distinction and they were treated as one and the same. Political cartoons and commentary were used to push the image of increased drug traffic through the efforts of Chinese communists, marijuana included.<sup>161</sup>

Even though Anslinger rejected the stepping stone rationale in 1937, in 1951 and beyond it became the dominant doctrine against marijuana.<sup>162</sup> With the implantation of the stepping stone theory, marijuana had no longer an identity of its own, because now it was linked with opiates, politically and legally as well. Even though scientific evidence proved that marijuana was in no way related to or led to the use of heroin, the fear was manufactured to the point where that did not matter.

Since cannabis use was popular among African Americans and Hispanics and since both groups were the driving force behind the growing Civil Rights Movement, which just like communists, were trying to end traditional notions of white hegemony across American society.<sup>163</sup> Anti-marijuana laws and the introduction of mandatory minimums through the Boggs Act were meant to keep both threats at bay.<sup>164</sup> Chapter four analyzes how the use of punitive measures through mandatory minimum sentencing have severely hurt communities of color and

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<sup>159</sup> Bonnie and Whitebread II, 209.

<sup>160</sup> Bonnie and Whitebread II, 209.

<sup>161</sup> Bonnie and Whitebread II, 209.

<sup>162</sup> Bonnie and Whitebread II, 214.

<sup>163</sup> Booth, 215.

<sup>164</sup> Booth, 215.

have created a civil and constitutional nightmare for those caught up in the vicious criminal justice system.

In the 1950s as was the case in the 1940s, when any notion of dissent was raised against the official line prohibiting marijuana it was harassed and dismissed by the federal government. In the 1930s it was the American Medical Association and Dr. William Woodward, in the 1940s it was the LaGuardia Commission's findings and in the 1950s it was Professor Alfred Lindsmith, a sociologist from the University of Indiana. When Professor Lindsmith published articles that called for the medical treatment of addicts, as opposed to the harsh criminal penalties that were in place then, the professor was targeted by the federal government. In 1939, shortly after Professor Lindsmith completed his PhD dissertation in the field of social psychology, Anslinger wrote the FBN Chicago district supervisor to inform Indiana University, Lindsmith's employer, that a drug addict and a collection of racketeers were the sponsors of the World Narcotics Research Foundation, which Lindsmith supported and which advocated for the medical treatment of addicts.<sup>165</sup> Lindsmith believed that the FBN would attempt to plant narcotics in his home/auto to set him up for arrest.<sup>166</sup> The mistrust between Anslinger and Lindsmith grew even more as Anslinger succeeded in banning from American screens, "*Drug Addict*", a 1946 Canadian Government Film about drug addiction as it countered many claims made by the FBN and the expanding scope of the government in combating narcotics. The main issue was the film's treatment of addiction as medical issues rather than a criminal one, as well as the notion that

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<sup>165</sup> Letter, H.J. Anslinger to James J. Biggins, Oct 9, 1939 as cited in, John F. Galliher, David P. Keys, Michael Elsner, "Lindsmith v. Anslinger: An Early Government Victory in the Failed War on Drugs", *Journal of Criminal Law and Criminology* Vol. 88 No.2 (1998): 667.

<sup>166</sup> Memorandum, George H. White to Harry J. Anslinger, Nov. 22, 1954 as cited in, John F. Galliher, David P. Keys, Michael Elsner, "Lindsmith v. Anslinger: An Early Government Victory in the Failed War on Drugs", *Journal of Criminal Law and Criminology* Vol. 88 No.2 (1998): 669.

stopping the flow of narcotics was all but impossible from a law enforcement standpoint.<sup>167</sup>

Anslinger and Lindesmith both believed that the film would alter the perceptions of addicts in America. It was this film and its ultimate censorship in America that led Anslinger to write to J. Edgar Hoover requesting information as to whether Lindesmith was involved with or was a, “member of any communist-front organizations”.<sup>168</sup>

An attempt was made by the federal government to suppress Professor Lindsmith’s work, by planting narcotics on Professor Lindsmith, and of course, an unsuccessful link to communist organizations was fabricated by the federal government, none being successful.<sup>169</sup> This goes to show that Anslinger and the FBN would not tolerate any notion of dissent that broke away from official federal mantra regarding drug addiction and marijuana use. This also demonstrates the level that the federal government would go to suppress any information that would threaten the status quo of prohibition, even in the face of science and fact.

The 1960s brought about the Civil Rights Movement, hostility towards the Vietnam War, issues of gender equality that increased fears among conservatives who were willing to maintain the status quo in American society, including the prohibition and treatment of marijuana.<sup>170</sup> The galvanizing feature of the social upheaval of the 1960s was the use of non-violent protest and civil disobedience. Several forms of protest and civil disobedience took shape including sit-ins, marches and boycotts. It was this backdrop of social unrest that, once again, marked a significant change in how the federal government maintained the prohibition of marijuana. As with previous decades of prohibition, it was social/political issues that ultimately determined the manner in

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<sup>167</sup> John F. Galliher, David P. Keys, Michael Elsner, “Lindesmith v. Anslinger: An Early Government Victory in the Failed War on Drugs”, *Journal of Criminal Law and Criminology* Vol. 88 No.2 (1998): 673.

<sup>168</sup> Letter, Harry J. Anslinger to J. Edgar Hoover, FBI Director, Feb. 28, 1950. On file with National Archives as cited in, John F. Galliher, David P. Keys, Michael Elsner, “Lindesmith v. Anslinger: An Early Government Victory in the Failed War on Drugs”, *Journal of Criminal Law and Criminology* Vol. 88 No.2 (1998): 679.

<sup>169</sup> Booth, 216.

<sup>170</sup> Gerber, 20.

which the federal government was going to approach and justify the continuation of marijuana's prohibition.

Professor Himmelstein calls the major demographic shift in the 1960s for marijuana use, the Embourgeoisement Hypothesis.<sup>171</sup> Himmelstein argues that the perceptions of the marijuana user changed from one of a relatively low social status to one of a higher socioeconomic status and the benefits that come with a higher status, such as access to policymakers.<sup>172</sup> The negative image of marijuana also shifted during the time period to adjust to the major shift in demographic use. Cannabis went from being perceived as a drug that induced violence, when associated with social outcasts (i.e. minorities, poor) to one that induced passivity and destroyed motivation when associated with users from the higher socioeconomic brackets of society.<sup>173</sup> In the 1930s the image of the marijuana user was that of the brute Mexican laborer and therefore the deviance most feared from this group was that of unrestrained violence.<sup>174</sup> Yet, when the image of the user shifted, socially speaking, to that of the middle class then the deviance most feared was a failure to achieve and be successful.<sup>175</sup> The public images of marijuana use and the youth counterculture surrounding such use were mutually reinforcing.<sup>176</sup> In the 1930s when use was associated with minorities and acts of violence, the use of cannabis reinforced the image of violence and vice-versa when considering the group associated with its use. In the 1960s passivity and withdrawal from mainstream society became the dominant public image of marijuana because of its use among countercultural revolutionaries, its emergence into popular culture and what the movement symbolically stood for.

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<sup>171</sup> Himmelstein, 98.

<sup>172</sup> Himmelstein, 106.

<sup>173</sup> Himmelstein, 121.

<sup>174</sup> Himmelstein, 120.

<sup>175</sup> Himmelstein, 120.

<sup>176</sup> Himmelstein, 134.



The 1960s was a period of tremendous social upheaval in the United States. Many mark the beginning of the decade with the lunch counter sit-ins. When the Student Non-Violent Coordinating Committee purged its membership of white students, these white youth turned their attention to the Vietnam War and the military draft.<sup>177</sup> By 1967-68 approximately forty percent of U.S. colleges and universities were involved in protest movements. The Baby Boom of post World War II and the expansion of American higher education was the basis and launching point for the social movements and protests of the 1960s.<sup>178</sup> While the 1960s experienced massive political and social upheaval with regards to Civil Rights and anti-Vietnam protests, there was also a reevaluation of cultural norms and values. The countercultural revolution involved a more casual approach to sex and the recreational use of drugs, marijuana included.<sup>179</sup> While the New-Left politics of the 1960s can be separated from the countercultural revolution, it was perceived as one and the same among the American public and demonstrated how this perception affected the treatment and continuation of marijuana prohibition.

While the 1960s witnessed transitions in society, it also witnessed changes in the manner in which the federal government approached prohibition. The Kennedy and Johnson administrations moved closer to the idea that drug addiction was a public health concern, not only a moral or criminal justice issue, yet under these two administrations, drug policy continued on a criminal justice model.<sup>180</sup> With Anslinger's retirement in 1962 Henry Giordano was appointed by President Kennedy. While Giordano strongly resisted proposed changes to the FBN, his power was greatly diminished by the Johnson administration and the FBN was eventually abolished and had its duties distributed to new agencies in the Department of Justice

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<sup>177</sup> Norris R. Johnson, William E. Feinberg "Youth Protest: An Introduction", *Sociological Focus*, Vol. 13 No.3, Special Issue: Youth Protest in the 1960s (1980): 174.

<sup>178</sup> Johnson and Feinberg, "Youth Protest: An Introduction", 175.

<sup>179</sup> Johnson and Feinberg, "Youth Protest: An Introduction", 175.

<sup>180</sup> Swartz, 144.

and Health, Education, and Welfare eventually becoming the Drug Enforcement Agency in the early 1970s after the passage of the Controlled Substances Act of 1970.<sup>181</sup>

President Kennedy appointed a Presidential Advisory commission on Narcotic and Drug Abuse in January 1963. The Prettyman Commission, named after Chairman Judge E. Barrett Prettyman, released several major recommendations regarding narcotics law. Recommendations included repealing mandatory minimum sentencing for low-level dealers and users, as well as civil commitment laws where users would be sentenced to treatment instead of prison.<sup>182</sup> An article in the *New York Journal American* signifies the shift in the public's approach to treating drug offenders in the realm of medicine rather than through the criminal justice system in criticizing and mentioning the tension between the medical community and the law enforcement filed with regards to the handling and control of narcotics and narcotic offenders.<sup>183</sup>

Symbolism also played a major role in recasting marijuana in the 1960s. As was done in the 1930s, 1940s and 1950s, marijuana was associated with certain groups who were using it and the negative stereotypes associated with those groups was projected onto marijuana. When the shift in perception occurred to white middle class college aged youth, the perception of the user no longer was one associated with violence, but rather with college students who were disillusioned with American life and values.<sup>184</sup> These new marijuana users were opposed to American intervention in Vietnam and were angered by the treatment of minorities at the hands of an overreaching government.<sup>185</sup> Cannabis users are characterized as being drawn to any,

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<sup>181</sup> Swartz, 15.

<sup>182</sup> Swartz, 145.

<sup>183</sup> Newspaper Article, "John G. Mitchell: Panel to Urge LBJ Revoke Rule of Narcotics Bureau", January 14 1964, Filed in Marihuana Documents and Correspondence 1964-68, Box 1, Papers of Harry J. Anslinger, Truman Presidential Library, Independence, Mo.

<sup>184</sup> Mervin B. Freedman and Harvey Powelson, "Drugs on Campus: Turned on and Tuned Out," *The Nation*, January 31, 1966 <http://thenation.s3.amazonaws.com/pdf/drugsoncampus1966.pdf>

<sup>185</sup> Freedman and Powelson, "Drugs on Campus: Turned on and Tuned Out".

“anti” movement.<sup>186</sup> In this case while not being perceived as violent, the marijuana user is still perceived as going against the status quo of American social and political life, therefore the rhetoric in favor of prohibition had to change. Because the countercultural movement was perceived by dominant society as a whole to be passive and escapist, marijuana became viewed as a producer of passivity and escapism on the individual level. Therefore the social characteristics of the counterculture were projected onto marijuana and said to be the psychological effects inherent in marijuana.<sup>187</sup> By indulging in the use of marijuana, which was becoming associated with grassroots opposition movements against U.S. foreign policy, cannabis use symbolized an act of defiance against authoritarianism and an act of solidarity with those of the Baby Boomer generation against the status quo.

With use rising among the upper strata of American society, many viewed their use of marijuana as a harmless mild intoxicant and began to flex their political clout. In 1964 James R. White III an attorney formed LEMAR (Legalize Marijuana) in San Francisco, the first U.S. organization created to overturning and ending the prohibition of marijuana.<sup>188</sup>

With the growth of the New Left in the 1960s, marijuana use increased, as did the arguments against its use.<sup>189</sup> The mid 1960s (1965-1968) was characterized as the retrenchment period by scholars Bonnie and Whitebread II.<sup>190</sup> During the 1960s a new method was put into use by the federal government to attack and continue the prohibition of marijuana. Social issues and laws against marijuana were selectively used to remove undesirable irritants from society.<sup>191</sup> While J. Edgar Hoover and Anslinger were rivals in differing federal law enforcement agencies,

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<sup>186</sup> Freedman and Powelson, “Drugs on Campus: Turned on and Tuned Out”.

<sup>187</sup> Himmelstein, 133.

<sup>188</sup> Lee, 98.

<sup>189</sup> Lee, 94.

<sup>190</sup> Bonnie and Whitebread II, 227.

<sup>191</sup> Bonnie and Whitebread II, 227.

they shared a common bond against marijuana. A 1968 memo from Hoover to the Special Agent in charge of the Albany, New York FBI office stating, “ since the use of marijuana and other narcotics is widespread among members of the New Left, you should be alert to opportunities to have them arrested by local authorities on drug charges”.<sup>192</sup> This reiterates the argument that changing political winds, in this case the rise of the New Left in the 1960s has influenced the manner in which marijuana prohibition has been justified and rationalized. It is important to note the change in social status of the user during the 1960s. Users were not viewed as social outcasts on the lower rungs of the socioeconomic ladder; on the contrary they were white middle and upper class youth. Because of this fact most official spokesmen of the FBN during the retrenchment period characterized the marijuana issue no longer in terms of public safety but rather shifted the conversation to one of public health.<sup>193</sup> According to the, *Readers’ Guide to Periodical Literature*, fifty seven percent of articles published between 1964-1976 regarding marijuana and its degree of danger portrayed the substance to be, “not-so-dangerous”, compared to only twenty-three percent of articles published between 1890-1963.<sup>194</sup> This change in marijuana’s perception at the public level, with regards to its associated risks, did not reflect in the federal government’s continued persecution of marijuana and its users.

The official doctrine of the prohibitionists during this time period regarded the user as troubled and emotionally unstable, the continuation of the stepping stone theory to harder drugs also continued to prevail during this time period among the federal government.<sup>195</sup> An opinion piece written by Jim Bishop, a syndicated columnist, in the San Francisco Examiner in 1965,

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<sup>192</sup> Memorandum, J. Edgar Hoover to SAC, Albany, Jul. 5, 1968 as cited in *Perilous Times: Free Speech in Wartime From the Sedition Act of 1798 to the War on Terrorism*, Geoffrey R. Stone (New York: W.W. Norton and Co., 2004) 490.

<sup>193</sup> Bonnie and Whitebread II, 227.

<sup>194</sup> Himmelstein, 101.

<sup>195</sup> Bonnie and Whitebread II, 228.

right in the heart of the countercultural explosion, continues the idea that marijuana is a stepping stone drug to harder narcotics use and still references the lurid accounts of crime supposedly committed under its influence, including murder, rape and armed robbery.<sup>196</sup> This opinion piece also criticizes those that are attempting to shift marijuana's image away from that of violence and woe, the piece questions the First Amendment rights of LEMAR who was involved in the publication of a pro-legalization newsletter entitled, Marijuana Newsletter.<sup>197</sup> While the majority of prohibitionists had moved beyond the marijuana-causes-violence rhetoric during this time period, Dr. James C. Munch, whom, Anslinger and the FBN cite as a marijuana expert continued to hold on to the notion that marijuana use equated to violence and crime. In a 1965 letter to then FBN leader Henry Giordano and a retired Anslinger, Dr. Munch continued pressing these views, in detailing how at an upcoming International Narcotic Enforcement Officers Association conference he wished to present his testimony given on behalf of the FBN to Congress during the Marijuana Tax Act hearings.<sup>198</sup> Dr. Munch's plan worked as he was allowed to present at the event in October 1965. The accounts that Dr. Munch featured were listed by crime, a short account of the gory details and the outcome of the case.<sup>199</sup> Nonetheless, the American consciousness had already made a drastic shift in association with marijuana from lower social strata groups to the middle and upper educated classes.

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<sup>196</sup> Newspaper Article, Jim Bishop, Marijuana News in *San Francisco Examiner*, March 1 1965, Filed in Marihuana Documents and Correspondence 1964-68, Box 1, Papers of Harry J. Anslinger, Truman Presidential Library, Independence, Mo.

<sup>197</sup> Newspaper Article, Jim Bishop, Marijuana News in *San Francisco Examiner*, March 1 1965, Filed in Marihuana Documents and Correspondence 1964-68, Box 1, Papers of Harry J. Anslinger, Truman Presidential Library, Independence, Mo.

<sup>198</sup> Letter, James C. Munch PhD. To Henry Giordano cc. Harry Anslinger, January 28, 1965, Filed in Post Retirement File, Box 3, Papers of Harry J. Anslinger, Truman Presidential Library, Independence, Mo.

<sup>199</sup> Paper, James C. Munch PhD. Marihuana and Crime, 1966, Filed in Marihuana Documents and Correspondence 1964-68, Box 1, Papers of Harry J. Anslinger, Truman Presidential Library, Independence, Mo.

Because of marijuana's association now firmly in the realm of the white middle and upper classes of American society, by 1970 much of the hysteria built around marijuana during the 1965-1968 retrenchment period died away and what was becoming of increasing importance to the American public, especially those parents of white middle and upper class youth, were the effects of draconian marijuana laws on society.<sup>200</sup> More often than not individuals were being sentenced to harsh draconian punishments, for what was otherwise non-violent, private behavior. With regards to narcotics education, the FBN and Anslinger in the 1930s believed that narcotic education would keep people away from marijuana.<sup>201</sup> The 1960s, however, proved that logic to be false, for in a letter that Anslinger received in retirement, asking of his views on narcotics education he stated that it has not made the "slightest dent" in addiction and if anything it has increased because of education.<sup>202</sup> It would be wise to reflect upon the manner in which narcotics education has had in curbing marijuana use. When considering how other studies such as the LaGuardia Commission found marijuana to be nothing of the sort of monster that the FBN was declaring it was, perhaps *it was* education that led to an increase in marijuana use.

Anthropologist Margaret Mead conceded that marijuana prohibition was damaging to America and was damaging relations between the young and the old.<sup>203</sup> The emergence of the Baby Boomer generation during this time period helped change the attitudes about the use of marijuana. Traditional America viewed images of rebellious youth in media and viewed drug use

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<sup>200</sup> Bonnie and Whitebread II, 238.

<sup>201</sup> Radio Broadcast Transcript, Radio Broadcast: The Need For Narcotic Education, 1936, File 10, Box 1, H.J. Anslinger Papers, Articles and Speeches Series 1918-1970, Pennsylvania State University.

<sup>202</sup> Letter, Harry J. Anslinger to Angela Kitzinger, July 27, 1964, Filed in Post Retirement File, Box 3, Papers of Harry J. Anslinger, Truman Presidential Library, Independence, Mo.

<sup>203</sup> Bonnie and Whitebread II, 239.

(marijuana in particular) as a rejection of traditional values, once again showing that there was a generational gap in regards to ideas of drug use as a whole.<sup>204</sup>

The collapse of the traditional heavy-handed punishments against marijuana began with the Supreme Court ruling the Marihuana Tax Act of 1937 unconstitutional in 1969 due to the Act requiring self-incrimination and was therefore a violation of the Fifth Amendment.<sup>205</sup> Congress, after being forced to repeal the Marihuana Tax Act, passed the Comprehensive Controlled Substances Act, which ranked all drugs into five different categories according to safety, medical use and potential for abuse. Marijuana was listed as a schedule I narcotic, which had maximum danger and no therapeutic value, heroin and LSD were also in this category, cocaine and methamphetamine were labeled schedule II narcotics because of potential use in the field of medicine.<sup>206</sup> Scholars viewed the Comprehensive Drug Abuse Prevention and Control Act of 1970 as a transition between relying on law enforcement and a therapeutic approach to drug use.<sup>207</sup> The law established no mandatory minimum sentences and allowed for probation for first marijuana offence, although this law established the “no-knock” search warrant execution of any premise at any time.<sup>208</sup>

By 1970 the old marijuana consensus had collapsed and during the 1971-72 period, fact-finding regarding marijuana’s effects on the individual and on society was of utmost importance.<sup>209</sup> Just as social issues affected the prohibition of marijuana since the inception of the 1937 federal prohibition, politics would come to dominate this phase or eroding of heavy handed criminal penalties against the user of marijuana. Harry J. Anslinger viewed the collapse

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<sup>204</sup> Musto, *The American Disease* 248.

<sup>205</sup> Lee, 118.

<sup>206</sup> Lee, 119.

<sup>207</sup> Musto, *The American Disease* 255.

<sup>208</sup> Musto, *The American Disease* 256.

<sup>209</sup> Bonnie and Whitebread II, 245.

of the marijuana consensus as unthinkable, for he had counted on mandatory minimum sentencing guidelines and negative drug imagery to keep the narcotics menace at bay.<sup>210</sup>

As part of the Controlled Substances Act, the National Commission on Marihuana and Drug Abuse was created to study and make long-term policy recommendations about marijuana.<sup>211</sup> President Nixon's Commission on Marihuana and Drug Abuse was composed of traditional minded people and had a very powerful impact on the national conversation of marijuana when it recommended that small amounts of marijuana be decriminalized for personal use.<sup>212</sup> Surprisingly enough, Nixon himself chose the majority of the Commission. The report, *Marihuana: A Signal of Misunderstanding* was released in March 1972 and was the most advanced review of marijuana ever done by the federal government. The commission declared that marijuana had become a symbol of rejected traditional values and believed that laws prohibiting its use did not serve the national interest of the United States.<sup>213</sup> President Nixon viewed marijuana as a useful political tool that he could use for his political gain with regards to his "law and order" message that was tough on crime. Nixon linked marijuana to protestors and blamed "the Jews" for heading efforts to legalize marijuana at the federal level.<sup>214</sup> Nixon's crackdown on Marijuana was symbolic in cracking down on the expressions of cultural dissent and the rebellious youth that were associated from traditional mindsets regarding marijuana.<sup>215</sup> Just as Nixon believed that there was a large "silent majority" that backed intervention in Vietnam, he believed there was a silent majority when it came to those opposing any softening

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<sup>210</sup> Musto, *The American Disease* 246.

<sup>211</sup> Lee, 121.

<sup>212</sup> National Commission on Marijuana and Drug Abuse, *Marihuana: A Signal of Misunderstanding*, (Washington D.C.: USGPO, 1972) 152.

<sup>213</sup> Lee, 122.

<sup>214</sup> Lee, 133.

<sup>215</sup> Lee, 120.



on narcotic laws. When the final report was released, Nixon refused to accept the report in public from the Commission's chairman, Raymond Schaffer, former Governor of Pennsylvania.<sup>216</sup>

It is important to analyze the dramatic change in stature regarding marijuana prohibition, all within a few short decades. While marijuana was initially targeted in the 1930s because of a multitude of factors including the coming of the Great Depression, cannabis' association with the lower rungs of society (minorities, poor) as well as it being wrongly associated with hard narcotics, led to a very heavy handed approach to prohibition at the federal level. Yet, marijuana prohibition has relied more on the social, political and economic happenings of the day, rather than the supposed ill effects of cannabis. The 1940s and 1950s ushered in a separate treatment of Cannabis based mostly on political happenings of the day, especially as the Cold War was beginning to heat up. Marijuana was then viewed and linked to communism and a supposed communist threat. In doing so, the federal government's approach hardened when it came to marijuana prohibition, with the passage of the Boggs Act and the introduction of mandatory minimum sentencing guidelines. The 1960s then saw a complete reversal in the manner in which the public viewed marijuana and the manner in which the federal government tried to continue the upkeep of draconian prohibitory measures against the plant.

Americans were now openly questioning the heavy handed tactics that were being used to maintain prohibition. The reasoning for such an about-face regarding marijuana, deals exclusively with the change in the image of the user. In the 1960s unlike previous decades, the user was of the upper social strata of American society, most of whom were law abiding citizens who got caught up in harsh sentencing practices aimed at marijuana. Because these individuals were of a socioeconomic standing that could gain access and influence to decision makers in government, change regarding the manner in which marijuana prohibition was being conducted,

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<sup>216</sup> Musto, *The American Disease* 256.

began to finally take shape. It is of vital importance to note how socioeconomic factors and demographics changed the approach with which the federal government tackled marijuana use.

Because pressure was mounting to amend laws prohibiting marijuana use and its penalties, the federal government chose to modify its argument, once again, against marijuana. No longer was marijuana viewed as a cause of violence, due to it no longer being associated with minorities who were viewed as a threat, but rather its potential harms were cast on white middle and upper class youth, to which marijuana posed a threat, not of violence or insanity, but of failure to succeed and be productive citizens. Therefore, the federal government recast its argument against marijuana to fit the perceived user of the day and as a means of curbing cultural and political resistance to the status quo.

## CHAPTER IV

### COMING FULL CIRCLE AND WHERE WE GO FROM HERE

The findings and conclusions that have been drawn from this thesis add to the literature by showing several distinct patterns in which the federal government first created then maintained marijuana prohibition through changing social, political and economic shifts in the United States. These patterns included the use of race and class in the influencing of any prohibitive measures, the delegation of the identity of “other” or “otherness”, an outcry from middle class WASP groups and the “victimization” of an individual or group. This fills in the gap in existing literature by taking an extensive study of the changing reasoning and rationale behind prohibitory measures by displaying a pattern of continuous social, political and economic change, both at the national and international level. This adds weight to the conversation that is currently taking place in America regarding continued marijuana prohibition at the federal level and the War on Drugs as a whole. The implications from the previous chapters point to a continued pattern of prohibition that shifts with the social, political and economic winds of the day. In the 1930s with the oncoming of federal prohibition, the federal government used racism and xenophobia as fuel behind the initial push for prohibition, fanning the flames of a nation that was wrought with the social and economic effects of the Great Depression. Labor unions with considerable influence favored restrictions on immigration and linked marijuana use, labor shortages and Mexican immigration as all being interrelated and having a causal relationship.

Anti-immigrant furor was a result of the economic depression, a sociological pattern continuing today. The World War II years and the cutback in federal appropriations and funding caused the FBN to change and modify the continued prohibition of marijuana. Anslinger noted that marijuana needed to continue to be outlawed because a) Army personnel were deliberately caught with it to obtain a discharge from the military, b) marijuana was used by young men to evade the draft and c) with the growing of cannabis hemp for the war effort more FBN agents were needed to control and monitor fields from growing marijuana. Anslinger and the FBN modified their reasoning and rationale for prohibition to fit the politics of the day. With the onset of the Cold War, the initial threat from racism and xenophobia was intertwined with the threat of communism. This was nothing more than a ruse to keep marijuana in the public discourse and funding for prohibitory measures to continue free flowing and unabated in the era of nuclear diplomacy. Marijuana was no longer being promoted as a cause of violence and crime but rather a cause of pacification and communist brainwashing. It is also curious to see how marijuana went from being associated with minorities to being associated with communism; every cause must have its delegated “other”. The concept of other has shifted from minorities (race/ethnicity) during the Depression Era years to communism (political ideology) during the Cold War and the implementation of draconian mandatory minimum sentencing guidelines. The projection of blame on foreign nations, as was done with the USSR and China, with flooding American streets with narcotics, is no different than the projection of the perceived ills of a minority group onto a substance. This mindset allows for punitive measures to later take hold, such as the implementation of mandatory minimums. The early 1950s witnessed the United States involved in the Korean War and the FBN target China and the USSR as the cause of the nation’s narcotic epidemic. The idea of starting with marijuana and progressing to hard narcotics

such as heroin, the so-called stepping stone theory was introduced in the 1950s. What makes for an interesting argument is that in the 1930s Anslinger quite plainly proclaimed that marijuana use did not lead to heroin use. However when viewed within the context of the Cold War and heroin being brought in from communist countries, it is easy to see how the connection is made with marijuana by the FBN in order to stay politically and economically relevant during a time of constrained budgets. The 1960s then witnessed a complete reversal in the manner in which the public viewed marijuana and its enforcement against it. The reason behind such an about face by the public regarding marijuana prohibition was because the image and perception of the user was that of the white middle and upper social strata of American society, which also happened to be the makeup of the New Left and the anti-Vietnam War demonstrators. The tremendous social changes brought about during the 1960s also ushered in a review and critique of existing federal law concerning marijuana in the 1970s. Public outcry against draconian penalties for possession, as well as a change in the perception of who was using marijuana led to various critiques from within the government, namely the Nixon Commission on Marihuana and Drug Abuse which called for the decriminalization of small amounts of marijuana for personal use.

Many issues of race have carried over to modern day including the projection of negative racial and ethnic stereotypes onto marijuana itself. Tactics of early prohibitionist techniques including the use of mass roundups continue today. The racialization of narcotics continues with regards to sentencing disparity among those convicted of powdered cocaine possession and crack cocaine possession. The 1986 Anti-Drug Abuse Act stipulated a five year mandatory minimum for possession of fifty grams of powdered cocaine and the same sentence was doled out for those found to be in possession of five grams of crack cocaine. Much of the reformist ideas about changing marijuana's legality and easing on the War on Drugs as a whole was thrown out the

window with the election of Ronald Reagan to the presidency and his ramping up of the War on Drugs.

Group association and race have been constant themes in the prohibition of marijuana and the War on Drugs as a whole. In the 1930s xenophobic and racism targeted towards Hispanic Americans and African Americans helped push for the creation of the initial prohibition against marijuana. A shortage of employment and economic opportunities resulted in an outcry against those branded as “other”. The initial association of minorities, crime and narcotics has its roots in the 1914 Harrison Narcotic Act with tales of African-American violence at the hands of powdered cocaine. The exact same notions can be rendered when discussing the 1937 Marijuana Tax Act or the 1986 Anti-Drug Abuse Act. In the Depression Era years mass roundups were used to rid the populace of Mexican immigrants and negative racial stereotypes were projected onto marijuana therefore justifying its demonization. Today’s mass roundups are used against those at the lowest socioeconomic ladder, largely affecting those of color, in the larger profit driven War on Drugs.

The use of unfounded claims of marijuana’s effects on the individual and its effect on society with regards to criminal notions/activities was also a major hallmark of early prohibitionist sentiment. As previously outlined, there are several patterns that occur in order for the creation of a prohibition and for the maintenance of such a prohibition. Racism and class are one major component that has remained a constant in any prohibitory measures, marijuana included. The concept of the “other” or the outsider who is acting outside the realm of accepted white social norms is a constant theme throughout the prohibition of marijuana. Whether it was the impoverished Mexican immigrant of the 1930s or the longhaired college-aged protester of the 1960s, the title of “other” had to be bestowed upon someone or something to continue the

maintenance of marijuana prohibition. An outcry from the middle class has always been an impetus for the creation and maintenance of any prohibitory measures. It is interesting to see how the middle class has shifted from being the group calling for a prohibition, to crying out against it, since there has been a shift in the public's perception of users from lower class immigrants and people of color to middle-class whites, the statistical facts however, dictate otherwise. Finally, there must always be a perceived "victim". More often than not the purported victim almost always tend to be white-women, or concepts of whiteness and white honor. Whether that honor is threatened in the form of a helpless white woman, employment as was the case during the Depression Era or American exceptionalism during the Cold War. All of these components lead to the creation of a pattern, which continues through the decades and adds to the literature as a whole by expanding upon previous arguments in scope to demonstrate a continued pattern relying on faulty logic and social fears to maintain the upkeep of the federal prohibition of marijuana. This thesis displays a working framework, which has led to today's current War on Drugs and the continuation of the federal prohibition of marijuana.

With regards to marijuana's social and political shift throughout the decades, the federal government has shifted the legality of marijuana on a few occasions at its convenience and leisure where doing so would prove to be more economically profitable than enforcing its own prohibition. With America's entrance in World War II, the 1942 Hemp for Victory campaign stands as a testament to the nature of the federal government with regards to the manner in which a once illegal substance can have its status changed due to pressing social, political and more importantly, economic reasons of the day.

The same can be said of the federal government tolerating the legalization of marijuana for recreational use in the states of Washington and Colorado. Many of the reasons that were

given for pushing the legalization of marijuana had to do with the possibility of increased revenue for the respective states, as well as the realization by many in the public that the current state of the War on Drugs has been costly both at the social and economic levels of society. Lessons learned from the initial prohibitory measures and the dramatic social consequences from mass incarceration stemming from mandatory minimum sentencing and the ramping up of the War on Drugs by President Reagan, have translated into modern drug efforts to revamp this nation's flawed drug statutes and sentencing guidelines, especially the disparity in sentencing guidelines for crack and powdered cocaine. In relation to the highly criticized prohibition of marijuana, pro-legalization activists point to the exploitation of the poor and those at the lower socioeconomic bracket as evidence of a flawed criminal justice system and War on Drugs. Today's advocates for legalization including the Drug Policy Alliance, Students for Sensible Drug Policy and the Marijuana Policy Project have used the association method with great results in Colorado and Washington. The perception of marijuana's effects and its association with different groups throughout the decades has helped change the public's sentiment regarding the substance. The same can be said regarding the legalization efforts in both states. Pro legalization groups began their campaign by erecting billboards that displayed positive, responsible, middle class citizens advocating legalization, therefore challenging any antiquated notions of associating the substance with crime, poverty, and social degradation.<sup>217</sup> What allowed the grand experiments of legalization in both states to occur was ironically, the same reason that currently maintains the War on Drugs, economic profit. Current economic forecasts predict that Colorado will bring in an approximate fifty four million dollars in tax revenue from legalized marijuana, with the first forty million to go towards the public school system and

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<sup>217</sup> The Huffington Post, "Campaign to Regulate Marijuana Like Alcohol," April 5, 2012, [http://www.huffingtonpost.com/2012/04/05/campaign-to-regulate-marijuana-like-alcohol-colorado\\_n\\_1406612.html](http://www.huffingtonpost.com/2012/04/05/campaign-to-regulate-marijuana-like-alcohol-colorado_n_1406612.html)



additional funding to go towards substance abuse treatment and law enforcement.<sup>218</sup> Each state within the Union acts as a laboratory of democracy that can have great effect upon the collective good/bad of the nation depending upon the outcomes. Colorado and Washington are conducting two grand experiments that will determine the future of marijuana prohibition in the United States and the War on Drugs as a whole.

Today's modern rhetoric in favor of maintaining federal prohibition can and will shift, as it has over the last seventy seven years with regards to marijuana, depending on the social, political and economic circumstances that are at play. Just as past prohibitionists relied on theories regarding the so called stepping stone/gateway theory, modern prohibitionists including Smart Approaches to Marijuana (S.A.M.) and the Women's Christian Temperance Union continue to rely on these same disproven theories in furthering prohibitionist rhetoric. While SAM is against treating personal possession of marijuana as a criminal offence, it rather, favors civil offenses subject to mandatory health screenings and programs as appropriate, as well as the continuation of the federal prohibition of marijuana.<sup>219</sup> While prison time is not an issue with SAM under their vision, "violators" would nonetheless be subject to a range of intrusive measures that would stigmatize the user, just as much as being placed in the criminal justice system. The violators in this case would represent a continuation and stigmatization of the "other", which is needed in order to keep prohibition in working order. SAM lists the majority of its concern with use among those under eighteen, neglecting the fact that as laws and regulations stand, marijuana continues to be in many cases more easily accessible to minors than

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<sup>218</sup> Katie Lobosco, "Pot Taxes Won't Be As High As Hoped" CNN, April 14, 2014, <http://money.cnn.com/2014/04/14/news/economy/colorado-marijuana-tax-revenue/>

<sup>219</sup> Smart Approaches to Marijuana, "SAM Legal Reform", accessed March 31, 2014, <http://learnaboutsam.com/legal-reform-3/>

alcohol which is a regulated industry.<sup>220</sup> While SAM does not use the harsh rhetoric of past prohibitionists, it still rests its argument on the same faulty pretenses including, the gateway theory and accessibility to minors as justification to keep marijuana on an extralegal status.

It would be difficult to conclude this thesis and its implications for modern day prohibition without mentioning the dramatic rise in prison population that has occurred over the last forty-three years since the declaration of the War on Drugs. Now, just as back in the early prohibitionist days, the effectiveness of drug laws are based on the number of arrests made. Race, as a major aspect for initial prohibitory measures continues today because current models of fighting the War on Drugs revolve around a profit driven motive in drug based law enforcement.<sup>221</sup> One example of this occurring is in New York City. Even though the New York State legislature decriminalized marijuana possession of up to twenty five grams in the 1970s, thousands of New York City residents are arrested every year on possession charges. This is due to a caveat in the law that dictates if marijuana is publicly displayed it becomes a misdemeanor subject to arrest. The manner in which a majority of these arrests occur is because of NYPD's "Stop and Frisk" program that focuses attention on predominantly black and Hispanic neighborhoods of so-called "suspicious individuals".<sup>222</sup> When an individual is stopped on reasonable suspicion of a criminal act, an officer has the right to briefly detain and conduct a limited search of an individual's outer garments if reasonable and articulable suspicion exists that the person may be armed, this has been affirmed by *Terry v. Ohio* 1968. How this comes into play regarding marijuana arrests is in the nature in which "Stop and Frisk" searches are conducted. When an individual is stopped and police search the detainee, if marijuana is found

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<sup>220</sup> [http://usatoday30.usatoday.com/news/health/2008-08-13-teens-prescription-drugs\\_N.html](http://usatoday30.usatoday.com/news/health/2008-08-13-teens-prescription-drugs_N.html)

<sup>221</sup> Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (New York: The New Press, 2012) 83.

<sup>222</sup> Jacob Sullum, "De Blasio Is Busting Just As Many Pot Smokers As Bloomberg Did," *Reason.Com*, June 11, 2014 <http://reason.com/blog/2014/06/11/de-blasio-is-busting-just-as-many-pot-sm>

and taken out into public view by the officer, then the detainee's citable offence is then upgraded to a misdemeanor punishable by arrest, saddling many with first time criminal records. The majority of individuals stopped in New York City are overwhelmingly black and Hispanic. According to the New York Civil Liberties Union, of the hundreds of thousands of people being stopped and searched by NYPD between 2003-2013, between nine to twelve percent were white, while twenty nine to thirty four percent were Hispanic and fifty three to fifty six percent were black, of those stopped between eighty nine to ninety one percent were completely innocent.<sup>223</sup> The election of Bill De Blasio as mayor of New York City gave hope to many, as he was critical of NYPD's "Stop and Frisk" policy and of the racially skewed practices of law enforcement just as Mayor LaGuardia was of the FBN's anti-marijuana policies during the 1940s.<sup>224</sup> However, according to data, the city under De Blasio has increased its number of marijuana arrestees per day during the first four months of 2014 as compared to the same period during the previous year and the continuance of racially skewed arrest statistics with eighty six percent of arrestees being Latino/Black, with seventy three percent being saddled with first time criminal records.<sup>225</sup> It is not difficult to see how such aggressive approaches to drug enforcement can cause a massive rift between communities of color and law enforcement. What is occurring in New York City is not isolated to that city or region for it is occurring all across the United States and its racial implications from arrest, incarceration and reintegration into society can be felt across every corner of the nation, especially in communities of color.

With the easing of the crack epidemic in the late 1980s law enforcement across the nation turned to marijuana, by 2006 as drug arrest rates began to decline, marijuana arrests continued to

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<sup>223</sup> <http://NYCLU.ORG/CONTENT/STOP-AND-FRISK-DATA>

<sup>224</sup> Jacob Sullum, "De Blasio Is Busting Just As Many Pot Smokers As Bloomberg Did," *Reason.Com*, June, 11 2014 <http://reason.com/blog/2014/06/11/de-blasio-is-busting-just-as-many-pot-sm>

<sup>225</sup> Jacob Sullum, "De Blasio Is Busting Just As Many Pot Smokers As Bloomberg Did," *Reason.Com*, June, 11 2014 <http://reason.com/blog/2014/06/11/de-blasio-is-busting-just-as-many-pot-sm>

grow and by 2010 made up half of all drug arrests in America.<sup>226</sup> Even though marijuana usage rates among whites and blacks are comparatively equal, blacks are more than three times likely to be arrested for possession of marijuana than whites.<sup>227</sup> Now, as it was during its initial prohibition, the prohibition of marijuana greatly affected the minority populace that it was negatively associated with. The concentrated efforts of marijuana enforcement based on an individual's race or community location has been and always will be a hallmark of marijuana prohibition and the War on Drugs as a whole. The concentrated efforts on mostly Hispanic and African-American neighborhoods has also resulted because of the incentives behind churning up massive low level arrests for minor offenses, including the possession of marijuana. The Byrne Justice Assistance Program is a federally funded program used by state and local police to enforce drug laws. This program creates financial incentives to generate high numbers of drug arrests to meet or exceed internal and external performance measures.<sup>228</sup> Since Justice Assistance Grant funds have been distributed since 1989, marijuana possession arrest rates have increased dramatically. The idea that the War on Drugs is aimed at large narco groups and drug lords is a myth, the vast majority of those caught up in the War on Drugs are not high-level drug traffickers, but those charged with possession offenses. The fact that there is a monetary incentive tied to making drug arrests helps perpetuate the ever-increasing number of those arrested for low-level marijuana possession offenses since the Grant's inception in 1988. The ramping up of the drug war during the Reagan Era witnessed marijuana and general drug infractions grow from what was increasingly turning into a health issue during the late

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<sup>226</sup> ACLU, "The War on Marijuana is Black and White", 2013, pg. 8 <https://www.aclu.org/criminal-law-reform/war-marijuana-black-and-white-report>.

<sup>227</sup> ACLU, "The War on Marijuana is Black and White", 2013, pg. 9 <https://www.aclu.org/criminal-law-reform/war-marijuana-black-and-white-report>.

<sup>228</sup> ACLU, "The War on Marijuana is Black and White", 2013, pg. 11 <https://www.aclu.org/criminal-law-reform/war-marijuana-black-and-white-report>.

1960s/early 1970s, due to marijuana's association with white middle class youth, into a criminal issue once again with the oncoming crack cocaine epidemic and its association with African-Americans and inner-city poverty.

Immediately following the Civil Rights Movements of the 1960s/70s, the federal government turned to punishment as a solution to the outrage of citizens.<sup>229</sup> The construction and expansion of prisons has increased since the end of the Civil Rights Era. The massive increases of the criminal justice system over the last thirty years or so, has resulted primarily because of the racially disparate enforcement of drug laws towards people of color. The growth of the prison industrial complex, a punitive view of drug treatment and underlying racial attitudes in America are a major force that threatens constitutional and civil rights. In 1984 Congress amended federal law to allow federal law enforcement agencies to retain and use any and all proceeds from asset forfeitures. State and local police can retain up to eighty percent of an asset's value.<sup>230</sup> As a result of profit driven law enforcement, local, state and federal police have a direct interest in the profitability and longevity of the War on Drugs.<sup>231</sup> Because of an ever-growing dependence on the War on Drugs as a source of revenue, a vast majority of local and state police forces, as well as the for-profit prison industrial complex are against the liberalization of marijuana laws and drug laws in general. In a 2005 filing with the Securities and Exchange Commission, Corrections Corporation of America, one of the largest for-profit prison groups in the nation had this to say with regards to any future changes in drug law in a section entitled, "risk factors":

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<sup>229</sup> Heather Rose and Glenn E. Martin, "Locking Down Civil Rights: Criminal Record Based Discrimination", *Race/Ethnicity: Multidisciplinary Global Contexts*, Vol. 2 No.1 (2008): 15.

<sup>230</sup> Alexander, 78-79.

<sup>231</sup> Alexander, 82.

“The demand for our facilities and services could be adversely affected by the relaxation of enforcement efforts, leniency in conviction and sentencing practices or through the decriminalization of certain activities... or any changes with respect to drugs and controlled substances...could affect the number of persons arrested, convicted and sentenced, thereby potentially reducing demand for correctional facilities to house them.”<sup>232</sup>

Creation of post incarceration policies has allowed those saddled with a drug conviction to be selectively discriminated against for public housing, education benefits and civic benefits. Section 9 of the Housing Opportunity Program extension of 1996 permits housing authority administrators to discriminate based on past drug offenses.<sup>233</sup> Under Reagan’s ramped up efforts, the 1986 Anti-Drug Abuse Act introduced new sentencing guidelines that included mandatory minimum sentencing. It is not difficult to understand that the War on Drugs disproportionately affects those that have the least social and economic power in society, namely the poor and minorities. What the current system developed in the 1980s and 1990s has created is a permanent underclass in American society. It is no wonder why recidivism rates are extremely high among former inmates. While past reasons for maintaining prohibition revolved around social issues such as racism and xenophobia, or political concerns such as the rise of communism and the growth of the New Left, today’s justification for the maintenance of the federal prohibition of marijuana and the War on Drugs, as a whole, is profit-driven economics both for law enforcement agencies and the for-profit prison industrial complex. It should come as no surprise

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<sup>232</sup> U.S. Securities and Exchange Commission, Corrections Corporation of America, Form 10k for the fiscal year ending Dec. 31, 2005. pg. 22

<http://www.sec.gov/Archives/edgar/data/1070985/000095014406001892/g99938e10vk.htm>

<sup>233</sup> Erica R. Meiners, *Right To Be Hostile: Schools, Prisons and The Making of Public Enemies* (New York: Routledge, 2010) 100.

why the United States' incarceration rates have skyrocketed since Nixon's initial war declaration in 1971 and Reagan's ramping up of it in the 1980s.

It begs the question as to whether the federal government has used the same prohibitory mindset with marijuana to the overall War on Drugs. If this were the case, then the entire War on Drugs as declared by Richard Nixon in 1971 must be reevaluated from the perspective of the burdens that the War on Drugs has placed on society, especially individuals of color. This thesis merely analyzes the federal government's continued prohibition of marijuana throughout the selected decades and presents a persistent pattern on the part of the federal government of targeting groups or individuals as convenient to the federal government's efforts to upkeep prohibition. A study as immense as analyzing the disastrous effects of the War on Drugs is far too large for this thesis' scale and scope, yet presents a promising lead for future study on a broader subject.

## REFERENCES

- American Civil Liberties Union, "The War on Marijuana is Black and White." <https://www.aclu.org/criminal-law-reform/war-marijuana-black-and-white-report>.
- Alexander, Michelle. *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*. New York: The New Press, 2012.
- Balderrama E., Francisco and Raymond Rodriguez. *Decade of Betrayal: Mexican Repatriation In The 1930s*. Albuquerque: University of New Mexico Press, 2006.
- Becker S., Howard. *Outsiders: Studies in the Sociology of Deviance*. New York: The Free Press, 1973.
- Bonnie J., Richard and Charles H. Whitebread II. *The Marijuana Conviction: A History Of Marijuana Prohibition In The United States*. New York: Lindsmith Center, 1999.
- Booth, Martin. *Cannabis: A History*. New York: Picador, 2003.
- Breecher M., Edward and The Editors of Consumer Reports Magazine. "The Consumer Union Report on Licit and Illicit Drugs: Chapter 8 The Harrison Narcotic Act (1914)". *Consumer Reports Magazine*, 1972. <http://www.druglibrary.org>.
- Bull, Melissa. *Governing The Heroin Trade: From Treaties to Treatment*. Aldershot: Ashgate Publishing, Ltd., 2008.
- Bustamante A., George. "A Dialectical Understanding of the Vulnerability of International Migrants." In *Our North America: Social and Political Issues Beyond NAFTA*, edited by Julian Castro Rea, 118. Farnham: Ashgate Publishing Ltd., 2012.
- Carruth, Bruce and Thomas C. Rowe. *Federal Narcotics Laws and the War on Drugs: Money Down A Rat Hole*. New York: Routledge, 2013.
- Dallas Morning News. "National Campaign Against Marihuana is Federation Aim." *Dallas Morning News*, January 16, 1937.



- Dallas Morning News. "Use Vote to Save U.S. Woman's Club President Urges." *Dallas Morning News*, October, 4, 1937.
- Erlen, Jonathon and Joseph F. Spillane and Rebecca Carroll and William Mcallister and Dennis B. Worthen. *Federal Drug Control: The Evolution of Policy and Practice*. Boca Raton: CRC Press, 2004.
- Ferraiolo, Kathleen. "From Killer Weed to Popular Medicine." *The Journal of Public History Vol.19 No.2* (2007): 147-179.
- Fox, Steve and Paul Armentano and Mason Tvert. *Marijuana Is Safer: So Why Are We Driving People To Drink?*. White River Junction: Chelsea Green, 2009.
- Freedman B., Mervin and Harvey Powelson. "Drugs on Campus: Turned on and Tuned Out." *The Nation*, January 31, 1966.  
<http://thenation.s3.amazonaws.com/pdf/drugsoncampus1966.pdf>
- Gard, Wayne. "Youth Gone Loco." *The Christian Century*, June 29, 1938.  
[http://www.druglibrary.org/mags/youth\\_gone\\_loco.htm](http://www.druglibrary.org/mags/youth_gone_loco.htm)
- Gahlinger M., Paul. *Illegal Drugs: A Complete Guide To Their History, Chemistry, Use and Abuse*. New York: Penguin, 2004.
- Galliher F., John and Allynn Walker. "The Puzzle of the Social Origins of the Marihuana Tax Act of 1937." *Social Problems Vol.24 No.3* (1977): 369.
- Gerber J., Randolph. *Legalizing Marijuana: Drug Policy Reform and Prohibition Politics*. Westport: Praeger Publishers, 2004.
- Goethe C., M. "Quotas". *New York Times*, September 15, 1935.
- Goode, Erich and Thomas Ben-Yehuda. *Moral Panics: The Social Construction of Deviance*. Malden: John Wiley & Sons, 2009.
- Green, Julie. *Pure and Simple Politics: The American Federation of Labor and Political Activism*. Cambridge: Cambridge University Press, 1998.
- Hoffman, Abraham. *Unwanted Mexican Americans in the Great Depression: Repatriation Pressures, 1929-1939*. VNR AG: Social Science, 1974.
- Kamin, Sam and Christopher S. Morris. *The Impact of the Decriminalization and Legalization of Marijuana: An Immediate Look at the Cannabis Reform Movement*. New York: Thomson Reuters/Aspatore, 2010.
- Helmer, John and Thomas Vietorisz. *Drug Use, The Labor Market and Class Conflict*. Washington D.C.: Drug Abuse Council Inc., 1974.

- Himmelstein L., Jerome. *The Strange Career Of Marijuana: Politics and Ideology of Drug Control In America*. Westport: Greenwood Press, 1983.
- Johnson R., Norris and William E. Feinberg. "Youth Protest: An Introduction." *Sociological Focus Special Issue: Youth Protest in the 1960s Vol.13 No.3 (1980): 174*.
- Lee A., Martin. *Smoke Signals: A Social History of Marijuana-Medical, Recreational and Scientific*. New York: Scribner, 2012.
- Lobosco, Katie. "Pot Taxes Won't Be As High As Hoped." *CNN*, April 14, 2014. <http://money.cnn.com/2014/04/14/news/economy/colorado-marijuana-tax-revenue>
- Mayor's Committee on Marihuana by the New York Academy of Medicine. "The LaGuardia Committee Report: The Marihuana Problem in the City of New York." New York, 1944. <http://www.druglibrary.org/schaffer/library/studies/lag/lagmenu.htm>
- McCoy W., Alfred. *The Politics of Heroin: CIA Complicity In The Global Drug Trade*. Chicago: Lawrence Hill Books, 2003.
- McGraw Long, Jane. "History of Alcohol Prohibition." <http://www.druglibrary.org>
- Meiners R., Erica. *Right To Be Hostile: Schools, Prisons and The Making of Public Enemies*. New York: Routledge, 2010.
- Musto F., David. *The American Disease: Origins of Narcotic Control*. New York: Oxford University Press, 1999.
- Musto F., David. "The History of Legislative Control Over Opium, Cocaine and Their Derivatives." <http://www.druglibrary.org>
- Musto F., David. "The History of the Marihuana Tax Act of 1937." *Arch. Gen Pyschiat. Vol.26 (1972):* <http://www.druglibrary.org>
- National Commission on Marihuana and Drug Abuse. *Marihuana: A Signal of Misunderstanding. Washington D.C.: USGPO, 1972*.
- Okrent, Daniel. *Last Call: The Rise and Fall of Prohibition*. New York: Scribner, 2011.
- Price, Sue. *The Politics of Drug Prohibition*. New York: Palgrave Macmillan, 2012.
- Rose, Heather and Glenn E. Martin. "Locking Down Civil Rights: Criminal Record Based Discrimination." *Race/Ethnicity: Multidisciplinary Global Contexts Vol.2 No.1 (2008)*

- Schaller, Michael. "The Federal Prohibition of Marihuana." *Journal of Social History* Vol.4 No.1 (Autumn, 1970): 61-74.
- Schlosser, Eric. *Reefer Madness-Sex, Drugs and Cheap Labor In The American Black Market*. New York: Mariner Books, 2004.
- Sickels, Robert. *The 1940s*. Westport: Greenwood Press, 2004.
- Sloman, Larry. *Reefer Madness: The History of Marijuana in America*. New York: Macmillan, 1998.
- Smart Approaches to Marijuana. "SAM Legal Reform." <http://learnaboutsam.com/legal-reform-3>
- Sufrin C., Sidney. "Labor Organization in Agricultural America 1930-35." *American Journal of Sociology* Vol.43 No.4 (January, 1938): 548.
- Sullum, Jacob. "De Blasio is Busting Just As Many Pot Smokers As Bloomberg Did". *Reason.com*, June 11, 2014. <http://reason.com/blog/2014/06/11/de-blasio-is-busting-just-as-many-pot-sm>
- Swartz A., James. *Substance Abuse in America: A Documentary and Reference Guide*. Santa Barbara: ABC-CLIO, 2012.
- Taylor-Bewley R., David. *The United States and International Drug Control, 1907-1997*. New York: Continuum, 2001.
- Tchen Wei Kuo, John. *New York before Chinatown: Orientalism and the Shaping of American Culture 1776-1882*. Baltimore: The Johns Hopkins University Press, 1999.
- The Huffington Post. "Campaign to Regulate Marijuana Like Alcohol." Last modified April 5, 2012. [http://huffingtonpost.com/2012/04/05/campaign-to-regulate-marijuana-like-alcohol-colorado\\_n\\_1406612.html](http://huffingtonpost.com/2012/04/05/campaign-to-regulate-marijuana-like-alcohol-colorado_n_1406612.html)
- U.S. House of Representatives. "Hearings on H.R. 6385". U.S. *Government Printing Office* (n.d.): 87-92.
- U.S. Securities and Exchange Commission. "Corrections Corporation of America, Form 10k for the Fiscal Year ending Dec. 31, 2005." <http://www.sec.gov/Archives/edgar/data/1070985/000095014406001892/g99938e10vk.htm>
- Williams, Huntington Edward. "Negro Cocaine "Fiends" Are A New Southern Menace." *New York Times*, February 8, 1914.

## BIOGRAPHICAL SKETCH

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