A Federalist George W. Bush and an Anti-Federalist Barack Obama? The Irony and Paradoxes behind Republican and Democratic Administration Drug Policies

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CHAPTER SIX

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The Irony and Paradoxes behind Republican and Democratic Administration Drug Policies

José D. Villalobos

Introduction

Policy debates concerning the war on drugs often revolve around topics such as combating organized crime, militarizing the U.S.–Mexican border, and employing punitive approaches to substance abuse. Alternatively, scholars, pundits, and the public have also debated the pros and cons of drug legalization—primarily as it pertains to the decriminalization of medicinal marijuana (see, for instance, Cohen 1976; Inciardi 1999; Trebach and Inciardi 1993; Stimmel 1996; Schaler 1998; Boyum and Reuter 2005; Ferraiolo 2007). Therein, policy discussions on drug legalization have focused mainly on sociopolitical, emotional, ethical, and health concerns while largely ignoring questions concerning philosophical views over Federalism, particularly over whether drug policy should be executed at the national versus state level. However, a deeper look at the issue and how politicians have attempted to address it reveals a major irony in the positions taken by liberal and conservative political leaders. Namely, Republicans have clamored to have more federal power given to the Drug Enforcement Administration (DEA) and other federal entities to uphold a nationwide ban on marijuana and other drugs, while Democrats have gradually moved toward a position that favors states’ rights to help jump-start the decriminalization movement, especially in states such as California, Oregon, and Colorado, which have relaxed laws concerning the sale and consumption of medicinal marijuana (Greenwald 2009; Khan 2009). Although it is no surprise that Democrats have taken a more liberal position on drug enforcement and Republicans a more conservative one, what is somewhat unusual is the extent to which Democrats have adopted a states’ rights approach, while Republicans have shunned states’ rights in the process.

During President Bill Clinton’s two terms, eight states successfully pushed toward decriminalizing medicinal marijuana (see table 6.1). These changes in drug laws sparked debates not only over the policies themselves but also over whether and how the federal government should react to such state-level changes. In the midst of such debates, then-governor of Texas George W. Bush told the Dallas Morning News in October 1999 that he believed the federal government should let each state “choose that decision as they so choose” (Drug Policy Alliance 2006). However, upon leaving the governor’s mansion for the presidency, Bush subsequently flip-flopped on his state-centered philosophy, focusing instead on his role as head of the executive branch in enforcing federal drug laws. Almost immediately, Bush fell in line with his Republican predecessors in continuing the war on drugs by using federal laws to push back against state-level efforts to legalize marijuana use. In doing so, Bush demonstrated a high level of responsiveness to his base of social conservative supporters, as well as to his own social policy preferences, though at the expense of his states’ rights values.

Bush’s successor, President Barack Obama, initially took quite the opposite route by calling on the DEA and other federal forces to pull back and allow states to continue the process of decriminalizing the sale and consumption of medicinal marijuana (Greenwald 2009; Siro 2010; see also Khan 2009). Although Obama’s move to allow for more state-level control over medicinal marijuana highlighted his willingness to delegate

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federal power, he nevertheless remained publicly opposed to the full legalization of marijuana or other drugs for recreational use and has charged the DEA to lead in enforcing that policy realm (see O'Brien 2010; Hecht 2011; Saunders 2011). To clarify its position and goals, the Obama administration released its initial National Drug Control Strategy in May 2010 (recently updated for 2012), which outlined the president’s comprehensive approach to dealing with the various public health and safety consequences caused by drug use (Office of National Drug Control Policy 2010, 2011, 2012). In essence, Obama presented himself as being supportive of state-level drug decriminalization efforts but also concerned about the health and safety issues related to drug use and determined to uphold federal law when it comes to perceived abuse by medicinal marijuana providers. Needless to say, there is more than meets the eye when it comes to presidential preferences on drug policy enforcement. To better understand how and why presidents have taken certain positions on federal and state drug policies requires a more nuanced exploration of the manner in which presidents perform a juggling act between their personal policy preferences and their Federalist philosophies in dealing with the issue.

Placing Obama, Federalism, and the Drug Policy Debate in Today’s Context

Taking the current political atmosphere into consideration, Barack Obama’s actions in allowing states to decriminalize marijuana seem particularly out of place considering the broader, widely scrutinized debate over his true philosophical leanings. Since his inauguration as the nation’s forty-fourth president, Obama’s strongest critics on the Far Right fringes of the ideological spectrum—namely, Ann Coulter, Rush Limbaugh, Sean Hannity, and Glenn Beck—have sought to label him as a big government “socialist,” bent on suppressing states’ rights and usurping federal power in an attempt to subvert influence over public policy in a manner they claim threatens the very fabric of U.S. democracy (e.g., see Beck 2009;Limbaugh 2009; see also Paul 2011, chap. 8). However, Obama’s measured deference to state-level control over drug policy largely contradicts these untamed allegations. Nevertheless, conservatives and liberals alike have had surprisingly little to say about Obama’s stance on states’ rights regarding decisions concerning drug policy reforms, instead placing the focus more on the basic liberal versus conservative debate over social values concerning the issue. As for former president George W. Bush, his change in positions on whether federal or state governments should lead and control drug policy reforms went largely unnoticed.

Such lack of attention to questions of Federalism with respect to U.S. drug policy lies in stark contrast to incidents concerning other policy realms, such as the uproar directed toward George W. Bush and Barack Obama when it came to the bank bailouts. In that case, not only did the public clearly express anger at the use of tax dollars to bail out the banks, but conservatives in particular were outraged at what they viewed as excessive overreach by the federal government (Rasmussen 2009). In fact, despite his appeals that such an act was necessary to preserve the free market, Bush was branded by some on the Far Right as having committed an act of “socialism” in orchestrating the initial bailout efforts (e.g., see Kincaid 2008). Obama’s subsequent efforts to further supplement the banks with additional bailout funds helped lay the groundwork for many of the charges that he is a “socialist,” charges frequently churned out by Tea Party activists and other right-wing conservatives (see Street and DiMaggio 2011). It is interesting that such strong sentiments over the federal state of government have been leved to such extremes when it comes to a topic like bank bailouts but have so easily been set aside when it comes to the drug policy debate.

In contrast, it is far easier to assess views on Federalism in observing the recent controversy over immigration policy in Arizona concerning Senate Bill (S.B.) 1070 (Archibold 2009). Although a large amount of media coverage over the bill centered on racial profiling and liberal versus conservative views on undocumented immigrants, much of the focus also lay on federal versus state-level enforcement of immigration policies. On behalf of the Obama administration, Attorney General Eric Holder argued that federal jurisdiction over immigration policy trumps the intention of S.B. 1070, which aimed to, as conservatives argued, uphold the laws that the national government had failed to enforce. U.S. District Court Judge Susan Bolton thereafter struck down key portions of the law in a clear ruling against Arizona’s bid for expanded state-level control over immigration policy, instead reinforcing the interpretation of the Constitution’s Supremacy Clause that confers federal government dominance over the states (Curtis 2010). In the midst of further debate and judicial appeals, liberals have continued calling for more federal efforts to stop other conservative state-level policy changes on immigration policy, including Alabama’s more recent immigration law reforms (see Reeves 2011; Mears 2011). From the side of conservatives, their opportunity to strengthen border security and
enforcement remains under attack by a liberal administration they perceive as far too fond of big government control over public policy.

Given the presence of such highly polarized and infamously over-government involvement in people’s lives in cases such as the federal bank bailouts and the recent immigration law reform efforts seen in Arizona and Alabama, it is interesting that such strong sentiments over issues related to Federalism have so easily been set aside when it comes to the drug policy debate. On the surface, it is understandable why the policy debate over medicinal marijuana has focused more on personal preferences linked to social values than on the inconsistencies concerning the tug-of-war over national versus state control of drug policy. After all, neither Republicans nor Democrats wish to draw attention to their strategic dismissal of Federalist values. Nor do members of either party wish to risk placing their Federalist philosophies above their partisan policy preferences when so much of what is at stake is being driven by public sentiment in connection to social values and health issues. At the same time, the way in which the debate over drug reform policies is currently playing out is also in large part a product of how George W. Bush’s and Barack Obama’s predecessors tackled it. Oddly enough, it was Richard Nixon who pushed for greater enforcement of federal drug prohibition policies and oversaw the creation and institutionalization of the DEA while also promoting what he referred to as his “New Federalism” philosophy, which favored decreasing the size of national government and delegating more power and funding to the states. So what explains these various approaches to U.S. drug policies and Federalist philosophies across political parties and presidential administrations?

To better understand the dynamics at play regarding presidential stances on drug policy, it is important to review the historical development of our Federalist system and connect it to the evolution of U.S. drug policy from Nixon’s time in office to the present day. To do so, I first briefly review some of the more important historical developments that have influenced how Republicans and Democrats today express their views and preferences regarding our federal government. I then outline the evolution of drug policy as related to Federalism and how presidents have dealt with the issue from Nixon’s launch of the war on drugs to more current affairs. From there, I look specifically at the cases of former president George W. Bush and President Barack Obama to further assess whether and to what extent Federalist philosophies have evolved, how they have affected policy decisions on drug issues, and what the political and institutional implications may be going forward.

Overview of Federalism and Historical Developments as Related to Drug Policy

Since 1787, when the Federalists outmaneuvered the Anti-Federalists in adopting the measures of the Virginia plan and hammering out the Connecticut Compromise for the creation and ratification of the U.S. Constitution, the United States has radically evolved as a federal system of government. Over time, two main forms of Federalism have emerged in the debate over how much government power should be concentrated at the state versus the national level: dual Federalism and cooperative Federalism (see, for instance, Zimmerman 1992; Walker 1999; Morgan and Davies 2008). Dual Federalism defines the relationship between the national government and the states on a coequal basis and does so through a narrow interpretation of the Constitution’s Commerce Clause, Supremacy Clause, Necessary and Proper Clause, and Tenth Amendment. Cooperative Federalism, on the other hand, designates the national government as clearly superseding the states through a wide interpretation of the Constitution. Cooperative Federalism dominated the 1930s under Franklin Delano Roosevelt’s administration, leading to an unprecedented growth in federal government size and influence for much of the twentieth century. Nevertheless, an enduring demand for scaling back the national government by delegating more influence and responsibility to the states has persisted over time in the post-FDR era, particularly among small government conservatives and libertarians over the last several decades.

Evolution of Federalism and Drug Policy from FDR to Clinton

Scholars recognize Franklin Delano Roosevelt as the father of the modern presidency. Presiding over the federal government during the Great Depression and World War II, FDR was faced with tremendous social and economic challenges. Across the country, states found themselves strapped for cash and under pressure from their constituents to be more responsive to their needs. Given the circumstances, the nation turned to the federal government for help, and FDR responded by assigning the Brownlow Committee to consider ways to further grow and institutionalize the executive branch (Dickinson 1996, chap. 3). The result was a growth of the president’s staff through the creation of the Executive
Office of the President, as well as a subsequent ballooning of the size and scope of the outer executive branch that rapidly expanded the government’s involvement in addressing social issues and stabilizing the economy in cooperation with state governments (see, for example, Burke 2000; Hart 1995).

In keeping with FDR’s efforts, succeeding presidents largely continued to further expand and institutionalize bureaucratic entities in the federal government until Richard Nixon’s term in office. Arguing that the national government had become cumbersome in its growth and amount of spending on social programs, Nixon embarked on a mission to reintroduce a form of dual Federalism he termed a “New Federalism” that would seek to shift influence away from the national level and instead delegate more responsibility, funding, and decision-making power over policy to the states. Thereafter, Republican presidents have tended to favor Nixon’s limited Federalist approach, while Democrats have largely preferred FDR’s more expansionist approach.

Although Nixon generally favored greater state-level influence whenever possible, he made an exception in dealing with drug policy. On July 14, 1969, he delivered a special message to Congress in which he singled out drug abuse as “a serious national threat” and signaled the need for national antidrug policies and abuse treatment programs to be pushed at the federal level and extended to the states (NPR 2007). Two years later, in June 1971, Nixon officially declared the war on drugs in an effort to expunge illicit drugs from society and lower drug-related crimes. By July 1973, the DEA was created under Nixon’s leadership to lead other agencies in conducting a federal effort to fight the drug war. Despite Nixon’s move in further expanding the federal government’s size and role in addressing the issue, the potential for criticism among conservatives was largely suppressed by the popularity of his stance against drug abuse and his efforts to simultaneously extend federal enforcement of drug prohibition policies in concert with the states. It was also during this time that the controversial Rockefeller Drug Laws went into effect (Gray 2009).

After Nixon’s resignation from office, former governor Jimmy Carter emerged as the Democratic candidate for president, beating out Gerald Ford in the 1976 election. During the election campaign, Carter openly proposed to end federal criminal penalties for possession of up to one ounce of marijuana (NPR 2007). Carter’s support for decriminalizing marijuana helped set the current terms of debate between conservatives and liberals on the issue. Although such liberal preferences for decriminalization were stymied by a majority of public opposition at the time, others on the left have since followed Carter’s lead in developing the liberal–progressive decriminalization movement we see today.

When President Ronald Reagan entered the White House, he pushed for smaller government across all areas of the executive branch in a renewed effort to transfer power and responsibility back to the states. However, there were two major exceptions to his smaller government stance. One was Reagan’s much-talked-about military buildup in the arms race against the Soviet Union and the other was his administration’s tough federal approach to drug prohibition. Picking up where Nixon left off, Reagan reinvigorated the war on drugs by instituting a zero tolerance policy and enacting stricter minimum sentencing laws that many viewed as biased against minorities and those in the lower-income brackets (Lusame and Desmond 1991; Nunn 2002). More popular, perhaps, was First Lady Nancy Reagan’s symbolic “just say no” campaign directed at the nation’s youth. George H. W. Bush continued Reagan’s policies by placing additional pressure on Mexico to crack down on drug lords. Both presidents shared a strong affinity for states’ rights but depended heavily on federal jurisdiction in the realm of drug policy.

Shortly after his 1992 election victory, Bill Clinton embarked on his campaign for a national health care initiative but fell short in his efforts amid formidable political and public opposition against greater federal control in the public health arena. While Clinton’s efforts at expanding federal control over health policy failed, his drug policies remained largely in the construct of his two predecessors and saw some additional federal expansion. Perhaps most notably, Clinton raised the position of director for the Office of National Drug Control Policy to cabinet-level status in 1993 (see Schaler 1998, chap. 2).

Drug Policy Paradoxes of Presidents George W. Bush and Barack Obama

This brings us to more recent history concerning the presidencies of George W. Bush and Barack Obama. As mentioned at the outset, George W. Bush was not always in favor of full federal enforcement of drug policies concerning marijuana. Bush once pushed a states’ right approach to drug enforcement as governor of Texas, supporting the idea of letting states make their own choices on the matter (Drug Policy Alliance 2006). For Bush, endorsing a states’ rights approach worked well as governor of the “red” state of Texas, where efforts toward decriminalizing marijuana have
been largely outweighed by conservative opposition. As a small government conservative, Governor Bush could have his cake and eat it too. Once he became president, however, Bush soon changed his tune, calling on the DEA to take charge in raiding locations in places such as California, where state-level enforcement efforts had been relaxed. Bush found himself in new territory, in charge of the entire nation with over a dozen states willing to have medicinal marijuana come into the open. No doubt feeling the pressure from his conservative base, and with the federal forces of the DEA at his fingertips, Bush became a strong proponent and instigator of federal enforcement efforts. In proving himself to his base of social conservative supporters while also satisfying his own personal policy preferences, Bush’s states’ rights values were simultaneously and necessarily thrown under the bus, so to speak.

The behavioral changes exhibited by Bush illustrate a paradox among Republican presidents that mirrors the general paradox faced by conservatives concerning classic liberalism and social values. In essence, Bush’s priorities changed in accordance with the level of executive position (federal versus state) he held at a certain point. As governor of Texas, classic liberalist values seemed to have won out as Bush promoted a states’ rights approach. Bush did so knowing full well that a majority of Texans were against legalized medicinal marijuana. However, Bush lost his openness to states’ rights once he became president and inherited a greater amount of authority, which he wielded in fighting against state-level drug legalization efforts against numerous states open to reform efforts. Once the dust settled, it became clear that President Bush’s Anti-Federalist philosophy hung lower on the totem pole than his social values. As for his Republican predecessors, certainly Nixon, Reagan, and George H. W. Bush’s strong moral opposition to all forms of legalization and decriminalization dominated over their affinity for limiting federal authority over states’ rights, particularly given their institutional position and power atop the executive branch.

Toward the end of Bush’s second term in November 2007, Barack Obama was in full swing campaigning for the presidential nomination. Asked about his views on legalizing drugs, he expressed conditional support for legalized medicinal marijuana (Anurajen 2007):

My attitude is if the science and the doctors suggest that the best palliative care and the way to relieve pain and suffering is medical marijuana then that’s something I’m open to because there’s no difference between that and morphine when it comes to just giving people relief from pain. But I want to do it under strict guidelines. I want it prescribed in the same way that other painkillers or palliative drugs are prescribed.

After a long campaign, the newly elected Obama wasted no time in shifting policy during his first year in office. Very quickly, he directed his then newly appointed attorney general, Eric Holder, to have federal agents “relax their enforcement of marijuana laws and go after only those distributors who violate both state and federal law” (Schor 2010; Khan 2009). Asa Hutchinson, George W. Bush’s former DEA head, acknowledged that the changes Obama made were “a significant and dramatic change in drug policy” (Schor 2010).

As it stands now, fourteen states have largely decriminalized the use and sale of medicinal marijuana, while seventeen states and the District of Columbia have adopted some type of state medical marijuana program (see table 6.2). In addition, states such as California have recently started moving toward the approval of “industrial” sized marijuana farms (Mick 2010). Early in Obama’s first couple of years in office, it appeared that such changes at the state level were relatively safe from federal interference. However, just because Obama was supportive in allowing states to gradually decriminalize medicinal marijuana did not mean he was equally as enthusiastic about broader legalization efforts for marijuana and other substances that could potentially increase recreational use of “soft” drugs.

Halfway through his second year in May 2010, the Obama administration announced the release of its National Drug Control Strategy for addressing drug use as more of “a public health issue than a criminal justice problem” (Hananel 2010). One of the key goals of Obama’s plan was to reduce the rate of youth and adult drug use by 15 and 10 percent. Each year since, the administration has released an updated version of its strategy (see Office of National Drug Control Policy 2011, 2012). Among its core principles, the strategy has focused on intervention, the integration of substance treatment and recovery, and improving information systems as a means to better analyze and understand drug use trends and their consequences (Office of National Drug Control Policy 2010). In releasing its plan, the administration pointed to the significant annual expenditures that drug use has imposed on our health care and criminal justice systems. In addition, Obama took the rare step of openly stating that U.S. demand for drugs—directly bankrolling the continual supply of illegal drugs from South America and Mexico—is what has largely kept the war...
Table 6.2. States that have decriminalized marijuana

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<th>State</th>
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<td>Washington</td>
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Sources: NORML 2011a, 2011b, 2011c.

controlled by the penal system, why not legalize, control, and tax marijuana to change the failed war on drugs into a money making, money saving boost to the economy?” (Stein 2009). In response, Obama noted his opposition to full legalization for economic purposes, saying “No, I don’t think that’s a good strategy to grow our economy” (Stein 2009). That comment, coupled with his previous remarks in 2007 noting his preference for adopting strict guidelines for any decriminalization measures, sent a clear signal of caution about the Obama administration’s opposition to full-blown drug legalization efforts across states.

Most recently, President Obama has upped the ante in making sure that his administration’s deference to states in decriminalizing medicinal marijuana does not result in the sale of the substance for recreational use. Specifically, the Obama administration has been intent to follow up on “charges against dispensaries and speculators allegedly raking in cash from purportedly nonprofit marijuana stores” (Hecht 2011). For instance, in October 2011, four U.S. prosecutors in California announced that the state’s medicinal marijuana laws had been “hijacked by profiteers” and abused to the point that prosecutions and property seizures against certain targeted dispensaries, their landlords, and property owners were in order (Saunders 2011; Hecht 2011). Given these charges of abuse amid an otherwise burgeoning medical marijuana industry, one might argue that the Obama administration has become as stringent—if not more stringent—than its predecessors, at least in terms of oversight in this realm.

Considering these historical developments, one cannot help but wonder how drug policy might be different if presidential (and public) Federalist values had historically trumped social values rather than the other way around. Republican presidents might continue to decry drug use but limit their federal action to respectful disagreement with states moving toward legalization. For Democrats, if their preferences for federal involvement in the policy-making process were placed above all else, then their openness toward decriminalization would more likely be sought through policy changes at the national level. Given the political vitriol we often witness today when it comes to Federalism issues where politicians often employ harsh rhetoric against their opponents (such as the charges of big government—or even socialism—that have been leveled against Barack Obama as of late), it would be very interesting to see how politicians would react if a larger portion of the public (e.g., beyond the libertarian voting block) began placing its Federalist preferences above its personal social values with respect to the drug policy debate.
The Role of Institutional Fragmentation amid the Federalist Debate

One final factor to consider is the extent to which institutional fragmentation has impacted administrative behavior and performance in instituting U.S. drug policies and reforms. Specifically, institutional fragmentation between the White House, the Department of Justice (DOJ), and the DEA has led to an increasing number of DEA raids of state-compliant marijuana dispensaries despite stipulations by President Obama and Attorney General Eric Holder that no raids would occur as long as the dispensaries were operating in accordance with state laws. For instance, in 2010, DEA federal agents raided the home of Chris Bartkowicz, a Colorado resident, who was running a medical marijuana dispensary out of his basement, after he had volunteered to be interviewed by a local news channel on how one could grow marijuana legally according to Colorado state law (Talk Left; Huffington Post 2011). Reportedly, once the head of the DEA in Denver, Jeffrey Sweetin, had caught wind of the news interview, he instructed agents to conduct the raid. According to Sweetin, he had asked for comment by the local news, and Sweetin noted that regardless of whether Bartkowicz was operating legally under Colorado law, his actions were nevertheless illegal under federal law and thus justified the raid.

Although Eric Holder had issued an official memorandum on behalf of the DOJ and with President Obama’s approval stating that the administration would pull back and not prosecute medical marijuana cases where state laws had decriminalized the practice, the Denver DEA exhibited its own intentions to continue fully enforcing federal laws. In fact, Denver DEA head Sweetin further asserted to the local news channel that “Nothing in federal law has changed. Wanting federal law to be different is not a great strategy. We will continue to enforce federal law, that’s what we’re paid to do, until the federal law changes. The only exception to that is discretion and department guidance” (Talk Left). As such, the last part of Sweetin’s comments suggested—at least to critics—that the Denver DEA was ignoring Holder’s previous memorandum distributed down from the DOJ.

At first, Bartkowicz’s arrest reportedly sent “shock waves” across the country among legalization proponents, particularly since he was confirmed to be “a licensed medical marijuana caregiver” in the state of Colorado (Huffington Post 2011). In the aftermath of the raid, however, the DEA reportedly put forth “reasonable evidence” that Bartkowicz had not, in fact, been in “clear and unambiguous” compliance with Colorado state laws. In August 2010, Bartkowicz was tried in federal court, where it was ruled that he “could not use state law as a defense” (Huffington Post 2011). Two months later, Bartkowicz pleaded guilty and was sentenced to five years in prison for having “miserably failed” to abide by federal as well as state laws (Huffington Post 2011).

Similar raids have been reported in other states such as California, Montana, and Oregon, though the intent—as well as the source—behind the raids has not always been clear (e.g., see Phan 2011; Bozeman Daily Chronicle 2011; San Francisco Chronicle 2012). In some cases, it appears the DEA is, under the direction of the Obama administration and the DOJ, seeking to bust dispensaries that are abusing state laws in an attempt to sell and distribute medicinal marijuana to people intent on using it for recreational purposes (Saunders 2011; Hecht 2011). At other times, it appears that branches of the DEA may be acting on their own to enforce federal law despite the calls from Holder and Obama to pull back enforcement when it comes to the decriminalization of medicinal marijuana under state laws (Talk Left; Huffington Post 2011). Still others, such as George Mull, president of the California Cannabis Association, have speculated that it may be that some local governments are requesting DEA raids, given, as he puts it, “some frustration on the part of local governments that they can’t stop the proliferation of marijuana dispensaries” (see Phan 2011). Whatever the case, it seems apparent that a certain amount of fragmentation between the White House and a number of key executive branch agencies and departments has led to conflicting actions and mixed interpretations of the law across different states. As such, as long as discrepancies abound between state and federal drug laws, it may be difficult for the Obama administration (and future administrations) to be consistent in efforts to enforce drug laws.

Conclusion

From the time that Richard Nixon declared a war on drugs, Republicans have consistently pushed for strict enforcement of federal drug laws as a means to protect society and moral values from the proliferation of drugs. Democrats, on the other hand, have moved toward policies that support the decriminalization of medicinal marijuana and the implementation of treatment and rehabilitation programs. Although it is no surprise that Democrats have taken a more liberal position on the issue and Republicans a more conservative one, what has been somewhat unusual is the
extent to which Democrats have adopted a states' rights approach, while Republicans have shunned states' rights in the process. In this chapter, I have discussed this historical irony and explored how recent policy shifts stand to impact policy concerning medicinal marijuana and, more generally, U.S. drug policy moving forward. In light of the major historical precedents, it seems safe to assume that Federalist philosophies will continue to have far less influence over presidential drug policies than will social values and political gamesmanship, thus further entrenching both parties in the same bitter debate over drug policy, at least for the foreseeable future. What is less clear, and merits further investigation, is the extent to which institutional fragmentation is negatively affecting the ability of the executive branch to cope with discrepancies in drug laws between the national and state levels of government.

Notes

1. But see Pickerill and Chen (2007).

2. One exception to the general partisan divide is the recent legislative bill introduced by Ron Paul (R-TX) and Barney Frank (D-MA) in June 2011 that would remove the federal government's prohibition of marijuana, leaving it to the states to decide whether and how to legalize it (see Peralta 2011). In this case, support for such legislation comes easy for Congressman Paul, given his libertarian views promoting smaller government and liberal social policies, while Congressman Frank's support reflects his willingness to eschew his general reputation as an ardent Federalist Democrat in favor of more lenient social policies. In fact, Frank was quoted as saying he was not necessarily advocating marijuana use, but that he does believe that "criminal prosecution is a waste of [federal] resources and an intrusion on personal freedom" (Peralta 2011).

3. Arizona's Senate Bill 1070, otherwise known as the Support Our Law Enforcement and Safe Neighborhoods Act, was signed into law by Jan Brewer, Arizona governor, on April 23, 2010. The bill includes provisions making it a misdemeanor crime for people to be in Arizona without documentation proving their U.S. citizenship or legal status, pushes state and local officials and agencies to enforce federal immigration laws, and sets restrictions against the sheltering, hiring, or even transportation of undocumented aliens (Arizona State Legislature 2010).

4. The Brownlow Committee (also known as the Brownlow Commission or the President's Committee on Administrative Management) was formed in 1937 and included three members: Louis Brownlow, Charles Merriam, and Luther Gulick. Together the three members forged key recommendations that largely shaped the modern executive branch as we know it today, including the creation of key staff to aid the president with administrative tasks for managing the executive branch, expanding presidential control over administrative departments, and incorporating the Bureau of the Budget, Civil Service Administration, and National Resources Board into the newly established Executive Office of the President.

5. Eighteen years later, Barack Obama would succeed with federal government expansion of health care where Clinton could not, signing the Patient Protection and Affordable Care Act into law on March 23, 2010. Nevertheless, Obama's victory came at a great cost in having to surrender the public option section of the bill and in seeing public support diminish across a year's worth of heavy negotiations that ended with a majority of the country opposing the bill upon passage, all in part due to discomfort surrounding the idea of expanded federal involvement in health care.

Bibliography


