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## Mexican Drug Violence: Why the Merida Initiative, Gun Bans and Border Controls Will Fail and Drug Reform is the Solution

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## **Introduction:**

In the past few years, drug violence along the U.S. - Mexico border has increased the security threat to Mexico and, to a lesser extent, its neighbor to the north. As the violence and carnage have increased so too have the actions of the country's presidents in attempts to curb this threat. Their solutions—military intervention and strict drug enforcement—are recycled, ineffectual ideas; these very same tactics have been employed, and failed, in the past. Lax U.S. gun laws have also been blamed for the increase in the threat these two countries face. Other pundits blame the lack of enforcement for the spread of violence to border communities in Arizona and Texas. However, both arguments ignore the root cause of the drug trade and the violence that accompanies it: prohibitionist drug policies.

The solution lies not in addressing border security or gun control, but American prohibitionist drug policies. It is these policies that allow drug traffickers to thrive and violence to flourish. No amount of aid or law enforcement is going to effectively solve the drug problem. Enforcement operations aimed against the cartels may quell the violence and establish a façade of stability, but it will never end drug trafficking. These policies simply shift the geographic base of drug operations to other regions or neighboring countries.

The drug war came to fruition because drugs were perceived as a threat to society that required government action. If the United States is serious about eliminating the negative byproducts of the drug trade its government should examine the issue from an empirical standpoint instead of its current, righteous one. This paper proposes that in order to effectively eliminate drug violence, reform has to come through legalization.

## **Dealing with the War on Drugs**

### ***The Illegal Weapons Trade***

Many Mexican and American officials see lax U.S. gun laws as the problem. On March 25, 2009 in Mexico City, Secretary of State Hillary Clinton said, “our inability to prevent weapons from being illegally smuggled across the border to arm these criminals causes the death of police officers, soldiers and civilians.”<sup>1</sup> Senator Charles Grassley of Iowa stated that “we owe it to our neighbors to help cut down the outbound smuggling [of firearms].”<sup>2</sup> Mexican Attorney general Eduardo Medina-Mora has gone on record claiming “American [gun] laws are absurd” because “they make it very easy for citizens to acquire guns.”<sup>3</sup> Several American sources have quoted that 90% of the weapons used by drug cartels come from the United States.<sup>4</sup> However this statistic, which has been used to blame the United States for arming the drug war, is not entirely accurate.

The Bureau of Alcohol, Tobacco and Firearms (ATF) endeavors to track illegal weapons seized in both the United States and Mexico. ATF attempts to identify the first retail purchaser for any seized weapon in a process known as tracing. According to the Mexican Attorney General, 29,000 guns were confiscated in Mexico between 2006 and 2008.<sup>5</sup> However, in testimony before the U.S. House of Representatives, ATF Special Agent William Newell states that there were only 3,312 firearms submitted for tracing by Mexican authorities in 2007, and 7,743 collected in 2008. Taken together, these 11,055 comprise only 38% of the U.S. guns purportedly confiscated in Mexico.<sup>6</sup> According to a Congressional statement made by ATF Assistant Director of Field Operations, William Hoover, only 6,000 of these were actually traceable. Of this even smaller number, 5,114

were traced back to the United States., resulting in the 90% of traced guns to the U.S. statistic.

With these new figures in mind, the guns actually traceable to the United States total 17% of the purportedly 29,000 guns recovered.<sup>7</sup> However, even these numbers have been contested. According to statements made by William Hoover in 2007, 1,547 guns were traced back to the United States.<sup>8</sup> That is 46% of the 3,312 guns submitted from Mexico according to William Newell. It appears that both the 90% and 17% estimates are inaccurate. Put simply: determining the exact number of U.S. weapons being used by Mexican cartels is dubious. The presence of U.S. weapons in Mexico has been overstated, which means tightening legal gun sales in the U.S. will not solve the problem.

Further, tracing programs have never been able to reduce crime related to illegal arms trafficking.<sup>9</sup> Many of the lethal weapons that drug cartels use to overpower authorities, such as grenade launchers and machine guns, are already illegal in the United States and untraceable. These weapons come illegally from manufacturers in Israel and former Soviet bloc countries. According to Interpol, Russian Mafia groups Poldorskaya and Solntsevskaya are trafficking both drugs and arms in Mexico.<sup>10</sup> In some cases, the weapons come from Mexico's own military. Over the past six years, 150,000 military soldiers defected for better paying positions within drug cartels.<sup>11</sup> It is likely that many of the defecting soldiers kept their military grade M-16 rifles.<sup>12</sup>

Military weapons are also finding their way into Mexico through channels other than gun shops along the border. A report in 2007 by the U.S. Department of State documents military weapons exported legally as direct commercial sales to Mexico. In that year, 10,530 firearms and 3,578 ballistic explosives were sold to Mexico.<sup>13</sup> The

State Department's "Blue Lantern" end-use monitoring program report details how fraudulent companies in Latin America forge documents in order to smuggle weapons through small arms dealers.<sup>14</sup> With these myriad options, drug cartels have no problem arming themselves with sophisticated weapons.

These military weapons are increasingly appearing in violent conflicts. Between 2005 and 2009, Mexican government has increased seizures of grenades from 59 units to 2,239 units in the last four years.<sup>15</sup> These are not the types of weapons being smuggled from the United States. These weapons are most likely being smuggled from Central America. In February 2009, Mexican police discovered 66 fragmentation grenades in the fake bottom of a truck intercepted in southern Mexico, just over the border from Guatemala. The two men arrested with the cargo told police they were transporting the grenades to Morelia, Mexico. Mexican authorities raided the warehouse in October, which contained grenades manufactured in South Korea and used by the Gulf Cartel for three violent attacks in Monterrey and Texas.<sup>16</sup> Other confiscated weapons included AK-47s from China and shoulder-fired rockets from Spain.<sup>17</sup>

Among the policies proposed to stem weapons smuggling into Mexico is a reintroduction of the assault weapons ban that sunset in 2004. This policy would be ineffective because the ban only dealt with semi-automatic weapons, arbitrarily classifying them as "assault-weapons." The 19 banned semi-automatics were functionally the same as other semi-automatics that were not banned. The legislation outlawed guns based on the name or cosmetic features instead of actual firing mechanics. For example, the AK-47, often cited as an assault weapon with no purpose outside of military use, employs a .30 caliber cartridge, no more powerful than that used in a

hunting rifle. The AK-47 models sold to citizens are not military grade and different from other rifles only superficially. Furthermore, the ban was shown to be ineffective in reducing gun violence. A Clinton administration study yielded inconclusive results, while a study conducted by John Lott showed a weak increase in overall crime. However, murder rates were shown to have increased at 11.9%, a statistically significant level.<sup>18</sup>

President Obama has not chosen to pursue reenactment of this policy. Instead he promotes stricter enforcement of existing gun laws. Obama is also pushing the Senate to ratify the Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials that was signed into law by former President Clinton in 1997. The treaty requires the adoption of stricter licensing requirements, which makes weapons easier to trace, and information sharing between national law enforcement agencies.<sup>19</sup> These steps may have some success in tracking arms traders, but it will not reduce crime related to arms trafficking.

Restrictive gun reforms that have been enacted in the United States and other countries show no correlation with reductions in homicides.<sup>20</sup> The root cause of border violence is not the illegal weapons trade but the drug profits that are used to buy these weapons. Stricter U.S. gun laws would only make it more inconvenient for drug cartels to acquire firearms in the black market, which is not expressly prohibitive.

### ***Border Enforcement***

Securing the border is another option to contain the violence in Mexico. President Obama has created a new position, Commissioner of U.S. Customs and Border Protection, filled by Alan Bersin. The position is intended to crack down on illegal immigration and violence. Senator Kay Bailey Hutchison of Texas wants to increase law

enforcement along the U.S. border. Homeland Security Secretary, Janet Napolitano, recently announced just such a tightening of border security, specifically on traffic heading from the United States into Mexico. Among the actions to be taken are a “doubling of the number of law enforcement personnel that are working in border-enforcement teams,” a “tripling [of] the number of Department of Homeland Security Intelligence Analysts located on the Southwest border,” and “[an] increas[e] in Immigration and Custom Enforcement (ICE) Attaché personnel in Mexico by 50 percent.”<sup>21</sup>

The problem with these proposals is that they are unrealistic in their attempts to secure the border. The Secure Fence Act of 2006 has already spent over \$2 billion out of an appropriated \$3.6 billion in constructing a partially complete border fence and increasing patrols.<sup>22</sup> These measures have proven ineffective due to rugged, remote terrain along the 1,952-mile land border between Mexico and the U.S. It is simply too much to be covered. Even where fences exist, holes are cut into them and tunnels are dug under them. If an adequate barrier were built and patrolled, there are still thousands of miles of coast line that the traffickers already use to smuggle illegal contraband in and out of the United States. Fortifying land borders would only push drug traffickers to coastal entry points and increase the frequency of shipments flown into the United States.

Even Mexican Attorney General Medina Mora admits, "The objective is not to stop drug trafficking, which is something beyond our means, if the demand is inelastic." Rather than defeating the cartels, the Attorney General states the objective is to weaken their power, and transform them from "a national security problem to a police problem."<sup>23</sup> U.S. border enforcement advocates are also not interested in solving the drug

problem. They find it more politically advantageous to suppress and shift it to somewhere else at the expense of U.S. taxpayers. These measures are futile and policy makers should seek alternatives.

### ***The Drug War***

The American war on drugs has cost over \$40 billion a year, arrested 1.5 million citizens and imprisoned half of them. Since December 2006, over 800 police officials in Mexico have been killed; the overall death toll is over 6,000.<sup>24</sup> Despite statements made by Secretary Clinton regarding the demand for illegal drugs that fuels the drug trade and how current U.S. initiatives have not worked,<sup>25</sup> the Obama administration has continued the same policies with the Merida Initiative, a \$1.4 billion, three-year U.S. aid package for Mexico and Central America, passed in June. The Merida Initiative was modeled after the unsuccessful Plan Columbia. Over \$400 million has already been spent for officers, helicopters, reconnaissance aircraft and scanners to search for drugs and weapons at the border as part of Merida's efforts.<sup>26</sup>

Drug violence increases when there is disruption in the cartel organizations. Taking out a top cartel only leaves a void to be violently filled by other cartels vying for the increased market share. As long as the enormous profits in the drug trade exist, suppliers will fight to capture these markets. For example: the price mark-up of cocaine from the field to the consumer is more than 10,000%. Any impact on the production of drug crops is minimal due to street prices being set by the risk associated with transit, not production.<sup>27</sup>

Despite these facts, Mexico has increased its drug-combating efforts. Since President Calderon's inauguration in 2006, he has committed more military forces to



combat the drug cartels than any other Mexican president. His strategy to use military force is optimistic at best. Over time, as troops remain in contact with the cartels they become susceptible to the same corruptive forces that have compromised the Mexican police.<sup>28</sup>

Simply using the military to suppress existing cartel violence will not solve its underlying causes. Columbia tried this by removing Pablo Escobar, an infamous drug lord, in the 1980s. Once he was killed, the void was filled by hundreds of smaller cartels. With this, cocaine cultivation actually increased by 15% post Plan Columbia.<sup>29</sup> These trends are exactly what we have seen in Mexico. Despite decades of enforcement, drug use and production have risen. Calderon will cite the increases in seizures as a sign of the success of his efforts; rather, it is indicative of an increase in drugs crossing the border.

### ***Reality Meets Policy***

Studies that examine the biology and economics of addiction have shown that regulation and prohibition of drugs actually have the perverse effect of increasing the potency of drugs. Very often users will switch to other drugs or stronger ones, increasing the harm caused by their addictive qualities. When the Narcotics Act of 1914 made it illegal to sell or use cocaine, opium, or morphine, addicts ended up switching to more addictive heroin. In the 1980s, cocaine users switched to crack cocaine as the war on drugs increased the price of powder cocaine.<sup>30</sup>

Supply side strategies have never been successful in any attempt to combat drugs. The industry is an estimated \$320 billion a year, with Mexico accounting for approximately \$25 to 35 billion of that sum.<sup>31</sup> Studies have estimated that the black market price of cocaine is two to four times the price it would be in a legal market. For

heroin, the increase is six to 19 times more.<sup>32</sup> The suppression of drug production merely shifts production sites: it never eliminates them. Opium production that was suppressed in Turkey and Thailand shifted to Myanmar and Afghanistan.<sup>33</sup> Drug violence and production that was suppressed in Columbia ended up in Mexico.<sup>34</sup> Focusing on the demand side has yielded the same dismal results. Demand has increased globally as anti-drug campaigns have failed to curtail use.

### **Put Simply...**

The underlying cause of drug violence in Mexico is that drugs are illegal. If drugs were legalized, the government could regulate them, eliminating illicit profits. Harvard economist Jeffrey Miron estimates that legalizing all drugs would yield net revenue of \$77 billion per year to the government (\$44 billion in tax savings and \$33 billion in tax revenue.)<sup>35</sup> He has gotten 530 economists to sign an open letter supporting his findings.<sup>36</sup>

However, societal and cultural norms have been opposed to drug legalization for the better part of a century, even as prohibitionist policies have failed to curb drug use. Prohibition, instead, has created the cartel violence, increased incarceration rates, and ballooned budget deficits. The “benefits” of drug prohibition have not been realized and do not justify the enormous costs.

Angus Reid Global polls show that the majority of Americans favor marijuana legalization.<sup>37</sup> According to the poll, support for the legalization of marijuana measured 53% - up from 25% between the 1970's and the 1990's.<sup>38</sup> While the numbers for marijuana legalization are not indicative of public opinion regarding the legalization of all drugs, marijuana is the primary export of Mexican drug cartels. While legalization has

not been established, decriminalization has, and support is beginning to take hold in western countries. For a successful example of such policies, we turn to Portugal.

### *Lessons from Portugal*

Portugal is the only European Union country that has laws decriminalizing all drugs. Decriminalization occurred due in part to the studies by the Commission for a National Drug Strategy. In a 1998 report, the commission recommended decriminalization as an option for combating drug addiction because criminalization was deemed to be exacerbating the problem. The Portuguese parliament adopted the council's recommendations, and on July 1, 2001, Portugal passed Article 29, which decriminalized the "possession and consumption of all drugs for personal use."<sup>39</sup> However, trafficking, as well as use and possession of drugs, is still illegal. Decriminalization simply moves the framework for addressing drug use away from the criminal justice system. Non-criminal administrative sanctions, such as fines or treatment regiments, are issued as opposed to prison sentences.<sup>40</sup>

Under decriminalization, addicts are no longer afraid to seek treatment resulting in criminal penalties.<sup>41</sup> HIV and AIDS infection rates among drug users have plummeted. The total number of deaths from drug use has decreased from 400 in 1999 to 290 in 2006.<sup>42</sup> Prison sentences have declined for both users and dealers, as government resources are no longer being diverted away from rehabilitation toward imprisonment. Officers began issuing citations for drug use instead of making arrests because they believed treatment to be more effective than jail.<sup>43</sup> Strikingly, administrative proceedings for cannabis possession have risen (See Figure 1).

Opponents of decriminalization such as conservative Popular Party leader, Paulo Portas, claim that “there will be planeloads of students heading for [Portugal] to smoke marijuana and take a lot worse, knowing we won’t put them in jail.” Over the seven years of Portugal’s decriminalization, data has demonstrated this concern to be unwarranted. Roughly 95% of citations for drug offences have been for Portuguese people.<sup>44</sup> The feared drug tourism never materialized. Additionally, drug use rates decreased for various age groups: the seventh through ninth grade age group saw the lifetime prevalence rate decrease from 14.1% in 2001 to 10.6% in 2006. The tenth through twelfth grade age groups saw rates decrease from 27.6% in 2001 to 21.6% in 2006 (See Figures 2a and 2b).<sup>45</sup> These figures are most significant because these age groups are widely believed by policy makers to be representative of overall drug use in the country; trends in these years signify lifelong behavioral patterns.

Compared to other EU countries, Portugal has the lowest lifetime rates of cannabis use.<sup>46</sup> In contrast, most western developed countries with stricter drug policies, such as the U.S., have the highest user rates. Countries with more liberal policies, like the Netherlands, report lifetime usage of cocaine at 1.9% and 19.8% for cannabis, compared to 16% for cocaine and 42% for cannabis in the U.S.<sup>47</sup> Cultural differences have been offered as an explanation, but strict Sweden and liberal Norway have exactly the same usage rates. There is no correlation between the severity of drug laws and drug use.<sup>48</sup>

These numbers vindicate what many advocates of drug decriminalization and legalization have been saying for decades. It is little wonder why the Commission’s 2007 annual report states that: “a general trend in Europe has been to move away from the criminal justice response ... towards prevention or treatment.”<sup>49</sup> Spain, for example, no

longer sentences drug users to prison even though they may be tried in a criminal court. Germany adopted de facto decriminalization due to a court ruling on the constitutionality of imprisonment for drug possession. Luxembourg merely issues fines for cannabis use.<sup>50</sup> In Latin America, the President of Argentina has endorsed decriminalization and the President of Honduras has embraced legalization. In Mexico, the PRD party is pushing for drug legalization, and even President Calderon is open to decriminalization. In August 2009, Calderon signed legislation decriminalizing small amounts of marijuana.<sup>51</sup>

While these are steps in the right direction, no other country has taken the bold step to decriminalize all drugs like Portugal. Decriminalization frees up government resources to effectively address drug problems. Though short of full legalization, it is a bold step in the right direction. While these reforms eliminate the stigma of drug use, and reduce prison populations, they do not address the root cause of violence associated with the drug trade, which legalization can do.

## **Policy Solutions**

### ***Start With Marijuana***

Marijuana accounts for approximately two-thirds of the income of Mexican drug cartels. Not surprisingly, marijuana is the most widely used drug, with around 95 million Americans having admitted to using the substance at least once.<sup>52</sup> Given these statistics, it is ineffective to relegate such a widely used drug, which has been shown to be safe and less addictive than alcohol, to the current prohibitionist policies.

On February 26, U.S. Attorney General Eric Holder announced that the Obama administration would cease its federal raids on medical marijuana dispensaries in states where they were legal.<sup>53</sup> This is an indication that the Obama administration may go in

another direction in the war on drugs. Constitutionally, this is the right direction. As Justice Clarence Thomas wrote in his *Raich* dissent, “if Congress can regulate [medical marijuana] under the Commerce Clause, then it can regulate virtually anything.”<sup>54</sup>

A policy that treats over 95 million American citizens as potential criminals is a policy that is out of touch with reality. It is hypocritical for a president to administer a law that he himself, along with a number of previous presidents, would be found guilty under. European trends indicate that under decriminalization, user rates should not rise as incarceration decreases. If this occurs as projected, it will provide the empirical evidence decriminalizing marijuana needs. This is only the first step towards necessary legalization. While legalization may take many years, decriminalization is an important first step.

Another way to progress toward legalization would be revising the Barr Amendment, an initiative that legalizes patients’ use of medical marijuana and prevents their imprisonment. In 1998, voters in the District of Columbia approved the Barr Amendment by 69%. However, the U.S. Congress was able to nullify the results of the vote because D.C. is a federal district and not a state. The Barr Amendment prohibits federal funds from being “used to conduct any ballot initiative which seeks to legalize or otherwise reduce penalties associated with the possession, use, or distribution of any schedule I substance under the Controlled Substances Act.”<sup>55</sup> The Barr Amendment is now a rider on the D.C. Appropriations Bill. Revising the Amendment to strike this one sentence would pave the way for drug decriminalization.

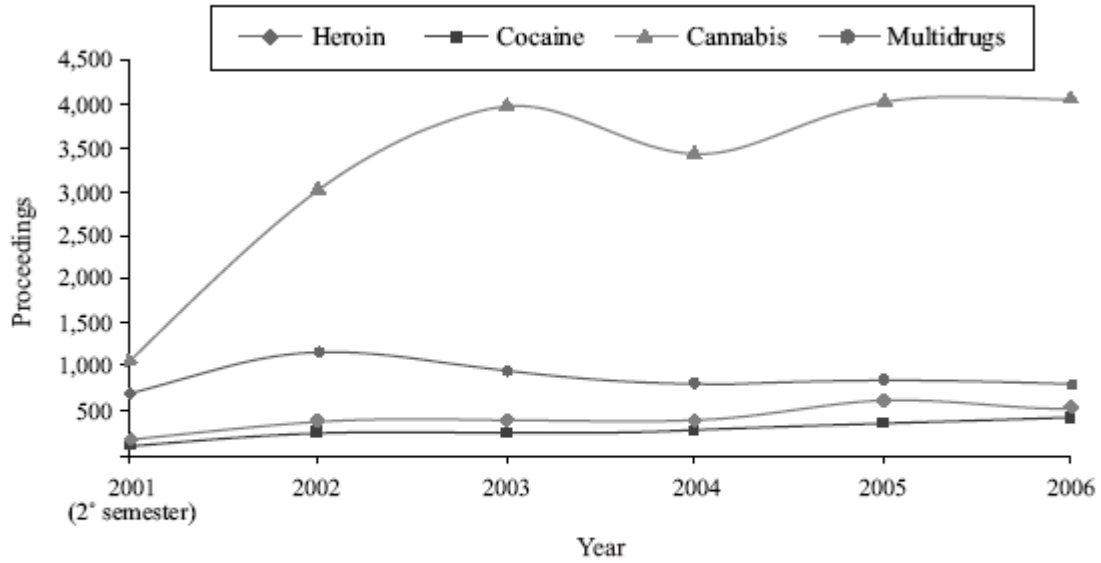
## **Conclusion**

Calderon's military tactics, along with U.S. aid through the Merida initiative, may succeed at suppressing the current outbreak of violence. However, these policies do not address the root causes of drug cartel violence. As long as prohibitionist drug policies are in place, drug profits will remain high. To maintain these profits, cartels must acquire weapons, whether through legal channels or black markets. No gun legislation will prevent this: the financial incentive is too great. Violence will become cyclical as cartels compete for market share. Combative efforts to suppress violence only disperse and postpone the externalities associated with the drug war, never eliminating them. Meanwhile, strict border enforcement remains logistically impossible and fiscally unsustainable, especially given the integration of the U.S. and Mexican economies through NAFTA.

Other countries have already provided the testing ground for new drug policies. The policies in Portugal and the rest of Western Europe are gaining traction as their benefits are realized. Decriminalization will not be the solution itself, but it will open the door for future legalization policies. This change needs to find its way to the United States government if it is ever going to end the drug war and stop the cartel violence. The policy proposals previously presented are practical options to gradually bring about full legalization. If these changes occur, more substantial drug reforms will become politically viable.

## Appendix

**Figure 1.**  
**Administrative Infraction Proceedings, by Year,\* by Type of Drug**



Source: Instituto da Droga e da Toxicoddependência de Portugal (Institute on Drugs and Drug Addiction of Portugal), "The National Situation Relating to Drugs and Dependency," 2005 Annual Report (2006), p. 37.

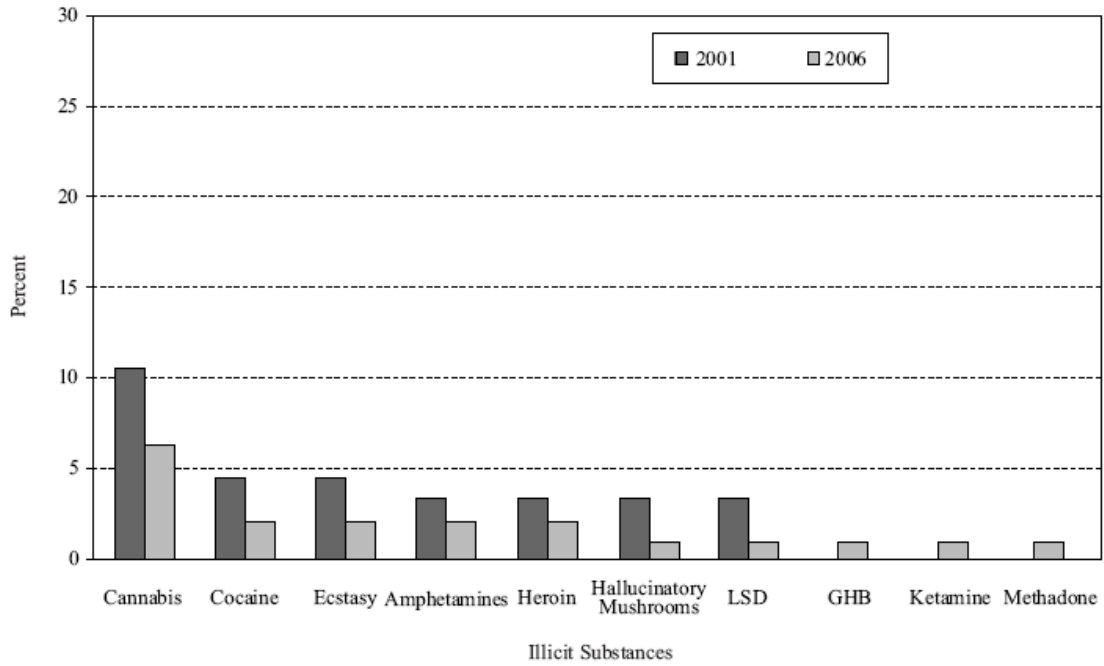
\*Year in which the deed punishable as a misdemeanor occurred. Information gathered as of March 31 of the year after the occurrence of the deed punishable as a misdemeanor.

Reprinted from Glen Greenwald, "Drug Decriminalization in Portugal," 2009.



**Figure 2a.**

**National Investigation in School Environment, 2001 and 2006, 3rd Cycle (7th, 8th, and 9th years), Portugal, Prevalence Over Entire Life**

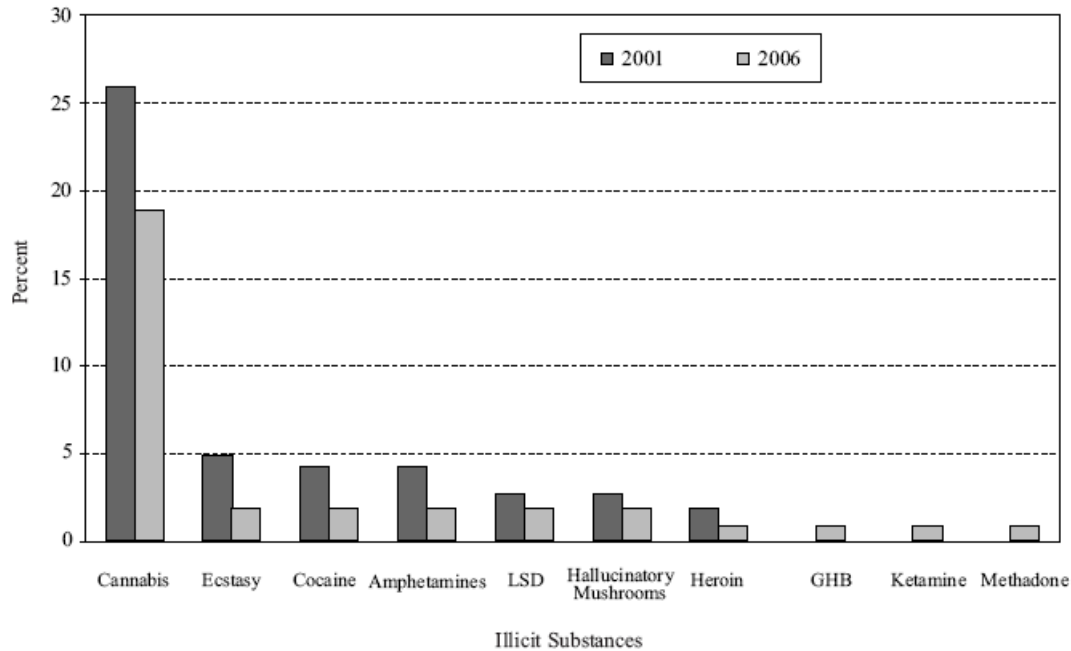


Source: Instituto da Droga e da Toxicodependência de Portugal, Draft 2007 Annual Report, slide 13.

**Reprinted from Glen Greenwald, "Drug Decriminalization in Portugal," 2009.**

**Figure 2b.**

**National Investigation in School Environment, 2001 and 2006, Secondary (10th, 11th, and 12th years), Portugal, Prevalence Over Entire Life**



Source: Instituto da Droga e da Toxicoddependência de Portugal, Draft 2007 Annual Report, slide 14.

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