The Oppression of Body-Regulating Laws: An Examination of the War on Drugs

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Herbert Marcuse attempts to name the harms of oppression by demonstrating the pre-reflective and biological behavior we exhibit. He does so in his work *An Essay on Liberation* (1969). In this paper, I will describe how Marcuse developed a philosophy of liberation that advocates social change through a dynamic discovery of new perceptions and possibilities for the self and society. This requires a rejection of the self in culture and a de-sublimation of the culture itself. I will use this liberation framework to show how body-regulating laws resulting from the War on Drugs in the United States oppress a marginal group or groups of people. I elucidate the biology of those who voluntarily follow these laws to show that everyone, law breakers and law abiders alike, are being oppressed under these laws. What is needed, instead, are law changers: those willing to subvert the federal law and undermine the War on Drugs. To have these law changers, a cultural space needs to be created for them where awareness of drugs increases and the War on Drugs becomes de-sublimated.

Oppression

Capitalism has worked its way into the needs of the human individual. The individual feels capitalism and its values in his or her body. This means that the values are either biological, or deeply/psychically ingrained. The neoliberal bourgeois producers, what Marcuse calls the “affluent society”, have manufactured the needs of the individual. In the context of this paper, they have done so through institutions and law. This creates a paradox: the individual cannot satisfy these manufactured needs without also hurting himself or herself, further oppressing the individual. These false needs or desires aid in the production of identities and “sink down” into the biology of humanity, forming a second nature built wholly on cultural foundations (Marcus 10-11). Marcuse gives the example of the biological need for freedom, or similarly the biological need for security. Drawing from this, there is also the biological need for stability, which drugs have a tendency to rupture.

And so it is the individual and his or her identity that is molded by this system of production and consumption. Oppression runs all the way down into the psyche of the individual, never directly oppressing but rather subtly manipulating values and making individuals believe that those values are their own. Now Marcuse begins his liberation philosophy. To be rid of oppression, one must start with a Great Refusal: a qualitative change that “must occur in the needs, in the infrastructure of man.” Man must reject his self, his values, and his identity in order to take the first step towards a free society. By following through with this rejection, this first revolution from within, man can then develop a new “instinctual basis for freedom which the long history of class society has blocked” (Marcuse 4). This instinctual basis posits instincts and feelings over the rational
or the logical. Marcuse believes social change is most likely to take place on such a basis. According to Robert Woods, “It is on this same instinctual level that the ‘new sensibility’ must be rooted if we are to successfully transform our reality.”

**New Sensibility**

What Marcuse calls the new sensibility relates to a new aesthetic desire for freedom. This desire “expresses the ascent of the life instincts over aggressiveness and guilt, would foster, on a social scale, the vital need for the abolition of injustice and misery and would shape the further evolution of the ‘standard of living’” (Marcuse 23-24). It is a sensibility that struggles against exploitation and violence and emerges out of this struggle. Once an individual is able to “experience things, and each other, outside the context of violence and exploitation,” such an individual would have changed his or her biology to the extent where they themselves can name the harms (25). The individual’s awareness increases, the imagination expands, and the possibility for a new culture outside the capitalist mode of production and consumption becomes clearer. This possibility becomes more possible because of the de-sublimation of the culture.

Marcuse argues that sublimation is simply a rational expression, a way of covering over the conscious, the unconscious, and the inexpressible tension between the two using rational explanations or expressions (24). The current consumer culture has sublimated many aspects of human life, including language and its shared vocabulary. The revolution would then begin (once the Great Refusal is fulfilled) with a de-sublimation of the language, a redefinition of shared vocabulary, and then a re-sublimation of the language into something that suits the new sensibility. Marcuse calls this linguistic therapy (33-34). He gives the example of black culture’s re-sublimation of the word “soul” (36). This word, originally white in essence and thought, has been taken into black culture and redefined to fit its norms. The same can be said about the slogan “black is beautiful.” Historically the color of darkness, taboo, and danger, “black” has been redefined under black culture, reversing its symbolic meaning and context.

Another area where the new sensibility takes form is in art. For Marcuse, art is a “productive force in the material as well as cultural transformation” of a society (Marcuse 39). Art helps to de-sublimate culture and create new spaces for human creativity and growth. It ruptures the linguistic universe of the establishment and reconstructs objects of experience into truth. This means that art has a tendency to reinterpret what has been given (laws, media truths, and cultural values) and turn them into a dynamic, personal object of their experience. It introduces core elements of such dynamism into the revolution for a free society.

**Dynamism of Change**

Once these spaces, continue to open, transformation of an individual’s biology and language will continue. These transformations will reflect upon the society as more individuals transform. This creates the pathway for true social transformation. Social
transformation, however, cannot occur through rebellions against the system. These rebellions are structured within the system itself, never outside of the system. This creates a causal relationship between the opposition and the establishment (parliamentary):

The opposition is thus sucked into the very world which it opposes – and by the very mechanisms which allow its development and organization...Under these circumstances, working according to the rules and methods of democratic legality appears as surrender to the prevailing power structure. (Marcuse 64-65)

Any direct rebellion against the system will only be reabsorbed back into the system and enhance its power, its hold over the masses. Marcuse recognizes that subversion of the powers that be may be the most effective way of generating social change.

Subversion begins with true consciousness: “consciousness which would remove the ideological and technological veil that hides the terrible features of the affluent society” (Marcuse 61). This is awareness, which is always the first key step towards change. Once true consciousness is achieved, then a formation of a new self, “the emergence of a new Subject,” can take place (53). Then the problem of language can be addressed, and culture can begin to be de-sublimated. Spaces for new perceptions and possibilities can be created for the advancement of human creativity and solidarity. However, as Marcuse notes, not all forms of solidarity are liberating (88). Some may have oppressive or exploitative elements. This is why the revolution of human solidarity must be based on dynamism, the same dynamism that art introduces. The revolution cannot have a pre-mediated outcome.

**War on Drugs**

The use of law, in the United States, is “one of the mechanisms we use to instigate social change and bring about equality” (Chambers 1). However, law can also serve as a tool of oppression and “may still be used to institutionalize, legitimize and perpetuate inequality” (Chambers 2). Enacted by Congress, the drug laws criminalize a wide array of drugs, their suppliers, and their consumers. Coined “the War on Drugs” by President Richard Nixon, federal drug laws such as the Marihuana Tax Act of 1937 and the Anti-Drug Abuse Act of 1986 fall under the category of body-regulating laws, for they are laws that are enacted to regulate the citizen’s use of external substances at any time.

Even with good intentions, these body-regulating laws that result from the drug war tend to oppress a marginalized group in the United States. In her book *Drug Laws and Institutional Racism*, Cheryl Chambers presents the following example:

For example, African Americans comprise approximately 12% of the United States population, 13% of drug users, 35% of drug arrests for possession, 55% of drug convictions and 74% of drug prison sentences (qtd. in the Sentencing Project, 1993). If our drug laws represented equality, then African Americans would comprise approximately 12-13% of our drug sentences, not 74%. (3-4)
The wording found in the Marihuana Tax Act and the Anti-Drug Abuse Act is not racist, refer only to “persons” rather than referring to a group of people. Instead, the Anti-Drug Abuse Act penalizes “possession of 5 grams of crack cocaine and 500 grams of cocaine with the same five year sentence,” even though crack cocaine is a derivative of cocaine (Chambers 9). This seems to target a marginalized group of people in the United States, as crack cocaine is more prevalent among lower-income blacks, while powdered cocaine always remained the “rich man’s drug.” Drawing from Marcuse, it would seem that the oppression that results from these laws are subtly interwoven into the society that enacts it. No longer is it blatant, as it was in the past with the South’s racist Jim Crow laws. Now it has been sublimated, and this sublimation may be due to the Civil Rights Acts, for it was the passage of this legislation that sublimated the concept of racism itself.

Biology

During the Prohibition era, alcohol consumption increased rather than decreased, even though it was outlawed. During the War on Drugs, drug consumption has risen. Despite this increase in drug use, however, those who consume drugs tend to stay within their own circles. They tend to rally within their own opposition to the War on Drugs, “but every step in the struggle for radical change isolates the opposition from the masses and provokes intensified repression” (Marcuse 68). Those who are not part of drug culture are isolated from those who are. Isolation is perpetuated by “law enforcement and mass media groups [who] were instrumental in generating public hysteria against those who used drugs. Thus the state is more easily understood as an instrument of certain dominant groups who wish to solidify their values over less fortunate subcultures” (Cloyd 45). This is the affluent society using its power to create and embed its own values into the masses. The conclusion “drugs are bad” may come not from actual experience but rather from oppressive manipulation of perception by dominant groups.

These dominant groups perpetuate the distinction between drug users and non-drug users. They do so by using the media to create certain terms for users of drugs. A popular syntax when the drug war was first launched was the use of the word “fiend” in “dope fiend” or “cocaine fiend” (31). Terms such as “reefer” and “reefer madness” became deeply enculturated in the biology of American individuals to the point where one would feel uncomfortable being around a drug user. Even those who were drug users would feel uncomfortable around those who were not, for fear of reprehension, judgment, and even incarceration. This uncomfortable feeling, a result of successful manipulation of values, creates a problem when trying to unite people in solidarity. Therefore, those who break the law and continued to dabble in illicit drug use will still feel isolated from the masses and both groups will continue to be oppressed under these laws.

Subversion

If following these body-regulating laws and rebelling against them both serve to further oppress the individual, then the next step for freedom lies in overturning or
bypassing these laws. It is true that doing this is an example of using the rules under the prevailing power structure, which will not result in true social change. In order for the space to be created for true social change, each step towards a less oppressive society needs to be taken, so that more paths can be discovered. In this case, bypassing or overturning the federal drug war is an opportunity for change into a free society, where individuals are free to regulate their own bodies on their own accord rather than an external, oppressive institution telling them what to do.

Subversion begins with a rejection of the values handed down by media and law enforcement. This means an increase in drug awareness and a true consciousness about drugs and their effects on one’s own self. Instead of taking for granted what authorities declare, a direct experience and awareness of drugs can lead to an emergence of a new subject or self that understands drugs, and therefore drug users. After this, the language of drugs would need to be de-sublimated and re-defined. A similar “systematic linguistic rebellion” already occurred in the hippie subculture, where terms such as “trip,” “grass,” “pot,” and “acid” have been taken in and re-defined to suit the new sensibility of love and freedom (Marcuse 35). Even the term “reefer” for cannabis has been de-sublimated and seen for its propagandist historical value; cannabis has therefore been replaced with terms that have a positive value in society, like “medical marijuana” or “the herb.”

Similarly, drug-related art has witnessed an upsurge since the counter-culture movement of the 1970s. Colorful images of infinite, regressive fractals poured out of the psychedelic scene. Surrealism, an art form drawing heavily from the dissolution of reality, a prevalent aspect of many drugs, exploded in the 1900s. Something that was supposed to have been completely outlawed is seeing its forms expressed in dynamic ways in today’s society. Words and images have taken on new meanings in reference to the drug culture through their de-sublimation and re-sublimation.

The Beginning of the End

In 2012, Colorado and Washington voted to legalize cannabis for recreational use. These new laws introduced at the state level completely undermine the federal drug war. Although these new laws participate in the democratic system that introduced the drug war, it is a vital step in subversion of the overall schema. Colorado participates in the greatest subversion by regulating cannabis like another popular drug: alcohol. Although it is only for one drug, the oppression of the War on Drugs is beginning to recede.

These changes to current law would not have been possible without the momentum of social change that has been building in history since the enactment of the War on Drugs. Through the de-sublimation of the drug culture to consumer awareness of drugs, the idea that civil liberties should not be affected by laws that regulate the body has been growing in strength. A cultural space has been created in Colorado and Washington where those over the age of twenty-one can enjoy cannabis without the oppressive fear of institutional consequences. I believe this is the beginning of the end of
the War on Drugs, and the slow decline of body-regulating laws. Once the idea that one is responsible for one’s own body grows among the masses, social liberation can begin.

Works Cited


