

***THE REAL DOPE: SOCIAL, LEGAL, AND HISTORICAL PERSPECTIVES ON THE REGULATION OF DRUGS IN CANADA*, EDITED BY EDGAR-ANDRÉ MONTIGNY (TORONTO: UNIVERSITY OF TORONTO PRESS, 2011)**

In *The Real Dope: Social, Legal, and Historical Perspectives on the Regulation of Drugs in Canada*,¹ Edgar-André Montigny brings together a broad range of recent writing on a wide variety of drugs. The collection is well worth reading for the insights it provides into Canada's socio-legal historical experience of the regulation of different psychoactive substances and for its documentation of the wealth of expertise coalescing in this area of research. This subject matter has inspired much critical analysis and scholarly debate about the role of academics in informing policy discussions about drug use and support for liberal drug policy reform. The present contribution is unique in its broad coverage of different "types" of drugs in different eras, and in its accessible, coherent presentation of historical material. Each chapter stands both alone and as an asset to its larger contemporary relevance, as interpreted by authors drawn from a variety of disciplinary backgrounds.

Montigny introduces the collection by observing that Canadian drug laws are irrational, overreaching, and fraught with contradiction,² as many authors have before. He also documents the racist origins and nature of regulations that have come to represent the status quo. Drug laws, it is argued, serve the interests of the powerful and reinforce the moral superiority of elites at the expense of disenfranchised, criminalized, addicted, or otherwise threatening minority groups.³ From opium to cannabis, from LSD to khat, and other drugs deemed criminal for much of the past century, Montigny notes that "moral panics" spurred by racism, intolerance, and cultural oppression often targeted at youth have been central to the formation of repressive anti-drug laws.⁴ These observations warrant repetition in addition to the nuanced exploration of socio-legal regulation provided in the subsequent selections in this book.

The opening discussion by Line Beauchesne brings into focus the conflict over values and opinions in Western culture on the proper role of government in regulating moral conduct.⁵ Beauchesne adopts the classic philosophical position that state action must be limited to intervening only when substance use behaviour constitutes a threat to others. Fittingly, the afterword by Alan Young leaves the reader off with a sobering assessment of the challenge facing those who advocate for law reform on the principles of justice and respect for fundamental rights.⁶ We are reminded, more forcefully than ever in a political climate that supports extensive omnibus crime bills, that courts and government authorities have not responded favourably to a more enlightened interpretation of the *Canadian Charter of Rights and Freedoms*.⁷

¹ Edgar-André Montigny, ed, *The Real Dope: Social, Legal, and Historical Perspectives on the Regulation of Drugs in Canada* (Toronto: University of Toronto Press, 2011).

² *Ibid* at 5-6.

³ *Ibid* at 6-8.

⁴ *Ibid* at 9.

⁵ Line Beauchesne, "Setting Public Policy on Drugs: A Choice of Social Values" in Montigny, *ibid*, 25.

⁶ Alan Young, "Afterword: A Personal Reflection on the Law and Illicit-Drug Use" in Montigny, *ibid*, 285

⁷ Part 1 of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11.

The nine central chapters are, accordingly, bookended by important philosophical discussions complementing the less explicitly polemical contributions to the literature that occupy the primary attention of the reader. Each of the studies showcased contribute to a better understanding of Canadian drug policy as premised on adherence to a blend of legal moralism and paternalistic values, as opposed to deeper Western constitutional convictions about the need for the protection of individual rights. Temperance-oriented values counterposing classic liberal conceptions of the function of the state have been, and continue to be, highly influential in shaping the boundaries of official discourse and debates about the government's response to substance use. A recurring theme throughout the different studies is that regulations are often more contingent on the status of the user than on rigorous assessment of objective harm criteria or concern for public health *per se*.

The resistance to restrictions aimed at smoking, for example, prior to World War I throughout society and Parliament,⁸ is contrasted with the ease in which opium was criminalized during the same era in Canada to target Chinese immigrants.⁹ The widespread cultural acceptance of alcohol, much the same way, has strongly influenced its classification, and prevented scientists, physicians, and other health professionals from treating alcohol like other harmful drugs. The ubiquity of alcohol in Canadian society, and official recognition of its cultural importance, is evident in Dan Malleck's description of how the government resisted post-war efforts in Ontario communities to restrict the licencing of ethnic clubs, as had been called for to quell rekindled fears about distrusted "immigrants."¹⁰ Particular ethnicities were said to be unruly, licentious, and immoderate in their use of alcohol, despite a lack of evidence to support these stereotypes, nor corroboration by police.

Thus, whereas the status of the user as "outsider" has been used to justify repressive regulations, it is not always in the interest of government authorities to enact more rigorous controls. Alcohol, as the exemplar, in North America and elsewhere, has been historically resistant to such measures, as demonstrated by the dramatic failure of Prohibition in the US and the resilience of ethnic clubs in Canada in the same era. Today's continuing resistance to curtailing advertisement and consumption of alcohol products (despite the growing prominence of public health initiatives and proliferation of new bylaws against smoking) is another subject for future documentary research. More focused theoretical analysis is needed on the local circumstances and social factors influencing social problems claims making in different jurisdictions for either increased regulation or less government control.

Other chapters in the collection offer up illuminating insights on the role of drug use from a cultural perspective that challenge assumptions about users' motivations and popular distinctions that betray a clear class bias. Two studies, on the use of heroin in marginalized subcultures¹¹ and tobacco use by women in Canadian universities,¹² help to deconstruct the

⁸ See Jarrett Rudy, "'Unmaking Manly Smokes': Church, State, Governance, and the First Anti-Smoking Campaigns in Montreal, 1892-1914" in Montigny, *supra* note 1, 59.

⁹ See Montigny, *ibid* at 8-9.

¹⁰ Dan Malleck, "'Their Medley of Tongues and Eternal Jangle': Liquor Control and Ethnicity in Ontario, 1927-44" in Montigny, *ibid*, 123.

¹¹ Catherine Carstairs, "Becoming a 'Hype': Drug Laws, Subculture Formation, and Resistance in Canada, 1945-61" in Montigny, *ibid*, 148.

¹² Sharon Anne Cook, "From Flapper to Sophisticate: Canadian Women University Students as Smokers, 1920-60" in Montigny, *ibid*, 83.

stark divisions often falsely drawn between these substances and related practices based on prejudicial socio-legal definitions. Despite dramatic differences in legal consequences and societal reactions to the use of certain drugs, important similarities are also evident in the functionality of substance use as a marker of group membership, identity and status, conformity, rebellion, and (sub)cultural resistance.

Later essays demonstrate how the image of the addict and tendency to criminalize drug users based on status have been prominent features of the politics of drug control throughout the twentieth century and to the present day. For example, Dawn Moore looks at the assumption of the link between addiction and criminality to show how it has persevered for decades, despite a lack of evidence supporting the connection, to serve the interests and agendas of political elites.¹³ Erika Dyck emphasizes parallels between contemporary efforts to criminalize the use of “club drugs” (as previously seen with LSD and other drug use associated with subversive youth since the 1960s) and the ban on opium much earlier in the last century in response to the presumed domestic threat posed by Chinese immigrants.¹⁴

One point of contention is that, arguably, Montigny has been overly reliant on the idea of moral panic, while neglecting scholarly discussions that have challenged the continuing diffusion of this rather dated concept. Attention to the nuances revealed through in-depth study of the role of moral panics in drug policy decisions always brings to light a complex interplay of interests. The ideological convictions of stakeholders range from abstract legal moralism and paternalism, based on ignorance, racism, and other forms of prejudice, to pragmatic reasoning supporting harm reduction and educational initiatives as opposed to criminalization. Examples of averted moral panics — such as during the 1960s in Ontario when the government resisted public pressure for more stringent and repressive regulations to prevent kids from sniffing glue and dropping acid¹⁵ — give some cause for hope, despite accumulating baggage, that history need not repeat itself *ad infinitum*.

Notwithstanding the inevitable academic disagreements about its theoretical emphasis or framing, this collective effort is an important contribution to the research literature on moral regulation and the socio-legal regulation of drug use. It serves as a reminder of the cultural convictions behind the institutionalized mistreatment and oppression which have long been the foundation of Canadian drug policy, and demonstrates the need for deeper knowledge of our history when it comes to speaking truth to power.

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¹³ Dawn Moore, “Considering the Revolving Door: The Inevitability of Addiction Treatment in the Criminal Justice System” in Montigny, *ibid*, 242.

¹⁴ Erika Dyck, “‘Just Say Know’: Criminalizing LSD and the Politics of Psychedelic Expertise, 1961-8” in Montigny, *ibid*, 169.

¹⁵ See Marcel Martel, “Setting Boundaries: LSD Use and Glue Sniffing in Ontario in the 1960s” in Montigny, *ibid*, 197.