



ACSUS

OCCASIONAL PAPERS ON PUBLIC POLICY SERIES

VOL. I NO. I

CANADIAN CANNABIS: MARIJUANA AS AN IRRITANT/PROBLEM IN CANADA-US RELATIONS

Paul Gecelovsky
Department of Political Science
University of Lethbridge
paul.gecelovsky@uleth.ca

In a recent survey of the Canada-US relationship, Munroe Eagles noted that the “popular impression” for many Americans was that Canadians were “out of step with their more conservative neighbor to the south” (Eagles 2006, 821). John Herd Thompson made a similar claim in his review of the bilateral relationship over the 1994-2003 period, writing that Canadians are perceived by some Americans as being “left wing wimps” (Thompson 2003, 17). One area in which Canada may be regarded as out of step with the US and Canadians as left wing wimps is the issue of marijuana. There are real and noticeable differences between Canada and the US in the way each side deals with the issue of marijuana. In the following pages, the paper examines the marijuana issue in terms of the growing volume of the drug being smuggled into the US from Canada, the increased potency of

the strains of marijuana grown in Canada, and the differences in judicial deterrents adopted to penalize possession and cultivation. This is followed by a look at a couple of possibilities that have the potential to transform the marijuana irritant into the marijuana problem in Canada-US relations.

The amount of marijuana being produced in Canada and then illegally exported to the US is of increasing concern to all levels of American law enforcement. While British Columbia (BC), Ontario and Quebec are all of concern to US officials, BC presents the largest source of Canadian marijuana for the US market so the discussion will focus primarily upon BC. The marijuana cultivation industry in BC is thriving, as demonstrated by the province accounting for almost 40 percent of all growing operations found by law enforce-

ment officials in Canada, in 2003, the last year for which full data are available (CCJS 2004). During that year, the province also had the highest rate of cultivation incidents in Canada, at 79 per 100,000 people. What this means is that 79 marijuana cultivation operations were found for every 100,000 people in the province. This is nearly triple the national rate of 27 per 100,000 people, and 33 higher than second-place New Brunswick, at 46. More marijuana cultivation facilities were uncovered by Canadian law enforcement officials in BC (3274) than all of the other provinces combined (2564), except Quebec (2939), in 2003 (CCJS 2004). In their study of the BC marijuana growing industry over the 1997-2003 period, Plecas, Malm and Kinney identified over 25,000 cultivation operations uncovered by police officers in the province (Plecas, Malm, and Kinney 2005). In terms of the monetary value of marijuana, it is estimated that the annual wholesale value of the provincial industry is approximately C\$6 billion, or what is equivalent to about five per cent of the annual provincial gross domestic product. To provide some perspective, the BC marijuana industry is relatively equal in dollar value to the province's public sector and more than the legal exports of sawmill products (C\$4.6 billion) and oil and gas (C\$2.5 billion). In terms of employment, it is estimated that the provincial marijuana industry employs roughly 150,000 people (Mulgrew 2006, 109).

The size of the BC marijuana industry is of concern to the US law officials, as upwards of 90 per cent of the crop is exported to the American market (Hamilton et. al. 2004, 36). More disconcerting to American law enforcement is that there has been a "sharp rise" in the smuggling of marijuana into the US from Canada and that this has resulted in a near tripling in both the number of seizures and the volume of marijuana seized over the 2001-04 period, the last period for which data are available (U.S. Department of Justice 2006). The 2006 International Narcotics Control Strategy Report (INSCR) prepared by the US Department of State indicated that marijuana cultivation is a "thriving industry in Canada" and that "large scale cross-border trafficking" is "a serious concern" of the American government (U.S. Department of State 2006).

It is not just the volume of marijuana being smuggled from Canada to the US that is of concern to Americans it is also the potency of the marijuana. Of particular interest is the marijuana cultivated in BC, the so-called BC Bud. The US Drug Enforcement Agency assessed BC Bud for its tetrahydrocannabinol (THC) content — the psychoactive drug in marijuana — and found that its THC content was 25 per cent. This may be compared to the average THC content of seven per cent for marijuana consumed in the US today and only two per cent THC content for mari-

juana smoked in the 1970s (Hamilton et al. 2004, 36). The result of this is that, as Ian Mulgrew has noted, BC "is a marijuana Mecca" and BC Bud is "a globally recognized brand name" that stands "in a pantheon of pot beside such legends as Acapulco Gold or California Sinsemilla" and "is sought by cannabis cognoscenti and commands the highest price" (Mulgrew 2006, 21). The INCSR, in 2006, listed Canada as "a principal drug concern" due to the "continuing large-scale production of high-potency, indoor grown marijuana for export to the United States" (U.S. Department of State 2006). Moreover, John Walters, Director of the White House Office of National Drug Control Policy (the US Drug Czar), critically remarked that "Canada is exporting to [the US] the crack of marijuana" (Hamilton et al. 2004, 36).

While the increasing volume of marijuana being smuggled into the US from Canada and the high potency of the drug are of importance to Americans, the source of gravest concern is what is perceived by Americans to be lax Canadian laws regarding marijuana possession and cultivation. The reasoning goes that if Canada adopted more stern measures and penalties concerning marijuana the flow to the US would be abated somewhat. The first area in which Canada is seen as being out of step with the US is in penalties for marijuana possession. This was demonstrated in

the 2003-06 period wherein the Chretien and Martin governments in Canada proposed, wrote and introduced legislation to de-criminalize possession of marijuana of 15 grams, or less. The American response to this was immediate and forceful. The US Drug Czar, John Walters, pledged to “respond to the threat” that this posed to the US (Klein 2003, 12). One of the means proposed to deal with the threat was the “re-criminalizing” of marijuana possession at the American border. Christopher Sands has noted that some members of Congress and the media in the US “advanced the notion that such possession could be ‘re-criminalized’ by US border officials if it appeared on the criminal record of a Canadian requesting entry into the United States, even as a misdemeanor” (Sands 2006, 130). The American concerns over de-criminalization of marijuana were allayed with the election, in January 2006, of the Conservative government led by Stephen Harper. The Harper government had campaigned on a promise to end the de-criminalization initiative of the Martin government and, therefore, did not re-introduce the marijuana legislation after it died in committee at the end of the 38th Parliament.

While the de-criminalization issue has been resolved for the duration of the present Conservative government, the laxity of Canadian laws pertaining to the production of marijuana is still troubling to many

Americans. Of the 25,000 growing operations identified by BC law enforcement between 1997-2003 mentioned previously, less than 17,000 were investigated and less than one-half of those were prosecuted (Plecas, Malm and Kinney 2005). Plecas, Malm and Kinney found that charges were entered in less than one-half of raids conducted on marijuana operations in BC, over the last seven years. Moreover, they noted that only about one-in-ten of those convicted were sentenced to a jail term, with the average sentence being five months (Plecas, Malm and Kinney 2005, 50). The authors compared the sentences handed-out in BC with what would have happened had these cases come to trial in Washington State, just south of BC. Under sentencing guidelines found in Washington State, one-half of the convictions would have resulted in mandatory jail sentences of at least five years and over two-thirds of those convicted would have served some time in prison (Plecas, Malm and Kinney 2005, 56). In comparison, the sentences received in Canada appear lenient. Mulgrew has noted that marijuana cultivators in Canada view judicial punishments not as deterrents but rather as “an operating cost” (Mulgrew 2006, 5). Marijuana cultivation “has been a relatively minimum-risk activity due to low sentences meted out by Canadian courts,” as noted in the 2006 INCSR. The report further “encourage[d] Canada to take steps to improve its ability to expedite investiga-

tions and prosecutions” and to “strengthen judicial deterrents” (U.S. Department of State 2006).

The result of all this is that Canada is regarded as being soft on marijuana use and cultivation. Evidence of this is provided by Canada being consistently mentioned in the annual Presidential Determination on Major Drug Transit or Major Illicit Drug Producing Countries. While Canada has thus far escaped being placed on the Majors List (i.e. those states listed as major drug transit or producing countries), it is the only state not on the List to have been mentioned in the reports over the last five years. For 2007, Canada and North Korea are the only two states not on the List but noted in the Presidential Determination (U.S. Office of the President 2006).

The Canadian and American governments co-operate on a wide range of policy issues and the bilateral relationship is mostly without major controversy, or difficulty. The differences in the Canadian and American approach to marijuana is mainly regarded as an irritant in the relationship, but one of a number of policy areas on which Canada and the US differ. There are, however, two ways in which the marijuana irritant could become the marijuana problem in the bilateral relationship. The first would be if the marijuana irritant becomes more directly linked with homeland security in the US. Marijuana is still largely regarded as a law

enforcement issue, not a national security problem. It is perceived more as a state-level concern than a national policy issue. This may change, however. For instance, if it is determined that groups in Canada on the US list of foreign terrorist organizations maintained by the State Department are using marijuana to generate revenue for their operations, including purchasing weaponry and planning attacks in the US, this could result in the marijuana issue being redefined as part of the war on terror and, therefore, a homeland security problem. A second, and related, manner in which the marijuana irritant could become more problematic for Canada is if the Bush Administration, or the US Congress, began to link more closely the export to the US of marijuana from Canada with cocaine and other drugs from Mexico in the current American war on drugs. Thus far, Canadian officials have been relatively successful in persuading American government officials of the differences in the scale and nature of the drug threats emanating from Canada and from Mexico. The result of this has been to differentiate the northern border with Canada from the southern border with Mexico (Sokolsky and Legassé 2006).

If either of the two scenarios outlined above were to occur and the marijuana irritant was to become the marijuana problem, this would have significant implications for Canada. Two main lines of American response

may be outlined briefly. The first would entail a further intensification and militarization of the Canada-US border, or movement towards what Peter Andreas has referred to as a "Mexicanization of the Canadian border" (Andreas 2005). This, in turn, would cause a significant reduction and delay of human and commercial cross-

border traffic thereby negatively impacting the bilateral commercial relationship for both countries. A second manner in which the US may respond should marijuana become a problem in the Canada-US relationship is to increase pressure on Canada to more closely align Canadian marijuana policy with that of the US.

Sources

- Andreas, Peter. 2005. "The Mexicanization of the US-Canada border: Asymmetric Interdependence in a Changing Security Context." *International Journal* 60: 449-62.
- Canadian Centre for Justice Statistics. 2004. "Canadian Crime Statistics 2003". <http://statscan.ca/english/freepub/85-205XIE/0000385-205-XIE.pdf>. Accessed April 17, 2007.
- Eagles, Munroe. 2006. "Canadian-American Relations in a Turbulent Era." *PS: Political Science and Politics* 39:821-24.
- Hamilton, Anita, Ben Bergman, Laura Blue, Chris Daniels, Deborah Jones, and Elaine Shannon. 2004. "This Bud's for the U.S." *Time* 164:36-7.
- Klein, Naomi. 2003. "Canada: Hippy Nation?" *The Nation* July 21/28:12.
- Mulgrew, Ian. 2006. *Bud Inc. Inside Canada's Marijuana Industry* (Toronto: Vintage)
- Plecas, Darryl, Aili Malm and Bryan Kinney. 2005. "Marihuana Growing Operations in British Columbia Revisited, 1997-2003" http://www.ucfv.ca/pages/Special/Marihuana_Grow_Ops_in_BC_Study.pdf. Accessed April 17, 2007.
- Sands, Christopher. 2006. "The Rising Importance of Third-Country Issues in Canada's Relations with the United States," In Andrew F. Cooper and Dane Rowlands, eds. *Canada Among Nations 2006: Minorities and Priorities* (Montreal and Kingston: McGill-Queens).
- Sokolsky, Joel J. and Philippe Lagassé. 2006. "Suspenders and a Belt: Perimeter and Border Security in Canada-US Relations." *Canadian Foreign Policy* 12:15-29.
- Thompson, John Herd. 2003. "Playing by the New Washington Rules: The U.S.-Canada Relationship, 1994-2003." *American Review of Canadian Studies* 33:5-26.
- United States. Department of Justice. 2006. "National Drug Threat Assessment 2006." <http://usdoj.gov>. Accessed March 7, 2007.
- United States. Department of State. 2006. "International Narcotics Control Strategy Report". <http://www.state.gov>. Accessed March 7, 2007.
- United States. Office of the President 2006. "Presidential Determination on Major Drug Transit or Major Illicit Drug Producing Countries for the Fiscal Year 2007". <http://state.gov/p/inl/rls/prsr/ps/72379.htm>. Accessed March 7, 2007.

EDITORIAL BOARD

Series Editor, Michael Lusztig, *Southern Methodist University*
Daniel Abele, *Canadian Embassy, Washington*
Ian Brodie, *Office of the Prime Minister of Canada*
Charles Doran, *Johns Hopkins University*
Munroe Eagles, *State University of New York, Buffalo*
Patrick James, *University of Southern California*
Mark Kasoff, *Bowling Green State University*
Richard Kay, *University of Connecticut*
Carol Lazzaro-Weiss, *University of Missouri*
Martin Lubin, *State University of New York, Plattsburgh*
Eric Marquis, *Gouvernement du Québec*
Nelson Michaud, *Université du Québec*
Stephane Roussel, *Université du Québec à Montréal*
Mark Rush, *Washington and Lee University*
Robert Thacker, *St. Lawrence University*
Eric Uslaner, *University of Maryland*
Richard Vengroff, *Kennesaw State University*
Carol Wise, *University of Southern California*

ACSUS

The Association for Canadian Studies in the United States (ACSUS), a multidisciplinary association of scholars, professionals, and institutions, is dedicated to improving understanding of Canada in the United States. Founded in 1971, ACSUS encourages creative and scholarly activity in Canadian studies, facilitates the exchange of ideas among Canadianists in the U.S., Canada, and other countries, enhances the teaching of Canada in the U.S., and promotes Canada as an area of academic inquiry. ACSUS publishes the journal *The American Review of Canadian Studies*, an Occasional Papers in Public Policy Series, organizes a major biennial conference and colloquium, supports a Fund for the Arts pro-

gram, a Fulbright-Enders Fellowship, an annual Canadian Business Leadership seminar for students, offers awards recognizing individuals for outstanding contributions in the field, and distributes news journals and e-communications.

ACSUS invites submissions on issues of public policy that pertain to cross-border relations between Canada and the United States, or to policies in one of these countries that have implications for the other. Submission from all fields of policy inquiry are invited. Papers should be 4-8 pages in length and be submitted electronically to Professor Michael Lusztig, Department of Political Science, Southern Methodist University, Dallas, TX 75275; mlusztig@smu.edu

1220 19th Street NW, Suite 801, Washington, DC 20036, Tel: 202-223-9005, Fax: 202-775-0061,
Web: www.acsus.org