

PUBLIC Meeting

Please note there will not be a regular evening meeting on that day.

Thursday 23 April 2009 at 12.30pm

Speaker: Alison Ritter

Topic: Illicit drugs policy through the lens of regulation

Venue: ACT Legislative Assembly, London Cct, CANBERRA City

Refreshments will follow

See enclosed invitation

Editorial

Changes are happening in the world drug scene. The events last month at the United Nations General Assembly Special Session is one pointer where promotion of the unintended consequences of prohibition was recognised and it was accepted that addiction is a health problem not a police one.

Another pointer comes from the US where the new US President Obama has openly supported needle and syringe programs and more recently has reversed the long standing policy of opposing medical marijuana in those states where those state laws permit it.

These are small signs, but they are significant. But one should not think that everything will change. There is still the problem of Mexico on the US southern border. Mexico is now the major trafficking route for cocaine into the US and as a result murders and violence in Mexico are rife.

That problem is unlikely to be fully solved. Nor is the human and financial cost to the US which uses the blunt instrument of law enforcement in a futile attempt to stem drug use. The prison industry is one of the most profitable in the US - an industry that is likely to not only weather the current financial storm but to increase its profitability.

If the new president is to deal effectively with the drug problem he needs to be innovative and daring.

One of the European countries has been daring and is now reaping the rewards. In 2001 Portugal decriminalised the personal use of all illegal drugs – not just cannabis but all drugs. Note that the possession and use of the drugs is still illegal. The offence is not a criminal offence but more like an administrative fine for a person who is charged.

The International Narcotics Control Board (INCB) was not happy with this situation. In its annual report it said:

The Board would like to remind States that article 3, paragraph 2, of the 1988 Convention requires each party to that Convention to establish as a criminal offence under

its domestic law, when committed intentionally, the possession, purchase or cultivation of narcotic drugs or psychotropic substances for personal consumption contrary to the provisions of the 1961 Convention, the 1961 Convention as amended by the 1972 Protocol, or the 1971 Convention, keeping in mind that parties have to meet their fundamental obligation under all three conventions to limit the use of controlled substances to medical and scientific purposes.

That call fell on deaf Portuguese ears, but undaunted the INCB in 2004 sent a mission to Portugal in an unsuccessful attempt to try and get the Portuguese government to change.

There were of course many who made dire predictions about Portugal's move but none of those predictions came to fruition.

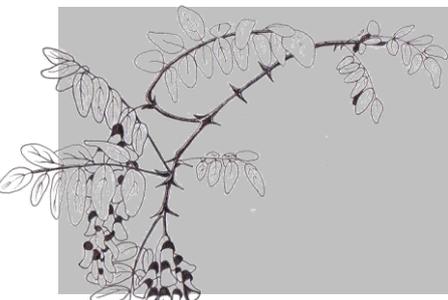
A 2009 report undertaken by Glen Greenwald, commissioned by the CATO institute, examined in detail the effects of Portugal's decriminalisation. Some consequences were: freeing police for more serious crimes; freeing funding that could be directed to the treatment and counseling of those using the drugs; from the user's perspective, less reluctance to present for treatment; and surprisingly the rate of overdose deaths declined significantly.

The conclusion of the report says:

None of the fears promulgated by opponents of Portuguese decriminalization has come to fruition, whereas many of the benefits predicted by drug policymakers from instituting a decriminalization regime have been realized. While drug addiction, usage, and associated pathologies continue to skyrocket in many EU states, those problems—in virtually every relevant category—have been either contained or measurably improved within Portugal since 2001. In certain key demographic segments, drug usage has decreased in absolute terms in the decriminalization framework, even as usage across the EU continues to increase, including in those states that continue to take the hardest line in criminalizing drug possession and usage.

By freeing its citizens from the fear of prosecution and imprisonment for drug usage, Portugal has dramatically improved its ability to encourage drug addicts to avail themselves of treatment. The resources that were previously devoted to prosecuting and imprisoning drug addicts are now available to provide treatment programs to addicts. Those developments, along with Portugal's shift to a harm-reduction approach, have dramatically improved drug related social ills, including drug-caused mortalities and drug-related disease transmission.

Ideally, treatment programs would be strictly voluntary, but Portugal's program is certainly preferable to criminalization.



The Portuguese have seen the benefits of decriminalization, and therefore there is no serious political push in Portugal to return to a criminalization framework. Drug policy makers in the Portuguese government are virtually unanimous in their belief that decriminalization has enabled a far more effective approach to managing Portugal's addiction problems and other drug-related afflictions.

Since the available data demonstrate that they are right, the Portuguese model ought to be carefully considered by policymakers around the world.

[The full report can be obtained from the following website: http://cato.org/pub_display.php?pub_id=10080]

No doubt there will be a denial of the benefits identified in the report from the INCB but we will have to wait and see what the rest of the world makes of it. But it is essential that drug policy makers around the world carefully consider this demonstration of the benefits of removal of criminal sanctions for personal use of drugs.

● **Renewal of Membership**

Thank you to all those who have renewed their membership to Families and Friends for Drug Law Reform and to many who have also given donations. It is much appreciated.

If you have overlooked your renewal, it is not too late. Your renewal is needed to keep our group operating so please consider it today.

For your convenience payments can now be made though Direct Deposit. The instructions and bank details are presented following the completion of our membership application/renewal form – the form is to ensure that we have your up-to-date details. The form can be found at ffdlr.org.au/about/JoinUs.htm, or simply at ffdlr.org.au and click the “Join Us” link.

Let's get real about drugs

SMH editorial, March 26, 2009

THE past week has seen a surge of violence, from bikie murders to drive-by shootings. As the *Herald* noted yesterday, such actions are mainly driven by greed for the profits to be made from selling illicit drugs. These are business disputes, even if the business involved, and its methods, are illegal.

While renewed police efforts to prevent acts of violence are to be welcomed, history suggests any respite will only be temporary. This is because of the persistence of demand. There appears to be no way to stop many otherwise law-abiding people from buying illegal drugs. As British chanteuse Lily Allen notes in the title of a song from her recent Australian number one album, *Everyone's At It*. While that's an exaggeration, there's no doubt the market is thriving and the money to be made there

enormous. As long as this is so, the brains and muscle of the criminal class will continue to flock to the drug trade.

We know these things to be true because the evidence is plentiful. The so-called war against drugs has been occurring for decades, in many countries and using a variety of approaches. And yet few nations have been able to put more than a dent in the trade. This dismal record of failure has led to calls to reconsider our approach to illegal drugs by some public figures not previously associated with such a position. Not long ago three former Latin American presidents - Mexico's Ernesto Zedillo, Colombia's Cesar Gaviria, and Brazil's Fernando Henrique Cardoso - condemned the war as a counterproductive failure.

The Economist magazine has noted that in 1998 the United Nations general assembly called for a drug-free world by 2008. In the intervening decade, despite a massive death toll and the expenditure by the United States alone of \$US40 billion (\$57 billion) a year on the war, the extent of drug use in First World countries has hardly changed at all. The magazine called for legalisation as the "least bad" policy.

Without necessarily supporting such a call, the *Herald* believes it is time to get real about illegal usage and the violent effects it is having on our society. Is it realistic any longer to believe we can stamp out most illegal drug use? At the moment, if you had to compare the war against drugs with a real war, you would nominate the stalemate on the Western Front. But World War I lasted only four years. This one has been running for decades, and there is no sign of victory.

Published letters

Take the amphetamine market away from bikies

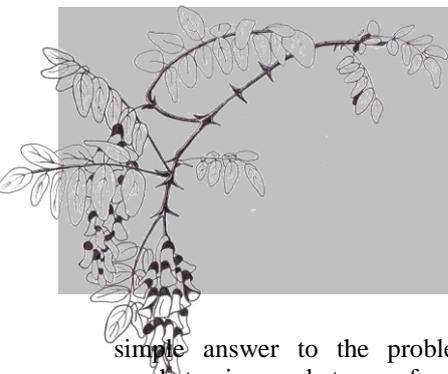
Canberra Times 6/4/2009

The dignified refusal of our Attorney-General Simon Corbell to be stampeded into joining NSW in reproducing the panicky South Australian bikie legislation brought to mind Rudyard Kipling's words about keeping “your head when all about you are losing theirs and blaming it on you” (“ACT could become bikie oasis”, April 1, p7).

All too often in recent years we have seen politicians rush through legislation that has trampled underfoot civil liberties that our forebears have struggled and died for.

Moreover they do this in the name of improving security and effectiveness which they rarely assess.

Today I received my newsletter from Graham Long who does wonderful things at Wayside Chapel in Kings Cross. It includes the following: “For what its worth I think the [NSW] government's intention to ban these groups is misguided at best. Sooner or later we'll have to discuss the



simple answer to the problem which is to take the amphetamine market away from these groups.

“Once Abe Saffron built a massive fortune on gambling and the sex industry. Because these things were illegal, Saffron not only made a fortune, but he developed a sophisticated system of corruption with police and with politicians. Saffron’s dominance was undermined and finally ended because the government took his market away. “ No amount of police attention ever worried Abe but when his market was taken away, he simply ceased to be the king pin of Kings Cross and his corrupting influence on public officials ended.”

Bill Bush

Opium our problem

Canberra Times 1/4/2009

Mike Pheonix asks is it too simplistic to herbicide spray the Afghanistan opium crop and to overthrow the Burmese junta to rid the world of heroin (Letters Canberra Times 27/3/2009).

The simple answer is that they have already been tried many times and have failed.

The real problem is that by prohibiting rather than controlling and managing the drug, a very lucrative black market has been created in western societies. Huge profits drive this market. The value of a kilogram of opium at the farm gate, by the time it has reached Australian streets as heroin, has multiplied its value almost 200 times. The peasant farmer in Afghanistan ekes out a subsistence living while the trafficker enjoys a luxury lifestyle. Destroy the opium crops (and collaterally any nearby food crops) with herbicides and the trafficker will seek another poverty stricken country or failed state to have the crops grown. The peasant farmer however is driven to starvation and hatred of those who sprayed his crops.

As for overthrowing the government of a country which does things we do not approve of, we only have to look to the outcomes of our actions in Iraq, and perhaps Afghanistan itself which started out as a hunt for Bin Laden but which our US friends have turned into an exercise to seek and execute opium growers and heroin manufacturers.

No Mike, we need to look to our own actions and undo or at least begin to rectify what we have done to create such a situation.

B McConnell

A Comparison of the Cost-effectiveness of the Prohibition and Regulation of Drugs

[The UK’s Transform Drug Policy Foundation in April 2009 published a report on the comparative cost-effectiveness of prohibition vs regulation of drugs. The report found that even in the worst case scenario the benefits of regulation far outweighed the costs.

This report claims that “no such cost-benefit analysis, or even a proper Impact Assessment of existing enforcement policy and legislation has ever been carried out here or anywhere else in the world.”

The following is an extract from that report, the full version of which can be found at: www.tdpf.org.uk

Discussion and Conclusions

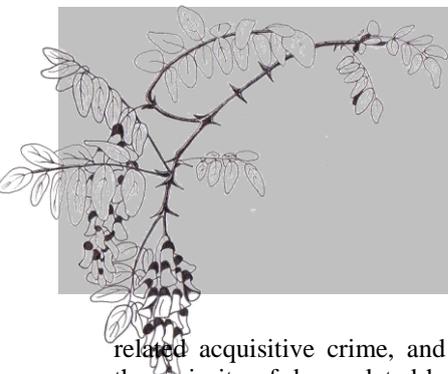
The conclusion on this analysis is therefore that regulating the drugs market is a dramatically more cost effective policy than prohibition and that moving from prohibition to regulated drugs markets in England and Wales would provide a net saving to tax payers, victims of crime, communities, the criminal justice system and drug users of somewhere within the range of, for the four scenarios; £13.943billion, £10.834billion, £7.724billion, £4.616billion.

...

Responding to many ... identified gaps in the research base is rightly the responsibility of Government. The situation has moved beyond merely unsatisfactory when serious policy decisions are being based on, as has been demonstrated in this paper, data that has never been collected (for example, as regards availability), analysis that has demonstrably not been done (for example, as regards deterrence effects), and by specific reference to cost-benefit studies that do not exist. The untenable nature of this status quo is more acute given that even a cursory reading of the Government’s own publications demonstrates current policy is both expensive and delivering outcomes that are clearly the opposite of its stated goals, consistently and over a period of several decades. The political context of these analytical shortcomings cannot be ignored, whether it is an ideological commitment to prohibition, investment in populist drug war posturing, or fear of the domestic and international political implications of questioning the status quo, there are clearly substantial obstacles to mainstream policy makers moving forward on this issue that have nothing to do with rational policy analysis and debate.

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Considering the costs of the current policy responses, one conclusion is immediately obvious above all others: that prohibition of drugs is the root cause of almost all drug



related acquisitive crime, and that this crime constitutes the majority of drug-related harms and costs to society. It is a relatively small subset of the using population, made up of marginalised low income dependent users offending to fund their drug use, who are disproportionately responsible for creating the secondary £13.9 billion in acquisitive crime costs from the £3.7 billion turnover of the illicit market for heroin and cocaine. That the heroin and cocaine market, freed of the distorting influence of criminal market economic pressures, would likely be worth around one tenth of the £3.7 billion figure highlights this particular negative impact of prohibition economics even more starkly.

...

The Strategy Unit Report of 2003 made it clear that the Government understood this basic analysis – but the response to it was not to question the basic tenets of prohibition, nor to consider alternative approaches, but rather to target massive treatment resources at the population of high harm causing users via the criminal justice system. Whilst no one is opposed to making treatment available to those in need, the idea of using the criminal justice system as a primary tool in administering ‘treatment’ (often coerced), essentially as a crime reduction measure, has proved controversial and its effectiveness questionable. Moreover, the approach ignores the basic finding that prohibition enforced by the criminal justice system itself is the direct source of much of what is perceived as ‘the drug problem’ in the first place, specifically the vast majority of drug related crime. Yet the Government analysis repeatedly fails to acknowledge that prohibition is a policy choice, not a given or fixed feature of the policy landscape that must be worked within, or around.

There are entirely understandable concerns that moves towards legal regulation would see an increase in health costs if availability and prevalence increased as a result. Whilst this is the most frequently stated objection to such a move, as demonstrated here it is not borne out by the evidence and is frequently based on misunderstandings about how post-prohibition regulation would operate. The deterrent effect of prohibition remains un-quantified but the assumption, based on the little relevant research that does exist, has to be that it is marginal, especially for key populations responsible for causing most harms. A similar conclusion can be formed regarding the impact of prohibition on reducing availability. This is a position arguably bolstered by the systematic ongoing evasiveness of Government in pursuing any research into the scale and impacts of these effects at the very heart of the prohibitionist paradigm, beyond repeatedly restating a ‘belief’ that such effects exist.

There is much speculation about how legal regulation would operate in practice but advocates for moves in this direction point out that whilst some pressures towards increased use would undoubtedly occur, these would be moderated by effective controls on availability, price, marketing and so on, whilst opposing or compensatory pressures could also emerge, significantly including the potential for the redirection of enforcement spending into public health programs; treatment, prevention, education and harm reduction. Significant misconceptions persist that a post-prohibition scenario would be defined by some sort of unregulated commercial free for all, and we hope that this paper has gone some way to correcting this error. The existing absolutist prohibitions on certain drugs sit at one extreme of the policy spectrum, whilst unregulated legal commercial activity sits at the other (undesirable for other reasons, evident from historic failings of inadequate tobacco and alcohol regulation). Evidence based regulation, the model that sits somewhere on the continuum between these two poles, is the rational policy response to managing any potentially harmful commercial activity present in society, and indeed is the norm for almost every other such policy response.

We would go further and say that the impact of drug policy more generally, on levels of use and misuse, has probably been dramatically overstated. It seems likely that levels of enforcement, choices of legal approaches and even investment in treatment, education and prevention have effects, both positive and negative, that are marginal was spent on tobacco in 2004 and again no costs of tobacco related acquisitive crime have been identified, even amongst the millions of low income dependent smokers and problematic drinkers. Whilst there are obviously other substantial health and social costs associated with alcohol and tobacco use (and failings in alcohol and tobacco policy alluded to above) the difference in terms of crime costs with illicit drugs is relative to the impacts of wider social, economic and cultural variables. In researching this paper we were struck by the work of Richard Wilkinson that found no correlation internationally between levels of drug use and intensity of enforcement, GDP, or even levels of poverty (although within countries there is a clear localised link between levels of social deprivation and problematic use). A clear and significant correlation was found, however, between levels of drug use and levels of income inequality – thus the US and UK, with high inequality, are consistently shown to have amongst the highest levels of drug use (as well as numerous other indicators of low

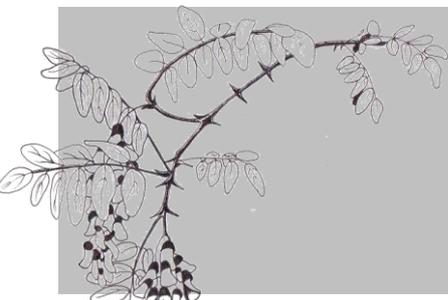
personal social wellbeing) whilst countries like Sweden and Netherlands, with lower levels of inequality, have amongst the lowest levels of drug use (despite having very different enforcement approaches). As Sanho Tree has noted:

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“Ultimately, there is no substitute for building a healthy society. The root causes of drug abuse.... (as well as many other societal problems) can be traced back to poverty, despair and alienation.”

Whilst this paper cannot expand on this discourse it is worth flagging up, and the various elements of the drug strategy (as conventionally conceived) may be marginal in determining levels of use and misuse, what the analysis in this paper hopefully demonstrates is that it is far from irrelevant as regards determining levels of secondary drug related harms and associated costs to society.

It is clear that comparing drug use under prohibition and under a future regulated model is not comparing like with like. Not only does the drugs-crime dynamic change dramatically for the better but the landscape of use itself would change. Through a combination of evidence-led deployment of public health based regulatory tools and increased choice we can reasonably speculate that social norms about more responsible drug use could be fostered, and that use would migrate over time from more to less harmful drugs, preparations, modes of administration, and behaviours. In reality it is possible, and we would suggest likely, that drug related health risks/harms/costs per user, under a regulated model, would decrease to a degree that would more than compensate for marginal prevalence increases, should they occur.

Finally we acknowledge that there is something rather coldly utilitarian about cost benefit analysis such as this and many will find the process of ascribing monetary values to what is the very real human suffering of dependency, death and crime victimhood somewhat distasteful. Whilst sharing that distaste we must also acknowledge that such analysis has its place; in provoking discussion, and in rationalising the debate for policy makers who, for better or worse, have to make rather cold utilitarian policy decisions on a daily basis. They are spending our money on policies that have direct costs and benefits for us. And even if this analysis seems distant from the human face of every day experience, its conclusions point to the fact that there is a far higher human cost under the current policy of criminally controlled drug markets than would occur under policy alternatives involving state control and regulation. And

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