

## **Where do we go from here? A constitution for drug control**

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If a person is not humble before engaging with the conundrum of drug policy, one must have an ego of granite not to be humble after even a little work in the area. This room is full of people who know how hard the problem is on so many levels, and even a law professor – a member of a tribe known for knowing everything about everything – must feel embarrassed to offer advice. But my being conservative and humble will not do this symposium any good, so for the next few minutes I am going to prescribe. I don't claim to be right, but I hope I will be wrong in stimulating ways.

Where do we go from here? Prohibition has failed, an evident fact and an increasingly urgent one. We see the failure in communities decimated by incarceration and yet still vulnerable to terrible levels of drug related harm. We see it in the booming drug business hardly constrained by all our suppression efforts. We see it in the dramatic destabilizing role of drugs in nations like Mexico. We see its geopolitical force in the role of opium in the war in Afghanistan.

Prohibition has failed, yet one may reasonably tremble at the prospect of abandoning it. Fear of drugs, and fear about what would happen if we reformed our policies, are both widespread and legitimate. And after all, what alternatives are we presented with? The roster is almost facetious. Decriminalizing marijuana? Prescription heroin? Legalization of coca leaf? Some vague notion of an end to prohibition with a nod towards

America of the nineteen thirties? Each is either too unspecific, or far too narrow, to reassure. As Hamlet says of the contemplation of suicide, “Thus does conscience make cowards of us all.” And so it damned well should.

We should reject magical thinking about drugs. We should accept the evident truth that virtually all drugs can be used with benefit, if only pleasure, and can cause harm. We can recognize that some drugs are more individually harmful than others, but that even small harms multiplied by widespread use can have enormous social consequences. We can and should recognize, indeed, that what we commonly called the problem of drugs is rarely a problem entirely, or even importantly, of substances. The effects of drug use, negative and positive, are a function not just of a drug, but also of a genome, a psychology, and an environment. We may therefore speak urgently of an end to Prohibition, but we cannot speak seriously of an end to drug control. We’re already investing enormous resources in regulating currently legal drugs, and if we make more drugs legal, we will require that much more control.

There are compelling reasons to regulate drugs of all kinds, and substantial technical and political challenges in designing and implementing those regulations. All the challenges of regulation will arise to meet us, and we will need all the tools, and all the wisdom, of good regulation to meet them. A post-Prohibition drug control policy will be a policy of taxes, licenses, quality standards, sale and access limitations, medical supervision, effective enforcement, demand reduction interventions, control of supply, work place policies, drug treatment systems, and, if we’re being truly honest, comprehensive efforts to address the environmental and psychosocial drivers

of high levels of pathological drug use. We will be trying to use these tools in tricky ways to push consumption towards lower intensity, less harmful drugs; to reduce the harms caused by control without unleashing the harms of greater accessibility. There's quite a job of regulatory development to be done, and yet caught up in straightjacket of dichotomous ideological argument, progress in taking on these tasks has been limited.

So where do we go from here? Well, to start with, New Zealand. This is the most beautiful country in the world and I would seize any excuse to come and spend some time here. But this time I have no such luck – I came in yesterday and will leave Friday, without so much as a walk on the beach. It's not, then, a ravenous appetite for airline food and that brings me here. I'm here because there is only one course along which new drug policies can emerge, and that is the course of national experimentation. It's easy enough to focus on the international drug conventions, and the agencies and assemblies in Vienna, and demand a change. But until we get a better blueprint, until we have experience, until we have tested models, the demand for change is not only unconvincing, but entirely unspecified. Change will come only by national experimentation and its horizontal diffusion from country to country. For this experimentation, no change in the international conventions is really needed. As long as we are continuing a pursuit of drug control, as opposed to the chimera of legalization, there is room within the conventions for substantial experimentation. Accepting that the interpretation of the international legal instruments is in part a political affair, not simply a matter of parsing of legal text, and assuming a growing level of support for new ideas, I feel reasonably confident that New Zealand and countries like it, can pursue innovative modes of control without

significant hindrance from Vienna. Someday the Conventions may need to amend – certainly will – but that will be a fruit of successful change, not its first cause.

So where do we go from here to begin this process of change? As an academic, I hesitate to say this, but what we need most urgently is ideas. We need ways of thinking about drug control that can guide us through a period of social learning, politics, reform, and evaluation. For some, the guiding idea is at least a fuzzy image of a new, post-Prohibitionist regulatory scheme, but I am dubious that anyone really has a clear idea of what that system would look like, which makes it difficult to convince anyone outside the choir that there is a viable alternative to Prohibition. The ideas we need could, I suggest, take the form of guiding principles, a sort of Constitution of drug policy. A Constitution is a device to move from one regime to another. Negotiating a constitution provides a means of defining values and objective parameters for change. It becomes the broad template for a radical change in direction, but also the bridge that connects the old system with a new one, and across which we can move towards change in a deliberate and rational fashion.

Here are some articles I would propose, to suggest the tenor of the enterprise – but it is the process that has value.

### **The object of drug control is public health**

- The minimization of harm caused by pathological drug use
- The optimization of benefits of therapeutic drug use

- Drug use that does not cause harm is of no consequence
- Abstinence is an instrument but not a goal of drug control policy

**The harms caused by drug control regulation must be considered in assessing the harm caused by drugs**

- Drug control policies can and do cause significant harm
- It is the net harm – drug harm + regulatory harm – that measures the efficacy of a drug control strategy

**Regulation of illicit use must be balanced with access to beneficial drugs**

- A basic goal of control should be to assure safe access.
- A system that controls drug availability but affords insufficient access is failing

**Drug control policy must learn from the evidence**

**Drug control has only a limited capacity to address problems of which drug use is merely a symptom**

- The greater the prevalence of pathological drug use in a population, the greater the likelihood that drug use is itself a symptom of deeper social pathologies and deficits
- Drug control regulation must be integrated into comprehensive responses to social determinants of mental and physical illness.

Where do we go from here? The Maori elder who welcomed us yesterday had it right: reconciliation is a good start

We need to reconcile everyone who is concerned about drugs and their effects, regardless of their current prescription for change. Conflict about means should not prevent people from working with each other to words, and ends

Once we are speaking constructively, we need to reconcile our policies with reality – with the evidence

We need to reconcile those whose drug use harms themselves and others with the better angels of their natures – and ours. The stigma and demonization – and the hypocrisy they reflect– must end.

Where are we going? Well, let's hope we can go forward, instead of going in the same old circles.

But less dying and on to half the adult, let me state again I think there is a fault line that we simply must find a way to a buffer, and. In the nineteenth hundreds it in a twentieth century for most for half of the twentieth century and United States syphilis was a major health problem and syphilis policy was about as tortured as drug policy is to the two notable incidents stand out. Trina First World War, Aimee health authorities, very concerned about transmission of syphilis from two soldiers in the bottles of France, instituted a practice of post leave prophylaxis for all soldiers exposed to syphilis in on the took my dipper exposed. Just start up a terrible opposition from some factions of the anti syphilis camp in a mass a similar thing happened in the forties and fifties when penicillin be convertible as an applications treatment and with those who opposed to making it available in both cases the opposition exposed a fundamental fault line between those in the overall campaign against syphilis to actually solve the problem as acquisition of disease and those who actually solve the problem has sex if you wish to reduce the incidence of disease that treatment prophylaxis expert and cents but in effect a real problem kids that people are having sex at all the steps I did manage than treatment becomes problematic you can imagine the arguments that quite familiar treatment would a encourage people to have sex it would send a message of endorsement of a sex. It would as it were win the battle of syphilis but Louise the war of snow to withdraw policy I'd suggest that there is enormous room for quite a Parisian toward the objective of control but only to the extent that we accept and that drug related harm not drug use is the problem to be solved.

But also

We have not begun the work because one side has denied the need to change and the other has played down the challenges of doing so. In fairness to both: prohibitionist can reasonably ask advocates for change for a credible plan; and advocates for change can fairly ask how such a plan could be made when the current regime allows almost no flexibility or room for experimentation.