

**INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES**

[ISSN 2581-5369]

Volume 4 | Issue 3

2021

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Drug Criminalization Lacks any Principled Rationale, and it does more Harm than Good. Therefore, it is Unjustified”. To what extent do we agree with this Statement?

BHAVYA TANDON¹ AND PRATITI NAYAK²

ABSTRACT

What conduct can and cannot legitimately be prohibited through the criminal law? Few topics powerfully illustrate the issues raised by this question including the criminalisation of drugs. In this paper, we are examining the legitimacy of drug criminalisation by critically examining the arguments both for and against it. In doing so, we will confront the fundamental question of what can serve as a valid justification for criminalisation – as well as how criminalisation can often turn out to be ineffective, counter-productive, or even actively harmful.

We will also discuss how the criminal law’s approach to drugs is changing in some jurisdictions. Under traditional models of drug criminalisation, it is criminal to produce, import, export, supply, and/or possess any of a list of controlled substances: for example, heroin, cannabis, or cocaine. In recent years, however, this approach has increasingly been criticised for its inability to tackle the growing problem of new psychoactive substances, or “legal highs”. This new threat has led some jurisdictions to develop new legislative models. In the UK, for example, it is now criminal to produce or supply (but not merely to possess) anything that meets the definition of a “psychoactive substance” – a definition that seems to catch many entirely harmless substances, as well as substances that mimic controlled drugs. Are such “catch-all” prohibitions a legitimate form of criminalisation?

Keywords: COVID-19, domestic workers, compulsory vaccination, RWA.

I. INTRODUCTION

Over 40 years ago, US President Richard Nixon declared drug abuse as a public enemy number starting an unprecedented global campaign the ‘war on drugs.’ The core strategy of war is no drugs, no problem. So almost all of the efforts in the last few decades have been focused on

¹ Author is an Assistant Lecturer at Jindal Global Law School, India.

² Author is an Assistant Professor at KIIT School of Law, India.

eradicating the supply of drugs and incarcerating drug traffickers. Despite battling against drugs for decades, the level of corruption, violence, and addiction continue to rise.³ Today after four decades, this war is a huge failure, with devastating unintended consequences. It led to a sharp increase in mass incarceration, corruption, political destabilisation, violence, and systematic human rights abuses across the world. Though prohibitionism has been a painful experience and thousands of young lives lost, it remains strongly supported by most law enforcement agencies. The proponents of such policies advocate that the state will be “worse off if drugs are legalized”⁴ and it will open “floodgates to addiction by increasing access to drugs.”⁵

Bypassing the Harm Principle, drug prohibition policies sit “comfortably outside the scope of standard harms analysis.”⁶ John Kaplan argues that though drug use undermines work ethics and can lead to low productivity,⁷ being unproductive or lazy cannot be criminal conduct themselves even if they cause loss of productivity. Lacking immediate sort of risks, there are reasons for doubt if such prohibition policies lack any principled rationale and do more harm than good. Criminalising the use of drugs raises a further question: why is the conduct which does no harm, is wrongful? What is more difficult to understand is why the law should punish informative and sound-minded adults simply for using drugs voluntarily for recreational purposes. What I am trying to demonstrate in this essay is that though it harms the physical and mental health of those who consume it, one should be free to do as they wish unless their action harms others. “For the vast majority of people who use the drug, they will come to no harm, so criminalising them do more harm than the drugs.”⁸ Looking at the plausible harms current drug criminalisation policies do, I shall examine if such harm provides a valid rationale for criminalisation. The initial issue I propose to discuss is whether, it is time that our drug policy to be reformed. I will not attempt to weigh the consequences of drugs and their harm to users against the harm of drug laws. Rather, I shall only focus on identifying the harmful side effects of the current prohibition policy and showing why these harmful effects should not be

³ Ed Vulliamy, ‘Nixon’s War on drugs began 40 years ago and the battle is still raging,’ *The Guardian*, 24th July, 2011

⁴ D Husak and P de Marneffe, ‘An Argument for Drug Prohibition, in *The Legalization of Drugs: For and Against*, Cambridge University Press.’ (2005)

⁵ *Id* at 1

⁶ AP Simester and Andreas von Hirsch, ‘Crimes, harms and wrongs: on the principles of criminalisation,’ Hart publishing.’ (2011)

⁷ J. Kaplan, ‘*The hardest drug: Heroin and Public Policy*’, University of Chicago Press.’ New edition (1 Dec. 1985)

⁸ Ashitha Nagesh, ‘have we got it all wrong on drugs? This leading narcotics expert certainly thinks so,’ *Metro*.’ 31st December, 2015

<https://metro.co.uk/2015/12/31/have-we-got-it-all-wrong-on-drugs-this-leading-narcotics-expert-certainly-thinks-so-5578123/?ito=cshare>

ignored. Whether or not the drug problem has a solution, more and more ordinary people, policymakers, doctors, and economists all over the world are now getting convinced that controlled legalization of drugs is considered as an alternative to current prohibition policies.

II. PRINCIPLES AND IDEAS BEHIND DRUG CRIMINALISATION

Any good reason to criminalise a kind of behaviour requires or invokes a theory of criminalisation. In this section, I will try to analyse whether drug use causes adequate harm to others or poses a risk of harm to others substantial enough to support the current prohibition policies. The opinions put forward to defend the criminalisation of drugs are usually on moral grounds, harm to self, and harm to others. One of the tremendously influential political principles to come out of the 19th century which has directed and guided classical liberal thought till now is J.S Mill's harm principle. The question he is grappling with is 'when can government legitimately restrict your freedom by imposing and enforcing the laws?' For Mill, the very simple principle which should guide and direct this is: harm principle.

*"The only purpose for which power can be rightfully exercised over any member of a civilised community against his will is to prevent harm to others. His own good, either physical or moral, is not a sufficient warrant. He cannot rightfully be compelled to do or forbear because in the opinion of others to do so would be wise or even right."*⁹

If your action harms somebody else then the government can legitimately step in. The classic example of this is drinking and driving. If one wants to drink himself to death, that is his call but the moment he gets behind the wheels of a car that is when the laws kick in because this increases the likelihood of an accident. As the old saying goes, 'your freedom to swing your fist ends where my nose begins.' Husak refers to this as the 'inchoate principle.'¹⁰ According to him, conduct should not be criminalised on the ground that it increased the likelihood of harm unless conduct directly or deliberately causes harm. But unfortunately, it is not entirely instantiated in practice. The difficulty arises when we apply the harm principle to the current laws prohibiting drug use. Someone who is smoking or growing Marijuana in his own garden does not pose a risk or direct harm to others. As a rational competent adult, he should be allowed to make that decision, not allowing him to do so and labelling him as a criminal is what I think is morally wrong. One of the few exclusions which are often given to justify the current drug prohibition law is the health and wellbeing of a pregnant lady. It seems to me that instead of giving such justification a more appropriate and better way to approach this issue is

⁹ J.S. Mill, 'On Liberty' in J. Gray (ed.) 'On Liberty and Other Essays, Oxford.' OUP (1991).

¹⁰ Husak, 'D. Drugs and Rights (Cambridge Studies in Philosophy and Public Policy). Cambridge, Cambridge University Press.' (1992)

to give a specific law that is oriented towards pregnant women using drugs than criminalizing the use in general. We need to know what counters a good reason to punish someone for the things they do. Unless we have a reason, we cannot decide whether we have a good reason to punish drug users.

The other principle Husak put forward is the ‘triviality principle.’ He argues that one can be punished only when he increases the likelihood of substantial harm. What I think that with substantial harm he is pointing at the magnitude of harm to criminalize the conduct. It is true that each drug user poses a small amount of risk to others but if we take them as a whole, it does amount to substantial harm. But I doubt I can challenge this principle. In the following section of the essay, I will be discussing the societal harm which the current prohibition law causes. That end harm is undoubtedly more substantial than the little harm which an individual drug user possesses.

The other two principles which Husak proposes are the ‘remoteness principle’ and the ‘empirical principle.’ The concern here is that to criminalise any behaviour or conduct there should be sufficient proximity between harm and conduct. He argues that the use of the drug is quite distant in the causal chain which connects the cause to the harm, therefore it makes it difficult to criminalise the use of drugs. He further argues that no matter how close the conduct is to the harm in the causal chain, there has to be a strong causal connection between the two. The opposition of these principles argues that using drugs is the cause of much harm. They further argue that criminality and substance abuse have a strong connection. For example, taking drugs might make an individual an addict, which in turn makes him irresponsible towards his job and family. And eventually, he might end up losing his job. The addiction will push him to do activities such as robberies and prostitution to earn enough money to purchase drugs. However, research does suggest that majority of drug users will not commit crimes if the supply is not restricted by the government. At face value, looking at the demand and supply ratio, which I will be discussed below, it seems reasonable for me to argue that a decrease in supply will not decrease the demand for drugs but rather make drugs more expensive. So, the small number of users who do commit such crimes is because they are exploited by drug dealers who make a profit by selling expensive illegal drugs.

III. SO WHAT IS THE REAL POINT OF DRUG PROHIBITION?

The main argument which Husak makes for not criminalising drugs is there is no reason good enough to criminalise these drugs whereas there are better reasons to support drug decriminalisation. Further, there may be some deep principles that drug criminalisation

violates. Most drugs have legitimate use like morphine and cocaine. These drugs are not actually illegal for all purposes. A person can use these drugs with a prescription. So the purpose for which a person is not allowed to use morphine is if he wants to produce a state of intoxication or get 'drug high.' So, these drug prohibitions violate fundamental principles such as freedom and personal right. For further example, we shall look at one of the current drug prohibition laws. As per the law in California on Nitrous Oxide¹¹ (commonly known as laughing gas), it is crime for any person to possess Nitrous Oxide with intent to breathe or inhale to cause a condition of intoxication, elation, euphoria, dizziness, or dulling of senses or for purpose changing mental process in any manner. So, the point of the statute is to prevent people from possessing something that they might use to change their mental process. It's a plausible thing to believe that one got right to whatever mental process he musters up and the idea that it should be a crime to change mental process sounds to me like an idea that would violate the principle of freedom of thought, which is very basic fundamental rights.

I think we have to understand why drug prohibition was designed in the first place. They are designed to prevent people from creating some kind of risk of harm. But when they snort some crack in their room like a lazy person they are not harming anyone. Empirical data suggest that 96 million Americans have used illicit drugs at some point in their lives, which is 45% of the population of 15 and older. Very few of these users produce any harm. As Husk suggests, longitudinal studies should be done to track people before they start using the drug while using drugs and after they stop because the number of users who create harm for others is very small. So if we divide the entire population into two parts- those who have used and those who have not, we can't find any great difference between them which justifies treating 46% of them as criminals and the other 54% as non-criminals. So, there is a need for a theory or a study to justify the criminalisation of such offenses because they clearly lack principle rationale and the use of drugs very rarely results in significant harm.

Observing through the harm principles, the state just can't make policy based on something which the state thinks is bad for people to have unearned pleasure. It must make policy based on something that hurts others. And that is where harm reduction comes from. The basic idea of harm reduction is what policy will most reduce the harm related to drugs. And once the state starts to focus on harm, it must look not only at harm associated with drugs but harm associate with drug policy. Drug prohibition has not produced the results that people would like, which I will be discussing below. It doesn't solve society's productivity by keeping people from

¹¹ California Penal Code section 381b

taking substances that will make them unproductive.

IV. LAW, RACE, AND DRUGS

For decades the Government and drug enforcement agencies have focussed on the use of criminal laws to deter drug use, in spite there is systematic evidence that clearly shows that such an approach does not work. Moreover, there is no rational basis for the laws we currently have. Whereas the historical perspective casts a new light that today's drug policy might rationally be based on racism and moralizing. The reason that the currently illegal drugs are illegal has nothing to do with scientific evaluation of relative harm, risk, and benefits, otherwise, we could never come up with a situation where Marijuana is illegal, and Tobacco is legal. For some argue that drug laws were made in clearly racist circumstances for explicitly racist reasons. For example-anti-cocaine laws were made because cocaine supposedly made black men impervious to bullets and prone to getting involved with white women. ¹²“The belief emerged that particular drugs corrupted the moral fiber of decent white society, whilst amplifying the racial other's supposed innate propensity to violence, laziness, and lustfulness.”¹³

If addiction is defined as compulsive behaviour despite negative consequences and the state is trying to use negative consequences to order it without appreciating the harm caused, something has to be wrong with that approach. The law enforcement officials are less ready to acknowledge the reality that punishment does not fix addiction and that putting drug users in cages does nothing but worsen the problem and it does not deter the young crowd. This idea of stigmatising, labelling it, and making everyone hate drug users just so that our children do not use drug justifies the current law as one great child protection act. What I tend to believe is the way to get beyond and help people with addiction is to understand that people with addiction are not seeking extra pleasure, they are not being dishonest. Until we recognise that there are many people are using drugs to deal with the emotional, psychological, and economic problem, we are not going to solve this drug problem. One of the things that I think we are actually in denial about is that we can solve the whole drug-related problems and crimes by taking away the supply and putting everyone in jail. This idea just doesn't fit here. The primary objective of the law enforcement agencies should be to reduce the demand for drugs and reduce the criminal behaviour of the addicts by improving their lives.

¹² Edward Huntington Williams and M.D, ‘*Negro Cocaine Fiends Are the New Southern Menace*, New York Times.’ 8th February, (1914).

¹³ Kojo Karam, ‘*are Britain and American's Drug laws racist?* Media Diversified.’ 24th July, (2015)
<https://mediadiversified.org/2015/07/24/racist-drug-law/>

V. WAR ON DRUGS- WHO IS WINNING?

Prohibition may prevent a certain amount of people from taking drugs but this process, it causes huge damage to society as a whole. Many of the problems which we associate with drugs use are actually caused by the war against drug. Prohibition makes drugs stronger and the more profit the supplier is making through selling illicit drugs in the black market without paying tax. It was the same during alcohol prohibition which leads to increased consumption of strong liquor over beer. The offense of manufacture, supply, and possession with the intent to supply drugs does more harm all over the world which I will be measuring below in terms of increase in drug crime, violence, prison population, expensive resources, and amount of money spent. The Criminal justice system is undergoing changes just to eradicate the drug problem. But prohibition is not the ultimate form of regulation. It represents the abdication of regulation, with drug criminals filling the void. The harmful side-effects of drug laws have long been noted by several commentators, although among the general public the facts are not as well-known as they should be.

(A) The war that focuses on reducing the supply tends to enhance the operations of suppliers:

For decades, drugs and related crime has been at the forefront of many state's agenda. The main approach is to eliminate the supply and punishing those dealing with drugs while ignoring the most fundamental of market forces, supply, and demand. Just like any market, if we try to limit the supply through prohibition it will create a shortage and will raise the price of drugs in the black market. Efforts to prosecute traffickers to control the supply raise the street price of drugs. As drugs are addictive, the illegal black market does not price sensitive. So even if get expensive, drugs will be consumed no matter what they cost. If the government tries to reduce the supply with prohibition policies without reducing the demand, it encourages and enriches the production of more drugs and recruitment of more traffickers which increases availability. "This is known as balloon effect: effect if drug production or a major supply route is destroyed, the supply for the end-user is not reduced."¹⁴ A perfect e.g., of this is 'crystal meth'. The US government tried to stop its production by strictly regulating the sale of chemicals used to manufacture meth. The unintended consequences were that thousands of small-scale operations started all over the country, using chemicals that weren't regulated. In response to this, some

¹⁴ 'The balloon effect, new trafficking routes keep popping, UNRIC News centre.' 13th May 2014
[uphttps://www.unric.org/en/latest-un-buzz/29203-the-balloon-effect-new-trafficking-routes-keep-popping-up](https://www.unric.org/en/latest-un-buzz/29203-the-balloon-effect-new-trafficking-routes-keep-popping-up)

US states tried to reduce the supply of homegrown meth by regulating even more chemicals. This reduced small-scale meth production drastically. But the supply still stayed the same. Mexican drug cartels immediately took over and opened big production operations.¹⁵ So all these efforts made meth production more professional, drugs more potent while supply wasn't reduced at all. This tells us that the more state tries to impose legal control to control the supply, the more harm it will do.

According to the UNODC report on the *Global overview of drug demand and supply*, billions of people used drugs globally at least once in 2015. Even more worrying is the fact that 29.5 million of those suffer from serious health consequences whereas the treatment of these disorders is limited. "The magnitude of the harm caused by drug use is underlined by the estimated 28 million years of "healthy" life lost worldwide in 2015 because of premature death and disability caused by drug use."¹⁶The logical conclusion of the report is not that controlling the supply to stop drug trafficking does not work rather this war on drugs can be won effectively if fought on the demand side and not just on the supply side. Current law tends to increase illegal sales and strengthen the black market with impure substances. Hence rather than pursuing tougher raids and arresting traffickers, the core focus of the war should be to reduce the demand by spending more on educating young people about the evils of drugs, treatment, and rehabilitation for people addicted and dependent on any drug.

(B) 'war on people' and not 'war on drugs':

The Universal Declaration of Human Rights emphasizes that:

"Everyone is entitled to all the rights and freedoms outlined in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinions, national or social origin, property, birth or other status."

Justice is supposed to be blind and should treat all equally. The drug is supposed to be dangerous to all humans and therefore the law should prohibit the supply, manufacture, and use of drugs to ensure a safe society. Yet drug laws are the major driver of racism and ethnic inequality in criminal justice. The recent report based on analysis of official statistics demonstrates that enforcement of drug laws in "England and Wales is excessively focused on black and minority communities."¹⁷ This report carefully analyses the official statistics of stop

¹⁵ Jon Kamp, 'Methamphetamine Is Flooding Into U.S., Drug Officials Say, The wall Street Journal.' 17th March, 2019

<https://www.wsj.com/articles/methamphetamine-is-flooding-into-u-s-drug-officials-say-11552831201>

¹⁶ 'Global Overview of Drug Demand and Supply Latest trends, cross-cutting issues, UNODC World Drug Report.' (2018)

¹⁷ Niamh Eastwood, Michael Shiner and Daniel Bear, 'The Numbers in Black And White: Ethnic Disparities In

and search, arrest, prosecution, and sentencing which are blunt and clear that the drug prohibition laws in the UK drive the disproportionality and racism in the justice system. Black and Asian people are more likely to be subjected to a court proceeding for drug possession offenses compared to whites. The situation is fairly similar in the US, “black men have been admitted to prison on drugs charges at rate up to 50 times that of white men for the same amount of drug in possession.”¹⁸

The report demonstrates that black people are supposed to be stopped and searched for drugs at a higher rate than white people and are even subjected to charge at higher rates for possession offences. These reports break the assumption that the law prohibiting drugs are applied equally and are neutral. Based on the statistics shown in reports, “The policing and prosecution of drug offences are not being equally applied to all those who use drugs. Instead, certain groups are the focus of the enforcement.”¹⁹ After carefully analysing the data and numbers given in the report, I am forced to believe that the war on drugs has always meant to be a war on people of colour and the poor. For the too long government has applied the law in a discriminatory manner which is consistent with the above discussed original purposes of these anti-drug laws. This disproportionate application of the law adds to the already discussed strong reasons existing today to call for review and reform in the current law enforcement approach. This existing evidence shows that the current law which deters the drug use is not working and it further undermines the legitimacy and efficiency of drug enforcement agencies and continues to put black men in jail for the drug-related offence on both sides of the Atlantic.

(C) Drugs and Crime

The prohibition also leads to more violence and murder around the world. When we link drugs and crime, we tend to think about the criminal dependency on drugs before committing the crimes. However, drugs and crimes are connected in several other ways as well. Ethan Nadelman writes about the connection between drugs and crime and the role of current prohibition policy in causing drug-related crimes.²⁰ He draws few possible connections between the two. A large number of drug users engage in several crimes like robbery, shoplifting, and prostitution. Perhaps the main factor that leads addicts into lives of crime is to earn enough so that they can afford drugs that are way more expensive than alcohol and tobacco

The Policing And Prosecution Of Drug Offences In England And Wales, LSE Consulting.’ (2013)

¹⁸ Michelle Alexander; *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*, (The New Press; Reprint edition 2012) p.7

¹⁹ *Id* at 10

²⁰ EA Nadelmann, ‘*Drug Prohibition in the United States: Costs, Consequences, and Alternatives*, 5 *Notre Dame Journal of Law, Ethics and Public Policy*.’ 783 (1991)

just because they are banned and illegal. “Illegalisation makes the price of drugs rise.”²¹ The dealers exploit the users to make a profit by selling expensive drugs and also induces users to engage in illegal conduct.

The connection which infects the popular notion of the drug problem is the violent, intimidating behaviour of drug traffickers. E.g., in Colombia, the cocaine trade fuelled the growth of criminal cartels that have eventually lead to an increase in levels of violence. The illegal market is not only the source of illegal drugs but the source of conflict as well. The rise of gangs and cartel generate violence in that region. The rivalries between traffickers and gangs, fuel tension and dramatically increase the murder rate in that area. The action to combat these crimes related to drugs is limited. There are no legal means of altering the monopoly of dealers and traffickers in the market and prevent the ongoing rivalry between different gangs. Gangs and cartels have no access to the justice system to settle the dispute, so they use violence. This led to an ever-increasing spiral of brutality. All of this while we waste a huge amount of money each year only to create and fuel powerful cartels whereas the goal of the war seems less achievable than ever. These reasons give rise to the need of decriminalising few illicit drugs and regulate such a market so that the addicts are not exploited, and innocents are not killed in the ceasefire.

(D) Great cost on the public purse

The side effect of drug prohibition is not limited to users. The most obvious cost of drug laws is the large sum of money spent by the state with very little impact on reducing the supply and demand. “It is estimated that illicit drug use costs the UK economy between £15.3 billion (bn) to £16.1bn per year (with costs incurred by the NHS, criminal justice system and benefits system in the region of £4bn to £7bn)”²² over the past four decades, US government have spent over \$1 trillion on the drug war. The greatest beneficiaries of the drug laws are the drug dealers and traffickers. The government relies on taxpayers to foot the bill whereas the illicit drug traffic is an important source of income and employment “bringing billions of dollars in hard currency each year and providing liveable wages for many hundreds of thousands.”²³ However, there is little evidence from the UK or any other country, to prove that the money spent, and the current drug policy has made any sustainable impact. Whereas these resources can be spent on helping people with addiction and other productive activities. A large amount is spent to

²¹ Morgan Cloud, Cocaine, Demand, and Addiction; “*A Study of the Possible Convergence of Rational Theory and National Policy*”, 42 VAND. L. REV. 725, 757 (1989).

²²Richard Fordham, Lisa Jones, Harry Sumnall, Jim McVeigh and Mark Belli, ‘*The economics of preventing drug use: An introduction to the issues*, National Collaborating Centre for Drug Prevention.’ (2007) http://druglibrary.wordpress.stir.ac.uk/files/2017/07/economics_mar07.pdf

²³ *Id* at 17

arrest, punishing, building, and maintaining enough prisons to house the growing number of arrests instead that money can be spent in opening more rehab centres to encourage addicts to seek admission. If the illicit drugs are legalised and regulated, the state can collect billions in tax revenue, from the drug traffickers from their drug business.

(E) Violation of privacy and moral rights

*“All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.”*²⁴The current drug prohibition law has its immoralities. The policymakers, commentators, and theorists have always neglected the moral rights of those individuals who use drugs for recreational purposes. The law does not distinguish between private and public acts, the prohibition is general where the individual is not allowed to use drugs in the personal sphere.

Consumers who suffer from blood-borne infections such as HIV and hepatitis B and C do not report it due to stigma, social exclusion, and “because of fears of reprisal and other harmful consequences, and investigations by the government into violations of rights against people who use drugs remain rare.”²⁵ I do believe that people should have the right to use drugs for recreational purposes without being labelled as criminals as this does not causes harm or hurt others. Whereas, stigmatizing and labelling, keeping them away from effective treatments and healthcare does cause greater harm.

In addition to the direct health effect, the current law also impacts our right to privacy. The state agencies depend on electronic surveillance to collect personal information about the suspects. This raises all kinds of statutory and privacy questions. Since the last decade, it has become convenient and normal for our civil liberties and rights to be eroded in the name of anti-drug laws. The enforcement of drug control legislation and prohibition policies have expanded the power of police like blocking the roads to check the cars, wiretapping, and undercover operations. This undermines the right of privacy to which we all are morally and constitutionally entitled. Drug prohibition law is not only a failed law to control the supply of drugs, but it also prosecutes and imprisons people for what they do in their private lives within their personal space. This not only violates the basic right of privacy but also of personal autonomy.

²⁴ Article 1 of the Universal Declaration of Human Rights, 1948

²⁵ Ralf Jürgens, Joanne Csete, Joseph J Amon, Stefan Baral, Chris Beyrer, ‘*HIV in people who use drugs: People who use drugs, HIV, and human rights*’ Vol 376 August 7, 2010

VI. CONCLUSION

A world without drugs: how will this happen?

The most familiar reason given to oppose decriminalisation is if we stopped criminalisation there will be an unacceptable increase in the amount of drug use. Prediction as an argument is pretty suspicious, both empirically and more importantly normatively. It is really hard to have any confidence in any of those projections. The point which Husak makes is the more normative point: if we did get an increasing number in drug use this should not be a good reason to continue with the current status quo. Often we hear that with the prohibition, the state tends to discourage drug use. But how much state actually do that? As seen above, markets in Marijuana, cocaine, Meth are global commodities markets, just like global markets in alcohol, tobacco, coffee, and sugar. Where there is demand, there will be supply. Which is why putting prohibition laws to control a dynamic global commodities market is receipt for disaster. The state needs to bring the underground drug markets as much as possible above ground and regulate them as intelligently as they can. The essay is not to say that drug policy is completely unreasonable and irrelevant. But the law enforcement agencies have to acknowledge that 'zero drugs' is not attainable. Measuring drug-related harms, the government needs to know how much it is possible to reduce various harm rather than just chasing a chimera. Some libertarians argue the removal of all criminal sanctions and just restrict the sale to children. The other alternative approach is more varied. Relatively safer drugs should be legalised. Whereas others approach this from medical oversight view similar to a methadone maintenance program. There are many other alternative steps that the state can take to discourage people instead of putting them behind the bars.

In 1980, Switzerland experienced a health crisis related to heroin use. HIV rates skyrocketed and street crime became a problem. Authorities tried a new strategy: harm reduction. They opened free Heroin Maintenance Centres where addicts would be treated and stabilized. They were given free heroin of high qualities, clean needles, and access to safe injection rooms, showers, beds, and medical supervision. The result was a sharp drop in drug-related crime. Today 70% of addicts are treated, HIV infections have dropped drastically, death from drug overdose dropped by 50% and drug-related street sex work and crime have been reduced enormously. Similarly, in Portugal nobody goes to jail for possessing drugs and government has made a serious commitment to treating addiction as a health issue. People who are addicted to drugs can get pharmaceutical heroin and helping services. 15 years ago, they decriminalised drugs for economic reasons because their prisons were filling up and they wanted new

strategies. In those 15 years, illegal abuse, overdose, crime, and arrest all went down. Whereas in Britain over the same 15 years, there was an increase in death by heroine because the policy is just to punish and not treat. So there are methods that are not only way cheaper but actually work, instead of creating more problems.

What we see here is that drug prohibition led to a system that bulldozes human rights, costs a vast sum of money, and creates human misery all over the world. All in pursuit of an unattainable goal. After 40 years of fighting, I think it's time to finally end the war, avoid making predictions, and move on to something better. I am not proposing that all drugs should be decriminalised as legalisation is a risky policy but looking at the societal harm we have good reasons to agree that drug criminalisation does more harm than good. As current laws are showing very little progress, legally regulating and taxing most of the drugs would radically reduce the crime, violence, corruption, black market, problems of adulterated and unregulated drugs, improve public safety, and allow tax resources to be used for other useful purposes. The challenge we face today is twofold: first, the policy challenge of designing and implementing alternatives to ineffective prohibitionist policies, and second, it's about us. The power to reform is not out there but within everyone. And unless we are willing to take the risk of legalising and reforming to be a better us, there is a very good chance that we might never solve these drug problems.
