

## **Drugs: has prohibition had its day?**

Most drugs harm their users. Some harm the wider community via antisocial behaviour. These are the reasons given by virtually every nation, led by the west, for outlawing recreational use of many substances. (The two leisure drugs most countries do permit are alcohol, a common driver of violent or criminally negligent acts, and tobacco, a proven killer. Their use was so widespread when controls began that their prohibition would have been socially dangerous, as in America in the twenties, but that hardly lessens the irony.)

But does prohibition reduce use, hence adverse consequences, of the drugs it proscribes? And if it does, is the price too high?

Drugs are an emotive issue. On the first question – regardless of its social costs, does prohibition work? – feelings run high and the facts are inconclusive. Neither side has been able to settle the matter one way or the other, or even show clear balance of probability. It is simplistic to cite a year on year rise in use of cannabis, heroin and amphetamines as proof that prohibition raises (forbidden fruit?) rather than lowers consumption. Such logic is faulty since correlation and causation aren't the same but we *can* validly say that the results of almost a century of prohibition are less than impressive.

Even in this mild form the statement should give democratic societies, one of whose cherished axioms is that adults are free to do as they please so long as they do not harm others, food for thought. With so basic a tenet violated by prohibition, shouldn't it fall on its advocates to show proof of efficacy?

If the benefits of prohibition are in doubt, the same does not apply to the costs. These include:

- failure to distinguish moderate from heavy use
- confusion of effects intrinsic to a drug with those arising from its prohibition
- fuelling of drug motivated crime
- fuelling of organised crime and terrorism

### **Failure to distinguish moderate from heavy use**

Strictly speaking this is not an effect of prohibition but of its attendant messages. Sixties and seventies media depictions of cannabis and LSD use, lurid to the point of self caricature, were met with equally extravagant counter claims: "if everyone *turned on* wars would cease and a more caring world arise". In the ensuing polarisation, with drugs but one aspect of the gulf between old and young, distinctions between moderate and heavy use were lost. People *turned on* as frequently as supply permitted, or else feared and despised all and any illegal drug use.

That was the west. Asia was different. In India, before things got stricter under western pressure, priest and policeman alike would unwind over a pipe or two of *charas*. Equally though – and the hippies trekking east were embarrassingly blind to this social nicety – heavy use was viewed with the same disdain western society reserves for heavy use of alcohol.

The "war on drugs" erodes, as wars will, the middle ground.

### **Prohibition confuses effects intrinsic to a drug with those arising from illegality**

Tobacco causes all kinds of nastiness that have nothing to do with the drug being legal. Amphetamines cause all kinds of nastiness that have nothing to do with the drug being *illegal*. With each, the effects include health risks to users *and*, through passive smoking and speed paranoid, non users. All flow directly from properties of the drugs as normally consumed. So far so simple.

But when prohibition raises the street price of heroin from the few pence per grain we might expect given the prolific and easily refinable nature of the opium poppy, to levels that ensure its users will have costly habits to satisfy, how do we attribute the inevitable consequences? (High street prices have long been seen by drug enforcement agencies as a key success indicator.) Part

of the problem lies in the fact heroin, like alcohol, can create dependent cells in the body to leave the user *needing* as much as wanting the drug. But a bigger part, as demand for drugs not physically addictive shows, lies in artificially high costs that ensure equally high levels of petty crime.

### Prohibition fuels drug motivated crime

There are *drug induced* crimes, committed under the influence. Usually the culprit is alcohol, from which we might conclude that: (a) alcohol is the most antisocial of drugs; (b) prohibition works; (c) most people prefer alcohol to other drugs with antisocial potential. We can rule out (a) since amphetamines and barbiturates have even greater nuisance value, while (b) and (c) only take us in a circle. We just don't know whether prohibition works.

Then there are *drug motivated* crimes to finance use of a drug, or sustain a lifestyle in which drug use is pivotal. I attribute drug motivated crime in part to addiction but in greater part, via high prices, to prohibition. The ability of drugs just as cheap to produce as heroin, but not addictive, to fetch high prices suggests the *need + high price = crime* equation still holds with 'need' replaced by 'desire'. Adjusted further to take account of abnormal market forces, it becomes:

$$\textit{desire} + \textit{artificially high price} = \textit{avoidable crime}.$$

### Prohibition fuels organised crime and terrorism

Fifteen years ago one of the calmer British newspapers, *The Independent* (February 22, 1999), claimed the drugs trade to be surpassed in value by the GDP of only two nations:

Country	GDP (\$billion)
USA	8,108
Japan	3,973
Illegal Drugs Trade	3,250
Germany	2,100
France	1,360
UK	1,300

A documentary on British television in January 2005 said the trade of only two commodities, oil and arms, has a higher value. Margins of error in quantifying illegal activities are necessarily wide, but no one doubts this is a multi billion dollar industry. One where:

- no taxes are paid
- other than competition - in a market distorted by illegality - no mechanisms exist for ensuring product quality or safety
- ditto for regulating labour conditions

An industry, moreover, which:

- Drives internecine violence, money laundering and corruption. On that last, we needn't be dyed-in-the-wool conspiracy theorists to see it makes sense for the big players to pay handsomely to keep prohibition in place. We cannot even be sure, therefore, that when politicians defend it they do so in good faith.
- Attracts organised crime. The profits are so huge as to force, rather than merely attract, the entry of mafia entities. Those eschewing so lucrative a trade must lose ground to less fastidious rivals (this was an important sub plot in *The Godfather*).
- Provides terrorism with levels of funding not easily secured any other way.

### Principled Conclusions

There are no easy answers on drugs and it would be a mark of progress if we stopped pretending otherwise. The good news is that debate is happening, and not just in liberal circles. Some high ranking police officers, noting the drain on resources, have joined the critics of prohibition. The

bad news is the reluctance of each side to concede an inch. A further product of that erosion of the middle ground is the illusion of pain-free options. Will retaining prohibition have negative consequences? Yes. Will ending it have negative consequences? Yes. It takes greater courage, perhaps, than our leaders possess to admit the inevitability of casualties. Defenders of prohibition play to the gallery of a press whose influence far outstrips its accountability, while opponents feel obliged to imply that its ending will bring nothing but good.

Should we end prohibition? Partially or all the way? With neither side able to prove whether it raises or lowers the negative consequences of drug taking, I see two arguments, already stated, for ending it. The first is the principled one that since prohibition violates individual freedoms the onus is on its defenders to show that it works: something they have not been able to do. But the second, pragmatic argument is the more compelling. The trail from prohibition to organised crime and terrorism now outweighs every other factor and would do so even if prohibition could be shown to work. No stronger case can be made for ending it than that to do so would remove a central prop of mafia and terrorism.

And the counter arguments? The best are not negligible. There will be those who read the ending of prohibition as a signal that drugs are safe. All that can be done should be done to counter that perception but it will be difficult to eliminate. Will those seeing a green light outnumber those who lose interest in fruits no longer forbidden? The question, alas, is one more way of asking if prohibition works.

A more specious version of the “wrong-message” argument invokes our litigious culture. Jack Straw, while at the Home Office, used it against decriminalising cannabis. What if, he asked, we subsequently discovered new links to nasty ailments? Wouldn't government be open to actions from sufferers who'd taken legalisation as a guarantee the drug was safe? As example of practical challenges posed by ending prohibition, this has to be taken seriously. As principled argument against legalisation it is lightweight and risible.

An even flimsier argument, advanced in the documentary cited earlier, is that the costs of quality control, post legalisation, might permit a thriving market for cheaper, unregulated alternatives. Lets assume (generously!) that such controls would double production costs. These would be passed on at the drug store in the form of stinging tax duties. Might that create a black market in unregulated versions? Only if the differentials, less costs of evading the law, were sufficient to attract organised crime. That seems unlikely, whereas current margins are vast. Moreover, this argument fails to cite evidence of large scale, unlicensed production of alcohol and tobacco.

Perhaps the most compelling argument for prohibition concerns drugs like amphetamines that drive antisocial behaviour. This is not to say one way or the other whether illegality reduces the threat. Just that, like it or not, tacking to the winds of opposition and uncertainty is unavoidable. Lifting bans on antisocial drugs just might be a net benefit but it will be hard enough legalising those whose bad effects are confined to users. On practical rather than principled grounds, then, benefit of doubt may be given to prohibition on antisocial drugs. This need not be forever. Even partial ending of prohibition, not excluding heroin, will yield new data on whether or not it ever worked. Meanwhile, many lucrative channels to mafia and terrorism would be cut at a stroke.

### **Practical Conclusions**

Ending prohibition would pose practical challenges beyond the scope of this piece. The first and most formidable is how to ensure responsible use? In the UK it took thirty years for people to get the message that drink driving is not only a crime but a very serious one. With prohibition gone, a range of activities where inattentiveness, over-excitement or exotic perceptions of reality endanger others would have to be regulated. Unlike drink drivers of the sixties, users of currently outlawed drugs would be accustomed to breaking the law. We should therefore expect acceptance of responsibility to be even slower than with drink drivers. And as with drink drivers, there be those who never will care that their drug use puts others at risk.

Second, governments will impose high levels of taxation because they'll be able to do so yet still see prices falling. It will be easy, moreover, to justify the same on grounds of deterrence, as with alcohol and tobacco at present, without the downsides of prohibition. This is fine to a point but over-taxing a product, when close neighbours are not doing the same, guarantees a black market. That leads to the more pressing concern that effective national responses to the drugs trade are impossible given its global level of operation. Ending prohibition would have to be multi nation undertaking with all the world's leading economies on board. The likelihood of that is remote, a state of affairs highly satisfactory to those who benefit, through personal enrichment or armed fanaticism, from the status quo.