

Should recreational drug use be criminalised? (part 2)

Professor David Clark continues to look at the arguments of the philosopher Douglas Husak about drug laws in the US, this time focusing on the negative effects of prohibition.

Douglas Husak argues that the injustice of criminalisation provides a strong reason to abandon punitive drug policies. He also argues that prohibition has caused a great deal of harm because it is counterproductive. He describes a number of bad consequences that are caused as a result of insisting that illicit drug users be punished.

Husak views racial bias as perhaps the most scandalous aspect of the punitive drug policy of the US. Even though white drug users outnumber blacks by a five to one margin, blacks comprise 62.7 per cent and whites 36.7 per cent of all drug offenders in state prisons. In Illinois, the state with the highest rate of black male drug offenders behind bars, a black man is 57 times more likely to be sent to prison on drug charges than a white man.

The disparity in punishment for possession of powder and crack cocaine is further evidence of racism in US drug policy. Whilst a first time offender convicted of possessing more than five grams of crack receives a mandatory sentence of five years imprisonment, 500 grams of powder cocaine are needed before offenders receive a comparable sentence. About 90 per cent of federal crack offenders are black, whilst almost 50 per cent of powder cocaine defendants are white.

Prohibitionists claim that prohibition is justified to protect health. The National Institute on Drug Abuse (NIDA) lists 25,000 fatalities per year from illicit drugs in the US. However, Husak argues that a majority of these deaths are more properly attributed to drug prohibition than to drug use.

Some 14,300 fatalities are due to hepatitis and AIDS, diseases caused (mostly) by shared dirty needles. Needle exchange schemes could have prevented many of these deaths – and have been very successful in other

countries – but the possession, distribution, and sale of syringes remain criminal offences in much of the US. The federal government continues to prohibit the allocation of its funds for needle exchange programs.

There is vast historical evidence that demonstrates the pernicious role drugs have played in international affairs.

In 1999, Congress passed the Western Hemisphere Drug Elimination Act in 1999, which authorised over



\$246 million for crop eradication programs. Husak argues that ‘these programs have exacerbated human rights violations, strengthened undemocratic governments, and have helped to forge alliances between guerrillas and peasant growers.’ Eradication programs in Columbia have led to the clearing of over 1.75 million acres of Amazon rain forest and some environmentalists predict that within 50 years poor agricultural soils in Columbia may not be able to support the population. At the same time, aerial

spraying of pesticides has destroyed legal subsistence crops and produced various health problems. Eradication programs have not reduced supplies to the US – crops are more likely to be moved elsewhere than eliminated.

It is argued by prohibitionists that drug users are more likely to commit crimes than those who do not use drugs. However, crime may actually be increased by prohibition. This is obvious in the case of systemic crime,

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with violence being more prevalent in illicit than in licit drug markets. Some people argue that more economic crimes are committed in a society with black market drugs than would be the case if drugs were decriminalised.

Although it is commonly assumed that communities become safer when criminals are sent to jail, this conventional wisdom has been challenged. Offenders become more deeply immersed in criminal subcultures and learn more sophisticated skills for committing crimes when in prison. And

they eventually return to the neighbourhoods from which they came. Moreover, men who have been to prison are less likely to marry, get good jobs, or to develop productive relationships with family members once they are back on the streets – all of these increase their propensity to commit crime.

Husak believes that ‘truth is among the casualties of our misguided drug policy’. Lies and hypocrisy prevail. ‘The demonisation of illicit drugs is so pervasive that frank and honest discussion is almost impossible’, and people are afraid of the repercussions if changes are made. Children are sceptical of what they are told about drugs, whilst educators may be sceptical about certain programs – and have proof backing this scepticism – but are scared to speak out because they may be called soft on drugs.

Prohibition has eroded civil liberties in which Americans take pride. Asset forfeiture has been a favourite strategy in the drug war. Assets may be seized if it is thought they were obtained by money obtained from drugs. This might preclude someone being able to pay for their defence.

Schoolchildren wishing to take part in after-school activities (eg playing clarinet) may be drug-tested. Women convicted of a drug offence may lose their social security benefits for life.

Husak points out that prohibition and the huge amounts of money in the illicit drug trade create irresistible temptations for law-enforcement agents to place themselves above the law. Some studies claim to conservatively estimate that 30 per cent of the nation’s police officers have been unlawfully involved with illicit drugs. According to the Government Accounting Office, half of all the police officers in FBI-led corruption cases between 1993 and 1997 were convicted of drug-related offences.

The eighth and final counterproductive effect of prohibition put forward by Husak is that the US’s ‘punitive drug policies cost exorbitant amounts of money. The federal government now spends close to 20 billion dollars per year, and state and local governments at least that much again, on combating illegal drugs.’

A more detailed description of Husak’s arguments can be found in his book – an excellent read – or in the About Drugs section of www.substancemisuse.net.