

Effective Drug Control – Toward A New Legal Framework

State Regulation and Control of Psychoactive Substances as a Workable Alternative to the “War on Drugs”

PART II – International Drug Policy Trends: Lessons Learned from Abroad

Summary/Outline

The global scope drug prohibition is secured in international law through a number of United Nations’ conventions and “enforced” through the political process, with the United States playing a prominent role. This regime has inhibited innovation, but rising political pressure, brought on by the cost of unabated social and economic problems related to prohibited drugs, has inspired pragmatic policy shifts. A survey of recent international trends in drug policy yields the following general conclusions that may offer instructive guidance for improving drug policies in the United States:

The objective of the **strict prohibition model** of drug control is the reduction and eventual elimination of all drug use, which requires the primacy of the criminal justice system to enforce laws that require total abstinence. Prominent features of this model include:

- **“Source control”** of drug production in countries such as Colombia and Afghanistan, a tactic that has not only completely failed to limit adequate supply of cocaine and heroin to meet U.S. and world demand (Afghanistan now supplies 87% of the world’s heroin), but has also destabilized foreign governments, poisoned the subsistence crops of peasant farmers and stimulated innovation by the criminal enterprises, such as the production of a new, smokable form of heroin coming from Colombia and the development of a potent, resilient “super coca” plant;
- **Death penalties** and **death squads**, particularly in East Asia, where executions, some with due process and some without, have failed to stem the growing use of and addiction to hard drugs in China, Vietnam, the Philippines and Thailand, among other countries; and
- **Incarceration** of drug users as well as drug sellers, resulting in overcrowded prisons, which is happening in the United States to the greatest degree, with the highest number of its citizens behind bars than any other nation – without having achieved any meaningful reductions in drug use or drug-related crime.

Harm reduction is a pragmatic guiding principle for countries that have reformed their drug laws further than the United States. Harm reduction measures aim to reduce the harm from drug use rather than attempting to reduce drug use *per se*. The harm reduction concept has already been embraced in other policy domains, including mandated safety standards for motor vehicles, toys, sports equipment, food and pharmaceuticals, the distribution of condoms in schools, social welfare supports for the

homeless and the unemployed and the promotion of the “designated driver” in situations where alcohol consumption raises the risk of traffic-related injury or death. The harm reduction approach is non-judgmental and non-coercive, rendering services to assist drug users in reducing the attendant harm from drug use and often in reducing drug use itself.

It is important to understand that **harm reduction is not a new paradigm of drug control**, but only an innovative approach within the prohibition model. Therefore, harm reduction measures are employed to reduce the harmful effects of drug use but also have to be used to reduce the harshness of the punitive global drug prohibition regime. Harm reduction measures are unable to address the fundamental problem of the “black” market and the attendant ready access of illegal drugs to young people.

The most prominent examples of the harm reduction approach in drug policy include:

- **Diversion** of drug offenders into treatment, the first step in the shift toward a public health approach, is beginning to take hold in the United States, reducing recidivism and illegal drug use among participants. Such treatment programs are “abstinence-only,” however, unable to help reduce the harm to drug users who are unwilling to quit.
- **Decriminalization** of drug use is common in Europe, from Russia to Italy to Belgium to Portugal, where anyone caught with small amounts of illegal drugs are reported to local commissions to ensure that users seek treatment. Individuals with drug problems in Portugal have been voluntarily appearing at government offices and asking for treatment, no longer fearing criminal punishment by the state.
- **Depenalization** of certain drugs is a step further than decriminalization, particularly the Dutch policy of cannabis normalization, where the market for “hard” drugs has been separated from cannabis, for which there is an official “non-enforcement” policy. The rate of cannabis use in the Netherlands remains less than half of the U.S. rate and since the “hard” and “soft” drug markets were separated there has been no increase in the number of heroin addicts in the Netherlands, with youth initiation of the drug having been suppressed.
- Numerous countries, including Germany and Canada, have started to provide supervised locations for the **safe administration** of illegal drugs, a practice that has resulted in reductions in the transmission of disease, accidental deaths and public disorder. This approach is testing the limits of the strict prohibition regime and has come under sharp criticism, despite its effectiveness.

Medicalization of drug addiction is once again becoming a viable option in Europe, as Switzerland, Germany, the Netherlands and Britain, and recently Canada, have instituted heroin prescription programs in which hard-core drug addicts are brought indoors into medically-supervised facilities and stabilized with controlled doses that are free of charge. These programs have brought about very promising outcomes, including:

- reductions in overdose deaths;
- reductions in the transmission of disease;
- reductions in economic crimes related to addiction;
- reductions in levels of public disorder;
- reductions in the quantity of drugs used;
- elimination of drug habits altogether for 20% of participants;
- stabilization of the health of participants;
- increased employment rates of participants;
- law enforcement support; and
- a changed culture where addictive drugs like heroin lose their cachet and are considered more like medication for sick people, resulting in declining rates of first-time use of such drugs.

The heroin prescription programs in Europe and Canada are made possible only through specific, carefully circumscribed *exemptions* from the prohibition-based legal framework and not through any fundamental change of that framework.

Other policies in Europe have helped to reduce the harm associated with drug use, including alcohol, especially in connection with motor vehicle operation. Numerous countries maintain a zero-tolerance policy for driving with *any* amount of alcohol in the bloodstream and those countries are tough on impaired driving in general. For the protection of young people, most European countries have delayed the driving age to 18 or above, while setting the drinking age at 16 or even below (such as Denmark).

Despite having challenged the bounds of the strict prohibition model with seemingly “bold” policy developments on the international front, no nation has yet defied the global prohibition regime at its core by asserting regulatory control over the production and distribution of currently prohibited drugs as a means of eliminating the “black” market and its attendant social harms.