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# Drug Legalisation: An Evaluation of the Impacts on Global Society

## Position Statement

December 2011

### The flawed proposition of drug legalisation

Various well funded pressure groups have mounted campaigns to overturn the United Nations Conventions on drugs. These groups claim that society should accept the fact of drugs as a problem that will remain and, therefore, should be managed in a way that would enable millions of people to take advantage of an alleged 'legal right' to use drugs of their choice.

It is important to note that international law makes a distinction between "hard law" and "soft law." Hard law is legally binding upon the States. Soft law is not binding. UN Conventions, such as the Conventions on Drugs, are considered hard law and must be upheld by the countries that have ratified the UN Drug Conventions.

International narcotics legislation is mainly made up of the three UN Conventions from 1961 (Single Convention on Narcotic Drugs), 1971 (Convention on Psychotropic Substances), and 1988 (Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances):

- The 1961 Convention sets out that "the possession, use, trade in, distribution, import, export, manufacture and the production of drugs is exclusively limited to medical and scientific purposes". Penal cooperation is to be established so as to ensure that drugs are only used licitly (for prescribed medical purposes).
- The 1971 Convention resembles closely the 1961 Convention, whilst establishing an international control system for Psychotropic Substances.
- The 1988 Convention reflects the response of the international community to increasing illicit cultivation, production, manufacture, and trafficking activities.

International narcotics legislation draws a line between licit (medical) and illicit (non-medical) use, and sets out measures for prevention of illicit use, including penal measures. The preamble to the 1961 Convention states that the parties to the Convention are "Recognizing that addiction to narcotic drugs constitutes a serious evil for the individual and is fraught with social and economic danger to mankind". The Conventions are reviewed every ten years and have consistently been upheld.

The UN system of drug control includes the Office of Drugs and Crime, the International Narcotics Control Board, and the Commission on Narcotic Drugs. The works of these bodies are positive and essential in international drug demand and supply reduction. They are also attacked by those seeking to legalise drugs.

It is frequently and falsely asserted that the so-called "War on Drugs" is inappropriate and has become a very costly and demonstrable failure. It is declared by some that vast resources have been poured into the prevention of drug use and the suppression of illicit manufacturing,

trafficking, and supply. It is further claimed that what is essentially a chronic medical problem has been turned into a criminal justice issue with inappropriate remedies that make “innocent” people criminals. In short, the flawed argument is that “prohibition” monies have been wasted and the immeasurable financial resources applied to this activity would be better spent for the general benefit of the community.

The groups supporting legalisation are: people who use drugs, those who believe that the present system of control does more harm than good, and those who are keen to make significant profits from marketing newly authorised addictive substances. In addition to pernicious distribution of drugs, dealers circulate specious and misleading information. They foster the erroneous belief that drugs are harmless, thus adding to even more confused thinking.

Superficially crafted, yet pseudo-persuasive arguments are put forward that can be accepted by many concerned, well intentioned people who have neither the time nor the knowledge to research the matter thoroughly, but accept them in good faith. Frequently high profile people claim that legalisation is the best way of addressing a major social problem without cogent supporting evidence. This too influences others, especially the ill informed who accept statements as being accurate and well informed. Through this ill-informed propaganda, people are asked to believe that such action would defeat the traffickers, take the profit out of the drug trade and solve the drug problem completely.

The total case for legalisation seems to be based on the assertion that the government assault on alleged civil liberties has been disastrously and expensively ineffective and counter-productive. In short, it is alleged, in contradiction to evidence, that prohibition has produced more costs than benefits and, therefore, the use of drugs on a personal basis should be permitted. Advocates claim that legalisation would eliminate the massive expenditure incurred by prohibition and would take the profit out of crime for suppliers and dealers. They further claim that it would decriminalise what they consider “understandable” human behaviour and thus prevent the overburdening of the criminal justice system that is manifestly failing to cope. It is further argued irrationally that police time would not be wasted on minor drug offences, the courts would be freed from the backlog of trivial cases and the prisons would not be used as warehouses for those who choose to use drugs, and the saved resources could be used more effectively.

### Types of drug legalisation

The term “legalisation” can have any one of the following meanings:

1. Total Legalisation - All illicit drugs such as heroin, cocaine, methamphetamine, and marijuana would be legal and treated as commercial products. No government regulation would be required to oversee production, marketing, or distribution.

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2. Regulated Legalisation - The production and distribution of drugs would be regulated by the government with limits on amounts that can be purchased and the age of purchasers. There would be no criminal or civil sanctions for possessing, manufacturing, or distributing drugs unless these actions violated the regulatory system. Drug sales could be taxed.

3. Decriminalisation - Decriminalisation eliminates criminal sanctions for drug use and provides civil sanctions for possession of drugs.

To achieve the agenda of drug legalisation, advocates argue for:

- legalising drugs by lowering or ending penalties for drug possession and use - particularly marijuana;
- legalising marijuana and other illicit drugs as a so-called medicine;
- harm reduction programmes such as needle exchange programmes, drug injection sites, heroin distribution to addicts, and facilitation of so-called safe use of drugs that normalize drug use, create the illusion that drugs can be used safely if one just knows how, and eliminates a goal of abstinence from drugs;
- legalised growing of industrial hemp;
- an inclusion of drug users as equal partners in establishing and enforcing drug policy; and
- protection for drug users at the expense and to the detriment of non-users under the pretense of “human rights.”

### **The problem is with the drugs and not the drug policies**

Legalisation of current illicit drugs, including marijuana, is not a viable solution to the global drug problem and would actually exacerbate the problem.

The UN Drug Conventions were adopted because of the recognition by the international community that drugs are an enormous social problem and that the trade adversely affects the global economy and the viability of some countries that have become transit routes. The huge sums of illegal money generated by the drug trade encourage money laundering and have become inextricably linked with other international organised criminal activities such as terrorism, human trafficking, prostitution and the arms trade. Drug Lords have subverted the democratic governments of some countries to the great detriment of law abiding citizens.

Drug abuse has had a major adverse effect on global health and the spread of communicable diseases such as AIDS/HIV. Control is vitally important for the protection of communities against these problems.

There is international agreement in the UN Conventions that drugs should be produced legally under strict supervision to ensure adequate supplies only for *medical* and *research* purposes. The cumulative effects of prohibition and interdiction combined with education and treatment during 100 years of international drug control have had a significant impact in stemming the

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drug problem. Control is working and one can only imagine how much worse the problem would have become without it. For instance:

- In 2007, drug control had reduced the global opium supply to one-third the level in 1907 and even though current reports indicate recent increased cultivation in Afghanistan and production in Southeast Asia, overall production has not increased.
- During the last decade, world output of cocaine and amphetamines has stabilized; cannabis output has declined since 2004; and opium production has declined since 2008.

We, therefore, strongly urge nations to uphold and enhance current efforts to prevent the use, cultivation, production, traffic, and sale of illegal drugs. We further urge our leaders to reject the legalisation of currently illicit drugs as an acceptable solution to the world's drug problem because of the following reasons:

- Only 6.1% of people globally between the ages of 15 and 64 use drugs (World Drug Report 2011 UNODC) and there is little public support for the legalisation of highly dangerous substances. Prohibition has ensured that the total number of users is low because legal sanctions do influence people's behaviour.
  - There is a specific obligation to protect children from the harms of drugs, as is evidenced through the ratification by the majority of United Nations Member States of the **UN Convention on the Rights of the Child (CRC)**. Article 33 states that Member States "shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances".
  - Legalisation sends the dangerous tacit message of approval, that drug use is acceptable and cannot be very harmful.
  - Permissibility, availability and accessibility of dangerous drugs will result in increased consumption by many who otherwise would not consider using them.
  - Enforcement of laws creates risks that discourage drug use. Laws clearly define what is legal and illegal and emphasise the boundaries.
  - Legalisation would increase the risks to individuals, families, communities and world regions without any compensating benefits.
  - Legalisation would remove the social sanctions normally supported by a legal system and expose people to additional risk, especially the young and vulnerable.
  - The legalisation of drugs would lead inevitably to a greater number of dependencies and addictions likely to match the levels of licit addictive substances. In turn, this would lead to increasing related morbidity and mortality, the spread of communicable diseases such as AIDS/HIV and the other blood borne viruses exacerbated by the sharing of needles and drugs paraphernalia, and an increased burden on the health and social services.
  - There would be no diminution in criminal justice costs as, contrary to the view held by those who support legalisation, crime would not be eliminated or reduced.
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Dependency often brings with it dysfunctional families together with increased domestic child abuse.

- There will be increases in drugged driving and industrial accidents.
  - Drug Control is a safeguard protecting millions from the effects of drug abuse and addiction particularly, but not exclusively, in developing countries.
  - Statements about taxation offsetting any additional costs are demonstrably flawed and this has been shown in the case of alcohol and tobacco taxes. Short of governments distributing free drugs, those who commit crime now to obtain them would continue to do so if they became legal.
  - Legalisation would not take the profit out of the drug trade as criminals will always find ways of countering legislation. They would continue their dangerous activities including cutting drugs with harmful substances to maximise sales and profits. Aggressive marketing techniques, designed to promote increased sales and use, would be applied rigorously to devastating effect.
  - Other 'legal' drugs – alcohol and tobacco, are regularly traded on the black market and are an international smuggling problem; an estimated 600 billion cigarettes are smuggled annually (World Drug report 2009). Taxation monies raised from these products go nowhere near addressing consequential costs.
  - Many prisons have become incubators for infection and the spread of drug related diseases at great risk to individual prisoners, prison staff and the general public. Failure to eliminate drug use in these institutions exacerbates the problem.
  - The prisons are not full of people who have been convicted for mere possession of drugs for personal use. This sanction is usually reserved for dealers and those who commit crime in the furtherance of their possession.
  - The claim that alcohol and tobacco may cause more harm than some drugs is not a justification for legalising other dangerous substances. The pharmacology and pharmacokinetics of psychotropic substances suggest that more, not less, control of their access is warranted.
  - Research regularly and increasingly demonstrates the harms associated with drug use and misuse. There is uncertainty, yet growing evidence, about the long-term detrimental effects of drug use on the physical, psychological and emotional health of substance users.
  - It is inaccurate to suggest that the personal use of drugs has no consequential and damaging effects. Apart from the harm to the individual users, drugs affect others by addiction, violence, criminal behaviour and road accidents. Some drugs remain in the body for long periods and adversely affect performance and behaviour beyond the time of so-called 'private' use. Legalisation would not diminish the adverse effects associated with drug misuse such as criminal, irrational and violent behaviour and the mental and physical harm that occurs in many users.
  - All drugs can be dangerous including prescription and over the counter medicines if they are taken without attention to medical guidance. Recent research has confirmed
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just how harmful drug use can be and there is now overwhelming evidence (certainly in the case of cannabis) to make consideration of legalisation irresponsible.

- The toxicity of drugs is not a matter for debate or a vote. People are entitled to their own opinions but not their own facts. Those who advocate freedom of choice cannot create freedom from adverse consequences.
- Drug production causes huge ecological damage and crop erosion in drug producing areas.
- Nearly every nation has signed the UN Conventions on drug control. Any government of signatory countries contemplating legalisation would be in breach of agreements under the UN Conventions which recognise that unity is the best approach to combating the global drug problem. The administrative burden associated with legalisation would become enormous and probably unaffordable to most governments. Legalisation would require a massive government commitment to production, supply, security and a bureaucracy that would necessarily increase the need for the employment at great and unaffordable cost for all of the staff necessary to facilitate that development.
- Any government policy must be motivated by the consideration that it must first do no harm. There is an obligation to protect citizens and the compassionate and sensible method must be to do everything possible to reduce drug dependency and misuse, not to encourage or facilitate it. Any failures in a common approach to a problem would result in a complete breakdown in effectiveness. Differing and fragmented responses to a common predicament are unacceptable for the wellbeing of the international community. It is incumbent on national governments to cooperate in securing the greatest good for the greatest number.

ISSUED this 21<sup>st</sup> day of December, 2011 by the following groups:

Drug Prevention Network of the Americas (DPNA)

Institute on Global Drug Policy

International Scientific and Medical Forum on Drug Abuse

International Task Force on Strategic Drug Policy

People Against Drug Dependence & Ignorance (PADDI), Nigeria

Europe Against Drugs (EURAD)

World Federation Against Drugs (WFAD)

Peoples Recovery, Empowerment and Development Assistance (PREDA)

Drug Free Scotland

