



## Time to decriminalise drugs?

The drug trade has increased globally in intensity and reach, and substance abuse in South Africa has escalated rapidly.<sup>1,2</sup> Drug misuse is a major social, legal and public health challenge despite the war on drugs, in which the USA has a disproportionate influence. Why this lack of progress and what can be done about it?

The use of psychotropic substances is as old as human history. Some use drugs as part of religious observations. The majority of people who partake of drugs use them for recreational purposes. Some become addicted and may cause harm to themselves, their families and society. If drugs are bad it seems logical to wage war on them. However, although 'get tough' measures sound attractive they are often counterproductive.

### Attempts to stem evil

Over the centuries, countries, societies and communities have fruitlessly tried to regulate perceived evils, often related to powerful human needs and drives, namely sex, food and seeking happiness.

The Victorians were obsessed with what they perceived as the evils of sex, leading to distorted teachings and actions and much unnecessary emotional suffering.

Despite alcohol having been used since antiquity, many countries have tried prohibiting its use. The most familiar is the failed prohibition experiment in the USA from 1920 to 1933. Breweries and distillers in surrounding countries flourished as widespread bootlegging and organised crime took control of the distribution of alcohol in the USA.

Countries have gone to war over drugs: the Opium Wars (1839 - 1842, 1856 - 1860) resulted from trade disputes between China and the British Empire after China sought to limit illegal British opium trafficking. China lost the wars and had to tolerate the opium trade. War-torn Afghanistan now cultivates as much as 90% of the world's opium, its trade also supporting the Taliban.

In the USA Richard Nixon launched the war on drugs in 1970.

Another lifestyle result of human excesses is the rising tide of obesity, though war has not yet been declared on foods.

### Harmful substances

The International Narcotics Control Board established by the United Nations under the UN Single Convention on Narcotic Drugs, 1961,<sup>3</sup> lists a vast spectrum of narcotic drugs, psychotropic agents and precursors 'under international control'. However, the substances that cause by far the most damage to individuals and societies, namely alcohol, cigarette smoking and prescription medicines, are not illegal. (To this we should perhaps add the lifestyle matters of food and sex?)

Harmful drugs are regulated according to classification systems that purport to relate to the harms and risks of each drug. Nutt and colleagues<sup>4</sup> found that the current classification of drugs is unscientific, unsystematic and arbitrary. Using an evidence-based expert delphic procedure they developed and explored a rational scale to assess the harms of illicit drugs and also included five legal drugs of misuse (alcohol, khat, solvents, alkyl nitrates and tobacco). They provide a systemic methodology and process that could benefit regulatory bodies in assessing the harm of drugs of abuse. Their ranking, based on categories of harm (physical harm, dependence, effects on families, communities and society), differed from those in current use. Tobacco and alcohol together account for about 90% of all drug-related deaths in the UK. They are the most widely used

unclassified substances, but were both ranked in the top 10 higher harm group and cannabis (marijuana) in the lower 10 (out of 20). Drugs that can be taken intravenously, such as heroin, carry a high risk of death and score highly. Their results also emphasise that excluding alcohol and tobacco from the Misuse of Drugs Act is, from a scientific perspective, arbitrary and that there is no clear distinction between socially acceptable and illicit substances.

### Effects of the drug wars

Declaring war means that one must have enemies. In the USA these are the drug dealers but also the users. A large percentage of the population has used and currently uses illegal recreational substances such as marijuana and cocaine. Apprehending these 'enemies' has resulted in the USA having the world's largest prison population, 738 per 100 000 people (other examples per 100 000 people are 335 for South Africa, 124 for the UK and 30 for India).<sup>5</sup> A large sector of the population is thus criminalised.

Producer countries have been politically destabilised by the US war on drugs. Huge profits made from cocaine and other drugs from countries such as Colombia, Bolivia, Peru and Brazil, largely because they are illegal in the USA, have resulted in flourishing drug cartels. Those controlling the supply routes to the USA through Mexico and Caribbean countries wreak havoc through their criminal paramilitary and guerrilla groups, with murder, kidnapping, bribery and corruption, money laundering, etc. Coca has been cultivated for centuries in the Andes. Its legitimate uses include chewing the leaves for their mild stimulant and appetite suppression effects, and as a tea that reduces the effects of altitude sickness. Coca farmers are often at the difficult and potentially violent intersection of government-sponsored eradication efforts, illegal cocaine producers and traffickers seeking coca supplies, anti-government paramilitary forces trafficking in cocaine as a source of revolutionary funding, and the hardships of rural subsistence farming. Further pressure to grow coca for the cocaine trade is caused by the dumping of subsidised surpluses of fruit, vegetables, grain, etc., mainly by the USA and European Union.<sup>6</sup>

Drug prohibition inevitably leads to political and police corruption. Jackie Selebi, former head of South Africa's police and Interpol President, was found guilty of corruption and sentenced for accepting bribes from a drug trafficker in 2010.

'Wars' on, for example, local growers of coca, marijuana and poppies increase the price of drugs, lessen competition, and encourage cartels by increasing their potential profits.

People who become addicted to substances often cannot fund the high prices of illicit products and turn to drug running, robbery and other criminal methods to meet their needs.

### Regulation/legislation

Regulations vary widely from country to country.

The UN Single Convention on Narcotic Drugs, 1961,<sup>3</sup> under the auspices of which the International Narcotics Control Board (INCB) was established, was regarded as a milestone in the history of international drug control by its proponents. The Single Convention codified multilateral treaties on drug control, including the cultivation of plants grown as the raw material of narcotic drugs. Its principal objectives are to limit the possession, use, trade, distribution, import, export, manufacture and production of drugs exclusively to medical and scientific purposes and to deter and discourage drug traffickers

through international co-operation. The INCB monitors apparent violations of the treaties and addresses those within its mandate.

In the USA, where marijuana may be used for medical use in several states, there is a strong growing movement to have it legalised. However, the official US stance is to strengthen the war on marijuana.<sup>7</sup> Elected officials are willing to acknowledge the failure of the drug war in private, but the degeneration of their political discourse and campaign tactics has made reforming the drug war synonymous with political suicide. And since politicians have short-term interests, who represents the interests of future generations?<sup>8</sup>

South Africa has given much thought and effort to combating the abuse of illicit and legal substances. The Prevention and Treatment for Substance Abuse Act No. 70, 2008,<sup>1</sup> and the National Drug Master Plan 2006 - 2011<sup>2</sup> seek to reduce demand, reduce harm and reduce the supply of illicit substances (including education and raising awareness) and associated crimes through law enforcement, prevention of community-based substance abuse, early intervention, drug treatment (including rehabilitation and risk reduction) and research. They are supported by many other Acts, government departments, statutory bodies, non-governmental organisations, etc. The City of Cape Town has an Operational Alcohol and Drug Strategy that recognises that the whole community is responsible for tackling the problem. This requires systematic, multifaceted, integrated responses; social inclusiveness; commitment to funding and resource allocation; and recognition that demand reduction is a key principle.<sup>9</sup> The Central Drug Authority is a statutory body established to co-ordinate and direct drug counteraction across South Africa on both the demand and supply side. Further legal sanction is provided by the Drugs and Drug Trafficking Act No. 140 of 1992,<sup>10</sup> which determines what the legal acts are in terms of possession, distribution, manufacture, etc. of 'any dependence-producing substance; or any dangerous dependence-producing substance or any undesirable dependence-producing substance'. South Africa is signatory to the UN Single Convention on Narcotic Drugs, 1961,<sup>3</sup> and other international and regional agreements concerning drugs.

## The case for decriminalisation

The war on drugs has failed! Humans have always taken psychoactive substances and prohibition has never kept them from doing so. The international evidence suggests that drug policy has very limited impact on the overall level of drug use. Making people criminals for taking psychoactive substances is in itself criminal, for one is dealing with, at worst, a vice but not a crime.<sup>11</sup>

The two most widely used legal drugs, alcohol and tobacco, lie in the upper half of the harms ranking.<sup>4</sup> This important information should surely be taken into account in public debate on illegal drug use. Discussions based on formal assessment of harm rather than on prejudice and assumptions would enable a more rational debate about the relative risks and harms of drugs. Pragmatism is urgently needed in debates about these issues and our responses to them.<sup>12</sup> The tone of our debate about responses to the treatment and supervision of drug-dependent offenders should change. Focusing on enforcement and compliance further erodes discretion for those responsible for treating and supervising such offenders. Policy should aim to reduce the harm that drugs cause, and not to embroil more people in the criminal justice system. Society should have some faith in the capacity of drug-using offenders to change, and actively assist and enable them to achieve this goal.

People with a history of drug problems are seen as blameworthy and to be feared. Stigma is a major barrier to their successful recovery and prevents them from playing a more positive role in communities and re-integrating into society. People recovering from drug dependence should be part of the normal community.<sup>13</sup>

Such actions have been successfully implemented in some European countries. In the USA there is increasing support for initiatives such as the California Proposition 19, also known as the Regulate, Control and Tax Cannabis Act of 2010, that would have legalised various marijuana-related activities, allowed local governments to regulate and collect marijuana-related fees and taxes, and authorised various criminal and civil penalties.

While much of South Africa's approach to drug abuse is progressive and enlightened, evidence-based facts and sober reflection suggest that our strategies require re-thinking.

- The Vision of the National Drug Master Plan is a drug-free society. Human history and international experience clearly demonstrate that this does not reflect reality. We should acknowledge this and develop better ways of dealing with human frailty.
- A more evidence-based, nuanced approach to the harms of drugs is required. For example, it makes no sense to legalise the use of alcohol and tobacco but not the less dangerous cannabis (which also has beneficial effects<sup>14</sup>).
- Using psychoactive substances may be a vice but should not be considered to be a crime, thus criminalising a large proportion of our citizens.
- Making drugs illicit cedes their control to the drug dealers.
- Escalating the drug war makes drugs more valuable and attracts more participants into the illicit drug economy.
- Improved state control of substances, as with alcohol and cigarettes, could provide taxes and significantly reduce the roles of drug dealers.

A recent MRC Research Brief<sup>15</sup> outlines strategies to effectively address substance abuse problems among young people, but decriminalisation is not mentioned. It is time to face realities squarely and rationally debate the question of decriminalisation. Vested interests in maintaining the status quo will have unexpected support from those who stand to lose the most, namely the drug dealers and those in their pay (including the law and politics).<sup>16</sup> All the more reason to proceed!

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