

“Damaging Freedom: Psychoactive Drugs and the Duty of the State”

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When individuals make free decisions, they usually pursue their best interests. When considering the question of drugs, we cannot make this assumption. The circumstances under which people take them, coupled with peer pressure and ignorance, preclude the knowledge necessary to make an informed choice. The broad range of possible medical and other consequences makes certainty of outcome impossible and analysis of risk difficult. Finally, psychological and physiological addiction often undermines future rationality, condemning the user to become a prisoner of his most basic desire for more drugs. The laws criminalising psychoactive drugs protect people from their own bad choices.

This debate seeks to determine whether, on balance, the impact of drugs on society post-legalisation would be positive or negative. The underlying assumption of this paper is that freedom is not an end in and of itself. It is an extraordinarily useful means of maximising the welfare of individuals, provided that certain criteria are met. It would be nice to believe that individuals are capable of taking rational, calculated risks when dealing with these substances. But if they make the wrong choice, I find no comfort in knowing that they were willing to take responsibility for that decision. Instead, I believe that the state should protect individuals from these freedoms when they might regret their actions, when the consequences are so harmful and often irreversible.

The question of decriminalisation should be judged on its own merits, and arguments based purely on the precedent of tobacco or alcohol are not valid. These are completely different substances; with entirely dissimilar impacts on society, trends amongst users, medical risks and consequences of addiction. Rather, we should take an analysis of the costs and benefits stemming from legalisation over society.

Despite the difficulty of comparison, some conclusions can be drawn. Regulation of the market to protect young people is often a problem with alcohol. The worst immediate consequences of alcohol abuse among youths occur when a sixteen-year-old gets wasted and has his stomach pumped. Hopefully, it's a valuable lesson learned. However, with anything from cocaine to heroin more freely available when legal, breach of the regulations governing sale to minors pose a much greater threat. The unpredictable nature of the effects arising from almost any psychoactive drug are more likely lead to harm and death when consumed by minors – either through an overdose (in the case of cocaine and opiates) or perhaps the alteration to behaviour induced (in the case of hallucinogens and others).

Young people cannot be trusted to make responsible decisions here, and it is cruel to place them in a society with drugs freely available to any adult. Education can only go so far, as evidenced in the abuse of alcohol among youths in Ireland today. If ecstasy became legal in this country, it would invariably become a staple part of the night-club scene and this would have a normative effect on teenagers. If the opposition concede that drugs should not be available to minors, then logically we must interpret this as a huge harm on society. There are no examples of well-regulated psychoactive drug industries in the world.

In addition, we are in danger of sending mixed messages to young people about psychoactive substances. The illegal status of drugs presents a clear indication of the

harms associated and renders consumption taboo. The perception of tobacco in contrast is completely different. I would suggest that this stems from our rational assumption that normative or socially-acceptable behaviour is probably safe. This is the primary reason that, in certain social circles, marijuana is generally perceived to be harmless. It should be conceded here that teenagers can already get their hands on drugs today if they really want to, but the normative effect and added difficulty policing post-legalisation would amplify the problem beyond recognition. This should be considered a major argument against legalisation.

Let us consider the consequences of drug abuse more generally. The opposition probably preach moderation and a culture of responsible psychoactive drug use. This may be possible in a few cases. Marijuana is known not to be highly addictive. Most of the harmful effects are similar in magnitude and nature to alcohol and tobacco, coupled with impaired cognitive functioning and poor memory depending on the subject. There is strong reason to suggest that most individuals can make responsible decisions regarding marijuana. Apart from the benefits of having a least harmful illegal drug that thrill-seekers and college students can turn to, there's no obvious problem with the status quo. Those that want to use marijuana can easily do so, and within Ireland the number of convictions is low.

The culture of responsible drug use cannot be wished into existence elsewhere. Many will argue that the problems associated with drugs could be largely solved through decriminalisation and regulation. Legalisation would certainly reduce the number of deaths caused by dealers cutting their produce with harmful chemicals. However, there is no evidence to suggest that users would dramatically change their behaviour.

Cocaine users will continue to develop tolerance for the drug and the addictive properties will still pose high risk to the individual. The circumstances in which people use them will probably be the same, and likely in conjunction with alcohol. While the original decision may possibly have been deliberate, successive actions under the influence of cocaine cannot be described thus. Even if some escape the grasp, the effect on dopamine receptors in the brain from sustained use will leave them permanently at risk of dependence. Listening to music that they enjoyed while taking cocaine, spending time with their friends from that period of their lives; will all stir the desire for the drug. This could hardly be seen as exercising the "freedom" to take psychoactive substances.

Intravenous drug users will not magically become careful about sharing needles, nor will they be cured of HIV/AIDS as a result of legalisation. Efforts are currently being made to reduce these harms. Therefore, legalisation is not the only route towards mitigating against them. Furthermore, this constitutes evidence that these problems will persist post-legalisation. The highly addictive properties of heroin will also persist. According to the European Monitoring Centre for Drugs and Drug Addiction, the vast majority of drug-related deaths are consistently due to heroin.

Criminal gangs will still murder each other. They may, perhaps, partly finance these antics through alternative means. The legalisation of the drugs currently marketed by these groups is no panacea, and there are a number of reasons why. The exact nature of the policy will determine the extent to which business is removed from their grasp. Let us assume that legal producers could supply the decriminalised drugs at lower cost than the criminal organisations and with the guarantee of purity. However, the most harmful

substances will inevitably remain criminalised or unavailable. For example, there are few sensible proponents of crystal meth given the physical agony of withdrawal and the medical consequences of addiction, which include massive brain damage. Thus, there will always be some illegal market. Given the huge profits currently made in the drug industry, one can imagine that quite substantial margins could be made supplying the most risky drugs which provide even more perfect euphoria for the user.

They will also continue to supply the lucrative under-age market. Even if the opposition challenge the normative effect of decriminalisation, economic factors make this development inevitable. These criminal organisations operate networks of supply, and many make their living through the drug trade. If adults turned to the legal market, dealers would quite simply be forced to promote drugs to teenagers to a greater degree, out of economics necessity.

Furthermore, the legal suppliers' ability to provide at lower cost does not immediately lead to lower prices than the dealer. This is rather the function of supply and demand. Legal suppliers would be providing a superior product, and the only solution would be government price regulation (which is notoriously difficult). It is not unreasonable to suggest that many would purchase illegally if they trusted their dealer and were getting a better price. Even if many are put out of business, this policy would not put these criminals behind bars. Due to the innate fungibility of criminals, many of them will enter other illegal industries or commit other crimes. It should be conceded that decriminalisation will seize part of this lucrative industry from organised crime. However, the extent to which this is true is difficult to determine.

The final factor to be taken into consideration is the new users, currently law-abiding citizens who will become consumers post-legalisation. It is difficult to argue that society is doing them any favours. In spite of the knowledge that smoking causes cancer and shortens your life, people continue to smoke. This is because smoking is cool, and everybody smokes. I would suggest that individuals are poorly equipped to deal with these kinds of decisions. The short-term marginal effect of each cigarette is minimal, but a long-term appraisal of the smoking lifestyle would reveal that this is a bad decision. When the consequences are so much more harmful in the case of psychoactive drugs, we should not give people the option of making this mistake. If the government can see that, in the long-term, taking drugs is a bad decision for the typical individual, it would serve the net welfare of society to prohibit this practice.

The decision to legalise drugs should be based on a rational cost-benefit analysis of the policy. The impact on the afore-mentioned criminal organisations is unclear. Society should currently do everything in its power to educate members of the public about the risks associated with drug use, and work towards harm reduction within the current framework in helping addicts. If the treatment of current consumers by the law is not oppressive and they are supported by government services, the real effect of decriminalisation on their welfare would be neutral. However, the ramifications for young people post-legalisation are a major cause of concern and argument against change. Those who currently do not take drugs are either better off without the opportunity to do so legally, or will remain unaffected by the decision. Mahatma Gandhi once proclaimed that "Freedom is not worth having if it does not connote freedom to err". I respectfully disagree.