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# The abject failure of drug prohibition? Really?

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## Abstract

The principal weakness with Alex Wodak's response to my original article is that the points he makes, whether accepted or not, have little bearing on the arguments I put. He is right to point out that there are substantial human and financial costs associated with drug prohibition. I acknowledged these costs at some length in my original paper. The fundamental question for policy makers, however, is not whether drug prohibition carries significant human and financial costs. Most criminal prohibitions carry substantial human and financial costs. We maintain them because we believe they also produce benefits and that (for at least some outcomes) the benefits outweigh the costs. Wodak ignores or downplays the benefits associated with drug prohibition. His arguments betray a misunderstanding of the mechanisms through which prohibition operates and of the kind of evidence required to determine whether a particular drug policy is a success or failure. I conclude with Caulkins and Lee (2012) that, given current knowledge, legalisation of any addictive or dangerous drug would be a 'leap into uncharted and potentially dangerous waters'.

## Keywords

decriminalization, harm reduction, prohibition, price elasticity supply control

## Introduction

My aim *The Pros and Cons of Prohibiting Drugs* was not to defend prohibition as a policy but simply to highlight the fact, overlooked by Douglas and McDonald (2012), that it has benefits as well as costs. Rather than respond to this point, Wodak (2014) seems to prefer boxing with shadows. I did not at any stage (a) claim that the unintended consequences of prohibition have been modest or (b) that prohibition is cost-effective (Wodak, 2014, p. 191). The key point on which we disagree is on the question of whether prohibition reduces drug consumption and drug-related harm.

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## Does prohibition reduce drug-related harm?

In my original article I described two ways in which this might occur. Firstly, seizures of illicit drugs might reduce supply relative to demand. Call this the **direct effect**. Secondly, even if drug law enforcement has no direct effect on the supply of illicit drugs, it does make drug cultivation, manufacture, importation and distribution both risky and inefficient. Drug producers, importers and distributors are likely to compensate themselves for the risks they take and the extra costs they bear by charging higher premiums. These premiums, according to Risks and Prices Theory (Reuter & Kleiman, 1986), are passed on to drug consumers in the form of higher prices, again constraining consumption. Call this the **indirect effect**.

Most of Wodak's (2014) arguments are directed at the **direct effect**. He points out that expenditure on supply control in the United States rose while the prices of illegal drugs fell. This is absolutely true. But this does not mean prohibition has no effect on drug prices. Drug prices are affected by a host of factors, including import costs, labour costs, production efficiency and market stability (Caulkins & Reuter, 1998). Changes in any of these factors could have swamped the effects of drug law enforcement. To quote the US National Research Council (Manski, Pepper, & Petrie, 2001, p. 151): "Analysts cognizant of the many forces acting on the drug market are aware that juxtaposition of spending and price trends does not suffice to evaluate supply reduction policy".

So what does the evidence tell us about the **direct effect**? Kuziemko and Levitt (2004) found evidence that the increase in imprisonment for cocaine offences in the United States only had a weak positive effect on the price of cocaine. Only four other studies which examined the impact of drug seizures on the price, purity or availability of an illegal drug (Mazerolle, Soole, & Rombouts, 2007). Three found no effect (including one I conducted). One (Smithson, McFadden, & Mwesigye, 2004) found that heroin seizures were accompanied by a reduction in heroin-related deaths, an improvement in the health of users, increased demand for treatment services and reductions in property crime. The Smithson et al. (2004) study followed the Australian heroin shortage, an exceptional event by all accounts. On balance, then, the limited evidence available provides little support for the hypothesis that drug seizures have a direct effect on the price, purity and availability of illicit drugs.

What about the **indirect effect**? Few doubt that prohibiting drugs makes them much more expensive (but for evidence see Grossman, Chaloupka, & Shim, 2002). If Wodak (2014) seriously doubts that prohibition raises the cost of illegal drugs he should explain why Oxycontin—a legal opioid, retails for about \$1.30 per 80 mg tablet on a PBS prescription, whereas a cap of heroin in Sydney at the moment costs about \$50 and why even at this price, the cap will only be about 20–30 per cent pure (Phillips & Burns, 2012). Wodak (p. 191) maintains that I have not shown evidence that higher drug prices reduce drug consumption and drug-related harm. That is not true. In support of the proposition that higher drug prices keep drug consumption and drug-related harm lower than they would otherwise be, I cited Gallet (2013), Dave (2005), Weatherburn, Jones, Freeman, and Makkai (2003) and Degenhardt, Day, Gilmour, and Hall (2006).

## Subsidiary issues

### *On shortages and drug law enforcement*

Wodak (2014) maintains that “the small number of heroin shortages world wide is an unimpressive record of achievement in supply control” (p. 196). This comment assumes that supply control measures only work if they create a shortage. As we have already seen, supply control measures do not need to create a literal ‘shortage’ to produce a benefit. They simply need to make prohibited drugs much more expensive than they would otherwise be.

Wodak (2014) is right when he says that the Australian heroin shortage cannot be confidently attributed solely or largely, to improved domestic drug law enforcement (p. 196). Lack of evidence that a proposition is true, however, is not the same as evidence that it is false. Knowledgeable observers have given cogent reasons for thinking that drug law enforcement did play a role (Degenhardt et al., 2006). Wodak’s preferred explanation—that the Asian crime syndicates who used to produce and sell heroin suddenly decided around Christmas 2000 to switch to selling methamphetamines (Wodak, 2008) has problems of its own. Why, one might ask, would they do this at the peak of the heroin epidemic when they were making so much money selling heroin?

### *Drug use remains widespread*

As further evidence that supply control policy is a failure Wodak (2014) points out that “despite substantial government expenditure on drug supply control, illicit drugs remain relatively easy to obtain” (p. 192). This is an unusual argument to hear from a public health advocate. One might as well argue that the prohibition against speeding has failed because thousands of people each year continue to drive above the speed limit, or that the prohibition against drink driving has failed because thousands of people continue to drink and drive. What matters in all these cases is the counterfactual. If prohibition in question had been abandoned would the outcomes have been the same or better? Dismissing this question as “the best that supporters of conventional drug policy can now argue” (Wodak, 2014, p. 193) is just a way of avoiding the issue.

### *Cost-effectiveness*

Wodak (2014) says I did not show that prohibition is accompanied by acceptable unintended negative consequences or that it is cost-effective (p. 191). Correct. I did not make either claim. But what if I had? No-one has shown that decriminalisation of cannabis, heroin or cocaine use leads to acceptable negative consequences or is more cost-effective than prohibition. Of course, many *believe* this to be the case. All we have to go on for evidence, though, are pre-post studies of the effects of decriminalisation, studies of small-scale heroin prescription trials and policy simulation studies, such as those conducted by RAND (Rydell & Everingham, 1994). I dealt with all of this evidence at length in *Pros and Cons of Prohibiting Drugs*.

## *Economic theory*

Towards the end of his article, Wodak (2014) identifies what he calls the “Achilles heel” of prohibition: “The more successful supply control becomes in forcing up prices,” he says, “the more lucrative the profits of drug trafficking: but the more lucrative the profits of drug trafficking, the greater the number of new recruits to drug trafficking.” (p. 198). Neither Wodak nor I are economists but this sounds to me like dubious economic theory. Importers and producers only make more money from a rise in the price of a commodity if the increased mark up does not produce a corresponding drop in sales. A more precise way of putting this is to say that price rises benefit suppliers only if demand for the commodity is price-inelastic. But there is now abundant evidence that demand for illicit drugs is *not* price-inelastic (Gallet, 2013).

## **A final remark**

According to Wodak (2014), the most fundamental question in drug policy is whether it is fair and just for the majority of a community to punish those with a minority taste in drugs (if they do not harm others by their drug use) (p. 198). This way of putting the issue is tendentious. It would not be fair or just to punish those with a minority taste in drugs if they do not harm others by their drug use but, given our experience with alcohol and tobacco, there is ample reason to doubt that unfettered or regulated access to other drugs would be cost-free as far as the community as a whole is concerned.

So the fundamental question confronting policy makers is really this: we have reason to believe that a regime of prohibition, coupled with treatment and measures to prevent overdose and the spread of disease, helps constrain many of the harms associated with illegal drugs. We know that such a regime involves substantial (human and financial) costs. What we do not know is whether some other legal regime, involving either no prohibition or something less than complete prohibition would produce the same benefits at lower (human and financial) cost.

Unlike Wodak (2014) I don't think the answer to this question is at all obvious or clear. The answer, so far as cannabis is concerned, may become much clearer once Colorado's experiment with cannabis legalisation has been evaluated. In the meantime, legalisation of any drug, but particularly those which are highly addictive (e.g. heroin) or dangerous (e.g. methamphetamine) must be regarded as a “leap into uncharted and potentially dangerous waters” (Caulkins & Lee, 2012, p. 36). Notwithstanding the obvious depth of their convictions, neither Wodak nor Douglas and McDonald (2012) give us much reason to take that leap.

## **References**

- Caulkins, J. P., & Lee, A. C. (2012). The drug-policy roulette. *National Affairs*, 12(Summer), 35–51.
- Caulkins, J. P., & Reuter, P. (1998). What price data tell us about illegal drug markets. *Journal of Drug Issues*, 28(3), 593–612.
- Dave, D. (2005). The effects of cocaine and heroin prices on drug-related emergency department visits. *Journal of Health Economics*, 25(2), 311–333.

- Degenhardt, L., Day, C., Gilmour, S., & Hall, W. (2006). The "lessons" of the Australian "heroin shortage." *Substance Abuse Treatment and Prevention Policy, 1*(1), 1–7.
- Douglas, B., & McDonald, D. (2012). *The prohibition of illicit drugs is killing and criminalizing our children and we are all letting it happen*. Report of a high level Australia 21 Roundtable. Canberra, Australia: Australia 21. Retrieved from <http://www.australia21.org.au/publication-archive/>
- Gallet, C. A. (2014). Can price get the monkey off our back? A meta-analysis of illicit drug demand. *Health Economics, 23*(1), 55–68.
- Grossman, M., Chaloupka, F., & Shim, K. (2002). Illegal drug use and public policy. *Health Affairs, 21*(2), 134–145.
- Kuziemko, I., & Levitt, S. D. (2004). An empirical analysis of imprisoning drug offenders. *Journal of Public Economics, 88*, 2043–2066.
- Manski, C. F., Pepper, J. V., & Petrie, C. V. (2001). *Informing America's policy on illegal drugs: What we don't know keeps hurting us*. National Research Council. Washington, DC: National Academy Press.
- Mazerolle, L., Soole, D., & Rombouts, S. (2007). Drug law enforcement: A review of the evaluation literature. *Police Quarterly, 10*(2), 115–153.
- Phillips, B., & Burns, L. (2012). *New South Wales drug trends 2011: Findings from the Illicit Drug Reporting System (IDRS)* (Australian Drug Trends Series No. 74). Sydney: National Drug and Alcohol Research Centre, University of New South Wales.
- Reuter, P., & Kleiman, M. (1986). Risks and prices: An economic analysis of drug enforcement. In M. Tonry, & M. Norris (Eds), *Crime and justice, an annual review of research* (Vol. 7), Chicago, IL: University of Chicago Press, pp. 289–340.
- Rydell, C. P., & Everingham, S. S. (1994). *Controlling cocaine: Supply versus demand programs*. Drug Policy Research Centre. Santa Monica, CA: RAND.
- Smithson, M., McFadden, M., & Mwesigye, S. (2005). Impact of Federal drug law enforcement on the supply of heroin in Australia. *Addiction, 100*, 1110–1120.
- Weatherburn, D., Jones, C., Freeman, K., & Makkai, T. (2003). Supply control and harm reduction: Lessons from the Australian heroin "drought." *Addiction, 98*, 83–91.
- Wodak, A. (2008). What caused the recent reduction in heroin supply in Australia? *International Journal of Drug Policy, 19*, 279–286.
- Wodak, A. (2014) The abject failure of drug prohibition. *Australian and New Zealand Journal of Criminology, 47*, 190–201.