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Drug law reform when bad policy is good politics

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The need for reform of drug laws is now growing in many countries, but change is slow because bad policy is still good politics. Thus, many political systems are unable to move forward with reform of drug laws, and change seems most likely to happen through pressure from civil society.[1]

The global prohibition of drugs developed over many decades, becoming entrenched when three international treaties were agreed between 1961 and 1988.[2] The political usefulness of a punitive approach to drugs first became apparent when President Richard Nixon's declaration of a "War on Drugs" in 1971 contributed to his landslide victory in the 1972 US Presidential election. This encouraged politicians around the world to emulate Nixon's effective political strategy.

During the 1980s, control of HIV among people who inject drugs was of paramount public health importance. But in most countries, entrenched support for drug prohibition obstructed adoption and implementation to scale of harm-reduction measures.[3] In countries where harm reduction eventually prevailed, such as the Netherlands, Australia, and the UK, the impressive health and socioeconomic benefits that followed contrasted with growing evidence that enforcement of criminal drug laws had failed.[4] The HIV era has been a turning point in attitudes towards drug policy, which had been defined for more than half a century as essentially a criminal justice problem.[5]

In recent decades, global production and consumption of drugs have increased while street drugs have become cheaper.[4] Even staunch supporters of drug prohibition, such as a past Executive Director of the United Nations Office on Drugs and Crime,[6] have asked whether the current global drug policy is "fit for purpose" and have acknowledged this policy's unintended negative consequences. The trickle of countries questioning the international orthodoxy on drug prohibition has begun to increase.

During the 1970s, the Netherlands became the first country to break from the international drug policy straight jacket and was followed by Switzerland in the early 1990s.[1] In 2001, Portugal removed criminal sanctions from people found with quantities of drugs considered consistent with personal consumption and referred these individuals for assessment and possible health and social assistance.[7] All three countries emphasised health and social measures and substantially improved treatment for drug users.[1] The reform of drug policy in these countries resulted in health and social benefits and enjoyed strong community support.[1]

Now the pace of change is accelerating. In Latin America, some of the countries most affected by the violence and civil destruction produced by drug production and drug trafficking are discussing major reform of drug laws.[8] On Aug 8, 2012, President José Mujica of Uruguay referred a bill to his country's legislature that would allow the regulated sale of cannabis.[9] On Nov 6, 2012, voters in the US states of Colorado, Washington, and Oregon will vote on separate proposals to tax and regulate cannabis. To date, only the Netherlands has taken this step and then only partially.

The pernicious effects of drugs supplied by a black market can be difficult to separate from the direct harm of the drugs themselves.[10] There is now increasing consideration for regulating the supply of drugs,[11] despite the substantial political difficulties in achieving this. Although redefining drugs as primarily a health and social issue, rather than a criminal justice problem, is an important advance, the supply of drugs by criminals is inevitable if demand persists without reform of drug laws.

The economics of the drug trade ensure that as long as demand for drugs remains strong, drug prohibition will fail. In recent decades, the reality has been that any

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attempt to adopt a drug policy that acknowledged the inexorable economic forces of the drug market would fail politically. However, what is politically possible can change over time. Some senior politicians now admit privately that their national drug policy does not work and a few are able to say this in public. Effective strategies for reform of drug laws will differ between countries and depend on how politics is organised in each country. But the one constant is the critical role of civil society in achieving change.[1]

In many countries, it was the relentless efforts of civil society over the past three decades that forced effective HIV policies on to a reluctant political system.[12] This example should be an encouraging precedent for global efforts to reform drug policy. Civil society has many strengths, including diversity of members and representation of marginalised groups and young people who are most at risk from drugs and also from punitive drug policies. Most social reforms take many decades, and drug law reform is likely to be no exception. Civil society may be able to achieve change that is not possible from within the conventional political process.

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