Would the decriminalisation and/or legalisation of controlled substances improve or hinder the economic, health and social circumstances of drug users, their families, communities and society?

Abstract

The drive for intoxication is not exclusive to humankind alone; it exists among many animal species and is argued to be as basic as the drives for hunger, thirst and sex. The concept of substance ‘misuse’ is a construct of modernity that has become synonymous with deviance. Debates regarding decriminalising and/or legalising controlled substances remain contentious despite the failing ‘war on drugs’. While some jurisdictions have made explicit moves towards decriminalisation, others have quietly relaxed policies, creating an ambiguity that appears to be somewhat beneficial. Ireland falls into this latter category by taking an apparently hard-line prohibition stance while simultaneously practising a harm reduction approach with drug users. Many argue that cannabis, the most widely used illicit substance, is less harmful than alcohol. What if Irish policymakers decided to legalise it? By evaluating current policies and debates, this paper examines how this decision would impact on the economic, health and social circumstances of drug users, their families, communities and society, including considerations for our rights as human beings and the possible implications for social work.

Keywords

Drug policy; Ireland; decriminalisation; human rights; social work
Introduction

Historical evidence shows that the human race has had a fascination and relationship with mind-altering substances for millennia. Indeed, many creatures enjoy the intoxicating effects of certain substances on occasion – cats adore rolling in catnip, bees savour the nectar of orchids, elephants and birds seek out fermented berries. For humankind, according to Siegel (2005), intoxication is the fourth drive alongside the basic drives of hunger, thirst and sex. Substance misuse only became a problematic phenomenon in the era of modernity, the roots of which, according to Alexander (2001), lie in dislocation or anomie. It is a symptom of what Tönnies termed Gesellschaft, where the individual’s self-interest takes precedence over familial or community ties, embodied in the west’s predominant meritocratic, free market societies. The term ‘drugs’ has negative, immoral connotations associated with criminality and those of bad character. This is a socially constructed view, primarily from the United States, and many industrialised and developing nations feel political pressure to comply with this position (Klein, 2008).

The question as to whether the decriminalisation or legalisation of controlled substances would improve or hinder people’s welfare is a hugely debated and controversial issue. In the US, for example, members of the law enforcement and criminal justice sectors who regard the ‘war on drugs’ as futile established the anti-prohibition organisation Law Enforcement Against Prohibition (LEAP) in 2002 (LEAP, 2012). Due to the vastness of the topic, this paper will narrow its focus to examining the following: how the legalisation of supply and use of cannabis in Ireland would impact on drug users, their families, communities and society, including implications for Irish social work and human rights. Before investigating this concept, current international policy debates will initially be discussed. Secondly, an exploration of Ireland’s drug policy will reveal questions around clarity, perceptions, and implementation, and thirdly, Irish drug culture will be considered.

1 Szasz (1992), maintains that we should be alerted to the “powerful name games...encountered in many spheres of life” (p.93). Differing nomenclature is often used to emphasise negative perspectives in relation to controversial issues. For instance, drug abuse or addiction and substance misuse disorder are terms frequently used from disease and prohibition standpoints, whereas drug or substance use is more commonly used from more humanist perspectives. In this paper terms are used interchangeably depending on context.

2 As per point 1 above: most of the entry under ‘cannabis’ in the 1973 edition of Encyclopaedia Britannica relates to international drug laws and treaties, whereas under ‘hemp’, this same plant’s usefulness is espoused, with regard to the manufacture of rope, clothing, paper and oil, failing to mention its illegality (Szasz, 1992). In this paper, the terms ‘cannabis’ and ‘marijuana’ are used interchangeably in relation to the controlled substance; the slang term ‘pot’, is also mentioned.
Drug users throughout most of the world are stigmatised (Alexander, 2001; Butler & Maycock, 2005; Rahtz, 2012). The predominant criminalisation and medicalisation perspectives of substance use are reflected in the three UN narcotic drugs conventions, signed by almost every nation on earth. This results in drug users being morally judged as deviants within society who have a disease (addiction) and therefore must be cured. The wider social contexts become sidelined as responsibility is weighted on the individual (Leahy, P. et al., 2011). The United Nations Office on Drugs and Crime is the global enforcement agency of these various treaties, which are strongly driven by the United States of America. The US takes a hardline stance on drug prohibition with heavy sentencing for possession as well as supply. In terms of rehabilitation the US adheres to the medical/disease model which favours abstinence, rejecting harm reduction approaches, and advocating penalties for non-compliant states. These can manifest as aid, trade and international finance constraints in the case of more vulnerable countries (Klein, 2008).

The concept of harm, with regard to illicit drugs, is connected to a verdict of drug use as being morally wrong. This widely accepted, therefore normative idea, endorses ideals as opposed to protecting rights, and comes from a paternalistic law perspective that advocates coercion of drug ‘abusers’ into treatment (Ruggiero, 1999). Gilman and Pearson claim that “stacking the odds through the threat of penal sanctions...the drug user is more likely to recognise that entering some form of treatment is a rational choice: forcing people to be free, in fact” (Gilman and Pearson, 1991, as cited in Ruggiero, 1999, p.128 [emphasis added]). However, the American organisation LEAP believe that a system of drug legalisation and regulation would have a significant positive impact on crime, disease, human rights and state resources. In 2012, there were approximately 750,000 arrests for marijuana-related offences in the US, of which more than 87% were for possession alone (Marijuana Policy Project, 2013).

Despite the fact that almost every nation signed the three UN conventions, some countries, such as The Netherlands, Czech Republic and Portugal, have taken a more liberalised stance with regard to drug policy, especially in terms of harm minimisation practices and possession for personal use (Reinarman, 2004). The ‘war on drugs’ has clearly failed and many argue that some form of decriminalisation or legalisation is the only sensible option in tackling the harm inflicted on individuals, communities and society. A recent six-year study of Britain’s drug laws
concluded that the decriminalisation of possession of controlled drugs for personal use would not lead to increased drug use, and resources could be directed into drug treatment and tackling organised crime (Travis, 2012). Reinarman (2004), argues that whether drug law reform movements come from a public health angle, or human rights perspective, does not really matter. He claims that diversity and ambiguity on such issues is helpful: “we need a moveable mix we can adapt to country-specific conditions, which are themselves ever-changing” (2004, p.241).

Policy in Ireland

It appears that Irish drug policy has evolved in stages since the mid 1960s, when a low prevalence of drug use was identified, considered low-risk, yet requiring policy implementation. In the early 1980s intravenous heroin use had clearly become a problem the government reluctantly had to confront (Butler, 1991). Treatment programmes for drug users were almost solely based on the US favoured medical/abstinence model. However, in the latter half of the 1980s, with the health risks of HIV transmission within the drug using and wider community, health services in Dublin slowly began shifting towards more harm reducing methods using methadone maintenance and needle exchange programmes, albeit with minimum publicity (Butler, 2002). The ‘Rabbitte Report’ in 1996 was a radical document hurriedly assembled amid a heroin epidemic, in which drug related murders were becoming increasingly frequent; the murder of journalist Veronica Guerin in June 1996 signalled a line had been overstepped (Butler, 2007). The report explicitly linked social deprivation and disadvantage with heroin use. It recommended a cross departmental (‘cross-cutting’) response and a bottom-up approach to dealing with drug issues at community level, resulting in the establishment of Local Drugs Task Forces (LDTFs) (‘Rabbitte Report’, 1996). However, Ireland’s ‘war on drugs’ was overtly revved up a gear with the establishment of the Criminal Assets Bureau in a bid to tackle the drug barons on the supply side (Butler, 2007).

This dichotomous approach to drug issues, namely harm reduction with prohibition, can be seen as an attempt to create more balance. Conversely, O’Mahony (2008), argues that it is “a reactive, countermovement within global and local prohibitionist systems....essentially defined and driven by the existence of drug prohibition” (p.27). It certainly presents mixed messages and reflects the abstruseness within Irish politics around complex issues. As Butler and Maycock (2005) assert:
[Irish] citizens have been accustomed to high-level ambiguity...within which abstract statements of political ideals are not regarded as literal truths demanding action. It can plausibly be argued, therefore, that this is a political culture where the concept of a war on drugs would be unlikely to be seen in literal terms, and where it might not arouse too much controversy if the state was seen to be implementing strategies which appeared to be ideologically at odds with its international obligations. (p.417)

On the one hand, Ireland appears to take the American hard-line stance with regard to the criminalisation of drug suppliers and users, while simultaneously practising the more humanistic models promoted in Europe, in relation to drug user treatment programmes. Furthermore, the imposition on many drug users facing criminal charges to engage in treatment programmes, or face the consequence of imprisonment, adds to the confusion. This echoes the contentions by Gilman and Pearson, mentioned earlier, of “forcing people to be free” (Gilman and Pearson, 1991, as cited in Ruggiero, 1999, p.128), and also raises questions around human rights’ issues. Lack of clarity has been helpful in allowing policies to move towards more progressive approaches without causing widespread panic, however the downside is, that without public debate the moral standpoint of drug users as deviant addicts is prolonged (Leahy, P. et al., 2011).

**Drug Culture in Ireland**

Since time immemorial people have used drugs to enter altered states of being and temporarily escape routine activities, fundamentally, because they are fun. It has been argued that the societal fear of the loss of rationality that drug use induces, causing their proscription, paradoxically leads to their increased popularity, and that they indirectly aid to bolster the scaffolding of society (South, 1999). Cigarettes and alcohol, both legally available, are two of the most addictive substances in existence, the latter being deeply embedded within the social structures of Irish society; to be Irish is to drink and vice versa. Those who abstain are often viewed with suspicion, and there are few options in terms of evening social entertainment outside of the home that does not revolve around alcohol. In terms of personal harm, 50% of smokers die from smoking related illnesses (Department of Health, 2011). In relation to social harm, alcohol was a contributory factor in 97% of public order offences from 2003-2007, as recorded under the Garda PULSE system (Alcohol Action Ireland, 2011). Drug culture, with

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3 Many treatment programmes advocate abstinence, such as Narcotics Anonymous, one of several ‘Anonymous’ 12-step addiction treatment programmes rooted in the American disease paradigm of addiction.
regard to illegal substances, has evolved since the 1960s from low occurrences of soft drug use to very problematic heroin use in the 1980s (Butler, 1991), to the current prevalence of polydrug use – now a widely accepted, normative part of youth culture (CityWide Report, 2012).

Polydrug use has displaced heroin as the major concern and this is reflected in those presenting for treatment, two thirds of whom have problems with more than one drug, most commonly cannabis, alcohol, cocaine and benzodiazepines.

(CityWide Report, 2012, p.10)

Cannabis is the most widely used of proscribed substances and can elicit feelings of euphoria and heightened sensory perception (EMCDDA, 2008). The majority of drug use is not problematic, a fact rarely acknowledged by policy makers (Travis, 2012). However, serious problems can arise with polydrug use because it is impossible to predict the effects different drugs, when combined, will have on a person’s physiology. Furthermore, because the illegal market is unregulated some very powerful varieties of marijuana are now being cultivated that can have strong effects (EMCDDA, 2008). When added to the myriad of other drugs, which also come in varying degrees of quality, the results can be dangerous, sometimes fatal (CityWide Report, 2012). Taking this into account, how would legalising cannabis improve the lives of drug users, their families, communities and society?

**The impact of cannabis legalisation on drug users, their families, communities and society**

*Criminal records*

The fact that possession of marijuana remains illegal in Ireland results in the criminalisation of many people who otherwise pose no harm to society. Last year, almost 12,000 drug offence defendants came through Irish district courts (Browne, 2012). A criminal record limits opportunities for decent employment, education and travel/emigration, increasing the likelihood of experiencing social disadvantage (Lenton, 2000). This could have knock-on repercussions for the user’s family, such as becoming stigmatised or enmeshed in a poverty trap. Less criminality imposed would mean fewer cannabis users who are likely to get caught up in harder drug use while in prison. Questions can also be raised concerning resources wasted within the justice system that could be more creatively utilised in substance treatment and education programmes within communities.
**Quality control and drug revenue**

Cannabis is purported by some to be a ‘gateway drug’ to harder substances, yet since the late 1990s numerous scientific studies have failed to support this notion (Szalavitz, 2010). Evidence from Holland, with its liberal cannabis laws, clearly reveals there are far fewer pot smokers who use harder drugs compared with other countries in which it is prohibited (ibid.). Legalising possession and supply of marijuana takes the industry out of illegal drug dealers’ hands, enabling those who enjoy using this drug to do so without the risk of being pressured into trying out harder drugs their dealer may be pushing. If cannabis was regulated, the quality could be monitored and the potency and effects clearly labelled. The tax revenue collected could be earmarked for funding towards LDTF projects, for instance. Illegal drug dealing would be greatly reduced within communities, as cannabis is the most widely used of all illicit substances (Rahtz, 2012). CityWide strongly advocates for open debate on drug decriminalisation in Ireland. The evidence clearly shows that “the global war on drugs has failed and it is time for us to challenge rather than reinforce common misconceptions about drug markets, drug use and drug dependence” (CityWide Report, 2012, p.25). In a country in which alcohol use is entrenched within culture and the drinks industry regularly sponsor major sporting events, it seems hypocritical to take such a negative stance in relation to marijuana (O’Mahony, 2008). In 2011, gardai\(^4\) seized 3,680kg of herbal cannabis and resin, and 6,606 cannabis plants (CSO, 2012). A fully mature plant has an estimated street value of €400. One operation alone resulted in the seizure, from sixty major growing factories, of plants with an estimated street value of €60 million (O’Riordan, 2012). Considering that interdiction rates of illicit drugs is approximated at around ten per cent of the overall industry, the figures being generated within the Irish market alone must be staggering. Not only would legalisation remove this income from serious criminals, the enormous tax revenue from legal supply could be allocated to drug treatment and maintenance programmes.

**Adaptability of drug dealers – more human misery?**

One could argue that the major dealers would adapt and find other ways to make big money and maintain their control and status. Would we see an increase in human trafficking, for instance, causing more human misery? This seems plausible. In order to reduce these possibilities and create safer, more nurturing environments, long-term, creative approaches would need to be undertaken in order to divert future generations of vulnerable young people from being lured into...

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criminal gangs. Far more resources would have to be assigned towards community-based projects and services, recognised as necessary for increasing community resilience (CityWide Report, 2012). Improved education on drugs issues, as well as improved social housing, public health and access to third level education, in fact all areas of social policy would need to be greatly improved and resourced.

**Human rights**

Would we live in a freer, more rights-based society? We would certainly have more choice with regard to personal psychoactive substance use. Szasz (1992), asks the question of who actually has the right to say what we can put in our bodies? Arrests based on drug paraphernalia would be reduced and possibly halted altogether with the huge shift in attitude that one would expect with such radical changes. It probably wouldn’t halt random drug testing in the Irish Defence Forces (Óglaigh na hÉireann, 2011), as long as other harder drugs remained illegal. This random testing defies the concept in law of being innocent until proven guilty. The eradication of the illegal purchase of cannabis for its medicinal uses, would no longer exacerbate the suffering of glaucoma and cancer patients and those with AIDS-related illnesses.

**Social work**

Generic social workers have an extensive toolbox that they can dip into, depending on the circumstances of each case. However, they are often restricted in practice by legislation and agency policies, particularly statutory agencies (Butler, 2002). The majority of social work in Ireland has been focused on children and families (Christie, 2001), with very little community-based work. Policy constraints, as well as heavy caseloads, relegate many workers to managerial roles. They oversee their client’s case, referring them to various ‘expert’ services rather than undertaking these skilled tasks themselves (Butler, 2002). This separation of services can waste the useful resource of social worker skills, delaying vital therapeutic care for some.

Despite these hindrances, many social workers do practice harm reduction methods and praxis could only be enhanced with new drug legislation. It would seem pertinent to assume that this more liberal approach would trickle down into agency guidelines and policies, freeing the social worker to practice according to service user needs. One would also hope that the extra capital from cannabis tax would find its way into improved social work services: from the new Child
and Family Agency\textsuperscript{5}, to other agencies and social partnerships. Fewer service users would be in the criminal justice system for possession of cannabis, enabling time and space for more therapeutic and strengths-based work to be done. Utilising systems theory, the role of family, community and institutions in service users’ lives, could be explored more fully.

**Conclusion**

Legalisation of marijuana, indeed all controlled substances, can be argued from various perspectives such as human rights, economic or public health and well-being. However, it is evidential that the US view of zero tolerance and medicalisation appears to resonate within societies across the globe; shaking off these attitudes will be a long, hard battle. Some jurisdictions are making small inroads with regard to decriminalisation, but these are baby steps in the grand scheme. It is debatable as to whether small pockets of legalisation on this planet will make any serious impact on the levels of global human misery caused. If the majority of influential countries persist in pouring immense resources into prohibition, creating only tiny dents in this colossal industry, it will remain in the hands of brutish criminals and the hideous cycle can only continue.

In Ireland, a change of perspective within society is required in order to destigmatise users and help improve the circumstances within their families and communities. Legalisation of cannabis would probably improve the circumstances within these communities, but only if it was underpinned by serious commitment from government in the form of funding and action in *all* areas of social policy. Given the government’s track record in this area, it would be understandable to expect scepticism from the electorate. The ambiguous approach to Irish policy has been shown to have its advantages; however, allowing cannabis to become deregulated is not something that could slip through the back door unnoticed. It would be extremely contentious and politically suicidal. Action to redress the failings of government towards drug users and their communities, and channelling resources to empower them to make their own choices in relation to improving their lives – “compensation as rehabilitation” (Ruggiero, 1999, p.134) – would be a positive first step. This may begin to alter attitudes within society wherein

\textsuperscript{5} Tusla, the new Child and Family Agency, began operations in January 2014, overseeing Ireland’s Child Protection and Welfare Services as well as other statutory and voluntary child and family services. Despite having a more community-based ethos, resourcing these services remains an ongoing concern.
legalisation may become accepted as not so outlandish or threatening a notion. However, considering the heavy cuts the community, voluntary and government welfare sectors are currently undergoing, coupled with the Irish government’s poor history in relation to social policy, these arguments for legalisation could be futile. In theory legalisation makes a lot of sense. In practice, would Irish society truly be better off without first addressing these other factors?
Bibliography


