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ENDING DRUG PROHIBITION WITH A HANGOVER?

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Julian Buchanan worked for Liverpool Social Services for six years before joining the Merseyside Probation Service as a qualified probation officer in 1982. In the mid-1980s as a drug specialist he pioneered a 'risk reduction' approach to substance misuse. During his 15 years with the probation service he held a variety of positions: probation officer; training officer; practice teacher and middle manager. In 1995 he joined Liverpool University as lecturer and programme leader for the Home Office sponsored probation qualification. In 1997 he was promoted to Senior Lecturer at University of Central Lancashire where he set up a Masters degree in Substance Misuse. In 2000 he joined Glyndwr University (Wales) where he established criminal justice and criminology BA and MA programmes, and set up the Social Inclusion Research Unit. In 2011 he joined the Institute of Criminology at Victoria University of Wellington.

As an academic Julian has continued to examine issues that confronted him as a practitioner working in the community: the role of probation; effective community sentences; managing and responding to problem drug use; and understanding and tackling discrimination and social exclusion. He has researched and published widely on these issues including around forty contributions in book chapters and journal articles. In 2009 he co-edited 'Effective Practice in Health, Social Care and Criminal Justice: A partnership approach', now in its second edition published by Open University Press.

He has been external examiner for programmes at Trinity College, Dublin and Liverpool John Moores University, and is a specialist assessor for numerous journals including: International Journal of Drug Policy, Criminology and Criminal Justice Journal, British Journal of Community Justice, Probation Journal and the Journal of Social Policy.

Abstract
After three decades of working in the drugs field (as a probation officer, researcher and academic) and seeing little change in a drug policy largely driven by prohibition, it is encouraging to finally see the emergence of a paradigm shift, towards drug decriminalisation and regulation. Globally, there are a growing number of countries, agencies and individuals exploring drug law reform, albeit, largely related to cannabis. These are critical and important times, but after the debacle of prohibition, we should be careful not to get over-excited and simply lurch uncritically towards any reform that's proposed. We need to be rigorous and well informed when considering and assessing appropriate drug policy change, otherwise we will fail to address the fundamental problem – the decades of damage caused by drug policy abuse. In this paper I shall clarify why drug law reform change is urgently needed, explore lessons from drug policy changes in other countries, highlight risks inherent within drug reform, and establish some guiding principles for change.

Keywords
Drug reform; regulation; decriminalisation; prohibition; human rights; harm reduction

1980s: From abstinence to harm reduction

In the 1980s, working as a probation office in Bootle, Merseyside, I was confronted by two particular social problems; mass unemployment, and a heroin 'epidemic'. While in the past, illicit drug use had been largely associated with enhancing life-experiences, such as attending parties, music festivals or socialising at university, the 1980s wave of heroin use was confined largely to discarded working class youth who used the drug to create a 'euphoric oblivion', to block out depressing life experiences (Buchanan & Wyke, 1997). Not surprisingly, this heroin epidemic spread rapidly across the most deprived areas of England, those hit hardest by de-industrialisation and mass unemployment (Dorn & South, 1987). The received wisdom in the early 1980s surrounding problematic drug use was clear and robust; all illegal drug use was inherently dangerous, would lead to addiction, destroy families and communities, and ultimately result in early death and tragedy. The national response to this drug epidemic was to rally communities and agencies together against this new threat, and to utilise every means possible to get young people off (illegal) drugs. This 'crusade' against the drugs 'enemy' resulted in a proliferation of new community groups and organisations, often with the phrase 'against' drugs in their title.

As a new probation officer, I acquiesced and embraced this misguided dominant discourse, and did my utmost to coerce people to stop taking illegal drugs. After pressurising and persuading heroin using offenders who were awaiting sentence in Court, to give up illegal drugs, I'd often take them in my car to a detoxification centre or a drug rehabilitation centre, far away from their home, only to see them back on the streets of Bootle, Merseyside, a few weeks later using heroin. I soon realised, not only was a coerced abstinence not working; it was actually part of the problem, they were now more entrenched, and further alienated following my unsuccessful attempt to force them off drugs. Supporting the crusade to rid them of illegal drugs did more harm than good. In particular the approach didn't meet people where they were at; it didn't assess or listen to what they were ready, able or wanting to do; instead, I was pursuing my agenda, not their agenda (Buchanan, 1991). In so doing, I was setting them up to fail, and this created further conflict and relationship breakdown between them, their family, friends and importantly, the criminal justice system, which saw the offender breaking their promise to become drug free. By imposing an unrealistic, and probably unachievable expectation upon the offender, I had inadvertently encouraged deceit that made the person more damaged, isolated and at risk.

Learning from this experience, when the Merseyside Probation Service appointed me as a drug specialist in 1986, I helped pioneer and promote a risk reduction approach (Buchanan & Wyke, 1987) that was subsequently adopted as Merseyside Probation Service drug policy. Risk reduction (now widely referred to as harm reduction) doesn't exclude abstinence: if somebody is ready, able and wanting to pursue abstinence, they'll be supported to do so, but risk reduction engages and fully supports people in a pragmatic, non-judgmental manner, while they continue to use drugs. Risk reduction is dedicated to reducing the risks (legal, social, psychological and medical) to the person using drugs, their friends, family and wider community, and doesn't require a commitment to abstinence (Newcombe, 1992).

By the mid/late 1980s the dominant anti-illicit drug discourse in the UK that demanded 'drug' free lives and communities, was largely replaced by a harm reduction strategy. This new approach engaged more people in treatment and was more successful at reducing harms (O'Hare et al., 1992). However, it is important to be clear, the motivation for this paradigm shift away from abstinence, was essentially a pragmatic move to protect the wider community from the new and greater threat of HIV/AIDS, posed by the drug injecting community, through unprotected sex and sharing of needles, the paradigm shift didn't reflect a policy change towards accommodating illegal drug use (ACMD, 1988).

1998 - The empire strikes back

The United Nations General Assembly Special Session (UNGASS) gathered in New York in 1998 to launch a new ten-year global drug strategy, accompanied with the slogan: 'A drug free world - we can do it' (Blickman, 2008; UNDCP, 1998). This far-fetched and questionable aspiration was an overt attempt to reclaim and re-assert abstinence. In my view a 'drug' free world is as deluded, naïve and useless, as a 10 year plan for a crime-free world. Worse, while the notion of a crime free world has merit, the notion of a drug free world is bizarre. It is a vague ideologically driven crusade; one that is irrational, contradictory, unachievable and undesirable, and as I will argue, drug policy driven by prohibition has caused considerably more harm, than the drugs it purports to protect us from (Rolles et al., 2012).

Soon after the 1998 UN conference, the UK appointed Keith Halliwell, an ex-Chief Constable, as a new US-styled Drugs Tsar, and he too launched a ten-year drug strategy. This appointment marked a shift in the UK away from a health approach to the 'drug' problem, and criminal justice took centre stage; it also marked a significant alignment towards abstinence-based US drug policy, and extended the war on drugs (Buchanan, 2010). By this time, I was working at Liverpool University and carrying out qualitative research that explored the lived experience of people on Merseyside struggling with chronic problematic drug use. In an article entitled 'A war on drugs, a war on drug users', Lee Young and I, argued a prohibitionist, tough law enforcement drug policy that meted out severe punishment for drug violations, was not only an attack on illicit drugs, but more importantly, it was an attack on the people who used illicit drugs (Buchanan & Young, 2000). It was clear, the drug war in the UK focused on working class communities, and specifically young people whose futures had been ravaged by de-industrialisation, disinvestment, poverty, and major social, economic and political changes (MacGregor, 1989). Bootle, where I worked as a probation officer and drugs worker, was a tragic example of a community blighted by socio-economic change, which resulted in a generation of unskilled youth, whose labour was rendered worthless and useless. Young people in Bootle were unable to follow in their parents' and grandparents' footsteps in Bootle, suddenly couldn't find work, and wondered if they'd ever work. In the 1980s it seemed that almost overnight a new section of society appeared - the discarded working class whose labour was surplus to capitalist requirements and who would be punished and scapegoated for being unable to secure work (Dorn & South, 1988; Rojek, Peacock & Collins, 1989).

This group of unskilled youth, lacking qualifications, unable to secure a stake in society, couldn't legitimately access employment, struggled to find their own accommodation, were unable to afford consumer goods, and inevitably many drifted into a drug-centred lifestyle which offered a daily routine and network to escape their grim daily reality. Labelled 'addicts' and 'smack-heads' they were presented as an enemy within the community, and the cause of community despair. As Chomsky (1998) explains, this demonisation served a political purpose:

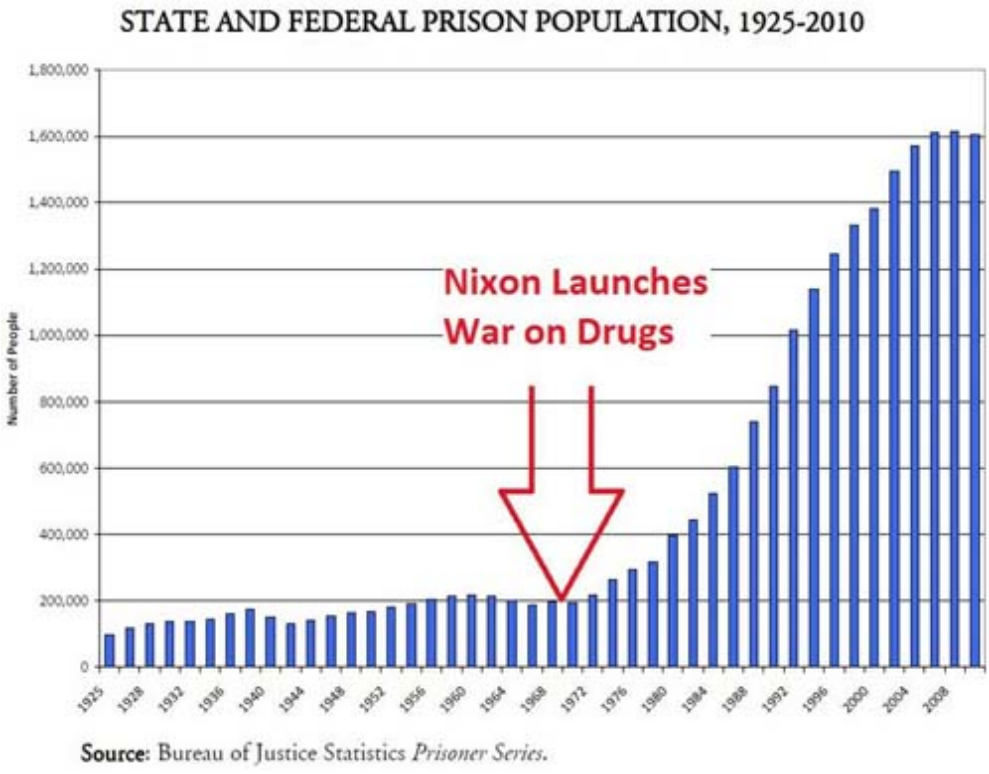
> 'The Drug War is an effort to stimulate fear of dangerous people from who we have to protect ourselves. It is also, a direct form of control of what are called "dangerous classes," those superfluous people who don't really have a function contributing to profit-making and wealth. They have to be somehow taken care of.'

Historically, drug prohibition has almost exclusively targeted the discarded working class, and enmeshed with racist thinking and racist targeting (Alexander, 2013; Nadelmann, 2014). In the late 1800s Chinese people living in London who used opium (rather than alcohol) were portrayed as a threat to morality, a people who used their drug in 'opium dens', a stark contrast to British attitudes towards the opium using 'Lakeland Poets' (Keats, Coleridge, Wordsworth and De Quincey) earlier that century. In 1914 the New York Times headline 'Negro Coke Fiends' presented Black African Americans who use cocaine as peculiarly dangerous criminals, suffering insane addiction which equipped them with an ability to withstand bullets (Williams, 1914). More recently the disparities between crack and powder cocaine sentencing in the USA, even though it is virtually the same drug – have resulted in concerns about racist drug laws. To receive the ten-year mandatory minimum prison sentence for possession of powder cocaine (predominantly used by the white population) the threshold was set at 1000 grams, whereas the threshold for crystallised cocaine (predominantly used by the Black population) was set much lower at 10 grams. Belatedly acknowledging these gross disparities, the US Fair Sentences Act 2010 eventually adjusted the threshold level, although the present 18:1 ratio is still unfairly balanced (Washington Post, 2010).

Prohibition

Drug prohibition has caused global harm and great cost to society, arguably far greater than the harm arising directly from illicit drugs (Rolles et al., 2012). Further, prohibition has been ineffective and has failed to demonstrate any significant reduction in drug use, drug supply, or drug harm (GCDP, 2011 & 2014). Since President Nixon declared the 'war on drugs' in 1971 (see Fig. 1), the US have witnessed a sudden and rapid increase towards mass incarceration (Alexander, 2013), with vast numbers held in prison for drug-defined crimes (possession, supply, cultivation etc.), (Kerrigan, 2012). A similar pattern of spiralling prison populations can be observed in most Anglophile countries. In New Zealand around 1 in 20 recorded crimes are drug-defined offences, and around 11% of the prison population are imprisoned for drug-defined crimes (NZ Police, 2014).

Figure 1



In the UK, the Misuse of Drugs Act 1971 launched the drug wars, when it mandated a life sentence can be imposed on anyone supplying outlawed drugs such as LSD, Magic Mushrooms or Ecstasy (Class A). In addition to the severe criminal sanctions, there have been growing civil anxieties concerning what can and what can't be consumed, and this has resulted in a proliferation of drug testing technologies (urine, blood, hair, saliva, sweat and even sewage), that encourage parents to drug test their teenage children; companies to test their employees; colleges to test their students; even house buyers are being encourage to purchase a drug test survey to ensure the house is 'clean' from illicit drugs. In New Zealand, like some US states, people on benefit seeking employment are routinely drug tested; if they repeatedly test positive for illicit drugs, (often cannabis because it can be traced weeks even months after use), their benefit is stopped. Like private prisons, drug testing has become a major growth industry that has a vested interest in supporting the drug war by offering new technologies, for example the New Zealand Drug Abstinence Court, attaches a 'sobriety bracelet' to the ankle of offenders to ensure they remain abstinent from alcohol.

Such is the seemingly limitless expansion in drug testing business opportunities to support the drug wars, in May 2013 the EMCDDA (2013) launched the inaugural international conference for detecting illicit drugs in wastewater. Maybe the next business opportunity will involve a delegate from a wastewater drug testing company approaching a university, offering to provide a wastewater analysis of the Halls of Residence, combined with regular

random testing of students in lecture theatres. In a competitive environment the university could then boast they have certified 'drug' free students and a drug free educational environment - alleviating fears of worried parents, sponsors and future employers. The wide circulation of some media fuelled panic, a shock-horror story involving illegal drugs and students on campus should help stimulate demand.

The illogical war on illicit drugs is no longer confined to law enforcement agencies; it's become a civil war, one that has invaded our place of work, our schools, colleges, communities and homes. In its extreme, US militarised SWAT teams carry out dawn raids on homes for alleged possession of illicit drugs. In such raids pet dogs have been killed, and in some cases people (Agorist, 2014). In the UK and Australia children have been stripped searched by police looking for drugs, in the USA one man was forced to undergo three enemas, a colonoscopy, an X-ray and several cavity searches, simply because he appeared to clench his buttocks (Sullum, 2013). In the UK every 58 seconds somebody is stopped and searched in England and Wales for banned drugs (Eastwood, Shiner & Bear, 2013). Perversely, most criminal convictions for possession and supply involve cannabis – a substance less damaging than alcohol and tobacco (Nutt et al., 2010). A criminal conviction for drugs is much more damaging on life opportunities than the drugs they purport to be protecting us from. While many politicians and US Presidents may admit to using illicit drugs, they were never convicted, whereas 1.5 million people in the UK have criminal records for drug possession - usually the working class, the poor and the black and minority ethnic groups (Release, 2014).

In the US and the UK, it is the black population who are more likely to be stopped, searched, arrested and prosecuted even though their use of banned drugs is similar if not less than the white population. In the UK the chances of being stopped for drugs if you are black is 45 people per 1,000 whereas if you are white it's 7 people per 1,000 (Eastwood, Shiner & Bear, 2013). Once convicted of a drug-defined crime, life opportunities diminish in terms of employment, relationships, travel abroad, insurance, mortgages, housing and membership and participation in wider society.

The increased dangers from prohibiting drugs

Banning drugs actually makes drug taking more dangerous. Let me illustrate. Before this lecture folk were enjoying a few glasses of the particularly dangerous drug ethanol (served as red or white wine). Because the drug is legal and regulated nobody was concerned it might be mixed with dangerous substances such as bleach. When the bottles of wine were being poured, everyone anticipated the alcohol content to be around 11-15%, some may have checked the precise alcohol volume, which is always written on the label. Some may have confined themselves to one glass of wine, because they are driving home later. Those who did have just one glass were not anxiously thinking: *'I just hope this isn't 90% alcohol, otherwise I have just drunk the equivalent of eight glasses of wine in 15 minutes'*. That never crossed your mind, because when you take a legal drug, it is quality controlled, you know what you're taking. Knowing the purity and strength of a drug, and knowing that it's not mixed with poisons or toxins is vital, and it is a privilege afforded to people who use legal drugs. The greatest danger with illegal drugs is not the substance itself, but it is not knowing its content or strength. Contamination and uncertain strength are significant

causes of overdose and death. This risk is exacerbated considerably by illegality. The same issues would apply to alcohol, tobacco and caffeine if they could only be produced and sold via the illegal market. Prohibition also means that consumers must engage in a criminal underworld inevitably leading to some level of secrecy and anxiety. The stigma and serious social and legal consequences of being 'found out' using a banned drug, means most users are reluctant to seek help if a problem occurred. The exposure to the criminal underworld could also lead to opportunities to engage in other criminal activities. Buying, using and sharing illegal drugs places the person at risk of severe criminal sanctions including imprisonment (Buchanan, 2008).

Maintaining the drugs lie

There is no pharmacological basis to separate the legal drugs alcohol, tobacco, sugar or caffeine from the illegal drugs such as heroin, cannabis, LSD or cocaine (Gossop, 2013). There is no rational basis in terms of risk and harm either, given that alcohol and tobacco are more dangerous than most illegal drugs; indeed, alcohol is the most dangerous substance of all (Nutt et al., 2010). One way of masking this hypocrisy has been to socially construct legal drugs as non-drugs. This irrational, unscientific and untenable position has been sustained by a regular cycle of drug panics, and shock-horror campaigns centred upon the banned substances. These media fuelled drug war propaganda stories create shocking and frightening narratives based, at best, upon loose association, rather than any causal connections. For example: 'reefer madness' asserted that cannabis use led to psychosis, violence, weird orgies, wild parties and unleashed passion; 'crack babies' asserted that crack cocaine taken during pregnancy led to mentally damaged babies that would struggle to function normally; methamphetamine was portrayed as the most addictive drug in the world; it was claimed 'bath salts' caused a man to eat the face of another man; and most recently krokodil was presented as a flesh eating drug. There is no established causal relationship between any of these drugs and the alleged outcome. There is a need to look beyond the substance, and consider instead look more closely at the set (person), and the setting (their environment) (Dalgarno & Shewan, 2005).

Lies, myths and misinformation that are frequently used in an attempt to validate what is effectively a drug apartheid, not only mislead people (Buchanan 2014), they waste vast resources, damage lives and detract from the real issues. I recall in the 1980s, some health professionals and social workers were telling pregnant women that the use of heroin or methadone could permanently damage the unborn child. The same was alleged about crack cocaine. Neither is true. While the attention and concern was directed at the outlawed drugs, relatively little attention was given to a legal drug frequently taken during pregnancy that ***can*** cause permanent damage to the unborn child – alcohol (BMA, 2007).

Tough enforcement increases violence

The drug apartheid secured and maintained through tough prohibition fuels violent crime. It's not difficult to understand that when people who have a very lucrative business and excellent market demand are suddenly removed from the community and incarcerated, other business entrepreneurs are likely to respond to meet the demand. Disrupting the once steady market by removing a key business leader makes this underground market more volatile and turf wars become more likely. When a business is forced to operate

underground there are no legitimate means for resolving disputes for producers, suppliers or users. A systematic review of the effect of law enforcement upon drug market violence found that areas with tougher enforcement are associated with increased violence (Werb et al., 2011).

Looking beyond the negative impact upon communities, attempts to eradicate drug-supplying countries has destabilised entire countries, particularly Afghanistan and Mexico. The illicit drug trade is a billion dollar business managed by gangsters and militarised cartels, and in poverty stricken countries poor farmers with little legitimate means to earn a living wage inevitably grow coca plants and opium poppies as a means of economic survival (Redmond, 2013).

Stuck in a time warp

Figure 2

A photograph of delegates signing the UN Single Convention on Narcotics back in 1961 (Fig. 2) typically reflects middle-aged men, and in that period most were tobacco smokers, caffeine users and people who enjoyed a drink. The convention brought together different reports and thinking from the 1950s, into a new 'single' convention (Bewley-Taylor, 2013) and effectively established a global 'drug apartheid' privileging certain drugs which were excluded and promoted, while seeking to prevent and punish possession and supply of other drugs. 'Narcotics' as they were called, were not widely understood, nor indeed were they a particular social problem at that time. The Convention incorrectly asserts that cannabis is particularly harmful and has extremely limited medical or therapeutic value (Gupta, 2013). It's hard to fathom how the guidelines enshrined in a culturally and scientifically out-dated document more than fifty years old continues to inform drug law and policy in the twenty-first century. Imagine if law, policy and practice on race, gender, sexuality and disability remained rooted in 1950s knowledge, culture and beliefs here in the UK. Thankfully, attitudes, values and knowledge have improved considerably for these groups since the 1950s, and while discrimination in respect of race, gender, sexuality and disability still exists, laws and institutional practices can no longer be seen to discriminate; sadly we cannot say the same for people who use illegal 'drugs', where thinking, culture and beliefs have been stuck in a time warp.

According to the UN Convention the definition of a drug is any substance listed in the convention – there is no scientific, no pharmacological or no rational basis to explain why alcohol, tobacco or caffeine would be separate from cannabis, LSD, cocaine or heroin. Article 1.1 (j) of the UN Single Convention 1961 defines a drug as 'any of the substances in Schedules I and II, whether natural or synthetic.' This invites the circular argument that drugs are illegal because they're dangerous, and the evidence that they're dangerous is that they are illegal (Buchanan, 2014). As Bancroft explains the notion of drugs 'are social categories constructed because as a political community we have come to treat some substances differently from others, depending upon who uses them, how and for what?' (2009:8)

So what we have embraced and what we are continuing to uphold is a social construction of drugs rooted in 1950s knowledge and culture that is devoid of scientific evidence to support it. Yet we've allowed the global and national drug controls that have resulted in significant harm to people, infringed human rights, and led to abuses by the state particularly for poor people, indigenous people and people of colour. During this fifty-year period of drug wars BigPharma and multi-national corporations have exploited the drugs apartheid to promote and distribute legal drugs. Tobacco, alcohol and caffeine have become culturally embedded as important signifiers of relaxation, leisure, pleasure, occasion and celebration.

The times they are a-changing

There is a growing mainstream momentum that is questioning the drugs apartheid regime. For example, the high profile Global Commission on Drug Policy established in 2011, comprising of an eclectic mix of conservative international figures from across the globe including; former Presidents and Prime Ministers from countries such as Switzerland, Colombia, Mexico, Brazil and Greece, along with others such as Kofi Annan and Richard Branson, have questioned the effectiveness of drug prohibition in terms of having little or no impact on supply and demand. The GCDP have realised too, the harm being done by this drug war, and the GCDP have produced a number of highly critical reports calling for an end to prohibition (GCDP, 2011; 2014). They argue that the global war on prohibited drugs has failed with devastating consequences for individuals, communities and societies around the world, and that fundamental reforms in national and global drug control policy are urgently needed.

Dr Sanjay Gupta, a US neurosurgeon who was a drug advisor to Hilary Clinton and a White House Fellow, like a lot of mainstream conservative people, uncritically accepted the guidance in the UN Single Convention on cannabis. For years he was strongly opposed to decriminalisation of cannabis, but he's recently done a complete U-turn and delivered a public apology:

> 'I apologize because I didn't look hard enough, until now. I didn't look far enough…I mistakenly believed the Drug Enforcement Agency listed marijuana as a schedule 1 substance because of sound scientific proof. Surely, they must have quality reasoning as to why marijuana is in the category of the most dangerous drugs that have "no accepted medicinal use

> and a high potential for abuse." They didn't have the science to support that claim, and I now know that when it comes to marijuana neither of those things are true. It doesn't have a high potential for abuse, and there are very legitimate medical applications.' (Gupta, 2013:1)

In my view, drug policy reform must be informed and shaped by two important guiding principles: to promote harm reduction and to protect human rights. However, to begin the process of reform we will have to first acknowledge and address the flawed and misleading social construction of 'drugs', otherwise we risk building drug reform on very shaky foundations. Four false categories of drugs need amalgamating. Alongside prohibited narcotics, now widely referred to as 'drugs', there are three other categories: non-drugs; medications; and legal highs. Current drugs such as caffeine, alcohol and tobacco (and probably sugar), cannot be granted non-drug status – they are addictive and sometime dangerous, psychoactive drugs, that people use for pleasure. People smoking a cigar or enjoying a glass of whisky cannot be afforded some privileged status that allows them to continue to isolate and label someone who uses cannabis or cocaine as a 'druggie', while they also regularly use dangerous drugs.

Perversely, our privileged drugs; caffeine, alcohol and tobacco, all have, to various degrees, resulted in deaths for some heavy users, particularly alcohol and tobacco. The other privileged drugs; legal medications sold by BigPharma have an ever expanding market to help with ailments, enhance sex life, provide more energy, help you relax more, sleep etc. – which are similar reasons why people use prohibited drugs. However, the side effects, damage and indeed death by overdose caused by promoted pharmaceutical drugs is a growing concern, especially in the USA where in 2012 there were more deaths caused by overdose than road traffic accident among people aged 25 to 64 years old (CDCP, 2014).

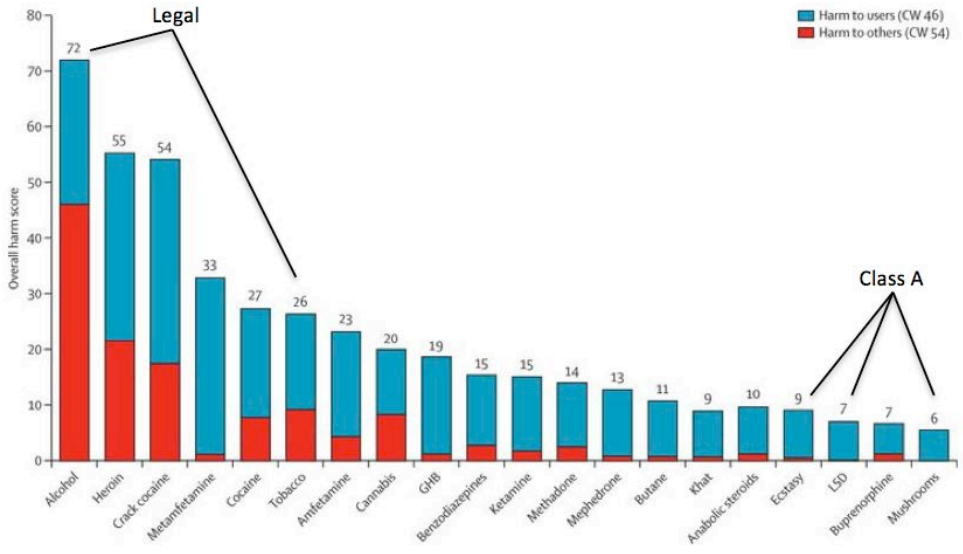
New psychoactive substances sometimes called 'legal highs' are arguably a by-product of tough prohibition and ever-invasive drug testing regimes. These drugs tend to have the appearance of natural substances, but they're new designer chemicals with limited knowledge of their long-term consequences. They've become popular partly because they carry no risk of criminal conviction and are unlikely to be detected in any random drug test (Perrone, Helgesen & Fischer, 2013). One of the good things about a drug like alcohol or cannabis is that it has been used for thousands of years so the consequences and risks are largely well known. So this arbitrary, incoherent and misleading four-part typology of drug; non-drug (drugs); medication; and legal high has demonised, prohibited and isolated one particular set of substances, that we have been told to call 'drugs'. All four groups should be merged into a single category of drugs. We all use drugs, and the vast majority of people also use drugs for leisure, pleasure and recreation. We must move away from the idea that people who use drugs that are currently prohibited, are somehow a different type of people, with different motivations for using, and taking drugs that are inherently more dangerous; it's simply not true. However, there is vested interest from BigPharma and the multi-national companies who produce and supply caffeine, alcohol and tobacco products, to resist change and maintain the status quo, unless, they can adopt one of the presently prohibited substances, which they can produce, package, distribute, market and sell – such as cannabis. While it would be good to see cannabis possession no longer

subject to criminalisation and available for purchase, awarding this drug privileged status while maintaining the drugs apartheid, does little to address the fundamental issues.

Through prohibition, alcohol has been culturally accommodated, indeed promoted, as synonymous with expressions of pleasure, leisure, celebration and occasion. The drug features prominently across a range of greeting cards for: anniversaries; exam success; birthdays; New Year, weddings; baptisms; etc., and nobody seems offended, seeing this dangerous drug promoted on the front of greeting cards. You may have seen the converted mini-car promoting the sale of a stimulant drug - Red Bull, a similar drug to cocaine and amphetamine but much weaker in strength. The Red Bull advertising promotes imagery of energy, an adrenaline rush and confidence – which is what users expect when they take any legal or illegal stimulant drug, but it is somehow entirely acceptable for caffeine products.

In a drug apartheid there is no outcry with greeting cards promoting use of the depressant drug alcohol, or a mini car adapted to look like a rocket to promote the use of a stimulant drug caffeine, but it would be considered abhorrent if any greeting card displayed a line of cocaine on a mirror, or the a mini-car was adapted to display not a can of Red Bull but a cannabis spliff. I'm not here arguing for the promotion of cocaine or cannabis, rather, I am challenging the illogical position of the cultural accommodation of some drugs and the cultural rejection of other drugs. We have to reassess our social construction of 'drugs', and we need an inclusive framework.

Figure 3



If we want a more accurate assessment of drugs, not rooted in a 1950s cultural construct, research done by Profession Nutt et al. (2010) provides a scientifically based rational assessment of the harm posed by different drugs, with an overall rating combining potential harm to the user and to others. The graph displays a league table of harm with

the highest scoring drugs being the most harmful. I have indicated Class A drugs which carry a maximum penalty of life imprisonment for supply (see Fig. 3).

Like other reports and research (Runciman, 1999; HCTC, 2006; Nutt et al., 2007) this graph illustrates how woefully out-dated the MDA 1971 classification system is, an Act clearly no longer fit for purpose. The chart indicates the most dangerous drug is alcohol, tobacco is 6th and some Class A drugs are right near the end of the list. However, Nutt et al.'s, work offers a starting point for scientifically informed discussion, rather than a definitive blueprint, because the impact of any substance will vary from person to person depending upon their bio-psycho-social makeup, and the legal and social environment of any drug use (Gossop, 2013). Decriminalisation and eventually legal regulations of all drugs would undoubtedly make drugs currently illegal much safer (Rolles et al., 2012).

Lessons from Drug Reform Changes

Portugal: Following a difficult period with high levels of problematic drug use in 2001 Portugal decriminalised all personal possession of drugs. Since removing the threat of criminalisation and punishment for personal possession, there has been no significant difference concerning levels of illicit drug use compared to other neighbouring European countries, which suggests that law enforcement has little, or no impact on levels of drug usage. Given the cost, the time and resources devoted to personal drug possession by law enforcement agencies it raises important questions about the purpose of prohibition.

Research by Hughes and Stevens (2010) found small increases reported in illicit drug use amongst older adults, while a slight decrease in use among younger adults. More importantly than drug use, problematic drug use reduced, as did the burden of processing drug offenders in the criminal justice system, infectious diseases and there was an increased uptake of drug treatment. While these are positive results for Portugal they are not necessarily transferrable but offer encouragement for other countries considering decriminalisation.

United Kingdom: Following reports by the Police Foundation (2000) and the Advisory Council on the Misuse of Drugs (ACMD, 2002), the UK government decided to downgrade cannabis from Class B to Class C, however, implementation was delayed until January 2004 while the government increased the maximum sentences available for supply of all Class C drugs from 5 years to 14 years imprisonment. There was considerable media concern during the run up period, that effectively decriminalising cannabis would result in greater use among young people and addiction and mental health problems. As a direct result of political pressure rather than scientific evidence, cannabis was reclassified as Class B in January 2008 (Buchanan, 2010). What is interesting to note here, is the level of cannabis use during the period that it was downgraded. The British Crime Survey indicated that between 1996 and 2002/3 the use of cannabis amongst 16-24 years olds remained fairly constant at around 17% (for past month use), varying by only 1.4% across the entire 7-year period. However, during the four years that cannabis was downgraded (2004-2008), use by young people subsequently dropped every year from 14.1% to 9.7%,

providing a further indication that lowering the sanctions for possession, does not appear to result in any significant increase in drug use (Hoare & Flatley, 2008).

The Netherlands effectively decriminalised cannabis use in 1976, making cannabis widely available in coffee shops across Amsterdam. By comparison cannabis possession in the USA is a serious offence. Given these stark differences in legal context, research compared access to, and use of, cannabis in Amsterdam and San Francisco (Reinarman, Cohen & Kaal, 2004) and what they found is that despite the liberal approach to cannabis in Amsterdam, patterns of use were similar to San Francisco at every level: age of onset, age of regular use and age of maximum use; so having coffee shops doesn't appear to have any detrimental effect. A UNICEF report (2013) explored cannabis use amongst adolescents and found rates in USA 22% compared to 17% in the Netherlands and 10% in Portugal. Some argue that cannabis is a gateway drug, and increased availability is likely to result in greater problematic drug use, but countries like the Netherlands and Portugal tend to show lower proportions of problematic drug users than countries like the UK and USA.

Switzerland: While there may be a willingness to accommodate cannabis, some suggest that illicit drugs such as heroin are inherently dangerous and inevitably lead to death and destruction if taken daily or heavily. However, numerous well-researched heroin assisted treatment (HAT) programmes have demonstrated clearly this is not the case (EMCDDA, 2012). The Swiss, realising their terrible mistake of ghettoising injecting drug users in 1987 by geographically confining their illegal activity to Platzspitz (aka Needle) Park, Zurich and the carnage that it produced, did a U-turn and in 1994 adopted the British System by prescribing free clean pharmaceutical heroin to those addicted, and further provided them with a medically supervised clean room where they could inject. The results from this Zurich pilot were a clear success with significant improvements in health, social and crime. In 2008 in a nationwide referendum 68% voted in favour or rolling out the scheme permanently across the Switzerland (BBC, 2008).

These case studies from Portugal, Switzerland, the UK and the Netherlands illustrate the ineffectiveness of prohibition and give some confidence for countries to step away from criminalisation and experiment with some type of drug reform of depenalisation, decriminalisation, legalisation and/or regulation.

Discussion

After decades of frustration with the untenable archaic criminalisation of particular drugs, while other more dangerous legal drugs go under the radar, some degree of drug reform now appears likely. It is widely accepted we need to manage our relationship with drugs differently, and the prohibition of particular drugs, has not only been totally ineffective, but it has caused more damage than the drugs the state was purported to be protecting us from. While various options to criminalisation are available, some leading reform advocates such as Transform are calling for an alliance under the broad umbrella of drug 'regulation' as the way forward, however, the devil is in the detail and regulation can mean many things.

The so-called 'world-leading' New Zealand model of drug regulation (Psychoactive Substances Act 2013) provides a regulatory framework for 'legal highs'. Under this model, instead of all substances being legal to possess (unless specifically banned under the NZ Misuse of Drugs Act 1975), the PSA2013 has introduced a blanket ban on every new psychoactive drug. In New Zealand only state-approved psychoactive drugs can be consumed, and possession of any 'unregulated' psychoactive drug is an offence that carries a financial penalty, while supply of any unregulated drug carries a two year prison sentence. To prevent unregulated drugs New Zealand police have been issued with new warrantless powers if they suspect the premises may be supplying them. What this 'regulatory' model has done is effectively widen the net of prohibition, state control and punishment in New Zealand to include every new psychoactive drug. This raises further important questions regarding who and how a psychoactive drug is defined. This New Zealand model of regulation seems more like new prohibition.

The main argument for 'regulation' appears to be that we need to get the drug market out of the hands of the criminal underworld. Taking illicit drugs out of the hands of gangsters is a laudable aim, however, most damage suffered by people who use illicit drugs isn't caused by the criminal underworld, as I've illustrated, most damage is caused by criminalisation, policing and tough enforcement. In the everyday world of daily life, the absence of strict state regulation to govern activities of growing, making, buying, selling and exchanging goods and services, doesn't inevitably drift into the hands of dangerous criminals who manage business with guns, knives and baseball bats. However, if a lucrative business is subject to fierce prohibition, extreme law enforcement measures and severe penalties, it will inevitably drift towards a hostile, secretive and violent environment within which the underground business must operate.

The notion that decriminalisation, rather than regulation, as an initial first step would result in the illegal drug market entirely managed by gangsters is exaggerated. If decriminalisation was prioritised rather than strict state control (regulation) then cannabis, which is the drug most frequently used illicit drug, and the one that occupies most law enforcement time, would largely be home grown, shared and exchanged by friends, local growers and societies. Other illicit drugs not easily 'home grown' could, in a more relaxed period of transition, be purchased via websites similar to Silk Road, that operate a consumer rating system, not dissimilar to Amazon or eBay. Not perfect, not properly regulated, but this consumer friendly environment can hardly be described as a threatening underground market governed by violence, exploitation and gangsters. The present criminal sub-culture that surrounds the illicit drug market has largely been created by law enforcement and prohibition, rather than any inevitable or preferred pattern of operation by producers, buyers and sellers of drugs, and has little to do with the nature of the product on sale.

Decriminalisation as a first step towards living with drugs would importantly protect users (particularly the poor, indigenous people and people of colour who are targeted by law enforcement agencies), from police stop and searches, drug related arrests, penalties and incarceration. Drug users would be free from the serious and lifelong damage of a drug conviction. This would provide more time to look critically and carefully at models of drug market regulation. The history of regulation involving legal drugs alcohol and tobacco has

not exactly inspired confidence in state control. The recent significant increase in drug overdose deaths in the USA due largely to regulated painkilling drugs is a reminder of the serious problems that can arise – despite state regulation.

After thirty years of working in the drugs field I am convinced that drug policy abuse poses the greatest threat to our young people, not problematic drug use, and whatever regulatory model is eventually proposed, the non-negotiable priority must be to ensure personal possession is never an offence, civil or criminal. The individual must have sovereign right over their own body, to consume what they wish, without fear, threat or punishment from the state, – protecting the human right to choose what they do with their body. Regulations should concentrate on market related issues such as production, distribution, sale and advertising, and they should be used to protect the rights and freedom of the individual.

A drug reform campaign designed to end prohibition and replace it with regulation would in my view be a grave mistake, if regulation provides the state with new powers to punish personal possession of unregulated substances as it has in New Zealand. Hard fought campaigns for drug law change should not be squandered. For forty years the UK Misuse of Drugs Act 1971 has remained largely impervious to any positive reform, and this illustrates just how difficult it might be to make positive amendments to any new flawed drug legislation. Whereas, punitive orientated amendments to drug laws have historically been much easier to introduce, so considerable caution should therefore be exercised before supporting any new drug laws.

Figure 4

Conclusion

This war between drugs (legal vs. illegal) maintained by a relentless, oppressive and robust global drug apartheid, must collapse, like slavery, the Berlin wall and the South African racial apartheid. The global human and environmental damage caused by the war on prohibited drugs is comparable to these terrible historic injustices, and similarly to these atrocities, the insidious legacy of propaganda, lies and prejudice will take many decades to dispel. The legal drug industry profiteers realise support from the law enforcement regime is in its final chapter, and we observe a strategic shift and reconfiguration taking place to secure new civil controls through abstinence, drug testing and a disease model of addiction. As drug reformers we need to push for revolutionary reform at this critical period of time, and demand a rational, evidenced based approach to drug policy with human rights and harm reduction at the centre (see Fig 4). The campaign to end drug prohibition should not be dissipated by an invitation to cannabis to join the elite substances on the privileged and powerful side of the drug apartheid, nor by the offer to replace prohibition with strict state regulation that incorporates punishment for unapproved possession. No, tweaking or transforming the present corrupt model rooted in racism, self-interest and misinformation is not an option.

The first and foremost change to reduce harm and restore human rights is to prioritise the decriminalisation of personal possession of all substances. Once the human right to possess and consume what an individual chooses with their own body is restored, without fear, threat or punishment from the state, then the complex and tricky road of developing appropriate drug market regulations can begin, but there are a number of potential threats to derail this much needed drug policy change as illustrated in the graphic above. Drug policy change is now possible and indeed likely, but we need to make sure the opportunity is not squandered or hijacked by drug reform entrepreneurs, because it could be another four decades before the next opportunity arises.

References

Advisory Council on the Misuse of Drugs (1988) *AIDS and Drug Misuse*, Part 1. HMSO*,* London*.*

Advisory Council on the Misuse of Drugs *(*2002) *The classification of cannabis under the Misuse of Drugs Act 1971*. HMSO*,* London*.*

Agorist, M. (2014) *10 Facts about The SWATification Of America That Everyone Should Know,* The Free Thought Project, June 2014 http://thefreethoughtproject.com/10-facts-swatification-america/#OQUqbFpLUmHPAXh7.99

Alexander, M. (2013) *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*. New Press.

BBC (2008) Swiss Approve prescription Heroin, *BBC Live Breakfast News*, Sunday 30th November 2008 http://news.bbc.co.uk/1/hi/world/europe/7757050.stm

Bewley-Talyor, D. R. (2013) Towards revision of the UN drug control conventions: Harnessing like-mindedness, International Journal of Drug Policy 24 (2013) 60– 68

Blickman, T. (2008) *Refreshing Costa's memory, TNI Drugs & Democracy*, http://www.undrugcontrol.info/en/weblog/item/2029-refreshing-costas-memory?pop=1&tmpl=component&print=1%22%20target=%22_hplink.

British Medical Association (2007) *Fetal alcohol spectrum disorders, A guide for healthcare professionals*. BMA, London.

Buchanan, J. (1991) Enabling Dependent Drug Users – A Cognitive Behavioural Assessment, *Practice* 5(1): 34-46.

Buchanan, J. (2008) 'Understanding and engaging with problematic substance use', in S. Green, E. Lancaster & S. Feasey (Eds.) *Addressing Offending Behaviour – Context, Practice, Values*: 246-264.

Buchanan, J. (2010) Drug policy under New Labour, 1997-2010: Prolonging the war on drugs, *Probation Journal Special Edition*, 57(3): 250-262.

Buchanan, J. (2014) *The Drug Policy Sham - 58 Myths, Lies and Misconceptions supporting the Drug Apartheid*, https://julianbuchanan.wordpress.com/blogs-2/

Buchanan, J. and Wyke, G. (1987) Drug Abuse, Probation Practice and the Specialist Worker, *Probation Journal,* 34(4): 123-126.

Buchanan, J. and Young, L. (2000) The War on Drugs – A War on Drug Users, *Drugs: Education, Prevention Policy* 7(4): 409-422.

Centers for Disease Control and Prevention (2014) *Web-based Injury Statistics Query and Reporting System* (WISQARS) [online]. Available from URL: http://www.cdc.gov/injury/wisqars/fatal.html.

Chomsky, N. (1998) The Drug War Industrial Complex, Noam Chomsky interviewed by John Veit, *High Times*, http://www.chomsky.info/interviews/199804--.htm

Dalgarno, P. and Shewan, D. (2005) Reducing the Risks of Drug Use: The case for set and setting, *Addiction Research and Theory*, 13(3): 259-265.

Dorn, N., and South, N. (1987). *A Land fit for heroin? Drug policies, prevention and practice*. Macmillan, Education.

Eastwood, N., Shiner, M. and Bear, D. (2013) *The Numbers in Black and White: ethnic disparities in the policing and prosecution of drug offences in England and Wales.* Release, London.

European Monitoring Centre for Drugs and Drug Addiction (2013) *Testing the waters: first international multidisciplinary conference on detecting illicit drugs in wastewater,*

http://www.emcdda.europa.eu/events/2013/testing-the-waters.

European Monitoring Centre for Drugs and Drug Addiction (2012) *EMCDDA INSIGHTS No. 11: New heroin-assisted treatment: Recent evidence and current practices of supervised injectable heroin treatment in Europe and beyond*. Luxembourg: EMCDDA.

Global Commission on Drug Policy (2011) *The War on Drugs and HIV/AIDS: The Report of the Global Commission on Drug Policy*, June 2011, http://www.globalcommissionondrugs.org.

Global Commission on Drug Policy (2014) *Taking Control: Pathways to Policies That Work*, September, 2014, http://www.globalcommissionondrugs.org.

Gossop, M. (2013) *Living with drugs*, 7th edition, Ashgate, London

Gupta, S. (2013) 'Why I changed my mind on weed', *CNN International* http://edition.cnn.com/2013/08/08/health/gupta-changed-mind-marijuana/index.html?hpt=hp_c4

Hoare, J. and Flatley, J. (2008) *Drug Misuse Declared: Findings from the 2007/08 British Crime Survey*. Home Office Statistical Bulletin 13/08. London.

House of Commons Science and Technology Committee (2006) *Drug Classification: Making a Hash of It?* 5th Report of Session 2005–6, HC1031. www.publications.parliament.uk/pa/cm200506/cmselect/cmsctech/1031/1031.pdf.

Hughes, C. E. and Stevens, A. (2010) What can we learn from the Portuguese decriminalization of illicit drugs? *British Journal of Criminology*, 50(6): 999-1022.

Kerrigan, S. (2012) The Prison System Expands at Frightening Pace Following Declaration of War on Drugs, *Activist Post*, Tuesday, October 30, 2012, http://www.activistpost.com/2012/10/the-prison-system-runs-amok-expands-at.html.

MacGregor, S. (1989) *Drugs and British Society: Responses to a Social Problem in the Eighties*. Routledge.

Nadelmann, E. (2014) Why we need to end the War on Drugs*, TED talk,* http://www.ted.com/talks/ethan_nadelmann_why_we_need_to_end_the_war_on_drugs/transcript?language=en.

New Zealand Police (2014) *New Zealand Crime Statistics 2013, Illicit Drug Offences* http://www.police.govt.nz/sites/default/files/publications/crime-stats-national-20131231.pdf.

Newcombe, R. (1992) 'The reduction of drug-related harm: A conceptual framework for theory, practice and research', in P. A. O'Hare, R. Newcombe, A. Matthews, E. C. Buning and E. Drucker (Eds.) *The Reduction of Drug-Related Harm*. London: Routledge: 1-14.

Nutt, D., King, L. A. and Philips, L. D. (2010) Drug harms in the UK: a multicriteria decision analysis. *The Lancet,* 376(9752): 1558–1565.

Nutt, D., King, L. A., Saulsbury, W. and Blakemore, C. (2007) Development of a Rational Scale to Assess the Harm of Drugs of Potential Misuse, *The Lancet*, 369(9566): 1047-1053.

O'Hare, P. A., Newcombe, R., Matthews, A., Buning, E. C. and Drucker, E. (1992) *The Reduction of Drug Related Harm*. Routledge.

Perrone, D., Helgesen, R. D. and Fischer, R. G. (2013) United States drug prohibition and legal highs: How drug testing may lead cannabis users to Spice, *Drugs: education, prevention, and policy*, 20(3): 216-224.

Redmond, H. (2013) The political economy of Mexico's drug war, *International Socialist Review*, Issue 90, http://isreview.org/issue/90/political-economy-mexicos-drug-war.

Reinerman, C., Cohen, P. D. A. and Kaal, H. L. (2004) The Limited Relevance of Drug Policy: Cannabis in Amsterdam and in San Francisco, *American Journal of Public Health*, 94(5): 836–842.

Release (2014) Press release - *Over 80 high-profile individuals and organisations call on the pm to reform UK drug policy* http://www.release.org.uk/press-release-support-dont-punish.

Rojek, C., Peacock, G. and Collins, S. (1989) *The Haunt of Misery: Essays in Caring and Helping*. London & New York: Routledge.

Rolles, S., Murkin, G., Powell, M., Kushlick, D. and Slater, J. (2012) *The Alternative World Drugs Report: Counting the Costs of the War on Drugs*, Transform Drug Policy Foundation, http://countthecosts.org.

Runciman, B. (1999) *Drugs and the Law, Report of the Independent Inquiry into the Misuse of Drugs Act 1971*, London Police Foundation.

Sullum, J. (2013) The War on Drugs Hits a New Low with the Police Probe of David Eckert's Guts, *Forbes*, http://www.forbes.com/sites/jacobsullum/2013/11/15/the-war-on-drugs-hits-a-new-low-with-the-police-probe-of-david-eckerts-guts/.

UNICEF (2013) *Child Well-being in Rich Countries*, http://www.unicef-irc.org/Report-Card-11/.

United Nations International Drug Control Program (UNDCP) (1998) *General Assembly Twentieth Special Session 8-10 June 1998*. http://www.un.org/ga/20special/

Washington Post (2010) The Fair Sentencing Act corrects a long-time wrong in cocaine cases. Editorial, (2010, August 3) *The Washington Post*. Retrieved from http://www.washingtonpost.com/wp-dyn/content/article/2010/08/02/AR2010080204360.html

Werb, D., Rowell, G., Guyatt, G., Kerr, T., Montaner, J. and Wood, E. (2011) Effect of drug law enforcement on drug market violence: A systematic review, *International Journal of Drug Policy*, 22(2): 87-94.

Williams, E. H. (1914) Negro Cocaine "Fiends" new southern menace, *New York Times*, Sunday February 8, 1914, Shaffer Library of Drug Policy, http://www.druglibrary.org/schaffer/history/negro_cocaine_fiends.htm.