

Prohibition and Blame*

Criminology Collective, Commentaries, 7th June 2018

New Zealand was poised for drug reform in 2007, but reform never came. Why do we still adhere to drug prohibition, which will be remembered as one of the most arbitrary, barbaric and brutal systems of oppression in human history?

'Drug' Prohibition is an archaic system of control conceived in the 1950s that's had a devastating global impact upon individuals, families, communities and countries.

Back in the 1950s offensive ideas and practices towards indigenous people, people of colour, women, homosexuals, people with mental illness or learning disabilities were sadly not uncommon. Indeed, abuse was legitimised and normalised at a structural, cultural and interpersonal level. Now almost 70 years later, such bigotry has successfully been exposed and challenged, and such attitudes are for the most part no longer socially acceptable or state approved.

By contrast, the oppressive attitudes in the 1950s directed towards people who used 'drugs' became enshrined in the 1961 UN Single Convention on Narcotic Drugs, and little has changed since. We have been duped into using state approved drugs (alcohol, caffeine, tobacco and sugar) within our daily routines and rituals and to embrace them as 'non-drugs'. These hidden drugs have monopolised and saturated the market, while all substances banned by the government (that we are encouraged to call 'drugs') are demonised, presented as unquestionably dangerous.

This sharp distinction between state-approved and state-banned drugs has no scientific or pharmacological foundation to support it. What we commonly referred to as 'drugs' or 'narcotics' are simply a list of substances, arbitrarily prohibited for political reasons. It's an untenable 1950s social construct lacking any research evidence to support it. Prohibition and fierce law enforcement cannot be justified from a human rights perspective or from a scientific basis, but conveniently banned drugs are blamed for the devastation and damage caused by prohibition.

Ironically, when they're under the same quality control conditions as state-approved drugs, banned substances are generally less physically, socially and psychologically harmful. Further, there are medical benefits to many prohibited drugs that are being denied to patients, leaving people with epilepsy, PTSD, depression, autism, Alzheimer's, MS, Parkinson's and cancer to needlessly suffer, or risk criminalisation and/or imprisonment.

Prohibition doesn't stop people using drugs; it just makes using drugs dangerous. Once drugs are pushed underground users have little idea of the content of their purchase. The drug could be much higher potency than they anticipated, it could be mixed with highly toxic ingredients, and if they get into difficulty they are less likely to seek help. Undoubtedly, one of the greatest risks is posed not by drugs, but by a drug conviction. A criminal record for a drug crime can result in insurmountable hurdles when seeking employment, education, housing, international travel, insurance and relationships.

But drug enforcement is selective and profoundly divisive. It invariably targets the poor, the indigenous, people of colour, and people from black and minority ethnic groups (BME), despite evidence that levels of drug use are similar across communities. This discriminatory drug enforcement has resulted in worrying disparities in terms of over-representation of indigenous people and people of colour in prison, particularly in New Zealand, Australia, the United Kingdom and USA.

The prohibition efforts to reduce drug supply have failed abysmally (UN report records levels of opium production in Afghanistan last year) but despite the failure of prohibition, the drug policy ratchet only ever leads to more punitive approaches. Research indicates that policing to remove dealers from stable supply chains actually increases violence in communities, while militarised responses to drug cartels have effectively resulted in violent 'drug wars' that have destabilised countries such as Mexico. The worrying growth of violent gangs and drug cartels are not inevitable

by-products of 'drugs'. They are the inevitable outcome of a brutally enforced system of drug prohibition, one that was also witnessed in the 1920s with alcohol prohibition.

Like other forms of oppression that were once institutionalised by government, the lid is being lifted on prohibition, exposing the lack of evidence to support it. Many countries have adopted harm reduction approaches: the Netherlands has sold cannabis in coffee shops since the 1970s; Portugal decriminalised all drug possession in 2001; Switzerland began prescribing injectable heroin in 1991; and in 2014 Uruguay legalised home-grown cannabis. The old regime of prohibition is crumbling, and countries engaged in reform are realising the positive outcomes in terms health, employment, disease control, crime and addiction. There is no going back.

New Zealand was poised for drug reform in 2007 when the Law Commission was tasked to review the Misuse of Drugs Act 1975. In 2011 after a four-year investigation the Law Commission published a comprehensive radical review, including 144 recommendations. Key recommendations of the Law Commission included rescinding the 1975 Act and replacing it with new legislation rooted in a health approach, a cautioning scheme for all drug personal possession, and ending the use of prison for low-level social drug dealing.

My arrival at Victoria University in January that year provided an ideal opportunity to help reshape drug law, policy and practice in Aotearoa New Zealand. I had imagined that a country respected for fighting hard to ensure women's equal rights, sex workers' rights, gay and lesbian marriage, and a country that stood firm against South African apartheid and against nuclear power would be more than ready to deliver much-needed drug reform.

Soon after I moved to New Zealand, I addressed the 2011 New Zealand Drug Policy Symposium on the Stigma and Discrimination as Barriers to Recovery, and in 2012 and 2013 I delivered papers at Criminology/Criminal Justice Conferences in Auckland and Wellington questioning the role and use of drug testing. However, I soon learned the dominant discourse on drugs and drug users was punitive and firmly rooted in prohibition ideology, with lip service paid towards evidenced based drug policies. Apart from punitive focused cherry picking, the extensive work and key proposals of the Law Commission quickly faded.

Instead of drug policy transformation, in my seven years in New Zealand I've witnessed the moral panic about methamphetamine contamination of houses; millions of dollars thrown at companies to carry out testing and cleaning; a punitive and dubious scheme to drug test unemployed people seeking work (with benefit suspensions for repeat positive drug tests); drug driving campaigns targeting cannabis users that conflate presence with impairment and crash causation; a questionable major investment to roll-out of US styled Drug Courts centred on abstinence, drug testing, scam ankle tags and 12-step residential rehabs; expensive annual police and air force helicopter missions to scour the countryside to remove cannabis plants; chronically sick people punished and/or incarcerated for self-medicating with home-grown cannabis; the introduction of a Psychoactive Substances Act 2013 that extended the net of prohibition further by outlawing possession of every new psychoactive drug; and the worrying move to bolster compulsory treatment with the Substance Addiction (Compulsory Assessment and Treatment) Act 2017.

All rolled out comfortably and bedded in with minimal critique, challenge or resistance, while at the same time well-established harm reduction policies adopted in other countries – such as the distribution of naloxone take home, heroin prescribing, Good Samaritan laws, decriminalising cannabis self-medication and drug consumption rooms – struggled to gain traction.

While the Global Commission on Drug Policy (that encouragingly now includes former prime minister Helen Clark) presses countries to adopt evidence-based harm reduction policies and drug reform, New Zealand has gone in the opposite direction. The revelations concerning the meth testing of houses have epitomised just how punitive drug policies and practices have become in New Zealand – policies informed by prohibitionist ideology and intolerance, in which any level of drug presence is met with forceful consequences and assumptions.

Little has been done in this period to promote harm reduction, to advance the human rights of people who use drugs, or to push for much-needed reform as recommended by the Law Commission in 2011. In 1988 we were world leaders in harm reduction rolling out the first national needle exchange programme; 30 years later, how far we have fallen behind.

In decades to come, prohibition will be remembered as one of the most arbitrary, brutal systems of oppression in recent history. Some countries realised and acted upon this sooner than others. The chance for New Zealand to be on the right side of history is running out, but maybe the new government may surprise us.

Dr Julian Buchanan is a retired associate professor of criminology from Victoria University of Wellington. He has had a long interest in international drug policy, harm reduction and human rights.

**This article first appeared in SpinOff <https://thespinoff.co.nz/society/07-06-2018/stop-blaming-banned-drugs-for-the-devastation-caused-by-prohibition> but after publication a key part of my opinion piece was subsequently censored without my knowledge.*

in 2012 and 2013 I delivered papers at Criminology/Criminal Justice Conferences in Auckland and Wellington questioning the **role and use of drug testing**. However, I soon learned the dominant discourse on drugs and drug users was punitive and firmly rooted in prohibition ideology, with lip service paid towards evidenced based drug policies. Drug policy development and debate was carefully managed and controlled by a partnership between the associate minister and the lead NGO drug agency, which meant harm reduction drug policies and drug reform rarely went beyond ideas for discussion. Apart from punitive focused cherry picking, the extensive work and key proposals of the Law Commission quickly faded.

Instead of drug policy transformation, in

This was my response to SpinOff

from: **Julian Buchanan** <julianbuchanan@gmail.com>
reply-to: julianbuchanan@gmail.com
to: Rebecca Stevenson <rebecca@thespinoff.co.nz>
toby@thespinoff.co.nz,
cc: catherine@thespinoff.co.nz
date: 12 Jun 2018, 14:51

•

Hi Rebecca,

As a widely published academic with a respected international standing in my field, that includes working as an independent expert and consultant for the UNODC, I am disappointed with The Spinoff, in terms of the decision to remove a sentence following an approach from the New Zealand

Drug Foundation and the way it was managed.

In my view, removing an opinion I expressed based upon my seven years grappling with New Zealand drug policy, The SpinOff has ceded to political pressure, and did so, without my knowledge and without any consultation with me. Fortunately, I just happened to notice the censorship, and eventually, you were able to explain that it occurred as a direct result of an approach made by the New Zealand Drug Foundation. I find this process and outcome quite shocking.

However, the nature and focus of the censorship behind the scenes by the New Zealand Drug Foundation without my knowledge serves to illustrate well the point I was making in the article. The omission has drawn attention to the issue, so there is some consolation.

I am pleased the article has been widely read and circulated, internationally as well as nationally, it contains important messages concerning drug policy.

What I propose is that you commission me to write another article, in which using a carefully considered case study of naloxone, I critically examine the procrastination in New Zealand by government and NGOs, that has prevented users, family and friends having access to life-saving naloxone (the opioid antidote). I will then explore the changing role of NGOs in an era of neo-liberal politics, and the impact on New Zealand drug policy more generally.

Best regards

Julian

Julian Buchanan CPA, CQSW, DipSW, MA, PhD

SpinOff refused