

Opinion: Julian Buchanan – ‘legalising’ drugs benefits the privileged and penalises the poor?

Criminologist Dr Julian Buchanan says drug reform is overdue but argues that legalising prohibited drugs, like cannabis, may only benefit those who can afford legally-approved drugs.

It is widely accepted among most drug policy experts that drug prohibition has caused more damage than the actual drugs the government is supposedly protecting us from.

Reform is long overdue. However, we need to think critically and carefully before lurching towards an alternative model.

After decades of frustration from the arbitrary criminalisation of some drugs, while other more dangerous legal drugs (alcohol, pharmaceuticals, caffeine and tobacco) have gone under the drug radar, reform now seems imminent. ‘Drug Regulation’ is the popular rally call, but what does it mean?

The main thrust of legal regulation appears to be ‘we need to get the drug market out of the hands of the criminal underworld’.

I wouldn’t disagree with taking drugs out of the hands of gangsters. However, let’s be clear, most damage suffered by people who use illicit drugs isn’t caused by the criminal underworld, most damage actually results from criminalisation and enforcement. A drug conviction ruins life opportunities for employment, relationships, housing, insurance and overseas travel. Tough enforcement means users have little idea of the content or purity of what they are purchasing, leading them at risk of poisoning and/or overdose, and great reluctance to seek help if they need it.

Normally, in the absence of strict state regulation, the daily activity of growing, producing, buying, selling and exchanging goods and services, (such as homemade jam, or homegrown vegetables) doesn’t inevitably get taken over by dangerous criminals who manage business with guns, knives and baseball bats. This only occurs, when the sale of a product in demand is denied by severe law enforcement measures and extreme penalties. Prohibition has created a hostile and violent environment within which a lucrative underground drug business operates. This could be avoided with sensible drug regulation.

While I’d rather see a clean legal supply of regulated drugs available for adult purchase, ‘legal regulation’ remains an ambiguous concept to support. It’s simply a call for government to control and regulate drugs so they are legally available in certain circumstances.

Actually, this is what is already in place under the present failed regime of prohibition. For example, opiates are currently a ‘regulated’ drug, they are available to buy as panadeine, paracodol or [codeine in pharmacists](#) in most countries. Opiates are also currently legally regulated and used widely in medicine. Under legal regulation most opiate products are illegal to possess and supply, and anyone caught in possession faces serious charges.

So while legal regulation may mean the government may approve and legally regulate a wider range of drugs than currently available, the state may also continue to prohibit possession of unapproved and unregulated drugs.

Government may insist that pharmaceutical companies are the only state-approved dealers and it could be an offence to be in possession of any drug from an unregulated source – and that could include homegrown cannabis for example. Then the law enforcement debacle of prohibition that has criminalised drug possession continues. Legal regulation is then simply Prohibition 2.0.

Unfortunately, government doesn't have a good record of regulating the pharmaceutical, alcohol and tobacco industry, so placing hope in the state to sensibly regulate 'drugs' in a manner that protects human rights and promotes harm reduction maybe a little optimistic.

Indeed, unless there is clarity, it is likely that the state, who have resolutely maintained a draconian and punitive system of drug prohibition for five decades will pursue a model of regulation that will continue to punish possession, production and/or cultivation of unapproved drugs for personal use.

Before we even begin the tricky process of asking the state to regulate drugs we must first and foremost, ensure we abolish drug prohibition and restore the human right for adults to possess, produce and/or cultivate any substance for personal use; without threat, punishment, or incarceration by the state. Once this is secured then we have a strong foundation to begin to secure a suitable model of business regulation, health education and treatment.

Unless we address the failures underpinning prohibition, a legal regulation model is likely to continue to result in disproportionate law enforcement measures imposed on the poor, the indigenous and minority ethnic groups for possession of 'unapproved' drugs. However the privileged – inadvertently captured by the current net of prohibition – would benefit most from legal regulation, as they would have the funds to purchase a clean, legally-regulated supply.

Will the needs of less privileged – so often unfairly targeted by drug law enforcement – be considered in drug reform? I fear not.

*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. A full version of this opinion piece was first published on his blog site [**add link in here either to original blog or his site**](#)*