FILOZOFIA
Roč. 74, 2019, č. 2

DOI: https://doi.org/10.31577/filozofia.2019.74.2.2

DRUG LAWS, ETHICS, AND HISTORY

ADAM GREIF, Filozofická fakulta Univerzity Komenského v Bratislave, Bratislava, SR

GREIF. A.: Drug Laws, Ethics, and History
FILOZOFIA, 74, 2019, No 2, pp. 95 – 110

In this paper, I present and criticize several historical arguments in favour of prohibition and criminalization of illicit psychoactive substances. I consider several versions of Charles Brent's argument from drug harms and an argument from addiction based on Kantian view on autonomy. My criticism will mainly rely on empirical evidence on drugs, drug use, and addiction. I think that in light of this evidence, all of the arguments lose their cogency or can be refuted altogether. Moreover, the evidence reveals an inconsistency in the international drug law framework. In conclusion, I therefore provide a general argument challenging the legitimacy of the existing distinction between licit and illicit drugs based on the inconsistency.

Keywords: Prohibition – Criminalization – International drug control system – Drug-related harms – Autonomy – Addiction – Alcohol

Introduction

Psychoactive drugs are substances that alter consciousness and affect one's mood.[1] In a medical setting, various depressants, stimulants, and mental disorder medications are administered extensively and generally without controversy. However, when used for non-medicinal purposes, whether it be for recreation, creativity, social connection, performance enhancement, self-medication, or spiritual purposes, psychoactive drugs have a particularly negative reputation.

A common attitude towards drugs is that they ought to be prohibited and punished. The reasons for this attitude are at times taken to be self-evident, requiring no articulation. However, justification for the policy of prohibition and criminalization is necessary; an unjustified policy ought not to be adopted, and only articulated attempts to justify it can be assessed. Therefore, one should examine the following question: what is the justification for drug prohibition and criminalization?

---

[1] I use the term "drug" neutrally and in its standard pharmacological definition, i.e. *chemical substance with physiological effect on organism*. I do not intend to use the term in its common colloquial sense, i.e. *illegal, addictive, or dangerous substance*.

Questioning the legitimacy of a prohibitive drug policy has potentially far-reaching consequences, because such policies are a global phenomenon. Most countries, Slovakia included, have identified drugs like cannabis, heroin, cocaine, and LSD as "controlled" substances. They do so in compliance with international conventions (UNODC 2013), thus establishing the international drug control system (hereinafter "IDCS").[2] Nevertheless, not all psychoactive drugs are subject to prohibition. Alcohol, tobacco, and coffee are legal and regulated. Although it is common practice to talk about legal psychoactive substances as if they are not drugs (Husak and de Marneffe 2005, 15), in a pharmacological sense they most certainly are. For instance, caffeine and tobacco are stimulants, while alcohol is a depressant.

There is a plethora of scholarly work explaining the historical, legal, and cultural reasons behind why some drugs are licit and others are illicit. However, no such explanation is complete without reference to moral beliefs. There are those who believe that drug use is wrong and that it should be prohibited because it is wrong (Wilson 1992, 40; Bennett 1992, 56).

The moral element has driven prohibition from its very conception. Historically, the actions of anti-opium and temperance movements, together with morally motivated and outspoken individuals, were essential in shaping the legal status of drugs worldwide. According to Andreas and Nadelmann (2006, 37–46), the combined initiative of these forces, together with US foreign efforts, laid the foundations of the IDCS.

In this essay, I discuss several arguments purporting to justify the prohibition of illicit drugs. By choosing to discuss the prohibition of illicit drugs, but not drugs in general, I am effectively discussing the justification for the drug laws that establish the licit/illicit distinction. Although drug laws vary across states, almost all adhere to the same international treaties and thus share the prohibition and criminalization of substances like cannabis, cocaine, heroin, and LSD, and the legal regulation of alcohol, tobacco, and coffee.

In two respects, my approach to drug ethics and policy is slightly divergent from the approach of the few philosophers who have discussed the issue.[3] Firstly, several of my arguments essentially rely on empirical studies on drug use, drug users, and addiction. I think that empirical evidence on drugs is highly relevant in discussing drug ethics and policy. This is not because I am trying to infer values from facts but

---

[2] The international conventions developed from much older international deliberations and treaties, starting with 1909 Shanghai Conference, 1912 International Opium Convention, and article 295 of the Peace Treaty of Versailles.

[3] See Evans and Berent 1992; Smith 2002; Husak and de Marneffe 2005; Lovering 2015.

because I think we should first make sure that our disagreements about values are not disagreements about facts in disguise. It is my hope that by presenting possibly relevant empirical evidence on drugs, some ethical concerns about drugs might simply be dissolved. Secondly, I emphasize the historical origins of drug policies and I focus on moral arguments of those political forces and views that were influential in shaping these policies. The emphasis on history has two reasons. The first is that the IDCS is almost a century-old approach to drug problems, and through it the arguments made in its favour greatly influence us today. The second reason ties in to my point about empirical studies. Historical arguments are based on historical ideas and preconceptions. I believe that they are persuasive only if we forget what we now know about drugs.

2 Drug Harms

The roots of IDCS can be traced back to the US anti-opium campaign in Asia (McAllister 2000, 27). In 1898, the US won the American-Spanish war and acquired vast territories in South-East Asia, including the Philippines. In the Philippines, the use of opium was prevalent among the Chinese population and was quickly spreading among the natives. To curb the drug's spread, the governor of the Philippines proposed reinstating the Spanish-era state monopoly, which allowed the sale of opium only to the Chinese. However, this proposal was met with vigorous religious opposition that pushed for a general prohibition of the drug (Musto 1999, 26 – 28). Bishop Charles Brent was one of the leading moral figures of the opposition and of the nascent American anti-drug campaign. Musto summarized his argument for prohibition as follows:

"Did narcotics have a value other than as a medicine? No: unlike alcohol they had no beverage or caloric value. Should such substances be permitted for casual use? No: there was no justification, since there was the possibility only of danger in narcotics for nonmedicinal uses. Therefore recreational use of narcotics should be prohibited, their traffic curtailed on a world scale, and a scourge eliminated from the earth. To compromise, to permit some (for instance, the Chinese) to use narcotics would be inconsistent with morality, and therefore not permissible" (Musto 1999, 11).

Just like many of his contemporaries, Brent believed that opium use and gambling were immoral (Musto 1999, 27). Nonetheless, his argument does not rest on the immorality of opium use. Opium was supposed to be prohibited because it had no non-medicinal value and because "there was the possibility only of danger" in its use. However, this argument is dated since opium was later replaced by more potent

opioids like heroin, fentanyl, subscription opioids, and by other illicit drugs. To account for the development, I generalized Brent's argument to include all illicit drugs:

(1) Illicit drug use should be prohibited because it has no non-medicinal value and there is only the possibility of danger in it.

I think there are some decisive objections to this argument. The first relates to the notion of non-medicinal use. Some addicts and other users do not use opioids for non-medicinal purposes. Opioids are effective painkillers for physical and emotional pain, and some users and addicts are self-medicating mental disorders like depression and PTSD (Maté 2010, 35 – 36). Heavy users are also not using for pleasure, since their use tends to be motivated by a wish to avoid the pains of withdrawal (Kalina et al. 2008, 37; Hart et al. 2009, 324). Brent's argument does not apply to all of those who self-medicate and merely wish to avoid pain. Therefore, some of the heaviest opioid users should not be subject to prohibition. However, it is unlikely that Brent or a prohibitionist would accept such an exception.

My second objection is to the claim that opium, opioids, and other illicit drugs have no non-medicinal value. If opium and other illicit drugs had no non-medicinal value, what reason could one have for using them non-medicinally? Since recreational use would constitute a puzzling phenomenon, it would be safer to assume that all use of opium is medicinal in nature. But clearly, even opium, heroin, cocaine, and methamphetamine, the most harmful of illicit drugs, have a non-medicinal value. They can provide a sense of wellbeing, excitement, a feeling of being alive, energy, relaxation, concentration, sociability, creativity, desired sleep, and other valuable experiences (Maté 2010, 39 – 48; Lovering 2015, 34).

Since opioids and other illicit drugs have a non-medicinal value, Brent would have to admit that their use is not only dangerous. However, he could still maintain that opium use is dangerous and should therefore be prohibited. It seems that drug use can be dangerous primarily for the user. We can therefore reformulate Brent's argument as follows:

(2) P1 Illicit drug use harms the user.

P2 The state should prohibit self-harm.

C Therefore, illicit drug use should be prohibited.

In this version of the argument, both premises are objectionable. It is difficult to claim P1 with a level of generality because the majority of illicit drug users do not have a drug-related problem.[4] Concerning P2, the view that the state should limit individual freedom for an individual's own good and prohibit self-harm constitutes legal paternalism. In Brent's times, the Americans regarded the Filipinos as unable to self-govern (Musto 1999, 25) and it is easy to assume that their motivation to prohibit opium was at least partly paternalistic. But whatever we think about the historical ability of the Filipinos to self-govern, the citizens of modern democracies have to have that ability.

I think that the main reason to reject legal paternalism is because it is at odds with the principle that the only legitimate exercise of state power over the individual is to "prevent harm to others" (Mill 1909, 18). Moreover, if we were to apply legal paternalism consistently, the state should prohibit all self-harming activities, including alcohol and tobacco use, the consumption of fast foods, and engagement in adrenaline sports.

In spite of this, I think paternalistic interference can be justified under certain circumstances, specifically when applied to individuals that are not the best judges of their own welfare: children, the seriously mentally disabled, and possibly those that are unaware of the dangers. In the case of the Filipinos, one could argue that paternalistic interference was justified because they were unaware of the dangers of opium use. But it is not possible to advance such an analogous argument today, because the goal of the IDCS is not simply to make sure that drug users are aware of harms associated with drug use.

Another way of defending paternalism is to claim that it is justified if the goal of state intervention is to prevent the loss of autonomy. It might then be claimed that the loss of autonomy incurred by addiction is greater than the loss of autonomy incurred by prohibition. But the majority (75 % – 90 %) of illicit drug users do not become dependent (Hart 2013, 336 n.1), and the loss of autonomy due to dependence is not as severe (see Section 3). Therefore, it is not clear if the loss of autonomy incurred by addiction is greater for a minority than the loss of autonomy incurred by prohibition applied to everyone.

One could also claim that paternalism is justified if self-imposed (Schelling 1984, 83 – 112). One might, in fear of the weakness of one's own will, endorse drug

[4] According to estimates of the UN Office on Drugs and Crime, 31 million out of 275 million total users suffer from a drug-use disorder, meaning 11% of drug users worldwide have a drug-related problem (UNODC 2018a, 7).

prohibition to protect oneself from the evils of addiction. But I do not think we can consider the IDCS and subsequent drug laws to be self-imposed. The IDCS was established decades ago by a supranational political process influenced by various lateral interests. The process is far removed from the genuine demands of today's citizens. To illustrate, a Slovak citizen can be prohibited from using an illicit drug and subsequently incarcerated because the undemocratic state of Czechoslovakia signed the drug treaties long before she was born. If this counts as genuine self-imposition, then anything does.

Notwithstanding these objections, I consider argument (2) to be especially problematic in the context of drug criminalization. Criminalization implies criminal sanction, typically incarceration, for drug offenders. But incarceration, with all of its personal, social, and financial costs, severely harms the individual. If the goal of prohibition is to stop people from harming themselves, how could the proper remedy be the infliction of an even greater harm?

Brent's remaining possibility is to claim that one's drug use harms others. Illicit drug use should thus be prohibited because it harms others.

(3)	P1	Illicit drug use harms others.
	P2	The state should prohibit harm to others.
	C	Therefore, illicit drug use should be prohibited.

I think it is justified to prohibit or punish behaviour that harms others. I therefore believe that there is a case for prohibiting drug use that leads to harm to others: second-hand tobacco smoke, driving while intoxicated, and drug-induced violence. But it is not true that one's own illicit drug use harms others necessarily or typically. Ad-mittedly, the use of illicit drugs occasionally harms others, but so does licit drug use; neither alcohol nor tobacco are perfectly safe or healthy drugs, and their users occa-sionally harm others as a consequence of their use. Unsurprisingly, the drug most strongly associated with violence and crime is alcohol (Parker and Auerhahn 1998, 306 – 307). Therefore, in order to consistently justify the illegality of illicit drugs via argument (3), one has to claim that illicit drugs are more harmful to others that licit ones.

Although the statement that illicit drugs do more harm to others than licit ones sounds correct, it is not likely to be true. David Nutt and his colleagues conducted

a comparative assessment of the harms of the most frequently used recreational drugs in the UK (Nutt et al. 2010). The panel of experts used a multi-criteria decision analysis to rate each drug according to sixteen criteria of harm, both to the users and to others.[5] The results show that the most harmful drug to the user is heroin, followed by crack cocaine and methamphetamine. However, the drug most harmful to others is alcohol (followed by crack cocaine and heroin). The experts concluded that the most harmful drug overall is alcohol. Psychedelics like LSD, psilocybin mushrooms, and MDMA were among the least harmful drugs overall, while marihuana was somewhere in the middle. These results were comparable to results from previous studies conducted by Nutt et al. (2007) and a Dutch group of experts (van Amsterdam et al. 2010) as well as a later study on EU drug harms (van Amsterdam et al. 2015). The studies showed little correlation between drug harms and the legal scheduling of drugs according to their harmfulness in the UK and the EU.[6]

If we want to take the risk of harm to others seriously, then we should firstly consider prohibiting and criminalizing alcohol. However, if the risk of harm to others posed by alcohol use is acceptable, then the risk of harm to others posed by the most often used illicit drugs should also be acceptable.

3 Addiction and Autonomy

For a morally motivated prohibitionist, the previous discussion of drug harms might fail to address the raison d'être of drug prohibition. He might claim that drugs pose a danger that exceeds all harms and might even be greater than death. During the first drug epidemic in the United States, drug sellers and dealers were condemned more harshly than murderers, since "[t]he murderer who destroys a man's body is an angel beside one who destroys that man's soul and lets the body live for crime" (Eberle and Gordon 1903, 477). Two decades ago, James Wilson wrote "drug use is wrong because it is immoral, and it is immoral because it enslaves the mind and alters

[5] Crime, the threat of injury, economic cost, harm to the community, and family adversities were among the considered harms to others.

[6] This result might come as a surprise if we presume that IDCS scheduling is evidence-based. But the scheduling of a substance is largely based on its similarity to cocaine, morphine, or cannabis, and "it is important to recall that these three substances have not themselves been reviewed for a very long time (heroin since 1949, cannabis and the coca leaf since 1965). That is to say, the substances that provide the foundation for the entire scheduling edifice, and operate as templates for substances requiring control, themselves remain unanchored by contemporary evidence" (Hallam et al. 2014, 4). There are also other reasons to be sceptical about the role of evidence in international scheduling. See Hallam et al. 2014.

the soul" (Bennet et al. 1996, 140 – 141). The fate worse than death, soulless and slavish, is, of course, addiction.

Addiction seems to be morally relevant because it undermines the addict's autonomy and rational capacity. Clearly, addiction and intoxication are states of diminished autonomy and rationality caused by drug use. But according to Kant, it is not morally permissible to diminish one's autonomy and rationality as one has a moral obligation to respect them. Therefore, drug use is morally impermissible:

(4) Illicit drug use is morally impermissible because it diminishes one's autonomy and rationality.

I consider this argument to be the most persuasive of all. It should be noted, however, that it is inconclusive; if an act is immoral, it does not follow that a law should prohibit it. There are immoral acts, such as infidelity and lying, that should not be prohibited by law. Therefore, unless the prohibitionist wants to appeal to a version of legal moralism, an additional argument for prohibition has to be provided.

It should also be noted that although the principle that it is morally impermissible to diminish one's rationality and autonomy is persuasive, it is not unconditional. Admittedly, psychoactive drugs do not suddenly lose their autonomy and rationality diminishing properties when administered by a physician or for medicinal purposes. But medicinal drug use is morally permissible; a value judgement that Kant recognized as well (Kant 1797, 223).

The argument therefore has to be modified to target non-medicinal use. But, as has been said, some heavy users and addicts are not using for pleasure. Some of them are using for medicinal purposes to manage physical and psychological pain. Therefore, even with the help of such a modified principle, the argument does not apply to some heavy users and addicts. But it is addiction and heavy drug use that is the primary target of drug prohibition. The only way out seems to be to deny that addicts and heavy users self-medicate. But I think we should regard at least most addicts as self-medicating. My position is based on the rejection of the claim that drugs straightforwardly cause addiction.

Drugs do not cause addiction by themselves. The view that the effect of a drug is solely determined by its pharmacology, i.e., pharmacological determinism, is false (Hallam et al. 2014, 7). The effect of drugs on individuals, including the onset of addiction, is determined by various other factors as well, including the context of use, cultural beliefs concerning drugs, the legislative and enforcement context, the psy-

chological and physical makeup of the user, and other factors. The context of use is a factor because commonly used illicit drugs are used therapeutically, but therapeutic users tend not to become addicted (Alexander 2011, 186–9). Stress seems to be a factor; 20% of deployed American soldiers were addicted to heroin during the Vietnam War, but after their return addiction rates returned to pre-Vietnam levels (roughly 1%) despite heroin's continued availability (Robins et al. 1975). The role of isolation as a factor of addiction was demonstrated in the Rat Park experiment. Rodents isolated in skinner boxes used up to twenty times more morphine than those in a "rat park", an environment in which they had the possibility to explore, play, socially interact, and mate. The inhabitants of the Rat Park did not demonstrate addictive behaviour (Alexander 2011, 195). And lastly, the relationship between psychological makeup and ad- diction is, sadly, very strong. The results of the Adverse Childhood Experiences Study show that these experiences "seem to account for one half to two thirds of serious problems with drug use" (Dube et al. 2003, 570).

Addiction is an immensely complex phenomenon, and there is little consensus on its nature. But the findings should give the morally motivated prohibitionist pause for thought. If there is a causal relationship between dependence and trauma, isolation, or stress, then it is far more humane to provide addicts with treatment, not moral scorn or legal punishment. If an addict's drug use is actually an unfortunate coping mechanism for distress and psychological pain, then an addict's use should be viewed as medicinal in nature.[7]

On a different note, it is instructive to examine the claim that addiction diminishes autonomy and rationality. I think that if we see drugs in the light of contemporary evidence on drug addiction, the issue of loss of autonomy and rationality will become less pressing.

Historically, an addict has been viewed as a slave to his drug, having no power to resist the craving for its pleasures. The drug's hold over the unfortunate addiction whether it be cannabis, heroin, cocaine, methamphetamine, or alcohol for that matter – was supposed to be immediate, irresistible, and permanent. The addict was believed to be focused solely on the drug itself and to gradually disregard family, previous life, and morality. The punishment for not using? Unbearable and nightmarish withdrawal.

[7] However, my argument will not appease someone who considers intoxication itself as a morally problematic case of the loss of autonomy and rationality.

No wonder than that drugs were viewed as demonic and those who used them as deeply immoral. They were ultimately possessed by the demon in the drug, and they relinquished their free will willingly.[8]

Of course, it is true that people do become dependent on drugs, and this can have devastating effects on their lives. But as I said before, the majority of drug users do not become dependent or have drugrelated problems. Furthermore, addiction is typically not life-long. Even though there are addicts who struggle with addiction their whole life, the majority of addicts are in stable remission around the 30th year of age (Heyman and Mims 2017, 390). Drugs are also not irresistible, nor is the addict's brain "hijacked" by drug's chemical hooks. Regular crack cocaine and methamphetamine users are able to choose minor financial alternatives ($ 20) over a pure dose of their drug of choice (Hart et al. 2000; Kirkpatrick et al. 2012), and it is possible and indeed fairly common to be a regular but non-dependent heroin user (Alexander 2011, 186 – 189). Finally, in contrast to the portrayal of withdrawal symptoms in movies like Trainspotting, heroin withdrawal is typically as intensive and uncomfortable as the common flu, cocaine withdrawal is milder, cannabis withdrawal is negligible, and in the case of LSD it is non-existent (Kalina et al. 2008, 131 – 142). Although psychedelics generally do not cause withdrawal, caffeine does (AMA 2013, 506).

I agree with the premise that intoxication and addiction diminish one's autonomy and rationality. Nonetheless, evidence on the addictive potential of drugs should make us sensitive to causes and differring degrees of loss of autonomy and rationality. The historical idea of how seriously drugs like heroin and cocaine diminish one's autonomy and rationality were based on certain empirical beliefs. But some of these beliefs are demonstrably false. Since drugs are not demonic, arguments like (4) are in effect weaker.

My final point relates to the consistency of drug laws. If we believe that the loss of self-governing and rational capacities, whether due to addiction or intoxication, are the morally relevant consequences of drug use, then drug laws are inconsistent. Concerning intoxication, we only need to remind ourselves that "[r]ationality might be hard to define but we know it dissolves in alcohol" (Smith 2002, 238). In terms of dependence, it is nicotine in tobacco products that is considered to be one of the most, if not the most, addictive drug, while psychedelics like LSD and psilocybin are mostly not considered addictive at all. Cannabis is considered only mildly addictive, less than

[8] Bruce Alexander (2011, 173 – 204) provides an overview of the "demon drug" narrative in public discourse, print, and scientific literature. With distinct religious overtones, this narrative has dominated public discourse on drugs in many countries for more than a century.

heroin, cocaine, or alcohol (Lovering 2015, 113 – 114). It is also proper to point out that caffeine-related disorder is now a recognized class of substance use disorders.[9]

5 The Alcohol Problem

Comparing illicit drugs with alcohol and tobacco has been a recurring theme in my argumentation. Alcohol and tobacco are harmful and addictive drugs, in many ways comparable to illicit drugs. Therefore, given the legal status of alcohol and tobacco, one might challenge the current regime of drug prohibition with the following requirement:

- **The Alcohol Challenge**

Provide a justification for the prohibition of an illicit substance that cannot be applied to a licit substance!

The challenge requires the prohibitionist to provide an argument in favour of prohibition or the criminalization of illicit drugs that cannot be legitimately applied to licit drugs as well. If the challenge is not met, then one might object to the drug laws with the following argument:

- **Argument from Integrity**

P1 If the alcohol challenge cannot be met, then given licit and illicit drugs should have a similar legal status.

P2 The alcohol challenge cannot be met.

C Therefore, given licit and illicit drugs should have the similar legal status.

So far, I have attempted to show that given the properties of alcohol and tobacco, it is not possible to meet the challenge. But there is a way of responding to the argument without rejecting P2. James Wilson wrote on "the problem of alcohol" that "one cannot decide simply on the basis either of moral principles or of individual consequences; one has to temper any policy by a common-sense judgement of what is possible" (Wilson 1992, 41). Wilson seems to suggest that alcohol prohibition is not possible. But prohibition as a legal act surely is possible, for it was enacted in the past

[9] See (AMA 2013, 503) or entry 6C48 of the 11th International Classification of Diseases.

and is currently in effect in some countries. What Wilson likely meant is that alcohol prohibition could not be successfully enforced.

It might be true that alcohol prohibition cannot be successful, but it is fair to say that it very much seems that the prohibition of illicit drugs also cannot be successful. Despite immense funding and almost five decades of fierce enforcement, illicit drugs are more available than ever before: production and consumption are on a long-term rising trend and have reached record-breaking highs in recent years (GCDP 2011, 4) (UNODC 2018c, 1), and all the while drug prices are decreasing (Werb et al. 2013).

It could be argued that success could be achieved with more funding and more aggressive enforcement. But it is hard to believe that more robust enforcement is going to be effective; some enforcement methods are illegitimate already (see note 10), and prohibition is ineffective in prisons (Csete et al. 2016, 1), where the measure of control over an individual's life exceeds any acceptable level of control over the lives of law-abiding citizens.

A slightly different response to the argument could be provided. One might say that alcohol is so ingrained in society that the consequences of its prohibition would be far worse that the consequences of its continued legality. Thus, even though there are good reasons to prohibit alcohol, there is an even better reason not to prohibit it.

It might be true that the cost of prohibiting alcohol would be unacceptable. But I do not think that this gives us any good reason to differentiate between alcohol and illicit drugs, because the cost of prohibiting illicit drugs is unacceptable. To see this, we do not have to resort to speculation about the possible negative consequences of alcohol prohibition. It suffices to review the actual consequences of the IDCS: human rights violations,[10] lack of access to essential medicines,[11] the impact of the black

---

[10] In his 2015 report, the UN High Commissioner for Human Rights reported that the ICDS leads to violations of human rights to life, health, criminal justice, a fair trial, rights related to prohibition of discrimination, the rights of the child, and of indigenous people (UNHCHR 2015). Moreover, if you agree with me, that criminalization is not justified, then another unjust consequence of the IDCS is the prosecution of non-violent drug offenders. If you also think that prohibition itself is not justified, then the IDCS infringes on the right to privacy.

[11] The World Health Organization estimates "that tens of millions suffer from unrelieved pain annually due to a lack of access to controlled medicines," and it concludes that "the international drug control system has been responsible for perpetuating the continual undersupply of controlled medicines" (GCDP 2015, 5).

market on source and transit states,[12] illegitimate enforcement,[13] the spread of infectious diseases and suppression of harm reduction efforts.[14] If these were the consequences of alcohol prohibition, would alcohol prohibition be acceptable? Wilson might be right to think that alcohol is too ingrained in our society to prohibit it. But I think the same is true about recreationally-used psychoactive substances.

***

In conclusion, I would like to stress that nothing I said was meant to be dismissive of the dangers of psychoactive drugs. They can be dangerous, even deadly. Nevertheless, I doubt it is enough to justify their prohibition, much less their criminalization. Many morally permissible and legal activities are dangerous and deadly. Furthermore, we have to consider the reality of efforts to prohibit and criminalize drugs doing more harm than good.

I attempted to show that drug laws are generally inconsistent due to their different treatment of licit and illicit drugs.There are only two ways to remedy this situation. Either one can retain the legality of alcohol and other licit drugs, but only at the cost of making illicit drugs legal, or one can retain the illegality of illicit drugs, but make alcohol and other licit drugs illegal as well. The proponents of licit drugs are likely to attempt to justify the consumption of their preferred substances by appealing to notions of personal freedom and privacy. I think they would be right to do so. However, the same argument ought to be open to the proponents of illicit drugs. It is therefore imperative to consider alternative regulatory regimes, based primarily on

[12] The Latin American Commission on Drugs and Democracy stated that it has observed a rise in international crime, unacceptable levels of drug-related violence, the criminalization of politics, and widespread state corruption since the war on drugs began (LACDD 2010, 5). The impact is especially horrendous in Mexico, where "the striking increase in homicides since the government decided to use military forces against drug traffickers in 2006 has been so great that it reduced life expectancy in the country" (Csete et al. 2016, 1).

[13] In some countries, enforcement is illegitimate firstly because of racial bias. "In the USA in 2014, African American men were more than five times more likely than white people to be incarcerated for drug offences in their lifetime, although there is no significant difference in rates of drug use among these populations" (Csete et al. 2016, 2). Secondly, enforcement efforts are illegitimate, because they cause serious harm. The aerial sprayings of coca fields with glyphosate in the Andes has had adverse health consequences on the local population, including miscarriages, respiratory and dermatological disorders, and possibly cancer. The crop eradication efforts have also deprived local growers of their only viable economic opportunity and forced them into displacement. Moreover, these efforts ultimately led to the destruction of biodiversity in the Peruvian Amazon and deforestation in Central America. (Csete et al. 2016, 33 – 36)

14 See (GCDP 2012), (GCDP 2013), and (Csete el al. 2016, 9 – 17).

evidence-based assessment of harms of drugs to others and ranging from strict state control to free market (Rogeberg et al. 2018, 147).[15]

Bibliography

ALEXANDER, B. (2011): *The Globalization of Addiction: A Study in Poverty of the Spirit.* Oxford: Oxford University Press.

AMERICAN PSYCIATRIC ASSOCIATION (AMA) (2013): *Diagnostic and Statistical Manual of Mental Disorders* (5th edition). Washington DC: American Psychiatric Publishing.

ANDREAS, P., NADELMANN, E. (2006): *Policing the Globe: Criminalization and Crime Control in International Relations.* Oxford: Oxford University Press.

BENNET, W. J. (1992): A Response to Milton Friedman. In: Evans, R. – Berent, I. (eds.): *Drug Legalization: For and Against*. Chicago: Open Court, 53 – 56.

BENNET, W. J. et al. (1996): *Body Count*. New York: Simon and Schuster.

CSETE, J. et al. (2016): Public Health and International Drug Policy. *The Lancet Commissions*, 387 (10026), 1427-1480. DOI: 10.1016/ S0140-6736(16)00619-X.

DUBE, S. R. et al. (2003): Childhood Abuse, Neglect, and Household Dysfunction and the Risk of Illicit Drug Use: The Adverse Childhood Experiences Study. *Pediatrics*, 111 (3), 564 – 572. DOI: 10.1542/peds.111.3.564.

EBERLE, E. G., GORDON, F. T. (1903): Report of Committee on Acquirement of Drug Habits. *Proceedings of the American Pharmaceutical Association*, 56, 466 – 477.

GLOBAL COMMISSION ON DRUG POLICY (GCDP) (2011): *War on Drugs. Global Commission on Drug Policy*. Available from: < https://www.globalcommissionondrugs.org/reports/the-war-on-drugs/>

GLOBAL COMMISSION ON DRUG POLICY (GCDP) (2012): *The War on Drugs and HIV/AIDS: How the Criminalization of Drug Use Fuels the Global Pandemic*. Global Commission on Drug Policy. Geneva. Available from: <https://www.globalcommissionondrugs.org/reports/the-war-on-drugs-and-hivaids/>

GLOBAL COMMISSION ON DRUG POLICY (GCDP) (2013): *The Negative Impact of the War on Drugs: The Hidden Hepatitis C Epidemic*. Available from: <https://www.globalcommissionondrugs.org/reports/the-negative-impact-of-the-war-on-drugs-on-public-health-the-hidden-hepatitis-c-epidemic/>

GLOBAL COMMISSION ON DRUG POLICY (GCDP) (2015): *The Negative Impact of Drug Control on Public Health: The Global Crisis of Avoidable Pain*. Available from:<https://www.globalcommissionondrugs.org/wp-content/uploads/2012/03/GCODP-THE-NEGATIVE-IMPACT-OF-DRUG-CONTROL-ON-PUBLIC-HEALTH-EN.pdf>

HALLAM, C. et al. (2014): Scheduling in the International Drug Control System. *Series on Legislative Reform of Drug Policies*, 25. The Transnational Institute. Available from: <https://www.tni. org/files /download/dlr25_0.pdf>

[15] This work was supported by the Slovak Research and Development Agency under the contract No. APVV-14-0510.

HART, C. et al. (2000): Alternative Reinforcers Differentially Modify Cocaine Self-administration by Humans. *Behavioural Pharmacology*, 11, 87 – 91. DOI: 10.1097/ 00008877-200002000-00010.

HART, C. et al. (2009): *Drugs, Society, and Human Behaviour* (13th Edition). McGraw-Hill. ISBN-10 0390657328.

HART, C. (2013): *High Price*. London: Penguin Books.

HEYMAN, G. M., MIMS, V. (2017): What Addicts Can Teach Us about Addiction: A Natural

History Approach. In: Heather, N. – Segal, G. (eds.): *Addiction and Choice: Rethinking the Relationship*. Oxford: Oxford University Press, 385 – 408.

HUSAK, D., DE MARNEFFE, P. (2005): *The Legalization of Drugs: For and Against*. Cambridge: Cambridge University Press.

KALINA, K. et al. (2008): *Základy klinické adiktologie*. Praha: Grada Publishing.

KANT, I. (1797/1991*): Metaphysics of Morals* (ed. Mary Gregor). Cambridge: Cambridge University Press.

KIRKPATRICK, M. G. et al. (2012): Comparison of Intranasal Methamphetamine and D-amphetamine Self-administration by Humans. *Addiction*, 107, 783 – 791. DOI: 10.1111/j. 1360-0443.2011.03706.x.

LATIN AMERICAN COMMISSION ON DRUGS AND DEMOCRACY (LACDD) (2010): *Drugs and Democracy: Toward a Paradigm Shift*. Rio de Janeiro: Latin American Commission on Drugs and Democracy. Available from:<https://www.opensocietyfoundations.org/publications/drugs-and-demo cracy-toward-paradigm-shift >

LOVERING, R. (2015): *A Moral Defense of Recreational Drug Use*. New York: Palgrave MacMillan.

MATÉ, G. (2010): *In the Realm of Hungry Ghosts: Close Encounters with Addiction*. Berkeley: North Atlantic Books.

MCALLISTER, W. B. (2000): *Drug Diplomacy in the Twentieth Century: An International History*. London – New York: Routledge.

MILL, J. S. (1909/2009): *On Liberty*. Auckland: The Floating Press. ISBN: 978-1-775410-65-2.

MUSTO, D. (1999): *The American Disease: Origins of Narcotic Control*. New York: Oxford University Press.

NUTT, D. et al. (2007): Development of a Rational Scale to Assess the Harm of Drugs of Potential Misuse. *Lancet*, 369, 1047 – 1053. DOI: 10.1016/S0140-6736(07)60464-4.

NUTT, D. et al. (2010): Drug Harms in the UK: A multicriteria Decision analysis. *Lancet*, 376, 1558 – 1565. DOI: 10.1016/S0140-6736(10)61462-6.

PARKER, R. N., AUERHAHN, K. (1998): Alcohol, Drugs, and Violence. *Annual Review of Sociology*, 24, 292 – 311. DOI: 10.1146/annurev.soc.24.1.291.

ROBINS, L. N. et al. (1975): Narcotic Use in Southeast Asia and Afterward. *Arch Gen Psychiatry*, 32, 955 – 961. DOI: 10.1001/archpsyc.1975.01760260019001.

ROGEBERG, O. et al. (2018): A New Approach to Formulating and Appraising Drug Policy: A Multi-criterion Decision Analysis Applied to Alcohol and Cannabis Regulation.

International Journal of Drug Policy, 56, 144 – 152. DOI: https://doi.org/10.1016 /j.drugpo. 2018.01.019.

SCHELLING, T. (1984): *Choice and Consequence*. Cambridge: Harvard University Press.

SMITH, P. (2002): Drugs, Morality and the Law. *Journal of Applied Philosophy*, 19 (3), 233 – 244. DOI: 10.1111/1468-5930.00218.

UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS (UNHCHR) (2015): *Study on the Impact of the World Drug Problem on the Enjoyment of Human Rights*. Human Rights Council, 30th session. Geneva: Office of the UN High Commissioner for Human Rights. Available from: <http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session30/Documents/A_HRC_30_65_E.docx>.

UNITED NATIONS OFFICE ON DRUGS AND CRIME (UNODC) (2013): *The International Drug Control Conventions. Vienna: United Nations Office on Drugs and Crime*. Available from:https://www.unodc.org/documents/commissions/CND/Int_Drug_Control_Conventions/Ebook/The_International_Drug_Control_Conventions_E.pdf.

UNITED NATIONS OFFICE ON DRUGS AND CRIME (UNODC) (2018a): *World Drug Report 2018 – Executive Summary: Booklet 1*. Vienna: United Nations Office on Drugs and Crime. Available from: <https:// www.unodc.org/wdr2018>

UNITED NATIONS OFFICE ON DRUGS AND CRIME (UNODC) (2018b): *World Drug Report 2018 – Global Overview of Drug Demand and Supply: Booklet 2*. Vienna: United Nations Office on Drugs and Crime. Available from: <https://www.unodc.org/wdr2018>

UNITED NATIONS OFFICE ON DRUGS AND CRIME (UNODC) (2018c): *World Drug Report 2018 – Analysis of Drug Markets: Booklet 3*. Vienna: United Nations Office on Drugs and Crime. Available from: <https://www.unodc.org/wdr2018>

VAN AMSTERDAM, J. et al. (2010): Ranking the Harm of Alcohol, Tobacco and Illicit Drugs for the Individual and the Population. *Eur Addict Res*, 16, 202 – 227. DOI: 10.1159/ 000317249.

VAN AMSTERDAM, J. et al. (2015): European rating of drug harms. *Journal of Psychopharmacology*, 29 (6), 655 – 660. DOI: 10.1177/0269881115581980.

WERB, D. et al. (2013): The Temporal Relationship between Drug Supply Indicators: An Audit of International Government Surveillance Systems. *BMJ Open*, 3: e003077. DOI: 10.1136/ bmjopen-2013-003077.

WILSON, J. (1992): Against the Legalization of Drugs. In: Evans, R. – Berent, I. (eds.): *Drug Legalization: For and Against*. Chicago: Open Court, 27 – 45.

Adam Greif
Filozofická fakulta
Univerzita Komenského Bratislava
Gondova 2
814 99 Bratislava
Slovenská republika
e-mail: greif2@uniba.sk