

DRUGS AND CRIME IN IRELAND

RESPONSE PAPER SUMMARY - DR. TIM MURPHY, LAW DEPT, UCC

The main cause of drug-related criminal activity is not drugs, it is drug prohibition.

“Drug prohibition” refers to that pan of the general policy response to drug issues that seeks to prohibit certain drugs by means of punitive criminal sanctions as opposed to encouraging a humane therapeutic response through the healthcare sector. The connections between drug prohibition and crime can be seen from an exploration of the idea, discussed in the session paper that “substance abuse leads to crime”. In fact substance abuse, or “drugs”, very rarely cause crime:

(i) the *psychopharmacological model* proposes that the effects of intoxication cause criminal (especially violent) behaviour: The evidence is simply not there to support this view, particularly not as a straightforward causal relationship. As Jeffrey Fagan writes in a discussion relating to all forms of intoxication; *“How aggressive behaviour is influenced by the ingestion of various substances is not well understood. There are fundamental differences between substances in their association with aggression; various intoxicants affect both mind and body differently. Research on the nexus of aggression and substance use has consistently found a complex relation, mediated by personality and expectancy factors, situational factors, and sociocultural factors that channel the arousal effects of substances into behaviour types which mayor may not involve interpersonal aggression. The effects of intoxicants also differ according to the amounts consumed per unit of body weight, tolerances, and genetic or biological predispositions. Accordingly, there is only limited evidence that consumption of alcohol, cocaine, heroin, or other substances is a direct, pharmacologically based cause of crime.”* “Intoxication and Aggression”, in Tonry and Wilson (eds.), *Drugs and Crime (Crime and Justice: A Review of Research - Volume 13)* (Chicago, 1990) p,243.

(ii) the *economic motivation model* assumes that drug users need to generate illicit income to support their drug habit Thus, they engage in crimes such as robbery, burglary, and prostitution to get drugs or the money to buy them: Drug prohibition is criminogenic through the inflationary effect it has on drug prices; otherwise cheap drugs are made expensive and various forms of property crime are a direct consequence of

this. This type of property crime is one of many social costs of drug prohibition. The crime is not caused by “drug abuse” or “drug addiction”, but rather by the demand for drugs in situations where the state has legislated to drive the market underground. As Ethan Nadelmann has commented: “[If drugs were] significantly cheaper – which would be the case if they were legalised – the number of crimes committed by drug addicts to pay for their habits would, in all likelihood, decline dramatically. Even if a legal-drug policy included the imposition of relatively high consumption taxes in order to discourage consumption, drug prices would probably still be lower than they are today.” “The Case for Legalization” (1988) 92 *The Public Interest* 3, at p. 17.

(iii) the *systemic model* argues that the system of drug distribution and use is inherently connected with violent crime. Systemic types of crimes surrounding drug distribution include fights over organisational and territorial issues, enforcement of rules, and transaction-related crime. Further, drug markets can create community disorganisation, which, in turn, affects the norms and behaviours of individuals who live in the community. Such community disorganisation may be associated with increases in crime that are not directly related to drug selling:

Prohibition creates or, at the very least, facilitates a criminal class, that is, those who operate the illicit drug market. Moreover, illegal markets breed violence: they do so “not only because they attract criminally-minded individuals, but also because participants in the market have no resort to legal institutions to resolve their disputes”. Nadelmann, “The Case for Legalization”, at p. 18. As for “community disorganisation”, the high levels of drug misuse and property crime associated with drug prohibition, particularly when coupled with conditions of social and economic deprivation, give rise to understandable anger and frustration.

The session paper highlights how recent drug control efforts, in Ireland and internationally, have resulted in record numbers being arrested and incarcerated for drug-related offences. The main drug offence is drug possession and cannabis is the most significant drug in terms of arrests. This has contributed significantly to growing prison populations such as our own.

This trend shows how the criminal justice responses to drug issues have maintained a strong momentum during a time when harm reduction strategies are increasingly being introduced into healthcare systems. It brings into sharp focus the failure of the criminal

justice sector to encourage and promote collaboration with the healthcare sector. Shane Butler has observed that what appears to have complicated the shared ownership of drug problems in Ireland is the surreptitious introduction of harm reduction into a healthcare system which had previously been abstinence-based: *“Some countries debated this issue and decided/or harm reduction, while other countries debated it and decided against it; in Ireland there was virtually no public debate and the introduction was such a covert and incremental process that other sectors - in particular the justice sector - were slow to realise the extent and significance of this change. The meaning of illicit drug use, which was traditionally clear and unambiguous, has become increasingly contested. To some at least within the criminal justice system it remains a ‘social cancer’, while to many within healthcare its meaning has become more subtle and ambiguous.”* “A Tale of Two Sectors” in P. O’Mahony, *Criminal Justice in Ireland* (Dublin, 2002) p.417. It remains to be seen whether, as suggested in the session paper, Irish drug policy will continue to fit a broad punitive ideological agenda that will be prioritised and implemented regardless of the scientific evidence. It is the justice rather than the health sector that must address and debate the manner in which its prohibitionism cultivates a culture of crime.

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