

## ILLICIT DRUGS: THE 'ALTERNATIVE' TRUTH

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### ABSTRACT

*This article reflects on the war on crime, and its economic costs and impact on the criminal justice system. There are alternative views on drug users and how the issue can be more effectively addressed. Scientific research has shown that drug users are not as endemic as some believe them to be and evidence has shown that drug addiction can be treated. Treatment and rehabilitation together with the decriminalization of possession of limited quantities of specific drugs has proven to be successful in many countries. In Malaysia, a pilot survey was carried out at Besut District of Kelantan State; it mobilised community leaders to reach out to drug users to become volunteers for treatment without fear of punishment and retribution, and it created an enabling environment for rehabilitation – moral support, job training and placement, and activities to integrate them into society. The evidence showed that 71% volunteered for treatment; 70% were subsequently tested free from drugs. Those who have yet to be tested have continued to remain in the program. At the same time, the police have exceeded their own target in removing the drug peddler. This pilot project is evidence based and it acts as a testament to how we can continue to pursue criminals whilst adopting a health-centred approach to bring drug users back to society.*

**Keywords:** *illicit drug, rehabilitation, economic cost, decriminalization, capital punishment*

### 1. INTRODUCTION

It has been said that the drug war is not working and if alternatives are not considered now, a solution may not be possible. The use of drugs can negatively affect all aspects of a person's life, impact their family, friends and community.

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It places an enormous burden to our society. One of the most significant areas of risk with the use of drugs is the connection between drugs and crime.

Malaysia has declared illicit drugs a threat to national security in 1983, and 34 years later, we are still fighting this threat through the criminal justice system. For the better of our future generations, we have a choice – to continue as it is or to introduce reform policies from a different perspective.

The issue of how to combat illicit drugs is an ongoing global debate. There is no doubt about the detrimental effects of illicit drugs. Some people consider it a moral issue whereas others regard it as an illness that can be treated. The perspective impacts public policy on how to handle illicit drugs and associated crimes. If it is a moral issue, we will continue to wage war on drugs using military intervention and the criminal justice system to mete out punitive measures on both the supplier and the user. On the other hand, if we were to shift our paradigm and consider it a public health issue, our focus would be on rehabilitation and treatment, aided by decriminalising the use and possession of certain drugs.

This is an emotive and political debate. There are already a few best practices evolving with empirical evidence of its impact. We should explore all options using an evidence-based approach. Perhaps there is no one single option but a combination of options to tackle both the supply and demand aspects simultaneously. Ultimately, the goal is to secure a safer, healthier and happier world.

## **2. ILLICIT DRUGS**

Illicit drugs are those under international control (which may or may not have medical purposes) and which are produced, trafficked and/or consumed illicitly (UNODC, 2017). How it is classified depends on its medical value and the potential for abuse although the potential for abuse seems to outweigh the medical value.

A good example is marijuana. It is listed in the list of illicit drugs as having high potential for abuse (Anderson, 2014). However it has several potential medical value for treating chronic pain, seizures, cancer and chemotherapy induced nausea and vomiting. Since it is listed as an illicit drug, it is not easily available to patients who need them even with a doctor's prescription. Brazil has lately permitted it to be used amidst much opposition. In America, one third of all Americans suffer from chronic pain (Lopez, 2016) and the prescription for the use of marijuana is

still not permitted. Large-scale clinical tests cannot be done to test the efficacy of the medical value of marijuana, as the supply of marijuana is illegal. So far, the US Drug Enforcement Administration (DEA) has issued only one license for the cultivation of marijuana to the University of Mississippi (NIDA, 2016). As such, patients may have to resort to obtaining the drugs illegally through the black market which promotes the illicit drug business even though it is meant for recreational use.

### **3. THE ILLICIT DRUG BUSINESS**

Illicit drug business is a very profitable commodity. An investment of one dollar in the production of cocaine gives a return of thousand dollars at the other side of the distribution chain (Rastello, 2010).

It is difficult to quantify the exact size of the illicit drug market as most transactions are kept off the books. However, policy makers need to have a sense of the market scale in order to prioritise intervention.

Several researches have been made to estimate the size of the illegal drug market. The European market alone is estimated to be about EUR\$31 billion in 2013 (EMCDDA, 2016). RAND Corporation stated in an article “How Big is the US Market for Illicit Drugs” that the US market based on the four most common drugs (marijuana, heroin, cocaine and methamphetamines) was about US\$109 billion in 2010 (Kilmer, Everingham, Caulkins, Midgette, Pacula, Reuter, Burns, Han & Lundberg, 2014). Overall, the UN reckons the global trade in illicit drugs is about US\$330 billion (Count the Costs, 2012). Drugs are now the world’s largest illegal commodity market.

In marginalised countries, the illicit drug business is an important contribution to the economy. Take the case of Afghanistan that produced 85% of the world’s opium (UNODC, 2014). The profit from the opium trade was valued at about half the country’s GDP. About 70-80 percent of these profits went to traffickers, armed insurgents or government officials, and about 20 to 30 percent went to farmers and farm workers who produced poppies (Robbin & Sherman, 2008). In the absence of legal alternative livelihood and access to legal markets, cultivating poppies remain a mainstay of the rural economy in Afghanistan.

#### 4. DRUGS AND CRIME

The relationship between drugs and crime is complex. The question is whether drugs can lead people into criminal activity or whether those who use drugs are already predisposed to such activity. At the most intense levels of drugs usage, drugs and crime are directly and highly correlated. A serious drug use can amplify and perpetuate existing criminal activity. A study done by the National Institute of Justice indicates that different levels of use of such drugs as heroin were directly related to individual criminality and that a history of drug abuse was one of the best predictors of serious career criminality (Gropper, 1985).

The intensity of criminal behaviour, especially property crime, was directly related to the drug use status. Users' crime rates dropped to relatively low levels during periods of little or no narcotics use and increased four to six fold during periods of active addiction. Street level heroin abusers were found to engage in a variety of criminal behaviours to support their drug habits. Daily heroin users had the highest crime rates and committed more violent crimes. Overall, cumulative evidence is clear that there is a consistent pattern of correlation between drug abuse and crime that reflects a real, albeit indirect, causal link.

There are essentially three types of crime related to drugs:

- i) **Use-related crime:** These are crimes that result from or involve individuals who ingest drugs, and who commit crimes as a result of the effect the drug has on their thought processes and behaviours.
- ii) **Economic-related crime:** These are crimes where an individual commits a crime in order to fund a drug habit. These include robbery, burglary, street crime and prostitution.
- iii) **System-related crime:** These are crimes that result from the structure of the drug system. They include production, manufacture, transportation, sale of drugs, as well as violence related to the production or sale of drugs, such as a turf wars. An example of this are the well broadcasted news of the drug cartel wars in Mexico where more than 54,000 people have been killed since 2006, and many of them were women and children.

Some research studies have found that more than one third of all acquisitive crime is economic related. A significant portion of the street crime is related to the illegal drugs – with rival gangs fighting to corner the market and dependent users committing robbery and snatch theft to fund their drug habits. In Malaysia,

almost 50% of those arrested for snatch thefts were hardcore addicts (PEMANDU, 2017). As per the prison statistics, 50% of prison inmates are addicts (Malaysian Prison Department, 2012).

It is relevant to know the type of drug related crime that is prevalent locally as different types warrant different responses for the remedy to be sustainable. For instance, use related drug crime should be approached with a focus on health (treatment and rehabilitation). Those related to the system of production, manufacture, transportation, and sale needs an approach oriented to the criminal justice system.

The authorities however make little distinction between the types of crime. In tackling illicit drugs, they depended on the police and the criminal justice system. It is only lately that some countries look at use-related crimes and economic-related crimes to tackle them from a health and social perspective.

## **5. THE WAR ON DRUGS**

We often link drug use to crime, especially violent crime and prevalent street crime. Thus, we naturally turn to the police and criminal justice system to keep us safe. According to the Prison's statistics, about 50% of inmates are drug related cases. Given the capacity of 50,000 cells, this is only about 5% of the estimated people on drugs in Malaysia. This is assuming that we take the world average of 4% on drugs. Hence, we have this feeling of euphoria that with the 5% behind bars we are okay when there are 95% who are still free outside.

Drugs are dangerous; they will ensnare us into drug addiction and we will spiral down the ladder out of the realm of a productive society; becoming endemic to our community. Therefore, we may be compelled to think that tough punitive measures are needed, and because of this many countries have declared war on drugs using paramilitary forces besides relying on the criminal justice system.

In 1971, US President Richard Nixon declared drug abuse as public enemy number one (Sharp, c1994), and over the last four decades, the country had committed more than US\$1 trillion on the war on drugs (Count the Costs, 2012). Today, the US still spends about US\$50 billion a year on this war. Despite the money and effort spent, it is estimated that the US has captured only less than 10% of all illicit drugs (Ethics of Development in a Global Environment, 1999). It has produced the highest per capita incarceration rate in the world (National Research Council, 2014).

In the case of Malaysia, in 1983 the country declared war on drugs. However, 34 years later, it is estimated that for everyone in the prisons or drug agency rehabilitation centres related to drugs, there are another 20 drug users outside; to have everyone in correction centres would just be impossible.

Some countries like the Philippines have gone to another dimension in the war on drugs in calling the public to hunt and kill suspected drug users and dealers. Since July 2016 when the Philippines President raised the campaign on drugs, the police and extrajudicial have killed more than 6000 people including women and children (Human Rights Watch, 2017). The majority of these are urban poor slum dwellers. Though some have called it proof of his uncompromising approach to eradicate illicit drugs, it violates human rights and rule of law, and is prone to abuse. Philippines has “paused” this war in January 2017 when a Korean businessman was kidnapped and murdered inside the police headquarters by anti-drug police.

Today, 33 countries including Malaysia imposed capital punishment on drug trafficking, possession and consumption (Harm Reduction International, 2012). The harsh measures are aimed to eradicate illegal drugs and drug related crimes; keeping our society especially the youths free from drug addiction.

The aggressive war on drugs has caused overcrowding of prisons; for example, Brazil 157% (2014), Thailand 144% (2012), Malaysia 106% (2015). Globally, 83% of drug offences were due to possession (Penal Reform International, 2015).

Despite the above, there is little evidence that efforts to eradicate illicit drug offenses are being achieved. In the UK, it was reported that there was in fact no link between tougher drug laws and drug use (BBC News, 2014).

About 50% are non-violent offenders for drug possession. Putting drug users in prison does not seem to help as more than 50% return to using drugs when they are released from prison and they go back to prison again. This is because they are without the tools and support needed to keep them away from drugs. People with criminal records have limited employment prospects and reduced access to welfare and healthcare. In addition, they face social stigma that prevents them from receiving support from the family and community. In other words, inmates released from prison return to the same environment that put them at risk of drug abuse.

Incarceration has not yielded positive results in preventing recidivism. In addition, the economics of incarceration suggest that the money spent on incarceration may not be worth the cost. It costs the US Government US\$24,000 per year to house a prisoner; by contrast, the cost of providing drug rehabilitation outside the criminal justice system such as methadone maintenance treatment is only US\$4,700 per person per year (National Institute on Drug Abuse, 2012). In a nutshell, it makes more sense to focus on treatment and rehabilitation instead of incarceration.

## 6. THE 'ALTERNATIVE' TRUTH

According to a report by UNODC in 2010, there is an estimation of 16 to 39 million drug users worldwide but only 10% to 13% actually became addicts. Is there an alternative truth then to our belief that drugs are dangerous and addictive?

There must be as since 1970s, research has found that drug use does not lead to addiction. In the Rat Park experiment conducted by Professor Bruce Alexander at the Simon Fraser University in British Columbia (Hari, 2015), he placed rats in different environment and found that those in an environment with plenty of stimuli (such as plenty of choices of food, play equipment, and other playmates) would prefer to drink from bottled water rather than the bottle that is drugged. When the stimuli are taken away, those rats would prefer to drink from the bottle with drugged water rather from the bottle with drug-free water. The conclusion made from the experiment was that contrary to popular belief, drug addiction is highly caused by social stressors rather than the drug itself.

Consider the Vietnam War when heroin was dispersed freely to soldiers in the US army. There was fear that when these soldiers return home, the country would be faced with an immense drug addiction problem. However, it appeared that 95% of the soldiers quit the addiction within one year of returning home (Robbins, 1993)<sup>2</sup>. Due to the environment back home being different from when they were in the war in Vietnam.

Given what research has shown us, we should then explore other options rather than staying with the current policy of “war on drugs”.

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<sup>2</sup> Robbins, Lee N. Vietnam veterans' rapid recovery from heroin addiction: A fluke or normal expectation? Washington University School of Medicine, 1993

## 7. TREATMENT AND REHABILITATION

In the UK, drug addiction costs its society £15.4 billion every year in terms of drug related crimes, deaths and medical costs. However, drug addiction treatment has been shown to reduce associated health and social costs more than the cost of the treatment itself – with every £1 spent on drug treatment saves £2.50 in costs to society (National Institute on Drug Abuse, 2012).

Treatment and rehabilitation makes communities safer through less crime and less troubled families. It protects public health by preventing drug related deaths, restricting HIV, hepatitis C and so on. In addition, it also helps drug users overcome addiction. 29% have left free of addiction (National Treatment Agency for Substance Misuse, n.d.). For the politicians, treatment and rehabilitation garners public support. In UK, a survey shows that:

- i) 75% think drug treatment is a sensible use of public money
- ii) 66% fear crime will increase without drug treatment
- iii) 80% believe drug treatment makes society better and safer

Some countries have gone further by prescribing and administering drugs (under supervision) to addicts who have yet to be cured from their dependency. These programmes allow addicts to satisfy their drug dependency without a large risk of overdose without resorting to crimes such as robbery to obtain drugs. Such programmes have been proven to save money that would otherwise be incurred through the criminal justice system, health interventions and delinquency. They also drastically reduce death through overdose. The heroin-assisted treatment program is now fully a part of the national health system in Switzerland, Germany, Netherlands, Denmark and UK.

Malaysia is skewed towards using the police and the criminal justice system for drug control. 60% of the prisoners are involved in drug related offences that cost the government RM400 million per annum. In 2016, it embarked on a pilot project in the Besut District to use an alternative approach in rehabilitating drug users. In the Besut district, one person in every household uses drugs and the relapse rate is 70% (PEMANDU, 2016). The aim of the pilot project was to shift from a punitive approach to one that is health-based while at the same time continuing to remove the drug dealers. The approaches taken is as follows:



- i) Mobilising the local community leaders to reach out to drug users to volunteer for treatment. This approach is novel in that while it seeks to educate local community, family and friends on the alternative view of drug users, it uses them to pass the message of hope to drug users to come forward for treatment.
- ii) Suspending charges for those who volunteer for treatment
- iii) Emphasising on volunteerism for treatment and encouraging users to continue treatment even though they may have been tested positive for drug use during the course of the treatment. Previously, the instant the users are tested positive for drug use, they are regarded as having made an offence that can be punished by the law enforcement agencies. Through this pilot project, there is a sort of moratorium for them to seek treatment and an opportunity to reintegrate back into the community
- iv) Creating an enabling environment where the social stressors and stigma are removed, and tools and support are given instead:-
  - a) Providing employable skills training (tourism and agriculture) and entrepreneurship development
  - b) Giving assistance in seeking job opportunities
  - c) Restoring family relationships
  - d) Creating community activities like sports and other recreational programs
- v) Continuing the war on drug peddlers to remove them from the system

The pilot program has been successful in getting users to come forward voluntarily for treatment, encouraging them to stay with the treatment, and achieving drug free status (PEMANDU presentation to the Timbalan Ketua Setiausaha, Kementerian Dalam Negeri, August 2016). The outcome from the pilot program are as follows:

- i) 71% of the users volunteered for treatment. 73% of these are between 20 to 40 years old and it is thus important to ensure that this group will break free from drug use and return productive to society
- ii) 70% of them have been tested free from drugs.

- iii) The attendance rate for treatment was more than 73%. This is encouraging as the idea is to have those who have not been tested drug free to continue to come for treatment

The results achieved are an example of an evidenced approach in tackling drug use from a health and welfare perspective as opposed to using purely a punitive approach. The evidence is verified by Universiti Sains Malaysia and PEMANDU.

Parallel to treating and rehabilitating drug users, the law enforcement agency set itself a target to catch drug peddlers and it succeeded in exceeding its target (152%).

This program is successful as it works in collaboration with the law enforcement and justice system, and other agencies dealing with public health, family and children services, mental health, social services and so on.

There were several important learning points that would be taken on board in rolling out to other communities.

- i) One of these is a mechanism to track and monitor those who volunteer for the program and to encourage and support them to continue with the program till they are recovered.
- ii) Another is to relentlessly change the mindset that the drug issue is a health issue and a concern with roots in the family and community. This includes changing the approach of the local law enforcement agencies as enforcement officers have been groomed and trained to look at drug use as a criminal offence and offenders should be isolated, perhaps sent to an island away from society at large.
- iii) The third is the ability to grow expertise in counselling and provide sufficient counsellors at the centres.

The potential value created from this pilot project in Besut is RM255 million in cost savings from using a treatment and rehabilitation approach, RM60 million in potential earnings for rehabilitated users and RM1.2 billion in GNI per year. The beneficiaries are not just the drug users that have gone through the treatment but for the 250,000 in the whole Besut district.

Based on the pilot study, the next step is to roll out the same initiative to other

districts. This pilot project is evidence that a holistic approach tailored to the local environment can deliver more benefits compared to the punitive approach of imprisonment and forced rehabilitation (PEMANDU, 2016).

## 8. DECRIMINALISATION

While treatment and rehabilitation is good, there has to be a comprehensive move towards decriminalising the possession of drugs for personal use. Otherwise, drug users would never come forward for fear of being punished and labelled as criminals.

The debate on decriminalisation is an emotive and political one, and is often misunderstood. Decriminalisation refers to the removal of sanctions for possession of small quantities of drugs for personal use (International Drug Policy Consortium, 2016). Although a criminal record is not created, it may still be a punishable offence. It is not considered under drug legalisation as drug trafficking and drug dealing must remain criminal activities.

The most notable example where decriminalisation has worked is Portugal. In 2001, Portugal decriminalised the small possession of all drugs. What it meant was that possession of up to 10 days' supply of drugs was considered an administrative offence as opposed to a criminal offense. While possessing drugs up to a certain limit were legal, the manufacture, distribution and sale of drugs remain illegal. The outcomes remain positive until today:-

- i) Small increases in reported illicit drug use among adults
- ii) Reduced illicit drug use among problematic drug users and adolescents
- iii) Increased uptake of drug treatment
- iv) Reduction in opiate-related deaths and infectious diseases such as HIV and hepatitis C
- v) Increases in the amounts of drugs seized by the authorities
- vi) Reductions in the retail prices of drugs

It also freed up critical resources in the criminal justice system to enable it to focus on high level trafficking and organised crimes. As such, the Portugal model is considered a successful model for decriminalising drugs.

Similar positive outcomes are seen in countries such as Switzerland, Netherlands and Australia.

The International Drug Policy Consortium (IDPC, 2016) states that there are

basically two approaches to decriminalisation:-

- i) De jure decriminalisation, where criminal penalties are removed from the law and replaced by administrative fines and sanctions as in the case of Portugal and Switzerland
- ii) De factor decriminalisation, where the criminal penalties remain in the law but are not enforced in practice. In such cases, they may be administrative fines and users may be diverted to treatment or counselling as in the case of Australia

Within those two approaches, there are many variations. Each country should use an evidence approach to determine which is the best fit locally.

Decriminalisation removes the social stigma and offers users a path to return to mainstream society. It also clears the way for the use of traditional, religious and medical use of drugs. For example:

- i) India allows drinks made from cannabis leaves ('bhang'), which are used in Hindu religious festivals (Balhara & Mathur, 2014).
- ii) There are some advocates for the use of cannabis in the use of cancer and certain illnesses in India and the Philippines.
- iii) Kratum is a plant indigenous to Southeast Asia, which is used as an antidiarrheal, a cough suppressant, an anti-diabetic, a deworming agent and wound poultice but remains a controlled substance. In 2013, the Minister of Justice in Thailand announced he is considering decriminalizing kratum.

The good standard in decriminalisation is to provide an enabling environment for drug users to access health and social services without fear of punishment, stigma or discrimination. Taking drugs is a reality of society today and we must deal with it boldly and effectively for the health of society as a whole.

## **9. SUMMARY**

The war on drugs that is punitive in nature has not delivered the promised results in removing illicit drugs and bringing down crime. In fact, it has enriched the criminal in pushing the market underground. The illicit drug business amounts to

US\$330 billion. Despite the punitive measures, the number of people who have consumed illicit drugs worldwide in 2014 has risen 33 percent compared to 2013 (UNODC, 2017).

Research has shown that there are alternate views – drug users can be treated and is not as endemic as it seems. Best practices in treatment, rehabilitation and decriminalisation have also shown that there are options that can be exercised.

Public policy is a choice and we must make the choice using an evidence-based approach. A combination of approaches can be applied to address both the supply side as well as the demand side simultaneously as in the case of the Besut pilot project in Malaysia.

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