

TRANSFORM

DRUG POLICY FOUNDATION

Submission to 'Drugs: Our Community, Your Say' (Drug Strategy Consultation Paper 2007)

About Transform Drug Policy Foundation

- Transform is the UK's leading centre of expertise on drug policy and law reform.
- Transform works in a range of national and international forums highlighting the harms caused by the pursuit of a prohibitionist ideology in the drugs and public health arena of social policy
- In recent years our work has included giving written and oral evidence to the Home Affairs Select Committee drugs inquiry (2003), the Science and Technology Select Committee drug classification inquiry (2006), and to various deliberations by the Advisory Council on the Misuse of Drugs
- Transform's briefing on the Drug Bill 2005 was quoted extensively during parliamentary deliberations through committee stage.
- Transform regularly briefs parliamentarians from all parties, officials in the Home Office, Treasury, DoH and other government agencies.
- Transform has special consultative status at the United Nations
- Transform has a high media profile that includes regular publications in national broadsheets and specialist journals, as well as regular national news and comment broadcast appearances¹.
- For more details about Transform's work please visit www.tdpf.org.uk

Summary

Transform is extremely disappointed with the Drug Strategy consultation and review process and support the objections outlined in the submission made by the Drugs and Health Alliance² (of which Transform is a founding member). The consultation document itself is essentially a piece of propaganda that attempts to dress up the failure of the strategy as success. Regardless of ones policy views, it cannot be the basis for any kind of meaningful review. Transform has detailed these objection in the appended document produced for this consultation: Drug policy 1997-2007 - The evidence un-spun³

This submission, and appended documents, reviews the past ten years: the litany of failure and its ongoing denial, the disdain for meaningful critique and debate, the process of 'policy based evidence making' that has exemplified the life of an overwhelmingly failed drug strategy, and the overarching role of prohibitionist thinking and policy making in this ongoing systemic failure.

Despite our critique of the sham consultation and review process, we offer recommendations for how progress can begin to be made and how a new, more just and effective strategy can be developed. We hope that more

¹ See http://www.tdpf.org.uk/MediaNews_TransformInTheMedia.htm for details

² Available online here: <http://drugshealthalliance.net/documents.php>

³ Available online here: http://www.tdpf.org.uk/Policy_General_DrugPolicy.htm

meaningful engagement with policy options will be forthcoming and that these will be underpinned by a genuine and honest review of the successes and failings of the past ten years.

'Drug Policy' is a misnomer

The UK does not have a drug strategy; it has a prohibition strategy. If it were a true drug strategy it would include the drugs in the UK with the highest numbers of dependent users – alcohol, tobacco and benzodiazepines. It would be a strategy that looked across a range of regulatory regimes and crossed the full gamut of government departments. It would be based on science and pragmatism and not ideology and political posturing.

As it stands 'drug policy' is skewed toward a relatively small number of problematic users of crack and heroin – about 350 000. This compares with the tens of millions who regularly use (and sometimes misuse) currently legal drugs. It is disingenuous to suggest that we have a genuine drug policy or that it is in the process of being meaningfully reviewed. As the Government has limited its review to its policy on currently illegal drugs, this submission will also be limited to the specific drugs that are prohibited under the Misuse of Drugs Act 1971.

Separating the problems caused by drug use, and by drug prohibition

The Government currently does not make a distinction between the harms caused by the use of illegal drugs and the harms caused by the policy that criminalises their production, supply and use: prohibition⁴. Whether this conflation is deliberate or mistaken, it has led to a fundamental error in policy development and implementation that has created misery and mayhem for countless millions – many of whom are the most marginalised and disadvantaged people in society, in the UK and wider world.

Whilst we can agree that all drugs can be used dangerously, prohibition is the direct cause of the large majority of the harms associated with the production, supply and use of illegal drugs. The illegal markets prohibition inevitably creates exacerbate a wide range of harms to individuals, communities, nation states and global regions, as well as directly causing a whole new raft of problems associated with illegal markets⁵. The misery caused by prohibition must never be underestimated. It fuels crime, violence and conflict at local, national and international scales, it corrupts police, politicians and judiciary across the world, and it undermines public health, human rights and family life.

“Prohibition of course gives rise to illicit trafficking and use and a range of problems associated with those.”

Letter to Danny Kushlick from Rt Hon Kim Howells MP, 11 Oct 2005

The negative fall out of drugs prohibition and its resultant criminal profiteering is demonstrably a threat to international peace and security. Yet the FCO's Drugs and International Crime Department continues to lobby for the widest possible adherence to the three main UN Drugs Conventions (1961, 1971 and 1988) which set the legal framework for international co-operation.

⁴ As UK Policy is referred to in the UK updated national strategy 2002, page 6.

⁵ Please see 'Harms created by prohibition', page 8 of the attached submission document 'After the War on Drugs, Options for Control', also available online here: http://www.tdpf.org.uk/Transform_After_the_War_on_Drugs.pdf

This continued lobbying for support of the conventions is happening despite the fact that it is the very commitment to the conventions themselves that has made the problems of Colombia and Afghanistan all but intractable. Narco-states are created and maintained by and because of international prohibition.

The Home Office admits that there are benefits to legalisation:

“...it is likely that there would be a reduction in acquisitive crime, if drugs were legalised...”

Letter to Dr John Marks, Home Office Direct Communications Unit, 17 September 2007

The implication of which is that the Government admits that prohibition creates acquisitive crime.

and from the same letter:

“The Government is aware of the arguments for legalising controlled drugs in a regulated way and has concluded that the disadvantages would outweigh the benefits.”

Sadly, as was the case with the 2003 No.10 Strategy Unit drugs report (leaked to the Guardian⁶) the Government has not seen fit to make this crucial policy analysis available to the public. Another unpublished Home Office briefing to the Prime Minister from 2004 backs up this contention:

“There is a strong argument that prohibition has caused or created many of the problems associated with the use or misuse of drugs. One option for the future would be to regulate drugs differently, through either over-the-counter sales, licensed sales or doctor's prescription.”⁷

⁶ See Transform briefings Number 10 Strategy Unit Drugs Project: Phase 1 Report: “Understanding the Issues” and The Number 10 Strategy Unit drugs report, phase 2 - “Diagnosis and recommendations”-

⁷ ‘Heroin on the NHS and a document too hot to handle’, the Independent, Marie Woolf, Political Editor, 25 February 2007:

<http://news.independent.co.uk/uk/politics/article2303024.ece>

Some of the many reports, ignored by Government, spelling out the critique of prohibition and suggesting ways forward, produced over the last ten years.

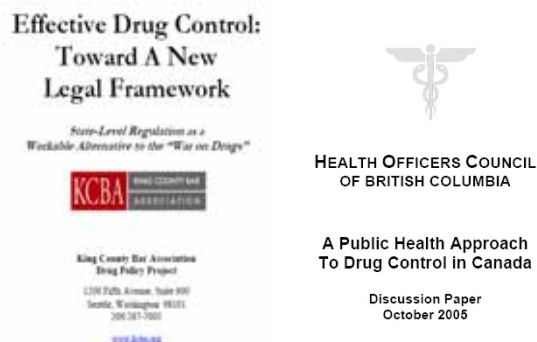
From Transform:



From The Home Affairs Select Committee, No10 strategy unit and the RSA:



From the King County Bar Association (USA) and the Health Officers of British Columbia (Canada):



Click to view the full reports⁸.

⁸ For more key reports please visit http://www.tdpf.org.uk/Policy_KeyReports.htm

A policy vacuum has been created:

Whilst Government ignores the evidence, even of its own advisers, and will not countenance or put forward representatives for public debate on this issue, the need for a shift in policy is genuinely engaged with in the media. Two leading commentators called for moves towards legal regulation of drugs recently, in *The Times* and the *Financial Times*:

“All these observations point to a simple conclusion: simple, though not easy. The global war against drugs is in contradiction to the war against violent crime at home and the war against terrorism internationally. Legalising, or at least decriminalising, drugs would, not on its own, end terrorism or gang violence — and it is no substitute for long-term measures to promote development abroad or improve education at home. But a ceasefire in the war against drugs would at least give peace a chance — not only in Afghanistan, but also in the streets of Britain.”

‘Give peace a chance. Forget the war on drugs’, Anatole Kaltesky, *The Times*,
30 August 2007

“Yet every now and again the head of the UN office on drugs and crime, Antonio Maria Costa, pops up with some cheery bit of nonsense. In 2003 he said his organisation was on target to deal with the problem by 2008. Now he says ‘the world drug situation has stabilised and been brought under control’.

“Does anyone believe this claptrap? It is clear that drugs policy would be infinitely better conducted if governments actually had some influence on the business. Legalisation would enable them to tax the drugs, ensure quality control, cut out the most dangerous strains, help genuine addicts, try to prevent the sale to minors, de-glamorise the habit and, above all, deny the gangs and the terrorists their financial lifeblood. But, as so often, politicians find it safer to go in for posturing than useful action.”

‘High society’, Matthew Engel, *Financial Times*, 11 August 2007

Similar pieces have appeared in all the major broadsheets, tabloids and periodicals on a regular basis over the past ten years⁹.

A 10-year litany of failure and criticism

Despite Government claims to the contrary, the last ten years have delivered poor outcomes on almost all indicators. Transform has produced a detailed briefing, critiquing Government claims for the success of the 1998 drug strategy¹⁰. The briefing demonstrates that, in contrast to the rose-tinted statistical spin presented in the consultation document and recent Home Office propaganda, even by the limited standards the Government set itself in 1998 the strategy has been an overwhelming failure:

⁹ See Transform’s archive of quotes from supporters of reform

¹⁰ Available online here: http://www.tdpf.org.uk/Policy_General_DrugPolicy.htm

1998

- UK signs up to a doomed ten year UN drug strategy whose slogan is 'A Drug free world we can do it' committing to eliminate or significantly reduce the production and use of opium, coca and cannabis by 2008.
- Hundreds high-profile political and religious leaders, intellectuals, opinion formers and academics from around the world sign a letter to Kofi Annan¹¹ calling for a rethink of drug policy (They include Rowan Williams, Colin Blakemore and other leading UK thinkers and opinion formers). An extract from the text reads:

“Persisting in our current policies will only result in more drug abuse, more empowerment of drug markets and criminals, and more disease and suffering. Too often those who call for open debate, rigorous analysis of current policies, and serious consideration of alternatives are accused of “surrendering.” But the true surrender is when fear and inertia combine to shut off debate, suppress critical analysis, and dismiss all alternatives to current policies. Mr. Secretary General, we appeal to you to initiate a truly open and honest dialogue regarding the future of global drug control policies - one in which fear, prejudice and punitive prohibitions yield to common sense, science, public health and human rights.”

- The UK appoints ex-police chief Keith Hellawell as US-style ‘Drug Czar’,
- The new ‘Czar’ launches a UK strategy announcing targets for a 50% reduction in drug availability, a 50% reduction in Class A drug use amongst under 25s (a ‘half drug free world’?), and 50% reduction in re-offending amongst drug offenders, along with a doubling in treatment admissions by 2008.
- The National Audit Office publish a highly critical report on the prevention of drug smuggling demonstrating that HM Customs has no idea whether it is effective or not.
- Alan Duncan MP (Conservative) calls for legalisation and regulation of drugs¹²

2000

- The Police Foundation (Runciman) Report highlights many of the shortcomings of UK drug policy, and makes a series of pragmatic calls for reform – all involve moving away from the heavy handed enforcement approach.

“it has become inescapably clear to us that the eradication of drug use is not achievable and is not therefore either a realistic or a sensible goal of public policy.”

- The Government summarily rejects the recommendations of the Police Foundation report almost before it is published. Some of its recommendations, including cannabis reclassification, do however gain political traction under future home secretaries.

2002

¹¹ Read the full text of the letter here: <http://www.drugpolicy.org/global/ungass/letter/>

¹² Read the text from his book here: <http://www.alanduncan.org.uk/legalisationofdrugs.html>

- Home Affairs Select Committee Report calls on UK Government to debate legalisation at the UN. (David Cameron is a member of the committee). From the report:

“If there is any single lesson from the experience of the last 30 years, it is that policies based wholly or mainly on enforcement are destined to fail. It remains an unhappy fact that the best efforts of police and Customs have had little, if any, impact on the availability of illegal drugs and this is reflected in the prices on the street which are as low as they have ever been.”

“We recommend that the Government initiates a discussion within the Commission on Narcotic Drugs of alternative ways - including the possibility of legalisation and regulation - to tackle the global drugs dilemma.”

- The Government rejects all significant recommendations in the HASC report, although the Home Secretary (David Blunkett) uses the committee session to announce he is ‘minded’ to reclassify cannabis, and expand heroin prescribing.
- The Home Office publishes a study, commissioned from York University, showing that the social costs of Class A drug use in the UK are £10.1 - 17.4 billion a year, 99% of these costs are incurred by just over 300,000 problematic user of heroin and cocaine, and 88% of these costs of crime related.¹³
- The Liberal Democrats rewrite their drug policy¹⁴ critiquing prohibition, calling for an audit of enforcement spending by the NAO, the legalisation and regulation of cannabis, and the decriminalisation of possession. At this point the tripartite support for prohibition disappeared. From the document:

“Even in terms of the objective of suppressing use the prohibitionist strategy appears to be failing. However, we believe the policy is even more damaging in that it:

- (i) exacerbates the adverse consequences of drug use;***
- (ii) brings many people, particularly young people, who would otherwise be law abiding, into contact with both the criminal world and the criminal justice system;***
- (iii) undermines other, more promising strategies for minimizing harmful drug use; and***
- (iv) diverts large public resources which could be better employed.***

Prohibition of drugs means that their supply is in the hands of criminals, who by definition operate clandestinely and beyond the scope of the law. Under the existing system it is not possible to regulate or control the supply in terms of quality, conditions of supply (e.g. age limits, sobriety), and price. In the case of hard drugs, this has very severe consequences.”

¹³ Christine Godfrey et al (2002) – The economic and social costs of Class A drug use in England and Wales, 2000

¹⁴ <http://www.tdpf.org.uk/lib%20dem%20drugs%20policy%20paper47.pdf>

- Mo Mowlam calls for the legalisation and regulation of drugs¹⁵, immediately after stepping down as minister with the drugs brief.

“From my experience of being responsible for drugs policy in the previous government, I came to the conclusion that legalisation and regulation of all drugs was the only way to reduce the harmful effects of this unstoppable activity.”

2003

- The Prime Minister’s Number 10 Strategy Unit produces a report¹⁶ showing that supply side enforcement creates many of the harms associated with heroin and crack. It is withheld under FOI exemption (only reaching the public after later being leaked to the Guardian in 2005).

“Over the past 10-15 years, despite interventions at every point in the supply chain, cocaine and heroin consumption has been rising, prices falling and drugs have continued to reach users. Government interventions against the drug business are a cost of business, rather than a substantive threat to the industry’s viability.”

2004

- A Home Office briefing to the Prime Minister and Home Secretary¹⁷ (unpublished but leaked to the Independent) reveals that Home Office officials were suggesting and discussing prohibition’s futility and the possibilities for legally regulated drug supply at the highest levels of Government:

“There is mounting evidence of the impossibility of winning the war against drugs supply.”

“There is a strong argument that prohibition has caused or created many of the problems associated with the use or misuse of drugs. One option for the future would be to regulate drugs differently, through either over-the-counter sales, licensed sales or doctor’s prescription.”

- Transform launches its new report: ‘*After the War on Drugs, Options for Control*’¹⁸ at a seminar event in Portcullis House attended by MPs, peers and high level civil servants. The report, now in its third print run, receives worldwide acclaim.
- Cannabis is reclassified as a Class C drug, introducing a presumption against arrest for personal possession.



¹⁵ Fight terror: legalise the drugs trade: Prohibition only fuels criminal violence Mo Mowlam, the Guardian, Thursday September 19, 2002 <http://politics.guardian.co.uk/comment/story/0,,794806,00.html>

¹⁶ For discussion and analysis, a long with the complete report see: http://www.tdpf.org.uk/Policy_General_Strategy_Unit_Drugs_Report_phase_1.htm

¹⁷ <http://news.independent.co.uk/uk/politics/article2303024.ece>

¹⁸ Attached as part of the Transform submission to the consultation, also available in pdf format here: http://www.tdpf.org.uk/Policy_General_AftertheWaronDrugsReport.htm

2005

- The Prime Minister's Strategy Unit drugs report is leaked to the Guardian¹⁹ and finally made available in full to the public.
- The hastily assembled Drugs Bill 2005, introducing a raft of populist pre-election 'tough on drugs' legislation, is enacted in the wash-up week before Parliament is dissolved. It does not receive proper parliamentary scrutiny, and there is no external consultation, or advice sought from the Advisory Council on the Misuse of Drugs (ACMD), regards most of the Bill's clauses²⁰. The Bill's Regulatory impact assessment is falls woefully short of what is required under the Government's own guidelines.
- The Home Secretary, Charles Clarke, very publicly refers the issue of cannabis classification back to the ACMD, barely two years after they have made a detailed report recommending it be Class C. The referral conveniently kicks cannabis classification off the political agenda, just in time for the general election called a matter of weeks later.
- The ACMD report back to the newly re-elected Government on cannabis classification: unsurprisingly their conclusions are the same as two years previously. Cannabis remains in class C. ACMD members threaten to resign if the committee is over-ruled.

2006

- Home Secretary Charles Clarke announces to the House of Commons²¹ that:

"The more that I have considered these matters, the more concerned I have become about the limitations of our current [classification] system."

"I will in the next few weeks publish a consultation paper with suggestions for a review of the drug classification system."

- Incoming Home Secretary John Reid breaks the promise of his predecessor and the review of the classification system is shelved indefinitely.
- Science and Technology Select Committee produces a devastating critique of the ABC drug classification system²². Describing it as 'not fit for purpose', the report highlights the unscientific nature of the system's development and implementation, the non-existent evaluation of its impacts, and the politically opaque nature of the decision making processes that underlie it. The committee also calls for the promised review/consultation to be revived.
- The Government's response to the Committee report ignores and brushes aside all meaningful criticism of scientific method and the call for a review on the basis that it 'believes' that 'the classification system discharges its function fully and effectively'. No evidence is provided to support this 'belief', which is later compared to creationism in the Select Committee session follow up with Minister Vernon Coaker²³.
- The Advisory Council on the Misuse of Drugs, experts from the field appointed by Government to advise on changes in drug policy and legislation, produce the

¹⁹ Transform press release http://www.tdpf.org.uk/MediaNews_TransformInTheMedia/2005-07-05g.htm

²⁰ Transform's briefing to parliament on the Drugs Bill, including a clause by clause critique: <http://www.tdpf.org.uk/TransformresponseDrugsBill2.pdf>

²¹ <http://www.theyworkforyou.com/debate/?id=2006-01-19b.982.1>

²² <http://www.publications.parliament.uk/pa/cm200506/cmselect/cmsctech/1031/1031.pdf>

²³ <http://www.publications.parliament.uk/pa/cm200607/cmselect/cmsctech/65/6112201.htm>

report 'Pathways to Problems: Hazardous use of tobacco, alcohol and other drugs by young people in the UK and its implications for policy'²⁴. As well as highlighting the '**very limited effectiveness**' of school based drug education and prevention, the report notes that:

"As their actions are similar and their harmfulness to individuals and society is no less than that of other psychoactive drugs, tobacco and alcohol should be explicitly included in the terms of reference of the Advisory Council on the Misuse of Drugs"

...and somewhat enigmatically:

"the current arrangements to control the supply of illegal drugs should be reviewed to determine whether any cost-effective and politically acceptable measures can be taken to reduce their availability to young people".

2007

- After over two years of research and production the RSA publish a report on UK drug policy²⁵: it is yet another detailed and eloquent critique of the failings of the UK's prohibition-based drug policy, making a series of pragmatic calls for reform of policy and law:

"prohibition is no more a viable policy in Britain today than it proved to be in America during the 1920s and 1930s."

"Drugs policy should, like our policy on alcohol and tobacco, seek to regulate use and prevent harm rather than to prohibit use altogether. Illegal drugs should be regulated alongside alcohol, tobacco, prescribed medicines and other legal drugs in a single regulatory framework."

- The UK Drug Policy Commission is launched, calling for a dramatically improved research and evidence base to support drug policy decision making in the UK. They publish a report analysing UK drug policy²⁶ – it highlights many of the same failings and shortcomings identified by the Police Foundation, HASc, Strategy Unit, and RSA reports.
- The Independent on Sunday publishes a front page 'apology' for calling for decriminalisation of cannabis, on the basis of sensational claims that cannabis 'is 25 times stronger than the resin sold a decade ago'. The new editorial line is backed up with a (still ongoing) series of cannabis scare stories, fuelling one of the UK's sporadic bouts of media-led 'reefer madness'²⁷.

²⁴ <http://drugs.homeoffice.gov.uk/publication-search/acmd/pathways-to-problems/Pathwaystoproblems.pdf>

²⁵ Drugs – Facing facts. Available in full in pdf format here: http://www.rsadrugscommission.org.uk/pdf/RSA_Drugs_Report.pdf

²⁶ <http://www.ukdpc.org.uk/reports.shtml>

²⁷ Transform has been systematically critiquing the bad science and poor journalism that underlies the Independent on Sunday's new editorial line as born-again prohibitionists on the Transform blog – a summary of recent developments with links to discussions is available here: <http://transform-drugs.blogspot.com/2007/07/independent-debunks-itself-on-cannabis.html>

- The Conservatives' Social Justice Policy Group on Addictions publishes a report critical of harm reduction, calling for more money for treatment, and the re-reclassification of cannabis back to Class B.
- David Davis announces cannabis re-reclassification is now official Tory party policy.
- In almost his first act as Prime Minister, Gordon Brown orders the Home Secretary to refer the issue of cannabis classification back to the ACMD yet again. This is despite the latest British Crime Survey figures showing that cannabis use continues to fall amongst young people.
- The Government launches its deeply flawed drug strategy consultation process, proclaiming success for the previous 10 years, with the familiar caveat that '*more needs to be done*'. Whilst no policies are proposed on which to consult, it is clear that the new drug strategy is intended to look very much like the current one. The issue of cannabis reclassification is also inappropriately shoehorned into the consultation document at the last minute, despite harm rankings being rightly determined by the technical committee's of the ACMD, not opinion polls.
- The consultation process is critically undermined by Gordon Brown making a series of drug policy pronouncements before the consultation has reported.
- Gordon Brown further announces that '*we are about to make changes to the cannabis law*²⁸ before the consultation has reported, and more troublingly, before the ACMD have reported back to him from his referral of the previous month.
- Entirely pointless debates around cannabis classification continue to dominate political discourse on drug policy, distracting attention from far more pressing issues around problematic use of heroin and cocaine and the appalling domestic and international consequences of their continued prohibition and related illicit trades.
- Four days before the consultation period on the drugs strategy ends, North Wales Police Authority supports a submission to the consultation, produced by the North Wales chief constable, calling for the legalisation and regulation of drugs. The Authority is considering the Chief Constable's recommendation to affiliate to Transform²⁹.

²⁸ <http://transform-drugs.blogspot.com/2007/09/brown-on-cannabis-it-gets-worse.html>

²⁹ Read the full report from North Wales Chief constable Richard Brunstrom here



- The newly formed Drugs and Health Alliance, a group of NGOs in the drugs field calling for a greater public health focus for drug policy, publish their submission to the strategy consultation. It is highly critical of Government failings and the consultation process itself, and makes a series of recommendations for pragmatic ways forward³⁰.

Denial, disdain and policy-based evidence making

When Bob Ainsworth MP (then minister and Government drugs spokesperson) was asked in 2002 whether he supported Transform's call for an independent audit of the effectiveness of drug law enforcement spending, he answered:

'why would we want to do that unless we were going to legalise drugs?'

He can only have meant that an audit would expose the failures of current policy, leading to a logical endpoint of legalisation and regulation. Whilst the Government remains opposed to such moves for political reasons, there will clearly be no effort to evaluate whether prohibition is working in practice whilst critical evaluation from external independent sources is systematically sidelined and ignored. Indeed we have repeated seen efforts to avoid such an evaluation, the current review process being only the most recent.

There is a well-recognised five-stage process that many go through in response to receiving catastrophic news:

Denial > Anger > Bargaining > Depression > Acceptance

³⁰ <http://drugshealthalliance.net/>

In the case of Government drug policy thinking the catastrophe is the realisation that a *'drug-free world'* is a hopelessly unrealistic goal, and worse, that our seemingly intractable *'drug problem'* is to a large extent the result of prohibition and the illegal markets that inevitably follow: it is a creation of our own making. Government policy making appears frozen in the opening stages of denial and anger, creating a climate that is intensely hostile to attempts to adjust to any form of pragmatic new reality.

Anyone entering this debate must recognise that it operates on two very distinct levels. The first is the rational evidence-based discussion about what works and what does not, scientifically evaluating the outcomes of different policy options and making rational decisions based on that analysis.

The second is the one governed by political considerations and priorities, the kind of debate seen when senior politicians enter the ring. These considerations range from international issues relating to UK and US foreign policy, to appealing to emotive and populist ideas: typically, an overriding need to appear *'tough on drugs'* (or avoid appearing *'soft on drugs'*), and to appeal to floating voters and their key media outlets' obsessions with the law and order debate. When politicians orchestrate drug policy discussion, evidence is all too often jettisoned in favour of macho posturing and rhetoric, spin and sound bites.

In the face of obvious failure of current drug policy, even by the Government's own limited standards and targets, all that remains is a default position of spin, obfuscation and distraction, which is apparent all too obviously in the process of the consultation, its parameters and content. In its place sits the perfect example of *'policy-based evidence making'*.

Complicity, symbiosis and the taint of prohibition

In the face of the all the evidence that prohibition is overwhelmingly counterproductive, those in possession of this knowledge, but who fail to act on it, must have their integrity called into question. Clearly there is some blatant corruption taking place for some individuals and in some institutions. However, it is the less obvious complicity (e.g. the Home Office, Customs and other organisations whose very *raison d'être* depends on remaining silent about the failings of prohibition) and *'symbiosis'* (for example between drug gangs and drug law enforcement agencies) that brings entire institutions and professions into disrepute. They are all tainted by the policy of prohibition.

Coming clean: if prohibition is so bad, why do so few speak out?

For politicians, the significant bulwarks of prohibition are populist electioneering and overriding geopolitical priorities. The key factor in maintaining global prohibition is US hegemony. It is only because of its fundamental support by the US that the UN conventions and related drug agencies came into being, and are maintained, and that many UN member states continue to support prohibition, at least in the public political arena. Departure from the *'theological truth'* of prohibition is, in geopolitical terms, nothing less than heresy, and substantial departure from what have become the sacred prohibitionist texts, can have significant geopolitical ramifications.

But, as seen above, prohibition is actively causing harm. This overwhelmingly pernicious policy has to be wrapped up in the rhetoric of war, a great moral crusade against the evils of drugs. Politicians especially, must be heard sounding *'tough on drugs'* and offer soothing words about protecting the nation's children. This combination of inherent harm combined with the rhetoric of success and security makes the policy of prohibition simultaneously very strong (at a superficial populist

political level) and very brittle (if and when exposed to meaningful scrutiny and evidence based critique).

So, what will cause prohibition to genuinely challenged?

“The Drug War cannot stand the light of day. It will collapse as quickly as the Vietnam War, as soon as people find out what’s really going on.”

Dr. Joseph McNamara, former Chief of Police of Kansas City and San Jose.
Now Research Fellow at Stanford University’s Hoover Institution.

There are three reasons why prohibition will end sooner rather than later:

- 1) Its inherent counter-productivity makes it unsustainable
- 2) Prohibition-related harms are increasing
- 3) It is receiving significant enlightened scrutiny

These three make prohibition as a guiding social policy paradigm more brittle and vulnerable than at any time in its short and undistinguished history. Given the above, the lifespan of prohibition as the dominant paradigm in drug policy is time limited, but it’s longevity can be extended if those in positions of authority fail to challenge it.

Over the last decade a host of opinion formers, policy makers and officials have maintained their integrity by speaking out against the counterproductive nature of drug prohibition³¹. Many more have not, and their silence colludes with prohibition to leave the monolithic status quo intact. It is incumbent upon those who know that prohibition is the significant problem with regard to illegal drugs, to speak out and eventually to bring their institutions with them.

Richard Brunstrom, the Chief Constable of North Wales, demonstrated how this is possible and compatible with holding high office when he first challenged prohibition in 1998 as Assistant Chief in Cleveland. In 2007 he brought North Wales Police Authority with him (see page 11). This move from personal to institutional support for change is key to achieving change and it is Transform’s believe that North Wales has taken a significant lead in the move to institutional challenge to prohibition and support for legal reform.

In the next few years we will see more institutions taking clear positions on the need for reform. Institutions with a particular role to play include those from law and criminal justice, medical and public health, human rights, harm reduction, International development, international relations, academia, conflict resolution and economics.

Whilst it may be easier for some institutions outside of government to challenge the status quo, there is nothing to stop civil servants from speaking out against iniquity and indeed there is much that makes it incumbent upon them to do so.

Recommendations:

Given the political issues that overshadow tackling the structural problems within drug policy development and implementation, in the short term at least, the only solution is to make all scrutiny as independent as possible. Only then would the independent evidential base be in place to provide the foundations on which

³¹ See Transform’s archive of quotes from supporters of reform here:
http://www.tdpf.org.uk/MediaNews_Reform_supporters.htm

progressive political reform can occur. The current situation, where the drug policy research and analysis agenda, and its published outputs, are translated through the prism of populist law and order politics can only lead to bad policy making and is in no one's interests. Transform suggest that any reform process would include:

- An independent and public analysis that develops an evidence base in order to distinguish the harms caused by drugs from those created by and exacerbated by the enforcement of prohibition.
- An independent cost benefit analysis of current policy (prohibition) alongside speculative analysis on a spectrum of possible alternative policies including models for the legal regulation and control of some or all currently illicit drug markets. An appropriate independent academic institution should undertake this.
- A detailed root and branch audit of the UK's domestic and International enforcement spending by the National Audit Office, along the lines of similar investigations of Customs and Excise (1998), and Drug Treatment and Testing Orders (2003).
- A Wolfenden-type committee³² commissioned by The Home Office to review the criminalisation of the production, supply and use of illegal drugs.

The drug strategy consultation process needs to be re-done such that:

- Concrete proposals for the next ten year strategy are presented that stakeholders can consult on
- The consultation is undertaken in line with the Government guidelines
- Policy alternatives to absolute prohibition, including decriminalisation of personal possession, maintenance prescribing, and phased longer term moves towards legally regulated markets, are also presented for consideration (in the manner of a Regulatory Impact Assessment – something the Misuse of Drugs Act has never been subject to).
- Home Office claims made about the success of the current strategy are made in a separate document, published in advance to allow independent scrutiny, effectively the Home Office's submission to the process.
- The process by which submissions to the consultation are analysed and presented in any final report is made entirely transparent.

Transform's position on the future of UK and international drug policy is clear, and spelt out in detail in our briefings and publications. We make a clear case for the retirement of the outdated, ineffectual and ideologically driven prohibitionist paradigm and its replacement with guiding policy principles rooted in public health and harm reduction – in line with thinking in almost every other social policy arena.

We advocate progressive phased moves away from absolute prohibition towards evidence based legally regulated markets for currently illegal drugs. In our 2004 publication, 'After The War on Drugs, Options for Control' we spelt out in detail the structural problems and negative outcomes associated with enforcing prohibition, along with the benefits of moves towards legal regulation, and how such a move can be achieved.

Tools for the debate

We see Transform's role as not only providing a critique of current policy failings; we also aim to show the way forward both in principle and practice, and to facilitate a meaningful process of engagement with this vital debate, one that has been sidelined

³² http://en.wikipedia.org/wiki/Wolfenden_report

for far too long. To this end we have recently published a new guide titled '**After the war on Drugs, Tools for the Debate**' which provides a clear guide for policy makers on how to meaningfully engage with the drug policy reform debate in a way that is positive, constructive, and non-confrontational. The guide also demonstrates that many of the political fears about drug policy and law reform result from entrenched conceptual misunderstandings, and that these too can be addressed using the appropriate language and analytical tools.

Conclusion

The development of more effective drug policy can only begin when Government is willing to be honest about what works and what does not. It is Transform's hope that this submission will contribute to a more honest examination and, in turn, to a more just, effective and humane policy for the coming decades.

Appended documents

- Drug policy un-spun
- Transform's complaint to the Better regulation Executive about the drug strategy consultation process
- The drug policy of the City of Vancouver.
- Transform's 2004 report (updated 2006): 'After the War on Drugs, Options for Control'
- Transform's 2007 report 'After the War on Drugs, Tools for the Debate'
- The 2003 report from the Prime Minister's Strategy Unit
- KCBA Report
- Mark Haden paper