

TRANSFORM

DRUG POLICY FOUNDATION

Submission to the Home Affairs Select Committee Inquiry: The Cocaine Trade

About Transform Drug Policy Foundation

- Transform is a think-tank that campaigns for sustainable wellbeing, promoting the replacement of drugs prohibition with effective humane systems to regulate drugs.
- Transform has UN ECOSOC consultative status, is a registered charity (no.1100518) and company limited by guarantee (company no. 4882177). For more information please visit www.tdpf.org.uk or call 0117 941 5810.
- Transform regularly briefs parliamentarians, and gave written and oral evidence to both the 2001 Home Affairs Committee and 2006 Science and Technology Committee Inquiries into illegal drugs.

Executive Summary

1. Numerous reports have shown that the criminalisation of drugs including cocaine largely creates the 'drug problem', yet there is collective denial in Government and beyond which protects the policy of prohibition from scrutiny, at the expense of protecting the public. This submission will demonstrate how the criminalisation of cocaine is at the root of many of the issues with which HASC is grappling in this inquiry.

Introduction

2. Transform is pleased the HASC is investigating illegal drugs again, but is concerned at the limited remit, the use of ill-defined terms like 'street drug' and 'well to do', and its apparent lack of continuity from the Committee's landmark 2002 report.
3. In 2001 HASC undertook a wide-ranging inquiry into UK drug policy looking in depth at many of the issues that the current inquiry only touches upon. It made some excellent recommendations, most notably:

24. 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

4. This was rejected by the Government and further debate stymied, despite a Prime Minister's Strategy Unit report¹ in 2003 showing how supply-side enforcement creates most of the problems associated with Class A drugs – including cocaine. The Home Office Strategic Policy Team's Final Report of the Crime Reduction Review² in 2004 also reportedly states:

"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

¹ http://www.cabinetoffice.gov.uk/strategy/work_areas/drugs.aspx

² Reported in detail at <http://www.independent.co.uk/news/uk/politics/heroin-on-the-nhs-and-a-document-too-hot-to-handle-437762.html>

be to regulate drugs differently, through either over-the-counter sales, licensed sales or doctor's prescription."

What is the problem with cocaine?

5. Any discussion of the cocaine trade in the UK, and what our response should be, requires that:
 - we identify why people use cocaine, and specifically the social/environmental conditions that underlie problematic cocaine use.
 - we separate the public health problems associated with cocaine use per se, from the secondary criminal justice harms associated with its prohibition.
6. It is also important to note cocaine use is normalised in many social spheres, that it is not an alien phenomenon, and could be seen in the same light as alcohol use. Furthermore, most cocaine use is non-problematic. The small minority of cocaine use (or other drug use) that can be described as problematic, results from a complex interplay of social, economic, qualitative lifestyle, health and cultural variables that can most usefully be categorised under the umbrella of 'wellbeing'³. According to the 2007 UNICEF study into child wellbeing, the UK sits at the bottom of the table of 21 industrialised countries⁴.
7. Current UK drug policy is based on the concept that the primary response to problematic cocaine/drug misuse should be based on punitive criminal justice enforcement; drugs are bad therefore we must ban their supply and punish their users. This is a simplistic and misconceived response and it is unsurprising that the outcomes of enforcement-led responses to a wellbeing-based problem are so consistently and spectacularly poor.
8. Aside from the long-term failure of supply-side drug enforcement on its own terms (to reduce drug production, supply, availability and use), it has generated a series of what the Director of the UN Office on Drugs and Crime has described⁵ as '*unintended consequences*' of prohibition globally. These include the creation of '*a huge criminal black market that thrives in order to get prohibited substances from producers to consumers*' along with '*what one might call policy displacement. Public health, which is clearly the first principle of drug control... was displaced into the background*'. The Prime Minister's Strategy Unit 2003⁶ drug report contains a similar analysis.
9. Yet despite these issues being understood and frequently acknowledged at the highest level, the majority of political, media and public discourses make no such distinction between the harms that result from drug use per se, and those that are either entirely or partially the result of policy, specifically the overarching prohibition paradigm. The result is that both sets of harms are conflated and then simplistically blamed on *drugs* or, by default, *drug users*. If the problem we are trying to address is incorrectly described, then the misdiagnoses that follow will inevitably lead to ineffectual and counterproductive policy prescriptions.

The futility and counterproductive nature of domestic and international supply-side enforcement

10. Decades of supply-side enforcement experience at all scales, from international interdiction efforts to arresting dealers on street corners, demonstrate how its successes can only ever be marginal, temporary and localised. This failure results not from incompetence, flaws in execution, or under-resourcing, but because this approach ignores the economic forces of supply and demand in an unregulated illicit market controlled by criminal profiteers.

³ For more discussion see 'Wellbeing and drug policy' Transform discussion paper, Summer 2009.

⁴ Innocenti Report Card 7: A summary for young people', UNICEF, 2007

http://www.unicefirc.org/publications/pdf/rc7_eng.pdf

⁵ "Making drug control 'fit for purpose': Building on the UNGASS decade" Antonio Costa, UNODC, 2008

<http://www.unodc.org/documents/commissions/CND-Session51/CND-UNGASS-CRPs/ECN72008CRP17.pdf>

⁶ Discussion excerpts and links here: http://www.tdpf.org.uk/Policy_General_Strategy_Unit_Drugs_Report_phase_1.htm

11. Ultimately, where high demand exists, enforcing prohibition simply acts as a system of price support, transforming low value plant products into commodities worth more than their weight in gold. This profit incentive then fuels violence, crime and conflict across the world – from Bogotá to Brixton, and while it remains, organised criminals will find ways to exploit it. So if one production source or supply route is eliminated, another always emerges.
12. Enforcement also has a Darwinian-style ‘*survival of the fittest*’ effect – it is the most efficient, ruthless, and violent criminal networks that prosper. So the more energetically prohibition is enforced, the worse the ‘*cocaine problem*’ becomes. In short, as the 2002 HASC drug inquiry report concluded:

“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.”

International collaboration: the EU’s external borders

13. Regarding both the UK and EU, calls for ‘*securing our borders*’ are futile, and tend to represent populist posturing rather than rational evidence-based policy. Drugs consistently get into high security prisons, demonstrating the absurdity of attempting to secure an entire national border, let alone a continent. The level of international co-operation is irrelevant. Enough cocaine to supply the UK for a year could fit inside one shipping container⁷.

International collaboration: producer/transit countries

14. The same economic analysis applies at a global scale – the illicit market being unconstrained by national boundaries and trade agreements. The UNODC director recently observed⁸:

“I invite you all to imagine that this year, all drugs produced and trafficked around the world, were seized: the dream of law enforcement agencies. Well, when we wake up having had this dream, we would realize that the same amount of drugs - hundreds of tons of heroin, cocaine and cannabis - would be produced again next year. In other words, this first dream shows that, while law enforcement is necessary for drug control, it is not sufficient. New supply would keep coming on stream, year after year...to satisfy the craving of millions of drug users around the world.”

15. The largest international study on cocaine use was published in 1995, commissioned by the World Health Organisation (WHO) and the United Nations Interregional Crime and Justice Research Institute (UNICRI)⁹. It argues:

“The studies identified strict limitations to drug control policies which rely almost exclusively on repressive measures. Current national and local approaches which over-emphasize punitive drug control measures may actually contribute to the development of health-related problems.”¹⁰

“The largest future issue is whether international organisations, such as WHO and the United Nations Drug Control Programme, and national governments will continue to focus on supply reduction approaches such as crop destruction and substitution and law enforcement efforts in the face of mounting criticism and cynicism about the effectiveness of these approaches. Countries such as Australia, Bolivia, Canada and Colombia are now interested in examining a range of options to legalize and decriminalize the personal use and possession of cocaine and other related products.

⁷ Based on an estimate of 60 tonnes entering the country per annum.

⁸ Speech to DPA conference in New Orleans, December 2007

⁹ The WHO/UNICRI study was due to be published in 1995, however after distributing a press release with a summary of the conclusions, the United States representative to the WHO said that if the for study was published the US would withdraw financial support for future WHO research. The report was not published. For more information see - http://www.tni.org/detail_page.phtml?page=drugscoca-docs_sixhorsemen

¹⁰ WHO/UNICRI Cocaine Project, pg. 29

There needs to be more assessment of the adverse effects of current policies and strategies and development of innovative approaches.”¹¹

16. From the perspective of predominantly producer regions, the Latin American Commission on Drugs and Democracy, convened by former Presidents of Colombia, Mexico and Brazil, recently called for a ‘paradigm shift’ in drug policy. They argue:

“Violence and the organized crime associated with the narcotics trade are critical problems in Latin America today. Confronted with a situation that is growing worse by the day, it is imperative to rectify the “war on drugs” strategy pursued in the region over the past 30 years. Prohibitionist policies based on the eradication of production and on the disruption of drug flows as well as on the criminalization of consumption have not yielded the expected results. We are farther than ever from the announced goal of eradicating drugs.”¹²

17. The billions on offer from the illicit cocaine market can destabilise entire nation states by fuelling corruption, conflict and violence, particularly in developing countries where governance may already be weak. These problems are illustrated by the very different, but directly prohibition-related problems currently experienced in Colombia, Mexico, and Guinea Bissau.

The role of SOCA and HMRC and police – supply controls

18. This analysis also demonstrates why the work of SOCA and HMRC in preventing cocaine reaching UK markets is similarly futile. Despite Herculean propaganda efforts to dress up systemic failure as success, no amount of proclamations of seizures ‘preventing x amount of drugs from reaching the streets’, cherry picked statistics, process announcements, or meaningless proxy measures can gloss over the long-term failure to achieve any meaningful positive outcomes re. supply or availability. There is considerably more cocaine entering the country, and it is more available, than when SOCA was set up.

19. Again from the Prime Minister’s Strategy Unit Drugs Report¹³ 2003:

“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.” (p.94)

20. Supply-side interdiction success, even if it can restrict supply so that price rises, can have perverse negative criminal justice consequences in terms of increasing crime committed by low income dependent users, and negative public health consequences from increasing levels of impurities/cutting agents. As one SOCA official admitted to the Economist, even if we were to ‘win’ the enforcement battle we would lose elsewhere, not least on the public health front:

“We may have to say at some stage that taking heavily adulterated cocaine is more physically harmful to the user than taking cocaine that’s less adulterated... That is not the case at the moment. But we’ve got to keep asking the question. I’m aware that the health equation could one day say: Stop trying to stop cocaine coming in.”¹⁴

The role of illicit market economics in the emergence of crack cocaine

21. Illicit market economics tend to push supply towards increasingly potent and risky preparations of drugs that are more profitable per unit weight. Just as under alcohol prohibition the trade in beer gave way to more profitable and dangerous spirits, and the criminal controlled UK cannabis

¹¹ WHO/UNICRI report, pg. 30

¹² ‘Drugs and Democracy: Towards a Paradigm Shift’, by the Latin American Commission on Drugs and Democracy, February 2009 - http://www.drugsanddemocracy.org/files/2009/02/declaracao_ingles_site.pdf

¹³ Suppressed until leaked to the Guardian in 2005

¹⁴ ‘The Cocaine Business, Sniffy Customers’, The Economist, 5th May 2009 - http://www.economist.com/displayStory.cfm?story_id=13234124

market is increasingly saturated with higher potency strains, with coca-based products the transformation has been dramatic. Before its prohibition, the common forms of cocaine use involved low-risk coca leaf chewing and coca-based drinks (tea and wine). It was organised criminal networks created by prohibition that brought cocaine powder onto the streets in the first place, and ultimately introduced smokable crack cocaine. In the UK, the long established illegal heroin market created a ready-made distribution network and receptive user base for this new product. The heroin and crack markets have meshed within a comparatively short period (most crack users are also heroin users).

22. The market for cocaine is currently defined by the fact that only the strongest, most expensive and risky forms of the drug are available. If the option of less potent preparations were available, demand would be likely to move away from more risky preparations, just as patterns of alcohol use shifted back towards beers and wines when US alcohol prohibition was repealed. Current legal structures do not allow for any such policy options to be explored even though the traditional consumption of low potency cocaine products is widespread in South America and is not associated with any serious public health issues.

Patterns of cocaine use - deterrence and prevention

23. There is clearly a continuum of cocaine using behaviours, the majority of which are not associated with significant health harms to the users. The minority of significantly harmful or problematic use is predominantly related to crack cocaine. The WHO/UNICRI report concluded that:

*'It is not possible to describe an "average cocaine user". An enormous variety was found in the types of people who use cocaine, the amount of drug used, the frequency of use, the duration and intensity of use, the reasons for using and any associated problems they experience.'*¹⁵

24. There is no research to suggest that media coverage of celebrity cocaine use is an important factor on prevalence of use or misuse, nor was the INCB able to provide any when challenged on this point following its misplaced and attention grabbing annual report. Policy needs to be driven by evidence not headline chasing.
25. The key benefit repeatedly cited as the rationale for punitive enforcement is that a combination of reduced availability and a deterrent effect (fear of punitive sanctions, and the law 'sending a message') results in a lower level of prevalence of drug use than would exist without it¹⁶. In reality availability has been rising, and any deterrent effect is poorly supported by empirical research. The Science and Technology Select Committee report in 2006 on the drug classification system '*Drug Classification: Making a Hash of it?*'¹⁷ stated that:

"We have found no solid evidence to support the existence of a deterrent effect, despite the fact that it appears to underpin the Government's policy on classification. In view of the importance of drugs policy and the amount spent in enforcing the penalties associated with the classification system, it is highly unsatisfactory that there is so little knowledge about the system's effectiveness".

26. The current Sentencing Advisory Panel consultation on sentencing for drug offences similarly acknowledges that:

*"There is no evidence to show that lengthy sentences have the desired deterrent effect and research suggests that drug barons are more concerned about the loss of their assets than the threat of imprisonment."*¹⁸

¹⁵ WHO/UNICRI Cocaine Project, 3rd March 1995, pg. 1 - <http://www.tni.org/docs/200703081409275046.pdf>

¹⁶ The significant prioritisation of reducing prevalence of use over and above all other policy outcomes is in itself a reflection on the prohibition's historical origins rather than rational pragmatic considerations, and is also one that reflects a failure to make the key distinction between use and misuse.

¹⁷ <http://www.publications.parliament.uk/pa/cm200506/cmselect/cmsctech/1031/1031.pdf>

¹⁸ http://www.sentencing-guidelines.gov.uk/docs/drug_offences_press_notice.pdf

27. The small amount of independent research done in this area suggests that punitive law and enforcement are, at best, marginal factors in drug taking decisions, especially for socially excluded groups most vulnerable to problematic use. In fact, the group that creates most of prohibition's social and economic costs - dependent users of heroin and crack - are least susceptible to any deterrent effect.
28. Internationally, there is no correlation between intensity or harshness of enforcement and levels of use or misuse¹⁹ that might support the deterrence argument. The headline conclusion of an exhaustive World Health Organisation study in 2008 comparing drug use and enforcement regimes across the world²⁰ was:

“Globally, drug use is not distributed evenly and is not simply related to drug policy, since countries with stringent user-level illegal drug policies did not have lower levels of use than countries with liberal ones.”

29. The evidence base for prevention and drug education programmes is historically very mixed²¹ and generally underwhelming. Specifically there is little to suggest such interventions have been more effective with illegal drugs than with alcohol and tobacco, i.e. that illegality is a key to effectiveness. There is some evidence that targeted public health education may be able to encourage less harmful drug using behaviours but the evidence that prevention education generally can influence overall prevalence is marginal at best.
30. More often mass media education campaigns appear to be driven by the political need to be ‘seen to be doing something’. These may actually be harmful if they distract from finding real solutions, including developing policies addressing the low wellbeing that underlies most problematic drug use, and which will be key to prevention of drug harms in the long term.
31. With regards to the effectiveness of advertising campaigns specifically in deterring cocaine use, the WHO/UNICRI study reports that:

“Despite a broad range of educational and prevention approaches, most programmes do not prevent myths but perpetuate stereotypes and misinform the general public. Such programmes rely on sensationalized, exaggerated statements about cocaine which misinform about patterns of use, stigmatize users, and destroy the educator's credibility. This has given most education campaigns a naïve image and has reduced confidence in the quality and accuracy of these campaigns.”²²

35. Transform argues that the impact of drug policy (as conventionally understood) on levels of use and misuse has been dramatically overstated. It seems likely that levels of enforcement, choices of legal approach, and even investment in treatment, education and prevention have effects that are marginal relative to the impacts of wider social, economic and cultural variables and measures of wellbeing (although the enforcement element *can* have dramatic negative impacts on drug harms). In trying to understand the causality of problematic drug use, it is notable that income inequality within nations (a useful proxy measure for personal and social wellbeing) displays a statistically significant correlation with levels of misuse in international comparative analysis²³, unlike GDP, enforcement spending, or even levels of absolute poverty.

¹⁹ It is easy to cherry pick individual examples that suggest there either is or is not such a link – the obvious examples being Sweden and the Netherlands, both with relatively low levels of use, but with very different approaches to enforcement.

²⁰ Degenhard et al, World Health Organisation, 2008 ‘Toward a Global View of Alcohol, Tobacco, Cannabis, and Cocaine Use: Findings from the WHO World Mental Health Surveys’

<http://medicine.plosjournals.org/perlserv/?request=getdocument&doi=10.1371/journal.pmed.0050141&ct=1&SESSID=09db244eacbf99e2605122e6f7221f3d>

²¹ ‘Pathways to Problems’ 2006, Advisory Council on the Misuse of Drugs (chapter 5)

<http://drugs.homeoffice.gov.uk/publication-search/acmd/pathways-toproblems/Pathwaystoproblems.pdf?view=Binary>

²² WHO/UNICRI Cocaine Project, 3rd March 1995, pg. 23

²³ Wilkinson and Pickett ‘The Spirit Level: Why More Equal Societies Almost Always Do Better’ 2009 p19

Conclusions and Recommendations

36. It is of vital importance that the Committee considers the wider social policy context of emerging trends in drug misuse, paying specific attention to wellbeing analysis, in its consideration of the UK's 'cocaine problem'. This should involve taking the lead responsibility from the Home Office and making it a truly interdepartmental issue, with health and wellbeing at the forefront.
37. The committee should call for the Government to instigate a full impact assessment of supply-side drug enforcement, both domestic and international, the relevant legislation and its implementation through the various enforcement infrastructures and agencies. Such an undertaking should include consideration of alternative policy approaches including decriminalisation of personal possession for adults, and legal regulation and control of drug production and supply.
38. The committee should revisit the findings of the 2002 HASC drug inquiry and re-endorse its recommendations, including number 24: *'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'*.
39. The committee should call for a joint select committee inquiry to review the entire prohibitionist paradigm, its legal instruments, and their implementation, including a meaningful exploration of options for the legal regulation of drug production and supply.