Ending the War on Drugs: Public Attitudes & Incremental Change – Joseph T F Roberts

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*Racial Justice Requires Ending the War on Drugs* is an impressively well evidenced argument for the need for drug reform. The authors outline how the war on drugs causes direct harms to users (e.g. imprisonment and criminalisation of users), indirect harms to users (e.g. by making quality control of drugs virtually impossible and making healthcare programmes harder to deliver due to stigmatisation of users), and structural harms to wider communities (e.g. prohibitions on drugs are criminogenic, exacerbate existing racial and socio-economic inequalities, and divert law enforcement resources away from other crime prevention activities).

Ending the war on drugs (especially if pursued in conjunction with a policy of harm reduction) has the potential to massively reduce these harms and improve the lives of people who use recreational drugs, their loved ones, and their communities. If, as the authors suggest, the supposed justification for prohibiting access to recreational drugs is to protect people from harm and promote public health, it has surely failed.

The paper argues for decriminalisation as a first goal, starting with cannabis, before eventually moving towards the ‘full legalisation of MDMA (ecstasy), psychedelic drugs such as LSD and psilocybin, heroin and other opioids, methamphetamine, and powder and crack cocaine— that is, all drugs used for non-medical purposes that are currently deemed illicit’ (Earp et al 2020 p. 3).

The authors make clear in the paper that they wish their proposals for change to be considered ‘in the domain of democratic politics’ (Earp et al 2020 p. 4). They state that the arguments in the paper should not be read as an ‘attempt to argue for the constitutional protection of such rights enforced by the judiciary’ (Earp et al 2020 p. 4). I also believe that drug liberalisation needs to be pursued democratically. As I have argued elsewhere, this is because using the judiciary to enforce liberalisation does not resolve the genuine uncertainty surrounding the effects of liberalisation, nor does it allay the genuine concerns opponents of liberalisation have, or answer the panoply of practical questions that need to be answered to implement a regulated drug market (Roberts 2020).My goal in this commentary is to expand on why a strategy of incremental change, starting with the liberalisation of cannabis, is preferable to attempting to implement immediate liberalisation of all drugs.

The first reason for starting with the liberalisation of cannabis is that it is by far the most widely used drug in the USA (SAMHSA 2020) and UK (Office for National Statistics 2020, National Statistics Scotland 2019). Focusing first on the liberalisation of cannabis would be a major first step towards reducing the harms caused by the war on drugs. Moreover, starting with liberalised access to cannabis is more likely to garner public support. In the UK a recent YouGov survey conducted in 2019 showed over half (55%) of respondents backed an alternative approach to cannabis prohibition, however they were split between decriminalisation, at 28%, and full legalisation, at 27% (CDPRG 2019 p.10). A 2019 survey from the USA conducted by Pew Research also showed increasing public support for cannabis liberalisation, with 59% of respondents coming out in favour of legalisation for both medical and recreational use (Daniller, 2019).

This is in stark contrast to attitudes to the legalisation or decriminalisation of other recreational drugs. For example, in the UK only 15% of the population in the UK support liberalising access to heroin and crack (Curtis, 2018). Polls from the USA also show that cannabis is an outlier, with support for legalising heroin and cocaine significantly lower than support for legalizing cannabis (German, 2016).

If we want to achieve drug policy change democratically in the short- to medium-term, expanding cannabis decriminalisation and legalisation to more jurisdictions is a valuable path to pursue. Although I agree that only liberalising access to cannabis does not resolve all of the problems with the war on drugs, it would be a substantial improvement in the lives of a large proportion of recreational drug users, those close to them, and their communities.

The second reason for starting with liberalised access to cannabis is that it can serve as a test case for liberalising access to other recreational drugs. As more jurisdictions pursue different liberalisation policies permitting varying amounts of access to cannabis, the evidence base for the effects of different policies will grow. This data will be crucial in mounting an evidence-based case for further liberalisation which is strong enough to assuage the genuine concerns of opponents of liberalisation (Hudak and Stenglein, 2020, p. 20).

In *Racial Justice Requires Ending the War on Drugs*, the authors state that outlining what a full legalised regime would look like is beyond the scope of the paper. They are right to do this, due to both the enormity of the task (which would require much more than a paper) and the fact that, if we want our policy to be evidence based, we don’t yet have all the requisite knowledge to propose a detailed regulatory regime.

Crafting a full regulatory proposal requires answering a panoply of questions including (though not limited to): Should the production of recreational drugs be a monopoly or should people be allowed to grow their own drugs if they are able to (e.g. Cannabis and Psilocybe cubensis)? Who should be licensed to distribute recreational drugs? What training should they be required to have? Should they be sold in a medicalised setting like a pharmacy or in premises which are more like bars? Should all recreational drugs be sold under one roof? Should users be required to use the drugs they purchase in specific premises (i.e. drug consumption rooms) or should they be allowed to take them home? If we allow off-site consumption, how do we ensure regulated supplies do not get diverted into a grey market? What business hours should recreational drug distributors be allowed to keep? Should they be allowed to set up shop wherever they like, or would zoning be appropriate?

As I have suggested elsewhere (Roberts, 2020) there are two ways of gathering the data necessary to answer these questions in an evidence-based way. The first is by waiting for drug liberalisation proposals to pass at a sub-national level and to treat these as natural experiments. The second way is to conduct explicit policy experiments aimed at testing a particular regulatory regime.

The first is already occurring democratically (at least in the USA). What still needs to be done is to carefully monitor the effects of these policy changes to try and allay the concerns of opponents of drug liberalisation. The first path, however, has the disadvantage that the policies passed may not generate the data needed to resolve the genuine uncertainties about the liberalisation of drugs.

The second option, the use of explicit policy experiments or trials, has an advantage in this regard. Unlike natural experiments, they can be designed to ensure the results are applicable to the problem at hand. Policy trials in a limited geographical area may be particularly useful in assuaging the concerns of opponents of liberalisation as they can be designed with the goal of resolving some of the genuine uncertainties surrounding drug liberalisation. Although they are not as common, they have been used to gather evidence about the effects of similarly radical policy changes such as Universal Basic Income.

Importantly, these policy experiments can be pursued democratically. Citizens can petition national parliaments to implement trials, politicians can be lobbied to include trials in their manifestos, public consultations can be used to guide the implementation and design of trials and, where local government has policy autonomy, municipalities can implement trials on a local level.

If, as advocates of drug liberalisation, we want to bring about change democratically in the short- to medium-term, we need to take the genuine uncertainties surrounding the effects of liberalisation seriously, and pursue a strategy of incremental change. Moving toward a fully legalised and regulated market for recreational drugs is, indeed, necessary to end the myriad of harms caused by the war on drugs. However, we do not yet have access to the evidence we need to answer the broad range of questions we need to answer to both allay the genuine concerns opponents of liberalisation have, and implement a liberalised regime in practice.

I have suggested there are two ways to gather this evidence: monitor the effects of legislative change or pursue policy trials. However, in neither case will policy change occur without substantial and directed efforts. Although increasing amounts of the population support liberalisation to some drugs, notably cannabis, in order for this to lead to actual policy change the issue of drug reform needs to be made salient to both policymakers and citizens. A crucial way of doing this is documenting the harms caused by the war on drugs, as *Racial Justice Requires Ending the War on Drugs* so eloquently does. What is needed now is concerted activism to take the message to as many people as possible.

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