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scottish justice matters

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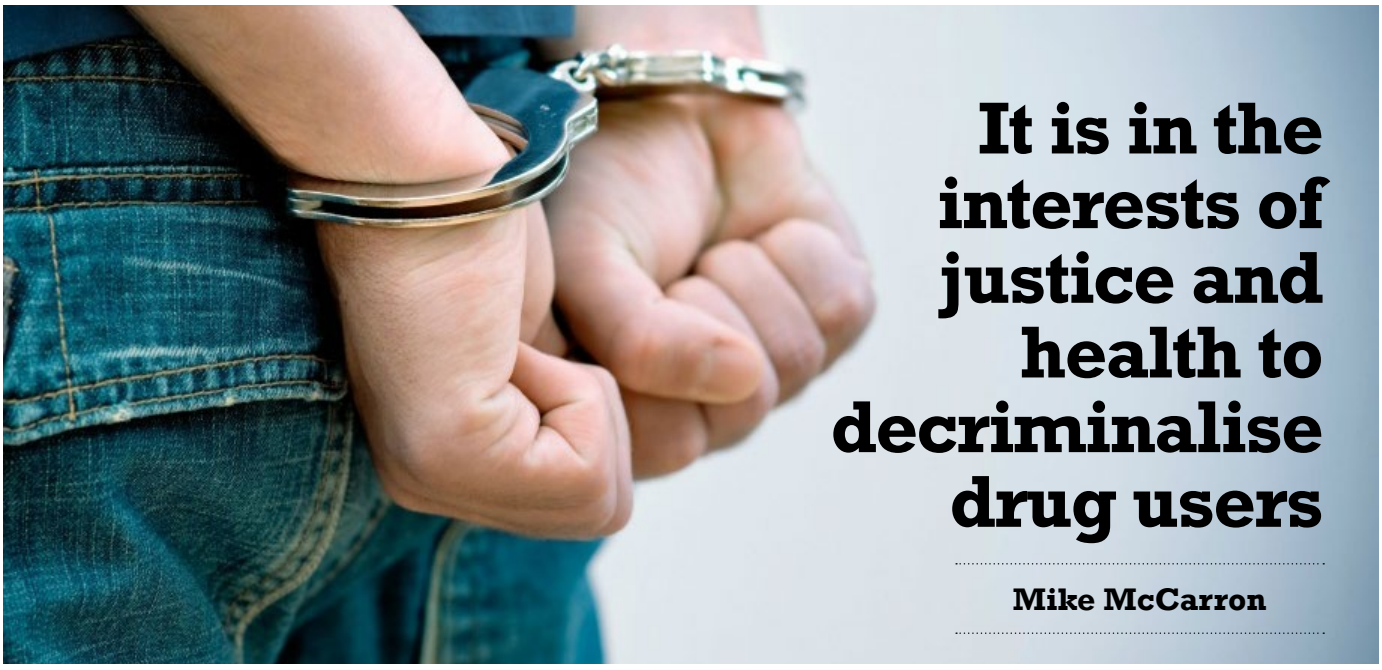

It is in the interests of justice and health to decriminalise drug users

Mike McCarron

THE 1961 UN SINGLE CONVENTION ON NARCOTIC DRUGS underpins international prohibition of production and supply of specified drugs for non-medical use. In the UK these prohibitions are enforced by the Misuse of Drugs Act 1971. Today, world-wide enforcement of prohibition, estimated at $100 billion annually, has failed to prevent drugs supply and at best only been modestly effective in reducing drugs demand. Criminal networks manage a global illicit drugs market worth an estimated $320 billion. Despite investment in health measures including needle exchange, detox facilities, and supply of opiate substitutes, Scotland's levels of problematic drug use, drug overdose deaths and drugs crime are among the highest in the world (The Herald, 2.8.10).

Global critique of the UN Drug Treaty

The UN Office on Drugs and Crime acknowledges five unintended harmful consequences of the Single Convention: three concern the growth of the criminal infrastructure and drugs market; fourth, that public health, the primary aim of drug control, has to take a back seat to law enforcement; fifth, the marginalisation of people with drug addictions through their exclusion from the social mainstream, being tainted with moral stigma and unable to find treatment (UN Office on Drugs and Crime, 2008). The issues of social dislocation and human rights are not directly the focus of this paper.

In 2011, the Global Commission on Drug Policy (Global Commission on Drug Policy, 2011) called for public debate and recommended a shift from a criminal justice to a public health approach, flexible policies tailored to national contexts, and evaluated experiments in decriminalisation and regulation.

Over the past 40 years more than 20 countries have decriminalised drugs in various ways (Rosmarin and Eastwood, 2012). Within the last three years, there have been reforms to regulate and tax previously illicit drugs: Uruguay and the USA states of Colorado and Washington legalised marijuana, and Bolivia legalised traditional coca chewing practice. New Zealand has moved to regulate, not prohibit, new synthetic drugs such as 'legal highs'.

From this brief overview, the conclusion may be drawn that there is a growing movement of critique and experimentation towards fundamentally reforming the UN Drug Treaty.

The Scottish context

As the drugs market has grown, socioeconomic costs of drug harms have soared. It has been estimated that this amounts to around £3.5 billion for Scotland (Scottish Government, 2009).

Whilst innovative developments have taken place, such as drug courts, and take-home naloxone to prevent heroin deaths, there has been no significant shift from a criminal justice to a health approach through decriminalisation or consideration of regulated supply. Yet the report of the Christie Commission (2011) called for reform of services that recycle negative outcomes, in order to bring wasted resources into productive use. Despite this, there has been no willingness to examine how many of citizens have been criminalised and recycled through costly community and penal sentences because of their involvement with illicit drugs, and how this has placed public health in the back seat.

For people bearing the burden of harms of the current system and for tax payers, procrastination is hard to justify. The reality is described by Stevens: "the harms that are increased by the combination of psychoactive drugs and inequality include crime, illness and early death. The methods we currently use to control drugs contribute to the continuation and deepening of this inequality" (Stevens, 2011, p147).

One of the choices denied illicit drug users, but available to alcohol and other drug users is to bring heavy drug use under control if possible, especially if it is their substance of choice for relaxation: and when alcohol and tobacco users need to abstain for health reasons, they are not criminalised.

Neither is the world leading scale of Scotland's drug problems examined strategically. We are therefore unable, or have not chosen, to invest in proportion to other countries with a lower prevalence of drug use, so as to provide a similar range and quality of treatment. The workforce have little time to help with issues of trauma, mental health problems, poor physical health and other everyday effects of inequalities like unemployment, benefit insecurity and sanctions.

Despite vocal support for recovery by policy makers, service providers and community recovery networks, there has been silence about how criminalisation is a major barrier to many people's recovery. An exception was a report to the Scottish Parliament by Scotland's Futures Forum, which proposed a shift from criminal justice to health interventions, including decriminalisation, anticipated the regulation of marijuana, and offered an innovative framework to address systemically the scale of drug harms (Scotland's Futures Forum, 2008).

Scotland in many ways has a very humane drugs policy but nevertheless has turned away from developments in other countries marking a shift from criminal justice to public health (see below).

Politicians are undoubtedly in a difficult place as every new move is scrutinised, but the experience of the Transform Drug Policy Foundation Scotland is that the Scottish media and public generally react with openness to the topics it proposes for discussion. This might suggest that civic, academic and professional domains should open up discussion about decriminalisation and drug law reform for health and social benefits, but would politicians welcome and listen to such debates?

Possible ways forward

Evaluation of drugs decriminalisation policies around the world show the doomsday prediction of runaway rising drug use is wrong, albeit that the different approaches have led to mixed quality and outcomes. However, "a decriminalisation approach coupled with investment in harm reduction and treatment services can have a positive impact on both individual drug users and society as a whole" (Rosmarin and Eastwood, 2012, p14).

The following treatment and harm reduction innovations based on practice in other countries might complement drugs decriminalisation to achieve such benefit and also release resources expended in the justice system.

Drug users with complex problems:

- Treatment services, currently prescribing other drugs as substitutes for heroin, should also prescribe heroin. This would increase choice in keeping with a patient-led health service. It would also offer the option of detoxification from heroin without transferring dependence to substitute opiates.
- Drug Consumption Rooms for the provision of heroin to drug users at high risk, particularly isolated or homeless people, who are not seeking intensive treatment but may access low threshold health services and social networks.
- Development of peer led support groups to control, reduce or cease drug use and advocacy organisations such as Copenhagen Drug Users Union and Vancouver Area Network of Drug Users.
- Support for drug users to change from injecting to smoking heroin. This could significantly reduce Scotland's high levels of drug deaths and Hepatitis C infection.

Recreational drug users:

- Decriminalisation would benefit people arrested for drug offences only, 41,733 in 2006, of whom 93% were recreational users, at a cost to criminal justice of £80 million. Most of this expenditure could be freed up for other uses. Closer examination might find considerable knock-on reductions in the £500 million overall cost to the criminal justice system in dealing with problematic drug users (Scottish Government, 2009).
- Full regulation as in Uruguay and the states of Washington and Colorado would add much more to the public purse through taxation. However, until such time, the following public services could complement decriminalisation.
- A service where the public could send 'legal highs' and illicit drugs for quality testing both for their personal safety and to provide better information to the public, as is done in Holland and, more recently, in Wales.
- Licensed cafes or clubs selling specified drugs, tested for quality, adapted from the model of Dutch cannabis cafes and American medical marijuana shops.
- An integrated, evidence based understanding of alcohol, tobacco and other drugs and their comparative benefits and risks, to inform individual choices and government policy. This could provide the basis for a new integrated framework of law for all psychoactive substances.

To make society safer and lives healthier, it is in the interests of both justice and health to decriminalise drug users. Supported by the strengths of Scotland's legal system and allowing frank discussion with former and current drug users, such a development could add value to international policy and practice and promote a step change in growth of recovery at every level.

Global Commission on Drug Policy (2011) *War on Drugs* http://bit.ly/1m15xzF

Rosmarin, A. and Eastwood, N. (2013) *A quiet revolution: drug decriminalisation policies in practice across the globe*. Release. http://bit.ly/1lpnWrJ

Scotland's Futures Forum (2008) *Approaches to Alcohol and Drugs in Scotland: A Question of Architecture*. http://scotlandfutureforum.org/assets/files/report.pdf

Stevens, A. (2011) *Drugs Crime and Public Health: The Political Economy of Drug Policy* Routledge

Herald, 2.8.10 Scotland among world's worst for drug abuse http://bit.ly/1pH09ry

Scottish Government (2009) *Assessing the Scale and Impact of Illicit Drug Markets in Scotland*.

Scottish Government (2011) *The Commission on the Future Delivery of Public Services* (Christie Commission)

UNODC (2008) *A Century of International Drug Control* https://www.unodc.org/

Mike McCarron has been closely involved throughout the last 30 years with Scotland's drug policy development, local implementation and impact on drug users.