

Drug Legalization Debate

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ABSTRACT

Throughout history, societies have faced many threats, but few of them have been such a challenging problem as illegal drugs are today. Narcotic drugs are estimated to account for millions of deaths all around the world. Today, no country is immune from the lethal effects of illegal drugs. Governments have invested significant efforts to curb both the consumption and the trafficking of illegal drugs. These efforts that are increasingly argued in the developed countries mostly focused on punitive sentencing policies which have failed to solve the problem. Today, it is widely accepted that new alternative approaches and policies should be developed to solve the drug problem. Legalization of drugs is one of those alternative policies which is hotly debated in the industrialized countries.

This paper aims to make an analysis of drug legalization debate in the United States, where in recent years comprehensive studies and researches have been conducted on this issue. Though the problem has not yet been in Turkey's agenda currently, the author believes that this issue has a significant potential to be a major problem in Turkey's agenda in the near future. Therefore, it is of crucial importance to analyze and evaluate in advance the experiences and policy applications of other countries.

Key Words: *illegal drugs, narcotics, drug policy, drug legalization*

Uyuşturucuların Yasallaştırılması Tartışması

ÖZET

Tarih boyunca toplumlar birçok tehditle karşı karşıya kalmışlardır ancak, bu tehditlerin çok azı bugün yasadışı uyuşturucuların oluşturduğu tehdit kadar geniş çaplı olabilmektedir. Narkotik maddelerin dünya genelinde milyonlarca insanın ölümüne neden olduğu tahmin edilmektedir. Günümüzde, hiç bir ülkenin yasa dışı uyuşturucuların öldürücü etkilerinden uzak kalabildiğini söylemek mümkün değildir. Hükümetler hem uyuşturucu tüketimini, hem de yasa dışı uyuşturucu trafiğini önlemek adına büyük çabalar sarfetmektedirler. Bu çabalar çoğunlukla ceza politikaları üzerine yoğunlaşmaktadır. Ancak, günümüzde özellikle gelişmiş ülkelerde artan bir şekilde tartışıldığı üzere, bu politikalar uyuşturucu problemini çözmede başarısız olmuşlardır. Günümüzde, uyuşturucu sorununa karşı alternatif yaklaşım ve politikaların geliştirilmesi gerektiği hususu geniş çevrelerce dile getirilmektedir. Endüstrileşmiş ülkelerde yoğun bir şekilde tartışılan uyuşturucu maddelerin yasallaştırılması konusu bu alternatif yaklaşımlardan birisidir.

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Bu çalışma, Amerika Birleşik Devletlerinde uyuşturucuların yasallaştırılması konusunda yaşanan tartışma ve gelişmeleri incelemeyi hedeflemektedir. Son yıllarda bu konuda en kapsamlı çalışma ve araştırmaların yapıldığı ülke olması nedeniyle ABD, bu alanda geniş bir literatüre sahiptir. Bu konu, şu an Türkiye'nin gündeminde olmasa bile, yakın gelecekte ülkemiz için önemli bir gündem maddesi olma potansiyeline sahip bir konudur. Bu nedenle, bu konuyu önceden tecrübe etmiş ülkelerin uygulamış oldukları politikalar üzerine şimdiden araştırmalar yapılmasının büyük önem arz ettiği düşünülmektedir.

Anahtar Kelimeler: *yasadışı uyuşturucular, narkotik maddeler, uyuşturucu politikası, uyuşturucunun yasallaştırılması*

Introduction

The debate over drugs and drug legalization has been a highly important political issue since 1990s. With an increasing concern that illicit drugs continue to be a significant source of health and social problems all around the world, societies have long been debating this recurring issue on illicit addictives whether to allow them to be used openly.

Throughout history, societies have faced and discussed many challenging issues, but few of them have been such controversial as illegal drugs are today. What makes this debate highly controversial and leads people to believe in the necessity of the adoption of new policies is the failure of the harshly punitive approach of American policy against drug use for a few decades. More punitive sentencing policies contribute high incarceration rate for drug crimes in the United States.¹ The author states in his comparative study that probability of receiving a sentence to prison for a drug crime in the US is higher than it is in other developed nations. While the United States has the most punitive sentencing policies among other industrialized nations, it still has the highest rate of drug crimes. Compared to other industrialized democracies, the rate of drug offences is much higher in the United States.² In spite of all efforts invested in the war on drugs for a few decades, it is difficult to say that a significant success has been accomplished in this war. Drug abuse and drug related crimes still continue to prevail in large numbers among the youth. 100 billion dollar market value of illicit drugs in the US per year³, makes current drug policies more controversial.

This paper aims to make an analysis of drug legalization debate in the United States. While proponents insist on legalizing use of illicit drugs, opponents, on the other hand, defend that it would increase the availability of drugs and thus increase the number of users and drug related crimes. Proponents argue that legalizing drugs is the only way to win the war on drugs and mostly serve "Dutch policy" on illicit addictives as an example. No country has received more attention than the Netherlands in terms of addressing the use of drugs through liberal policy. The key

¹ Lynch, J. (1995). *Crime in International Perspective*. In J. Q. Wilson & J. Petersilia (Eds.), *Crime* (pp. 5 - 41). San Francisco: ICS Press.

² Bewley-Taylor, D., Hallam, C. & Allen, R. (2009), *Beckley Report 16 – The Incarceration of Drug Offenders: An Overview*. The Beckley Foundation Drug Policy Programme.

³ Clark A. (2003). *The Economics of Drug Legalization*. Mimeo, DELTA.

question that will be addressed in this section is whether the proportion of using cannabis and all other types of drugs have been in the increase after “1976 quasi-legalization act “or not. Does it work in the US?

Accepting that both sides of this debate have quite strong arguments, this study focuses on both sides equally instead of being in search of support for one side. In establishing an effective drug policy, it is important to take into consideration the both opposing and supporting arguments together. “Drug policy should strike the right balance between reducing the harm done by psychoactive drugs and reducing the harm that results from strict legal prohibitions and their enforcement”.⁴ The final section evaluates the analyses and propositions of both sides and concludes the debate with some proposals for the future.

Legalizationist Approach

An opinion poll conducted in 1991 showed that 36% of American people supported legalization of most drugs.⁵ The poll, also revealed some other findings favoring drug legalization, clearly put that legalizationist approach has some strong arguments.

Proponents of legalization of drug use claim that there would be various kinds of benefits if drug use were legal. They fortify their claim with several allegations, including save of government expenditures and tax revenues; decrease in crime, failure of current law enforcement job, self-esteem and civil liberties. Besides, legalization might be far less hazardous than most people assume.

Some advocates of drug legalization argue that expenditure of the U.S. government for law enforcement and drug-related healthcare costs would be less than today with legalization.⁶ They suggest that all expenditure for law enforcement including arrests, imprisonments, courts, and jails, because of prohibition regime, could be saved.⁷ Nadelmann⁸ argues that federal expenditures between 1981 and 1987 on anti-drug law enforcement more than tripled, from less than \$1 billion per year to nearly \$3 billion; however, it didn't work. He claims that if those markets were legal, and illicit drugs were licit, all that amount of money could be saved. Moreover, federal and state governments would collect billions of dollars annually in tax revenues.⁹

Prohibition makes the prices of drugs very expensive than they otherwise would be.¹⁰ Legalizing drugs would drive drug prices down reducing the need for theft (mostly from addicts)¹¹, or prostitution and other street crime¹² to pay for them.

⁴ Goldstein, A. & Kalant, H. (1990). *Drug Policy: Striking the Right Balance*. Science. Vol.249. p. 1.

⁵ Thornton, Mark. (2004). *Prohibition vs. Legalization: Do Economists Reach a Conclusion on Drug Policy?* Econ Journal Watch 1(1): 82-105.

⁶ Miron, J. (2008). *The Budgetary Implications of Drug Prohibition*. Criminal Justice Policy Foundation and Law Enforcement Against Prohibition.

⁷ Duke, S.B. & Gross, A.C. (1993). *America's Longest War: Rethinking Our Tragic Crusade against Drugs*. Published by G.P. Putnam's Sons. New York.

⁸ Nadelmann, E. (1992). The Case for Legalization. In Evans, R.L., Berent, I.M.(Eds), *Drug legalization : For and against*. Open Court Publishing.

⁹ Ibid.

¹⁰ Duke, S.B. & Gross, A.C. (1993). *America's Longest War: Rethinking Our Tragic Crusade against Drugs*. Published by G.P. Putnam's Sons. New York.

¹¹ Geers, T.R. (1995). *Legalize Drugs and Stop the War on People*. Education, Winter 95. Vol. 116. Issue 2.

Because of the reduced prices, a few more Americans would use drugs for a short period, but over the long run there would not be any more addicts than there are now.¹³

Legalization would reduce crime, especially organized crime, and create safer neighborhoods.¹⁴ There would no longer be any Colombian or Jamaican drug cartels because government would provide drugs for citizens who need them instead.¹⁵ All of the drug-related crime would not be committed if drug use were legal.¹⁶

Some scholars argue that drug abuse is not primarily a police matter,¹⁷ and it might be possible under a legalized regime to have effective drug-prevention programs.¹⁸ They generally take attention to the current situation that there are no evidence today to claim that law enforcement efforts have been successful. They argue that current system is not only unsuccessful but also increases criminality. If we would allow drug use, there would be no more crime than we have today.

Freedom, civil liberties¹⁹, and self-esteem of Americans would be regained by means of legalization, which now have been lost because of strict law enforcement.²⁰ The tougher the enforcement is, the worse the problems will be.²¹ Miller argues that we have to tolerate a certain amount of pain in life, but anti-drug laws prevent this. He suggests that if we want a free society, we must allow people to make bad decisions as well. People have the right to ruin their lives.²²

Many of the proponents of the drug legalization argue that prohibition based law enforcement has not worked up to now. The drug laws have created evils, such as corruption, violence, street crime, and disrespect for the law, which are far worse than the drugs themselves.²³ They insist that prohibition is futile because it does not deter use.²⁴ The prevalence of drug use/abuse is already as high as it would be legalized.

Some scholars argue that countries such as the Netherlands, Switzerland, England and Italy have controlled both drugs and crime whereas in the United States

¹² Trebach, A.S. & Inciardi, J.A. (1993). *Legalize It? Debating American Drug Policy*. The American University Press.

¹³ Geers, T.R. (1995). *Legalize Drugs and Stop the War on People*. Education, Winter 95. Vol. 116. Issue 2.

¹⁴ Duke, S.B. & Gross, A.C. (1993). *America's Longest War: Rethinking Our Tragic Crusade against Drugs*. Published by G.P. Putnam's Sons. New York.

¹⁵ Trebach, A.S. & Inciardi, J.A. (1993). *Legalize It? Debating American Drug Policy*. The American University Press.

¹⁶ Duke, S.B. & Gross, A.C. (1993). *America's Longest War: Rethinking Our Tragic Crusade against Drugs*. Published by G.P. Putnam's Sons. New York.

¹⁷ Goode, E. (1997). *Between Politics and Reason: The Drug Legalization Debate*. St. Martin's Press. New York.

¹⁸ Long, R.E. (1993). *Drugs in America. The Reference Shelf. Vol. 65. No. 4*. The H. W. Wilson Company. New York.

¹⁹ Duke, S.B. & Gross, A.C. (1993). *America's Longest War: Rethinking Our Tragic Crusade against Drugs*. Published by G.P. Putnam's Sons. New York.

²⁰ Trebach, A.S. & Inciardi, J.A. (1993). *Legalize It? Debating American Drug Policy*. The American University Press.

²¹ Miller, R.L. (1991). *The Case for Legalizing Drugs*. Published by Praeger. New York.

²² Ibid.

²³ Inciardi, J.A. & Saum, C.A. (1996). *Legalization Madness*. Public interest. Issue 123.

²⁴ Goode, E. (1997). *Between Politics and Reason: The Drug Legalization Debate*. St. Martin's Press. New York.

tough programs have increased both.²⁵ Many scholars point out Dutch legalization policy and argue for the U.S. that “why not?”

Dutch Drug Policy

No country has received more attention than the Netherlands in terms of addressing the use of drugs through liberal policy.²⁶ Holland is a small country placed in the north of Europe by the sea. Holland prospered with colonialism during 18th and 19th century through its strategic geopolitical position. Like other countries, opium use was quite free and a great portion of Dutch national income came from opium trade, which was about 10 per cent of general income. In response to international pressures, Dutch government banned opium trade with some small degree of penalties in 1919 and later in 1928.

Until 1976, Dutch governments tried different degrees of punishments for opium use and trade. In 1976, they adopted a formal policy of non-enforcement for possession and sale of up to 30 grams (five grams since 1995) of cannabis, since one gram is sufficient for two joints.²⁷ Possession for personal use of almost any drug was tolerated, methadone maintenance was standard practice for opiate dependency, and clean syringes were distributed without any charge.²⁸ In addition to this, some coffee shops were allowed to sell some kinds of drugs under certain rules, which include no advertising, no hard-drug sales on the premises, no sales to minors, no sales transactions exceeding the quantity threshold, and no public disturbances.²⁹

The main purpose of drug policy in the Netherlands is to reduce the risks that drug abuse presents for the users. This unusual system is between the depenalization of cannabis possession and the complete legalization of cannabis sales.³⁰ The Dutch implemented this system to avoid excessive punishment of casual users and to weaken the link between the soft and hard drug markets; the coffee shop would allow marijuana users to avoid street dealers, who may also traffic in other drugs.³¹

As a result, drug law enforcement in Holland, especially in big cities, became more lenient. The coffee shops, where drug trade was allowed, began to mushroom in Dutch cities. The number of shops was 9 in 1980, increased to 71 in 1985, and it was estimated between 1200 and 1500 in 1995.³²

The key question we have to answer here is “have levels of cannabis and all other types of drugs use in the Netherlands increased following the 1976 quasi-

²⁵ Geers, T.R. (1995). *Legalize Drugs and Stop the War on People*. Education, Winter 95. Vol. 116. Issue 2.

²⁶ Isralowitz, R.E. & Telias, D. (1998). *Drug Use, Policy, and Management*. Praeger Publishers. Connecticut.

²⁷ MacCoun, R.J. & Reuter, P. (1999). *Does Europe Do It Better: Lessons from Holland, Britain and Switzerland*. The Nation.

²⁸ MacCoun, R.J. & Reuter, P. (2001). *Evaluating Alternative Cannabis Regimes*. British Journal of Psychiatry. 178.

²⁹ Ibid.

³⁰ MacCoun, R.J. & Reuter, P. (1997). *Interpreting Dutch Cannabis Policy: Reasoning by Analogy in the Legalization Debate*. The Science. Vol.278 p:47.

³¹ MacCoun, R.J. & Reuter, P. (1999). *Does Europe Do It Better: Lessons from Holland, Britain and Switzerland*. The Nation.

³² MacCoun, R.J. & Reuter, P. (2001). *Evaluating Alternative Cannabis Regimes*. British Journal of Psychiatry. 178.

legalization act?" Since the mid-1980s, we have seen two periodic surveys of drug use in the Netherlands. First is the Trimbos Institute national school-based survey covering the years 1984, 1988, 1992 and 1996. Second is the University of Amsterdam's general population survey in Amsterdam, covering the years 1987, 1990 and 1994. There are no repeated, standardized drug surveys between 1970 and 1983.³³ Existing surveys have general weaknesses that we cannot estimate the exact situation of drug use. While some have methodology problems, the others have measurement problems.

Despite all these limitations, the available surveys provide much better coverage of youth than adult use.³⁴ As commercial access and promotion increased in the 1980s, the Netherlands saw rapid growth in the number of cannabis users. Whereas in 1984 15 percent of 18-20 year olds reported having used marijuana at some point in their life, this picture doubled to 33 percent in 1992.³⁵

The increase in Dutch prevalence from 1984 to 1992 and 1996 provides the strongest evidence that the Dutch regime might have increased cannabis use among youth.³⁶ We can name the Dutch cannabis regime as successful, in the sense that the Dutch have significantly reduced the monetary and human costs of incarcerating cannabis offenders with no apparent effect on levels of use.³⁷

Can the Dutch cannabis experience be generalized to the United States and to other drugs? MacCoun & Reuter³⁸ point out some important differences between the Dutch and the American societies:

- Dutch society differs in important ways from American society, with less income disparity and stronger social safety net.
- The Dutch poor face less bleak prospects than their US counterparts.
- The Netherlands has minority groups, such as Surinamese and Moroccans, that have experienced discrimination and marginalization, but there is less alienation in Dutch society than in America.
- The Dutch do not have a tradition of responding to social problems with the criminal law.

As mentioned above, the Dutch and American societies have important differences, making it difficult to generalize findings from one of these societies to another.³⁹

³³ MacCoun, R.J. & Reuter, P. (2001). *Evaluating Alternative Cannabis Regimes*. British Journal of Psychiatry. 178.

³⁴ MacCoun, R.J. & Reuter, P. (1997). *Interpreting Dutch Cannabis Policy: Reasoning by Analogy in the Legalization Debate*. The Science. Vol.278 p:47.

³⁵ MacCoun, R.J. & Reuter, P. (1999). *Does Europe Do It Better: Lessons from Holland, Britain and Switzerland*. The Nation.

³⁶ MacCoun, R.J. & Reuter, P. (1997). *Interpreting Dutch Cannabis Policy: Reasoning by Analogy in the Legalization Debate*. The Science. Vol.278 p:47.

³⁷ MacCoun, R.J. & Reuter, P. (2001). *Evaluating Alternative Cannabis Regimes*. British Journal of Psychiatry. 178.

³⁸ Ibid.

³⁹ MacCoun, R.J. & Reuter, P. (1997). *Interpreting Dutch Cannabis Policy: Reasoning by Analogy in the Legalization Debate*. The Science. Vol.278 p:47.

Prohibitionist Approach

There are serious contra-arguments against drug legalization which mainly emphasize that it threatens to undermine American society. The economic savings that might be achieved with legalization is one of the strongest arguments of legalization proponents. However, in response to this argument, opponents suggest that even if it were possible to eliminate all the costs of drug law enforcement, it might well be offset by the additional costs resulting from the consequences of increased drug use⁴⁰. Rangel⁴¹ argues that the argument on the economic costs of the drug war is a short-sighted planning that we have been using with many other social policies. Drug-related problems would not go away with the legalization of any drug, rather, they would only intensify. If we legalize drug use, American people will be paying much more than \$30 billion per year that we now spend on direct health care costs associated with illegal drug use.

Another strong argument of the opponents is that ease of obtaining a drug affects its consumption. Accordingly, reducing drug availability as much as possible is the key factor in fight against drugs and drug related crimes, and “anything that makes drugs less expensive, such as legal sale at lower prices, would result in significant increases in use and in the harmful consequences of heavy use”.⁴² There is some evidence that price and supply play an important role for users to continue to use of drugs or to give up using it. In 1972, the National Advisory Council was especially worried that US soldiers returning to America from Vietnam would bring their heroin habits with them. A study by Lee Robins of Washington University showed that while many of soldiers were using drugs in Southeast Asia, most gave up the habit soon after they came back to the US.⁴³ Accordingly, the reason they gave up their habit was the less availability of the heroin in the U.S. than was in Southeast Asia, as well as sanctions imposed on its use. Parallel to these arguments Inciardi & Saum⁴⁴ suggest that removing the criminal sanctions against the possession and distribution of illegal drugs would make them more available and attractive and thus would create large numbers of new users.

From the standpoint of the consumer, a rise in price is tantamount to decreased availability and vice versa. If the government were to attempt to prevent increases in consumption by raising the prices for drugs sold at the illicit market, then prices of illicit drugs would be competitive and drug traffickers could continue their business.

Inciardi & Saum⁴⁵ argue that there are some important social and economic problems that typically contribute to the use of drugs, such as unemployment,

⁴⁰ Evans, David G. (2009). *In Support of the UN Drug Conventions: The Arguments against Illicit Drug Legalization and Harm Reduction*. Second Edition. Crime and Justice Project, Drug Free Projects Coalition.

⁴¹ Rangel, C.B. (1998). *Why Drug Legalization Should be Opposed*. Criminal Justice Ethics. Vol.17 Issue 2.

⁴² Goldstein, A. & Kalant, H. (1990). *Drug Policy: Striking the Right Balance*. Science. Vol.249. p. 1515.

⁴³ Long, R.E. (1993). *Drugs in America. The Reference Shelf. Vol. 65. No. 4*. The H. W. Wilson Company. New York.

⁴⁴ Inciardi, J.A. & Saum, C.A. (1996). *Legalization Madness*. Public interest. Issue 123.

⁴⁵ Ibid.

inadequate housing, deficient job skills, economic worries, and physical abuse. Legalizing drugs would not eliminate these factors.⁴⁶

Contrary to arguments of the proponents suggesting that legalizing and taxing drugs would provide financial resources for treatment of those who become addicted, “in Canada in 1984 the total social cost of alcohol were the double the revenues generated from alcohol at all levels of government. In the United States in 1983 this ratio exceeded 10 to 1”.⁴⁷

According to opponents, the deterrent effect of the prohibition and the punishment cannot be underestimated. First of all, prohibition deters current addicts not to use drugs. Second, prohibition has a deterrent effect for ex-users of drugs, who gave up using/abusing drugs. If we legalize drugs, ex-users might relapse and continue that deadly habit because drugs will be sold openly in everywhere. Lastly, prohibition makes drug sellers do their job in difficulty. Why do we ease their job? They don’t sell ice-cream or candy bars, they sell harmful materials.⁴⁸

Although the proponents of drug legalization seem to have some strong arguments, there are still many questions that have not been answered yet. Would all drugs be legalized? If not, why? Would consumers be allowed to purchase an unlimited supply? Are we prepared to pay the medical costs for illnesses that are spawned by excessive drug use? Who would be allowed to sell drugs? Would an illegal market still exist? Would surgeons, bus drivers, teachers, military personnel, engineers, and airline pilots be allowed to use drugs?⁴⁹

A further inevitable consequence of legalization would be its impact on public attitudes towards illicit drugs. “The recent decline in drug use among high school students in the United States and Canada probably reflects a gradual acceptance of medical evidence that has been part of the justification for the continued illegal status of some drugs”.⁵⁰ Legalizing drugs and removing prohibitions may give the message to the youth that addictive drugs are not really as harmful as they believed.

Conclusion

It is difficult to offer a regime change trade-off from prohibition to legalization by looking at the outcome criteria: Reductions in average harm but increases in use, reductions in crime but increases in addiction and intoxication, and gains for some citizens but losses for others.⁵¹ In fact, there is no exact measurement to claim that whether one of the drug control policies is better than another.

⁴⁶ Goldstein, A. & Kalant, H. (1990). *Drug Policy: Striking the Right Balance*. Science. Vol.249.

⁴⁷ Goldstein, A. & Kalant, H. (1990). *Drug Policy: Striking the Right Balance*. Science. Vol.249.

⁴⁸ MacCoun, R.J. & Reuter, P. (2001). *Evaluating Alternative Cannabis Regimes*. British Journal of Psychiatry. 178.

⁴⁹ Rangel, C.B. (1998). *Why Drug Legalization Should be Opposed*. Criminal Justice Ethics. Vol.17 Issue 2.

⁵⁰ Goldstein, A. & Kalant, H. (1990). *Drug Policy: Striking the Right Balance*. Science. Vol.249.

⁵¹ MacCoun, R.J. & Reuter, P. (2001). *Evaluating Alternative Cannabis Regimes*. British Journal of Psychiatry. 178.

One thing is certain that addictives are harmful not only for human body but also for the society. It is estimated that the U.S. annually spends 200 billion dollars to fight against drugs and the harm caused by drug-related criminality. The amount of money might be very high but this should not be the reason for the legalization. Governments have to do their best for their citizens' welfare, including both citizens' health and social care.

One point is important: current drug policy of the United States is punitive, meaning that illicit drugs are considered as a crime problem rather than as a health problem. If law enforcement efforts go equally by demand reduction efforts, we will no longer be discussing these kinds of debates.

It is important to remember that different societies have different characteristics. Therefore, a public policy or program that proved to be successful in one setting may not be successful in other settings. Different environments require different approaches. That is why American society has been cautious in adapting the Dutch drug policy. As for Turkey, it is obvious that Turkish society is far more different than both American and Dutch societies. Fortunately, consumption of illegal drugs in Turkey is not on alarming scale as it is in the Western countries. What Turkey needs to do is, while maintaining its drug supply and demand reduction efforts, to analyze the policy developments and experiences of other countries on drug issues. Though not in Turkey's agenda currently, this issue has a significant potential to be a major problem in Turkey's agenda in the near future.

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