

14 July 2009

## Towards Effective Drug Policy: Time for an Impact Assessment

Transform Drug Policy Foundation - [www.tdpf.org.uk](http://www.tdpf.org.uk)

Transform exists to promote sustainable wellbeing by bringing about a just, effective and humane system to regulate and control drugs at national and international levels.

### Recommendation

The UK Government should lead the world by carrying out an Impact Assessment (IA) of domestic drugs prohibition, starting with the Misuse of Drugs Act 1971 and related legislation. An IA should model all the alternatives including stepping up prohibition, Portuguese-style decriminalisation, and legal regulation. The EC and UN should undertake a similar exercise internationally to incorporate impacts on producer and transit countries, and ensure drug policy no longer undermines human development, human security and human rights.

### Basis for recommendation

- Despite the billions spent each year, evidence from around the globe, (including the PM's Strategy Unit Drugs Report of 2003<sup>1</sup>) shows the prohibitionist approach to drugs has **consistently delivered the opposite of its stated goals**, with the poor and marginalised hit hardest.
- The Director of the UN Office on Drugs and Crime<sup>2</sup> also admits the international drug control system has massive 'unintended consequences' including: creating a huge criminal market; displacing policy from health to enforcement; and geographical displacement (the 'balloon effect').
- At a time of economic stricture, it is crucial that drugs expenditure is cost-effective, with all potential alternatives meaningfully explored. Transform's cost-benefit analysis<sup>3</sup> (based on Government data) shows a move to legal regulation and control could:
  - Save the UK billions of pounds to spend on other priorities
  - Halve property crime and the prison population
  - Remove a huge obstacle to development and security in Afghanistan and beyond
- Using Impact Assessment as a guiding tool would help end the emotive and polarised debate around drug policy reform, and enable politicians to genuinely engage with the search for better alternatives.

<sup>1</sup> [http://www.cabinetoffice.gov.uk/media/cabinetoffice/strategy/assets/drugs\\_report.pdf](http://www.cabinetoffice.gov.uk/media/cabinetoffice/strategy/assets/drugs_report.pdf)

<sup>2</sup> <http://www.unodc.org/documents/commissions/CND-Session51/CND-UNGASS-CRPs/ECN72008CRP17.pdf>

<sup>3</sup> <http://tdpf.org.uk/Transform%20CBA%20paper%20final.pdf>

## Appendix

### Introduction

We all share the common goal of a drug policy that maximises environmental, physical, psychological and social wellbeing worldwide. Yet, whether viewed internationally or domestically, the prohibitionist approach has seen drug supply and availability increasing; use of drugs that cause the most harm increasing; health harms increasing; and massive levels of crime leading to a crisis in our criminal justice systems. Illicit drug profits are enriching criminals, fuelling conflict and undermining security and development in producer and transit countries from Mexico and Guinea Bissau, to Afghanistan and Colombia, with the gravest impacts falling upon the poor and marginalised.

#### UNODC and 'Unintended Consequences'

Antonio Maria Costa, Director of the UN Office on Drugs and Crime (UNODC), admits that the drug control system creates a raft of negative 'unintended consequences' including:

- A huge criminal market
- Policy displacement from health to enforcement
- Geographical displacement – the 'balloon effect' – where enforcement activity in one area displaces the problem to another.

Whilst the UNODC acknowledges the high costs of prohibition, it has so far neglected to count them, or model alternatives. Similarly, the Home Office acknowledges that legal regulation of drug markets would have benefits<sup>4</sup>, but claims they would be outweighed by the costs. Yet no such cost-benefit analysis has ever been carried out in the UK, or anywhere else. Value for money studies commissioned in 2007 remain unpublished.

The UK could take the lead by carrying out an objective, independent, national assessment, comparing current policy with the alternatives; encourage other consumer, producer and transit countries to follow suit; and call for international assessments by the EC and UN.

### A UK Impact Assessment

In the UK, drug legislation has changed little since the 1971 Misuse of Drugs Act (MDA) which has for many years been colliding with dramatically changed circumstances, including a massive increase in the use of illegal drugs, and a correspondingly huge illegal market, compounded by globalisation. As a result, a root and branch review is long overdue, and an Impact Assessment of the MDA should form the first step in genuinely assessing the UK's approach to drugs.

Through allowing the outcomes of any government intervention to be assessed against the goals it is supposed to meet, along with modelling alternatives, IA is a sophisticated tool to strengthen evidence-based policy-making, improve accountability and transparency, and enable more informed public and parliamentary debate. Typically IAs now consider the potential or actual impacts (positive and negative) of a policy in terms of the three pillars of sustainable development – economic, social and environmental.<sup>5</sup>

An IA aimed at helping to deliver evidence-based policy - behind which all stakeholders can unite - would put all options on the table, without committing any stakeholder to a specific position: from stepping up prohibition, through decriminalisation, to legal regulation and control. In addition to current mechanisms for regulating the supply of legal drugs and intoxicants, there are a variety of existing approaches to dealing with illicit drugs. These include Portugal's decriminalisation of possession of drugs since 2001 (widely hailed as a success, including by

<sup>4</sup> Home Office Briefing, 2008

<sup>5</sup> p1 RIA-Towards Better Regulation? Ed. Colin Kirkpatrick Edward Elgar Publishing Ltd 2007 ISBN 978 1 84542 412 1

the UNODC), the long-term large-scale maintenance prescription of heroin in Switzerland, and the Netherlands 'coffee-shop' system for cannabis.

The application of IA for *ex post* evaluation of this kind has been less common than its use in *ex ante* assessment of proposed new measures. However, there is now recognition of the need for more evaluation work of this kind, for example in the European Commission work on IA.

When an entire UK Act is subject to Impact Assessment it is often broken down into smaller sections each of which has a separate IA. For example the Police and Crime Bill currently before Parliament has twenty separate IAs addressing different aspects.

The UNODC currently send out a biannual survey to member countries as part of its information gathering for the World Drug Report. Transform would like to see this include a template with questions for a country level IA, which could be collated as the basis for a global IA.

### **An Impact Assessment is Overdue**

An IA of drug policy would be in line with Government guidelines. For example, the Treasury Green Book states that: *"...no policy, programme or project is adopted without first having the answer to these questions: (1) Are there better ways to achieve this objective? (2) Are there better uses for these resources?"*

More specifically, BERR IA guidelines<sup>6</sup> say that all new legislation and policy changes with a cost or benefit to the public, private or third sectors greater than £5 million require the relevant government department to conduct an IA. This threshold has been crossed by many individual drug related interventions, and a number of other triggers have been pulled including: *"When review leads to the identification of new policy challenges (perhaps arising from unintended consequences of the intervention itself), the [IA] process begins again."*

Similarly, the National Audit Office 2001 guide 'Modern Policymaking: Ensuring policies deliver value for money' states: *"Departments...need to review policies, for example to determine when the time is right to modify a policy in response to changing circumstances so that it remains relevant and cost effective; and departments may need to terminate policies if they are no longer cost effective or they are not delivering the policy outcomes intended."*

As previously noted there are huge unintended consequences of the current drug control system, and evidence shows the MDA is not delivering what it was supposed to - for example a twenty-fold increase in heroin use.

There is a UK precedent for using IA to compare prohibition with decriminalisation or legal regulation of drugs. The 2005 Drugs Act had an Impact Assessment of the proposal to make Magic Mushrooms a Class A drug, including the option of allowing licensed sales.

**For too long the debate around drugs policy reform has been paralysed and polarised. An Impact Assessment offers an objective, independent and neutral tool for enabling key stakeholders to work together to create a drug policy fit for the 21<sup>st</sup> Century.**

**For more information contact:**

**Danny Kushlick**  
Head of Policy  
[danny@tdpf.org.uk](mailto:danny@tdpf.org.uk)

Tel: 0117 941 5810 or 07970 174747

**Transform Drug Policy Foundation**  
Easton Business Centre  
Felix Road  
Bristol BS5 0HE  
[www.tdpf.org.uk](http://www.tdpf.org.uk)

---

<sup>6</sup> <http://www.berr.gov.uk/files/file44544.pdf>