Institute For Behavior and Health
Creating Tomorrow's Drug Policy

Commentary

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Global Commission on Drug Policy Offers Reckless, Vague Drug Legalization Proposal; Current Drug Policy Should Be Improved through Innovative Linkage of Prevention, Treatment and the Criminal Justice System

A self-appointed Global Commission on Drug Policy recently released a report proposing eleven recommendations to achieve its goal of "reducing the harm caused by drugs to people and societies".[1] Some the recommendations are appealing in that they advocate improving treatment, increasing youth drug use prevention, and using evidence-based practices. However, the foundation on which the Global Commission's proposals rest is both subtle and ominous: the Commission does not seek to reduce the use of illegal drugs, but instead proposes strategies to normalize and to reduce the "harms" resulting from illegal drug use, largely through legalization and decriminalization of illegal drugs. These recommendations are a threat to public health and to public safety. The unarticulated consequence of the Global Commission's recommendations is that illegal drugs would become more widely and cheaply available, inevitably leading to increased drug-caused harm. This consequence is not simply conjecture, but is based on the recent experience with the rapid rise in death rates due to the non-medical use of prescription opioids drugs that parallels their increased availability.[2]

The Obama Administration's White House Office of National Drug Control Policy (ONDCP) does not support the Global Commission's report. An ONDCP spokesman has stated, "Drug addiction is a disease that can be successfully prevented and treated. Making drugs more available – as this report suggests – will make it harder to keep our communities healthy and safe."[3]

The Institute for Behavior and Health, Inc. (IBH) concurs with the ONDCP position and supports building upon and improving the current US drug policy which seeks to reduce illegal drug use. Surrendering to the modern drug epidemic, which is the core of the Global Commission's recommendations, is not consistent with the IBH mission. IBH identifies and promotes new, effective strategies to reduce the demand for illegal drugs and to improve drug policy. This commentary focuses on the Global Commission's report as it relates to US drug policy. IBH unequivocally rejects the Global Commission's proposal to legalize and/or decriminalize the currently illegal drugs.

The Global Commission's Mischaracterization of Current Drug Policy

The Global Commission states that forty years ago President Richard Nixon declared the "war on drugs." Nixon used the word "war" to describe the nation's efforts to combat the rising tide of drug abuse although he was focused primarily on reducing the epidemic of heroin addiction.[4]

The term "war on drugs" is only used today by those who mischaracterize history and US drug policy.

The Nixon Administration repealed federal mandatory minimum sentences for marijuana, and on June 17, 1971, for the first time in US history, the long-dominant law enforcement approach to drug policy, known as "supply reduction", was augmented by an entirely new and massive commitment to prevention, intervention and treatment, known as "demand reduction". [5] [6] [7] When President Nixon announced this new, balanced approach to drug policy it received full bipartisan support. Since that time, the idea of taking a balanced approach has enjoyed strong and sustained support through the terms of the seven US Presidents that followed. The US drug prevention policy, fully described in the *National Drug Control Strategy* published annually by ONDCP, maintains this balanced commitment to supply reduction and demand reduction, with the aim of reducing illegal drug use and the corresponding medical and social burdens that drug abuse imposes upon our nation.[8] The US drug policy is rooted in the conviction that singly, neither supply nor demand reduction can succeed, but that together they yield significant benefits that neither can achieve alone. A careful look at history shows that it would be more accurate to say that Nixon ended, rather than that he launched, the "war on drugs."

The Global Commission claims that there is a "taboo" on debating and discussing alternative drug policy approaches and strategies. On the contrary, the balanced approach of supply reduction and demand reduction has been frequently and fully debated, discussed, and modified over time. This balanced approach has succeeded in containing the growth of illegal drug use in the US and limiting the social costs of this epidemic problem.

While the US is home to about 5% of the world's population and about 24% of the world Gross Domestic Product,[9] the US also is home to about 19% of the world's illegal drug users.[a] [10-11] The US has led the way in creating a modern balanced drug policy with investments in treatment and prevention that rival its investments in law enforcement. In the FY 2010 budget which can be found in the 2010 *National Drug Control Strategy*, supply reduction efforts counted for $9.9 billion (64%) and demand reduction efforts $5.6 billion (36%).[12] (It is important to note that the "demand reduction" budget does not incorporate Medicaid or Medicare payments for treatment, which would level the balance between supply-demand.) In terms of economic impact, specialty treatment costs the US an estimated $3.7 billion each year for illegal drug users.[13]

The success of demand reduction in the US is reflected in long-term decreases in rates of illegal drug use. The percentage of persons aged 12 and older in the US who used an illegal drug in the past 30 days has decreased 38% from its peak in 1979 (14.1%)[14] to 2009 (8.7%).[15] Equally impressive are statistics from the United Nations Office on Drugs and Crime (UNODC), which has documented a greater than 80% reduction in annual opioid use over the past century![16]

[a] Numbers calculated from past year global illegal drug use estimates for 2009 from United Nations Office of Drugs and Crime World Report 2011 and United States past year illegal drug use from the 2009 National Survey on Drug Abuse and Health.

The Global Commission's Reckless Proposal Advocating Drug Legalization

The third recommendation of the Global Commission is to *"Encourage experimentation by governments with models of legal regulation of drugs (with cannabis, for example) that are designed to undermine the power of organized crime and safeguard the health and security of their citizens."* There is no description of how legalization would be structured nor an analysis of legalization proposals. The report does not even attempt to answer questions such as: Which drugs would be legalized? Would there be any limits to legalization, or would the gates permitting use be thrown wide open? Who could buy drugs? Would the use by children and adolescents be prohibited, as is currently the policy for alcohol and tobacco products? If so, how would diversion to youth be prevented? Is it important to protect young developing brains from currently illegal drugs? Would drug production, regulation, chain of custody and taxation be regulated as are other consumer products? Could drugs be mixed with other products (e.g. marijuana in brownies, amphetamines in breakfast cereal, etc.)? Would these drugs be legal only if produced by legitimate facilities, or would anyone be permitted to produce them at home? What would the policy response be to newly emerging drugs with significant psychiatric or health consequences, such as "Krokodile", mephedrone, methylenedioxypyrovalerone (MDVP) or naphyrone? The Global Commission offers no thoughtful answers to such questions, recklessly proposing that countries turn themselves into guinea pigs for "experimentation" with legalization.

The Commission report is not a serious, carefully considered proposal, but a simplistic, dogmatic approach to a complex problem that carries with it a host of unintended consequences. The social and economic costs to humanity would be profound, with its greatest impact upon the helpless, the innocent, and the naïve, while serving the causes of negligence and greed. It would be up to a subsequent generation to correct such a folly.

The Global Commission has framed its discussion of drug policy by criticizing the current costs and weaknesses in the criminal justice system, and by citing a global rising tide of drug use. This is a transparent and worn-out approach that relies on vague generalizations and neglects the very real consequences of its proposed alternative strategy, for example failing to include a wide array of drug-induced adverse consequences. When the report's radical calls for new drug policies get down to specifics, the solutions offered involve small numbers of users (e.g. heroin-assisted treatment, syringe access "and other harm reduction measures"). One can debate the wisdom of such measures, but they do not constitute legalization and are not scalable to the size of the current drug problem either in the US or elsewhere in the world today. Furthermore, they offer no hope of rehabilitation to the drug user, providing only palliative care. The Global Commission's report is a doctrinaire and ideological approach to the life-and-death threat of drug addiction.

The High Costs of Drug Legalization: Lessons from Alcohol and Tobacco

It is true that current drug policy needs to be improved and that both treatment and prevention need to play major roles in future drug policies. However, the mere fact that current policies leave much to be desired does not mean that legalization is a good idea. If currently illegal drugs were made legal, rates of use, abuse and dependence would increase along with the many related

social costs including unemployment and under-employment as well as the costs of health care. The Global Commission strikingly disregards the multiple adverse consequences created by drug dependence itself, including harm associated with marijuana use, by focusing only on the "harms" imposed by the criminal justice system. The notable omission of marijuana's effects on cognitive, medical, psychiatric, fertility, educational, employment, parenting, workplace and highway and safety leads to the inevitable conclusion that the Global Commission either chose to ignore these long-standing considerations of marijuana policy or lacked the necessary expertise for carving an informed position.

When global rates of substance use and their availability are considered, estimates of worldwide alcohol and tobacco use expose the stark difference between use of legal and illegal drugs. An estimated 40% of the world's population aged 15 and older consumed alcohol in 2004[17] while an estimated 30% of the world's adult population smoked tobacco in 2000[18], a drug/delivery system with few psychological, albeit major medical risks. In comparison, about 4.8% of the world's population (210 million) aged 15 to 64 used any of the thousands of illegal drugs including marijuana in 2009.[19]

These differences also are evident in current drug use rates in the US. In 2009, 130.6 million (51.9%) Americans aged 12 and older used alcohol in the past 30 days while 69.7 million (27.7%) used tobacco.[20] In comparison, 21.8 million (8.7%) used any of the illegal drugs during this time frame. It is difficult to look at these numbers and not conclude that the illegal status of marijuana, heroin, cocaine, and methamphetamine keep use rates far below those of legal drugs. Any one of these drugs, alone or combined with others, has the potential for being as widely used as alcohol and tobacco.

The annual economic social costs to the US for all illegal drug use combined are outweighed by those of legal drugs, including both alcohol and tobacco. Alcohol use costs the US an estimated $235 billion.[21] Tobacco use costs over $193 billion each year, a combination of $96 billion in medical costs and $97 from lost productivity. [22] The cost of all illicit drugs combined is $193 billion annually.[23] The majority of these costs come from lost productivity ($120.3 billion), followed by crime including arrest, prosecution and incarceration ($61.4 billion) and health costs ($11.4 billion). It is important to note that crime-related costs comprise only 31% of the total drug costs. Medical conditions are more prevalent in patients (and their families) with a diagnosis of abuse or addiction, and yet these seemingly non-drug related medical sequelae are not factored into the health care burden.

Legalizing a currently illegal drug does not mean that everyone will become a user of that drug any more than legal alcohol and tobacco mean that everyone uses them. There are many ways to successfully reduce drug use in addition to making drugs illegal. While the efforts in recent decades to curb alcohol and tobacco use in the US have resulted in impressive reductions in use and abuse, in both cases legal actions have been prominent in these efforts. In addition, even after decades of education and prevention efforts the levels of use of each of these two legal drugs far surpass those of all illegal drugs combined. If some or all of the currently illegal drugs were legalized the adverse effects of the use of these drugs would be unequal in society. The largest increases in use would likely be among young people, especially teenagers, the

disadvantaged, the unemployed, the struggling student, and the mentally ill, all of whom now have higher rates of drug use initiation.

The Global Commission's Drug Legalization Proposal and Prescription Drug Abuse

The Global Commission ignores the problem of nonmedical prescription drug use, to date the defining drug problem of the 21st century. The rapid spread of prescription drug abuse, and the thousands of resulting deaths, underscores the fallacy of the Commission's core argument for legalization, and its watered-down sidekick, decriminalization. The Global Commission suggests that illegal drug use is reasonably safe and that only law enforcement creates large social costs. Further it suggests that is the illegality of these drugs that promotes their use and creates violence. Both production and abuse of prescription opioid drugs have risen worldwide,[24] as has the nonmedical use of prescription drugs. Although these drugs are prescribed to individuals for medical use, they are nonetheless widely diverted for nonmedical purposes. Prescription drug abuse is the fastest growing drug problem in the US. Every year since 2005 as many or more Americans first used a prescription drug nonmedically as initiated marijuana use.[25] In 17 US states more people die each year from unintentional drug overdoses than die in highway crashes.[26] The rise in overdose deaths parallels the number of prescription doses issued.[27] The rising level of overdose deaths and the falling level of highway fatalities assure the US that soon the number of unintentional drug overdose deaths will exceed the number of highway fatalities in the nation as a whole. It is impossible to believe that the nonmedical use of prescribed controlled substances such as OxyContin and Vicodin with the huge social burden resulting from such use would be reduced by legalization or decriminalization. If the current system of control over these drugs were dismantled and their use for nonmedical purposes were legalized or decriminalized, rates of nonmedical use and the resultant problems from that use would rise exponentially.

This simple naturalistic experiment of prescription drugs forcefully refutes the claim of the Global Commission that drug abuse is caused by, or worsened by, the criminal justice system. There is no mafia in the prescription drug abuse epidemic. In reaching a solution to the escalating problem of prescription drug abuse, there are many roles in which the criminal justice system should be involved, from law enforcement, to prevention of physicians from profiting from running prescription "pill mills", to prohibiting patients from giving away or selling their prescription drugs. Legalization or decriminalization of nonmedical drug use would clearly worsen the problem. A comparison of adolescents (15-19 years) who received marijuana from legitimate but diverted "medical marijuana" sources, with others who obtained the drug from illegal sources also informs this policy. Adolescents who obtained marijuana from diverted legal sources had more access to the drug, used marijuana at much higher rates, and had more drug-related and unrelated adverse consequences.[28]

A Renewed Focus on Real Prevention and Effective Treatment is Needed

The Global Commission recommends investment in drug prevention efforts for youth; however in placing focused importance on preventing experimental users from becoming problematic or dependent users, the Commission neglects to acknowledge that preventing and ceasing use of illegal drugs is the optimum public health goal for youth and for all individuals. One quarter of Americans who begin using any addictive substance before age 18 develop an addiction.[29]

Prevention messages targeting youth in particular are contrary to calls for drug legalization that include implications that the vast majority of drug users are problem-free. Completely missing in their policy statement is the promising approach of healthcare procedures that incorporate opportunistic drug screening, brief interventions, and referral to treatment (SBIRT) into regular medical appointments or emergency situations for all age ranges.[30]

The Global Commission's recommendation of a wide range of options for treatment is similarly misguided, as illustrated by the suggestion that heroin be prescribed to addicts as an alternative treatment to stopping use of the drug. Recommending heroin maintenance neglects the simple question of what is in the best interest of the addict. Enabling continued nonmedical drug use -- especially intravenous drug use -- is harmful both to individuals and their families. It is the equivalent of recommending dispensing alcohol to alcoholics as a treatment option because it would attract alcoholics into "treatment". It has not worked for alcoholism, and no informed professional would accept an approach that utterly fails the addicted. A drug policy intended to reduce drug use by the government providing drugs to users makes as much sense as a policy to reduce lung cancer by the government providing cigarettes to cigarette smokers. Considering the high death rates of heroin addicts, providing them heroin is, in a sense, palliative care, akin to admitting an end-stage cancer patient to a hospice and treating them with opioids to relieve pain until death. Although it makes no sense as a treatment for heroin dependence, the Global Commission highlights this as an innovative treatment to be widely used throughout the world. The report does not provide evidence for the success of this approach to rehabilitation of addicts.

It is only in superficial drug policy debates among ideologues that these archaic and anachronistic solutions for prevention and treatment are thought to be new, creative, forward-looking and daringly brilliant.

The best models for a future global drug policy are not found in the Netherlands, Switzerland or Portugal, as the Global Commission would have readers believe. It is found in Sweden which has pioneered the modern balanced drug policy that restricts the use of illegal drugs through criminal law and provides treatment to drug users. After meeting with Swedish officials in March 2011 at the Commission on Narcotic Drugs in Vienna, ONDCP Director Gil Kerlikowske said, "History has taught both of our nations that we must support robust and comprehensive drug policies which recognize we cannot arrest our way out of the drug problem and that drug addiction as a disease of the brain. We are proud of our strong partnership with Sweden in supporting balanced drug strategies guided by science and research and opposing drug legalization, both within Europe and around the world…Sweden's commitments to drug education, treatment for drug addicts, and enforcement efforts have led to significant decreases in drug use over the past three decades, and serve as a successful model for our efforts in the United States."[31]

A New Paradigm for the Future: Teaming Treatment & Prevention with the Criminal Justice System

The Global Commission seeks to remove the criminal justice system from drug policy. This proposal is based on the assumption that the future of global drug policy is a choice between law enforcement and treatment. Keeping the use of many addicting drugs illegal is a powerful and effective public health strategy.[32] The future of global drug policy is finding better, more cost-

effective ways for the combined efforts of law enforcement to work with those of prevention and treatment to achieve goals that none of these efforts can achieve alone. IBH supports a strong, balanced drug prevention policy that includes but does not rely only on the criminal justice system. By pitting the criminal justice system against treatment and prevention approaches, the Global Commission shifts the debate into a path of false dichotomies.

ONDCP Director Kerlikowske asserts that the nation's long-standing balanced drug control efforts are necessary, citing support for "diverting non-violent offenders into treatment instead of jail by encouraging alternatives to incarceration."[33] Major innovations in the use of the criminal justice system to reduce drug use include Drug Courts, Hawaii's Opportunity Probation with Enforcement (HOPE), and the 24/7 Sobriety Project.[34] Collectively, these programs, all of which IBH strongly supports, provide close monitoring of high-risk repeat offenders in the community, with strict, comprehensive rules and regulations in place to help drug-using offenders become and remain drug-free. Drug Courts increased, from one Court in Miami-Dade County, Florida in 1989 to over 2,500 in 2010.[35] They reflect an innovative strategy to address non-violent felony offenders who are addicted, by offering a choice between prison and treatment. Most choose the latter which includes appropriate treatment, court-based monitoring of progress through case management, regular court appearances, incentives to reward progress and sanctions to address non-compliance and mandatory drug testing to reinforce monitoring and strengthen accountability. Their success at achieving rehabilitation, in some cases exceeding statistics from conventional voluntary treatment, has triggered interest and establishment of Drug Courts in other nations. In HOPE and 24/7 Sobriety, frequent, random drug testing is used with immediate, certain, consequences (short-term jail stays) for non-compliance, including for any use of drugs or alcohol. Participants who cannot adhere to the standard of zero tolerance are referred to treatment, thus reserving the high costs of treatment for those who need it most.

These criminal justice programs are central to effective demand reduction. They work to reduce drug use, reduce recidivism and reduce incarceration while providing long-term reductions in drug dependence and criminal behavior. They are just three examples of how the criminal justice system can use leverage to help individuals with drug and alcohol problems become and stay drug-free. This new paradigm holds the promise of changing dramatically the way drug use is approached within the criminal justice system both in the US and abroad.[36] This new model of care management has been pioneered by the nation's state Physician Health Programs (PHPs) which have established a new and far higher standard for long-term outcomes.[37] [38]

Conclusions

While the recommendation of the Global Commission to experiment with legalization and decriminalization is reckless, the publicity generated by the report is welcome. Many prominent figures have publicly supported the report.[39] [40] IBH applauds Joseph A. Califano, Jr. and William J. Bennett who have seen through the misguided and reckless recommendations of the Global Commission and advocate for a balanced approach including prevention and treatment.[41] The need now is to seize that public attention and to begin the real work ahead. The future of drug policy is to find new ways for law enforcement and treatment programs to work together to sustain and expand the successful reductions in drug use worldwide. The long-term and sustained reduction in illegal drug use in the US, and the massive decline in global opiate use in the past

century, demonstrate the success of a non-partisan, balanced strategy of demand reduction and supply reduction, driven by evidence and wisdom. IBH commends ONDCP Director Kerlikowske who has wisely said, "This administration's efforts to reduce drug use are not born out of a culture war or drug war mentality, but rather out of the recognition that drug use strains our economy, public health, and public safety."[42] Addressing drug use as a public health problem is an approach that will continue the 30-year decrease in illicit drug use in the US as well as around the globe.

The Global Commission on Drug Policy is wrong when it claims current drug prevention policies have failed. However, the Commission is right that current policies can be improved. This cannot be done by surrendering to this modern epidemic. Let the drug policy debate continue to grow and develop. IBH is confident that the result of this heightened focus on all options will be improved policies and programs that build upon, rather than scrap, the century-long global efforts to deal with the threat of nonmedical drug use.

For more information on the Institute for Behavior and Health, Inc. and the effective non-partisan balanced approach to drug policy, visit www.ibhinc.org.

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