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## HEROIN: TO BE LEGAL OR NOT?

*"Adam Smith is alive and well in the drug scene."*

THE DEBATE IS CURRENT again: to legalise heroin or leave it under the present drastic prohibitions? Doctors, academics, policemen, judges are being quoted, many of them, including some judges, lacking practical experience of the sordid drug scene.

This writer can claim no special expertise, but only what knowledge can come from twelve years as a judge in crime, listening to many histories of addiction, to evidence of often appalling crimes, and sentencing some of the convicted to years in prison. Not for their addictions, but for the "busts", the muggings, the violent assaults, the armed robberies; all the variations of heroin-induced wickedness.

From these years a firm opinion emerged. To legalise heroin is really a counsel of despair, and a process which once begun would be almost impossible to reverse. The issues need to be clearly defined, as they seldom are in public debates.

Firstly, the debate is not simply about heroin alone, but about all the mind-bending, ultimately destructive drugs: cocaine, crack, Ecstasy, Speed, Angel Dust, hashish, and the new designer drugs. Cocaine is becoming the flavour of the future, seeping downwards from the executive class to the broad community. The fashions change, the demand for mental props does not. The debate is properly about all the hard narcotic drugs.

Next, just how destructive are the narcotic drugs? Dr Robert Marks, lecturer at the University of NSW maintains that heroin of good quality and known dosage, properly administered, is less harmful than a few shots of Scotch every night. Properly dispensed, it does not lead to deterioration. We should grow our own in Tasmania, and supply it through government-controlled outlets. The habit can be controlled; addiction is essentially the product of illegality.

As to this, one can say two things. First, it is a minority view amongst the experts. Secondly, it lies in the face of one's own experience. I have heard scores of histories of the habit, of its relentless progress from the first "taste", often at school, to the

desperate thug, the drug-soaked prostitute. I have heard the addict even in Court shouting obscenities at his weeping mother because she has hesitated to go bail for him for the umpteenth time, having already been robbed of her small treasures, her jewellery, her savings account, much of her pension.

No doubt there are cases where the habit has become manageable and benign, but in twelve years on the Bench, I never struck one. I find it hard to believe that such an obsession can be controlled into harmlessness, least of all by providing the very drug that caused it. Illegality, or legality, seems to be irrelevant to the power of the white powder.

The proposals vary. "Hard drugs should be legalised for economic reasons", says one protagonist; heroin should be accessible "under controlled conditions," says another. Or again, "approved addicts should be provided with heroin at prices set by the government." The Bar Council urges "a total rethink".

The debate cannot profitably proceed further until the proposals are clarified. Currently they seem to fall into three groups. The most cautious proposal would relieve the simple "possession" of hard drugs of the ultimate legal sanction of imprisonment, whilst retaining the present heavy penalties for supplying.

There are indeed arguments *ad misericordiam* for extending legislative mercy to those who suffer addiction to hard drugs, as distinct from the parasites who live and grow fat on them. But the first problem is to distinguish the users from the pushers. In court, almost everybody arrested for possession claims that it was for their own use, the large quantities explained by provision for the future, in the manner of a squirrel. Judges can be forgiven for a certain scepticism. Experience shows that at some stage of their addiction, almost all users become pushers.

As the market would remain, indeed would surely increase, the suppliers would stay too. The surreptitious deals in King's Cross streets, the planes at abandoned airstrips, the small boats creeping along the northern coasts, the heroin unskillfully hidden in the bra, the corpses in the shallow bush graves would

all continue. As the prices would not fall, the present problems would remain.

Some bold spirits would go the whole distance. All legal restraints should simply be removed, leaving the drug scene to the operations of the market, as with other drugs, such as tobacco and alcohol — Adam Smith alive and well in the drug scene. The flood of drugs would reduce the price, the habit would become manageable, and the nexus between the drug scene and the evil empire of crime would thereby be broken. The drug squads would be out of business, the thrill of illegality, the stolen apple syndrome, removed.

This is an attractive picture. It is also quite unreal. No country in the world, as far as I know, has dared to adopt this course. The experience of the abolition of Prohibition in America is called in aid of this argument. The gangsters came with Prohibition and bred in illegality. Prohibition was lifted, liquor flowed freely, the citizen made a free choice, crime was thereby reduced. But was it? It would be brave to argue that crime in America lessened after the end of Prohibition. Marginally, perhaps, in the sense that some of the moguls of crime moved to other areas, to prostitution, the protection racket, pornography.

In any case, the analogy with hard liquor doesn't really work. Drink is a curse, but it has been with mankind for thousands of years. The derelicts in the parks testify to its dangers, yet most people have found it manageable. Hard drugs are comparatively new, around in any major way only since the 1960s. Addiction has spread with fearsome speed; the consequences are faster and more drastic. The cases are well documented. Babies born to heroin-addicted mothers are themselves born addicted and suffer well-known withdrawal symptoms from birth. And untreated they fail to thrive.

IN PRACTICE, total legalisation would start a flood of drugs seeking the free market. A careful American authority estimates that the use of narcotic drugs would at least double, probably treble. Young people especially, inexperienced in life's traps and often combining affluence with lack of inhibitions, would be vulnerable to the appeal of mind-bending chemicals. Society is already moving close to illegality with its stringent controls on alcohol and tobacco. It seems a strange time for society to chance its arm by a free market in narcotics.

Of course, most advocates of "legal heroin" do not go this far. They speak of "controlled outlets and conditions", medical confirmation of addiction, of fixed prices within the purse of addicts, or of heroin provided by the state. The British experience, of

addicts attending clinics for carefully regulated doses, is advanced by those who are often unaware that the experiment has been largely abandoned, simply because it failed.

It failed for a number of reasons. The addict, whose mind may have become addled but retained its cunning, devised schemes to get hold of this high-grade heroin which he could cut several times and flog profitably on the black market, which flourished as before. Corrupt doctors entered the picture. The scheme lightened the pockets of the taxpayers rather than the addicts, and this was not popular.

It foundered as people saw the gathering of addicts at the clinics, their minds filled with one thought, the next fix. It left untouched the great pool of those unaffected by the scheme: those whose habit could not be accommodated within the regulated doses, the user-pushers, the newcomers to the drug scene. This no doubt is why most of the worthy detoxification bodies are quite sceptical of the whole idea, preferring live-in treatment over several years, under the slogan "no drink, no sex, no drugs".

The scheme was so limited in its ambit, as it had to be, that it had no effect on the cost of the addiction, therefore no detectible diminution in the empire of organised crime and the corruption of the instruments of law enforcement.

There is an ultimate argument against either partial or total legalisation of hard drugs, though it is rarely heard. To declare legal something which is known to be bad, has about it the ring of approval. The connection between unlawfulness and disapproval has been a phenomenon of all societies at all times. It is of little use to say that society can permit something, yet disapprove of it. Of course it can. But we are not dealing with the minds of intellectuals or with logical concepts. The problem of drugs lies in the modern society, which combines affluence with discontent, hedonism with alienation, and includes a host of people seeking some mental prop. We are dealing with young people subconsciously choosing their life-style. In default of legal sanctions, warnings and exhortations mean little; to their minds, legality means approval.

Illegality, as we know so well, is fraught with frustrations and many disappointments. Yet the war against drugs is not without successes; in America, the number of young people using illegal drugs has in fact fallen in the last decade.

Society must remain unequivocal in its condemnation of hard drugs, through the strong voice of its laws, and the enforcement of its sanctions. The alternatives, attractive though they may seem, will simply make the situation worse.