THE DRUG POLICY DEBATE IN EUROPE: THE CASE OF CALIFANO VERSUS THE NETHERLANDS[1]

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On 18 October 1996, the *International Herald Tribune* published an editorial by Joseph A. Califano, Jr condemning Dutch cannabis policy. Califano is an American lawyer and former Washington lobbyist who moved within the inner circles of the Democratic Party leadership. He served as Secretary of Health, Education, and Welfare from 1977 to 1979.[2] He now heads the Center on Addiction and Substance Abuse (CASA), an antidrug organisation in New York City. From his initial press conference announcing the opening of CASA in 1990 until the present, Califano has been highly critical of drug use, claiming that it is the principal and direct cause of crime, health problems, declining worker productivity, homelessness, and a range of other problems. With respect to drug policy, however, Califano and CASA have been uncritical supporters of the US-style punitive prohibition.

Califano's editorial attacks Emma Bonino, Commissioner for Consumer Policy and for Humanitarian Affairs of the European Union, for advocating Dutch-style decriminalisation of cannabis in EU countries.[3] After the European Drugs Observatory issued a report showing 'little relationship' between strict prohibitionist policies and reductions in the number of drug offences, Bonino criticised harsh drug prohibition and suggested that EU countries consider the Dutch approach to drug policy. She noted, for example, that the Netherlands had less crime and AIDS than elsewhere in Europe.

Califano labels Bonino a dangerous and deceptive legaliser. Instead of responding to her evidence and arguments about Dutch drug policy, Califano crudely paraphrases Bonino's position, asserting that

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[1] The views presented are those of the author alone.

[2] The fact that Califano served as the top-level cabinet officer for health and education in the Carter administration may strike some readers as ironic. Following the recommendations of the National Commission on Marijuana and Drug Abuse convened by President Nixon, one of President Carter's first steps, two months into his term, was to send his top health advisor along with officials from the federal Drug Enforcement Administration, the State Department, the National Institute on Drug Abuse, the National Institute of Mental Health (two agencies within the department headed by Mr Califano), the Justice Department, and the US Customs Bureau to testify to Congress in support of marijuana decriminalisation. See *Decriminalisation of Marijuana*, hearings before the Select Committee on Narcotics Abuse and Control, March 14–16, 1977, House of Representatives, 95th Congress, 1st Session (Washington, DC: US Government Printing Office).

[3] EU Commissioner Urges Drugs Liberalization, *Agence France Press*, 9 October 1996.

it consisted of pernicious 'myths'. To counter these, he offers what he called 'facts' purporting to show that 'legalization would be a disaster for European children and teenagers'. However, Califano's article itself consists of myths that distort both the substance of Bonino's critique of drug prohibition and the nature of Dutch drug policy.

Califano's distortions warrant careful analysis as a case study in how misinformation fuels the war on drugs. He does not offer an even-handed analysis of the potential risks and benefits of various drug policy options now in place or under consideration in EU countries. Rather, his editorial propagandises for US-style punitive prohibition. Califano invokes selective 'facts', cites unattributed figures, and misrepresents Dutch drug policy. While such drug war ideology can take the form of short soundbites that swim with the current of prevailing biases, reasoned discourse about the complexities of different drug policies and their consequences requires more time and attention to detail. What follows is a point by point examination of what Califano neglected, misrepresented, or got wrong, presented in the larger interest of an informed debate about drug policy options in Europe.

DECRIMINALISATION: SUCCESS OR FAILURE?

Califano sets out to prove that, despite popular belief to the contrary, the policy of decriminalising cannabis has wreaked havoc on Dutch society. In his account, decriminalisation has led to increased drug use (especially among children), increased crime, and the rapid spread of HIV/AIDS. He correctly notes that 'the Dutch have not technically legalized drugs' but rather have only permitted 'coffeeshops to sell cannabis products for personal consumption.' He goes on to assert flatly that 'this policy has harmed youngsters', but he provides no evidence of this alleged harm. Instead he says simply that 'From 1984 to 1992, marijuana use by Dutch adolescents jumped nearly 200%.' The notion that use of marijuana constitutes 'harm' is both logically and empirically flawed. Just as alcohol is 'used' by most drinkers while 'abused' by a minority, there is no scientific evidence in either the USA or the Netherlands showing that the vast majority of cannabis users abuse it or are significantly harmed, physically or psychologically, by their use.

Even if use was tantamount to harm, there are reasons to doubt the prevalence figures Califano cites without attribution. Since 1969 there have been over a dozen surveys on drug use in the Netherlands, two of which offer support for his claim. One 1984 survey found that 4.4% of Dutch youth had tried cannabis, while a different 1992 survey by the Dutch National Institute on Alcohol and Drugs (NIAD) found that 10.6% had done so.[4] However, prevalence figures in the other surveys varied widely. As NIAD itself admits, most of the surveys used different samples and methods, which may make their findings non-comparable from year to year. The only survey on drug use that employs rigorously comparable sampling and methods each time it is administered is funded by the Dutch Ministry of Health and conducted on the general population of Amsterdam (the city with the highest concentration of coffeeshops). These surveys found that the proportion of youth aged 12–15 years who had ever tried cannabis was 4.7% in 1987, 2.9% in 1990, and 5.8% in 1994. Among youth aged 16–19 years, the figures were 25.5% in 1987, 21.7% in 1990, and 28.7% in 1994.[5] Rather than a '200%' jump in cannabis use, these surveys show first a modest decline in lifetime prevalence and, four years hence, a modest increase.

Califano neglects to note that, like most drug users in all age groups and countries, about two-thirds of Dutch youth with lifetime prevalence have discontinued their use, reporting no use of cannabis in the 30 days prior to the survey. Further, he did not compare Dutch cannabis use rates with those in countries with different cannabis policies so that the

[4] Both surveys were conducted on the age group 10–18 years and are cited along with eight others in a publication funded by the Dutch National Institute on Alcohol and Drugs: de Zwart WM, Mensink C (1996). *Jaarboek verslaving, 1995* [Yearbook on Addiction, 1995]. Houten/Eiegem, NL: Bohn Stafleu Van Loghum, p. 59.

[5] Figures for these 1987, 1990, and 1994 surveys are given in the final report of the third: Sandwijk JP, Cohen PDA, Musterd S, Langemeijer MPS (1995). *Licit and Illicit Drug Use in Amsterdam: Report of a Household Survey in 1994 on the Prevalence of Drug Use Among the Population 12 Years and Over*. Amsterdam: Institute for Social Geography, University of Amsterdam, p. 157.

meaning of such figures might be clear. For example, the US National Household Survey on Drug Abuse, sponsored by the National Institute on Drug Abuse, found that marijuana use among American youth rose sharply from 14% in 1972 to 30.9% in 1979.[6] Califano does not point out that lifetime prevalence of marijuana use is *higher* in the USA, where hundreds of thousands of people are arrested for marijuana offences each year, than in Amsterdam, where small amounts of cannabis can be sold to anyone over 18 in hundreds of coffeeshops. Thus, Califano's claim that 'legalisation' causes increases in drug use does not withstand empirical scrutiny. On the contrary, existing evidence suggests that either there is no relationship between drug policy and drug consumption or that the Dutch policy actually holds down cannabis use by removing the allure of the forbidden fruit that has helped attract so many young users in the USA.

Califano frames his article in terms of the 'myth' that 'the Netherlands has a successful legalization policy'. In doing so, he misrepresents Dutch drug policy. The 1976 drug law that created current Dutch policy was never intended to legalise drugs per se. Rather it sought to adopt a 'pragmatic' policy to minimise the harms of drug use. One of the law's core objectives was to 'separate' the market for cannabis (marijuana and hashish) from the market for cocaine and heroin so that young people experimenting with cannabis would not be drawn into the black-market world where hard drugs were available.[7] What may be so troubling for Califano and others who favour punitive prohibition is that the Dutch 'separation' policy appears to have succeeded. For example, the rates of heroin addiction and overdose deaths in the Netherlands have remained among the lowest in Europe throughout the more than two decades since cannabis use was effectively decriminalised and the average age of addicts has crept upward.[8]

Califano claims that the Dutch public and politicians share his assessment of decriminalisation as a dangerous failure: 'Dutch officials and citizens have expressed alarm about rising use of marijuana among minors and increasing crime and drug tourism. As a result, Parliament has moved to cut in half the number of marijuana coffeehouses, raise the minimum age requirement for purchasing cannabis from 16 to 18, and reduce the amount of marijuana that an individual can buy from 30 grams to 5 grams.' This assertion blends bits of truth with several incomplete and misleading statements. *Some* Dutch officials and citizens have criticised Dutch drug policy, just as more and more Americans have criticised US drug policy. All democratic societies worthy of the name will have debate and disagreement about all public policies. Califano chose not to mention, however, that opponents of Dutch drug policy are a minority – primarily from the small, religious parties of the Right. The parties of the centrist coalition that now comprise a clear majority in Parliament support the Dutch approach to drug problems, despite intense international pressure against it (much of it orchestrated by US officials and antidrug activists like Califano).[9] Most members of the Dutch Parliament, like most Dutch voters, understand that whatever problems are associated with 'drug tourism', to take one of

[6] National Institute on Drug Abuse (1991). *National Household Survey on Drug Abuse: Main Findings, 1990*. Washington, DC: US Department of Health and Human Services, Public Health Service, Alcohol, Drug Abuse, and Mental Health Administration, pp. 20–21.

[7] For a thorough account of the history of the revised Dutch Opium Act of 1976 which created *de facto* decriminalisation of cannabis, see Scheerer S (1978). The new Dutch and German drug laws: Social and political conditions for criminalization and decriminalisation. *Law and Society Review* 12: 585–606. For details on how the policy has operated, see van de Wijngaart G (1988). The social history of drug use in the Netherlands: Policy outcomes and implications. *Journal of Drug Issues* 18: 481–95; Ruter F (1988). Drugs and the criminal law in the Netherlands. In JU van Dijk , Charles Haffmans, Fritz Rüte, Julian Schutte, Simon Stolwijk (Eds) *Criminal Law in Action: An Overview of Current Issues in Western Societies*. Arnhem, NL: Gouda Quint, pp. 147–65; Engelsman EL (1989). Dutch policy on the management of drug-related problems. *British Journal of Addiction* 84: 211–18; and Leuw E (1991). Drugs and drug policy in the Netherlands. In M Tonry (Ed.) *Crime and Justice* 14: 229–76. Chicago: University of Chicago Press.

[8] European Monitoring Centre for Drugs and Drug Addiction (1996). *Annual Report on the State of the Drugs Problem in the European Union*. Lisbon, Portugal; for an accessible overview of the nature and effects of the Dutch policy, also see *The Dutch Drug Policy: Continuity and Change* (1996). The Hague: Ministry of Health.

[9] While the Christian Democratic Party is not presently in the governing majority coalition, it has been part of most such coalition governments in recent decades, including those that enacted and defended the current drug policy.

Califano's examples, are largely the consequence of punitive prohibition policies in other nations. Califano also neglected to note that there are many other respectable Dutch critics – outside and inside Parliament – who argue for an *expansion* of decriminalisation. This viewpoint was given equal billing and a respectful reception at a formal panel on drug policy at the Royal Dutch Academy of Science in the week that Califano's article appeared.

The recent changes in Dutch drug policy do not signal new or rising opposition to cannabis decriminalisation in the Netherlands. Those changes were supported by most Dutch policy makers, including many who support decriminalisation. In keeping with the 'pragmatic' philosophy that gave rise to the policy, Dutch policy makers have always experimented and made adjustments they thought necessary for optimum public health. Dutch authorities have quickly closed coffeeshops that tolerate the presence of drugs other than cannabis, that become a nuisance to the neighborhood, or that otherwise violate the rules.

DECRIMINALISATION AND CRIME

Califano cites Dutch crime rates as further proof that decriminalisation is destructive policy. He asserts that, contrary to popular belief, cannabis decriminalisation does not substantially reduce crime: 'Any short-term reduction in arrests after a repeal of criminal drug laws would quickly evaporate as drug use increased and the criminal conduct – assault, murder, rape, child molestation, violence, vandalism – that drug use spawns exploded.' The facts do not support such blanket assertions.[10] In the USA, 11 states effectively decriminalised marijuana use in the 1970s. Careful analyses of the data from those states show no support for Califano's predictions. There was no difference between rates of drug use, addiction, or crime in these 11 states and those in neighbouring states that did not decriminalise.[11] In the Netherlands, large-scale trafficking in cannabis and all other drugs remains criminalised, so the Dutch face the same sorts of crime and violence associated with illicit drug markets that other societies face. The Netherlands has seen increased crime in recent years – but no more, and often less, than other industrialised democracies in Europe that have strict drug laws. Conversely, the USA has the harshest drug laws of any industrialised country in the Western world, and yet suffers violent crime rates many times higher than those in the Netherlands.[12] Califano's argument, therefore, also fails the test of common sense.

Califano claims that 'Ms. Bonino's argument that adoption of the Dutch policies by the EU would reduce crime is contradicted by the Netherlands' own experience'. To support this point he writes 'The Justice Ministry acknowledges a steady increase in drug-related crime during the past decade'.[13] He then cites an alleged increase in 'gun-related deaths' in the Netherlands, 'from 73 in 1991 to 100 in 1992, virtually all of them drug-related'. Assume for the sake of argument that not one of these additional gun deaths had anything to do with alcohol or accidents or money or mental disorder or jealousy or any of the usual causes. And let us leave aside the inconvenient fact that even 100 gun-related deaths – in all of The Netherlands – is less than the number that occur every year in almost any major American city. Finally, let us also leave aside the unsupportable notion

[10] Space limitations prevent a full critique of the claim that marijuana use 'spawns' murder, rape, child molestation, violence, etc.

[11] See, for example, Single EW (1981). The impact of marijuana decriminalisation. In Y Israel, F Glaser, H Kallant, R Popham, W Schmidt, R Smart (Eds) *Research Advances in Alcohol and Drug Problems* 6: 405–24; Johnston LD, Johnston D, Bachman J, O'Malley P (1981). *Marijuana decriminalisation: The Impact on Youth, 1975–1980, Monitoring the Future Occasional Paper 13.* Ann Arbor: University of Michigan; Zimmer L, Morgan JP (1997). *Marijuana Myths, Marijuana Facts: A Review of the Scientific Evidence.* New York: The Lindesmith Center.

[12] US homicide rates, for example, traditionally have been about 15 times higher than those of the Netherlands. See, for example, Gartner R (1990). The victims of homicide: A temporal and cross-national comparison. *American Sociological Review* 55: 92–106. See also Currie E (1985). *Confronting Crime: An American Challenge.* New York: Pantheon; Wolfgang ME (1986). Homicide in other industrialized countries. *Bulletin of the New York Academy of Medicine* 62: 400–12; and World Health Organization (1996). *World Health Statistics Annual: Vital Statistics and Causes of Death.* Geneva: WHO.

[13] Mr Califano neither names nor quotes a Justice Ministry official or document. To check on this, we showed Califano's article to a Dutch Ministry of Justice scientist who said, 'This man is insane'.

that the effects of *cannabis* – the only drug the Dutch have decriminalised – 'causes' users to kill people with guns.[14] Taking Califano's argument at face value, a basic question of plausibility arises: If decriminalisation of cannabis is somehow the cause of increases in gun-related deaths, why would this increase only show up in *1992* when decriminalisation began *15 years earlier*? If decriminalisation of cannabis had anything to do with gun violence, this would have been clear well before 1992.

Immediately following his sentence on increases in gun-related deaths, Califano writes that 'By 1994 Amsterdam had twice as many police officers relative to its population as the average American city'. Even if we assume this figure is accurate, Califano's inference is a *non sequitur*. He seems to believe that having more police could only be caused by 'drug-related' crime, but the Dutch have less such crime than the USA. Further, he seems to think that having more police on the streets, which most Americans clamour for, is an index of danger rather than of safety. One could more logically argue that a proportionately higher number of police in Amsterdam illustrates one of the benefits of decriminalisation: Instead of spending law enforcement resources surveilling, arresting, and processing thousands of cannabis users each year, the Dutch are able to use their police to make their streets safer, as both their crime statistics and the millions of American tourists who have visited there attest.[15]

Curiously, Califano fails to mention that what passes for 'drug-related crime' in the USA often stems from the combined push of high unemployment in America's inner cities and the pull of high profits in illicit drug markets. Under prohibition, drug sales offer huge profits and thus incomes that are otherwise unattainable to marginalised people. With such high stakes and without the possibility of legal regulation, disputes are too often settled by violence. Califano's case rests on a kind of pharmacological determinism according to which the mere availability of illicit drugs – indeed, one illicit drug, cannabis – is the direct cause of violence and crime. Had he consulted the scientific literature on drugs and crime, Califano would have discovered, for example, that even most 'crack-related homicides' stem from the exigencies of unregulated illicit drug markets in deeply impoverished communities, not from the psycho-pharmacological effects of crack itself.[16]

Califano further claims that decriminalisation of cannabis has increased the number of criminal organisations in the Netherlands. He says that 'From 1988 to 1993, the number of organized criminal groups in the Netherlands jumped from three to 93'. He does not explain what he means by the vague term 'organized criminal groups'. He cites no source for the figures, quotes no official, and entertains no other reason why the number might have increased. The conceptual difficulties involved in defining 'organised crime' are well documented in the criminology literature and easy to understand.[17] Every small-time burglary that involves an accomplice and

[14] This claim is paradoxical because one of the principal 'harms' of marijuana that Mr Califano elsewhere worries about is the so-called 'amotivational syndrome', i.e. marijuana allegedly makes users lethargic, stupefied, unmotivated, etc. In terms of psycho-pharmacological effects, it is hard to have it both ways – murderous violence *and* lethargy, etc.

[15] Califano also omitted from his essay the fact that by far the strongest association between drug use and crime is for a legal drug – alcohol. In the USA, alcohol is present in half or more of the murders, rapes, and assaults that he attributes to illicit drugs. But even this robust statistical association bears scrutiny, for correlation is not the same as causation. As Robin Room has pointed out, the nature of the alcohol-crime nexus depends on how one asks the question. If one asks, 'How many criminal events involve alcohol?', the answer is 'lots.' But if one asks, 'How many drinking events involve crime?', the answer is 'precious few.' Other countries have higher per capita consumption of alcohol but nowhere near the rates of murder, rape, and assault found in the USA. This shows that the relationship between alcohol use and crime is contingent on cultural and social structural factors. Thus not even alcohol can be understood as a direct cause of crime. See MacAndrew C, Edgerton R (1969). *Drunken Comportment*. Chicago: Aldine; Room R, Collins G (Eds) (1983). *Alcohol and Disinhibition*, NIAAA Research Monograph 12. Rockville, MD: National Institute on Alcohol Abuse and Addiction; Levine HG (1984). The alcohol problem in America. *British Journal of Addiction* 79: 109–19; Reinarman C, Leigh BC (1987). Culture, cognition, and disinhibition: Sexuality and alcohol in the age of AIDS. *Contemporary Drug Problems* 14: 435–60.

[16] One such study was funded by the US Department of Justice (used as source by Mr Califano), which chose to print and circulate it as an exemplary piece of research: Goldstein PJ, Brownstein HH, Ryan PJ, Bellucci PA (1989). Crack and homicide in New York City, 1988. *Contemporary Drug Problems* 16: 651–87.

[17] For a useful overview, see Cressey DR (1972). *Criminal Organization: Its Elementary Forms*. New York: Harper and Row.

has been planned may fairly be called 'organised.' Even the more colloquial definition of 'organised crime,' meaning the Mafia or *la cosa nostra*, is problematic. Is it one big organisation or many smaller ones? Are they linked formally, informally, or not at all? How do Mafia families and alliances change over time?[18] Law enforcement has its hands full trying to identify and map criminal organisations because, of necessity, they change form and personnel frequently.[19] Three sub-mafias become one, or one becomes three; drug-selling operations merge or split off. Moreover, police departments periodically change their operational definitions of 'criminal organisation' for internal purposes of record-keeping, report-writing, or fund-seeking.

Had Califano checked with the Dutch Ministry of Justice, he would have discovered that just such conceptual and definitional problems were the actual cause of his 'jump' in the number of 'organized criminal groups . . . from three to 93' between 1988 and 1993. In 1988, the newly created Central Investigation Information bureau (CRI), the intelligence arm of the Dutch police, produced its first estimate of the number of organised criminal groups in the Netherlands. They used five criteria, and to be counted under their 1988 definition a criminal group had to meet all five criteria. By means of this definition they found a total of three organised criminal groups in the country. This is apparently the source for the 1988 figure to which Califano referred. What he did not refer to, however, was the fact that CRI and Justice Ministry officials knew at the time that this number was far too low, even for a low-crime country like the Netherlands. Therefore, the next year the CRI added three additional criteria, but reduced the number of criteria required for a criminal organisation to two.[20] Under the new definition, a criminal organisation became any group engaging in criminal activities that fit *any two* of the eight criteria. This new definition raised the 'official' number of criminal organisations in the Netherlands to 599, literally overnight. This number, Dutch officials concluded, was far too high. By 1993, the Dutch police had further revised their methods for estimating the number of criminal organisations and came up with the range of 90–100, apparently the second figure to which Califano referred. (He neglected to note that the precipitous 'drop' from 599 to 90–100 occurred under cannabis decriminalisation.) As a Parliamentary Commission Report makes clear, the alleged 'jump' in organised crime that Califano takes as a self-evident consequence of cannabis decriminalisation was instead only an artefact of definitional shifts. Either Califano had not done enough homework to get the facts or he deliberately distorted them to serve his argument.

DECRIMINALISATION AND DRUG CONSUMPTION RATES

Califano repeatedly claims that decriminalisation encourages use of cannabis and other illicit drugs. Any statement to the contrary, he argues, is a 'myth'

[18] See the award-winning book on this subject by Prof Dr Henner Hess of the University of Frankfurt, *Mafia and Mafiosi: The Structure of Power* (Westmead, UK: Saxon House, 1973).

[19] See, e.g., Adler P (1993). *Wheeling and Dealing: An Ethnography of an Upper-Level Drug Dealing and Smuggling Community*, 2nd Ed. New York: Columbia University Press; Dorn N, Murji K, South N (1992). *Traffickers: Drug Markets and Law Enforcement*. London: Routledge.

[20] The Dutch Central Investigation Information bureau (CRI) was formed in 1987 and produced its first estimate of the number of 'organised criminal groups' in 1988. That estimate used five criteria: a hierarchical structure; sanctions for non-compliance with its rules; a system for laundering money; evidence of instigation of corruption; and repeated criminal activity. Using this definition, CRI found a total of three criminal organisations in the Netherlands, which they considered far too few. So in 1989, the CRI adjusted its methods of categorisation to include eight criteria, but defined 'organised criminal group' as any organisation that satisfied any two of these eight. Using this looser definition, such groups numbered 599, which officials felt was far too many if the term 'organised criminal group' was to have any meaning. Further refinement of their methods resulted in an estimate of between 90 and 100 such groups by 1993. This process of shifting and refining measures is fully explained in the final report of the Dutch Parliamentary Commission on Methods of Police Investigation (1996). *Inzake Opsporing: Enquetecommissie opsporingsmethoden* [About Criminal Investigation: Final Report of the Parliamentary Commission on Methods of Police Investigation]. den Haag, NL: Sdu Uitgevers, pp. 26–37. Like the criminology literature, the Parliamentary Commission report notes the conceptual difficulties involved: 'organized criminality is a diffuse and constantly changing network of individuals and groups' (p. 35).

that 'defies not only experience but human nature'. To support this assertion, he writes that 'From 1984 to 1992, Dutch adolescent marijuana use nearly tripled.' As I noted earlier, the best evidence from Dutch drug use prevalence surveys does not support this assertion. But Califano also cites the case of Italy, where, he claims, possession of illicit drugs, 'including heroin, was decriminalized in 1975,' and which now 'has some 300,000 heroin addicts, and the highest rate of heroin addiction in Europe'. No one knows precisely how many heroin addicts there are in Italy, but existing prevalence data do not support the notion that heroin addiction is significantly more widespread there than in many other comparable European societies where heroin remains criminalised. More importantly, while it is true that the Italian government did decriminalise personal possession of small quantities of illicit drugs in 1975, Califano does not mention that Italy also *re*-criminalised personal possession of these drugs in 1985. Only in 1993 did Italian voters pass a popular referendum that again decriminalised drug possession, and even this has been undermined by more recent extra-judicial sanctions that effectively criminalise drug use.[21] This means that whatever Italy's actual current rate of heroin addiction may be, it developed largely under *criminalisation*, not decriminalisation.

Califano then turns to the USA. He writes: 'In the 1970s, the United States *de facto* decriminalized marijuana. A commission appointed by President Richard Nixon recommended decriminalisation, as did President Jimmy Carter. The result? A soaring increase in the use of marijuana, particularly among the young.' Three parts of this statement are correct. First, President Nixon did convene the National Commission on Marijuana and Drug Abuse, comprised of distinguished public figures and scientists, including many conservative Republicans. Second, after two years of exhaustive study, the Commission did conclude that the 'cure' of prison was worse than the 'disease' of marijuana use, that law enforcement was not the answer to youthful drug use, and that marijuana use should be decriminalised. Third, President Carter did advocate decriminalisation of marijuana. In August, 1977, Carter wrote to Congress, 'Penalties against possession of a drug should not be more damaging to an individual than the use of the drug itself; and where they are, they should be changed. Nowhere is this more clear than in the laws against possession of marijuana in private for personal use.'[22]

Califano's key assertions on this point, however, are factually false. The USA had not at all '*de facto* decriminalized marijuana' in the 1970s. In fact, millions of Americans were arrested and imprisoned on marijuana charges in that decade, some serving as long as 10 years in prison for as little as two marijuana cigarettes. While 11 states did reduce criminal penalties for marijuana possession, 39 others (78%) did not.[23] At a more basic level, to attribute the rise in marijuana use in the 1970s to decriminalisation is to stand history on its head. What little decriminalisation the USA had was itself largely a result of the rise of youthful marijuana use that began in the late 1960s.

Califano argues that the notion that 'greater availability and legal acceptability of drugs . . . would not increase use' defies 'human nature'. Such an shallow concept of 'human nature' denies to humans any self-regulatory powers while granting omnipotence to mere molecules. Califano implies that harsh criminal laws are the only thing preventing Mom and Dad and the kids from sticking syringes full of heroin in their arms. But the epidemiological evidence shows

[21] See, e.g., Arnao G (1997). Extra-judicial repression of drug users in Italy. *International Journal of Drug Policy* 7: 139–41.

[22] President's Message to Congress on Drug Abuse (1977). *Strategy Council on Drug Abuse, Federal Strategy for Drug Abuse and Drug Traffic Prevention*. Washington, DC: US Government Printing Office, pp. 66–7; see also Drug law revision [text of President Carter's message to Congress] (1977), *Congressional Quarterly Almanac* 32: 41E et passim; and, for more details, see Bertram E, Blachman M, Sharpe K, Andreas P (1996). *Drug War Politics*. Berkeley and London: University of California Press.

[23] Further, if punitive prohibition laws are what keep young people away from marijuana, why have the last four annual drug use prevalence surveys of 8th, 10th, and 12th graders in the USA shown marijuana use rising again – after some of those 11 states had again toughened their drug laws – and among precisely the generation of young Americans exposed to more antidrug education and advertising than any other in history? See Johnston LD, O'Malley PM, Bachman JG (1996). *National Survey Results on Drug Use from the Monitoring the Future Study, 1975–1995, Volume 1: Secondary School Students*. Rockville, MD: National Institute on Drug Abuse.

that the vast majority of people have no interest in illicit drugs, and that even most of those who experiment with the riskiest of drugs do not go on to regular use, much less abuse and addiction.[24] Human drug use and abuse are complex phenomena; mere availability is not destiny.

Although Califano never uses the word 'poverty', the most frequent use of the most risky drugs has always been concentrated in the inner cities, among the most impoverished and vulnerable parts of the population. Yet even there, where illicit markets are common and hard drugs widely available, the majority of residents does not use them. Most people are invested in their lives and simply do not care to let drugs disrupt them.[25] This is why drug treatment professionals have long said that the best drug abuse prevention program ever invented is gainful employment. For Califano to continue to insist in the face of all the evidence that the roots of drug problems are pharmacological is to live in a state of sociological denial.

PUBLIC HEALTH CONSEQUENCES OF DECRIMINALISATION

Califano also claims that decriminalisation has adverse consequences on public health. To buttress this assertion, he cites what he calls a Swiss legalisation 'experiment' in 1987, in which a public park in Zurich was designated for heroin addicts and where sterile syringes, condoms, and services were offered. He claims the results were 'disastrous' and that 'By 1992, the number of addicts had rocketed to 20,000' and overdose deaths had risen. There is a kernel of truth here in that the park he refers to did create problems and was closed. But again Califano tells only those parts of the story that suit his argument. The Swiss government never legalised any drug. Rather, they merely attempted to isolate injection drug users in one locale by instructing police not to interfere with them in part of one park in one city. They did this because the number of addicts had already 'rocketed.' Swiss public health workers did distribute sterile syringes as well as condoms there, but that is not 'legalisation'; it is a proven public health strategy for reducing the spread of AIDS that is practised by governments all over Europe and in about 100 US cities.[26] The main problems with Zurich's 'needle park' (including overdoses) were due in large part to the migration of addicts and dealers from other parts of the city, from Switzerland as a whole, and even from other parts of Europe where strict drug laws were in effect.

The problems with the park did *not* cause the Swiss to abandon their attempts to find more effective and humane ways of dealing with heroin addiction. After the park was closed, Zurich and 13 other Swiss cities set up experimental out-patient clinics in which sterile syringes and carefully measured, unadulterated doses are provided to chronic heroin addicts who had failed in treatment and showed 'marked deficiencies in terms of health and social integration'. The Swiss Federal Office of Public Health funded a rigorous, two-year follow-up evaluation of these clinics that was approved by the Swiss Academy of Medical Sciences and conducted by a team of independent research scientists.

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[24] See, e.g., the high rates of discontinuation (i.e. the drop-off between lifetime prevalence and last-year and last-month prevalence) in *National Household Survey on Drug Abuse: Main Findings, 1994* (Rockville, MD: Substance Abuse and Mental Health Services Administration, Office of Applied Studies, 1995), and the drug use prevalence surveys of the general population of Amsterdam (Sandwijk et al., 1990, 1995), op cit., note 5.

[25] On the notion that 'stake in conventional life' mitigates against drug abuse and addiction, specifically in the case of cocaine, see, e.g. Waldorf D, Reinarman C, Murphy S (1991). *Cocaine Changes: The Experience of Using and Quitting.* Philadelphia, PA: Temple University Press; with regard to crack and more generally, see Reinarman C, Levine HG (Eds) (1997). *Crack in America: Demon Drugs and Social Justice.* Berkeley, CA: University of California Press.

[26] On the efficacy of needle exchange in reducing the spread of AIDS, see, e.g., Des Jarlais D, Friedman S (1992). AIDS and legal access to sterile injection equipment. *Annals of the American Academy of Political and Social Science* **521**: 42–65; US Centers for Disease Control and Prevention (1993). *The Public Health Impact of Needle Exchange Programs in the US and Abroad.* Rockville, MD: National AIDS Clearinghouse, Centers for Disease Control and Prevention; and Watters JK, Estilo M, Clark G, Lorvick J (1994). Syringe and needle exchange as HIV/AIDS prevention for injection drug users,. *Journal of the American Medical Association* **271**: 115–20. It is also worth mentioning, as Mr Califano knows, that every government and scientific commission that has examined the medical and scientific literature on the efficacy of needle exchange, including one set up by President Reagan, has concluded that needle exchange does help prevent HIV/AIDS – without

The findings from this study are remarkably positive. Among the more than 1,000 enrolled addicts, 'illicit heroin and cocaine use rapidly and markedly regressed', while their contact with other addicts and the drug world 'declined massively.' Their 'criminal offenses decreased by about 60%' in the first six months. The number able to sustain full-time employment 'more than doubled' while the number unemployed fell from 44% to 20% and one-third of those on welfare were able to get off. Both their physical and mental health improved and their debts 'were constantly and substantially reduced'. There was not a single fatal overdose among the study population across hundreds of thousands of injections over two years. Moreover, a cost-benefit analysis of this experiment showed a net average saving to Swiss taxpayers of approximately US$20 per patient per day.[27] In fact, the results of this experiment are so promising that Frankfurt, Germany and other cities have begun to open similar heroin maintenance clinics.

Califano not only ignores all these positive results, he avoids any mention of the fact that the new Swiss clinics reduce the needle-sharing practices that spread AIDS and other diseases. Instead, he turns to Italy, where, he claims, '70 percent of AIDS cases are attributable to drug use'. He gives no source for this high figure, but he implies, again, that it is caused by decriminalisation. As noted earlier, however, drug use was *re*-criminalised in Italy for most of the period since 1985. Thus, whatever the correct number of drug-related AIDS cases, it is difficult to blame them on decriminalisation. To make valid inferences about the causes of drug-related AIDS cases, one would have to study (among other epidemiological factors) Italian laws governing syringes and how they are applied as well as the relative presence or absence of needle exchange programmes. In nearly every country, there is an inverse relationship between the availability of sterile injection equipment and the rates of HIV/AIDS among injection drug users.

CHILDREN AND DRUG USE

Califano sounds alarms when he claims that decriminalising adult drug use would encourage children to use drugs. This is a phoney issue. All parties in the drug policy debates in Europe want to decrease the likelihood of all drug use among children. Virtually every drug policy reform, decriminalisation, and even legalisation proposal calls for various measures to keep drugs out of the hands of the young as much as possible. Califano is right to say that this will not be easy; he correctly notes the difficulties of keeping alcohol and tobacco out of the hands of teenagers in the USA. But decriminalisation does *not* block governments from making even better efforts to prevent sales of drugs to minors.

On the contrary, under drug prohibition, governments have almost no ability to regulate supply and distribution of illegal drugs, for that is left to black-market dealers. Indeed, a large survey sponsored by Califano's own organisation in 1996 found that 42% of American teenagers 'find marijuana easier to buy than either beer or cigarettes'.[28] In fact, the more punitive drug prohibition is, the more drug use is pushed underground where it is harder to deal with. The *de facto* decriminalisation of cannabis in the Netherlands gave federal and local police as well as regulatory and tax agencies *enhanced* powers over cannabis sales.

[27] The source for all figures and quotations cited is Uchtenhagen A, Gutzwiller F, Dobler-Mikola A (Eds) (1997). *Programme for a Medical Prescription of Narcotics: Final Report of the Research Representatives.* Berne, Switzerland: Swiss Federal Office of Public Health and Addiction Research Institute, Zurich. For further background research, see Rihs-Middel M (1994). Medical prescription of narcotics in Switzerland. *European Journal on Criminal Policy and Research* 2: 69–88 ; Swiss Federal Office of Public Health (1995). *Status Report on the Medical Prescription of Narcotics.* Liebefeld, Switzerland: Swiss Federal Office of Public Health; Killias M, Uchtenhagen A (1996). Does medical heroin prescription reduce delinquency among drug addicts?: On the evaluation of the Swiss heroin prescription project and its methodology. *Studies on Crime and Prevention* 5: 261–72; Klingeman H (1996). Drugs treatment in Switzerland: Harm reduction, decentralization, and community response. *Addiction* 91: 723–36; Perneger TZ, Giner F, del Rio M, Mino A (1997). *Heroin Maintenance Under Medical Supervision: An Experimental Program for Heroin Users Who Fail in Conventional Drug Abuse Treatments.* Geneva: Institute of Social and Preventative Medicine, University of Geneva.

[28] *National Survey of American Attitudes on Substance Abuse II: Teens and Their Parents.* New York: Center on Addiction and Substance Abuse, 1996, p. 2.

They can, for example, close down coffeeshops immediately if they sell cannabis products to those under legal age or even if they advertise their wares.

The fundamental fallacy at the heart of this and most of Califano's other arguments is the notion that harsh criminal laws have kept either illegal or legal drugs out of the hands of teenagers who want them. All available historical evidence suggests that no drug policy is capable of this. But as noted earlier, fewer young people in Amsterdam have tried cannabis than in the USA, with all its harsh laws and long prison sentences. After two decades of decriminalisation of cannabis, there is simply no evidence of the 'savage impact' on Dutch youth that Califano so confidently predicts.

Drug problems are too serious to be left to the simplistic soundbites of demogogues. The idea that drug problems are the same everywhere, that all people and cultures are uniformly vulnerable, and that American-style punitive prohibition is the right answer for all of Europe is palpable nonsense. The existing variation in drug policy among EU countries constitutes a series of natural experiments that should be carefully studied. The results could tell us a great deal about what is likely to work under what conditions. At the very least, the evidence to date suggests the need for a full democratic discussion of the Dutch model and all other drug policy options – not an attempt to choke off debate by means of manipulated, misleading, and incomplete information.

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