

naive. Several studies demonstrate that a significant proportion of heroin users were engaging in criminal behaviour before they became dependent on heroin and a significant number continue to engage in criminal activities even after their regular (legal) supply of heroin is assured (Dobinson & Ward, 1985; Wardlaw, 1981; Stimson & Oppenheimer, 1982). The use of heroin in the present circumstances is a risky business likely to engage people who have a propensity to take risks. Its legal supply is unlikely to entirely circumvent such a propensity.

Finally, the notion that one of the reasons we should review our drug laws is the proscription presently placed on physicians who might otherwise want to prescribe these drugs misconstrues the source of such reformist tendencies. In the main, physicians involved in the treatment of heroin addiction have not been prominent in agitating to have heroin legalised, nor have those involved in the treatment of the terminally ill. In the main, the pressure to reform our drug laws has come from people who are not involved in the rehabilitation of those dependent on drugs, but rather have a legal or criminological orientation.

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Rejoinder

Robert E. Marks

In arguing for a reform of our laws against drug use, I have asserted that a concern with numbers of drug users or with amounts of drug used above all else has resulted in a costly, misguided and ineffective prohibitionist policy. I argue that we should rather be concerned to minimise social costs (costs to all Australians, including drug users), and that strictly-controlled drug availability is far preferable to the present costly and ineffective prohibition. David Hawks, in contrast, appears to want to reduce the numbers of drug users and the amount of drugs used, no matter what the costs to all of us.

As Professor Hawks acknowledges, all indicators of drug use in Australia and especially in New South Wales suggest that illicit drug use has continued to increase, despite the laws against drug use and the expenditure of millions of dollars of taxpayers' money in a vain attempt to enforce these laws. Whatever the exact number of users in any year, the numbers have grown over the past twelve years at least, as have the costs associated with the existing policy (Marks, 1991).

The large-scale importers and their financiers are drawn to heroin importation because of its profitability. Eliminate the profits, and they will direct their attentions elsewhere. Even if a residual demand remains, so long as the bulk of the users are supplied with legal, pharmaceutical heroin at low price, the residual demand for black-market heroin will be insufficient to sustain the criminal organisation underlying the existing patterns of supply. Non-economists appear to believe that any remaining demand will allow the black market to survive, but this is mistaken. The unscrupulous entrepreneurs will have turned their attentions to pastures new, second-best because they only become attractive after the end of prohibition breaks the profitability of existing black markets.

As discussed by Marks (1991), the cost of provision will depend on the level of support provided with the doses. Based on figures for methadone maintenance programs in Sydney, the weekly cost per user could be as low as \$79 for a bare-bones facility, up to a maximum of \$308 for a full-support scheme, in 1990 dollars (Baldwin, 1987).

Governments are always tempted to increase taxes for revenue-raising purposes or to sell off government monopolies to a private enterprise at a profit. (Economists call it rent-seeking behaviour.) But even if a future administration succumbed, and the price of legal heroin rose, say to the level of present-day black-market heroin, users would still be better off with pharmaceutical heroin of known dosage. The issue is

one of damage minimisation: ideally, government-supplied heroin would be sold at cost, with no subsidy and no surplus.

Inelastic demand means that the effect of higher or lower prices on demand — on the quantity that consumers are willing to buy — is small. Increasing tolerance may result in some users demanding greater quantities of heroin, but if the price they are charged equals the cost of provision, then there is no higher cost to the taxpayer. It is important to emphasise that a policy of regulated supply is motivated by the goal of minimising the social cost of drug use, not to minimise the total number of drug users, regular or occasional, or to minimise the total amount of heroin used.

It is true that episodic or occasional users might be reluctant to identify themselves to obtain regulated heroin, but without established black markets to supply a large number of regular users (who would be obtaining legal heroin cheaply, and hence not be buyers on the black market), I believe that any shy occasional users would find a clear choice: identify yourself or become an even more occasional user. There would be insufficient profit, given the high transaction costs, for a black market to maintain itself supplying shy occasional users.

We are not as ignorant about the occasional user as Professor Hawks suggests: further evidence is becoming available (Marks, 1990). Professor Hawks concedes that occasional users seldom present to treatment agencies or appear in courts, but he does not advance any reason why we should then continue to be concerned about occasional drug use, apart from his implicit goal of attempting to make the prohibition effective at any cost.

I first commented on the longer duration of methadone over heroin in a paper published 17 years ago (Marks, 1974:78-9), which refutes any suggestion that I am ignorant of the pharmacological and physiological distinctions between the two drugs. I repeat: in my opinion the most significant distinction is that one is legal and the other is prohibited. As I argued in the article, this distinction has the result of affecting

users medically and legally to a much greater extent than the durations of the drugs' effects (and the ease of withdrawal). It also underlines the artificial distinctions our laws have resulted in.

People will continue to take calculated risks whatever the practical outcome of the debate over heroin availability. My proposal, however, will reduce the risks to users associated with drug use, and the costs to the Australian community at large. If we wish to reduce the consumption of drugs, we should focus on reducing the demand for drugs; the existing policy unsuccessfully attempts to squeeze off supply, at a high cost to us all.

Throughout my *Policy* article I espoused a utilitarian goal of urging policy reform that will minimise social costs. Libertarians would go further and say that individuals should be free to engage in any behaviour, so long as it does not directly adversely affect others: individuals should be free to choose their own paths to hell, if that's the direction they want to travel in.

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Notable & Quotable

From an article in the current issue of the quarterly, Dissent, by ex-socialist economist Robert Heilbroner:

Capitalism has been as unmistakable a success as socialism has been a failure.

... Here is the part that's hard to swallow. It has been the Friedmans, Hayeks, von Miseses who have maintained that capitalism would flourish and that socialism would develop incurable ailments. All three have regarded capitalism as the 'natural' system of free men; all have maintained that left to its own devices capitalism would achieve material growth more successfully than any other system. From this admittedly impressionistic and incomplete sampling I draw the following discomfiting generalization: The farther to the right one looks, the more prescient has been the historical foresight; the farther to the left, the less so.