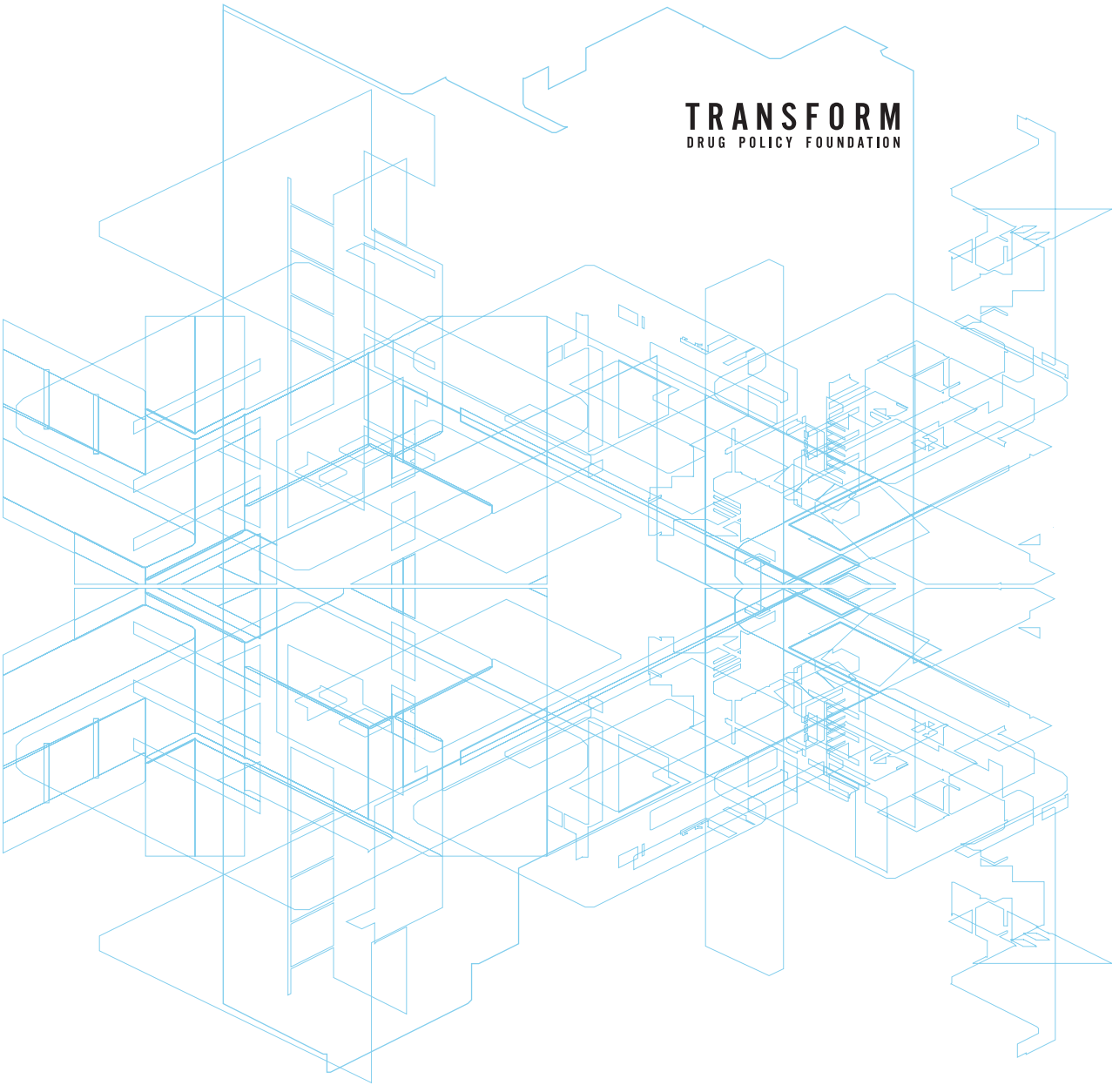

TRANSFORM
DRUG POLICY FOUNDATION

After the War on Drugs:

Blueprint for Regulation

EXECUTIVE SUMMARY

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The full document can be downloaded for free from **www.tdpf.org.uk**
To request a hard copy please email **info@tdpf.org.uk**
Translations are available on request

About Transform

Transform's vision is a world in which the War on Drugs is over, and effective and humane systems of drug regulation have been established.

Our medium term objectives are:

- To explore alternatives to drug prohibition, and build trust in models of regulation
- To bring together a coalition calling on governments and the UN to count the cost of current drug policy
- To reframe the drug policy debate within a wellbeing perspective that considers the impact of policy on human rights, human security and human development

Get involved

To find out how you can help end the War on Drugs, as a Transform supporter, volunteer or funder please visit **www.tdpf.org.uk**, or contact:

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There is a growing recognition around the world that the prohibition of drugs is a counterproductive failure. However, a major barrier to drug law reform has been a widespread fear of the unknown—just what could a post-prohibition regime look like?

For the first time, *'After the War on Drugs: Blueprint for Regulation'* answers that question by proposing specific models of regulation for each main type and preparation of prohibited drug, coupled with the principles and rationale for doing so.

We demonstrate that moving to the legal regulation of drugs is not an unthinkable, politically impossible step in the dark, but a sensible, pragmatic approach to control drug production, supply and use.

1. Introduction

Global drug policy is rooted in a laudable and justifiable urge to address the strong, and very definite, harms that certain non-medical psychoactive drugs can create. This urge has driven a prohibitionist global agenda based on viewing drugs as a '*threat*', an agenda that gives clear and direct moral authority to those who support it, while casting those who are against it as ethically and politically irresponsible. However, both experience and research suggest that the most effective way of minimising drug harms is through regulation, based upon normative, legal frameworks, rather than prohibition. With this report, we are seeking to engage with such arguments, and to replace moral absolutism with an ethics of effectiveness. In particular, we are looking to show in very practical terms how drug legalisation could be managed, and how a post-legalisation world might look.

We are not suggesting the immediate and unconditional legalisation of all drugs. Legal unregulated markets would be only marginally less harmful than the illegal unregulated drug markets currently in

operation. Nor do we feel that, in seeking to bring drug management into line with the most up-to-date research, and with legal and social norms applied to currently legally managed substances such as medical drugs, nicotine and alcohol, that we are being either disruptively radical, or particularly revolutionary.

In fact, all our proposals are based on current, proven substance licensing and management regimes. We have used these to develop a series of models for drug provision, and looked at the practical details of regulation. We have also mapped out a path to regulation, and tried to define how different kinds of legal markets for different types of currently illicit drugs might work in practice.

We are clear that this report is a starting point, not a conclusion. We hope that it will lead to further discussion, and establish tools to support this dialogue. We are also clear that, although we are as troubled as our prohibitionist colleagues by drug harms, it is not possible to eradicate them completely. Rather, we seek to deploy a combination of research and experience to ensure that such harms are minimised as effectively as possible, at global, national and local levels.

2 Five models for regulating drug supply

Options for drug regulation sit between two extreme management approaches. At one extreme is the current model—prohibition/criminalisation, which forbids all non-medical supply, production and use of drugs. At the other extreme is free market legalisation, which makes drug sales legal and essentially unrestricted.

Both are absolutist models; neither allow for nuanced, harm minimising management of individual drug supply and usage. Drug regulation, however, moves away from such one-size-fits-all solutions. It provides a flexible spectrum of drugs management approaches which can be deployed as appropriate in response to localised needs and priorities. We have identified five key models for such management:

Prescription: the most controlling model, this would be an exact equivalent to current prescription models for medical drugs, and some opiate maintenance programmes.

Pharmacy sales: drugs would be made available through pharmacies or pharmacy-like outlets, either on prescription or over the counter.

Licensed sales: vendors would be granted a licence to sell specific drugs under certain, clearly defined conditions, on off-licence like premises.

Licensed premises: vendors would be licensed to manage premises where drugs would be sold and consumed, much like public houses and bars.

Unlicensed sales: certain low risk substances could be managed through food and beverage legislation, as—for example—coffee is currently managed.

3 The practical detail of regulation

3.1 Production controls

There are already a large number of well established businesses engaged in the production of plant and pharmaceutical based psychoactive drugs. They are doing so entirely within existing regional, national and global legal frameworks. An incremental expansion of drug production, taking place over a number of years and based exclusively on legal sources, is thus entirely feasible.

Almost half of global opium production is legally produced for processing into various pharmaceutical products, by a total of eighteen countries worldwide. The UN drug agencies, and national governments work together to monitor and control this trade. Expanded production under existing models would be both feasible and non-problematic. Such a shift would, however, raise some development issues for Afghanistan, which currently produces 93% of the world's illicit opium (contributing over half of its GDP).

The legal production of coca/cocaine also takes place, though on a smaller scale than opium. Such production is largely limited to the Andean region, where coca leaves are either chewed or used in traditional tea, foodstuffs and medicines. The US is also a key coca market; the leaves are processed to give flavouring for soft drinks and cocaine for medical use. Again, local development issues would have to be carefully managed during any transition towards a legal international trade, but in general terms expanding production under existing legal models should not be problematic.

Cannabis has been legally or quasi-legally produced worldwide for a number of decades, primarily for various medical uses and preparations. Key producer countries include the UK, US and Canada. This has allowed a substantial body of experience to be built up concerning production, security and quality control, providing a strong base for commercial non-medical production.

Many thousands of pharmaceutical drugs are already under carefully controlled, strictly regulated production. Little or no change to existing regimes would be required here.

3.2 Availability controls

Limiting drug availability is the key goal of any prohibition regime. However, availability measures for illicit markets are difficult to come by, and the concept of availability itself has been very poorly explored. Ironically, limiting legal availability can also create market opportunities for illicit suppliers.

By contrast, a legal drug regime is about controlling availability, which becomes easy to measure and manage constructively. This facilitates understanding of the impact of any given policy, and modification of policy to achieve particular goals, or react to changing circumstances

and emerging challenges. Increased management of availability can also help support the creation of a regulatory regime that progressively discourages users from engaging with higher risk products, preparations and behaviours.

This flexibility of response is one of the central benefits of regulated availability, and supports the practical ends detailed above. More importantly, it ensures that control of drug markets is taken out of the hands of criminals who are the least qualified or likely to manage them responsibly. Instead control is taken by far more qualified local, regional and international bodies that are also subject to public scrutiny from civil society, professionals and policy makers.

3.3 Product controls

Risks associated with a given drug are significantly a function of drug preparation, dosage and consumption methods. So, we recommend making drugs available in standard units, with the base unit for each drug carefully calculated on a case by case basis. The riskier the product, the more restricted access should be. Illicit diversion into secondary markets could be mitigated through the use of microtaggants, ensuring full traceability of all drugs thus supplied.

Price, too, should be carefully managed, either through taxation or direct price fixing. Optimum price controls should balance the need to both discourage misuse, and reduce incentives for illicit vendors to enter the market. Broader social considerations should also be borne in mind; for example, certain types of users might respond to higher prices by increasing fundraising-related offending.

Price changes do not just impact on the drug user. Illicit drug traders are strongly motivated by the huge profit margins available to them. Simultaneously undercutting their prices, and providing more reliable

products, will have a substantial negative impact on the viability of their businesses as a whole.

Drug packaging should be subject to the same established controls as current pharmaceutical plain packaging. In particular, tamper and child proofing should be put in place. Full information about the drug, including its effects, risks, contraindications and so on, should be made available on- or in-pack. Named users could also be identified on-pack, as with prescription drugs. On-pack branding or marketing communications should be avoided; packs should in no way contain or endorse any promotional content.

3.4 Supplier and outlet controls

Both drug suppliers and drug outlets should also be carefully controlled. As a priority, the first move of any licensing regime should be, where possible, a complete ban on the advertising, promotion or marketing of all drugs, including any alcohol or tobacco marketing activities (though this may be controversial in some economic communities/countries).

Broader market management controls should also be applied. For example, the location and density of legal drug outlets should be carefully controlled, with restrictions placed around sites of specific public concern—for example, places popular with young people.

In such outlets, licensing agreements could ensure that vendors are held part-responsible for any socially destructive incidents resulting from drug use related to their premises.

Sales could be managed by limiting volume sales to individual users, or rationing individual drugs. Alternatively, or additionally, a time delay could be established between drug order and drug pick-up, limiting potential bingeing.

3.5 Purchaser and end-user controls

It is, of course, essential that non-adult access to any drugs is either heavily restricted or entirely prevented. There is little doubt that such controls would enjoy widespread social support. They also exemplify a key benefit of legal regulation. For minors, the gate-keeping role would be shifted away from profit-driven illicit drug providers, whose key concern is market expansion, to state or regional control bodies, whose key concern is public health.

Strictly controlled availability would support broader prevention efforts, backed by investment in clear and accurate information about drug usage and risks. Longer term prevention and harm reduction efforts will involve investment in social capital; addressing the underlying social causes of problematic use and, for young people most at risk, providing meaningful alternatives to drug use, such as youth clubs or related activities. Of course, some will still access and take drugs and it is vital that they should be able to access appropriate treatment and harm reduction programmes without fear.

A variety of controls could be put in place to manage adult users. Most immediately, degree of intoxication could be measured; drugs should not be sold to those not in a state to use them responsibly. Vendors might also have to witness consumption for certain substances, as is currently the case with methadone prescriptions in some pharmacies.

Purchasers/users could be asked to produce a licence for a given drug before purchase. Licence acquisition could be dependent on passing a test, ensuring that the licensee fully understands the risks inherent in use of a particular drug. Related training programmes would provide an invaluable opportunity to augment drug and health education for a key target population. Data collection methods tied to licences could provide an invaluable means of tracking and managing individual drug usage.

Other controls could include a need for proof of local residency with purchase, which would be particularly helpful in managing culturally specific drug usage. Purchasers might have to show membership of a relevant club or group as a condition of purchase; such groups would work in a similar way to existing professional regulatory bodies, ensuring certain standards of knowledge and behaviour amongst their members. In addition, usage locations could be clearly defined, much as out-of-home alcohol consumption is currently largely restricted to licensed premises.

4 Making a regulated system happen

4.1 A cautious, phased introduction

Legal regulation of drug markets would represent a substantial legal and cultural change. As noted above, there is a wide variety of experience to draw on in making such a change; however, the specifics of drug regulation for many currently illegal drugs offer what is essentially a blank slate.

Proceeding on the precautionary principle—that is, bringing in any new regulatory regimes in an incremental, cautious way—represents the most constructive and responsible way of developing such regimes. Such an approach both ensures that each regulatory step can be carefully assessed, (and reviewed if unintended negative outcomes emerge), and allows individual countries and/or regions to fine-tune their approach according to local economic, cultural and behavioural norms.

Under this kind of approach, cannabis is likely to be the first drug to have legal models more seriously developed and explored. Initial medical maintenance prescription models are likely to grow up around problematic dependent use of opiates and stimulants. More generally, we expect most legal availability pilots to begin with the drugs least likely

to be associated with personal or social harms or costs, which would be made available in less potent, safer, preparations.

4.2 Assessing and ranking drug harms

Developing effective regulatory models will depend on a realistic and practical quantification and ranking of drug risks/harms. To achieve this, primary health harms resulting from usage should be separated from secondary social harms following from use. Harms resulting from drug use *per se* should also be distinguished from harms created or exacerbated by policy environments. As a rule, current harm analysis and rankings fail to make this latter distinction, which would reveal that many drug harms are created or exacerbated by their illicit trade.

4.2.1 Breakdown of primary health harms

Personal usage-related harms are most usefully broken down into toxicity and 'addictiveness', of course, moderated by individual behaviours.

Acute toxicity relates to the size of the margin between the dose at which the drug's desired effect is achieved by the user, and the dose at which a specified toxic reaction occurs. Chronic toxicity relates to longer term harms (such as smoking related lung disease). Acute and chronic toxicity for different drugs do not always match; for example, tobacco smoking, which has low acute risk but high chronic risk, is difficult to compare directly with opiate use, which has high acute risk but lower chronic risks. Such measures are additionally complicated by the differing impacts of individual health and lifestyles. It can also be hard to measure in the case of newly emerging drugs, and over long-term periods of use.

Drug addiction, or (as it is now described) dependence, has dominated the drugs discourse for the last century or more. The physiological aspects of dependence are generally well researched and well understood; however,

dependency issues are dramatically complicated by the wide range of psycho-social factors that interact with physiological processes. Although of great importance in determining dependency risks and behaviours, these are not as well understood. In general, much further discussion around the complex area of dependency/addiction is needed.

As well as differences in the physiological/psychological vulnerability of users, it is important to note that the preparation of the drug, method of administration, and using behaviours can strongly affect the risk associated with using a particular drug. This is usefully illustrated with the example of coca based drugs. Usage ranges from chewed coca leaf, through coca drinks, to snorted cocaine powder, and finally smoked crack cocaine. All involve cocaine usage, but each is associated with widely varying levels of risk.

4.2.2 Breakdown of secondary health and social risks/harms

Such harms are greatly complicated by differing drug legislation and management regimes. For example, an injecting heroin user under a more stringent prohibition regime might be funding a 'street' heroin habit with prostitution and property crime, using adulterated drugs in unsafe environments (a prime driver of blood borne viruses, including HIV and Hepatitis), supplied by a criminal trafficking/dealing infrastructure that can be traced back to illicit sources in Afghanistan. An equivalent user under a regulated regime would be using legally manufactured and prescribed heroin in a supervised clinical setting, thus obviating any need for, or support of, criminal behaviours or organisations.

However, some attempts have been made to define such risks. For example, the UK Academy of Medical Sciences has identified a range of potential social drug risks/harms, which include deprivation and family adversity, criminality associated with use, and burden on drug treatment and social services.

4.2.3 Fine-tuning policy responses and communication

We have discussed a variety of different useful ways of understanding drug harms. Such generalisations are useful in the creation of broad policy, but less useful when it comes to fine-tuning that policy. Given this, it is essential that individual drug users are as fully educated as possible about the risks that they personally run when using a particular drug, at a particular dose, at a particular frequency, administered in a particular way, in a given setting.

This will allow individuals to make well-informed decisions about their own drug usage, with a level of intimate self-knowledge that—by definition—broad regulation cannot achieve.

4.3 Legislating globally, nationally and locally

A new regulatory regime demands a wide-ranging set of new drug policy choices and laws, and regulatory policy infrastructure. It is important to consider which global, national and local bodies might help create and manage such laws. We suggest the following framework:

- The UN's various agencies would remain responsible for international human rights and trade issues, as well as providing a central hub for international drug research and data collection.

- Individual states would democratically determine their own drug policies and legal frameworks, within the international parameters defined by the UN and any other political/legal entities to which each state belonged.

- Local and municipal government would determine the detail of lower tier issues around regulation, licensing and enforcement, along with drug service/health provision.

4.4 Effective research for effective policy

Over the past five decades, prohibition has been primarily a politically driven policy. This politicisation has skewed drug research towards demonstration of drug harms, to justify punitive responses to the 'drug threat'. The actual outcomes of, and alternatives to, prohibition have not been meaningfully scrutinised.

The modifications of drug policy discussed here should be accompanied by a similar modification of drug research. In particular, options and outcomes relating to policies intended to mitigate drug harms should be carefully explored. Research that allows legislative bodies at every level to learn from and share specific, constructive lessons from our existing experience of prohibition should also be put in place.

4.5 Broader social, political and economic processes

Prohibition, its enforcement, and its associated illicit drugs trade have had a range of profoundly negative consequences for the social, political and economic development of key producer and transit countries. The 2009 Latin American Commission on Drugs and Democracy identified five major problems:

- *'The development of parallel powers in susceptible areas of natural states'*
- *'The criminalization of political conflicts'*
- *'The corruption of public life (above all police, justice and penitentiary systems)'*
- *'The alienation of youth, and especially, poor youth'*
- *'The dislocation of farmers... and the stigmatization of traditional cultures'*

To this list could also be added:

- Policy displacement, where social and economic development are sidelined in favour of fighting the perceived drug menace

- Development interventions are frequently distorted by drug war objectives, and are thus inadequate in scale, and ineffective in implementation

- Environmental destruction, for example the deforestation of Columbia for illicit coca cultivation

- Exacerbation of conflict, as the illicit drug trade provides a substantial source of income for insurgents, militias and even corrupt governments

- Underlying issues relating to lack of societal wellbeing are denied and ignored

Of course, other high value resources such as oil and diamonds have also destabilised societies and fuelled conflicts. But such products are of innately high value; drugs, by contrast, have only become high value commodities as a result of a prohibitionist legal framework, which has encouraged development of a criminal controlled trade.

Under a legal production regime, drugs would move from being part of criminal or security discourse, to become part of international development discourse. As such, the potential role of existing illicit producer countries in any post prohibition trade, and the inevitable transition process, raises a series of questions that require more detailed consideration by key agencies, NGOs and academics.

Such questions are wide ranging, but would include managing the loss of income from existing illegal structures, ensuring that any legal revenue streams were constructively developed by, for example, managing the

influence of any corporate market entrants; helping small developing world producers compete with industrialised growers; or offering well-planned alternative development options.

Whilst the drug war has brought untold misery to many developing countries, there is a risk that, once the drug control and eradication priorities of current policy diminish, so too will the level of concern for, and development resources directed towards, impoverished drug producers. Perhaps a post-drug war 'Marshall Plan' should be established funded by the substantial peace dividend, or by emerging legitimate drug tax income.

Proposed models for regulating different drugs

Detail of proposed models for regulating different drugs, along with the rationale for the choices made, is provided in the full text (available online as a free PDF at **www.tdpf.org.uk**, and in print). These models are, in brief outline:

- **Cannabis and opium sale and consumption**: membership based coffee-shop style licensed premises
- **Cocaine powder, ecstasy and amphetamine**: licensed pharmacy models and licensed/named purchasers
- **Psychedelics**: drug clubs/groups for supervised use in licensed venues
- **The riskiest drugs and preparations** (including injectable drugs) most associated with problematic/chronic dependent use: prescription/supervised use models
- **Lower potency/risk drugs and preparations**: a range of licensed sales models

Appendices

The book includes two appendices. The first considers how reform must progress at an international level—specifically reform of the UN drug control treaty system - to facilitate the development and implementation of legal drug regulation. The second is a more in- depth consideration of existing legal drug production, covering cannabis, opium/opiates and coca/cocaine—considering how these systems can be developed and adapted for non-medical production.

Conclusion

By proposing a menu of workable options for the regulation and control of drug production, supply and use, we hope to end the polarisation and deadlock around the drug law reform debate.

It is clear that whatever the precise form legal regulation and control takes in a post-prohibition world, the social and economic challenges relating to drug use will be different, and vastly reduced in scale. We will no longer be squandering resources in an unwinnable battle against problems largely created by the failed War on Drugs itself. Instead, we will be able to focus on effectively and humanely addressing both the destructive consequences of problematic use, and its underlying causes.

After the War on Drugs: **Blueprint for Regulation**

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There is a growing recognition around the world that the prohibition of drugs is a counterproductive failure. However, a major barrier to drug law reform has been a widespread fear of the unknown—just what could a post-prohibition regime look like?

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We demonstrate that moving to the legal regulation of drugs is not an unthinkable, politically impossible step in the dark, but a sensible, pragmatic approach to control drug production, supply and use.

"Ending the War on Drugs is decades overdue. *Blueprint* clearly outlines a series of options for a gradual and phased approach to implementing a regulatory model for the production, sale and consumption of recreational drugs. Thousands if not millions of lives are at stake. The time to act is now."

Craig McClure,
Former Executive Director, International Aids Society

"This book is truly groundbreaking. In years to come we'll look back at prohibition, and the only question we'll ask is why it lasted so long."

Jack Cole, Executive Director,
Law Enforcement Against Prohibition

"There is indeed a spirit of reform in the air, to make the conventions fit for purpose and adapt them to a reality on the ground that is considerably different from the time they were drafted."

Antonio Maria Costa,
Executive Director, UN Office in Drugs and Crime

"We need at least to consider and examine forms of controlled legalization of drugs."

George Schultz,
Secretary of State for US president Ronald Reagan

"Mr. Secretary-General, we appeal to you to initiate a truly open and honest dialogue regarding the future of global drug control policies—one in which fear, prejudice and punitive prohibitions yield to common sense, science, public health and human rights."

Rowan Williams, Archbishop of Canterbury,
(when Bishop of Monmouth),
letter to UN Secretary-General Kofi Annan

"It may be that I don't live to see it because I'm already many years old, but I know that some day drugs will be legalized and it will be shown that we were right."

Gustavo de Grieff,
Former Attorney General of Colombia