

現行毒品政策之困境與展望： 以施用毒品行為除罪化為中心

施 奕 暉*

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* 內政部役政署督察，國立中正大學犯罪防治研究所博士候選人。

摘 要

由於過去施用毒品行為不見容於公共政策、道德規範及社會觀感，且被質疑與犯罪關係密切，許多國家乃將毒品一類物質列管。然而施用毒品與犯罪行為之關聯尚存有爭議。本文探析官方統計與文獻資料發現，無論是國外或我國，重刑化毒品政策並非降低施用毒品之有效政策。基於犯罪學實證學派的觀點，早期矯正體系所採取的毒癮者醫療模式，因犯罪與再犯率居高不下，於 1970 年代後逐漸被棄置而由正義模式取代。然而，基於法益之探討，施用毒品具有自傷行為及無被害者犯罪的本質，惟菸、酒一樣導致人類成癮與危害健康，但比起毒品之施用，每年卻有多更多人死於此類合法物質的濫用。因此，論者倡議應將毒品合法化或除罪化，認為毒品合法化後，政府將可控制其價格與供應，避免毒癮者為購得毒品而犯罪，犯罪率及毒品肇致的死亡率或愛滋病可望降低。且因毒品可於市場公開買賣，此將摧毀不法供應商與幫派犯罪。儘管毒品合法化或除罪化政策仍具爭議性，近期內尚難實施，然而參考他國之成功經驗與進一步的研究無疑是必要的。

The Difficulty and Future of the Against Narcotics Policies- From the Decriminalization Aspect of Drugs Abuse

Shih, I huei

Abstract

Drugs abuse crimes are acts considered illegal because they conflict with social policy, accepted moral rules, and public opinion. Most states outlaw a wide variety of drugs they consider harmful. One of the main reasons for the continued ban on drugs is their relationship to crime. However the cause-and-effect relation between drug addicts and commit crime is endless wrangling. Our research finds that severe punishment in our country or in the U.A. is not the only way to lower the rate of drugs abuse crime and recidivism, furthermore the massive effort according to the Narcotics Endangerment Prevention Act to control drugs through prevention, deterrence, education, and treatment strategies, the fight against drugs abuse has not proved successful. Moreover due to the influence of positive criminology, early correction method for drugs abuse in U.S. adopted medical model. Yet, because the rate of crime and recidivism remained high, In 1970s, the corrective model, was abandoned and emerged the justice model. However, base on the innate character of autotomy and victimless crime in drugs abuse, and like alcohol or cigarettes, all of which are addicting and unhealthful. Far more people die each year because they abuse these legal substances than killed in drug wars or from abusing illegal substances. For this reason, a lots of commentators have called for the Decriminalization or legalization of controlled substances. They set up a claim if drugs were legalized, price and distribution could be controlled by government. This would reduce addicts' cash requirements, so crime rates would drop, drug related deaths and AIDS would decline. And legalization would also destroy the drug importing cartels and gangs. Because drugs would be bought and sold openly. Decriminalization or legalization of controlled substances is debatable and unlikely in our country the near term, but further study is warranted.