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# Drug Abuse: A Review of Some Current Literature

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## Recommended Citation

Christine G. Cooper, *Drug Abuse: A Review of Some Current Literature*, 24 DePaul L. Rev. 973 (1975)  
Available at: <https://via.library.depaul.edu/law-review/vol24/iss4/8>

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## COMMENTS

### DRUG ABUSE: A REVIEW OF SOME CURRENT LITERATURE

**PENAL ASPECTS OF DRUG ABUSE** by the EUROPEAN COMMITTEE ON CRIME PROBLEMS. Strasbourg: Council of Europe. Appendices; footnotes; tables. 1974. Pp. 264. n.p. paper.

**FUNDAMENTALS OF JUVENILE CRIMINAL BEHAVIOR AND DRUG ABUSE** edited by RICHARD E. HARDY AND JOHN G. CULL. Springfield, Illinois: C. C. Thomas. Chapter references; index. 1975. Pp. xvii + 258. n.p. cloth.

**DRUGS AND THE CRIMINAL JUSTICE SYSTEM** edited by JAMES A. INCIARDI AND CARL D. CHAMBERS. Beverly Hills, California: Sage. Author index; chapter references; forward by Birch Bayh; figures; footnotes; subject index; tables. 1974. Pp. 249. \$15.00 cloth.

**INTERNATIONAL JOURNAL OF OFFENDER THERAPY AND COMPARATIVE CRIMINOLOGY, SPECIAL ISSUE: TREATING THE ALCOHOLIC AND DRUG DEPENDENT OFFENDERS.** New York: Association for the Psychiatric Treatment of Offenders. Footnotes; references. 1974. Pp. 112. \$4.50 cloth.

**HEROIN ADDICTION IN BRITAIN: WHAT AMERICANS CAN LEARN FROM THE ENGLISH EXPERIENCE** by HORACE FREELAND JUDSON. New York: Harcourt Brace Jovanovich. Index; notes keyed to pages; statistical appendix. 1973. Pp. xii + 200. \$6.95 cloth.

**THE DRUG EPIDEMIC** by ARI KIEV. New York: The Free Press. 1975. Pp. xiii + 227. \$8.95 cloth.

**THE INTERNATIONAL CONNECTION: OPIUM FROM GROWERS TO PUSHERS** by CATHERINE LAMOUR AND MICHEL R. LAMBERTI. New York: Pantheon. Footnotes; index; maps; tables. 1974. Pp. ix + 278. \$7.95 cloth.

**DISCRIMINATION AND THE ADDICT** edited by LUIZ R. S. SIMMONS AND MARTIN B. GOLD. Beverly Hills, California: Sage. Bibliography; chapter appendices; chapter notes; chapter references; tables. 1973. Pp. 334. \$15.00 cloth.

DRUGS, POLITICS, AND DIPLOMACY: THE INTERNATIONAL CONNECTION edited by LUIZ R. S. SIMMONS AND ABDUL A. SAID. Beverly Hills, California: Sage. Bibliography; chapter notes; chapter references; figures; maps; tables. 1974. Pp. 312. \$17.50 cloth/\$7.50 paper.

REVUE INTERNATIONALE DE DROIT PENAL, SPECIAL ISSUE: L'ABUS DE DROGUES ET SA PREVENTION. Paris: L'Association Internationale de Droit Penal. Appendices; footnotes; tables; references. 1973. Pp. xvii + 584. 20F cloth.

A number of books have been published in the last two years which collectively have touched upon virtually every aspect of drug use.<sup>1</sup> With few exceptions,<sup>2</sup> these books and essays provide invaluable resources for learning about and researching the area. Although no person should pretend to be knowledgeable about all facets of this complex problem, the jurist should become familiar with the directions and trends of some basic research in the field.<sup>3</sup> In order for the makers of law to make the legal system effective, they must know factually what they are working with and what they want to do.

My purpose is to present selected topics as they have been elucidated in the above publications. My general framework consists of the three critical aspects of the drug abuse problem, *i.e.* supply, demand, and traffic in narcotics, and the various models that may be applied to each. With regards to supply and traffic, the enforcement model is employed exclusively to deal with the problem. As for the demand aspect, there

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1. The most charming passage to be found in these publications is a quote from THE MYSTERIES OF OPIUM REVEALED, written in 1700 by John Jones:

*It causes a most agreeable, pleasant and charming Sensation about the Region of the Stomach. . . .*

It has been compar'd (not without good cause) to a permanent gentle *De-gree* of that Pleasure, which Modesty forbids the naming of.

H. JUDSON, HEROIN ADDICTION IN BRITAIN: WHAT AMERICANS CAN LEARN FROM THE ENGLISH EXPERIENCE 74 (1973) [hereinafter cited as JUDSON].

2. The most notorious exception is A. KIEV, THE DRUG EPIDEMIC (1975). Not only is this work undocumented, but Kiev characterizes many users as overly intellectual. *Id.* at 55-56. His advice to parents who discover that their children are involved in drugs is to discreetly change the locks on their doors. *Id.* at 83.

3. No attempt has been made in this Comment to evaluate the research methodologies of the scores of articles under consideration. For the inherent problems in collecting accurate information on this criminal activity, see Weppner, *An Anthropological View of the Street Addict's World*, 32 HUMAN ORGANIZATION 111 (1973) [hereinafter cited as Weppner]; Quinn, *The Congressional Response to the International Drug Control Problem*, in DRUGS, POLITICS, AND DIPLOMACY: THE INTERNATIONAL CONNECTION 49 (L. Simmons & A. Said eds. 1974) [hereinafter cited as Quinn]; and REVUE INTERNATIONALE DE DROIT PENAL, SPECIAL ISSUE: L'ABUS DE DROGUES ET SA PREVENTION 6 (1973) [hereinafter cited as R.I.D.P.].

are a number of models which may be more useful than the legal-enforcement model.<sup>4</sup> These models can be divided into two types—those that view use or addiction from an individualistic perspective, and those that consider the proper unit of analysis to be a group. Throughout, the rationale for the involvement of the legal system will be considered.

#### UNDERLYING ASSUMPTIONS

Diverse reasons have been advanced as to the propriety of the criminal prohibition of the non-medical use of narcotics and psychotropic substances. There are those who consider drug laws as a means of political oppression.<sup>5</sup>

Policemen smoke dope. Probation officers smoke dope. Narcotic agents smoke dope (and sell it). *Judges smoke dope.* Prosecutors smoke dope. Defense attorneys smoke dope. Plumbers, school-teachers, principals, deans, carpenters, Disabled War Veterans, Republicans, doctors, perverts, and librarians smoke dope. Legislators smoke dope. Even writers of articles on drug abuse smoke dope.

#### EVERYBODY SMOKES DOPE!

Why is it illegal?

That's the game.<sup>6</sup>

Then there is a sizeable contingent, a vocal example is the Congressperson from Harlem, Charles Rangel, who believe that the *lack* of enforcement is racial-political repression.<sup>7</sup>

The second report of the National Commission on Marijuana and Drug Abuse, known as the Shafer Commission, asserted in 1973: "not once . . . have the underlying assumptions been systematically evaluated and a broad, coherent foundation for policy making established."<sup>8</sup> The same could be said for the international control scheme. According to the pre-

4. See generally Weppner.

5. Rufus King believes that the problem has been exaggerated as a justification for the "spectacular explosion in the federal bureaucracy and federal funding. . . ." King, "*The American System*": *Legal Sanctions to Repress Drug Abuse*, in *DRUGS AND THE CRIMINAL JUSTICE SYSTEM* 33 (J. Inciardi & C. Chambers eds. 1974) [hereinafter cited as King]. Greenberg finds that law enforcement emphasizes small-time operations, and concludes therefrom that political suppression is the motive. Greenberg, *Compounding a Felony: Drug Abuse and the American Legal System*, in *DRUGS AND THE CRIMINAL JUSTICE SYSTEM* 190 (J. Inciardi & C. Chambers eds. 1974) [hereinafter cited as Greenberg].

6. Greenberg at 186.

7. Rangel, *American Diplomacy and the International Narcotics Traffic: A Black Perspective*, in *DRUGS, POLITICS, AND DIPLOMACY: THE INTERNATIONAL CONNECTION* 91 (L. Simmons & A. Said eds. 1974) [hereinafter cited as Rangel]; see also JUDSON at 110.

8. Quinn at 61.

amble to the 1961 Single Convention on Narcotic Drugs, "addiction to narcotic drugs constitutes a serious evil for the individual and is fraught with social and economic danger to mankind . . . ."<sup>9</sup> The questions raised by these statements are: why is drug abuse an evil, and even so, why is the intervention of the legal system considered a necessity? Three possibilities come to mind. The first is that the abuse of narcotics presents a public health problem, much like measles or venereal disease. Yet no one is put in jail for spreading measles or contracting venereal disease (at least not in most cases). In these areas of health, the law is merely regulatory. For example, there are requirements that school age children receive vaccinations and that the contacts of a syphilitic be notified. Regardless of the extent of physical harm caused by drug use, and there is much debate on that point,<sup>10</sup> the public health aspect of drug use cannot rationally account for the involvement of the criminal justice system, especially when that same degree of involvement does not extend to alcohol, tobacco, or other substances detrimental to one's health.<sup>11</sup>

A second possibility, and one much touted, is that drug abuse is evil because it causes crime. This assertion is subject to empirical analysis and contradictory results, as will be seen. No one doubts that anything defined as a crime, *e.g.*, use of narcotics, will, if engaged in, increase the crime rate.<sup>12</sup> But the more serious allegation is that drug abuse leads to crime beyond mere use and possession of narcotics—most especially, crimes against property, committed with the purpose of enabling the addict

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9. 18 U.S.T. 1407, T.I.A.S. 6298, 520 U.N.T.S. 204.

10. Weppner at 112 discusses hepatitis and premature deaths among heroin addicts; JUDSON at 52 mentions the alarming mortality rate among addicts, but then at 149 quotes a physician associated with the FDA who believes that heroin is not very dangerous. The physician's main complaint is that there have not been adequate studies on chronic long-term use of heroin; there have not even been good animal studies. King at 34 n. 7 cites a study by Brecher that heroin is not the killer it is claimed to be. E. BRECHER, LICIT AND ILLICIT DRUGS: THE CONSUMERS UNION REPORT (1972). Rosenberg agrees that heroin is not harmful. Rosenberg, *The Effects of Mood Altering Drugs: Pleasures and Pitfalls*, in FUNDAMENTALS OF JUVENILE CRIMINAL BEHAVIOR AND DRUG ABUSE 162 (R. Hardy & J. Cull eds. 1975).

11. However, special considerations apply when minors are involved, as minors are considered entitled to special protection. In the United States, the distribution of dangerous substances to minors is more severely punished than distribution to adults. EUROPEAN COMMITTEE ON CRIME PROBLEMS, PENAL ASPECTS OF DRUG ABUSE 99 (1974) [hereinafter cited as EUROPEAN COMMITTEE].

12. Weppner at 118 n. 1 cites the PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE, TASK FORCE REPORT: NARCOTICS AND DRUG ABUSE (1967) (approximately 18% of all federal prisoners are incarcerated for drug-related crimes).

to support the habit. To put it more simply, the belief is that addiction causes theft.

A number of studies have investigated this charge. In England, where heroin addicts are assured a legal supply of the drug, addiction is nonetheless associated with crime and delinquency.<sup>13</sup> The conclusion is that while addiction and criminality are positively associated, they are not causally related: addiction cannot be seen as *causing* crime. But other research indicates that physical dependence on drugs often necessitates resort to crime.<sup>14</sup>

One researcher, Leroy Gould, admits that the need for narcotics may turn users to crime, but he advances an interesting hypothesis that the total crime rate will not appreciably increase; the real effect will be that the composition of the labor force of thieves will change.<sup>15</sup> Gould theorizes that the entry of addicts into this unique labor force will depress the prices for stolen goods. Although the lower prices may cause more theft, the resultant decline in the profitability of theft will drive some thieves out of the market, particularly those thieves who have the best opportunities for legitimate income. Such upwardly mobile crooks are likely to be the non-addicts. Thus the labor force of thieves may expand somewhat, but not a great deal, since even addicts must make a profit. The product will be a labor force of thieves composed of a greater percentage of addicts. Gould further pointed out that "[a]lthough there is some positive correlation between crime rates and drug-use rate, this correlation is low when controlling for ethnicity of the neighborhood. . . ."<sup>16</sup> Thus the question of causality, once more, is left unanswered.<sup>17</sup>

Another scholar has shown that a good number of addicts support their habits by legitimate means. Patrick Hughes' 1971 study of a Chicago heroin-using community reported that nearly one-third of the addicts relied on legitimate employment to purchase narcotics; one-third sold drugs to support their habit; and 38% resorted to non-drug crime. Included in the non-drug crime were prostitution and gambling,<sup>18</sup> commonly con-

13. JUDSON at 49.

14. Chambers, *Narcotic Addiction and Crime: An Empirical Review*, in *DRUGS AND THE CRIMINAL JUSTICE SYSTEM* 129 (J. Inciardi & C. Chambers eds. 1974) [hereinafter cited as Chambers].

15. Gould, *Crime and the Addict: Beyond Common Sense*, in *DRUGS AND THE CRIMINAL JUSTICE SYSTEM* 64-65 (J. Inciardi & C. Chambers eds. 1974) [hereinafter cited as Gould].

16. *Id.* at 66.

17. For the physicists' explanation of the impossibility of determining cause, see Waismann, *The Decline and Fall of Causality*, in *TURNING POINTS IN PHYSICS* 84 (A.C. Crombie & Associates eds. 1961) and S. TOULMIN, *THE PHILOSOPHY OF SCIENCE* (1953).

18. Gould at 60.

sidered victimless crimes. On the other side, Chambers has found that as many as 80% of the black male addicts (compared to 20% of the white female addicts) commit crime to support their habits. He has found that "[i]ntensity and diversity [of crime] increases sharply once the addict becomes involved with the drugs."<sup>19</sup> Further, Chambers is alarmed at the rate at which addicts are turning to crimes against the person.<sup>20</sup> Thus, the prohibition of narcotics use could be considered a kind of crime prevention. However, a caveat is in order. Gould points out the biases in many of these statistics. The information is often obtained from addicts entering treatment programs who may exaggerate their criminality to be accepted into the programs, or from addicts who have entered treatment as an alternative to incarceration.<sup>21</sup>

A third reason for the public interest in curbing addiction is the belief that addiction inhibits one's working ability, thereby increasing the welfare costs to the community.<sup>22</sup> The most significant contribution of the English experience with heroin addiction has been the concept of the stable addict—stable both in dosage and in lifestyle.<sup>23</sup> Moreover, it appears that one important reason for the unemployment problems among addicts is not their inability to get and keep jobs, but rather the employment discrimination which they face.<sup>24</sup> Employers are either blatantly prejudiced or simply misinformed. Addicts are, by and large, as physically able to hold jobs as anyone else. The employment discrimination is particularly oppressive for those addicts in methadone treatment, who are legally supplied with their needs so that their proclivity to engage in criminal activity should be no greater than those of non-addicts, provided, of course, that they have abandoned contacts with a criminal subculture.

One governmental explanation for the federal drug policy has been uncovered. It deals with drug abuse prevention, albeit by a circuitous route:

Law enforcement efforts that reduce the supply of drugs also serve to lower drug potency and drive up the price of drugs, thus reducing experimental usage. Together, higher prices combined with lower potency and scarcity can motivate abusers to seek treatment.<sup>25</sup>

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19. Chambers at 130.

20. *Id.* at 140.

21. Gould at 63.

22. See generally DISCRIMINATION AND THE ADDICT (L. Simmons & M. Gold eds. 1973) [hereinafter cited as DISCRIMINATION].

23. JUDSON at 139.

24. See generally DISCRIMINATION.

25. The words of the Office of Management and Budget, Federal Programs for the Control of Drug Abuse (1973) are quoted in Chambers & Inciardi, *Forecasts for the Future: Where We Are and Where We Are Going*, in DRUGS AND THE CRIMINAL

An excellent source of transnational data on substance abuse is found in a special issue of *Revue Internationale de Droit Penal* (R.I.D.P.), a report of the Eleventh Congress of the International Association of Penal Law, held in Budapest in September of 1974. The work of the Congress concerned itself with drug abuse and its prevention. The Association, which has consultative status with the United Nations, compiled data obtained from questionnaires sent to its national reporters. The general areas investigated by the Congress were trends in drug abuse, legislation aimed at controlling drug abuse, enforcement measures, treatment and rehabilitation of offenders, and international drug control. In an analysis of the national reports, Professor Bassiouni notes that

[w]ith the exception of three national reports [those of the Netherlands, the United States, and the Federal Republic of Germany], no report indicates that there is serious question as to the basic scientific, criminological and juridical assumptions upon which the international and national control schemes are predicated. Only one report [that of the Netherlands] proposed an alternative model.<sup>26</sup>

Professor Gerhard Mueller addresses these questions extensively and succinctly. Before his insights are presented, a digression is in order because Mueller assumes that availability or supply is the most crucial factor in drug use. This assumption appropriately comes from a jurist, since the criminal justice system can be most effective at this level. Judson explains that, prior to the 1960's, most addicts in England became addicted accidentally because of medical treatment. Those addicts who were not therapeutic addicts were likely to be doctors and nurses.<sup>27</sup> Such a finding clearly supports Mueller's assumption. However, the impotence of the international scheme to control supply points to the priority of user demand for narcotics as the most important factor in drug control.

Mueller discusses the factors that must be considered in a policy decision to criminalize specific behavior: (1) whether the behavior is undesirable; (2) whether interference by the state is appropriate, considering the relationship between the individual and the state; (3) whether a cost-benefit analysis of the instruments and means to be employed as sanctions suggests their utility; (4) whether the penal and administrative systems

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JUSTICE SYSTEM 224 (J. Inciardi & C. Chambers eds. 1974) (references omitted) [hereinafter cited as Inciardi & Chambers]. However, it has been noted that the prices of narcotics in Hong Kong have declined despite vigorous enforcement. Simmons & Said, *The Politics of Addiction*, in *DRUGS, POLITICS, AND DIPLOMACY: THE INTERNATIONAL CONNECTION* 39 (L. Simmons & A. Said eds. 1974) [hereinafter cited as Simmons & Said].

26. R.I.D.P. at 7-8 (references omitted).

27. JUDSON at 27.



have the resources to impose effective sanctions; and (5) whether the cost of imposing sanctions is less of a burden to the revenue-producing sector of society than would be the cost of maintaining a drug-active community.<sup>28</sup> Among the positive results that may occur as hard drugs are intercepted and the supply is diminished are the following: (1) more users may voluntarily seek treatment; (2) users may turn to soft drugs; and (3) there may be fewer entrants into the drug scene. The negative results include the possibility that: (1) thefts may increase to enable the addicts to afford the new high prices of drugs; and (2) users may simply turn to other hard drugs. Mueller concludes that a law enforcement effort to combat drug use cannot be justified in a cost-benefit sense.<sup>29</sup> In fact, Mueller found several reasons that legislation against drug use can be harmful:

We found legislation to be very powerful in the sense that it nevertheless creates certain realities which did not exist before that legislation, such as:

- a) It defines people as drug addicts.
- b) It may force their institutionalization.
- c) It may set a costly law enforcement machinery into motion.
- d) It may create subcultures which are frequently anti-social or drop-out in nature and which may possibly generate other law violations.<sup>30</sup>

*Penal Aspects of Drug Abuse*, published by the European Committee on Crime Problems section of the Council of Europe, little concerns itself with the assumptions upon which legal prohibition and regulation of substances are based. When it does handle them, it does so ambivalently. Inasmuch as the recent drug problem has been prominent among the

28. *Id.* at 20. "The risk of arrest and incarceration for drug related criminal activity are extremely low." Chambers at 140.

29. R.I.D.P. at 24.

30. *Id.* at 19. Note also the following passages:

When drugs can be procured only through criminal channels their price usually increases considerably, but more important, users must then obtain drugs by contacting criminals. Furthermore, if demand for drugs is relatively inelastic and the amount wanted is great, illicit manufacture and distribution become a profitable area of investment for organized crime.

Glaser, *Interlocking Dualities in Drug Use, Drug Control, and Crime*, in *DRUGS AND THE CRIMINAL JUSTICE SYSTEM* 44 (J. Inciardi & C. Chambers eds. 1974) [hereinafter cited as D. Glaser].

In many societies the attitudes of the government and that of the users clash so deeply that the confrontation actually helps building an antiestablishment counterculture as well as an expanded government machinery for the repression of those identified with the drug culture. . . .

Even-Zohar, *Drugs in Israel: A Study of Political Implications for Society and Foreign Policy*, in *DRUGS, POLITICS, AND DIPLOMACY: THE INTERNATIONAL CONNECTION* 210 (L. Simmons & A. Said eds. 1974) [hereinafter cited as Even-Zohar].

young, the Committee expressed concern for protecting them from dependence.<sup>31</sup> The report of Norway expressed the belief that penalization can influence public opinion, can show just how dangerous drugs are, and might scare away potential experimenters.<sup>32</sup> The general objective of the resolution passed by the full Committee was "to minimise human suffering by enlisting public co-operation protecting the vulnerable, helping the dependent and repressing drug traffic. . . ."<sup>33</sup> Criminalization is thus made legitimate. On the other hand, the Committee believes that "Penal law should . . . be used with considerable caution."<sup>34</sup> It explains:

Special techniques of detection partly endangering traditional civil liberties may have to be used. The effect of penal measures may be to convert minor deviancy into criminality and expose a limited sector of social hazard, if demand and supply are not in fact curbed by the penal law, to the added danger of illegal market forces. At worst penal measures may do little more than demonstrate the severe limitations of such action.<sup>35</sup>

The Committee does recognize that standards for criminalizing abuse are amorphous.<sup>36</sup> The Committee is unable to come to grips with the nexus between dangerousness of drug use and criminalization. It considers that tobacco and alcohol, though not dealt with in the report, should be considered along with other addictive substances, and that alcohol and narcotics both have some causal relationship to general criminal behavior.<sup>37</sup> However, when the Committee insists that any consideration of alcohol must take into account the cultural traditions of its use, it ignores the sub-cultural traditions of the use of narcotics and psychotropics.

To summarize the reasons advanced for the prohibition of the non-medical and non-scientific use of narcotics and psychotropic substances:

- 1) such use becomes abuse and as such constitutes a public health danger;
- 2) addiction causes crime; and
- 3) users are unable to be economically productive.

The third proposition has been shown to be false, particularly in a setting in which the addict is assured a legal supply to support the addiction. The

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31. EUROPEAN COMMITTEE at 13-15.

32. *Id.* at 52-53.

33. *Id.* at 69.

34. *Id.* at 77.

35. *Id.*

36. *Id.* at 78.

37. *Id.* at 83.

first proposition is surely true, but could be better handled by a scheme regulating purity of substances and requiring warnings on the products rather than the present prohibitory schemes. The second proposition is the most compelling, if true. However, it is possible that the labelling of user behavior serves to encourage further criminal behavior and the development of a criminal subculture. The expanding criminal subculture in turn causes the expansion of a bureaucracy of repression.

#### MODELS OF SUBSTANCE USE

A number of models can be applied to the problem of drug abuse. The first is the enforcement model employed by the legal system to prohibit, or less commonly, to regulate drug use. The legal perspective has been said to be premised on the supposed immorality of addiction.<sup>38</sup> This may be a harsh characterization. It is certainly false if the legal perspective is premised on the prevention of other crime, particularly theft. However, to the extent that the underlying premises have not been clearly and convincingly articulated, this characterization gains legitimacy. Further, it may be supported by Duster's and Lindesmith's conclusion that "[a]s the drug problem has increased, so has the severity of the penalties of laws designed to deal with the drug offender."<sup>39</sup>

The medical model of drug abuse views addiction as a physiological disorder. According to one such theory, there is a neurological change induced by the narcotic in certain susceptible subjects so that these individuals then physically require further narcotics. If this perspective is adopted, the user must be helped either by life-long sustenance of the addictive or by methadone maintenance, the latter being widespread in the United States.<sup>40</sup> Another species of the medical view is that addiction is caused by a pre-existing genetic defect. Yet another considers addiction to be a mental illness.<sup>41</sup>

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38. Weppner at 112. See generally 18 INT'L J. OFFENDER THERAPY & COMP. CRIMINOLOGY, *Special Issue: Treating Alcoholic and Drug Dependent Offenders* (1974).

39. Weppner at 112 citing T. DUSTER, *THE LEGISLATION OF MORALITY: LAW, DRUGS, AND MORAL JUDGMENT* (1970), and A.R. LINDSMITH, *THE ADDICT AND THE LAW* (1965).

40. Glaser, *Medical Ethnocentrism and the Treatment of Addiction*, 18 INT'L J. OFFENDER THERAPY & COMP. CRIMINOLOGY 22 (1974) [hereinafter cited as F. Glaser].

41. In Frederic Glaser's malediction against what he calls medical ethnocentrism, he discloses a number of objections to the medical model. Dr. Dole, co-founder of methadone maintenance, has asserted that narcotic hunger has a metabolic basis, but he "failed to identify that basis and finally admitted that the interaction of the narcotic drug and the cell is 'still unlocated and undefined chemically.'" *Id.* at 22-23. As to the theory that addiction is a mental illness, Glaser refers to a report in press that more than 95% of the staff members of an addiction treatment center considered

While the legal view and the medical views see addiction from an individualistic perspective, the psychological, the sociological, and the anthropological views consider a group the proper unit of analysis. The psychological observation investigates the individual's social adjustment, which is seen as a result of his inadequate personality.<sup>42</sup> But A.R. Lindesmith pointed out that the label "psychopath" does not account for normal individuals who become addicts. As explained by Weppner:

The term psychopathy, which technically has been described as asocial, rebellious, aggressive, and immature behavior, has been indiscriminately applied to drug addicts for years. This characteristic, as measured by the MMPI [Minnesota Multiphasic Personality Inventory], indicates responses which are deviant from those of the "normal" middle-class group from which the test was derived. It obviously disregards nonmiddle-class behaviors and attitudes of various subcultures found in the United States today.<sup>43</sup>

From the sociological perspective, addiction is viewed as a product of society. This viewpoint commonly attributes addiction to the person's failure to achieve, or even hope to achieve, as a result of discrimination and/or deprivation, success in society.<sup>44</sup>

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addiction to be a mental illness, while only about 20% of the patients agreed with this proposed etiology. *Id.* at 18. The most effective argument in Glaser's article is his quote from V. FRANKL, *THE WILL TO MEANING: FOUNDATIONS AND APPLICATIONS OF LOGOTHERAPY* 20-21 (1969).

What is dangerous is the attempt of a man who is an expert, say, in the field of biology, to understand and explain human beings exclusively in terms of biology. The same is true of psychology and sociology as well. At the moment at which totality is claimed, biology becomes biologism, psychology becomes psychologism, and sociology becomes sociologism. In other words, at that moment science is turned into ideology.

*Id.* at 13. It should be noted that Glaser is a physician.

42. Most studies emphasize the passive, inadequate nature of the addict's personality with his subsequent poor social adjustment. Chein [*Narcotics Use Among Juveniles*, 1 *SOCIAL WORK* 50] (1956), in his exhaustive study of high drug use areas in New York City, reported that the passive, anxious, and generally inadequate youth will be more prone to narcotics addictions than the "reality-oriented," aggressive, and resourceful young gang member.

Weppner at 113. Another psychological interpretation is that delinquents are found at both extremes of the familial rejection-protection continuum. Culbertson & Schrink, *The Juvenile Delinquent and His Environment*, in *FUNDAMENTALS OF JUVENILE CRIMINAL BEHAVIOR AND DRUG ABUSE* 24 (R. Hardy & J. Cull eds. 1975). A major objection of the psychological tests administered to addicts is that the results reflect the effects of addiction rather than any etiology. F. Glaser at 18.

43. Weppner at 113-14.

44. [C]ertain individuals, because of their positions in the social structure, are blocked from legitimate means (education, good jobs, etc.) to achieve "success" in the society. Frequently, they are also failures at attempting to achieve success through criminal means. As a result, they become retreatists and use drugs to cope with their frustration.

*Id.* at 114, referring to a sociological theory of addiction, specifically, one proposed in R. CLOWARD & L. OHLIN, *DELINQUENCY AND OPPORTUNITY* (1960). See D.

The anthropological viewpoint is concerned with the value that drug use has to the user, in the context of the user's culture or subculture. According to one anthropologist, anthropology

can expand our present knowledge of drug addiction by pointing out the cohesive set of values, norms, and behaviors which differentiates addiction as a subcultural entity. If our larger goal is to rehabilitate the addict, it follows that we should know from *what* he should be rehabilitated.<sup>45</sup>

Weppner, the aforementioned anthropologist, accredits Preble and Casey with the first study to examine the use of narcotics emically.<sup>46</sup> In "Taking Care of Business—The Heroin User's Life on the Street," Preble and Casey noted that the life of the heroin user may be meaningful to the narcotic addict while still being socially disapproved.<sup>47</sup>

While drug use may be widely recognized as a subcultural phenomenon,<sup>48</sup> it must be remembered that drug use is not a unitary phenomenon. There are many *different subcultures of use*,<sup>49</sup> e.g. the ghetto addict, the

Glaser at 47 for an explanation of the relative deprivation-differential anticipation theory of drug addiction.

45. Weppner at 118. See also the multidisciplinary aspirations of R.I.D.P.

46. Weppner at 114. "Emic," which has not yet made it into Webster's Unabridged, refers to the perspective of the individuals or groups under study. Etymologically, the word is derived from linguistics, from "phonemics," to be contrasted with "phonetics." One definition of the word follows:

Emic statements refer to logico-empirical systems whose phenomenal distinctions or "things" are built up out of contrasts and discriminations significant, meaningful, real, accurate, or in some other fashion regarded as appropriate by the actors themselves. An emic statement can be falsified if it can be shown that it contradicts the cognitive calculus by which relevant actors judge that entities are similar or different, real, meaningful, significant, or in some other sense "appropriate" or "acceptable."

M. HARRIS, *THE RISE OF ANTHROPOLOGICAL THEORY: A HISTORY OF THEORIES OF CULTURE* 571 (1968).

47. The surest way to identify heroin users in a slum neighborhood is to observe the way people walk. The heroin user walks with a fast purposeful stride, as if he is late for an important appointment. The meaning in his life . . . lies in the gratification of accomplishing a series of challenging, exciting tasks every day of the week.

Preble & Casey, *Taking Care of Business—The Heroin User's Life on the Street*, 4 INT'L J. OF THE ADDICTIONS 3 (1969), quoted in Weppner at 114.

48. See Stoop, *The Drug Scene in Belgium*, 18 INT'L J. OFFENDER THERAPY & COMP. CRIMINOLOGY 100 (1974).

49. See generally Stoop; Hamburger, *Contrasting the Hippie and Junkie*, 4 INT'L J. OF THE ADDICTIONS 121 (1969). A study of the population of drug offenders arraigned in Massachusetts caused the researchers to conclude that "criminal behavior [is] predominantly a characteristic of the male human species." Rizzo, Perkins & Pawlowski, *The New Massachusetts Drug Law: A Preliminary Assessment*, 18 INT'L J. OFFENDER THERAPY & COMP. CRIMINOLOGY 35 (1974). It is interesting that this fact has not resulted in employment (and other) discrimination against males.

hippie addict, the therapeutic addict, and the rural Iranian addict. Also, the *type* of drug used may vary with the culture.<sup>50</sup> Then too, the value and status of addiction can vary *within* one given subculture.<sup>51</sup> The value and function of drug use may change during the *life cycle* of the addict.<sup>52</sup> The concept of *what substances* are addictive may differ with each culture. In "Chatorpan: A Culturally Defined Form of Addiction in North India," the Doctors Vatuk explain that sweets and salty-spicy snacks are there considered addictive; excessive consumption of these items is thought to result in deviant and antisocial behavior.<sup>53</sup>

The ideology of justification of the addict makes prevention and rehabilitation particularly problematic. Many addicts are extremely ethnocentric and scornful of other lifestyles.<sup>54</sup> This problem is further complicated by the long enculturation process, begun at an early age, which many addicts have undergone. Without an understanding of the addict's world view, attempted treatment is likely to fail.<sup>55</sup> Thus the practice of employing ex-addicts in treatment centers can be seen as a measure to bridge a cultural gap.

The British experience with heroin addiction, portrayed in *Heroin Addiction in Britain* by Judson and in "Addiction in the Fifties: The Contrasting Picture in New York and Britain" by Schmideberg, exemplifies

50. Immigrants to England from Pakistan, India, and the West Indies smoke marijuana but avoid heroin. In the United Kingdom, nonwhite addicts are rare. In contrast to the American experience, drugs started in jazz circles, spread to the middle class, and finally to the working class in Britain. JUDSON at 46-48.

51. There is a definite multilevel status hierarchy in the [American urban street addict] subculture of addiction which runs from the high-class player, who is admired and emulated, to the garbage junkie, who is on the lower end of the addict social ladder. The former is an individual who has a very lucrative hustle, such as pimping for a large number of prostitutes. He dresses expensively and may have a large bankroll, a flashy car, and body guards. The latter is the individual who can support his heroin habit only by providing a "shooting gallery" (a place to use drugs) and "works" (the hypodermics to administer them). He may either charge money or a portion of heroin for the use of the "shooting gallery." He is considered to have sunk very low on the status scale. . . .

Weppner at 115.

52. Effective treatment requires knowing which phase of the cycle the individual is in. For example, "to place a young, physiologically addicted person who has not become fully involved in the addiction system into a segregated addict treatment facility might well expedite his entry into the addiction system." Alksne, Lieberman & Brill, *A Conceptual Model of the Life Cycle of Addiction*, 2 INT'L J. OF THE ADDICTIONS 238 (1967).

53. Vatuk & Vatuk, *Chatorpan: A Culturally Defined Form of Addiction in North India*, 2 INT'L J. OF THE ADDICTIONS 103 (1966).

54. Weppner at 115 shows that addicts are scornful of "squares."

55. *Id.* at 116.

the culture-conflict component in dealing with drug abuse. Until the 1960's there were few addicts in the United Kingdom, and those addicts were overwhelmingly therapeutic addicts. After 1960, the problem increased and spread throughout the youth counter-culture. The laws and types of treatment were then modified. Schmideberg gives a telling conclusion: "it was not the humane 'British system' that kept addiction within narrow bounds, but on the contrary it was the mild drug scene that made moderation and humanity possible."<sup>56</sup>

Another model to deal with addiction is the spiritual model that considers addiction to be a violation of a supernatural order. Rehabilitation is undertaken in a religious setting.<sup>57</sup>

#### DEMAND, SUPPLY, AND TRAFFIC

The element of demand well may be the most complex one in the demand-supply-traffic equation, as a number of models may be employed to explain user demand. It is easily the most difficult one for the criminal justice system to have any effect upon, especially in light of the considerations touched upon by Mueller. Nevertheless, "[d]emand-restricting activities account for some sixty-seven percent of the total federal funds for drug abuse programs in 1974."<sup>58</sup> Much of this outlay was in the form of treatment facilities. Indeed, both the International Association of Penal Law and the Council of Europe lay heavy emphasis on the rehabilitation of offenders. Yet rehabilitation is merely prevention at a particular point in time.<sup>59</sup>

The elements of supply and traffic in narcotics entail very similar considerations, and can be dealt with together. The United States has long been instrumental in securing international cooperation to dry up the sources of narcotics.<sup>60</sup> Since narcotic drugs are not generally grown in the

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56. Schmideberg, *Addiction in the Fifties: The Contrasting Picture in New York and Britain*, 18 INT'L J. OFFENDER THERAPY & COMP. CRIMINOLOGY 50 (1974).

57. See generally 18 INT'L J. OFFENDER THERAPY & COMP. CRIMINOLOGY (1974), especially Elizabeth, *Helping Women Addicts at Spelthorne St. Mary's, England* at 77; Engel, *Existentialist Treatment of a German "Drug Clan"* at 58; Henry, *Helping Women Addicts at "The Coke Hole", England* at 68; and Pott, *Counselling the Drug Abuser: A Christian Approach* at 62.

58. Chambers & Inciardi at 223.

59. See generally 18 INT'L J. OFFENDER THERAPY & COMP. CRIMINOLOGY (1974); JUDSON at 133; McGlothlin & Tabbush, *Costs, Benefits, and Potential for Alternative Approaches to Opiate Addiction Control*, in DRUGS AND THE CRIMINAL JUSTICE SYSTEM 77 (J. Inciardi & C. Chambers eds. 1974); and Monroe, Ross & Berzins, *The Decline of the Addict as "Psychopath,"* 6 INT'L J. OF THE ADDICTIONS 601 (1971).

60. Gregg, *The International Control System for Narcotic Drugs*, in DRUGS,

United States, it is only through international cooperation that the American government can hope to keep dope out of the country. The international control scheme, as embodied in the 1961 Single Convention on Narcotic Drugs, is based on an indirect control system by which sovereign states agree to impose domestic controls on the manufacture, traffic, and use of narcotics. The international narcotics effort "illustrates in abundant detail the limitations of global international organizations and the dynamics of interstate relations in a multilateral setting."<sup>61</sup> The Soviet Union has been critical of the United Nation's role in the field of narcotics control, considering the scheme an encroachment on state sovereignty.<sup>62</sup> The Soviet Union considers addiction to be a Western problem, a symptom of a "malfunctioning social system."<sup>63</sup> Indeed, many countries simply believe that there is no urgent need to control drugs, that the topic is a Western obsession.<sup>64</sup> While the international control scheme has not been able to exact complete compliance, it may be considered "more or less successful" when "viewed in terms of data gathered, dialogue sustained, and treaty provisions formally complied with . . . ."<sup>65</sup>

Much of the reviewed literature deals with the political connections and vested interests involved in the international supply and traffic networks.<sup>66</sup> All of these studies are quite detailed and their chief value lies in lending empirical support to what would otherwise sound like exotic exaggerations of the works of intelligence agencies. With reference to Southeast Asia, Simmons and Said give the gist of the accounts that are presented in abundant detail for various areas of the world.

Several nations in Southeast Asia have not pursued vigorous antinarcotics programs because the ethnic and tribal organizations cultivating the poppy are bulwarks of government support in the central administration's struggle against political insurgency.<sup>67</sup>

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POLITICS, AND DIPLOMACY: THE INTERNATIONAL CONNECTION 293 (L. Simmons & A. Said eds. 1974) [hereinafter cited as Gregg]; JUDSON at 13.

61. Gregg at 277.

62. *Id.* at 294.

63. Gregg at 294. Further, the Soviet bloc boycotted the 1953 Conference on Narcotic Drugs. Gregg, *The United Nations and the Opium Problem*, 13 INT'L & COMP. L.Q. 103 (1964). During the drafting of the Single Convention, the Soviet Union prevailed in voting against local inquiry and against mandatory embargo sanctions, insisting that these provisions violated state sovereignty. Waddell, *International Narcotics Control*, 64 A.J.I.L. 320 (1970).

64. Simmons & Said at 24.

65. Gregg at 296.

66. See generally C. LAMOUR & M. LAMBERTI, *THE INTERNATIONAL CONNECTION: OPIUM FROM GROWERS TO PUSHERS* (1974); *DRUGS, POLITICS, AND DIPLOMACY: THE INTERNATIONAL CONNECTION* (L. Simmons & A. Said eds. 1974).

67. Simmons & Said at 6 (references omitted).



A number of alluring propositions have been put forth with respect to the motivation of drug suppliers. As hinted at before, a number of black leaders believe that the drug problem has been exploited to keep minority groups subservient. Of the same ilk, there is yet another theory, attributed to Henry Anslinger, the "perennial U.S. delegate to all international drug conferences:"<sup>68</sup> "the People's Republic of China has exported opium and heroin to the United States, utilizing it as an instrument of political subversion."<sup>69</sup> The People's Republic of China had been outside of the international control scheme prior to its admission to the United Nations, but the allegation has not been supported by any data.<sup>70</sup>

An explanation similar to the Anslinger theory has been employed by the state of Israel, as explained and interpreted by Even-Zohar:

An unpublished police report contends that it was a deliberate strategy of the terrorist organizations to spread the usage of drugs among the Israeli youth. There is indeed some evidence to that effect; however, the fact that drugs are considered a weapon deployed by the enemy is indicative of the identification of the usage of drugs with nonpatriotic values.<sup>71</sup>

Testimony before the Israeli parliament revealed that profits from the narcotics trade were used to finance guerilla activities against Israel.<sup>72</sup> Liberation movements are often blamed for narcotics dealings: they are in dire need of money, are willing to take great risks, and have an established underground, so they may be willing to exploit drug use by deliberately making people dependent upon narcotics, thus putting money into their own pockets.<sup>73</sup>

It should be noted that even those governments committed to policing the illegal supply of narcotics face an insurmountable task. Opium is grown in inaccessible areas and over vast territories. Few governments have resources adequate to control this cultivation.

## CONCLUSION

Assumptions underlying the criminalization of narcotics and psycho-

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68. King at 23.

69. Simmons & Said at 21 protest this allegation, citing Lowinger, *The Politics of Drugs*, 3 SOCIAL POLICY 41 (1972) as providing proof that the belief is a myth. But Simmons and Said do not explain this proof.

70. Bassiouni, *The International Narcotics Control System: A Proposal*, 46 ST. JOHN'S L. REV. 713 (1972); see also Bassiouni, *International Drug Control*, Work Paper presented to the Abidjan World Conference on World Peace Through Law, August 26-31, 1973.

71. Even-Zohar at 185.

72. *Id.* at 207, 208.

73. *Id.* at 208.

tropic substances must be reexamined. It is clear that drug use will be with us as long as people want to use drugs. The legal system cannot prohibit such a desire, and it must defer to other disciplines to understand the reasons for this desire and to create methods to stem it. Legal enforcement can put a small dent in the availability of these substances, but as long as there are high profits to be made, coupled with either (1) a lack of international consensus that drug use is a pressing problem, or (2) the inability of willing governments to police the supply and traffic, then the enforcement system will be unable to make a reduction in the supply of narcotics sufficient to decrease usage. The solution to drug abuse "lies in modifying demand . . . rather than regulating supply."<sup>74</sup>

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74. Gregg at 300.