

Introduction to Terry Carney's book "An  
Unwinnable War Against Drugs: The Politics of  
Criminalisation", Pluto Press, 1991

**AN UNWINNABLE WAR AGAINST DRUGS: THE  
POLITICS OF DECRIMINALISATION, by Terry Carney  
and Others, Melbourne, Pluto Press, 1991. 73pp.  
\$6.95 (paper).**

A recent documentary on Ceausescu's Romania presented a parade of chastened politicians, intellectuals and lawyers who confessed that they had never stopped to question the fantastic laws and policies (not to say personality cult) which the dictator inflicted on them. They, at least, had the excuse of the Securitate. The inhibitions upon questioning apparently universally accepted wisdom are very great: even in less authoritarian societies.

One of the great "truths" of modern times is said to be the need for an international "war against drugs". The Secretary General of the United Nations is quoted in this book as saying that "drug abuse is a time bomb ticking away in the heart of our civilisation. We must find ways of dealing with it before it destroys us". There are many other like statements, emanating particularly from the United States of America after the disaffection of the Vietnam War led to an increase in the use of recreational drugs. More and more Draconian punishments are enacted. In Australia, not only are there Federal and State laws on importation, possession, supply and use of illegal drugs. But the sentences available for the offences have been gradually escalated. Life imprisonment is now provided for many such crimes. But as well, a whole panoply of authoritarian measures has been introduced. They range from authorised

use of listening devices and telephonic interception, through exceptional powers of search and seizure, facilitated proof of crimes and statutes providing for the confiscation not only of the proved proceeds of crimes but of the assets of persons accused, but not convicted, of such offences. See eg *Drug Trafficking (Civil Proceedings) Act 1990* (NSW).

It is against this background of national laws targeting the supply of illegal drugs and international conventions reinforcing a world-wide strategy to that end, that this little book must be approached. It is one of a series of books on "Strategies for Renewal" published by Pluto Press of Australia in association with the Australian Fabian Society and the Socialist Forum. Its thesis is that the "war against drugs" is just the latest effort of the Prohibitionist tendencies of the United States. This strategy has been a "manifest failure" in the opinion of the authors. The time has come for Australia, if necessary alone (or with like-minded countries such as Denmark and the Netherlands) to opt out and to try a better balanced strategy for countering the undoubted problems of drug dependence.

The book is comprised of five short essays. The introduction by John Mathews outlines the major arguments for change, introduces the writers of the four substantive essays and presents the book as a contribution to social change.

Invoking thoroughly respectable world figures such as George Schultz, the former US Secretary of State and Milton Friedman, the Nobel Laureate in Economics, Mathews distils the "striking case for reform" from six propositions. The first is that the case for criminalisation and prohibition has never been convincingly argued, as a matter of

principle. The second is that the social costs (criminalisation of young people, burglaries, etc) are mounting. The third is that preventable health problems attend the current strategy - especially the dangers of the spread of HIV/AIDS. The fourth is that resources for truly antisocial activity (corporate and environmental crime) are diverted to huge expenditures on "victimless" drug offences. The fifth concerns the impact on developing countries which are tempted into high yield cash crops by the ready markets of the West. The sixth is the consequent neglect of more realistic strategies for the social control of drug use. These are now being ventured in the Netherlands with results apparently no worse than the local laws and with far fewer damaging social costs.

The first substantive essay in the collection is by Dr Les Drew. For thirteen years he was a senior health policy adviser to the Australian Federal government. He contrasts the public beliefs about drugs with the empirical facts. He uses statistics to show how minuscule is the current level of deaths caused by illegal drugs when compared with deaths caused by alcohol and tobacco. The criminalisation of significant sections of the population, especially the young, is a major concern for Dr Drew. According to one statistic he quotes, 33% of males and 25% of females between the ages of 14 and 19 years have used illegal marijuana or "hash". He supports the objective of minimising the harm associated with drug use. But he suggests that regulation of supply rather than prohibition would be more effective. He likens Australia's acquiescence to the American-led "war on drugs" to our earlier abject acceptance

of similar fateful leadership in the Vietnam War. He predicts a similar, eventual withdrawal.

The international attempts to develop uniform global approaches to illicit drugs began at the Hague in 1909 and in Geneva in 1912. Those attempts owed much to the decisions taken at about the same time by the United States to adopt the 18th Amendment to the Constitution prohibiting the manufacture, sale, transport, import or export of intoxicating liquors. It took more than a decade for that brave experiment to be seen for the failure that it was. The 21st Amendment was then passed repealing the 18th. We seem to be travelling, with the Americans, upon the same journey again but now on a global scale.

The next contribution is by Dr Stephen Mugford, a senior lecturer in sociology at the Australian National University. Starting from an exploration of the various possibilities of legalisation or decriminalisation, Dr Mugford expresses regret that Australia's ratification of international conventions now constrain any ready change of our policy. It suggests that the objective of a rational Australian policy on drugs should be harm reduction not elimination and that laws should be targeted in a consistent way at all drug use - not just at "second generation" drugs. According to Mugford, the free availability of cannabis in Amsterdam has not led to any increase in the use of that drug. If anything, use has declined. He suggests that similar consequences have followed the "decriminalisation" of personal cannabis use in South Australia.

The next contribution is by Professor Terry Carney, now of the University of Sydney. He explores the current legal

strategies in the context of the debate about the proper limits of the criminal law. He outlines various options for controlled supply - including provision for medical prescription, licensing of commercial vendors, the establishment of a government monopoly, etc. The present prohibition model is, according to Carney, a contradiction of the "notion of citizenship", inherent in the modern relationship between the individual and the organised community. As a start to a more rational policy, Carney urges the greater use of prosecutorial discretion. But this virtually unreviewable decision may be idiosyncratic. It transfers the criminal process from the open courts to decisions made behind closed doors.

Finally, there is a very thoughtful chapter by Dr Alex Wodak, Director of the Alcohol and Drug Service at St Vincent's Hospital in Sydney. That hospital is in the frontline of treatment and care of people in Sydney with drug addiction and HIV/AIDS patients. Dr Wodak and his colleagues have to deal with such fellow citizens as patients and as human beings. It is therefore unsurprising that he should concentrate on the long list of contradictions which exist in current Australian policies aimed at supply reduction. He is scathing in the review of the law's present approach whilst acknowledging the practical obstacles which stand in the way of a "go it alone" Australian attempt to chart a different course. The huge funds pumped into the present strategy, both nationally and internationally, are spelt out. Dr Wodak contrasts the minuscule amounts spent on drug education and the large and growing needs of health care, particularly in the field of HIV/AIDS. He laments the disproportionate

influence of United States policies on international strategies against drugs. Their institutional triumph is "remarkable" given the "apparently unsuccessful results of these policies when applied domestically".

I regard this book as useful because of the sober way in which the contributors have aired their views and marshalled their arguments. There seems little doubt that the growing problem of HIV/AIDS will necessitate fresh consideration of our drug laws and strategies. Indeed, this has already happened. The provision for the exchange of used for sterile syringes in most jurisdictions of Australia and in New Zealand points up the inconsistency between urgent strategies for health care and laws concerning drug use.

Various criticisms of the book can be mentioned. There is a degree of repetition. The book is light on hard data concerning the extent of illegal drug use, the number of offenders and prisoners and the aggregate cost of current controls. Nor is there sufficient information about the experiments in the Netherlands and Denmark aimed at a different approach. An analysis of why the British strategy of prescription of heroin, which is said by its critics to have "failed", would have been useful. As well, there is some suggestion of a fall-off in drug use, unrelated to legal sanctions and stimulated by the advent of HIV/AIDS. This is not explored. The extent to which Australia could experiment, consistent with its ratification of international conventions, is mentioned but not analysed. The practical steps to a transitional arrangement need to be spelt out if politicians are to be helped to consider them. The idea of depending on a benevolent exercise of the prosecutor's

discretion is basically incompatible with the rule of law. An index of the book would have been useful, as would a list of books for further reading.

The book might also have been more stimulating if it had included an articulate exposition of the contrary viewpoint so that the reader could decide. In this sense, it is in the nature of a tract, self-consciously promoting coherent, supportive opinions rather than offering competing viewpoints for the reader's assessment.

But these are by no means fatal points. The great issue raised by this little book is one of very considerable importance, quite disproportionate to the size of the collection. It concerns the limits of state power; the hypocritical and selective enforcement of ineffective laws; and the unquestioning pursuit of an international strategy with insufficient attention to whether or not it is effective and on the right track. The book deserves to be read widely. But whether in a society which resembles the unquestioning authoritarianism of Ceausescu's Romania on this particular issue, the book will prompt the social debate for which the authors call, remains a matter of doubt.

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