

## The regulation and control of drugs: Part 2

**In the second part of this briefing, Professor David Clark continues to look at the development of laws regulating recreational drug use, in particular in America which has influenced world drug policy so strongly.**

American drug law eventually reached a point that seemed to many people incompatible with American ideals of individual freedom. Arnold Trebach argued that 'the essential nature of the U.S. drug enforcement has an alien tinge to it, more suited to an intrusive totalitarian society than to the democratic... culture that evolved... here in the United States'.

Congress repealed almost all of the mandatory sentences for drug offences in 1970, but these were re-introduced by the mid-1980s.

The Nixon administration introduced a new 'no-knock law' in the 1970s that, for the first time, allowed narcotic agents to legally break into premises without warning.

Under the Reagan administration of the 1980s, the US Supreme Court upheld the right of US customs officials to detain anyone who enters the US until they defecated into a container, allowed their faeces to be examined, and thereby demonstrated their innocence of drug trafficking.

Other laws made it possible to compel attorneys to testify against their own clients in drug cases and to seize fees paid to defence attorneys if the money was thought to come from drug trafficking.

The Clinton administration passed the Violent Crime Control and Law Enforcement Act (1994) which allows the death penalty for being a 'drug kingpin'.

Other legislation and judicial decisions introduced or increased mandatory sentences for various drug sentences, eliminated the possibility of physicians prescribing marijuana to the medically ill, and failed to change the existing federal embargo on funding for needle exchange schemes.

The Bush administration has been linking drug use with supporting terrorists.

The total population in jails in the US has surpassed two million – more than triple the number of 1980. Nearly one in four prisoners behind bars are there for a non-violent drug offence.

A study by the Leadership Conference on Civil Rights in 2000 noted that blacks represent 12 per cent of the US population and an estimated 13 per cent of drug users. Despite the fact that equal arrest rates for minorities and whites are yielded by



traffic stops and similar enforcement, 38 per cent of individuals arrested for drug offences and 59 per cent of those convicted are black.

In their book *Crack in America*, Craig Reinerman and Harry Levine point out the politics that surrounded crack in the US during the 1980s and 90s. Crack first appeared in late 1984 and 1985, primarily in impoverished African-American and Latino inner city neighbourhoods in New York, Los Angeles and Miami.

Crack never became a popular or widely used drug, being used by the poorest, most marginalised people in American society. This was not the way that the media and politicians talked about crack from 1986 to 1992. In 1986, President and Nancy Reagan led a string of politicians in asserting that drugs, especially cocaine, were 'tearing our country apart' and 'killing... a whole generation [of]... our children'. A 1988 ABC News special

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report termed crack a 'plague' that was 'eating away at the fabric of America'. In 1988-89, the Washington Post ran 1,565 stories about the drug crisis.

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At the start of the crusade to save 'a whole generation' of children from death by crack in 1986, the latest official data showed a national total of eight 'cocaine-related deaths' of young people aged 18 and under in the preceding year.

In 1986, the national prevalence of high school seniors having tried crack in the past year was 4.1 per cent. This declined steadily to 1.5 per cent by 1993. Amongst 18 to 34-year-olds in 1992, only 3 per cent had ever used crack, whilst only 0.4 per cent had used it in the past month. Therefore, prevalence was low. Despite claims that the drug was instantly addicting, most people who used it did not continue.

When he became President, Reagan attempted to restructure public policy according to radical conservative ideology. Programs directed at social problems were systematically defunded and taken apart.

Unemployment, poverty, urban decay, crime and other social problems were treated as if they were the result of individual immorality or deviance. Arguments against these ideas were classed as left-wing.

For the New Right, people did not abuse drugs because they were jobless, homeless, poor, depressed or alienated. They were jobless, homeless, poor and depressed because they were weak, immoral or foolish enough to take drugs. Business productivity was flagging because many workers were taking drugs. US education was in trouble because a generation of students were on drugs and teachers did not get tough enough with them.

Crack was a godsend to the New Right. 'They used it and the drug issue as an ideological fig leaf to place over the unsightly urban ills that had increased markedly under the Reagan administration social and economic policies.'

The drug problem provided an all-purpose scapegoat. Politicians could blame an array of problems on the deviant individuals and then expand the nets of social control to imprison those people for causing the problems.

And Nancy Reagan could have a highly visible 'Just Say No' campaign showing her social consciousness and demonstrating that she was caring and not frivolous.