




Legal Approaches to Reducing Drug Harms

A discussion paper
for Salvationists



The Salvation
Army Australia
Moral and Social
Issues Council

An illustration of two people, a woman on the left and a man on the right, facing each other as if in conversation. The woman has long dark hair and is wearing a blue vest over a light-colored long-sleeved shirt and a yellow skirt. The man has short dark hair, wears glasses, and a light pink button-down shirt. Above them is a large, hand-drawn speech bubble with the text "Let's talk about...".

Let's talk
about...

Legal Approaches to Reducing Drug Harms

The intention of discussion papers for Salvationists is to present issues of importance in a way that stimulates thought and discussion. Many of the issues addressed are controversial and give rise to opposing points of view. Although people often think of issues as right or wrong, black or white, it is helpful to consider these issues from different perspectives. These

papers are not definitive in themselves but designed to help facilitate prayerful exploration by Salvationists and friends.

This Discussion Paper follows the process of the Faith-Based Facilitation Model of discussion. This is a way of helping people think, talk, explore and respond

to issues in the light of their faith. This process causes us to slow down and be deliberate in our thinking, rather than rushing to conclusions or judgements. It takes us through a process of identifying the issue, describing and analysing it, reflecting on it and evaluating our thoughts, and then deciding how our exploration will impact the way we live.

When we think things through with other people, and do so with vulnerability, space is created for God to speak clearly to us through them. We encourage you to listen for God's prompting while discussing or thinking through this topic as you use your God-given intellect to seek God's Kingdom here on earth.

1. The issue

The Salvation Army has been concerned about the negative impacts of drugs on people's lives since its very beginnings. Historically, much of its early focus was on alcohol, which was legal and cheap, and the Army's efforts were concentrated on helping individuals find freedom from addiction and the misery it caused. William Booth saw that imprisonment was not an effective means of dealing with chronic alcoholism, which he proposed could be seen as a disease like any other physical affliction.¹ Thus, it could be treated by an institution aimed at recovery rather than punishment. He raised this alternative mechanism for the justice system, saying "it would be possible for a magistrate, instead of sending the poor wrecks of humanity to the 64th and 120th term of imprisonment, to send them to this institution".²

Over time, The Salvation Army's focus in this area has extended to incorporate a wider range of drugs and to understand the social



factors that influence individual behaviours. This discussion paper examines some of the ways in which communities today are striving to reduce the harms associated with the misuse of drugs, and explores the ways in which laws impact these factors.

1. *In Darkest England and the Way Out. Chapter 5 Section 4*

2. *In Darkest England and the Way Out. Chapter 5 Section 4*

2. Describe and analyse

There are many ways to think about drug use. For example, we could take a medical/biological view and focus on the effects of drugs on the human body. Alternatively, we could choose an historical, anthropological or sociological view and look at how people have used drugs for therapeutic and recreational purposes over time and in different societies or cultures. There are numerous other perspectives that could also be used to understand drug use and its implications.

In this discussion paper, we are focussing on a legislative approach, so that we are better equipped to examine the effects of laws made by governments about drugs, including which drugs or actions relating to drugs are legal or illegal.

Important terms

DRUGS

According to the Australian Government Department of Health, “Drugs are substances that change a person’s mental or physical state”.³ Commonly used legal drugs include caffeine, paracetamol and ibuprofen, for example. Just because a drug is legal does not mean that all uses of it are safe. Alcohol and tobacco – both legal – are the drugs that cause the greatest amount of health damage, medical and social costs in Australia.⁴

ILLICIT

The ‘illicit’ use of drugs covers a range of non-legal types of drugs or activities associated with drugs. It is illegal to have some types of drugs in your possession, whether or not they are yours or if you plan to use them. It is also illegal to distribute some drugs – including

legal ones like alcohol, cigarettes or prescription medication – except under carefully regulated conditions. The types of drugs that are illicit vary from time to time and place to place according to law.

DECRIMINALISATION

A drug may be decriminalised under certain conditions – for instance, shifting the penalties for possessing or using a substance from criminal to civil law. This means that offences can be heard in a civil tribunal, rather than a court, there is no criminal record of the offence and penalties may include a fine or a referral to a treatment program, rather than imprisonment. Decriminalising a drug for personal use does not make it legal. Furthermore, selling or manufacturing the drug may still result in criminal penalties.⁵ *De jure* decriminalisation

3. <https://www.health.gov.au/health-topics/drugs/about-drugs/what-are-drugs>

4. AIHW 2021b. *Australian Burden of Disease Study: Impact and causes of illness and death in Australia 2018*, AIHW, Australian Government

5. “Decriminalisation of drug use and possession in Australia – A briefing note”, Joint submission to Inquiry into Drug Law Reform Victoria, 2017, by UNSW, NDARC, & DPMP; available: https://www.parliament.vic.gov.au/images/stories/committees/Irrcsc/Drugs/Submissions/164_2017.03.17_-_NDARC_-_submission_-_appendix_a.pdf

removes criminal punishment for drug use, within the law (for example, cannabis in SA, ACT, & NT), while *de facto* decriminalisation means the criminal punishment remains within the law but is optionally enforced.

LEGALISATION

Legalising a drug removes both civil and criminal consequences, though there may still be differentiation in the circumstances – for instance a drug may be legal to possess and use but not to manufacture or distribute without a license. In Australia, it is legal to consume alcohol (though not in all locations) and to make your own wine or beer. However, individuals cannot distil (make) their own spirits without a permit.

REGULATION

Regulation helps to manage where and how a legal drug can be produced, sold, and consumed. For example, the regulation of alcohol in Australia is largely a state matter, with individual states determining the rules for who can sell

liquor, where and when they can do so. When these rules are breached, criminal and/or civil penalties may apply to individuals and corporations.

ADDICTION/DEPENDENCE

The terms addiction and dependence are frequently used interchangeably. According to the Australian Drug Foundation, “addiction is both a mental and physical dependence to a substance or behaviour. People can become addicted or dependent to a substance, such as alcohol or drugs, or a behaviour, such as gambling, shopping or sex. Addiction is being unable to control or stop using a substance or doing a behaviour, even though it’s causing harm”.⁶

6. <https://adf.org.au/insights/understanding-aod-dependence/>





Background

Both social attitudes to and laws about drugs have varied widely over time and continue to differ from place to place. Australia currently has a variety of drug policies, as each state legislates its own drug offences. Many illegal drugs were once legal and freely used – for example cocaine – others have variants that are very similar in chemical composition and effects but their usage and source determine their legal status. For instance, opioids, including heroin and morphine, are regularly used in medical settings, as are some forms of cannabis. As more research becomes available, some drugs that are currently illegal may be reclassified to become available for therapeutic use. For instance, MDMA (ecstasy) has been shown to have some positive impacts in a therapeutic environment on Post Traumatic Stress Disorder (PTSD) and Psilocybin (magic mushrooms) has been used as a therapeutic agent to treat depression.⁷

In the USA in the 1970s, President Richard Nixon declared a “war on drugs” which has had global influence because it sought to tackle the international markets that were the source of some drugs of concern locally at that time. By 2011, the Global Commission on Drug Policy had announced that war as a failure.⁸ Despite major efforts by many countries to stop the illicit drug trade, it has continued to thrive. The war on drugs, however, did drive a significant increase in stigma, discrimination and incarceration of people who use drugs.⁹

Other countries have taken different approaches. For instance, in response to very high rates of HIV/AIDS in the intravenous drug using population, Portugal implemented a range of measures that combined a level of decriminalisation with a justice approach that encouraged treatment and social supports instead of

7. <https://www.tga.gov.au/how-we-regulate/ingredients-and-scheduling-medicines-and-chemicals/evaluation-therapeutic-value-benefits-and-risks-methylenedioxyamphetamine-mdma-and-psilocybin-treatment-mental-behavioural-or-developmental-disorders>

8. <https://www.globalcommissionondrugs.org/reports/the-war-on-drugs>

9. Douglas, B. & McDonald, D. (2012)

criminalising people with addictions. The changes have reduced HIV infections and other drug-related deaths and significantly increased treatment uptake. Despite concerns that drug usage might increase, the patterns in Portugal have been shown to be no different to neighbouring countries where legislation has not changed.¹⁰

Complementary perspectives

THE SALVATION ARMY

The Salvation Army has changed its organisational view of drugs over time. While we now think of the Salvationist position as one of abstinence from non-medicinal drugs for soldiers and officers, smoking tobacco was allowed for soldiers until the 1970s.

When we consider the subject of drug usage in the community, it is expected that many Salvationists will have limited personal experience to draw upon. As an organisation, however, The Salvation Army

has extensive experience, expertise and wisdom drawn from decades of frontline practice in this area.

In the 1990s, The Salvation Army in Australia made the decision to support needle and syringe exchange programs (NSPs) on the basis of public health evidence that they saved lives and reduced dangerous infections in the community.¹¹ The Salvation Army's Alcohol and Other Drug (AOD) services work to prevent and reduce harm for both individuals and the wider community and to support the reduction and cessation of use. This approach is known as 'harm reduction', and is both national health policy¹² and the overarching framework of our alcohol and other drug services.¹³ While these services often work with people who have experienced significant harmful consequences from drug related harm, these issues are frequently compounded and protracted by interaction with the justice system, rather than resolved by it.

THE UNITING CHURCH (NSW & ACT SYNOD)

In taking a look at the approach of other denominations in this space, it is notable that The Uniting Church of Australia NSW & ACT Synod is currently the only church denomination in Australia that has publicly advocated for drug decriminalisation.¹⁴ In doing so, they have adopted a drug decriminalisation campaign called "Fair Treatment". In a submission to government, they advocate for:

- increased investment in harm reduction and demand reduction strategies; and
- further measures to decriminalise individual possession and use of small amounts of illegal drugs (not to decriminalise the illegal supply of drugs).

10. Hughes, C. E. and Stevens, A. (2010) 'What can we learn from the Portuguese decriminalization of illicit drugs?', *British Journal of Criminology*, vol. 50, pp. 999-1022.

11. Rowe, J, *A Pragmatic Exchange: A Short History of the Health Information Exchange and the Reconciliation of Christian Faith and Harm Reduction*, The Salvation Army, 2013

12. <https://www.health.gov.au/sites/default/files/national-drug-strategy-2017-2026.pdf>

13. See AOD Model of Care, p16 <https://www.salvationarmy.org.au/about-us/our-services/alcohol-and-other-drug-services/>

14. <https://nswact.uca.org.au/social-justice/the-social-justice-forum/fair-treatment-campaign/>

Biblical & Theological Perspectives

The Bible does not make any direct statement about decriminalisation or legalisation of drugs in the way we would think of those issues today. While a range of drugs has been used since before biblical times, the most common (then and now) is alcohol. We can see the use of wine in scripture features regularly in the stories told (for instance, Jesus turning water into wine at the wedding in Cana). Warnings for bishops and deacons about moderation in relation to alcohol also exist in 1 Timothy 3, though in chapter 5 of the same book, “a little wine” is prescribed (vs. 23).

Scripture talks about not being controlled by anything other than the Holy Spirit (Ephesians 5:18), and that the fruit of the Spirit includes self-control (Galatians 5:22-23). Addiction is a related issue, though it is also not referred to explicitly in the Bible. While not all drugs are addictive and not all drug usage leads to addiction, when a person does experience dependency on a drug, it can have serious consequences.



When considering what the Bible says, it is good to remember that most of the writing is directed at shaping communities of faith differently to the rest of the world. The lives of people of faith are meant to be “light to the nations so that [God’s] salvation may reach to the end of the earth” (Isaiah 49:6). This is one of the reasons that Salvationists make specific commitments to refrain from the use of harmful drugs. However, this does not imply that the whole world must become abstinent, just because Salvationists are. Reflect and Evaluate.

Take the time to pause, think and pray before discussing, or thinking through, the following questions:

- What changes in society have you noticed in regard to drug use?
.....
- In your communities, where do you see the harms of drug use?
.....
- What are your personal opinions, beliefs or stances in regards to the use of alcohol and other drugs? How did you form these views?
.....

- In light of the commitments made by Salvationists, what does the following mean to you?

It is not for kings to drink wine, or for rulers to desire strong drink; or else they will drink and forget what has been decreed, and will pervert the rights of all the afflicted.

Give strong drink to one who is perishing, and wine to those in bitter distress; let them drink and forget their poverty, and remember their misery no more.

Speak out for those who cannot speak, for the rights of all the destitute.

Speak out, judge righteously, defend the rights of the poor and needy. (Proverbs 31:4-9)
.....

- The Salvation Army works to mitigate the social evils of drug addiction (which can include incarceration), and to help people find freedom from addictions. How can individual Salvationists be involved in this work?
.....

- Drugs of all forms alter our state-of-mind and as such can be abused. However, a one-size-fits-all approach to drug abuse may not be suitable. How can we aim and advocate for a society free from drug harm, while also caring for those in addiction in their individual situations?
.....

- What are your personal opinions, beliefs or stances in regards to the decriminalisation of alcohol and other drugs? How did you form these views?
.....

- Is supporting the decriminalisation of a drug the same as condoning its use?
.....

- Any consideration of decriminalisation should not be as a standalone solution but rather part of a broad approach including provision of education, regulation of advertising and supply, and provision of treatment services for those trying to avoid or escape addiction. How can The Salvation Army contribute in these areas?
.....

It may be helpful to use The Wesleyan Quadrilateral reflecting theologically. It suggests that there are four sources that we can reflect on when considering issues:

1. Scripture

2. Tradition

3. Reason

4. Experience

It is important to note that Scripture should always be the primary, or foundational, source from which the other sources stem. This methodology does not suggest that all four sources are equal or should be given equal weight. Considering them separately, however, allows us to process more intentionally and to discover where our beliefs or thoughts on certain topics may originate from.

Scripture refers to the Bible – as Salvationist Doctrine describes it, ‘the divine rule of Christian faith and practice’. We use Scripture as our primary source for

understanding the will and nature of God, and believe that God still speaks through Scripture today. See ‘Use of Scripture’ below for ways in which the Bible can be explored during the FBF process.

Tradition refers to the way in which traditions and teachings of the Church or other spiritual influences, have an effect on our understanding of God and God’s nature. We may be so familiar with traditions that we do not even recognise them in our own thinking, so sometimes it is helpful to separate this from Scripture, Reason and Experience and consider Tradition on its own. It may be helpful to identify such traditions during an FBF Cycle.

Reason involves using our God-given ability to think through and explore alternative views and positions when considering various topics. In Scripture we are instructed to ‘Love the Lord your God with all your... mind’ (Matthew 22:37). ‘Reasoning’ involves processing our internal thoughts and exploring them those thoughts in a shared

way. In considering ‘reason’ as part of the Wesleyan Quadrilateral, these thoughts should have a coherence and logic that can be understood by and shared with others.

Experience recognises that all that has occurred in our lives, up until this point, has impacted who we are and what we believe. Our personal experiences of God, the Church and the world have shaped who we are and our understanding of who God is and how God operates in the world. This can include our experience of culture and cultural norms. Our experience of God must be shaped by our understanding of Scripture. When this is the case, we will often find that our experience confirms what Scripture tells us.

3. Decide and plan – how then shall we live?

Scripture, along with Salvation Army tradition and documents, can help us to think about alcohol and other drug usage. The Salvation Army comes from a posture of compassion and treatment, and not legalism.

Here are a few suggestions to guide discussion and reflection on these matters:

- Consider the voices of those directly impacted by the issue. Have we fully listened to their experience and perspective?
- Have your attitudes or perspectives regarding an issue changed over time? What contributed to the change?
- Examine our own blind spots: Are there alternative scriptural views? Have we been disproportionately influenced by our own friends, family or background?
- Are there any behaviours I need to change?
- What are some practical actions Salvationists can take in this area?



- Are there any beliefs that I hold that I need to challenge?
- What can I/The Salvation Army do to continue making a difference in this area?
- What can we do to keep educating ourselves in this area?

Prayerfully consider how the issues you have thought through will impact your day-to-day life.

4. Additional Resources

The following websites or other resources may be helpful in considering this issue further:

- <https://www.salvationarmy.org.au/subscribe/sites/masic/files/IPS/Alcohol%2Bin%2BSociety%2BIPS.pdf>
- <https://adf.org.au/talking-about-drugs/law/decriminalisation/>
- <https://nswact.uca.org.au/social-justice/the-social-justice-forum/fair-treatment-campaign/>

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