

The Taxcast, Part 2 Drug War Myths, October 2023

Naomi: “Hello and welcome to the Taxcast, the Tax Justice Network podcast. We’re all about fixing our economies so they work for all of us. I’m Naomi Fowler. On the Taxcast this month, we continue with part two of drug war myths. In Part 1 we challenged the idea of the supposed 'goodies' and the 'baddies'. And in Part 2 we're going to shine the spotlight on the less visible professional enablers, and we're going to talk about how to fix the mess of the war on drugs - tax is an important part of it.”

Dr Mary Young: “We need to be looking at white collar criminals.”

Naomi: “This is Associate Professor of International and Organized Crime at Bristol Law School Dr Mary Young.”

Dr Mary Young: “I now use the term 'money managers,' you know, the people who manage money. The people who manage money for us, manage money for criminals. And they manage it in exactly the same way, but we need to be focusing on these groups of people. And these groups of people are usually embedded within policymaking and they feed into the vested interests of the US government and the UK to keep those financial services industries very tight, ticking and wealthy in financial secrecy centers. We only need to look at the scandals which are coming out, where we see different levels of tax abuse and I think that we, we shouldn't differentiate between legal and illegal, I would blanket it all as a tax abuse. And we see wealthy government officials, politicians, those of a high social status using these foreign tax havens and financial secrecy jurisdictions to maximize personal wealth, circumvent domestic tax laws, and where possible, hide dirty money.

You know, you have an amazing symmetry between organized crime and the upper world. Organised crime is just an economic enterprise. There are symmetries between legitimate organizations and organized crime bodies and upper world business ventures and they all have profit at their core. So, organized crime groups, legitimate businesses, the government, massive NGOs even, huge organizations, business operations, they use bankers, they will need lawyers, they will need accountants.

One financial intermediary told me, 'I've done very well out of it, thank you very much. My children have a brilliant life and I'm really wealthy.' And he was very happy to tell me and boast about the amount of money he makes from being a private banker. And he was also rejecting any type of criticism about the overseas territories. So, financial intermediaries, they either know something is going on, but they will also embrace criminal organizations. Why wouldn't you? You just do your job, you bring the money through, you keep your eyes on the numbers and you don't ask any questions. Those financial intermediaries, those excellent mathematicians, numbers guys that criminal organizations use will be happy to look the other way, it's simply a job. You're just part of a corporation, another type of corporation. This one just happens to be a bad business. So on that spectrum of illegality, you have your big corporations, your big multinational trading companies, the ones we see everywhere, you know, delivering our goods, for example, or inventing our phones. And then you have other types of corporations which just happen to be operating at the illicit end of the spectrum, but they mirror, in so many ways, our huge organisations, and that's when I

feel a little bit like, hang on, maybe we shouldn't be demonising criminal organisations quite so much as we should be investigating and focusing on the politicians, on the bankers, on the accountants.

And that means stepping away from the obvious criminals. Step away from the drug traffickers and focus on what's in front of you now, organized crime walks with us everywhere, it's everywhere. Once you get used to identifying criminal outfits, even in the town you live in, you realize organized crime is a part of our life and we can't really deny that. So think of it as a circle. So you have your tiny circle in the middle, which might be those that we demonize already, the criminals. And then we branch out, and we have this network of white collar workers leading up to the top, leading up to politicians and governments. But conversely, if you talk to them, they don't like to be called criminals. They don't like to be associated with the criminality that we see reported about in the paper. Oh no, they're not as bad as drug traffickers. They're not as bad as those who illicitly traffic wildlife goods, floras, faunas, ivory, rhino horn powder. No, they're not part of that world, they don't believe themselves to be part of that world, they are part of a different dynamic. They are somehow better. They've been to university, they've got degrees. So quite often when you speak to some of these people, you speak to people who've investigated them, the white collar criminals reject the term criminality in some cases because they see themselves within a different sphere and let's remember that offshore financial centres do not say they have secrecy laws."

Naomi: "Oh of course not!"

Dr Mary Young: "They reject that term. I've been heckled for using the term secrecy. They call it strong confidentiality. So you have these strong confidentiality laws and then you have another body of laws where there are really decent people who want to recover the proceeds of crime find it incredibly difficult to do so because of the criminal penalties set up around releasing information. So, throughout the decades since the Organized Crime Control Act of 1971, we've had a raft of anti money laundering laws created by Western countries. which show they're doing something, which tick the right boxes on paper, which say they're disrupting major criminal organizations engaged in narcotics and money laundering. But We would see huge amounts of money being recovered, we would see corrupt government officials being removed from office, and it just does not happen."

Naomi: "It doesn't. And throughout these decades of prohibition, the money flows from the illegal drug trade are only deepening inequalities and insecurity between the global south - where the 'producer' countries often are, and the world's wealthiest and most powerful countries, which tend to be the main 'consumer' countries. Zara Snapp from the Instituto RIA explains in this recent online event:"

Zara Snapp: "In Colombia they produce, you know, 95 percent of the cocaine in the world which is for export and less than 1 percent of the revenue gains stay in Colombia. And so this is something that's important of then how are even revenue gains being distributed along the production chain? Whereas 68 percent of those revenues stay in the countries of consumption, which is primarily the United States for that market, and some in Europe."

Gustavo Petro speech (voiced by Marcelo Justo): "Our silence in these 50 years has been complicit with a genocide in our countries because that is what the official war policy against drugs has caused in our Latin America, a genocide. The so-called 'war on drugs' policy has failed. It doesn't work. If we continue, we are going to add another million deaths in Latin America and we are going to have more failed states and we are going to have perhaps the death of democracy on our continent."

Naomi: "That was Colombian president Gustavo Petro speaking recently at a Latin American and Caribbean conference on drugs. And there are important shifts happening in many countries. Some nations are turning away from prohibition to decriminalisation and regulation, in some cases legalisation."

Music clip: Legalise it, Bob Marley live

Naomi: "In 2015 Jamaica passed its Dangerous Drugs Amendment Act which did various things - it decriminalised personal possession of up to two ounces (or 56 grams) of cannabis, cultivation of up to five cannabis plants per household and also legalised and regulated commercial cultivation and sale of cannabis for medicinal use."

TV Presenter: "The passing of the bill comes as good news for the country's Rastafarian community, which uses the herb for religious purposes. While marijuana would be legal, the bill makes provisions for it to be banned from public places. Plus, a licensing authority would have to be established in order to monitor cultivation, sale and distribution of marijuana for medical and therapeutic purposes.

The bill was passed even as South American countries grapple with the impact of drug use and struggle to put an end to drug trafficking. In Mexico, Colombia and Argentina, marijuana possession in small amounts was decriminalized. Argentina is drafting a set of proposals to loosen restrictions on possession. Also in Guatemala, President Otto Perez Molina is proposing moves to push for the legalization of marijuana. Chile and Costa Rica are also debating the introduction of medical marijuana policies. Uruguay last year became the first country in the world to approve the growth, sale and distribution of marijuana."

Naomi: "Jamaica's just one of a number of nations that's taken steps to decriminalise and regulate in place of punitive policies. Before they passed that bill, 15,000 people were being arrested every year for cannabis possession. A quarter of all Jamaica's court cases were dealing with cannabis-related offences, their prisons were overcrowded and it was costing an estimated \$US64 million a year in arrest and prosecution costs. It was a transformative step, putting public health and wellbeing first. It meant they were able to massively increase their health budget expenditure the following year. It all ran contrary to the perceptions of outsiders. Dr Mary Young again:"

Dr Mary Young: "I've spent a lot of time in Jamaica over the years since 2012 and the people I've worked with in Jamaica are absolutely dedicated to undermining organized crime and actually are frustrated by the external elements which do not assist them in a positive manner. Drugs was traditionally seen as an issue for the U. S. as emanating from Jamaica. So,

there was a lot of focus on U. S. assumptions on what Jamaica was and how Jamaica operated. we carried out interviews actually with a number of people on the issue of drug trafficking and crime in Jamaica, and we were repeatedly told that drug trafficking as a main security threat is not relevant to Jamaica. It's the firearms threat from the U. S. which is relevant to Jamaica. But it was these historical U. S. assumptions and policies about drugs and organized crime which has kept Jamaica and other countries held down, especially if they're countries which are indebted to the World Bank and the International Monetary Fund.

So you have Jamaica an hour away from the Cayman Islands. One of them is hugely wealthy, highly developed and supported by Western governments, not just Western countries, many countries all over the world and the people within them will use financial secrecy centres, offshore financial centres, tax havens, whatever you want to call them. And next to it, an hour away, you have Jamaica, which is indebted to the World Bank, the IMF, which is struggling against the massive tide of firearms which repeatedly come into its jurisdiction every single day. And when you start to look and see how much has been confiscated, it's overwhelming to view.

But Jamaica is saying, hang on, actually, the biggest issue is firearms trafficking, and the multiple homicides that happen every year. What are you going to do about it? So when I've worked with peers and colleagues in Jamaica, we talk about the US needs to be checking its own borders, why are firearms coming out of the US? Why are they leaving Miami? Why is it so easy for them to leave Miami and end up in Jamaica? And they're all US manufactured. They can check the codes on the guns. They can check the brands on the firearms. Yet, the US doesn't do anything at its end. And it comes back to that historical war on drugs."

Naomi: "That 'war on drugs' has served organised crime groups, multinationals and financial secrecy centre self-interest all the more easily because of colonial attitudes and beliefs. Sergio Chaparro Hernandez of the Tax Justice Network:"

Sergio Chaparro Hernandez: "The world is increasingly realizing that bad drug policies can cause more harm than drugs themselves. The painful history of bloodshed and corruption in a country like Colombia where I am from has a lot to do with bad drug policy. If we had opted for regulating drugs in a responsible manner rather than prohibition, we would have prevented institutional destabilization and violence with the thousands of deaths and all the harms they have caused.

The alternative will be a responsible model to legalize drugs, which recognizes that instead of prohibiting drugs, they should be treated as a public health problem which builds upon the lessons learned from regulating industries such as tobacco or alcohol.

The United States has been the big driver of the war on drugs. And if a just international policy is to be advanced, any undue interference that prevents producer countries from choosing their own regulatory models should be eliminated, and countries that have driven the war on drugs should implement policies of reparation for the harms caused by prohibition."

Martin Drewry: "We believe that prohibition is one of the things that creates and sustains extreme disparities of wealth within the countries of the global south that have kept them economically poor. And tax justice is an essential part of correcting that."

Naomi: "This is Martin Drewry of Health Poverty Action speaking at a recent event:"

Martin Drewry: "So what do we mean by tax justice in the context of a legally regulated drug market? What is the role of tax for that, thinking especially of countries in the global south? First point I want to make is something about just the scale that we're talking about. So the size of the global drug market, estimates vary from 0.5 percent of global GDP to about 1 percent of global GDP. Some people think it's a bit higher, certainly will probably become higher as the cannabis market grows, for example. But if we take that figure of 1 percent, the global average tax rate per, for the world is 29%. But what that would work out as in terms of a percentage of global GDP, the tax that's currently being lost by not taxing the drug market is about \$232 billion per year, based on those estimates. So to put that into context, that's more than twice the annual spend prosecuting the war on drugs. And it's way, way above the global aid budget, the combined global aid budget. So, these aren't small amounts, but for the poorest countries, it's much, much more significant than that. So these numbers, in a country like the U. S. or the U. K., sure, you know, we did a report on legalizing cannabis and it could have offered another billion pounds a year to the National Health Service. So it's not insignificant, but you know, it's not going to fund our health systems. But in the U. S., for example, per capita per year, the spend on health per person per year in the U. S. is \$9,536. In Ethiopia, it's 24. In Ghana, it's 80. In the DRC, it's 20. Across the lowest income countries as a whole, it's 41. So this is why tax is important. There are lots of things we can do with tax. Tax doesn't just come, this is one of the key points, it doesn't just come from a product-specific tax. So we have an alcohol tax, for example, and we can have a cannabis tax, and that's important. But bringing the drugs market into the licit economy also enables income tax, we want progressive corporation taxes, we want tariffs. One of the things in trade justice is that to address the disparities of wealth between the global south and the global north it requires building up the economies of the global south.

Now, Africa has a supreme comparative advantage for cannabis growing, for example. Most of the profits won't come from the raw cannabis, they'll come from the processed stuff, and they'll come from derivatives, and they'll come from other kinds of products associated with the use of cannabis. It's important to build those industries in poorer countries. So one of the ways that you can do that is to prevent, and that's another role of tax, preventing corporate capture because you disproportionately tax the rich corporations and their exports into the country, you put tariffs on those in order to protect the infant industry. So there's a lot of things that can be done using tax as an instrument and we need to become experts in these because if we don't design the proposals, the corporations will!"

Naomi: "And not only corporations, but the nations they're headquartered in. Sergio Chaparro Hernandez worries that while decriminalised, regulated drug industry policies would indeed knock a lot of organised crime out of the equation, which is great, raise tax

revenues and help improve things like healthcare, which is also great, but the benefits economically could end up being dominated by - you guessed it, global north nations and their multinationals.”

Sergio Chaparro Hernandez: “What is paradoxical and grossly unfair is that producer countries will end up being late to the regulation game after decades of suffering the perverse consequences of prohibition, while the benefits will be reaped by countries that are consolidating a legal industry first, such as the United States and Canada.”

Naomi: “And those countries are moving fast now on decriminalising and regulating cannabis. It's also kind of ironic that a number of tax havens or financial secrecy jurisdictions are developing regulated cannabis industries partly to move themselves away from overdependence on their finance sectors, just as the financial secrecy market's getting slowly squeezed by transparency initiatives - pushed by people like us!

At the moment the global legal cannabis market alone is estimated at over US\$24 billion and that's expected to quadruple in the next ten years. So it's easy to see why developing a decriminalised, regulated and taxed cannabis industry is attractive. But it depends on which country's doing it: there are richer world producer nations and markets, and poorer producer nations and markets, serving different clientele and facing different realities and economic power imbalances globally. All this enthusiasm for new revenues from regulated cannabis industries could end up with lower income nations dealing with yet more of the same domination by big players and global trade inequities that they already face. But, first things first:

Should lower income countries be focusing their land use on sustainable food production for domestic use, especially given the climate crisis? I mean, we know there's this increased chance of crop failure that drives up food prices. Should they be thinking about developing a cannabis industry in that context?”

Max Gallien: “I think that's an excellent question and I think looking at cannabis in the wider context of agricultural policy is, is really important.”

Naomi: “I'm talking to Max Gallien of the International Centre for Tax and Development and the Institute of Development Studies at the University of Sussex:”

Max Gallien: “Obviously countries' policy regarding cannabis cultivation will have to be placed within their wider kind of country-specific agricultural and industrial strategy. I think for many countries, dramatically expanding production is certainly risky, both given the young and uncertain global market, but also other priorities they may have in agriculture. The important thing to highlight, though, is that I think for many countries, cannabis production is already a reality. Many countries, including in Africa, are already producing cannabis, already have producers that have been used to producing this for a very long time, that have been relying on and specializing in these crops for a very long time, that have regions that are particularly specialized in this, for example, if we think about the Reef Mountains in Morocco. So especially for these regions, thinking about the future of that crop

and the future of its taxation and marketing is really important, even if we're not necessarily advocating for new large scale cannabis development.”

Naomi: “Right, right. it depends on the country and their own context. And because the decriminalized cannabis industry at least globally, is in its infancy, really, do you have hopes that this kind of newness represents an opportunity for lower income nation governments at least to try to do things differently in terms of the way they manage their economies? I know you've written about some really interesting legalization models, focused on incentivizing smaller scale production for example.”

Max Gallien: “I think, yes and no. So, so on the one hand the market is still developing, and this is still a young global market, it's a market that, you know, is more legalized in some areas than others, is more legalized with respect to certain types of products than to others. So, a lot is still in flux, and this is partly what makes this entire policies area so exciting. There are very few opportunities where we get to see a new legal market develop, where we get to see policymakers shape the context for this market and what is furthermore really exciting is that we do see new models coming up, and we see really, really interesting ones. We see some countries opt for a less overtly commercialized cannabis market than the U. S. and Canada has. Malta has been a good example of that, but especially Germany, a very, very large market, not opting for an openly commercialized model, but looking more at kind of smaller cannabis clubs and private production, is really, really interesting and makes this a really, really exciting market to watch.

However, while the market's still developing and is still young, it's also not in its complete infancy anymore. And I think that is really important for especially lower income and lower middle income country developers to, to keep in mind that yes, they have an opportunity to shape policy in a new way and to do things differently, but they're doing that in a context of a global market that is already developing, where they're not the first movers.

If they're focusing on their domestic consumption, there's wide open spaces still, if they're focusing on regional consumption. But if they're looking at global markets, they will have to reckon with the existence of, especially the North American market, which is large and highly capitalized and highly commercialized. So in some ways, there's wide new areas for policymakers, but in other areas, there's already the realities of kind of global competition that are already being developed.

One further point that I think is, is important to remember as well, is that there's another market that already exists, which is the illegal market. So, obviously, the legal market is, is still in its infancy and is still being developed, but the illegal market has been around for a very long time. And despite some more optimistic projections, it's not necessarily going to go away by itself. So policymaking for the legal market will also have to keep in mind the effect of this new legal market on the already existing illegal market.”

Naomi: “Right, and what's quite interesting is if you contrast the experience in Malta, for example, where I think they were running a non profit legalized market, where in Malta, they don't necessarily have the same need or desire for a foreign currency to come in, and

to trade internationally. Whereas if you look at Malawi, maybe they do, so that kind of non-profit market, why would that work somewhere like Malawi?"

Max Gallien: "Exactly! So exactly the question for policy makers and countries that are thinking about legalization is, are we thinking about a domestic market only, or are we thinking about export? And if you're thinking about export, the policies around that will have to look quite differently than if you're just thinking about satisfying a domestic market or domestic interest. And that is particularly important for countries that are already de facto dependent on cannabis export. Morocco is a classic example of this, this is a country that is, although currently largely illegally, already dependent on cannabis export that has large numbers of farmers and entire regions that are quite dependent on this crop. And these export structures so far have largely been illegal. They've been providing most of the European market for quite a long time. But they're now competing with the new legalized market and are now having to situate themselves in relationship to new legalized market, to new products coming in from other places, being produced in other places. And consequently, the policy choices look quite different than a country like Malta that can primarily think about its domestic market.

We've got to keep in mind here that of course, decriminalising and regulating these industries are about way more than revenue raising and development, they're also about taking a different approach to prohibition that's only enriched and empowered organised criminal groups and the professional enabler industry that's there to serve them. Back to Max again."

Naomi: "You say there are important lessons to be learned from the tobacco industry in terms of how nations can better design tax systems. I know that over 10 percent of the global tobacco market is still illicit, which is really interesting."

Max Gallien: "It is. It's, it's a really, really important thing about the global tobacco market that we don't talk about often enough is how much of it is illicit. Cannabis is interesting here, it's one of those cases where, you know, we often say policies shape markets and markets shape policies. The tobacco industry has been highly concentrated around what we often refer to as 'big tobacco', around these large multinational organizations that have certainly had their influence on how policy on tobacco taxation has developed, especially in lower income countries, especially in Africa. And there's extensive documentation of the tobacco industry seeking to influence policymaking in this area, and especially lobbying for lower taxes and pointing to the illegal markets as a reason for why taxes should be lower, arguing that if taxes on tobacco are increased, then smuggling will become more of a risk and this fraction of the market that is already illicit will grow. Now we've done a little bit of work at the International Centre for Tax and Development, we're absolutely not the only ones who've done so, that have highlighted that that connection is really not that strong, that just because you increase taxes does not necessarily mean smuggling goes up, and that that narrative under appreciates the role that the legal tobacco industry has also historically played in in tobacco smuggling, but I think it highlights that lobbying and industry influence on policymaking, especially when there's a power imbalance between large multinational companies and lower income countries administrations is a real threat. And it's something

really concerning, I think it's something that as the global cannabis market develops we'll also have to watch out for.”

Naomi: Yeah, definitely because all experience tells us how markets always tend to organize themselves in terms of domination by the biggest, the most heavily capitalized players. And we know that tax justice and tax is a great tool to incentivize and disincentivize certain behaviors if governments want to do that. So do you have faith that governments, nations, lower income nations in particular, can design a tax system that can do what no other nation has really done in the ways we'd like to see, not just in this economic sector, but, but in others?”

Max Gallien: “That's a lot of faith you're asking for! I think it's, it is unlikely that what we'll see in cannabis will be completely different from any other export crops from any other similar industries that we've seen. And I think seeing it develop completely different or seeing kind of these radically different models that we see in Malta or, or have been discussed in Mexico or other places becoming the global standard, I think that is unlikely.

However, where on that spectrum between a completely different approach and repeating some of the mistakes of the past we lie, I think is really important and I think tax policy has a, has a big role to play in that. As you say, it can incentivize policies. It can play a central role in making sure you extract profits at the point where they're accumulated and not necessarily at the point where kind of smallholder farmers are engaging in traditional practices. It is also a way to shape markets. It's a way to influence who gets to be involved in them. One of the things that we've seen in some countries that have really recently legalized is if the licensing fees for producing cannabis are really, really high, that often means that the only producers that can pay these fees are already quite large organizations and that might crowd out other, other actors.

So I think all of this will be extremely difficult, but it will be helped if developing country policy makers can be part of a conversation quite early on where they can help identify what their goals in the legalization process are, what their goals on a newly developing global legal market are. Is it around export? Is it around focusing on the domestic market? Is it about focusing on smallholder farmers in, in a local context that already exist, or is it around expansion of production? what are their assumptions about an emerging international market? If they're thinking about export, are they thinking about a regional export? Are they thinking about a more global scale? Are they thinking particularly about the kind of crop itself or about processing and upgrading? So I think being very explicit about the goals, about the consequences of the goals, and then the policies that need to follow from that. It's still an uphill struggle, but it gives you a bit of an advantage in a, in a very, very fast moving market.

I think that the writing is on the wall in terms of the creation of a global legalized market. I think it's hard to imagine a future over the next few decades where that's not increasingly becoming the norm and where these markets are not increasingly connected globally. So I think, it's also a question of positioning within that market, anticipating where it's going to

go and thinking of what that means, especially for producers that have traditionally produced illegally.

So, I think one of the motivations for me is really to think about from the perspective of places like Mexico, places like Malawi, places like Morocco, that are going to feel the changes of these changing global markets whether they change national policy or not, and thinking how they can react to that and how they can anticipate that, I think, is, is really important.”

Karina Garcia-Reyes: “As a society, we have to accept that there's no perfect solution.”

Naomi: “This is Criminology lecturer and writer Karina Garcia-Reyes of the University of the West of England. We heard from her in part one of drug war myths in the previous Taxcast.”

Karina Garcia-Reyes: “There's no silver bullet here okay, and interestingly, we prefer a very violent strategy that is really damaging us instead of something more nuanced that actually minimizes consequences, So, this is a very complex solution, I acknowledge this, but to me, legalizing drugs is the first step, but we have to manage our expectations. Violence, unfortunately, will always exist because even if we legalize drugs we have so many other markets in organized crime but at least from my perspective, in countries like Mexico, where most of this violence at the moment is linked to drug trafficking, to this market in particular, violence will be minimized considerably. And in a country with so many homicides and so many disappearances, this is really something to consider because whereas the United Nations and the U. S. and the U. K. dictate the global policy, we, countries like Mexico, Colombia, we are contributing with the deaths and disappearances. And that's very, very painful.”

Naomi: “Eric Gutierrez of the International Centre of Human Rights and Drug Policy.”

Eric Gutierrez: “I would say that legal regulation of drugs is a key option to consider. Law enforcement has not won the war on drugs, there has been, you know, wars on drugs for decades now, and, you know, if there will be some kind of clampdown on tax avoidance mechanisms, that may be a way to win that war without firing a shot and at the same time move the illegal, illicit drug trade to legal regulation where taxes can be raised and be used to pay for the public good. If there will be reforms to prevent tax avoidance, then taxing through the legal regulation of drugs will also work.”

Naomi: “This is a complicated subject. But it is clear that prohibition and punitive drug policies and the so-called war on drugs have a) failed and b) are making inequalities between north and south even worse. New approaches that are health and human rights-based are urgently needed across the board, it's a matter of life and death. We know tax justice can play a key role in a decriminalised environment. And of course, the starting point for nations like the UK and the US is to put their own houses in order and end financial secrecy. And instead of investing in militarisation, they should be investing in harm reduction programmes, not only domestically but also overseas in the producer countries - it's part of the reparations they owe, their moral debt.

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