Across Dual Markets: drugs, alcohol, tobacco, gambling and prostitution

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“The Balanced Recipe” was the original title of the research project originating this book.

The aim was to analyze the policies concerning those commodities and services that belong to several typologies of Dual Markets, including drugs, alcohol, cigarettes, gambling, sports betting and prostitution.

The input was to identify those policies that could optimize the balance between positive effects as the protection of health and the detrimental externalities as the insurgence of crime. This research line continues the research line of the crime proofing of regulation Transcrime has developed in the past.
The results of the project have become this book, titled:

**Dual Markets – Comparative approaches to Regulation**

The regulation of psychoactive substances and commodities are discussed throughout the book as existing experiments laying on a **continuum between hard regulation** (prohibition) and **loose regulation** (liberalization).

When tighten policies and **strict regulation of the market** emerge, the consequence is the development of a **corresponding illegal market**, which, in turn may cause social, economic, health **harms**, together with increased **law enforcement costs**. Not to say the **limitation of the individual freedom**.
This comprehensive volume analyzes dual markets for regulated substances and services, and aims to provide a framework for their effective regulation. A "dual market" refers to the existence of both a legal and an illegal market for a regulated product or service (for example, pharmaceutical drugs). These regulations exist in various countries for a mix of public health, historical, political, and cultural reasons. Allowing the legal market to thrive, while trying to eliminate the illegal market, provides a unique challenge for governments and law enforcement.

Broken down into nine main sections, the book studies comparative international policies for regulating these "dual markets" from a historical, legal, and cultural perspective. It includes an analysis of the markets for psychoactive substances that are illegal in most countries (such as marijuana, cocaine, opioids, and amphetamines), psychoactive substances which are legal in most countries and where consumption is widespread (such as alcohol and tobacco), and substances that are generally regulated as illegal (such as sports betting, the sex trade, and gambling). For each of these nine types of markets, contributions focus on the relationship between regulation, the emerging illegal market, and the resulting overall access to these services. This work aims to provide a comprehensive framework from a historical, cultural, and comparative international perspective. It will be of interest to researchers in criminology and criminal justice, particularly with an interest in organized crime as well as related fields such as sociology, public policy, international relations, and public health.
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Part III – Controversial Services


Chapter 21. *The US Experience on Sports Betting* – Brad Humphreys


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The regulation of the diverse substances and services move across the two poles of the regulation continuum depending on historical and political factors.

Regulators have taken policy decisions in different countries in a contradictory way under the influence of different pressures that have changed in time and geography. Sometimes, contradictory choices appeared even within the same country. This could be the case of marijuana.

The potential side effects of these policies on the illegal markets have rarely been taken in consideration.
A spectrum of policies

PROHIBITIONISM

Restriction of commercial production
Selection of producing organizations
Restriction of sale
Restriction of purchase (e.g. age)
Permission for specific uses (e.g. medical)
Depenalization
Toleration of personal/private possession
Toleration of retail sale
Toleration of recreational use
Specific taxation
Government monopoly

LEGALIZATION
The first message

Flexibility of policies and dual-markets

Looking to the different experiences that characterize drugs, alcohol, tobacco, gambling, sports betting, and prostitution, this book has a **first message** to send.

We need to **think carefully** about **adjusting policies** toward existing dual-market commodities and services, or toward potential dual markets that might emerge from increasing taxes and regulations, or alternatively from relaxing prohibitions without **paying attention** to the **unintended consequences** these policies could produce.

That means more **flexibility** in the policies.
In the book, this message has been collected and developed in different ways by the authors.

Drugs in their different expressions are the first commodity analyzed, occupying the larger part of this book. Due to its symbolic content, it is not a casualty that the first chapter is dedicated to marijuana regulation in the United States. A contradictory regulation where some States (e.g., Colorado, Washington State, California) sell marijuana legally and FBI could arrest people if they move it across the country. This story opens drug policies to the necessary flexibility by the modern regulation. Research on the unintended consequences of these new forms of regulation of marijuana is ongoing and deserves attention. My colleague Mark Kleiman will focus on this.
What about Drug Conventions?

The study of this American experience has a value not only for evaluating the pro and the cons of legalizing marijuana but also for understanding and developing those measures that work distinguishing them from those that do not work. Aware that these measures could vary from a country to another one.

An immediate question comes: are flexible measures a door open to future flexible measures in the area of drug policies overall? What do we do with the Drug Conventions? Could they work as guidelines for future regulations or do they belong to the archaeology of drug regulation?
An extended concept of harm reduction?

The continuum line between hard prohibition and liberalization stays this time on hard drugs such as heroin and cocaine. Countries in regulating them move back and forth across the continuum line between prohibition and legalization. Several ingredients that should drive policies are represented and in different ways combined. Once again it comes back the original title of the research project, “The Balanced Recipe”.

Of course, the problem is where, how, and for which drug these policies should be balanced. The choice of flexible regulations needs to be supported by a larger perspective, or at least by the analysis of relevant drivers. Here is the point at which the concept of extended harm reduction or “not only health” can be introduced. In fact, harm reduction could be refereed the reduction of those personal and social costs coming along with the duality of those dual markets where the limitation of the legal markets favors the development of parallel illegal ones. What do we intend with respect to hard drugs?
The second message (II)

An extended concept of harm reduction?

Harm reduction policy approach is the second message that this book wants to send.

Let us consider the broad range of all the harms related to drug policies, measure them and compare them with the benefits of those policies that prohibit drugs and problematic services. Harm reduction policies have tried to increase the health benefit of the consumers and to reduce the related criminal activities at the same time. Crime has become the most relevant externality of these policies because it implies not only human lives but also other costs such as law enforcement, corruption, and the stability of fragile political systems more in general.

Shall we extend the concept of harm reduction to these costs?
Lessons learned: from drugs to other substances?

Could the lesson learned from the drug policies be transferred to other substances such as alcohol and tobacco?

They are “temptation goods” using the concept of Jonathan Kulick, regulated in different ways on the continuum line between hard reduction and liberalization. Both these substances produce pleasure and harm. Alcohol may produce serious health consequences and cause driving damages; nevertheless, it benefits from some level of tolerance (e.g., advertisements that are legal in some countries). Tobacco policies, instead, are becoming more and more strict.

Is there a rationality above this? Probably not. An explanation we could try to hypothesize is that alcohol is socially more accepted than tobacco. Could we place alcohol and tobacco at different points of the continuum line, and forget the discussion about their harms? Alcohol and Tobacco have a different regulation.
Moving toward less harmful substances?

Why not moving toward **less harmful substances** in the area of **tobacco**? They can **save the health** of a great percentage of consumers, keeping the **benefits of the taxes** for governments and **keeping low the dimension of the illegal tobacco market**.

Less harmful alternatives to cigarettes are developed. **Research in progress** is testing their benefits and **regulation is expected to appear** in the near future. But how could we move consumers to less harmful tobacco products? What could be done for the large majority of consumers of tobacco products that could be incentivized to move toward less harmful products?
Policies toward “temptation goods” are schizophrenic in time and geography but they follow a continuum line between prohibition and legalization. That means the first message this book is sending: **flexibility**

- The question: is a rigid regulation compatible with this flexibility? What about UN Conventions?

Dual markets (the title of this book) explains the controversial issue of a legal market overlapping to an illegal one for some substances and commodities. Harm reduction policies have worked in this area limiting costs of health. The second message is sending is **extended harm reduction**

- Three questions: can we extend the concept of harm reduction to other substances and externalities such as crime and related costs of law enforcement? Shall we speak about “extended harm reduction” or better a “not only health harm reduction”? How to move consumers from an illegal market to a legal one reducing health costs but also crime and related costs?
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