



# “BINOCULAR VISION”: ANALYZING THE DRUG TRAFFICKING PROBLEM AND THE “WAR ON DRUGS” THROUGH THE DUAL LENSES OF REALISM AND CONSTRUCTIONISM

Nabil Bhatia

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## ABSTRACT

*Realism and constructionism, the two dominant paradigms used to conceptualize the issue of drug trafficking are posed as mutually exclusive. How can they not be, when the former calls for a coercive response to a real problem, while the latter maintains that the “problem” is a rhetorical construction created to serve powerful interests?*

*This paper analyzes the issue of drug trafficking through these dual lenses, and highlights the main arguments cited by scholars from each school of thought. The claims made by scholars on both sides of this theoretical debate will be supported with empirical evidence, showing that the issue of drug trafficking is both real and a construction. Using the theoretical lenses of realism and constructionism, drug liberalization and a public health framework will be investigated as a way of addressing the issue of drug trafficking. This policy recommendation is significant, as it not only neutralizes many of the most pressing issues related to the drug trade and intensified by current hardline policies (i.e. violence, drug precariousness, and drug trafficking monopolies), but it also satisfies both realist and constructionist arguments, suggesting that despite the framing of the drug trafficking problem, the same solution may successfully apply.*

**Keywords:** *war on drugs, drug trafficking, critical criminology, criminological realism, drug liberalization*

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Nabil is pursuing a double major bachelor of arts in Criminology and Political Science at York University and is expected to graduate in the Spring of 2017.

## INTRODUCTION

Students of critical criminology and its critical international relations (IR) counterpart are likely to experience a conflict of ideas when faced with news media coverage of large-scale drug seizures and arrests of drug kingpins such as Joaquin “El Chapo” Guzman. Students may reason that the media response following the multiple arrests of “El Chapo” was unwarranted, and may discount it as an example of journalistic sensationalism and selective over-reporting (Altheide, 2009; Cohen, 2002). However, according to realists, it would be naïve to ignore the very real human harm and suffering caused by drug trafficking organizations such as the Sinaloa Cartel, formerly headed by Guzman (Heiskanen 2014). Law enforcement press conferences, in which large amounts of seized drugs, weapons, and currency are displayed, make it difficult to deny the realness or seriousness of the issue of drug trafficking. Graphic images of drug trade-related violence, as well as reports describing the specific tactics and technologies used by trafficking organizations, serve to further demonstrate the harsh reality of the drug trade, and are used to justify a punitive drug enforcement schema. Heavy-handed responses to drug trafficking are grounded in a realist interdisciplinary perspective, which sees organized crime and drug trafficking as real problems with real effects. Realists tend to favour coercive policy responses based on deterring suspect populations (Sheptycki, 2007a, p.395), and speak the institutional language of “more surveillance, tighter security, and better calibrated coercion” (Sheptycki, 2007b, p. 486).

The conceptual paradigms of realism and constructionism may seem opposed to one another, and this false dichotomy may make it difficult for students of criminology to make sense of the crime of drug trafficking and the “War on Drugs.” Realism and constructionism are not oppositional, but instead, the perspectives simply focus on different aspects of the drug trade. Both are broad umbrella terms that capture a wide range of approaches and perspectives. In general, constructionists analyzing the drug trade share an interest in studying “claims-making” and popular representations of the drug trade and its participants. Realists, on the other hand, are interested in studying the specific players and practices involved in the drug trade.

These two broad perspectives are not helpfully understood as dichotomously opposed, but instead, as two perspectives that simply ask different questions. This paper seeks to explore the realist and constructionist interpretations of the drug trafficking problem and the “War on Drugs.” It will be suggested that both perspectives shed an important light on our understanding of drug trafficking. Arguments made by both realists and constructionists have an empirical basis and cannot be easily discredited. It will be demonstrated that martial rhetoric surrounding drug enforcement has served as a political construction and has elevated the drug trade to a position of global governance, allowing for the expansion of state security and control apparatuses. However, ethnographic studies conducted by leading criminologists will be used to show that despite this fear mongering rhetoric, drug trafficking is indeed a real problem involving both criminal actors and state agents, and policy must be implemented to effectively combat it.

When studied together, the perspectives of realism and constructionism open up space for the consideration of the solution of drug law liberalization reforms from a public health perspective. It will be shown that existing prohibitionist policies, grounded in a strict realist, zero-

tolerance response, are both counterintuitive and counterproductive, as they have exacerbated many of the current concerns surrounding the international drug trade. This paper will suggest that by respecting the concerns of scholars from each school of thought, a common solution can be found. Drug law liberalization reforms from a public health perspective resonate with insights furnished by both realist and constructionist paradigms, and resulting policies are aimed at reducing the demand for imported narcotics and regulating domestic drug use. Achieving these two goals can potentially reduce the magnitude of the drug trafficking problem. It will be demonstrated that although drug law liberalization challenges the state's push to increase its coercive capacity, it is not an unrealistic response. By reducing the extent to which counternarcotics strategies are militarized and by moving the drug trade out of the unregulated "criminal underworld," drug law liberalization may contribute to the reduction of the very real problems of violence, corruption, drug precariousness, and profitability associated with the drug trade.

## THE CONSTRUCTION OF AN INTERNATIONAL DRUG WAR

Constructionist scholars maintain that under the banner of the "War on Drugs" and its fear-mongering rhetoric, the drug trafficking problem has been magnified, and to an extent, created. It has been suggested that the construction of transnational crime provides a productive fiction for coercive responses and justifies the growth of the state security apparatus (McCulloch, 2007, p. 19). Under transnational conditions, the functions of militaries and police forces are blending, and the criminal justice system is being used by states as a tool to maintain their favourable position in the game of global power politics (McCulloch, 2007, p. 20-21). Hybrid police and military forces have allowed for the maintenance and extension of political, social, and economic hierarchies both internationally and within states (McCulloch, 2007, p. 19-20). Law enforcement and military campaigns such as the "War on Terror" and the "War on Drugs" have been understood by some constructionists as two events in a self-perpetuating cycle of threat construction. In this cycle, a specific crime or identifiable group is posed as an existential threat to the state, necessitating an increase in state coercion, aggressive foreign policy, and the maintenance of a war economy. The end of the Cold War meant that the US lacked an enemy and required an entity to mobilize against – participants in the drug trade became this entity (McCulloch, 2007, p. 21-22).

According to constructionist scholar, Jude McCulloch, crime is made "real" through punishment, as torture-induced "confessions" in Guantanamo Bay, for example, served as evidence that not only was the threat of terrorism "real," but the state's campaign against it was successful (McCulloch, 2007, p. 23-24). In the context of the domestic "War on Drugs," this phenomenon took the form of highly-publicized drug raids and seizures, which according to former US Senator Daniel Moynihan, "are probably necessary symbolic acts, but nothing more" (Jacubiek, Kilcer, and Sager, 2009, Asset Forfeitures section, para.3). These acts mobilize the populace against the "drug problem" through the creation of a climate of fear. This was the case when on September 22, 1989 agents from the Drug Enforcement Administration (DEA) purchased three ounces of crack cocaine from a local drug dealer so that President George H.W. Bush could hold up the "seized" drugs during a televised speech on the "drug problem" plaguing the US (Dowd, 1989). After this

speech, 54% of surveyed Americans believed that drugs were the biggest problem facing the country, compared to only 1% that shared this stance four years prior (Reinarman & Levine, 1989, p. 536). Under the conditions of this climate of fear, seemingly necessary punitive policies can be passed, allowing for the state to increase its coercive capacity (Sheptycki, 2007a, p.393).

Constructionist scholars from various academic disciplines, particularly criminology and international relations, maintain that “security threats” such as the “War on Drugs” and the “War on Terror” are open-ended and ambiguous. They are heightened to a level of (inter)national security, “not necessarily because a real existential threat exists but because the issue is presented as such as threat” (Buzan, Waever & de Wilde, 2002, p.24). As threat construction is a politicized practice that is shaped by vested interests, “wars on-” are unwinnable and temporally and spatially unbound, allowing them to continue indefinitely so long as they serve the interests for which they were created. Under the banner of “War on Drugs” rhetoric, strong states such as the US have been able to construct foreign threats, justifying the invasion of weaker states (McCulloch, 2007, p. 26). This occurred in 1989, when President George H.W. Bush authorized Operation *Just Cause*, a mission that led to the invasion of Panama (Jacubiek, Kilcer, and Sager, 2009, George H.W. Bush section, para. 1). Manuel Noriega, the leader of Panama, was an informant for the Central Intelligence Agency (CIA) and was on its payroll from 1967-1988. Despite his known involvement in the drug trade since the 1960s, the Director of the DEA, at the request of the Reagan administration, put a halt to all drug-related investigations due to Noriega’s funding of Contra groups in Nicaragua (Cockburn & St. Clair, 1998, p. 287-289).

When a US plane delivering arms to Nicaraguan Contra groups was shot down, the hidden dealings of the Reagan administration were exposed, and Noriega was not only no longer of strategic significance to the US, but he now posed a threat due to his knowledge of these covert affairs (Cockburn & St. Clair, p. 289). Noriega was then targeted by the US, who claimed that he had become increasingly violent, even though he was praised by the Reagan administration five years prior for using similar violence to steal the presidency. The US invaded Panama on December 20, 1989 and Noriega was indicted for drug smuggling and sentenced to 45-years in prison (Cockburn & St. Clair, p. 290). This case demonstrates that the US pursued its own vested interests by undermining the sovereignty of the Panamanian state, and arrested its leader in the name of controlling the proliferation of narcotics. It highlights that despite fear-mongering rhetoric of a “drug problem” sweeping the nation, US agencies openly funded a known participant in the drug trade, bringing into question the legitimacy of the “War on Drugs.” The definition of the drug trade as a “problem” can thus be seen as contingent on US interests.

Constructionist scholars have critiqued the US-led international “War on Drugs” as being an example of “policy laundering” whereby policy makers frame national interests as beneficial for the international community as a whole (McCulloch, 2007, p. 27). As US claims-makers brought policing the drug trade to the forefront of global governance, the domestic “War on Drugs” in the US was exported to other countries, allowing for the creation of an international “War on Drugs” and the subsequent “Americanization” of international law enforcement (Woodiwiss & Hobbs, 2009, p. 115). President Ronald Reagan brought “the drug problem” to the forefront of international political discourse and called for collective international action by using fear-inducing martial rhetoric that

compared the threat of drugs to that of “enemy planes and missiles” (Woodiwiss & Hobbs, 2009, p. 113). Furthermore, Attorney-General William French-Smith, a member of Reagan’s Commission on Organized Crime, created a template to control organized crime nationally and internationally (Woodiwiss & Hobbs, 2009, p. 113). His plan treated the drug trade as an international security threat, and framed it as exogenous to American society, pinning the blame on various ethnic crime “cartels” and calling for a punitive approach to degrade and destroy them (Woodiwiss & Hobbs, 2009, p. 114). In so doing, French-Smith engaged in a process of threat construction that maintained the innocence of American society while various groups outside of the state were demonized (McCulloch, 2007, p. 21).

The hegemonic power position of the US allowed it to dictate international crime control policy in the name of the “War on Drugs” (Woodiwiss & Hobbs, 2009, p. 114). Through a string of G-7 and United Nations (UN) conferences, Reagan was able to influence the rise of drug trafficking as a central topic of global governance (Woodiwiss & Hobbs, 2009, p. 114). The 1988 UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances required countries to alter their domestic drug trafficking-related criminal code offences in order to fit the US template. The defining of illicit drugs as severe threats to human wellbeing and the treatment of noncompliant countries as deviant were important aspects of this template, which demonstrate the use moral panic language in shaping issues of global governance. By exerting its influence on the domestic criminal justice policy of sovereign states, the US demonstrated its position as a hegemon and its ability to influence the emergence of an international drug epidemic where one may not have otherwise existed (Woodiwiss & Hobbs, 2009, p. 115). The “Americanization” of international law enforcement has allowed the US to intensify its neoliberal policies domestically and internationally (McCulloch, 2007, p. 26). The US model focuses on reducing the supply of drugs, while diverting attention from the factors affecting the demand for drugs, such as labour market and public health issues. This has allowed the US and other states to reduce spending on social services and sidestep human rights while legitimating a highly-militarized international drug crime control schema (McCulloch, 2007, p. 28; Woodiwiss & Hobbs, p. 123).

#### *The Merida Initiative and the Extension of Coercion*

The Mexican case is another example of the extension of state coercion under the banner of the US-led “War on Drugs.” The *Merida Initiative*, which was announced in 2007, signified a shift in counternarcotics strategy between the US and Mexico, as the former pledged to provide political and economic support to the latter as part of a cooperative initiative to end the transnational drug trade (MAWG, 2013; Seelke & Finklea, 2016). Through military training and funding, the sale of arms, and the building of military infrastructure, the US has contributed to the militarization of counternarcotics culture in Mexico (MAWG, 2013, p. 5-6; Woodiwiss & Hobbs, 2009, p. 115). Since the implementation of the *Merida Initiative*, US arms sales to Mexico have increased substantially, and from 2008-2012, \$3.7 billion worth of weapons, aircrafts, and military technology were purchased from the US by its southern neighbour. The US Congress also allocated \$1.9 billion to the agreement, the majority of which went towards funding Mexico’s armed forces and police services (MAWG, 2013, p. 6). Many US law enforcement agencies have also been actively involved in the training of

Mexican forces in order to “apply the same counterinsurgent tactics as the United States applied in Iraq and Afghanistan,” blurring the lines between war fighting and policing (MAWG, 2013, p. 6). Not only do US agencies such as the US Southern Command and Army Corps of Engineers finance and oversee the construction of military bases in Mexico, but State Department-owned equipment is used in these DEA-run operations, based on the intelligence provided by US agencies such as the National Security Agency (NSA) (MAWG, 2013, p. 6-7). Evidently, then, Mexican law enforcement has not only adopted American crime control doctrine, but it has also been physically “Americanized.” Additionally, the military and intelligence capacity built in Mexico by US agencies can be used by Mexican authorities for purposes beyond counternarcotics. Tactics such as wiretaps and surveillance can be used for a variety of reasons, including monitoring civilians, which through transnational intelligence sharing, would allow the Mexican and American states to further increase their coercive capacities (MAWG, 2013, p. 7).

The blending of the police and military was evident in Mexico, as over 45,000 troops were deployed domestically under the *Merida Initiative*, despite constitutional protections prohibiting such deployment during peacetime (MAWG, 2013, p. 17). Mexican law enforcement and military agencies have also been plagued by corruption, and have been involved in cases of “arbitrary arrests, corruption, extrajudicial executions, the use of torture, and excessive force” (MAWG, 2013, p. 17). This repressive security programme can be seen as a manifestation of the American neoliberal policy paradigm, as it aims to extend the coercive capacity of the Mexican state to the detriment of public safety and human rights (MAWG, 2013, p. 18; McCulloch, 2007, p. 28).

Under the *Merida Initiative*, Mexican law enforcement agencies have adopted a “kingpin strategy” whereby high-ranking members of drug trafficking organizations (DTOs) are targeted for arrest, or are simply “taken out” (Jenner, 2011, p. 912). This strategy has been cited as the prime contributing factor behind the twofold increase in the homicide rate from 2006 to 2012 (MAWG, 2013, p. 17). It has led to the arrest or murder of 98 of the 122 top criminals in the country, legitimating militarized counternarcotics strategies under the guise of success (Seelke & Finklea, 2016, p. 4). The kingpin strategy, instead, has created power vacuums, and criminal actors in DTOs engage in violent competition to fill resulting voids. Violence between DTOs is also intensified, as groups compete for control of the illicit drug economy and seek to increase their market share (GCDP, 2014, p. 13). The kingpin strategy allows military personnel to carry out indiscriminate summary executions of those suspected of being involved in the drug trade, allowing the Mexican state to violate human rights in the name of security (MAWG, 2013, p. 17). The Mexican case demonstrates that despite constitutional protections, human rights standards, and domestic legislation, state decision-makers will aim to increase the state’s coercive capacity while pursuing vested interests. Zero-tolerance policies, then, do very little to thwart the very real problem of institutionalized corruption, an issue which will be revisited shortly.

## REALIST INTERPRETATIONS OF THE DRUG WAR

Although the Mexican and Panamanian examples demonstrate that the international “War on Drugs” has largely been constructed, realists maintain that drug trafficking is indeed a real

problem that involves a complex web of criminal actors, state agents, and employees at ports of entry. Realist scholars such as Ko-Lin Chin, Jonathan P. Caulkins, Honora Burnett, and Edward Leslie do not question the existence or seriousness of the drug trafficking issue; instead, it is taken as a given, and the specific methods, operations, and structures used by DTOs are analyzed so that such groups can be deterred (Sheptycki, 2007a, p.395).

While there is a vast and diverse scholarship that might be termed “realist,” of particular interest in this paper are those who have engaged in ethnographic research. Rather than looking at the politico-economic interests underlying drug policy and rhetoric, these scholars study the situation on the ground by gaining an understanding of the inner workings of the drug trade from the perspectives of those directly involved in it. Ethnographic studies paint a detailed picture of the operation of the drug trade and demonstrate that drugs are tangible, and the drug trade and its participants are indeed real. In his work, Ko-Lin Chin (2007) demonstrated that the production, use, and sale of opium are parts of everyday life in Burma, the world’s second largest opium producing country (p. 86). Chin and his research team met with hundreds of individuals involved in the many stages of the opium trade and conducted over 500 in-depth, face-to-face interviews (Chin, 2007, p. 98-103). Chin asked specific questions about the life and family history of those involved in the drug trade, as well as the specificities of drug use, sale, trafficking, and enforcement. He also witnessed the packaging of opium firsthand and almost engaged in the drug trade himself in order to gain a better understanding of his research subjects (Chin, 2007, p. 103- 106). Although its main aim is to highlight the methodological issues involved in studying the drug trade, Chin’s study demonstrates that the trade is quite real and is central to the way of life in the Golden Triangle.

Detailed descriptions of the drug trade by its direct participants serve as valuable insights into the operational practices used within this very real enterprise. In one such study, 110 inmates incarcerated for smuggling drugs into the UK were interviewed (Caulkins, Burnett & Leslie, 2009). Their responses provided detailed information about the smuggling methods, organizational structure, and economic factors involved in drug trafficking operations. Almost  $\frac{3}{4}$  of the interviewees cited courier operations as their most used drug trafficking tactic (Caulkins, Burnett & Leslie, 2009, p. 70). This involves individuals transporting illegal drugs on their person or in their luggage while travelling using commercial transportation services. Bangladesh, Pakistan, St. Lucia, Jamaica, Nigeria, and Ghana were the most common drug source countries for trafficking operations involving importation into the UK (Caulkins, Burnett & Leslie, 2009, p. 72-73). Additionally, concealment practices differed based on the origin of couriers’ flights, with couriers from Africa disproportionately engaging in drug swallowing, while those from the Caribbean and Mexico were the most likely to conceal drugs in their luggage (Caulkins, Burnett & Leslie, 2009, p. 72). Traffickers travelling to the UK from the Caribbean and South America were also paid approximately £4805-£6182 per kilogram of cocaine and heroin delivered, compared to their counterparts from around the world who received £1447-£2235 per kilogram (Caulkins, Burnett & Leslie, 2009, p. 73). This information cannot easily be discounted, and must be taken into account if effective policy is to be enacted.

This study also revealed a variety of other, less-commonly used smuggling methods. Most common among these was the hiring of “bent lorry drivers” who agreed to conceal narcotics among legitimate cargo in order to bypass customs officials. Operations involving this tactic were highly

complex and intricate. One driver claimed that in preparation for a large smuggling operation, he practiced smuggling perishable food items for one year, and experimented with different times of the day in order to see when customs officials were most fatigued (Caulkins, Burnett & Leslie, 2009, p. 77).

This study also found that drug trafficking operations had evolved from strict hierarchies to small, loosely-connected flexible criminal networks (Caulkins, Burnett & Leslie, 2009, p. 90). Interviewees mentioned that they worked in small groups consisting of a “manager” who coordinated the operation, a handful of couriers or truck drivers who delivered the drugs, and a recipient, who collected the narcotics and paid those who delivered them (Caulkins, Burnett & Leslie, 2009, p. 74). Interviewees revealed how in some operations, drugs were hidden in legal commercial shipments without the knowledge of the driver in order to lower the risk of the drugs being linked to the DTO in case of seizure (Caulkins, Burnett & Leslie, 2009, p. 80). One interviewee described in great detail how he operated a drug trafficking enterprise through a front company in Morocco. He explained how he was able to hollow out imported metal parts and fill them with cannabis and then export them to other countries, all of which was unknown to his employees. These employees became unwitting participants in the drug trade, and earned the interviewee approximately £100,000 per delivery (Caulkins, Burnett & Leslie, 2009, p. 80). Another interviewee described an incident in which a handful of couriers intentionally boarded the same flight so that a “bait” trafficker, who carried a smaller quantity of drugs than the “real” traffickers, could distract customs officers, allowing a corrupt officer to admit the “real” traffickers into the country for £15,000 (Caulkins, Burnett & Leslie, 2009, p. 74).

These findings demonstrate that the drug trade is very real and complex, and involves real money, real criminals, both active and unwitting participants, criminal actors, and state agents. This last finding should not be surprising - participants in the illegal economy have had a close, mutually-beneficial working relationship with corrupt law enforcement officials and politicians since the rise of urban America (Haller, 1990). “Payoffs” allow criminals to act with impunity and gain a competitive advantage over competitors. After receiving these payments, corrupt state officials can increase the intensity of their criminal justice response towards other criminal groups, reducing the competition faced by their partner groups and thus maintaining payments, while diverting attention from corruption under the guise of “good police work” (Haller, 1990, p. 209). Another tactic used by criminal groups is the infiltration of state agencies, which allows groups to engage in criminal behaviour without fear of legal repercussions (Haller, 1990, p. 210). In the context of the drug trade, this has taken the form of border agent and airport employee corruption, as was demonstrated by a 2007 report on organized crime infiltration in Canada’s major airports compiled by the Royal Canadian Mounted Police (RCMP).

The RCMP’s (2007) Project SPAWN report revealed that “organized crime is clearly present at Canada’s Class I international airports,” (p.2) and that “The facilities are susceptible to criminal exploitation and infiltration” (p.2). RCMP investigations found that 32 organized crime groups were represented among airport employees, including baggage and cargo handlers, ramp attendants, private and public law enforcement officials, airline employees, and in-terminal passenger service companies (RCMP, 2007, p. 17). 17 organized crime groups were found to plant their own members within the



ranks of airport employees, who used their positions to help facilitate trafficking operations (RCMP, 2007, p. 12-13). Nine groups had ties to airport employees who helped facilitate operations by “turning a blind eye” or facilitating travel for criminal groups. Five groups had direct links to family members who were employed at airports, and who helped members bypass security measures and take advantage of free or discounted flights (RCMP, 2007, p. 13). The known cases of corruption mentioned in the report resulted in the trafficking of “537 kg of cocaine, 393 kg of hashish, 141 kg of marijuana, 39 kg of Ecstasy/MDMA, and 2,200 bundles of khat,” (RCMP, 2007, p. 15) showing that drug trafficking facilitated by airport employees is a real problem.

The Canadian case is not isolated; border officials from the various customs and immigration agencies within the US Department of Homeland Security (DHS) have also been involved in cases of corruption. In 2009, customs, immigration, and airport security officers received almost 12,500 fraud allegations, which resulted in over 1,085 investigations, 313 arrests, 293 indictments, 281 convictions, and 59 administrative actions (Frost, 2010, p. 179). According to a statement made in front of the Committee on Homeland Security and Governmental Affairs at the US Senate, staffing and funding for U.S. Customs and Border Protection (CBP) has increased tremendously, limiting the agency’s ability to oversee the actions of its officers (Frost, 2010, p. 180). This finding suggests that the dramatic enlargement of the state security apparatus may be detrimental, as it poses real opportunities for drug trafficking facilitated by airport employees and state agents.

## POLICY IMPLICATIONS

### *The Failure of Prohibitionist Policies*

Current drug policies existing within the punitive international drug crime control schema enhance the coercive capacity of powerful states such as the US, increase drug trade-related crime and violence, and make the drug trade more lucrative for criminal actors. In so doing, these policies have exacerbated the problems outlined by both realists and constructionists, and are counterintuitive and counterproductive.

As explained by the Global Commission on Drug Policy (GCDP), “War on Drugs” policies focus on lowering the international supply of drugs through interdiction, enforcement, and prohibition (GCDP, 2014, p. 13). Despite these efforts, the illicit drug trade makes up 6% of all global trade and has an estimated value in the hundreds of billions of dollars (GCDP, 2014, p. 13; Nadelmann, 2007, p. 28). Realist scholars ought to know that both production and consumption have remained unchanged or have increased in most countries over the past decade, despite increasingly punitive drug laws (Nadelmann, 2007, p. 24). According to estimates from the United Nations Office on Drugs and Crime (UNODC), the number of drug users internationally increased from 203 million in 2008 to approximately 243 million in 2012, demonstrating the failure of zero-tolerance policies (GCDP, 2014, p. 12; Nadelmann, 2007, p. 25). Additionally, through what has been called the “balloon effect,” (Nadelmann, 2007, p. 26; Jenner, 2011, p. 913) campaigns aimed at eliminating drug production in one locale more often than not simply displace production capacities to another area. This was the case when opium production was displaced from Pakistan to Afghanistan and when coca farming moved from Peru to Colombia (Nadelmann, 2007, p. 26; Jenner, 2011, p. 913). Drug production

has not only been displaced, but in some cases, it has increased significantly (Nadelmann, 2007, p. 24). Opium production, for example, increased 380% between 1980 and 2014 (GCDP, 2014, p. 12). Trends such as these are problematic for realists because they demonstrate that the current enforcement-oriented policy paradigm concerning drug trafficking has been ineffective.

Drug prohibition benefits DTOs, as it does not stop drug production, but simply increases production costs, as criminal groups must take extra measures to avoid law enforcement. This may deter some individuals from entering the drug trade, but it provides active participants with a near monopoly, allowing them to increase the market price of drugs at their will, making the drug trade more profitable and attractive to criminal actors (Jenner, 2011, p. 904-905). Additionally, increasing the price of highly-addictive drugs such as heroin has contributed to increased crime rates among addicts, as criminality may be a necessary means of funding their addiction (Nadelmann, 2007, p. 28). A relationship between increased drug prices and cheaper, often more dangerous drug consumption methods has also been found. As heroin prices increase, consumption by injection has become more popular, contributing to a rise in infectious diseases such as HIV and hepatitis C (Nadelmann, 2007, p.28; Jenner, 2011, p. 905).

Prohibition pushes the drug trade into the “criminal underworld” where the absence of contractual agreements and non-violent dispute resolution mechanisms make the use of violence a likely means of settling disagreements (Jenner, 2011, p. 906- 907). According to the 2009 World Drug Report, “The strongest case against drug control is the violence and corruption associated with black markets” (Jenner, 2011, p. 908). In the contemporary context, Mexican cartels have demonstrated the large-scale violence of the drug trade. As reported by the Meso American Working Group (MAWG), since 2006, over 80,000 drug trade-related murders have been committed in Mexico, while an additional 27,000 individuals have “disappeared” and are presumably dead (MAWG, 2013, p. 17).

#### *Drug Law Liberalization: A Way Forward*

In light of the many real problems with zero-tolerance drug policies, the policy paradigm in many states has shifted to one based on harm reduction and regulation. States such as Uruguay, New Zealand, Ecuador, Canada, Portugal, Switzerland, the Netherlands, and the US have implemented a plethora of laws aimed at decriminalizing, legalizing, and reducing the harms associated with a wide variety of drugs (GCDP, 2014, p. 13-15).

The drug law liberalization schema requires states to look outside of the existing enforcement-based policy paradigm, in which the issue of drug trafficking can only be responded to through more surveillance, security, and coercion (Sheptycki, 2007b, p. 486), and instead, enact policy based on a public health perspective. As proposed by the Meso-American Working Group, governments must realize that drug production and consumption cannot be eliminated; an achievable goal, however, is to regulate drug use and make it safer for users by treating addiction as a public health issue, which in turn would reduce the need for drugs to be trafficked across borders due to their domestic availability (MAWG, 2013, p. 24). This refocusing from production-oriented policies would address the concerns of those constructionist scholars who have critiqued the extension of the coercive capacity of states, as drug-producing countries would not be invaded (McCulloch,

2007, p.27-28). It would also presumably address the concerns of realists by limiting the impact of zero-tolerance policies that have contributed to an increase in the very real aforementioned issues of profitability, production, consumption, and precariousness associated with the drug trade.

By allowing drugs to be controlled by criminal actors, drug use has become more precarious due to the lack of quality control and regulation (MAWG, 2013, p. 25; GCDP, 2014, p. 12). The potency and purity of illicit substances is unknown and unreliable, fatal overdoses are more likely, and there is the possibility that drugs can be contaminated with harmful substances such as anthrax (GCDP, 2014, p. 12). Regulation similar to that which governs alcohol and cigarettes would provide users with information about the contents of drugs and the risks of drug use (GCDP, 2014, p. 26). Government regulation and licensing can be applied to all stages of the drug trade, allowing the cultivation, sale and consumption to be controlled by the state (Jenner, 2011, p. 925). Assuming that a multi-agency public health approach is supported and adequately funded, liberalizing drug policies would also mean that users would have access to necessary treatment and healthcare, as they would not have to fear criminal repercussions (MAWG, 2013, p. 25). In what follows, drug law liberalization strategies in relation to cannabis and heroin will be considered<sup>1</sup>.

### *International Cannabis Legalization*

As argued by MAWG, based on its relatively low levels of risk and harm compared to other narcotics, the pros of cannabis legalization outweigh the cons (MAWG, 2013, p. 30). Legalization refers to “the complete removal of sanctions, making a certain behaviour legal” (Hughes & Stevens, 2010, p. 999). Usually, legalization is coupled with some form of regulation to control the production, supply, and use of cannabis which may, for example, limit cannabis consumption and sale to certain designated cannabis “coffee shops” and retailers (GCDP, 2014, p. 29; 31).

International legalization would reduce industry-related violence in drug-producing countries such as Mexico and Colombia. Although it has been suggested that legalization would increase violence in the short-term due to scarce revenue and the displacement of lower-level “employees” in DTOs (Kilmer, Caulkins, Bond & Reuter, 2010, p. 41), in the long-run, the international demand of imported cannabis would significantly decrease under a schema in which it was legalized by individual states (Jenner, 2011, p.914-917; Kilmer, Caulkins, Bond & Reuter, 2010, p.1). Illicit economies would greatly suffer, and the emergence of a legitimate market for drugs would reduce drug trade-related violence by allowing for criminal justice-based dispute resolution mechanisms (Jenner, 2011, p. 920). As the demand for imported cannabis decreases, the violence associated with all levels of cannabis

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<sup>1</sup>Accepting that drug use cannot be eliminated and implementing a public health model to address it, does not mean that drug use is not risky. On the contrary, drugs present many risks to users, which vary based on the drug in question. Different regulatory frameworks are required based on the level of “harm” that each drug presents. It is acknowledged and understood that “harm” is a highly politicized and largely constructed concept, and both realists and constructionists would likely have different opinions of the level of “harm” presented by various drugs. It is thus important to question what constitutes “harm” and who determines levels of “harm.” For the purposes of this paper, however, cannabis and heroin law liberalization strategies will be explained, with the former serving as an example of a “relatively harmless” drug, and the latter serving as a “relatively harmful” drug.

production would likely decrease as well (Jenner, 2011, p.907). DTOs within drug-producing states would no longer need to engage in violent competition, and kingpin strategies would no longer be required, reducing both intragroup and intergroup violence (Jenner, 2011, p. 920).

Cannabis legalization would break up drug producing and trafficking monopolies by diversifying domestic drug markets. This would lower drug prices and revenues, reducing the incentive for criminal actors to enter the drug trade (Jenner, 2011, p.921-922). Critics maintain that the reduction in cannabis price would increase demand, however, drug demand has been shown to be rather inelastic, and is not significantly swayed by the policies of the time. A drop in drug price will likely not motivate non-drug users to start using drugs, while an increase in drug price will likely not stop highly-addicted individuals from using drugs (Jenner, 2011, p.921; Kilmer, Caulkins, Bond & Reuter, 2010, p. 1).

For a universal cannabis legalization framework to be implemented, it has been suggested that as the catalyst of international drug crime control policy, the US should legalize cannabis throughout the country in the hopes that other states will follow suit (Jenner, 2011, p. 923-924; Kilmer, Caulkins, Bond & Reuter, 2010, p.2). The US is also the world's largest consumer of drugs, so legalizing cannabis in all 50 states would have a significant impact on the global drug market. Since the demand for imported narcotics would decrease, international legalization would mean that there would be no balloon effect as cannabis production would be drastically reduced, not just displaced (Jenner, 2011, p. 913).

### *Heroin*

Implementing a regulatory framework for heroin consumption is a more complicated task when compared to the regulation of cannabis, due to its harmful effects, which include heart and skin infections, and diseases in the lungs, kidneys, and liver. Users also have a high risk of contracting HIV/AIDS, and hepatitis B and C due to unsterile equipment ("Medical Complications," 2014). Unlike cannabis, heroin is consumed by a minority of heavy users, and scholars have suggested that the best way to reduce the demand for the drug is to provide readily available treatment options for users while giving highly-addicted users access to heroin via government-regulated sources (Nadelmann, 2011, p. 17).

Public health-oriented legal frameworks have taken different forms in different countries. In Portugal, the use and possession of all illicit drugs was decriminalized in 2001 (Hughes & Stevens, 2010, p.1001). Decriminalization here means that while drugs were still illegal, criminal sanctions were replaced by administrative sanctions such as fines or mandatory drug therapy (Hughes & Stevens, 2010, p. 999). Those found in possession of less than a "ten days' supply" of any drug were directed to appear before a panel of lawyers, social workers, and medical personnel (Hughes & Stevens, 2010, p. 1002). These panels, called the Commissions for the Dissuasion of Drug Addiction (CDTs), were created with the sole purpose of dissuading drug use and providing chronic users with treatment options and education programs instead of criminal sanctions (Hughes & Stevens, 2010, p. 1002). Prior to decriminalization, Portugal had the highest rate of drug-related AIDS in Europe, and rising heroin-related cases of HIV, tuberculosis, hepatitis B, and hepatitis C (Hughes & Stevens, 2010, p. 1001). Six years after decriminalization, drug use by intravenous and injection

declined significantly, as did the number of drug-related deaths and the reported cases of heroin-related HIV, hepatitis C, and tuberculosis (Hughes & Stevens, 2010, p. 1006-1008). Decriminalization resulted in the diversion of over 6000 users in its first four years, significantly reducing the burden on the criminal justice system (Hughes & Stevens, 2010, p. 1009).

The Swiss case presents a different method of harm reduction. In 1998, the Swiss government accepted Heroin-Assisted Therapy (HAT) as a method to reduce the harm associated with heroin use (Csete & Grob, 2012, p. 82). HAT allows heroin addicts who have been unsuccessful in other treatment programs to use Drug Consumption Rooms (DCRs), which allow for safe, supervised injection and on-demand treatment, as well as syringe exchange programs, which provide users with sterilized syringes (Reuter & Schnoz, 2009, p. 9; Csete & Grob, 2012, p. 83). Switzerland also operates a methadone maintenance program that allows heroin users to break their dependence using methadone, a drug similar to morphine (Reuter & Schnoz, 2009, p. 9). These policies have resulted in a decline from approximately 29,000 heroin users in 1994 to 23,000 in 2002 (Reuter & Schnoz, 2009, p. 7). They have also contributed to a drop in annual drug-related deaths from 350-400 in the 1990s to approximately 150-200 in the 2000s, and a reduction in AIDS-related deaths involving drug injection from 300 in 1994 to less than 25 in 2006 (Reuter & Schnoz, 2009, p. 34).

Drug law liberalization presents a way forward that seems to resonate with both realist and constructionist interpretations of drug trafficking. Its pragmatism is well-aligned with realism's focus on harmful activities and conditions that necessitate a policy response. Drug law liberalization has the potential to neutralize the violence and health risks associated with drug trafficking, its monopolization and profitability, and the involvement of corrupt officials. In this sense, a problem is seen, and legalization is a means to do something about it. This policy also offers a way to counter the discursive representations of drug trafficking that, as emphasized by constructionist scholars, justify and enable the militarization of state power. This would mean that powerful states such as the US would not be able to invade weaker states under the guise of an international fight against the drug trade, and by providing services for its citizens, these states would have no need to rely on highly-militarized international "wars on-" for political legitimation (McCulloch, 2007). Instead, what is required is a public health perspective and an emphasis on harm reduction.

## CONCLUSION

In this paper, two broad paradigms – realism and constructionism – were introduced as the main discourses used to analyze the issue of drug trafficking. There is no single constructionist viewpoint and no single realist viewpoint. At the general level, however, constructionists studying the issue of drug trafficking all share an interest in studying "claims-making" and representations of the drug trade and its participants. Realists, on the other hand, are interested in studying the specific players and practices involved in the drug trade. As was argued in this paper, these perspectives are not helpfully understood as dichotomously opposed, but instead, as two perspectives that simply ask different questions. By avoiding a false opposition between these two conceptual paradigms, and through a guiding focus on empirical research, this paper sought to provide a nuanced understanding of the problem of drug trafficking and the range of possible solutions.

This paper highlighted the main arguments made by both realists and constructionists concerning the framing of the issue of drug trafficking and its international law enforcement response. By explaining the work of constructionist scholars, the “drug threat” was shown to be a productive fiction that was magnified and deployed in order to justify the growth of the state security apparatus. The creation of external enemies, compounded with the hegemonic power position of the US, spurred the expansion of the “War on Drugs” from a domestic issue to a concern of global governance, resulting in a highly militarized and “Americanized” international drug crime control schema. Despite the magnification of the “War on Drugs,” ethnographic studies conducted by criminological realists shed an important light on the real practices of the drug trade and the complex networks of criminal actors and state agents involved.

This paper has argued that drug law liberalization and a genuine commitment to a well-funded public health framework promise to neutralize many of the most pressing issues surrounding the international drug trade, in a way that also reveals the importance of *both* constructionist and realist insights in this domain of public policy. This demonstrates that the paradigms should not be represented as dichotomously opposed as is often the case. Despite the way that the issue of drug trafficking is framed, the solution remains the same. By moving the drug trade out of the hands of criminal actors, drug law liberalization reforms informed by a public health perspective have the potential to reduce the very real problems of violence, corruption, drug precariousness, and profitability that are currently associated with the drug trade and exacerbated by prohibitionist policies. At the same time, as constructionists would mention, drug law liberalization provides a solution to the problem of drug trafficking that does not give states a reason to increase their coercive capacity.

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