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## **Scales and Blinkers, Motes and Beams: Whose View is Obstructed on Drug Scheduling?**

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“And why beholdest thou the mote that is in thy brother's eye, but considerest not the beam that is in thine own eye?” Matthew 7:3

Caulkins et al.<sup>1</sup> state that they wish “to be constructive, not merely nihilistic”, but that is not the effect of their analysis. Much energy is spent in the article on pulling apart the mote which is the Nutt et al. scaling,<sup>2,3</sup> but none is spent on the beam which is the legal schedules of drugs at international and national levels.

We live in a world which is structured by two rankings of drugs, the schedules in the 1961 and 1971 drug treaties. Individual countries then have their own classifications of drugs into national schedules, conditioned by and generally formed around these international schedules. The two articles by Nutt et al. are framed with reference to these official classifications. It is thus not surprising that the various complaints by Caulkins et al. concerning the procedures used in Nutt et al. -- the “adding of apples and oranges”, the inattention to the multidimensionality of harms, the “conflating [of] choice with object”, the inattention to context – are all just as applicable to the procedures enshrined in international and national drug schedules.

Caulkins and his colleagues are not the first to make such complaints; others have made them explicitly or implicitly with respect to the official scheduling. Thus, for instance, Best et al.<sup>4</sup> declined to give a single rank order of the dangerousness of the drugs they considered on the grounds that “the dangers are not uni-dimensional”. A French expert committee rated drugs separately on “general toxicity” and “social dangerousness”,<sup>5</sup> thus avoiding adding together apples and oranges. In place of the Conventions’ global drug schedules for all times and places, it has been suggested that drug scheduling should be adapted to the particular circumstances in a society.<sup>6</sup> An eminent

pharmacologist, Harold Kalant, argued that pharmacology should be taken out of legal classification; he thought that classification concerning drug crimes should be based simply on the offender's relation to the illicit market (whether a seller, and at how high a level).<sup>7</sup>

What Caulkins et al. are complaining about, in my view, is that Nutt and his colleagues adhere too slavishly to the assumptions and procedures underlying the official schedules. I would add that this extends, in the earlier analysis by Nutt et al., to the issue of a drug's benefits, which, contrary to Caulkins et al., are actually taken into account in the official classifications and in that analysis. Beneath the psychopharmacologist's term "abuse potential", a crucial criterion in the 1971 Convention, lie attributes such as degree of euphoria and relative preference for the drug as scored by experienced drug users,<sup>8</sup> the same dimension identified as "intensity of pleasure" in the 2007 paper by Nutt et al. So both the official classifications and the earlier Nutt et al. paper do take account of benefits and pleasures for the user – but, in the curious inversion psychopharmacologists take for granted, score it as an item which is added to rather than subtracted from the harms. I would enjoy hearing a debate between a welfare economist and a psychopharmacologist on the assumptions involved in this procedure.

Back to the mote and the beam. The analyses by Nutt et al. are essentially critiques of the British and international official schedules, problematising them and opening them up to scientific and policy debate. The last time a group of pharmacologists attempted to make a pharmacological argument for which drugs are included in international drug treaties and which are not was in 1957,<sup>9</sup> yet the whole drug control system is still predicated on and wrapped in psychopharmacological justification. In this circumstance, the attack on Nutt et al. by Caulkins et al. – without any mention of the official schedules -- functions essentially as a diversion of our attention from the inadequacies of the latter. Though dressed in the language and technical expertise of policy science, the paper by Caulkins et al. is thus essentially an argument in support of the status quo.

The official schedules are an artefact of a particular historical epoch<sup>10</sup> and need to be reconsidered. The issues at stake are not just technical: they

are fateful in individual lives. Where a drug is classified on the schedule (or whether it is on a schedule at all) determines not only whether substance users are convicted of a drug crime, but also whether they go to jail and for how long, whether their property is seized, whether they suffer a variety of civil penalties, and how they fare in their work and family life. Even a minor conviction for a drug offense can have substantial consequences.<sup>11</sup> I do not agree with everything in the analyses by Nutt et al., but they are starting a debate which is long overdue – and the priority in the debate should be on the official schedules and what to do about them.

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