

Smoking Marijuana Doesn't Deserve a Life Sentence - 26 October 2010

It was recently reported that a Gold Coast rugby league player became the first Australian sportsman to be banned for life for cannabis use. The Queensland Rugby League banned the player from not only playing but also from being associated with the sport in any way, including training, coaching, managing or acting in any support role. It is the first Australian case to involve an athlete committing a third anti-doping rule violation, which under the World Anti-Doping Agency Code can result in a lifetime ban. The player had previously received two bans for the presence of cannabis as a member of Touch New Zealand, the first over 5 years ago and the second of which resulted in a two year ban. 

It could be reasonably argued that if you do the crime then you do the time, and in this case, the player concerned had two previous positive tests and knew the risk if caught again. However, there is also a strong argument that there is a problem with the WADA Code if it removes the ability of administrators to properly evaluate the seriousness of offences to ensure that the punishment fits the crime. In essence, the Code runs the risk of lacking the principle of proportionality.

This is a principle upheld by many organisations including the United Nations when addressing drug misuse. It is even supported by the International Narcotics Control Board, which is hardly renowned for its liberal approach to drug use. The principle recognises that people who misuse drugs should be treated as having a health problem and that any legal punishment given should be commensurate with the actual seriousness of the offence.

In this recent case we have a sportsperson testing positive to what is realistically a non-performance enhancing substance, cannabis, three times over 5 years. For these indiscretions he is unable to play or participate in any aspect of the sport for the rest of his life. We don't know the person involved but it would be fair to assume that rugby league and touch football play a significant part in his social life. To take away any further opportunity for him to be involved in any way with the sport he plays, as well as potentially be involved with any of his children's team if they play the sport is surely not a punishment that fits the crime.

The WADA Code came into effect in 2004 and though revised a few times, it has at its core a determination to harmonise anti-doping policies in all sports and in all countries. This includes setting out penalties. Although comprehensive, the drive for harmonisation has given rise to the potential problem that all illicit substances are generally dealt with as being the same. The fact is that they are not. Across the world, cannabis is the most widely used illicit drug. There are literally millions of people using it each year. So how many people playing sport will be given lifetime bans with careers being ruined and lives inexorably altered before the policy is seen as far too repressive?

We are in no way advocating a position that condones the use of cannabis or any other illicit drug. It is a view that is based on the pragmatic reality on the level of drug use around the world. We also know the vital role sport can play in diminishing harmful drug use. Ostracising people may have a deterrence effect for others but it can also mean those that are most vulnerable are denied access to a part of culture and life that can have remarkable protective factors against drug misuse.

The impact that a recorded 'conviction' in the legal system, be it criminal, civil or sporting, can have on people's lives is dramatic. A person convicted of any drug offence is effectively being given a life-long penalty in regard to work and travel opportunities. This can be particularly severe on young people who don't often understand these consequences or the social exclusion that can be caused by the stigma of a drug conviction.

As the UK's Professional Football & Professional Cricketers Associations have very recently said – 'recreational drug use isn't usually about gaining an unfair advantage and marijuana is not a big issue with cheating in sport -- let's get it off the (WADA) list.'

You could argue that it is not just the sporting world that needs to get some realistic perspective on how they deal with drug use issues within their community. The real world also needs to take stock on the harm we are causing members of our communities when the punishment not only far outweighs the crime but may well contribute to even greater harms.

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