

Dearly beloved,

We are gathered around this piece of paper to celebrate life; yours and mine. Yes, I celebrate these prison walls for concentrating my phenomenal cosmic power (itty bitty living space) on my liberty and by proxy the liberty of millions around the world. Yes, years ago I wrote an email, disseminated to many of this world's top thinkers and doers, in which I said:

I am committed to the possibility of amnesty being present for all non-violent, non-criminal drug offenders by Dec 31, 2000. In my heart, my soul, my mind, I am present to an unstoppable yearning for the forgotten human beings that rot in our Prison Industrial Complex. I cannot stand by and listen to any more of the blatant injustice and rape of human dignity that occurs within the context of the "War on Drugs." A war on drugs is a "War on people" and as such it is a war no one can possibly win.

We have within our culture a semiotic division of the context "drugs." For some, there are good drugs and bad drugs, for others, drugs are never good, and for others still, drugs are neither good nor bad. However, public consensus has led to the general classification of all people who use "non-socially" sanctioned drugs as "drug abusers/addicts." In this context drug users are perceived as social deviants in need of outside intervention in the form of therapeutic treatment or punishment. These distinct beliefs carry with them the classic moralistic symptoms of religious dualism, dogma, and righteousness.

Little did I know, though I probably could have guessed, I would end up within the walls of the gulag archipelago; careful what you commit to, what shows up is everything that's in the way of the commitment.

And so it is, I got a twenty year sentence because I preferred to consume, possess, supply and/or produce a certain type of property, 'controlled drugs'. I was not content to join the herd with the traditional western drugs, alcohol and tobacco. It turns out that I deeply value the spiritual insights catalyzed within me via certain classes of drug property.

At first I asserted in the Court room my absolute right to do as I pleased with my body and mind, they are my property too. I cited the US Supreme Court judgment in *Jacobson v. Massachusetts*, 197 U.S. 11, 29 (1905):

There is...a sphere within which the individual may assert the supremacy of his own will and rightfully dispute the authority of any free government existing under a written constitution, to interfere with the exercise of that will.

But funny as things happen, when I actually got the full *Jacobson* judgment and had to deliver it in the Crown Court, the next lines were:

But it is equally true that in every well-ordered society charged with the duty of conserving the safety of its members, the rights of the individual in respect of his liberty may at times, under the pressure of great dangers, be subjected to such restraint to be enforced by reasonable regulations as the safety of the general public may demand.

The Trial Judge, Anthony Niblett seized this, coupled with the fallacy of the great dangers from illicit drugs, and with *R v Taylor*¹ in hand kicked me to the curb.

Paul Simon *Taylor*, a Rastafarian *Cannabis* user, attempted to rely on his right to privacy and religion; but at the urgings of the Crown Prosecutor, the Court, relied on inferences drawn from the United Kingdom's subscription to the 1961 and 1988 UN drug control Conventions as "evidence of the necessity of any interference" with Taylor's rights, in pursuit of the Government's legitimate aim ... "to combat public health and public safety dangers arising from such drugs".²

¹ *R v Taylor* [2001] EWCA Crim 2263 Available at: bailii.org

² *ibid* para 14

Not once was the veracity of the actual dangers or evidence of harm by the specific psychotropic substances evinced; not once did the Court consider the abject failure of the means of selective prohibition to achieve its stated aim of protecting the public health. Nor did the Court consider that legal drugs kill 40x more than illegal drugs.

I was convinced that there was an unconscious motivation for discrimination that had been lost in the smoke and mirrors of political rhetoric and quasi-technical discourse. I had believed for years that the whole international drug control scheme was hypocritical and founded on prejudice and illogic, but how do I show it. How do I explain the disparate treatment?

The State asserts the inherent dangers of these particular drugs but that was simply not my experience. So, I had to keep digging. It occurs to me a form of discrimination but not about the usual suspect classes like race, colour, creed or sex, though certainly in the beginning it was about outlawing the Chinese *Opium*, the Negroe *Cocaine*, and the Mexican *Maribuana*.

But I am a new world philosopher prince, raised by a Constitutionalist freeman philosopher king of the American Dream and I simply prefer certain drugs. Life, Liberty and the pursuit of Happiness!

My male cousin simply prefers men over women, is that a ground for discrimination. Can it be right to discriminate against him for his preference? Certainly not in my book you can't; but what about the Court room? Here in Europe, homosexuality is no longer a crime nor can you discriminate against homosexuals for their preferences. When the Court ruled on the matter they wouldn't dare declare whether it was a genetic predisposition or simply a preference so they chose the carefully worded:

...either they respect the law and refrain from engaging...in prohibited sexual acts to which they are disposed by reason of their homosexual *tendencies*, or they commit such acts and thereby become liable to criminal prosecution.³

Add this to some of the most beautiful prose I have ever read by those espousers of liberty and constitutional wisdom, the Supreme Court Justices in *Lawrence et. al. v Texas*:

Had those who drew and ratified the Due Process Clauses of the Fifth Amendment or the Fourteenth Amendment known the components of liberty in its manifold possibilities, they might have been more specific. *They did not presume to have this insight.* They knew times can blind us to certain truths and later generations can see that laws once thought necessary and proper in fact serve only to oppress. As the Constitution endures, persons in every generation can invoke its principles in their own search for greater freedom.

The preceding lines delivered by Supreme Court Justice Kennedy, (2003) 539 U.S. __:

The present case does not involve minors. It does not involve persons who might be injured or coerced or who are situated in relationships where consent might not easily be refused. It does not involve public conduct or prostitution. It does not involve whether the government must give formal recognition to any relationship that homosexual persons seek to enter. The case does involve two adults who, with full and mutual consent from each other, engaged in sexual practices common to a homosexual lifestyle. The petitioners are entitled to respect for their private lives. The State cannot demean their existence or control their destiny by making their private sexual conduct a crime. Their right to liberty under the Due Process Clause gives them the full right to engage in their conduct without intervention of the government.

Well, I can work with these concepts; I am disposed to LSD by reasons of my *tendencies*. Can I consent to utilise my body and mind as a consciousness research laboratory? Can others? Do others like me have freedom of contract with each other to privately trade in the drug property which facilitates our research, therapeutic or ludibund purposes? Am I of the generations that sees the law 'serves only to oppress'.

³ *Dudgeon v United Kingdom*, [1982] 4 EHRR 149 para 41 and 60, Available at echr.coe.int

The Court in Europe didn't rule on discrimination or equal protection because the interference in the private life of the homosexual was enough to declare it unlawful. Does that apply to drug users? If not, why?

Richard Glen Boire, of the Center for Cognitive Liberty and Ethics, channelled me in the direction of the private bodily rights of the women vis-à-vis abortion coupled with the concept of *Cognitive Liberty* aka 'freedom of thought'. He wrote that *Cognitive Liberty* must mean, at minimum, that each person is free to direct one's own consciousness and is the legal right of individuals to autonomous self-determination over their own neurochemistry.⁴

I had grasped the meme of *Cognitive Liberty* many years before my arrest; I knew that this concept could bring down the Drug Warriors as it is situated at the heart, i.e. ground-zero of the matrix of freedom. So, I went to many festivals and events and distributed literature on it and wrote it into my school essays and in my email tag lines, etc. I was going to be like 'the Lorax' and speak for the meme: *Cognitive Liberty!*

This is how I came to write the Amnesty email extracted above. I had been sitting in Cindy-Lou's hot tub in Spokane, Washington, after a night of Landmark Education leadership training. I was crying for the men and women who rot in the prison industrial complex because they like or *tend* to prefer certain drugs other than alcohol and tobacco. I knew then that I was warm all over, and I truly knew what that meant for I had been very cold before, and that for them they had no chance to be that warm.

Thus naturally, *Cognitive Liberty* formed the keystone of my defence. As the European Convention on Human Rights (ECHR) upholds 'freedom of thought' without limitations or proviso, I built my castle on its foundation.

But even though the Court is supposed to listen and address my human rights claim, each Court so far has failed to meet it head on. "No Galileo, we do not need to look through that contraption of yours"! They have sidestepped with reliance on *Taylor*. The difference now is *Taylor* got out of jail as his sentence was up, so, he pursued it no further than the Appeal Court. Hence, *Taylor cannot bind at any higher Court*.

The House of Lords will be forced to look afresh and address my argument head-on. And the real saving grace of all this is, the European Court of Human Rights (ECtHR) is completely independent of the UK's *Taylor* judgment which was delivered by a domestic Appeal Court rubberstamping a domestic trial Court performance.

Both *Taylor* and I were *not* granted permission to Appeal against Conviction but only the ability to make an 'application' for leave to Appeal.⁵ Thus, the judgments that the Court delivered were not appeal judgments but application dismissals.

So, the reality, the Courts have consistently failed in their duty to hear my human rights claims and give them the full attention that their rules say they should. And, no-one has taken the matter farther in Europe. The Court in Europe will criticise the domestic Courts for failing to apply the rules they have all agreed in human rights cases, unless the House of Lords gives the new petition the proper attention.

In the new petition⁶, I let go of my absolute right claim, and rephrased it as an equal rights claim using 'tendency' and 'property' as the grounds for discrimination. In essence, because both my body and drugs are property, producing, trading in and using drugs are property rights, and drug prohibitions imposed only upon certain classes of 'harmful' drugs are unequal deprivations of basic property rights.

This is really going to piss them off; because, in the English speaking world, especially since the 17th century, the word *freedom* has meant the inalienable right to life, liberty and *property*, the first two elements resting squarely on the last. Indeed, the quintessential feature of capitalism as a political economic system is the security of private property and a free market, that is, the right of every competent adult to trade in goods and services, subject only to reasonable and proportionate "restrictions upon freedom of contract as are necessary" in the eyes of the legislature.⁷

⁴ Boire, Richard G. (1999) On Cognitive Liberty, *Journal of Cognitive Liberties*, v1n1: 7-13 www.cognitiveliberty.org

⁵ *R v Taylor* [2001] EWCA Crim 2263 para 32; *R v Hardison* [2006] EWCA Crim 1502 para 23 Available at: bailii.org

⁶ www.erowid.org/culture/characters/hardison_casey/hardison_casey.html

⁷ *National Westminster Bank plc v Morgan* [1985] A.C. 686 at 708

The key word is ‘necessary’, which here in Europe means ‘strictly required’ or ‘pressing social need’. Well, the penal powers are not ‘strictly required’ because, if they were, they would also apply equally to persons concerned with harmful drugs *valued* by the majority, alcohol and tobacco, which threaten public health and safety. The Human Rights Act 1998 applies equally to all, no matter what the majority prefers or values.

So, persons concerned with harmful drugs valued by minorities are in an analogous situation to those concerned with harmful drugs valued by the majority thus the Misuse of Drugs Act 1971 discriminates on the grounds of value, tendency, and preference in property and as a result breaches Article 14 – freedom from discrimination. And, notice how the word ‘value’ plays on the concept of property and tendency.

Now, my remaining hurdle was the concept in *Taylor* of the ‘inferences’ from the UN Conventions as evidence of a ‘pressing social need’ aka ‘necessity’ of prohibition. Well, first off, it’s a selective prohibition but most importantly, a treaty does not constitute evidence of a *pressing social need* for discrimination. Thus I wrote:

The employment of *Taylor* by the Court cannot itself survive strict scrutiny nor constitute ‘evidence of the necessity of the interference’ with *Hardison*’s Convention rights as all of **the UN Conventions explicitly allow exemption from enforcement on human rights and constitutional grounds** preserving the “inherent dignity and the equal and inalienable rights of all members of the human family [as] the foundation of freedom, justice and peace in the world”.⁸

Accordingly, the Court in *Taylor* and *R v Hardison* should have relied on human rights instruments and argued that the Government has a paramount and vital constitutional interest in securing human rights to everyone in their jurisdiction, arguing that the UN Conventions and the UN *Charter* explicitly provide for this.⁹ Indeed, the Political Declaration of the 1998 United Nations General Assembly states that drug strategies require an:

“integrated and balanced approach in full conformity with the purposes and principles of the Charter of the United Nations and international law, and particularly with full respect for the sovereignty and territorial integrity of States, the principle of non-intervention in the internal affairs of States and **all human rights and fundamental freedoms**”.¹⁰

Yet all along governments have argued that the process of prohibition was *the* legitimate aim or compelling state interest. However, in *Gonzales v. O Centro Espirita Beneficente Uniao Do Vegetal* (2006) 546 U.S. ___ delivered earlier this year, the US failed to prove that Executive adherence itself to the UN Conventions was a compelling interest. And, if common sense prevails then the ECtHR & House of Lords will see that:

Prohibition, of some but not all drugs, should not therefore be classed as an end in itself; it must be seen as a possible means to achieve an end. Prohibition may, on the evidence, be a failed solution; hence for Courts to argue that prohibition is a legitimate aim or compelling state interest is irrational. The aim of this Court should therefore be to determine a more fundamental interest that is at stake, such as “combating public health and public safety dangers arising from... drugs”,¹¹ and evaluate if a selective, discriminatory, and prejudicial prohibition equates to this.

So, my friends, family, comrades and confidants this is the condensation of my last few months of legal thinking: I have built the argument around 1) discrimination, current drug policy is a form of indirect or unconscious discrimination 2) the Misuse of Drugs Act 1971 is neutral and applies to all drugs 3) the UN Conventions are not aims but means 4) the disparate treatment is untenable, inhumane, degrading, and causes harm.

⁸ Preamble, 1948 United Nations Universal Declaration of Human Rights

⁹ Article 2(7) United Nations *Charter*, and, Article 1 *European Convention on Human Rights*

¹⁰ UN General Assembly A/RES/S-20/2, June 10th 1998, www.un.org/ga/20special/poldecla.htm

¹¹ *R v Taylor* [2001] EWCA Crim 2263 para 14

ECHR Article 14 prevents discrimination on the grounds of property:

- 1) The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any grounds such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, *property*, birth or *other status*.

Drugs are *property*! See Thomas Szasz and his book 'Our Right to Drugs', and I have *other status*! See Erowid's 'drug-geek'/psychonaut article.¹² Thankfully, the ECtHR has held that discrimination can arise whenever the complaint falls within the *ambit* or sphere of another Convention right. So, I haven't had to deeply expound the *Cognitive Liberty* argument. I have only had to show that the Misuse of Drugs Act 1971 *potentially* impacts private life, free thought, and property rights. Thus, my claim in the House of Lords is simple, but opens a can of whoop-ass on the Government:

Mr. Hardison asserts that in the instant case the sentence of 20 years imprisonment is disproportionately severe to the gravity of the acts committed and constitutes inhumane punishment and degrading treatment founded upon an Act apparently neutral on its face but discriminatory and prejudicial as applied.

And, with gratuitous grace, a Report¹³ of the Parliamentary Science and Technology Select Committee was released, a week before I lodged my Petition in the House of Lords, which severely chastised the UK Government and the Advisory Council on the Misuse of Drugs (ACMD) for failing in their statutory duties. They asserted:

We understand that the ACMD operates within the framework set by the Misuse of Drugs Act 1971 but, bearing in mind that the council is the sole scientific advisory body on drugs policy, we consider **the Council's failure to alert the Home Secretary to the serious doubts about the basis and the effectiveness of the classification system at an earlier stage a dereliction of duty.**

The ACMD responded with a conciliatory tone in their most recent report, released September 14th 2006, "Pathways to Problems"¹⁴:

At present, the legal framework for the regulation and control of drugs clearly distinguishes between drugs such as tobacco and alcohol and drugs various other drugs which can be bought and sold legally (subject to various regulations), drugs which are covered by the Misuse of Drugs Act (1971) and drugs which are classes as medicines, some of which are also covered by the Act. **The insights summarized in this chapter indicate that these distinctions are based on historical and cultural factors and lack a consistent and objective basis.**

This is a firm concession by the ACMD of my main argument found at paragraph 4 and 7(iv) of my House of Lords Petition. The tide has turned! The genie is out of the bottle. "Phenomenal cosmic power, itty bitty living space"!

So, please do read my arguments, be patient as I encode in each line as much as possible. I have learned a great deal over these last few years about law and presenting the argument. Many people have contributed their ideas, objections and criticisms to me which have all sharpened my approach and paradigm. Thus, I hope the efforts I have put forth on paper honours them and will help develop your paradigm vis-à-vis drugs. Thank you all for taking the time and for allowing me access to your memetic processors.

—*'twas ever thus, fiat lux!*

¹² www.erowid.org/culture/references/other/2004_drug_geeks_erowid.html

¹³ HC 1031 (2006) *Drug classification: making a hash of it?*, Science & Technology Committee, Fifth Report of Session 2005-2006, July 31st 2006, para 97 Available at: www.parliament.uk/s&tcom

¹⁴ Home Office/ ACMD (2006) *Pathways to Problems: hazardous use of tobacco, alcohol and other drugs by young people in the UK and its implications for policy*, para 1.13, September 14th 2006 – www.drugs.gov.uk