

## IDPC Briefing Paper

### Time for an Impact Assessment of Drug Policy

#### Introduction

All stakeholders in the debate on drug policy share the goal of maximising social, environmental, physical and psychological wellbeing. At a time of economic crisis, it is particularly important that drug policy expenditure is cost-effective. Yet despite the many billions of dollars in drug-related spending each year, there are significant concerns about the effectiveness of current approaches at the domestic and international level. The time has come to provide an objective mechanism for assessing the relative merits of different policy approaches, by developing a genuinely evidence-based Impact Assessment (IA) of drug policy that compares the impact of alternative policies on human development, human security and human rights.

For too long, the debate around improving drug policy has been emotive, polarised and deadlocked. A useful way to determine the best mix of evidence-based drug policies is through an independent, neutral process that all stakeholders can support, because it does not commit anyone to a particular position in advance. One way to achieve this is through IAs of drug policy, at the national and international levels, that compare the economic, environmental and social costs and benefits of existing policies with a range of alternatives. To ensure all stakeholders can support the process, the alternatives assessed should range from more intensive/punitive enforcement approaches, through options for decriminalisation of personal use, to models for legal regulation of drug production and supply.

**Box 1.** Antonio Maria Costa, Executive Director of the UN Office on Drugs and Crime acknowledges that the drug control system creates a raft of negative *'unintended consequences'* including:

- A huge criminal market
- Policy displacement from health to enforcement
- Geographical displacement – the 'balloon effect' – where enforcement activity in one area displaces the problem to another.

#### Failing policy and unintended consequences

Despite enormous resources being poured into the fight to control drug markets and drug use, there has been a clear long term pattern of increasing drug supply and availability, increasing use of drugs that cause the most harm, increasing health harms, and increasing levels of crime.

Beyond this failure to achieve a significant reduction in the scale of drug markets, the current approach has led to a raft of *"unintended consequences"* identified by the Executive Director of the UNODC (see Box 1); Illicit drug profits are fuelling crime,

corruption and conflict across the globe, and undermining security and development in producer and transit countries, from Mexico and Guinea Bissau, to Afghanistan and Colombia, with the gravest impacts falling upon the poor and marginalised.

Uniquely for major areas of public policy, no country or international body anywhere has properly counted the economic, social and environmental costs and benefits of current drug policy, or undertaken comparative modelling of alternatives to ensure the best approach is being taken. This is an untenable situation for such an important area of social, health and security policy.

\* ["Making drug control 'fit for purpose': Building on the UNGASS decade](#)

## What is Impact Assessment?

*"Ex-ante Policy Impact Assessment (PIA) is a process which helps policy-makers to understand the intended and unintended consequences of their interventions. This approach considers that good design of an intervention requires governments and their partners – including UNDP – to understand the effect of their policies on diverse social groups, actors and institutions, including those not targeted by the policy."*

UNDP Virtual Resource Centre\*

*"Impact assessment is a process aimed at structuring and supporting the development of policies. It identifies and assesses the problem at stake and the objectives pursued. It identifies the main options for achieving the objective, and analyses their likely impacts in the economic, environmental and social fields. It outlines advantages and disadvantages of each option and examines possible synergies and trade-offs."*

European Commission<sup>2</sup>

A call for an IA is not a commitment to a given policy, but a call for the objective evidence based evaluation of policy options. Through allowing the outcomes of any government intervention to be assessed against agreed goals, along with modelling alternatives, IA is a sophisticated tool to strengthen evidence-based policy-making, improve accountability and transparency, and enable more informed public and parliamentary debate. Widely used in many countries, the EU, and across the family of UN agencies, the use of IA is standard practice when developing or reviewing interventions.

The application of IA to evaluate existing measures (*ex-post*) has been less common than its use in assessment of proposed new measures (*ex-ante*). However, there is now recognition of the need for far more evaluation work of this nature, for example in the European Commission work on IA<sup>†</sup>.

### What does Impact Assessment consider?

Typically, IAs consider the potential or actual impacts (positive and negative) of a policy in terms of the core elements of sustainable development – economic, social and environmental<sup>†</sup>, but vary in scale, coverage and depth of analysis. As well as more overarching IAs that consider the impacts of policy options on a range of variables, there are various types of more narrowly defined policy-arena specific IAs, including:

- Environmental Impact Assessments
- Human Rights Impact assessments
- Health Impact Assessments
- Social Impact Assessments
- Equality Impact Assessments

The cross cutting nature of drug policy means that all of these (and more) are potentially engaged, to differing degrees in different countries.

The principles of IA can be applied to an entire policy paradigm (e.g. global drug policy), through to a small part of the legislative framework (e.g. policy for an individual drug, or policy in a specific region). However, there

#### Box 2. An example of IA process

- **Development stage:** definition of policy problem; gathering of evidence; rationale for government intervention; identification of policy objectives
- **Options stage:** identification of options; testing of options through pre-consultation with key stakeholders
- **Consultation stage:** refinement of options; publication for public consultation and comment
- **Assessment stage:** focus on costs and benefits of key options through appropriate data collection, and qualitative and quantitative methods of impact analysis
- **Publication**
- **Implementation stage:** by decision makers
- **Review stage:** after the intervention has been implemented it should be reviewed to establish what its actual costs and benefits are, and whether it is achieving its desired effects

<sup>1</sup> <http://europeandcis.undp.org/pia>

<sup>2</sup> [http://ec.europa.eu/governance/impact/index\\_en.htm](http://ec.europa.eu/governance/impact/index_en.htm)

<sup>†</sup> p1 RIA-Towards Better Regulation? Ed. Colin Kirkpatrick Edward Elgar Publishing Ltd 2007 ISBN 978 1 84542 412 1

are clearly strengths and weaknesses of each approach and obvious trade-offs between broadness of coverage and level of detail and depth of analysis that it permits. For example, a more narrowly focused IA (either geographically or regarding a specific element of a wider policy framework) might miss crucial *'bigger picture'* analysis.

Consequently the most useful way to proceed would be a combination of macro level IAs of drug policy, (both at the national level and at the international level, covering a representative range of producer, transit and consumer countries), with parallel micro policy IAs focussing on more detailed policy issues. In the UK, all proposed new legislation must be accompanied by an IA, which often consists of numerous sub-IAs. One or more of these may be over-arching, while others are focussed on particular elements of the new Bill e.g. Police and Crime Bill 2006<sup>§</sup>.

Crucial to meaningful IA is ensuring that all the main alternative policy options are modelled. When reform of criminal law is specifically being considered, it is naturally important that alternatives being reviewed are not confined to the strictures of the existing domestic or international legal frameworks. Alternative legal approaches, including decriminalisation and legal regulation of drugs, need to be considered, as well as the status quo, and options for stepping up prohibition. There are obvious challenges in speculative modelling, but established methodologies do exist, could be agreed in advance, and should be subject to suitably rigorous oversight.

Where there is insufficient evidence available to reach a strong conclusion, IA remains extremely useful for highlighting priority areas for further research.

### **Who should carry out an Impact Assessment?**

Ideally national governments should commission IAs of their drug policies at the national level, and the EC (or other regional government entities) and UN should commission international studies. However, all IAs are potentially open to political interference and bias, from their inception to the final report. A particular concern is when a body is tasked to self-assess the impact of its work. The obvious danger being that, whether unconsciously or deliberately, the IA will be shaped by the political environment rather than purely guided by evidence. Pressures may be exerted to protect the status quo, promote a particular policy, or quash another. Without appropriate controls, IA can effectively be used to perpetuate institutional bias. In an area as emotive and contentious as drug policy, it is particularly important that from the outset there is rigorous, transparent and independent scrutiny of the IA process so all stakeholders (including civil society) can have confidence in it.

One way to do this is through bodies like the EU Impact Assessment Board that provides expert input and scrutiny to all stages of the IA process, and provides a scrutiny report that accompanies the final IA. IAs could be undertaken by independent academics, NGO agencies, or a quasi-independent government agency such as the UK's Advisory Council on the Misuse of Drugs, the European Monitoring Centre for Drugs and Drug Addiction, or an expert committee of the UNODC or the World Health Organisation. If an IA is being undertaken by a non-government agency it is important that it has *'buy in'* from relevant government agencies and other key stakeholders from the outset, including participation in development of the IA methodology (scope, selection of indicators etc).

Internationally, the UNODC biennial survey to member countries that forms part of its information gathering for the World Drug Report could include a template with guidance and questions for a country level IA, which could be collated as the basis for a preliminary global IA.

There should also be clear triggers for future IAs whether by the UN, EC or national governments. As well as having an IA for all new policy development, existing policy should be subject to IAs at regular fixed

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<sup>§</sup> <http://www.homeoffice.gov.uk/documents/ria-police-and-justice-bill/index.html>

intervals as part of their ongoing review and evaluation process. The emergence of '*unintended consequences*' is notably also identified by the UK Government as a reason to trigger an IA.

Once an IA has been carried out, there should be an obligation on policymakers to act on the findings, as is the case for example with Environmental IAs in many countries, including the USA.

## Conclusion

The historic nature of the drug policy debate has meant that policy development has often lacked objective scrutiny. By rationally and methodically focusing on the evidence, in terms of costs and benefits of different options, and using established methodologies already embedded in most governments' processes, IA brings drug policy back into the arena of science, avoiding the polarising clashes that have long defined the debate. A call for IA is essentially a call for better evidence, and a structured approach to assessing policy options to inform debate and determine the best way forward. As such it is politically neutral, and a very reasonable request to policy makers.

At the very least, carrying out IAs on key elements of drug policy would for the first time allow taxpayers to judge how well their money was being spent. At best, it would provide an opportunity to move to a genuinely science based drug policy that promotes human development, human security and human rights, and is fit for the challenges of the 21<sup>st</sup> Century.

## Further reading

Recommended reading for more detail discussion of IA methodology and implementation:

- Renda, 'Impact Assessment in the EU; The State of the Art and the Art of the State' CEPS 2006
- H. Becker and F. Vanclay (eds), 'The International Handbook of Social Impact Assessment' Edward Elgar 2003
- Kirkpatrick and D. Parker (eds), 'Regulatory Impact Assessment: Towards Better Regulation?' Edward Elgar 2007
- For detail on European Union Impact assessment theory and practice, with a selection of example IAs visit [http://ec.europa.eu/governance/impact/index\\_en.htm](http://ec.europa.eu/governance/impact/index_en.htm)