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COUNTING THE COSTS OF  
THE WAR ON DRUGS

# The Alternative World Drug Report —

2nd edition



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## The Count the Costs initiative: aims and activities

### Documenting the costs

The Count the Costs initiative aims to highlight the negative impacts of the war on drugs in key policy areas: security, development, human rights, public health, stigma and discrimination, crime, economics, children and young people, and the environment.

Although governments and the UN have failed to systematically evaluate the costs of the war on drugs, there is nonetheless a substantial body of research available to demonstrate their scale and scope. In addition to this report, other resources documenting the costs of current drug policy can be found on the Count the Costs website, [www.countthecosts.org](http://www.countthecosts.org), where many materials are available in both Spanish and Russian. You can also follow @CounttheCosts on Twitter and “like” the initiative on Facebook at [www.facebook.com/countthecosts](http://www.facebook.com/countthecosts).

### Reaching out to a wider audience of civil society groups and policy makers

A key aim of the initiative is to encourage wider engagement in the debate on drug policy reform, particularly for organisations and individuals whose work is impacted by the war on drugs but have historically steered clear of the issue. The briefings that comprise the Alternative World Drug Report, 2nd edition are the primary tool for achieving this. An additional element of this outreach is to build up individual and organisational endorsements for the Count the Costs statement, which calls upon world leaders and UN agencies to quantify the negative consequences of the current approach to drugs, and to assess the potential costs and benefits of alternative policies. Over 100 NGOs and civil society groups have already offered their support (check the website for details).

### Promoting debate on alternatives based on the best possible evidence and analysis

The call on governments to count the costs of their war on drugs and consider alternative approaches is not an endorsement of any one policy position. Rather, it highlights the need for scrutiny of current policy and exploration of evidence-based alternatives, with a view to putting in place less costly policies. Acknowledging and systematically assessing these costs is the first step to informing the vital debate over future developments of drug policy and law.

Supporters of Count the Costs have a range of often divergent views regarding these alternatives. However, there is consensus on the following:

- That the harms of current approaches can no longer remain un-scrutinised by those responsible for them
- That reform is needed
- That alternatives need to be assessed and debated using the best possible evidence and analysis



Count the Costs initiative sign-on statement

[www.countthecosts.org/take-action/sign-our-statement](http://www.countthecosts.org/take-action/sign-our-statement)

*The war on drugs is a policy choice. There are other options that, at the very least, should be debated and explored using the best possible evidence and analysis. We all share the same goals – a safer, healthier and more just world. Therefore, we the undersigned, call upon world leaders and UN agencies to quantify the unintended negative consequences of the current approach to drugs, and assess the potential costs and benefits of alternative approaches.*





# Executive summary

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## Executive summary

Fifty years ago, the 1961 UN Single Convention on Narcotic Drugs cemented an enforcement based approach into an international legal framework that remains largely unchanged to this day. The Count the Costs initiative was launched in 2011 to mark this anniversary, and calls on policy makers to review the costs of maintaining the current regime, and compare it with alternatives that could achieve better outcomes.

The costs of drug misuse itself have been well documented and ever present on the agenda of high level political discourse. In contrast, the serious negative impacts of drug policy enforcement are left largely unevaluated and ignored, despite the fact that the current approach, with its aspirational goal of creating a “drug-free world”, has demonstrably failed on its own terms. This report estimates that enforcing global prohibition costs at least \$100 billion a year, and far from eliminating use, supply and production, up to 246 million people now use drugs worldwide, contributing to a global market with a turnover of \$320 billion a year.

The current global drug control system, administered and overseen by the UN, is predicated upon police and military enforcement against producers, suppliers and users – a “war on drugs” in popular discourse. But, as this report demonstrates, this approach is fatally undermining all of the “three pillars” that underpin the UN’s work – peace and security, development and human rights.

The UN Office on Drugs and Crime (UNODC) has acknowledged that current international drug policy is having a range of negative “unintended consequences”, including: the creation of a huge criminal market; the displacement of production and transit to new areas (the “balloon effect”); the diversion of resources from health to enforcement; the displacement of use to new drugs; and the stigmatisation and marginalisation of people who use drugs.

However, despite acknowledging these problems, neither the UN nor its member states have sought to discover if the *intended* consequences of the current system outweigh the unintended consequences. These costs are not systematically assessed or detailed in the UNODC’s annual “World Drug Report”, which is based primarily on self-reporting from member states via the Annual Report Questionnaires. Despite recent improvements these do not include questions on many key policy impacts, and government self reporting responses are incomplete and biased. These shortcomings reflect the problems implicit

“I think it is entirely legitimate to have a conversation about whether the [drug] laws in place are ones that are doing more harm than good in certain places.”<sup>1</sup>

Barack Obama  
President of the United States  
2012

in self reporting on a system by those who oversee, enforce and champion it.

This Alternative World Drug Report has been produced by the Count the Costs initiative to describe these enforcement related costs, and to start to fill the gap left by official government and UN evaluations.

Recent political developments suggest there is a growing demand for a more balanced and comprehensive evaluation of the wider impacts of current drug law enforcement strategies, and also for evidence-based exploration of possible alternative approaches. In particular, the debate on the future of international drug control has moved decisively into the political and media mainstream for the first time. This phenomenon is now reaching critical mass as member states move into a new era following the 2016 UN General Assembly Special Session on the World Drug Problem and into negotiations for the new 2019 global drug strategy.

In keeping with this new era, this report also outlines all the major policy options available to governments, and suggests that countries individually and collectively engage in reviews that scrutinise the effectiveness of the current system, and compare it with alternatives that could achieve better outcomes.

Ultimately, this report represents a call to apply science to an area of policy that has eschewed adequate scrutiny for far too long. The world is increasingly willing and able to count the costs of the war on drugs, explore the alternatives and gradually move towards the shared goal of a healthier, safer world.

1. **Barack Obama**, quoted in Calmes, J. (2012) ‘Obama Says Legalization Is Not the Answer on Drugs’, The New York Times, 14.04.14. <http://www.nytimes.com/2012/04/15/world/americas/obama-says-legalization-is-not-the-answer-on-drugs.html>

## 1. Threatening public health, spreading disease and death

While the war on drugs has primarily been promoted as a way of protecting health, it has in reality achieved the opposite. It has not only failed in its key aim of significantly reducing or eliminating drug use, but has increased risks and created new health harms – while establishing political and practical obstacles to effective public health interventions that might reduce these harms.

- Prevention and harm reduction messages are undermined by the criminalisation of target populations, leading to distrust and stigmatisation
- Criminalisation encourages high-risk drug-using behaviours, such as injecting in unhygienic, unsupervised environments
- Enforcement tilts the market towards more potent but profitable drug products. It can also fuel the emergence of new, high-risk drugs (or novel psychoactive substances – NPS), and domestically manufactured drugs
- Illegally produced and supplied drugs are of unknown strength and purity, increasing the risk of overdose, poisoning and infection
- The emotive politics of the drug war, and stigmatisation of drug users, has created obstacles to the provision of effective harm reduction services, which, despite proven cost-effectiveness, remain unavailable in many parts of the world. This fuels overdose deaths, the spread of HIV/AIDS, hepatitis, and tuberculosis among people who inject drugs
- The growing population of people who use drugs in prisons has created a particularly acute health crisis, as prisons are high-risk environments, inadequately equipped to deal with the health challenges they face
- The development impacts of the war on drugs have had much wider negative impacts on health service provision, with billions diverted from proven health programmes into counterproductive enforcement
- Drug-war politics have had a chilling effect on the provision of opiates for pain relief and palliative care, with over five billion people having little or no access to the medicines they need

There is an absence of evidence that either supply-side or user-level enforcement interventions have dramatically reduced or eliminated use. Instead, drug-related risks are increased and new harms created – with the greatest burden carried by the most vulnerable populations.

## 2. Undermining peace and security

The UN attempts to promote the security of its member states through implementing a drug control system that treats the use of certain drugs as an “existential threat” to society. But this approach is having the opposite effect: it is undermining peace and security by creating a huge criminal market that enriches criminal organisations to such an extent that in many regions their power threatens the state.

- As the UNODC has identified, the collision of rising demand with a prohibitionist global drugs control system has created a “criminal market of staggering proportions” that is undermining governance, stability and the rule of law across the world – but particularly in developing and middle-income countries that are centres of drug production or along key trafficking routes
- To secure and expand their business interests, criminal organisations invest in the intimidation and corruption of police and public officials, undermining civic institutions and fostering a culture of impunity
- In the absence of formal regulation, violence is the default regulatory tool within the illicit drug trade, and is endemic in key producer and transit regions. Supply-side drug law enforcement often increases rather than decreases violence – by internally destabilising criminal organisations or established markets
- Illicit drug profits fund the increasing weaponisation of criminal organisations that are in many cases now able to outgun law enforcers. Drug money can also fuel conflict by providing funding for paramilitary and terrorist organisations. State enforcement itself has become increasingly violent and militarised as the arms race with criminal organisations has evolved
- Expanding domestic enforcement budgets, and aid for militarised drug responses, have serious

opportunity costs, starving health and social development programmes of resources

- The displacement (rather than eradication) of drug production and trafficking following enforcement efforts has only served to exacerbate and disperse negative security impacts more widely

Ironically, the UN, an organisation set up to protect member states from the security threats created by wars, is now overseeing a war on drugs that is itself undermining peace and security across the world.

### 3. Undermining development

Criminal drug producers and traffickers naturally seek to operate in marginal and underdeveloped regions, where vulnerable populations can be exploited and weak authorities kept at bay. The corruption, violence, conflict and instability that follow undermine social and economic growth and can lock regions into a spiral of underdevelopment.

- Illegal drug markets are characterised by violence between criminal organisations and police or military, or between rival criminal organisations – problems only made worse by the intensification of enforcement efforts. Drug profits also provide a ready supply of income for various insurgent, paramilitary and terrorist organisations
- Criminal organisations seeking to protect and expand their business invest heavily in corrupting – and further weakening – all levels of government, police and judiciary
- Investment is deterred from affected regions, while limited aid budgets are directed into drug law enforcement and away from health and development
- Resulting underdevelopment contributes to the spread of HIV and wider health costs
- Fragile ecosystems are destroyed by producers in order to grow drug crops, and by crop eradications carried out by law enforcement
- Human rights violations carried out in the name of drug control become commonplace

While there are some marginal economic benefits from the illicit drug trade in producer and transit regions, these are hugely outweighed by the wider negative development costs. The development impacts of the global war on drugs have long been overlooked, a situation only now changing beginning to change, as governments, UN agencies and NGOs working on development issues are belatedly waking up to the growing crisis.

### 4. Undermining human rights

Human rights are only mentioned once in the three UN drug conventions, reflecting their historical marginalisation in drug law politics and enforcement. The war on drugs is severely undermining human rights in every region of the world, through the erosion of civil liberties and fair trial standards, the demonisation of individuals and groups, and the imposition of abusive and inhuman punishments.

- While there is no specific right to use drugs, the criminalisation of consenting adult behaviours engaged in by hundreds of millions of people impacts on a range of human rights, including the right to health, privacy, and freedom of belief and practice
- Punishments for drug possession/use are ineffective, and frequently grossly disproportionate, resulting in incarceration in many countries
- The erosion of due process when dealing with drug offenders is widespread, involving parallel justice systems, the presumption of guilt (reversing the burden of proof), and detention without trial
- Various forms of torture, inhuman or degrading treatment or punishment are widely applied for arrested or suspected drug offenders. These include: beatings, death threats to extract information, extortion of money or confessions, judicial corporal punishment, and various abuses in the name of “treatment” – including denial of access to healthcare, denial of food, sexual abuse, isolation and forced labour
- The death penalty for drug offences is illegal under international law but is still retained by 33 jurisdictions, executing around 1,000 people a year. Illegal extrajudicial targeted killings of drug traffickers also remain common

- Punitive drug law enforcement has led to a dramatic expansion in the prison population, with growing numbers also held in mandatory “drug detention” centres under the banner of “treatment”
- The right to health – in terms of access to healthcare and harm reduction – is frequently denied to people who use drugs, particularly in prison environments
- Attempts to protect children’s rights using drug law enforcement, however well intentioned, have had the opposite effect, putting them in jeopardy on multiple fronts
- Cultural and indigenous rights have been undermined through the criminalisation of traditional practices such as coca chewing by laws formulated without the participation of affected populations
- The criminal justice-led approach has caused an explosion in the prison population of drug and drug-related offenders
- Drugs are now the world’s largest illegal commodity market, enriching organised crime groups and fuelling money laundering and corruption
- Violence is inherent to the illegal drug trade. Aside from conflicts with drug law enforcers, violence is used to enforce the payment of debts and to protect or expand criminal enterprises
- Evidence suggests that more vigorous enforcement exacerbates violence. Drug profits also fuel regional conflict by helping to arm insurgent, paramilitary and terrorist groups
- The war on drugs has provided a smokescreen for various forms of illegal government action, including torture, and the use of the death penalty and judicial corporal punishment for drug offenders
- The costs of proactive drug law enforcement are dwarfed by the reactive costs of dealing with the crime it fuels

The main claim for any human rights benefit of 50 years of prohibition-based international drug control, is that while it has not prevented overall drug use from rising, it has kept levels of use lower than they would otherwise have been, so contributing to the right to health. However, this argument is unsustainable given the overwhelming evidence of the significant health harms created and exacerbated by the war on drugs, even before related human rights abuses are considered.

## 5. Creating crime, enriching criminals

Squeezing the supply of prohibited drugs in the context of high and growing demand inflates prices, providing a lucrative opportunity for criminal entrepreneurs. The war on drugs has created an illegal trade with an annual turnover of more than \$320 billion. The level of criminality associated with the illegal trade is in stark contrast to the parallel legal trade for medical uses of many of the same drugs.

- A significant proportion of street crime is related to the illegal drug trade: rival gangs fighting for control of the market, and robbery committed by people with drug dependencies fundraising to support their habit
- Millions of otherwise law-abiding, consenting people who use drugs are criminalised for their lifestyle choices

There is little evidence of a deterrent effect from drug law enforcement targeted at people who use drugs, or of significant impacts in reducing long-term drug availability from supply-side enforcement – displacement is the best that can be achieved. Using drug-related crime as a justification for the war on drugs is unsustainable given the key role of enforcement in fuelling the illegal trade and related criminality in the first place. Separating the health and social costs created by drug misuse from the crime costs created by drug policy is a vital first step towards improving community safety.

## 6. Wasting billions, undermining economies

Ever-expanding drug law enforcement budgets often temporarily squeeze drug supply while demand continues to grow. The result is inflated drug prices and the creation of a profit opportunity that has fuelled the emergence of a vast illegal trade controlled by criminal entrepreneurs. This has a range of negative impacts on local and global economies.

- Estimating global spending on drug law enforcement is difficult (due to poor data, inclusion criteria,

etc.), but is likely to be well in excess of \$100 billion annually

- In terms of achieving the stated aims of enforcement, this spending has been extremely poor value for money, causing displacement, rather than eradication, of illegal activities, falling drug prices, and rising availability
- Enforcement spending incurs opportunity costs in other areas of public expenditure, including other police priorities, drug-related health interventions and social programmes
- The illegal trade is estimated to turn over more than \$320 billion annually
- Profits from this trade undermine the legitimate economy through corruption, money laundering, and the fuelling of regional conflicts – problems most evident in already vulnerable regions where the illicit drug activity is concentrated
- The illicit drug trade creates a hostile environment for legitimate business interests, deterring investment and tourism, creating sector volatility and unfair competition (associated with money laundering), as well as wider, destabilising macroeconomic distortions
- There are some localised economic benefits from the illicit trade, although profits are mostly accrued in consumer countries, and by those at the top of the criminal hierarchies. Key beneficiaries of the war on drugs are military, police and prisons budgets, and related technological and infrastructural interests
- Criminalisation limits employment prospects and reduces access to welfare and healthcare, further reducing life chances and compromising the health and wellbeing of vulnerable populations
- At its most extreme, the stigma associated with drug crimes can dehumanise and provide justification for serious abuses, including torture
- Drug law enforcement has frequently become a conduit for discrimination or institutionalised racial prejudice, with certain minorities overrepresented in arrests and prison populations
- Vulnerable women drawn into trafficking are subject to disproportionately harsh sentencing, while women who use drugs are also frequently subject to abuse, denied access to healthcare, and arbitrarily denied parenting rights
- Children and young people carry a disproportionate burden of the costs of the war on drugs. As drug users, they are exposed to additional risks and denied access to healthcare, and through involvement in, or contact with, criminal markets, they are subject to violence and abuse from both criminals and law enforcers
- International law has effectively criminalised entire cultures with longstanding histories of growing and using certain drug crops

Poverty and social deprivation increase the potential negative impact of drug use and the likelihood of both coming into contact with law enforcement and being involved in the illicit trade. Some argue that criminalising and stigmatising drug users sends a useful message of social disapproval, yet there is no evidence for this having any significant deterrent effect, and it is not the role of criminal law to serve as a form of public education.

## 7. Promoting stigma and discrimination

Criminalisation remains a primary weapon in the war on drugs. But using the criminal justice system as the primary tool to address a public health problem has not only proven ineffective, it is also socially corrosive, promoting stigmatisation and discrimination, the burden of which is carried primarily by already marginalised or vulnerable populations.

- The criminalisation of people who use drugs fuels various forms of discrimination, which is made worse by populist drug-war rhetoric and media stereotyping and misinformation

## 8. Harming, not protecting, children and young people

Punitive responses to drugs have long been justified on the basis of child protection. But not only have they failed in their central goal of significantly reducing or eradicating drug availability and use, they have also increased the risks faced by children and young people who do use drugs, and created a range of new harms that impact disproportionately on the most vulnerable.



- There is no evidence that increasingly punitive approaches are an effective deterrent – but there is substantial evidence that they can increase risky behaviours, tilt markets towards more risky drug products of unknown strength and purity, and create obstacles to accessing harm reduction and treatment services
- There is evidence that accurate, targeted education and prevention programmes can be effective at reducing some health harms, but even the best interventions will be undermined by the stigma and alienation fostered by punitive enforcement and criminalisation
- Children and young people who use drugs, or who are arrested or suspected of drug offences, are more likely to come into contact with law enforcers than other groups. Once arrested, they are frequently subjected to imprisonment and serious forms of cruel and unusual punishment – including torture, sexual abuse, and denial of access to healthcare
- Punitive “zero tolerance” drug policies in schools and colleges – particularly including random drug testing, sniffer dogs, and harsh punishments such as exclusions, are not only ineffective, but can further undermine the prospects of already vulnerable and marginalised young people
- The unnecessary and disproportionate punishment, criminalisation and incarceration of adults for drug offences (particularly women), or death and illness from avoidable drug harms, can have disastrous implications for children and young people in their care – often drawing them into ineffective, often abusive institutionalised care systems
- Children and young people are invariably on the front line of drug war violence and exploitation – either drawn into organised criminal activities (sometimes trafficked or enslaved), or caught in the crossfire as rival groups fight each other, or state enforcers

If the high-profile narrative of child protection in the drug debate is to be more than empty rhetoric, it is imperative that the impacts of drug law enforcement on children and young people are meaningfully evaluated and factored into future policy developments.

## 9. Causing deforestation and pollution

The war on drugs has put a heavy emphasis on “upstream” supply-side actions, including drug crop eradication. This has not only proved futile in reducing total drug production – which has more than kept pace with growing demand – but has also had disastrous consequences for the environment.

- Aerial fumigations of drug crops take place in South Africa, and have only recently been suspended in Colombia, the world’s second most biodiverse country, after the chemicals used in the fumigations were identified as a carcinogen by the WHO. The chemicals used kill plant life indiscriminately, destroy habitats of rare and endangered animals, and contaminate waterways
- The unregulated processing of drug crops leads to unsafe disposal of toxic waste, polluting soil, groundwater and waterways
- Drug crop eradication does not eliminate drug production. As long as the profit opportunity remains, production simply moves (the so-called “balloon effect”), which exacerbates deforestation and environmental damage, often in protected national parks

There is an urgent need to meaningfully count these costs and build environmental impact assessments into all drug law enforcement programmes.

## 10. Options and alternatives

The growing consensus on the need to reform the current global drug control system is fuelling a debate on a range of alternative approaches. Determining which approaches will be most effective at achieving the widely shared goals of drug policy, and reducing the costs outlined in this report, requires a political commitment to research and experimentation – much of which is currently inhibited by the international drug laws. Key alternative approaches include:

- Fighting the war on drugs with increased ferocity – through increasing the level of resources for enforcement and handing down harsher punishments – with the aim of significantly reducing or eliminating drug use

- Incremental reforms to enforcement and public health and treatment interventions (within the existing prohibitionist legal framework) to improve policy outcomes. Adequate investment in evidence-based prevention, treatment and harm reduction should form a key pillar of drug policy under any legal framework. However, current enforcement approaches can undermine, rather than support, effective health interventions. Reforms to enforcement practices can also target some of the most harmful elements of the criminal market to reduce key crime costs, such as violence, from their current levels
- A reorientation to a health-based approach and decriminalisation of personal possession and use (civil or administrative sanctions only). Evidence suggests that if implemented intelligently, as part of a wider health reorientation, decriminalisation can deliver criminal justice savings, and positive outcomes on a range of health indicators, without increasing drug use
- The legal regulation of drug markets offers the potential to dramatically reduce the costs associated with the illegal trade outlined in this report, but requires negotiating the obstacle of the inflexible UN drug conventions, and managing the risks of over-commercialisation. Drawing on experiences from alcohol, tobacco and pharmaceutical regulation, increasingly sophisticated models have now been proposed for regulating different aspects of the market – such as production, vendors, outlets, marketing and promotion, and availability – for a range of products in different environments

**This updated Alternative World Drug Report also includes a series of new case studies that explore the impacts of different drug policy models. The focus is on models of reform – in Portugal, Uruguay, Colorado, Switzerland, Spain, the Netherlands and Turkey, but it also includes a review of Sweden’s more traditional, enforcement-oriented drug policy.**

- Drug policy in Sweden: a repressive approach that increases harm
- Drug decriminalisation in Portugal: setting the record straight
- Cannabis policy in the Netherlands: moving forwards not backwards

- Cannabis social clubs in Spain: legalisation without commercialisation
- Cannabis regulation in Colorado: early evidence defies the critics
- Cannabis legalisation in Uruguay: public health and safety over private profit
- Heroin-assisted therapy in Switzerland: successfully regulating the supply and use of a high-risk injectable drug
- Turkey’s opium trade: successfully transitioning from illicit production to a legally regulated market

## Conclusions

It is now clear that the global prohibitionist consensus has broken, and cannot be fixed. Alternative drug policy approaches, including decriminalisation and legal regulation, are a growing reality as the global drug control system adapts to a world dramatically different from when the current approach to drugs was established more than half a century ago.

It is now time for UN agencies, supported by other regional and multilateral bodies, to provide real leadership to shape this change. Civil society groups in fields beyond the drug policy sector should also play their part – a process that is already gathering momentum.

While bringing science and evidence-based scrutiny to bear on this issue will ensure a more objective and balanced debate, evaluating the global drug control system is not easy, or free. But the real problem is one of political will. That is where member states have a crucial role to play: raising the issue in multilateral and domestic policy forums, providing resources, and working together with civil society to drive review and reform. It is also important for member states to lead by example through assessing and reforming drug policy domestically too.

In short, as more and more jurisdictions and UN bodies take an approach to drugs based on the UN’s three pillars of peace and security, development and human rights – rather than the punishment, discrimination and violence that has characterised drug policy for far too long – the time has come to count the costs of the war on drugs, and explore the alternatives.







# Introduction

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**“I urge Member States to use [the UNGASS on drugs] to conduct a wide-ranging and open debate that considers all options.”**

**Ban Ki-moon**  
UN Secretary-General  
2013

## Foreword

The global drug control system emerged in 1961, with the ratification of the United Nations Single Convention on Narcotic Drugs. The convention provides the legal bedrock of what later became known as the “war on drugs”, a legal and policy model that, to this day, prioritises the criminalisation of people who produce, supply and use drugs. As this report shows, in reality the war on drugs is not directed against substances – it is primarily a war on people.

In 2011, an alliance of more than 100 non-governmental organisations came together to mark the 50th anniversary of the Single Convention. The Count the Costs initiative sought to shine a light on the devastating harm being caused by the world’s approach to drugs, and to encourage the international community to review the costs of the current regime, comparing it with alternatives that might achieve better outcomes.

In 2012, Count the Costs released the Alternative World Drug Report, to coincide with the publication of the UN Office on Drugs and Crime’s (UNODC) annual World Drug Report. Unlike this “official” account, the alternative version was a compendium of the costs generated by the drug war itself – the social and economic costs of the vast criminal market it has fuelled, the health harms made worse by punitive enforcement, and the human rights, development and security costs of increasingly militarised drug law enforcement. This second edition has been revised and updated with the latest research. It also includes new sections covering security costs, impacts on children and young people, and an expanded “options and alternatives” section featuring case studies from around the world.

It arrives at a critical moment in the global drug policy debate, as the world reflects on the outcomes of the 2016

UN General Assembly Special Session (UNGASS) on the World Drug Problem, and looks towards 2019, when the next 10-year global strategy will be negotiated. The 2016 UNGASS was convened at the request of the presidents of Colombia, Mexico and Guatemala, who, like those who support the Count the Costs initiative, want an evidence-based review of the global drug control system’s outcomes, alongside a meaningful exploration of all alternative approaches. But while the UNGASS arguably marks the moment when the critical reform discourse moved decisively from the margins to the high-level mainstream, the significant drug policy reforms that have taken place since 2011 have been about far more than one UN meeting, and far more than purely theoretical debate. Indeed, real-world reform has been unfolding globally: harm reduction approaches continue to evolve, the trend towards ending the criminalisation of people who use drugs is gathering momentum, and multiple jurisdictions are exploring or implementing models of cannabis regulation. The consensus that the global drug war should continue to be fought has decisively broken.

A growing list of high-level commissions, and a broad array of UN agencies, have come to similar conclusions as the Count the Costs initiative, critically reviewing current failings, and advocating for alternative policies. As we move into this new era of policy innovation and change, counting the costs of the punitive enforcement approaches that still prevail throughout much of the world, and meaningfully exploring alternative approaches, becomes more important than ever.

**“I don’t object to discussing any alternatives. But if we are going to discuss alternatives, let’s discuss every alternative ... let’s discuss what alternatives do we have – what is the cost, what is the benefit of each?”**

**Juan Manuel Santos**  
President of Colombia  
2010

## Introduction

### Exploiting opportunities for peace: counting the costs of the drug war and exploring the alternatives

The 1961 UN Single Convention on Narcotic Drugs frames its approach in terms of a concern for the “health and welfare of mankind” and a desire to “combat” the “serious evil” of “addiction to narcotic drugs”.<sup>1</sup> Even if implemented with good intentions, framing the challenge in such crusading language has helped lead to the use of certain drugs (but not alcohol or tobacco) being viewed as a threat to humankind, and treated as a domestic and international security issue, rather than one of health, human rights or development.

As a result, the current global drug control system is predicated upon police and military enforcement against producers, suppliers and users – a “war on drugs” in popular discourse. But, as this report demonstrates, this approach is fatally undermining all of the so-called “three pillars” of the UN’s work – peace and security, development and human rights – and will continue to do so, as long as the UN-led response to drugs continues to conceive of drug use as an existential threat to society.

This situation has been allowed to continue in part because although the enormous costs of drug misuse have been well documented, the serious negative impacts of *drug policy* are often marginalised and ignored by the agencies tasked with overseeing it. In many cases, harms that are a direct or indirect result of drug enforcement – such as children and young people injured or killed in

“The international community should... tolerate different national drug policies, to accept the fact that some countries will have very strict drug approaches; other countries will legalize entire categories of drugs.”

William Brownfield  
US Assistant Secretary of State  
2014

drug-market violence, the stigma and limited life chances that stem from a criminal conviction for drug possession, or deaths from contaminated street drugs – are confused or deliberately conflated with the harms of drug use *per se*. Such harms are then used to justify the continuation, or intensification, of the very policies that created them in the first place.

This report estimates that the global war on drugs costs at least \$100 billion a year, and that despite this expenditure, the production, supply and use of drugs have all risen significantly during the last half-century. According to the UNODC’s 2015 World Drug Report, approximately 246 million people now use drugs worldwide, funding the largest illegal commodities market the world has ever seen, with a turnover of \$320 billion a year. The current approach – which ultimately aspires to create “a drug-free world” – is demonstrably failing on its own terms.

### The UNODC’s five negative consequences of international drug control<sup>2</sup>

1. “The creation of a criminal black market.”
2. “Policy displacement: The expanding criminal black market demands a commensurate law enforcement response, requiring more resources. But resources are finite. Public health, which is the driving concern behind drug control, also needs resources, and may have been forced to take the back seat in the past.”
3. “Geographical displacement: It is often called the balloon effect because squeezing (by tighter controls) in one place produces a swelling (namely, an increase) in another place.”
4. “Substance displacement: If the use of one drug was controlled, by reducing either supply or demand, suppliers and users moved on to another drug with similar psychoactive effects, but less stringent controls.”
5. “Exclusion and marginalisation: The way the authorities perceive and deal with the users of illicit drugs. A system appears to have been created in which those who fall into the web of addiction find themselves excluded and marginalized from the social mainstream, tainted with a moral stigma, and often unable to find treatment even when motivated to seek it.”

In 2008, the UNODC made an important acknowledgement – that beyond this failure, the current enforcement-led system of global drug control is having a range of major negative “unintended consequences”.

The UNODC has since gone further, specifically identifying the role of the drug control efforts – which they are overseeing – in fuelling negative impacts on international development and security:<sup>3</sup>

“Global drug control efforts have had a dramatic unintended consequence: a criminal black market of staggering proportions. Organized crime is a threat to security. Criminal organizations have the power to destabilize society and Governments. The illicit drug business is worth billions of dollars a year, part of which is used to corrupt government officials and to poison economies.

“Public policies devised over the past several decades to address the drug issue in the Hemisphere have not proved sufficiently flexible to draw in the new evidence needed to make them more effective, to detect unintended costs and damages, and to embrace recent economic and cultural changes. We need to develop and generate additional methods, evidence, analysis, and evaluation, to learn from both successes and failures, to adapt standards to the needs and characteristics of each specific environment, and to take into account the net impact in terms of costs and benefits of applying particular policies in a given country and society as well as for all our countries and societies.”

Organization of American States  
2013

“Drug cartels are spreading violence in Central America, Mexico and the Caribbean. West Africa is under attack from narco-trafficking. Collusion between insurgents and criminal groups threatens the stability of West Asia, the Andes and parts of Africa, fuelling the trade in smuggled weapons, the plunder of natural resources and piracy.”

This is a situation that could not have been imagined by those who designed today’s system of drug control over half a century ago. However, while these consequences may still be unintended, they are now entirely predictable. Yet, despite acknowledging the problems created by enforcement measures, the UNODC has never asked the obvious question: do the intended consequences of the current system outweigh the unintended consequences?

These unintended consequences, despite their obvious magnitude, are not systematically assessed by any UN mechanisms, or detailed in the UNODC’s annual World Drug Report, which is still based primarily on self-reporting from member states via Annual Report Questionnaires (see p. 23). Despite some improvements, these ARQs do not include questions on many key policy impacts (not least peace and security, development and human rights), and are inevitably biased towards presenting a favourable assessment. Indeed, there is an inherent problem in accepting reports on the effectiveness of a system by those whose role it is to oversee, enforce and champion it. The result is that less than half the story is being told, and the process of policy development and evolution in a rapidly changing global environment is critically undermined before it even begins.

Hence the conclusion of the US National Academy of Sciences’ 2001 report “Informing America’s Policy on Illegal Drugs: What We Don’t Know Keeps Hurting Us” are as true for the entire global drug control system today as they were for the US then:

“It is unconscionable for this country to continue to carry out a public policy of this magnitude and cost without any way of knowing whether, and to what extent, it is having the desired result. Our committee strongly recommends that a substantial, new, and robust research effort be undertaken to examine the various aspects of drug control, so that decision-making on these issues can be better supported by more factual and realistic evidence.”

That is why this second edition of the Alternative World Drug Report seeks, from a civil society perspective, to help fill the gap left by official government and UN evaluations of current drug law enforcement strategies. The Count

## The prohibitionist consensus has fractured

It is welcome to note that there have been a number of important advances in relation to some of the key themes of the Count the Costs initiative. Since 2011, when the first edition of this report was drafted:

- The global prohibitionist consensus has been shattered by systems of legal cannabis regulation being implemented or pending in multiple US states, Uruguay (the first nation state to legalise), and Canada (the first G7 country). Other jurisdictions are also contemplating similar moves
- The trend towards ending the criminalisation of people who use drugs has continued. Over 25 UN member states have decriminalised the possession and use of either cannabis or all drugs
- For too long, drug policy issues were ghettoised within the UNODC, isolated from the norms and principles of the wider UN family. That is changing. The decriminalisation of drug users is now supported across UN agencies, while several made powerful reform-minded submissions to the debate – most notably the UN Development Programme and the UN Office of the High Commissioner for Human Rights (both of which cite work by the Count the Costs initiative, including the original Alternative World Drug Report)
- Innovative harm reduction programmes continue to evolve – and displace failed zero-tolerance approaches to drug use
- Bolivia's demands for indigenous rights led to it withdrawing from, and then re-acceding to, the 1961 Single Convention with a reservation that permits traditional uses of the coca plant
- New Zealand established the world's first system of regulated sales for novel psychoactive substances
- For the first time ever, a major multilateral body, the Organization of American States, conducted a review of drug policy harms, and a meaningful exploration of alternatives, including decriminalisation, legal regulation, and reform of the UN drug treaties

the Costs initiative also argues that although the list of negative consequences outlined by the UNODC is useful, it is incomplete, and that a more comprehensive analysis shows that the current approach to drugs:

- Threatens public health, spreading disease and causing death
- Undermines peace and security
- Undermines development
- Undermines human rights
- Creates crime and enriches criminals
- Wastes billions and undermines economies
- Promotes stigma and discrimination
- Harms, rather than protects, children and young people
- Causes deforestation and pollution

## Making drug control fit for purpose

It is now clear that the global prohibitionist consensus has broken, and cannot be fixed. Alternative drug policy approaches, including decriminalisation and legal regulation, are a growing reality as the global drug control system adapts to a world dramatically different from when the Single Convention was drafted (see box below).

It is now time for UN agencies, supported by other regional and multilateral bodies, to provide real leadership to shape this change. Civil society groups in fields beyond the traditional drug policy sector should also play their part – a process that is gathering momentum with recent engagement from organisations such as Christian Aid, Chatham House, Amnesty International and Human Rights Watch.

While bringing science and evidence-based scrutiny to bear on the drugs issue will underpin a more objective

and balanced debate, evaluating the global drug control system is not easy, or free. But the real problem is one of political will.

That is where member states have a crucial role to play: raising the issue in multilateral and domestic policy forums, providing resources, and working together with civil society to drive change. It is also important for member states to lead by example through assessing and reforming drug policy domestically too.

In short, as more and more jurisdictions and UN bodies take an approach to drugs based on the UN's three pillars of peace and security, development and human rights, rather than punishment, discrimination and violence, the time has come to count the costs of the war on drugs, and explore the alternatives.

“There is growing evidence ... that current drug control policy has not only failed to achieve its own objectives but has generated considerable harms to health, social and economic development, and to peace, security, and stability.

“Measuring success by arrests and seizures creates perverse incentives for law enforcement, and may encourage law enforcement to engage in violence or other abuse to achieve these goals. The development of a comprehensive set of metrics to measure the full spectrum of drug-related health issues, as well as the broader impact of drug control policies on human rights, security, and development would be an important contribution.”

United Nations Development Programme  
2015

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## The World Drug Report – less than half the story

Current high-level evaluations of drug policy impacts are undermined by the political and institutional frameworks they serve and operate within. The UNODC's annual World Drug Report (WDR) is largely built around data from country Annual Report Questionnaires (ARQs) – a system that is highly problematic. The UNODC is open about the “data gaps and the varying quality of the available [ARQ] data” and acknowledges that “submitted questionnaires are not always complete or comprehensive”. As the UNODC also acknowledges: “much of the data collected are subject to limitations and biases”. States naturally have an inbuilt bias against reporting failures or poor performance, a problem assumed to be most acute in states or regions of greatest concern.

Aside from these methodological challenges with the data that is collected, is the more pressing issue of what is *not* collected. The ARQs themselves are not drawn up by the UNODC independently, but rather agreed by consensus of the member states at the Commission on Narcotic Drugs, with the questionnaires remaining inadequate in their thematic coverage of drug policy impacts. While there have certainly been improvements (new questions on drug-related deaths, injecting and HIV for example), substantive areas of drug policy are not included – impacts on human rights compliance, development and conflict, stigma and discrimination, the environment, and economic impacts for example.

For many of these data shortcomings there are alternative sources of information available (from academic research or NGO “grey literature”, for example), there is often a reluctance to use them, at least in part for political reasons – avoiding upsetting member states, many of which provide the agency with discretionary funding.

As a result, the focus of the ARQs, and the report, remains unhelpfully skewed towards process measures (such as drug seizures) rather than outcome measures that actually tell us what policy is achieving in terms of the health and welfare of communities. Process measures can give the impression of success when the reality on the ground is the precise opposite. Overarching these data issues is the institutional nature of the UNODC. Established under the three drug conventions, its default position is to defend the drug war status quo, rather than challenging the system it operates within.

The annual report from the International Narcotics Control Board (INCB) also forms a prominent part of the UN drug control system's evaluation and reporting mechanisms alongside the WDR. The INCB describes itself as the “independent and quasi-judicial monitoring body for the implementation of the UN international drug control conventions”.

The INCB annual report has been even more narrowly focused on process measures than the WDR, reflecting the INCB's historically inflexible interpretation of the drug treaties and views on member states' compliance. As such, it is both less objective and more politically constrained. These problems, combined with a relative lack of methodological rigour and expertise compared to the UNODC, render it of negligible value in terms of evaluating the wider costs, or indeed benefits, of international drug control.



01

# Threatening public health, spreading disease and death

**The war on drugs has primarily been promoted as a way of protecting health. The evidence shows, however, that it has failed in its key aim of reducing or eliminating drug use. The drug war has instead increased health risks, produced new health harms, and at the same time created political and practical obstacles to effective public health interventions that might reduce them.**

## Introduction

While understanding and responding to the health risks of problematic or dependent drug use is vitally important, there is an urgent additional need to examine and find solutions to the public health costs specifically created or exacerbated by current drug policy.

These policy related harms are explored in this chapter and include:

- The maximisation of risks associated with use, such as unsafe products, behaviours and using environments
- The health harms created or fuelled directly by drug law enforcement, or indirectly through the wider social impacts of the violent illegal trade it creates, including disastrous impacts on international development and security
- The political and practical obstacles for health professionals in doing their job addressing drug-related health problems and reducing harms, and how they are obliged to work within a legal and policy framework that is often in direct conflict with fundamental medical ethics – not least the commitment to “first, do no harm”

The war on drugs has meant that control of the drug trade defaults to organised crime groups. And while it is clearly true that all drug use carries risks, these risks are dramatically increased when drugs are produced and supplied by criminal profiteers. Indeed, drug production and supply is completely unregulated, conducted without any formal oversight. Hence those in charge of the drug trade are also those least likely or qualified to manage it responsibly. The result is that drugs of unknown potency and purity, often cut with dangerous adulterants,<sup>1</sup> are sold to anyone who can afford them – regardless of their age.

Enforcement against the illicit trade can, in turn, compound these health risks, as users are marginalised and stigmatised, driven to increasingly dangerous forms of consumption, in unsafe and unhygienic environments. The threat of criminalisation even means drug users are reluctant to seek medical attention when they need it.

Drug use is widely acknowledged to be a health issue, yet there are no other health issues for which the primary prescription is arrest, incarceration and a criminal record.

Such measures are overwhelmingly targeted at some of the most vulnerable and marginalised populations – those from socially deprived communities, young people, people with mental health problems, people who are dependent on drugs, and people who inject drugs. The war on drugs therefore punishes those most in need – those who should be considered patients and clients. In short, as the box on page 28 further illustrates, there is a

**“The expanding criminal black market obviously demanded a commensurate law enforcement response, and more resources. The consequence was that public health was displaced into the background, more honoured in lip service and rhetoric, but less in actual practice.”**

United Nations Office on Drugs and Crime  
2008

stark contrast in outcomes for those who use drugs, and society as a whole, that result directly from choosing to take an enforcement-, rather than health-led, approach to drugs.

## The health costs of the war on drugs

### 1. Maximising harms to users

#### Risky behaviours and using environments

Evidence shows that the severity of drug law enforcement has, at best, only a marginal impact on levels of drug use.<sup>2</sup> Yet criminalising people who use drugs, particularly young people, does have a significant impact on the amount of harm caused by drugs, encouraging high-risk drug using behaviours and pushing drug use into unhygienic and unsupervised “underground” environments.<sup>3</sup>

Enforcement against possession of drug injecting paraphernalia can encourage needle sharing, which increases the risk of users transmitting blood-borne viruses.<sup>4</sup> Higher levels of enforcement are also associated with hurried and higher-risk injecting.<sup>5</sup> The very choice to inject, rather than use safer forms of administration, such as snorting or smoking, is also sometimes attributable to drug law enforcement, which can temporarily lead to increases in the price of drugs. This price inflation causes users to seek more “bang for their buck” – consuming drugs in whichever way will give them the biggest hit to make their purchase go further, regardless of the dangers involved.<sup>6</sup>

Displacement from one drug to another can also follow enforcement efforts.<sup>7</sup> The impacts are unpredictable, but as experience with amphetamine-type stimulants demonstrates, can lead to the use of new “designer” drugs, or novel psychoactive substances (NPS), about which little is known (a risk factor in itself), creating challenges for police, forensics, harm reduction, treatment and emergency services.<sup>8,9</sup>

For example, in the Eurasian region, economic pressures, combined with enforcement against more established drugs, have fuelled the emergence of high-risk, domestically manufactured and injectable amphetamine-type stimulants, such as “boltushka”<sup>10</sup> in Ukraine, and “vint”<sup>11</sup> and opiates such as “krokadil”<sup>12</sup> in Russia. Injection of NPS stimulants is also a growing problem in the region.

An enforcement-led approach to drugs also hinders risk education and prevention efforts. Not only are proven interventions inadequately funded as the lion’s share of drug budgets goes to enforcement (see chapter 6) but authorities attempting to educate young people about drug risks are simultaneously seeking to arrest and punish them. The resulting alienation and stigma inevitably undermines outreach to those most in need. Combined with prevention messages more often driven by politics than science, this leads to wider distrust in even the best drug education programmes. With limited access to honest, credible information, there is a greater likelihood of high-risk behaviours such as poly-drug use and bingeing, and fewer people well-equipped to deal with crisis situations such as overdoses.



Punitive drug policies maximise the potential harms associated with drug use

## Parallel example of two heroin users

A clear illustration of the impact of the war on drugs can be seen from comparing two injecting heroin users – one forced to use illegal heroin under prohibition, the other using legally supplied heroin in a supervised medical environment. This is not theoretical – the two scenarios take place in parallel already (see Switzerland case study, p. 180).

### The user of **illegal heroin**:

- Commits high volumes of property crime and/or street sex work to fund their habit, and has a long – and growing – criminal record
- Uses “street” heroin of unknown strength and purity, with dirty and often shared needles, in unsafe marginal environments
- Is supplied by a criminal drug dealing network that can be traced back to illicit opium production in Afghanistan
- Has a high risk of overdose, and HIV and hepatitis C infection

### The user of **prescribed heroin**:

- Uses legally manufactured and prescribed pharmaceutical heroin of known strength and purity
- Uses clean injecting paraphernalia in a supervised medical setting where they come into contact with health professionals on a daily basis
- Is not implicated in any criminality, profiteering or violence at any stage of the drug’s production or supply, and does not offend to fund their use
- Has no risk of contracting a blood-borne infection associated with their use, and a nearly zero risk of overdose death

## Promoting more dangerous products

The likelihood of users suffering avoidable health harms, and even a fatal overdose, is further increased by the economics of the unregulated illicit trade. When drugs are prohibited, they will tend to be produced in criminal markets in more potent and risky forms. In order to avoid detection by law enforcement and at the same time maximise their profits, producers and traffickers prefer to deal with more portable, concentrated drug preparations; smaller volumes of high-strength substances are more profitable and easier to transport than larger volumes of less potent ones. This is comparable to how, under 1920s US alcohol prohibition, consumption of beer and wine gave way to sales of more concentrated, profitable and dangerous spirits – a process that went into reverse when prohibition was repealed. Under current prohibition, smoked opium has been replaced by injectable heroin, cocaine markets have evolved towards smoked or injected crack cocaine, and the cannabis market has become increasingly dominated by more potent varieties.

Illegally produced and supplied drug products lack any health and safety information, and are of unknown (and highly variable) strength and purity, creating a range of risks not associated with their counterparts on the licit market.<sup>13</sup>

- Risks of overdose are increased, particularly for injectors, when drugs are of unknown and variable potency
- There are poisoning risks associated with the adulterants and bulking agents used by criminal suppliers to maximise their profits.<sup>14</sup> Examples include Levamisole, a potentially toxic<sup>15</sup> de-worming and cancer treatment pharmaceutical drug, widely used as a cocaine adulterant (the DEA reported its presence in 69% of seized cocaine in the US in 2009) and fentanyl, a highly potent synthetic opiate analgesic, being added to heroin (in the US, between 2005 and 2007, more than 1,000 deaths were attributed to the drug<sup>16</sup>). Even illicit cannabis has been bulked up by other substances, such as lead particles, which in Germany resulted in 29 hospital admissions for lead poisoning in 2007<sup>17</sup>
- Among people who inject drugs, there is a particular infection risk from biological contaminants. The UK, for example, has witnessed clusters of infections associated with contaminated batches of heroin, including 35 deaths in 2000 from *Clostridium novyi* bacterium, and over 30 infections with *Bacillus Anthracis* (anthrax), leading to 10 deaths in 2009-10



## 2. Creating obstacles to effective harm reduction

A new policy approach known as “harm reduction” emerged in the 1980s. Rather than adopting the war on drugs’ narrow focus on attempting to significantly reduce drug use, this approach is more pragmatic, and can be summarised as: “policies, programmes and practices that aim primarily to reduce the adverse health, social and economic consequences of the use of legal and illegal psychoactive drugs without necessarily reducing drug consumption.”<sup>18</sup>

The emergence of harm reduction can be seen, to a significant degree, as a response to harms either created or exacerbated by the war on drugs. There now exists an unsustainable internal policy conflict – with health professionals caught in the middle. Evidence-based harm

**“Criminalisation of drug use has considerable impact on drugs users’ right to health... In many States, access to proven harm-reduction measures - including syringe exchange programmes and opiate substitution therapy - is extremely limited, non-existent or banned.**

**“Failure to provide health-care and harm-reduction programmes... facilitates transmission of diseases such as HIV and hepatitis C. In some States, laws prohibit carrying injecting paraphernalia, and this creates additional health risks for people who inject drugs”**

Navanethem Pillay  
UN High Commissioner for Human Rights  
2014

reduction approaches are evolving and gaining ground across the globe, but are forced to operate within the punitive, ideologically driven, harm-maximising drug-war framework.

This conflict has led to a widening of harm reduction thinking to include a parallel focus on reforming drug policies and laws that are creating or exacerbating the harms that front line service providers are attempting to mitigate. The increasing convergence of the harm reduction field and drug law reform movement - particularly around decriminalisation of people who use drugs - has been demonstrated by initiatives such as the Vienna Declaration<sup>19</sup>, the Global Commission on Drug Policy<sup>20</sup>, and the Stop the Harm coalition.<sup>21</sup>

Key harm reduction interventions such as needle and syringe programmes (NSP) and opioid substitution therapy (OST) expanded primarily in response to HIV transmission risk from injecting, although the approach now encompasses a much wider range of drugs, using behaviours and related harms. Harm reduction services are now recognised by UN human rights monitors as a requirement of the right to health for people who use or inject drugs (including for youth and those in prison settings),<sup>22</sup> as is access to methadone and buprenorphine for OST, both of which are on the World Health Organization’s essential medicines list.

In 2014, Harm Reduction International (HRI) stated that, despite becoming increasingly established, harm reduction “is facing a crisis. International and national funding for essential services is disastrously short of need in low- and middle-income countries. Unless fundamental changes are made in donor priorities, matters are set to worsen”.<sup>23</sup>

- In Russia, although 37% of the 1.8 million people who inject drugs are infected with HIV, NSP is severely limited and OST is illegal. By comparison, HIV rates among people who inject drugs in countries with long-established harm reduction programmes, such as the UK, Australia and Germany, are below 5%
- Of the 158 countries reporting injecting drug use, 68 have no NSPs and 78 have no OST
- In Central Asia, Latin America and Sub-Saharan Africa, OST coverage equates to less than one person for every 100 people who inject drugs. The obstacles to improved provision are more a failure of politics than of resources, as harm reduction is highly cost-effective.<sup>24</sup> Merely using the term “harm reduction”

remains a contentious political issue in high-level international forums<sup>25</sup>

### Spreading infectious diseases: HIV/AIDS, hepatitis and tuberculosis

From the outset of the HIV epidemic, transmission among people who inject drugs via sharing of needles has been a serious and growing problem, one that is exacerbated by an undue emphasis on criminalisation and incarceration, at the expense of proven harm reduction measures:

- Injecting drug use occurs in at least 158 countries/territories. An estimated 15.9 million people inject drugs globally, of whom three million are HIV-positive in 120 countries<sup>26</sup>
- In eight countries – Argentina, Brazil, Estonia, Indonesia, Kenya, Myanmar, Nepal and Thailand – HIV prevalence among people who inject drugs is estimated to be over 40%<sup>27</sup>
- Injecting drug use causes one in ten new HIV infections globally, and up to 90% of infections in regions such as Eastern Europe and Central Asia<sup>28</sup>
- Provision of antiretroviral therapy, already limited in many low- and middle-income countries, is effectively unavailable for the vast majority of HIV-positive people who inject drugs

Hepatitis B (HBV) and hepatitis C (HCV) are the most common blood-borne virus infections affecting people who share injecting equipment.<sup>29</sup> HCV is much more robust than HIV, and so can be transmitted even more easily. Both HBV and HCV can cause cirrhosis and cancer of the liver, and are significant causes of death.

While the urgency of preventing and treating HIV infection has overshadowed what some call the “silent epidemic” of viral hepatitis, it is increasingly recognised as a major public health problem, particularly where people living with HIV are co-infected with HBV and/or HCV.

- Brazil, China, Indonesia, Italy, Kenya, the Russian Federation, Thailand, the US, Ukraine and Vietnam account for half of the global population of injecting drug users (8.1 million) and two-thirds of people who inject drugs and are living with HIV (2.1 million).<sup>30</sup> The average HIV prevalence among people who inject drugs in these countries is approximately 25%, and HCV prevalence is up to 60%

- Of the 15.9 million people who inject drugs around the world, an estimated 10 million are living with HCV<sup>31</sup>
- China, the Russian Federation and Vietnam have rates of HIV/HCV co-infection in populations of injectors of over 90%
- People who have HIV or HCV are at particularly great risk of contracting tuberculosis. 30% of injecting drug users in Western Europe, 25% in Central Europe and well over 50% in Eastern Europe have the disease<sup>32</sup>

Crucially, both HBV and HCV can be effectively prevented, treated and potentially cured. However, it is clear that treatment uptake remains extremely low among people who inject drugs, even where it is available.<sup>33</sup>

While treatment for HCV and HBV remains (or is perceived to be) prohibitively expensive<sup>34</sup> in the short term, in many middle- or low-income countries prevention measures are relatively inexpensive and of proven cost-effectiveness. Yet they remain underdeveloped, despite being strongly supported by the WHO, UNAIDS and UNODC.<sup>35</sup>

**“Drug use may have harmful health consequences, but the Special Rapporteur is concerned that the current drug control approach creates more harm than the harms it seeks to prevent. Criminalization of drug use, designed to deter drug use, possession and trafficking, has failed. Instead, it has perpetuated risky forms of drug use, while disproportionately punishing people who use drugs.”**

**Anand Grover**

UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of health  
2010



## Bringing drug use into prisons

The war on drugs has directly fuelled the unprecedented expansion of the prison population in recent decades. Consequently, current or past drug users constitute a high proportion of those incarcerated. Lifetime prevalence of injecting drug use in EU member state prisoners, for example, ranges from 15% to 50%.<sup>36</sup>

Prison is sometimes portrayed as a useful environment for recovery from drug problems, but the reality is more often the exact opposite. High levels of drug use continue in prisons (unsurprisingly, given that people with drug dependencies are imprisoned alongside drug dealers and traffickers), in an environment that creates a range of additional risks, including initiation into high-risk drug using behaviours, and substantial incentives to use drugs.

The USA has one of the world's largest prison populations for drug offences, and the level of HCV infection amongst its prisoners is between 12 and 35%, substantially higher than in the general population, where it is between 1 and 2%. Despite the evidence of effectiveness, the US Center for Disease Control and Prevention does not recommend NSP in prisons, and the coverage of HCV testing and treatment in US prisons is poor.

As a general principle of international law,<sup>37 38</sup> prisoners retain all rights except those that are necessarily limited by virtue of their incarceration. The loss of liberty alone is the punishment, not the deprivation of fundamental human rights, which includes the right to health. As Harm Reduction International note:

“Failure to provide access to evidence-based HIV and HCV prevention measures (in particular NSP and OST) to people in prison is a violation of prisoners' rights to the highest attainable standard of physical and mental health under international law, and is inconsistent with numerous international instruments dealing with the health of prisoners and with HIV/AIDS.”<sup>39</sup>

Yet despite clear technical guidance on such provision from WHO, the UNODC and UNAIDS,<sup>40</sup> as well as legal guidance from the UN Office of the High Commissioner for Human Rights<sup>41</sup> prison-based NSP are currently available in only 10 countries, and OST is available (in at least one prison) in fewer than 40 countries.<sup>42</sup>

## Increasing overdose risks

Overdose deaths, primarily related to opioids, have become a growing problem in recent decades:

**“Prisons are extremely high-risk environments for HIV transmission because of overcrowding, poor nutrition, limited access to health care, continued illicit drug use and unsafe injecting practices, unprotected sex and tattooing. Many of the people in prisons come from marginalized populations, such as injecting drug users, which are already at elevated risk of HIV infection. In most cases, high rates of HIV infection in prisons are linked to the sharing of injecting equipment and to unprotected sexual encounters in prison. Syringe sharing rates are invariably higher in prisons than among injecting drug users outside prison.”**

World Health Organization  
2005

- Overdose is commonly the leading cause of death among people who use drugs<sup>43</sup>
- Around two-thirds of people who inject drugs will experience an overdose at some point, with around 4% of overdose events resulting in death<sup>44</sup>
- Overdose is a leading cause of death among all youth in some countries, and the leading cause of accidental death among all adults in some regions<sup>45</sup>

The last 15 to 20 years have established a range of interventions shown to be effective in reducing incidence of overdoses, overdose mortality rates, or both. These include investment in education and awareness building, and increased provision of naloxone (an opiate antagonist) both in a take-home formulation and for use by medical

personnel. OST provision has also been shown to reduce overdose. For example, there was a 79% reduction in opioid overdose over the four years following introduction of buprenorphine maintenance in France in 1995.<sup>46</sup>

Similarly, supervised injection facilities (SIFs) in nine countries have overseen millions of injections and experienced no overdose deaths.<sup>47</sup> Such services are only available in a very limited number of locations; while there are 25 SIFs in Germany, there are none in the UK, and only two in the whole of North America (although several new facilities are now planned in Canada, and possibly in the US).

As with harm reduction more broadly, the issue of overdose shows how the war on drugs first fuels the emergence of a health harm, and then creates obstacles for health professionals seeking to reduce it.

### 3. Wider health impacts of the war on drugs

#### Undermining development and security

The war on drugs is actively undermining development, human rights and security in many of the world's most fragile regions and states – from Afghanistan and the Andes, to the Caribbean and West Africa, with catastrophic public health impacts in the affected regions.

As well as the wider impacts on health that flow from the underdevelopment and destabilisation associated with drug-related corruption and conflict, there are direct health and human rights impacts (including issues around the right to health) associated with some specific enforcement practices. These include chemical eradication, arbitrary detention, torture, corporal punishment, and, in extreme cases, use of the death penalty.

There are also substantial opportunity costs from directing limited government and aid resources into counterproductive enforcement instead of proven health and social programs (see chapter 6).

#### Reducing access to pain control

Global drug control efforts aimed at non-medical use of opiates have had a chilling effect on medical uses for pain control and palliative care. Unduly restrictive regulations and policies – such as those limiting doses and prescribing, or banning particular preparations – have been imposed in the name of controlling the illicit diversion of drugs.<sup>48</sup>

However, according to the World Health Organization, these measures result in 5.5 billion people – including 5.5 million with terminal cancer – having low to nonexistent access to opiate medicines.<sup>49</sup> More powerful opiate preparations, such as morphine and diamorphine (medical-grade heroin), are unattainable in over 150 countries.

### Are there benefits?

The theory behind the war on drugs is not complex: on the demand side, punitive enforcement against users aims to act both as a deterrent to use, and as support for health and prevention initiatives (by “sending a message” about the risks or unacceptability of drug use). At the same time, supply-side enforcement aims to reduce or eliminate drug availability, as well as increasing prices so that drugs become less attractive. The dominant measure of benefits of the war on drugs is therefore reduced use, and, for many states, specifically the creation of a “drug-free world”.<sup>50</sup>

This theory can now be tested against 50 years of drug-war experience, and it is clear that it is not supported by the evidence. Despite fluctuations between types of drug, regions and populations, drug availability and use globally have risen over the past half-century, albeit stabilising in much of the developed world during the past decade.<sup>51</sup>

Given the centrality of the deterrent effect in drug-war thinking, there is a striking absence of evidence in its favour. As detailed elsewhere in this report (see chapter 10) comparative analysis between jurisdictions with different levels or intensity of punitive user-level enforcement points to any deterrent effect being marginal, with other social, cultural and economic variables playing a far more significant role in determining demand.<sup>52</sup>

While enforcement clearly increases prices and restricts availability to some degree, it is also clear that, even if some hurdles need to be negotiated and expense incurred, drugs are available to most people who want them, most of the time. Supply has generally kept pace with rising demand, and the interaction between the two has kept prices low enough to not be a significant deterrent to use. When supply has fallen below demand (whether due to enforcement or other factors), as the UNODC has noted, the result will tend to be falling drug purity or displacement to other drugs (both with unpredictable health consequences), or new entrants to the market until a new equilibrium is established.

Regardless of the actual impacts of the war on drugs, the consensus and shared purpose that the international drug conventions represent – the need to address the problems associated with drug misuse – at least holds the potential to develop more effective international responses guided by the principles of the United Nations – improving human rights, human development and human security. This could deliver huge health benefits nationally and internationally.

## How to count the costs?

While an enormous amount of money is spent on drugs and health research, especially in the US, this has historically been skewed towards studying drug toxicity and dependence. This work can help establish risks, develop treatments, and support rhetorical justifications for a war against the drugs “threat”, but tends to avoid meaningful scrutiny and evaluation of the negative health impacts of the drug war itself.

So while it remains important to fully explore and understand drug-related health harms, this needs to be complemented by careful evaluation of all the policies intended to mitigate such harms. Indeed, policy outcomes and policy alternatives should be carefully evaluated and explored.

The responsibility for this has historically fallen mostly to NGOs, using a range of established evaluative tools to build up the clear, but admittedly patchwork, understanding that we now have. Government and UN agencies’ more systematic participation and support of this area of research – developing a comprehensive system of health indicators for evaluating and reporting on drug policy impacts for example, or by using health impact assessments<sup>53</sup> – would support development of new approaches and modification of existing ones. This would ensure the most efficient mitigation of policy-related harms at a local, national and international level, both in the short and long term.

## Conclusions

A great irony of the war on drugs is that although it was launched with the intention of protecting public health, it has achieved the exact opposite. Not only are impacts of supply- and user-level enforcement measures, at best, marginal in terms of reducing availability and deterring use, they have created new harms and hindered proven public health responses. Failed and counterproductive enforcement is hugely expensive and continues to absorb the majority of drug budgets, at the direct expense of established public health interventions that often remain underfunded despite demonstrating cost-effectiveness.

It is now clear that responding to a serious and growing public health challenge within a punitive criminal justice framework has been a public health catastrophe, the costs of which have barely begun to be acknowledged by policy makers.

For medical and public health professionals, the war on drugs approach presents an acute dilemma as they are required to operate within a legal and policy environment that creates and exacerbates health harms, and is associated with widespread human rights abuses – directly at odds with public health principles and basic medical ethics.

Public health and human rights always suffer in war zones, and the drug war contributes to a culture in which both are marginalised. The drugs issue has become highly politicised, often hijacked by a series of unrelated political agendas including race and immigration, law-and-order populism, and the war on terror. Science and pragmatic public health thinking has given way to political posturing and moral grandstanding. The resulting public debate has, in the past, pushed meaningful evaluation and rational discussion to the margins.

A reorientation towards a public health approach needs to be more than mere rhetoric: other options, including decriminalisation and models of legal regulation, should, at the very least, be debated and explored using the best possible evidence and analysis. Not only are health professionals and NGOs perfectly positioned to lead this process, but with ever more senior figures all over the globe calling for change, and change itself happening, the moment for a genuine debate has come.

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02

# Undermining peace and security

The UN seeks to promote the security of its member states through implementing a drug control system that treats the use of certain drugs as an “existential threat” to society. But this approach is having the opposite effect: it is undermining peace and security by creating a huge criminal market that enriches criminal organisations to such an extent that in many regions their power threatens the state.

## Introduction

Contemporary drug prohibition has gifted such a massive money-making opportunity to organised crime groups that they have accrued a level of wealth and firepower which enables them to challenge the state, or even usurp its monopoly on legitimate violence (sometimes considered the definition of the state itself<sup>1</sup>). The subsequent militarisation of the fight against these organised crime groups has served only to further undermine security.

As a result, member states that implement the UN’s prohibition-based drug control system are effectively obliged to violate the organisation’s founding principle: the maintenance of international peace and security. This is not to claim that all of the security costs identified in this chapter arise solely because of the global drug war; however, the evidence shows that the “threat-based” response to certain drugs has created some of the world’s greatest security threats.

## What is security?

Although “security” is used differently in a variety of fields and contexts, in general, it is the concept that the state and its citizens require protection from threats. The maintenance of security occurs at different scales – human, citizen or public security focus on protection against threats to individuals, while national security refers to protection against threats to nation states and their institutions, and regional and international security to protection of international structures and organisations, such as the UN or European Union. This chapter primarily focuses on threats to international and national security.

## The two distinct drug wars that undermine security

Governments justify global prohibition by claiming that the non-medical use of certain drugs (excluding alcohol and tobacco) represents a grave threat to humankind; that users and suppliers constitute “existential threats” to security; and that a punitive approach is the only way to provide protection for citizens. An international relations theory describes this as “securitisation”.<sup>2,3</sup>

This threat-based approach is underpinned by the three UN drug conventions. The Preamble to the 1961 UN Single Convention on Narcotic Drugs starts by placing drugs in a health and welfare framework: “Concerned with the health and welfare of mankind...” But quickly asserts that member states have a duty to treat them as a threat: “Recognizing that addiction to narcotic drugs constitutes a serious evil for the individual and is fraught with social and economic danger to mankind ... Conscious of their duty to prevent and combat this evil...”<sup>4</sup>

**“Impunity and ungovernability pose a challenge to the collective security and well-being of any State...When state structures become involved with and affected by violence and systemic corruption, drug trafficking can further weaken the efficacy of Governments to the point of creating “failed State” conditions at the national or subregional level.”**

International Narcotics Control Board  
2016



The 1988 UN Convention Against Illicit Traffic In Narcotic Drugs and Psychotropic Substances then identifies the threat posed by the criminal organisations involved in the illicit drug trade: “Recognizing the links between illicit traffic and other related organized criminal activities which undermine the legitimate economies and threaten the stability, security and sovereignty of States.”<sup>5</sup>

So, as the two conventions clearly articulate, there are in reality two distinct drug wars being fought, in parallel. The first is the fight against addiction, which criminalises those who use, supply or produce certain drugs for non-medical purposes.

However, it was an entirely predictable outcome that this prohibition would result in control of the drug trade defaulting to criminal entrepreneurs, given the persistently high demand for drugs. The second drug war is fought against these criminals who are enriched by the proceeds of the initial prohibition to the point where they threaten the security of the state and its citizens. Using increasingly militarised enforcement to try to eliminate these entrepreneurs, and the illicit market in which they operate, then further undermines security via a combination of interlinked direct and indirect impacts.

As discussed in the introduction to this report, the UNODC’s World Drug Report 2008 describes five major “unintended consequences” of the global drug control system.<sup>6</sup> Three of these have a negative impact on security: firstly the creation of a huge criminal market that supports the organised crime and insurgent groups that control it; secondly, the displacement of resources from health to enforcement; and thirdly, the “balloon effect”, which describes how enforcement, rather than eliminating the drug problem, often merely displace it to new locations – like air moving around in a squeezed balloon.

On its website, the UNODC described how the process of enforcing prohibition creates regional insecurity:

“Global drug control efforts have had a dramatic unintended consequence: a criminal black market of staggering proportions. Organized crime is a threat to security. Criminal organizations have the power to destabilize society and Governments. The illicit drug business is worth billions of dollars a year, part of which is used to corrupt government officials and to poison economies.

“Drug cartels are spreading violence in Central America, Mexico and the Caribbean. West Africa is under attack from narco-trafficking. Collusion between insurgents and criminal groups threatens the stability of West Asia, the Andes and parts of Africa, fuelling

the trade in smuggled weapons, the plunder of natural resources and piracy.”<sup>7</sup>

A similar conclusion was reached by the International Institute for Strategic Studies (IISS) in their 2012 report “Drugs, Insecurity and Failed States: The Problems of Prohibition”.<sup>8</sup> As Nigel Inkster, Director of Transnational Threats and Political Risk at IISS, and former Deputy Head of the UK’s MI6 Special Intelligence Service, commented:

“The so-called war on drugs has created a significant threat to international security... producer and transit countries [governments]...face the unenviable choice between allowing their institutions to become corrupted...or embarking upon what is effectively a civil war in order to defeat them.”

Reports from the UNODC and UN Security Council – which is charged with identifying and responding to security threats – show that illicit drug production and trafficking cover vast regions of the world. The Security Council has also concluded that this illicit trade poses a threat to international security:

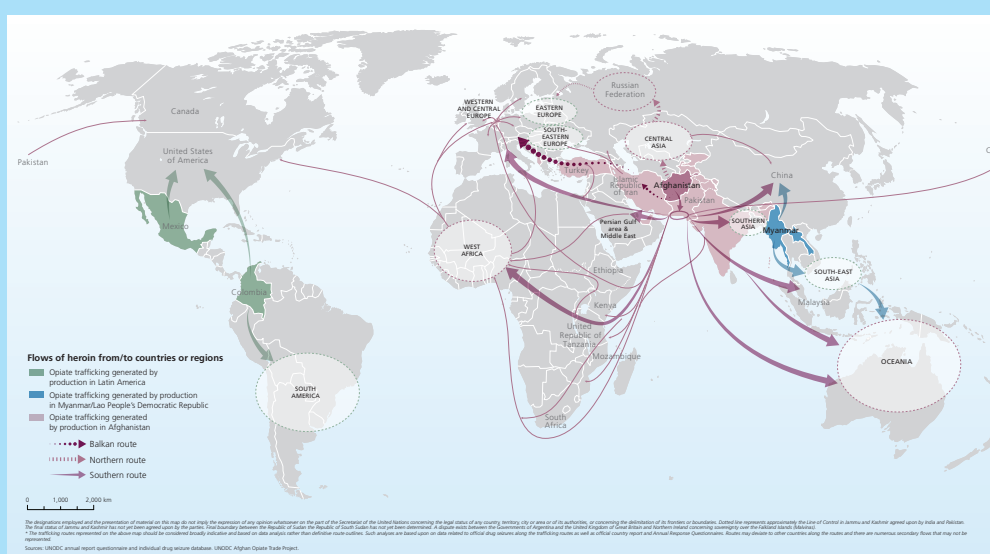
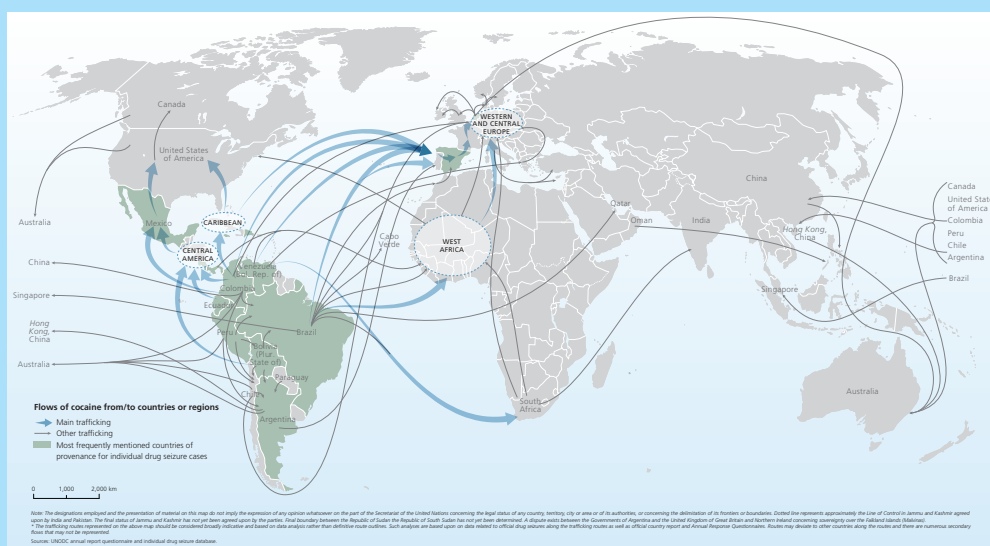
“The Security Council notes with concern the serious threats posed in some cases by drug trafficking and related transnational organized crime to international security in different regions of the world, including in Africa. The increasing link, in some cases, between drug trafficking and the financing of terrorism, is also a source of growing concern.”<sup>9</sup>

What it has failed to do, however, is to then apply the UNODC’s analysis showing that this illicit drug production and trafficking is the inevitable consequence of prohibiting a global trade with hundreds of millions of consumers. Combining these two analyses would have identified the UN drug control system itself as a threat to international security.

It would also demonstrate that the UN itself is now overseeing a war that is seriously undermining one of the key pillars of its work – peace and security – and Article One of its own founding constitution, the UN Charter, and indeed its *raison d’être*, which is: “To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace.”<sup>10</sup> Instead, the UN Security Council has chosen to interpret the UNODC analysis, and its own evidence, as a prescription not for change, but for redoubled efforts.<sup>11</sup>

## The UN drug control system undermines the security of UN member states

The UNODC openly acknowledges that the enforcement-led UN drug control system creates the criminal drug market, meaning the system itself is effectively the cause of illicit drug production and trafficking globally. In turn, among many others, the UNODC,<sup>12</sup> UN Security Council,<sup>13 14</sup> and the US Presidential Determination for 2015<sup>15</sup> have identified this illicit trade as a cause of insecurity in over 60 countries across the globe. As a result, maps (such as those below) that illustrate global flows of illicit drugs in the UNODC's World Drug Report 2015 also inadvertently reveal where national, regional and international security is compromised or threatened by drug production and trafficking.<sup>16</sup> While many of the places negatively affected – such as Central and South America, West Africa, and South East Asia – are perhaps no surprise, even countries with large financial sectors like the UK may be threatened indirectly by the corrupting effects of laundering drug money.<sup>17</sup>



## The security costs of the war on drugs

### How the “unintended consequences” of the UN drug control system undermine security

#### 1. Creating a criminal market of staggering proportions

The sheer size and financial power of the illegal drugs industry can undermine legitimate governments everywhere, generating lucrative funding streams for drug trafficking organisations (DTOs), transnational organised crime groups (TOCs) and, some evidence suggests, insurgent and terrorist groups.

A strong state is recognised as one that holds the monopoly on legitimate force, alongside other key responsibilities, such as being able to provide procedural justice; a recognised system – usually democratic – of government; a fair allocation of resources; and a sense of identity and citizenship. The drug war undermines these elements of good governance by creating corruption, violence and conflict, which can allow non-state actors such as DTOs, TOCs and insurgent groups to create parallel structures of power and capability that can threaten the integrity of the state itself. Citizens’ faith in the state is undermined, which can also increase insecurity.<sup>18</sup>

As they grow in influence, DTOs and TOCs are particularly drawn to fragile states that are already struggling to provide security for their citizens. Here, the corruption, instability and conflict associated with the illicit drug trade is amplified by existing poor governance. Apart from a few cases where the state and its elites successfully collude with DTOs and TOCs to maintain a functioning state – such as in Burma<sup>19</sup> and Tajikistan<sup>20</sup> (see box, p. 61) – effective governance is rare in very corrupt states, and can further exacerbate conditions for conflict.

Throughout Latin America, but also in Central Asia and West Africa, long-running civil wars and decades of poor governance have been exacerbated by the war on drugs. An estimated 95% of illicit drug production occurs in such areas, and trafficking from and across them is made easier by their chaotic environment.<sup>21</sup>

“From UN DPA’s perspective and in light of the increasingly destabilizing effect of transnational organized crime and drug trafficking on state and regional security, Member States may wish to hold a discussion on the possibility of including the peace and security implications of this threat ... to exchange ideas and lessons learned on what has and has not worked in addressing the world drug problem, with implications for the work of the United Nations across its three pillars – namely development, human rights, and peace and security.”

United Nations Department  
of Political Affairs  
2015

“So long as there is an insistent market in a country like the United States for illegal narcotics and a sufficient profit to be made, they will probably be produced. And so long as they are illegal, their production and distribution will be through organized crime.”

Ambassador David Passage  
former Director of Andean Affairs,  
US State Department  
2000

## Afghanistan: a study in insecurity

“You cannot carry a war on drugs because, again, if you look at the literature on Latin America, Central America, and particularly Mexico... the lesson that is fundamental, [is that] those are failures.”<sup>22</sup>

### Mohammad Ashraf Ghani

Special Inspector General for Afghanistan Reconstruction  
2015

Afghanistan faces many security challenges, and has a long history of involvement in the global opium trade. Despite poppy eradication being one of the stated aims of the coalition invasion in 2001,<sup>23</sup> opium production increased dramatically during the war. Today it supplies more than 90% of global illicit opium/heroin,<sup>24</sup> which is fuelling unprecedented corruption, as well as funding insurgency, and terror groups, both nationally and internationally. It is important to exercise caution here, however, as governments have been quick to point to terrorist groups – for example, Al Qaeda – being funded by drugs when this was later shown not to be the case.<sup>25</sup>

- The UNODC estimates that in 2014:<sup>26</sup>
  - Opiates accounted for 13% of Afghanistan’s GDP and considerably exceeded the export value of licit goods and services. This is down from 42% in 2008, and is due to the expansion of the licit economy, rather than a contraction in opium production
  - The total area of opium poppy cultivation was 224,000 hectares in 2014, a 7% increase from the previous year. In Helmand province, opium accounted for almost 30% of the total area of agricultural land. Potential opium production was 6,400 tons, an increase of 17% from its 2013 level, and the second highest since 1994
- The UN Security Council estimates the Taliban earn \$90-160 million annually from opium/heroin production, 10-15% of their overall funding. This is substantial, but represents only 3% of the annual harvest sale.<sup>27</sup> Far more money goes to corrupt officials, traffickers and farmers
- Afghan government officials are believed to be involved in at least 70% of opium trafficking, and at least 13 former or present provincial governors are directly involved in the drug trade<sup>28</sup>

## Corruption and impunity

Public servants around the world who are supposed to be enforcing the drug control regime are often the most susceptible to corruption, simply because they control the mechanisms to which criminal gangs need access in order to carry out their trade. From low-level police officers to high-ranking politicians and the military, individuals are routinely corrupted, through bribery or threats, to either turn a blind eye to, or actively participate in, illicit activity. They are rarely brought to trial, prosecuted or punished. In Mexico, the death toll from drug-market-related violence has risen to over 100,000 since 2006, with more than 40% of the bodies remaining unidentified and little justice for the affected families or redress from the state.<sup>29</sup> This corruption and impunity corrodes the state’s ability to govern effectively, and undermines the rule of law.<sup>30</sup>

The vast amounts of money generated by the criminal market also has a destabilising and corrupting effect on financial systems. A 2015 UK Treasury report estimated that 2.7% of global GDP, or \$1.6 trillion, was laundered in 2009, much of which will have come from the drugs trade. The report concluded that both money laundering itself, and the criminality which drives the need to launder money, presents a significant risk to the UK’s national security and fuels political instability in key partner countries. The drug trade, which largely generates proceeds in the form of cash, poses a high risk of money laundering, which is in turn a key enabler of serious and organised crime, which has estimated social and economic costs of £24 billion a year.<sup>31</sup>

**“Because drug cartels control such immense amounts of money, they now have the power to influence politics and business at the highest levels and gain control of entire regions.”**

**United Nations Office on Drugs and Crime**  
2010

Large parts of South and Central America now experience endemic illicit-drug-related corruption. The Inter-American Commission on Human Rights, for example, has recognised the corrosive influence of criminal funds as a problem for the whole Latin American region, stating that in various countries “corruption and impunity have enabled criminal organisations to develop and establish parallel power structures.”<sup>32</sup>

Unsurprisingly, the countries most closely involved in the production or transit of illicit drugs fare badly in Transparency International’s corruption perception index: Afghanistan and Guinea-Bissau, for example, sit close to the bottom, while Mexico and Colombia are also heavily criticised.

- As the escape of Sinaloa drug cartel leader Joaquin “El Chapo” Guzman Loera from a Mexican jail in July 2015 showed, corruption reaches all levels of the justice system. So far, seven prison officers have been charged with complicity in the escape<sup>33</sup>
- Afghanistan, already a fragile state, has been severely undermined by corruption and the profits from the illicit drugs trade. The police and intelligence services regularly kill and torture with impunity. Corruption is so rampant that a bribe is paid for every service – whether to secure access to electricity or purchase a highly valued public sector job, even within the judicial system<sup>34</sup>

## Violence and conflict

In the absence of formal regulation – such as legal contract enforcement, financial reporting, and the establishment of trades unions, for example – violence and intimidation have become the default regulatory tools for TOCs and DTOs wishing to protect and expand their illicit-market interests. To do so, cartels equip private armies and militias that are in many cases able to outgun local and state enforcement. Organised criminal networks can also finance or merge with separatist and insurgent groups, and illicit drug profits can become a key source of funding for domestic and international terror groups.

It might seem logical, in the light of the violence perpetuated by DTOs and TOCs, that enforcement responses directed at these groups would increase security and reduce conflict, but this is rarely the case. An overview of research into enforcement crackdowns found overwhelmingly that such market disruption increases levels of violence. This occurs not just because of increased violence between criminal groups and security forces, but also between and within criminal groups, when enforcement action creates a power vacuum, and corresponding opportunities to seize illicit market share or territory.<sup>35</sup> Inevitably, ordinary people are often caught in the crossfire (see below).

**“Mexico’s police and armed services are known to be contaminated by multimillion dollar bribes from the transnational narco-trafficking business ... it is widely considered to have attained the status of a national security threat.”**

**Transparency International**  
2001



## Mexico

While Mexico has a long history of internal violence, this was in decline until 2006, when President Calderon announced an intensification of enforcement efforts against the illicit drug trade, with a focus on eliminating the leaders of the country's drug cartels. This so-called "decapitation strategy" has been – and still is – having severe negative consequences, with Mexico suffering an extreme upswing in violence. As cartel leaders were removed<sup>36</sup> and a power vacuum created, their organisations fractured into smaller factions battling each other for territory, while other cartels moved in to seize control, along with state security forces.<sup>37</sup> Estimates of deaths from violence related to the illegal drug trade in Mexico since the war on drugs was scaled up in 2006 range from 60,000 to more than 120,000,<sup>38,39</sup> of which at least 1,300 were children and 4,000 women. From 2007 to 2014, total civilian homicide deaths in Mexico were 164,000 – a substantially higher number than in Iraq or Afghanistan over the same period.<sup>40</sup>

These increasingly brutal murders are also designed to intimidate competitors and generate fear, with murders and torture being filmed and posted online, or the bodies left in public places.<sup>41</sup> This strategy is not restricted to Mexican drug gangs; a study on drug dealing and retaliation in St Louis, Missouri, in the US, found that direct and violent retaliation was used to serve three functions: "reputation maintenance, loss recovery and vengeance."<sup>42</sup> Such actions further increase insecurity and normalise violence at levels that destroy communities and deter legitimate economic activity.

Mexico's drug war is also fuelling the illegal arms trade, flooding the country with unregistered weapons, which inevitably leads to greater violent conflict. It has been estimated that up to 90% of these weapons come across the border from the US.<sup>43</sup> In 2009, the US Bureau of Alcohol, Tobacco, Firearms and Explosives discovered large quantities of AK-47-style rifles were being shipped to Mexico, one of which was linked to the killing of a US border guard.<sup>44</sup>

## State violence

Security is being undermined in many countries by the violence perpetrated by police and security forces, either at the direct instruction of governments, or indirectly as a result of drug-war-related policies (see also chapter 4).

- A report by the Fellowship of Reconciliation and the Colombia-Europe-US Human Rights Observatory has discovered a positive correlation between US military assistance (which has been a feature of Colombia's response to its drug problem) and extrajudicial killings, particularly when "moderate" amounts of funding are received. Multiple killings were committed by soldiers in a higher percentage of units commanded by US-trained officers than by a random sample of military officers<sup>45</sup>
- A Global Drug Policy Observatory report on the militarisation of counter-narcotic police in Central America showed that, in Honduras alone, between January 2011 and November 2012, 149 civilians were murdered by their police force<sup>46</sup>
- In 2003, the Thai government launched a drug war crackdown, the first three months of which saw 2,800 extrajudicial killings. These were not investigated and the perpetrators were not prosecuted or punished. The Thai Office of the Narcotics Control Board admitted in 2007 that 1,400 of the people killed had no link to drugs<sup>47</sup>
- In 2015, the Indonesian government mooted a revival of their "shoot to kill" policy for dealing with drug smugglers and dealers, which it described as "ruthless". Opponents point out this would contravene the Indonesian constitution<sup>48</sup>
- As many as 1,000 executions occur worldwide for drug offences each year, but precise numbers are unknown. Statistics for China are most uncertain, with estimates of executions for all offences in 2007 varying from 2,000 to 15,000.<sup>49</sup> Iran has seen a rapid increase – 800 in 2015 alone.<sup>50</sup> The UK Foreign and Commonwealth Office says: "Iran continues to have the highest execution rate per capita in the world ... The death penalty was imposed largely for drug offences."<sup>51</sup>

## Funding and arming insurgents, terrorists and separatists

The extent of the links between the global drug war and funding for non-state actors – the so-called “drugs-terror” nexus – is hotly disputed.<sup>52</sup> However, it would be hard to argue against the claim that in some circumstances the effect of the criminal market goes beyond merely undermining the state, to directly competing with it by giving non-state actors access to a rich source of funding. It is highly likely, given the vast sums of money generated by the criminal drug trade, and the fact that much of it is laundered through the legal global banking system,<sup>53</sup> that illicit drug profits are funding efforts to undermine multiple states.

The drug war, and in particular its crop eradication tactics, has also been accused of pushing people off the land and towards insurgent groups. Richard Holbrooke, then US Special Envoy for Afghanistan and Pakistan, admitted that opium poppy eradication alienated “poor farmers ... growing the best cash crop they could ... in a market where they couldn’t get others things to market”, with the result that, “we were driving people into the hands of the Taliban.”<sup>54</sup>

Relationships between insurgents and drug trafficking groups can flourish despite there being strong, often ideological, differences between them,<sup>55</sup> as with the Marxist revolutionary FARC in Colombia, who have consistently used drug production and trafficking to fund their operations.<sup>56</sup> In addition, the smuggling networks of DTOs and TOCs can be used by insurgents to transport weapons, or be taxed to raise cash. As long ago as the 1980s, Peruvian President Fernando Belaunde Terry, described the Maoist insurgency group The Shining Path as “narco-terrorists”, alleging that they were involved in drug production and trafficking.<sup>57</sup> More recently, it was discovered that, in Brazil, smuggling networks associated with the illegal drug trade were supporting a parallel criminal market economy in consumer goods that was costing the nation over \$10 billion in lost tax revenues.<sup>58</sup>

It is important to note, however, that the extent of the “drugs-terror nexus” may sometimes be exaggerated for political or economic reasons. Authorities may wish to blame criminal drug activity on insurgent groups in order to increase their own law enforcement funding, or as a distraction from their own illicit activities. For example, research initially suggested that Al-Qaeda in the Islamic Maghreb (AQIM) and other Islamist groups in West Africa have been using cigarette smuggling, drug trafficking and kidnapping to provide them with funds, but news reports of this were overstated or unsubstantiated. AQIM may be

providing armed escorts to cocaine traffickers for a fee of between 10-15% of the value of the drug,<sup>59</sup> an activity that could have netted them up to \$65 million since 2008 and helped them to become a serious political force.<sup>60</sup> However, this forms only a part of their funding stream.<sup>61 62</sup>

### Mali

In Mali, where Islamist fighters seized control of the north in 2012, drug trafficking has exacerbated the conflict. A 2013 UN Security Council report on West Africa and the Sahel recognised the impact of corruption from drug trafficking as a factor that contributed to state weakness in countries within the region, notably Mali and Guinea-Bissau.<sup>63</sup>

In June 2015, foreign minister Abdoulaye Diop called on the UN to provide a peacekeeping force to help regain control from the militias and for a major anti-drug trafficking operation to be put in place because he argued: “We will never achieve a definite settlement for this crisis without this initiative because drugs are fuelling all sides in this conflict”.<sup>64</sup> Mali therefore found itself calling for the UN to send in forces to deal with a problem that was being simultaneously fuelled by the UN-administered global drug control regime.

## 2. Displacing resources toward enforcement

Greater funding for the militarisation of drug law enforcement can starve vital social programmes of the resources and focus they need. This so-called “policy displacement”<sup>65</sup> results in domestic and international drug control interventions and aid resources being heavily skewed towards military and law enforcement solutions, rather than policies focusing on improving development, health and human rights. Just as a balanced programme of spending to benefit all citizens contributes to security, so an unbalanced programme that favours weapons over access to education, healthcare and economic opportunities, undermines security.

On a national level, this is perhaps best seen in the US, where the threat-based approach and harsh sentencing for drugs offences has resulted in the disproportionate

mass incarceration of people from poor areas. The prison industry has swollen, in both financial and human resources terms, while many urban centres are left to decay without adequate investment, with few jobs outside the criminal economy.

The numbers are staggering: America's prison and jail population has increased sevenfold from 1970 until today, from some 300,000 people to 2.2 million – the largest prison population in the world. With less than 5 percent of the world's inhabitants – the US has about 25 percent of its prisoners.<sup>66</sup>

Internationally, resources can be similarly skewed to focus on enforcement and punishment. Since the 1980s, the US has instigated a series of aid programmes – such as the Andean Initiative, Plan Colombia and the Merida Initiative – that focus specifically on bolstering the ability of military and law enforcement agencies in the region to reduce the supply of drugs into the US. One of the major drivers behind these programmes was the alleged threat to the US's national security, rather than the actual needs of the populations receiving aid.<sup>67</sup>

In 1999, Colombia's President Andrés Pastrana requested US assistance in addressing the country's drug problem, and emphasised the need to prioritise development and social programmes over law enforcement and military agendas. But the US wanted the focus to remain on drug war approaches: of the \$860 million given to Colombia, \$632 million went on security agencies and only \$227 million was earmarked for economic development and other social priorities.<sup>68</sup> Security spending has increased massively in Colombia since the beginning of Plan Colombia, with the US spending about \$8 billion,<sup>69</sup> and from 2000-09 Colombia's defence spending nearly tripled to \$12 billion.<sup>70</sup>

In 2000, President Bill Clinton urged Congress to support the plan by emphasising the national security of both Colombia and the US. He argued that: "Colombia's drug traffickers directly threaten America's security".<sup>71</sup> While things have improved in Colombia, the results of fighting the drug war remain overwhelmingly disastrous: murders and kidnappings remain high,<sup>72</sup> the number of internally displaced persons has barely altered,<sup>73</sup> the amount of cocaine entering the US has not decreased,<sup>74</sup> and coca production in Colombia rose from 48,000 hectares in 2013 to 69,000 hectares in 2014.<sup>75</sup>

### 3. How the balloon effect impacts on security

The last of the UNODC's "unintended consequences" of the war on drugs that specifically impacts on security is the balloon effect.<sup>76</sup> This has serious implications for national and international security, because DTOs will successively target alternative regions; as enforcement efforts encroach on their territory, they simply move elsewhere. This means the negative impacts of the drug war and illicit trade are spreading across multiple regions, and present an ongoing threat to any fragile state or area that could be used for drug production or trafficking.

- Coca production has repeatedly shifted between Peru, Colombia and Bolivia, as a response to localised enforcement efforts<sup>77</sup>
- In recent years, as enforcement disrupted established drug trafficking routes from Latin America via the Caribbean to Europe, West Africa has become a new transshipment point for cocaine. This has had a hugely destabilising effect on an already vulnerable part of the world and is undermining security at state, regional and international levels<sup>78</sup>
- As Colombians started to regain control over their country and crack down on TOCs and DTOs, the violence and corruption moved to Mexico. It has been argued that, in turn, the best Mexico can hope to achieve is to apply pressure to the cartels so that they move elsewhere. To some extent, this appears to have happened, with Mexican cartels setting up operations in Central American countries such as Guatemala<sup>79</sup> and Honduras,<sup>80</sup> which are even less well equipped to cope with them than Mexico

**"The illicit drug economy threatens security and development in countries already stricken by poverty and instability, but its deadly tentacles penetrate every country on the planet."**

United Nations Office on Drugs and Crime  
2010



**“We are now helping other countries, the Caribbean countries, Central American countries, Mexico, because our success means more problems for them... There is the balloon effect.”**

**Juan Manuel Santos**  
President of Colombia  
2010

## Are there benefits?

For citizens in countries where corruption is endemic and where the state is fragile or absent, some stability (at least in the short term) can be provided by a combination of state apparatus and the power and largesse of organised crime groups working together, as occurs in places such as Burma<sup>81</sup> and Tajikistan (see chapter 3).<sup>82</sup>

For those states seeking to achieve security primarily through a militarised response to existential threats, the global drug war provides ample opportunities to wield military and police power. However, the evidence is clear that this does not provide any long-term security benefits, and more commonly achieves the exact opposite.

## How to count the costs?

When the UNODC identified the five major “unintended consequences” of enforcing the UN drug control system in 2008, the question of whether the intended consequences outweighed the “unintended” ones arose. That question is only now beginning to be seriously debated at the international level. Because of the gravity of the harms created by the drug control system, it is incumbent upon all UN member states to have systems in place to measure positive and negative outcomes, in order to assess overall effectiveness, and for the relevant UN agencies to collate these responses in order to provide a global picture of costs against benefits. Indicators relating to the three pillars of the UN – peace and security, development and human rights – are currently almost absent from this

scrutiny, throwing into doubt the claim that the drug control system has any meaningful evidence base at all. Peace and security is absolutely fundamental to the workings of the UN, and identifying indicators that assess security impacts of drug control efforts is an essential part of this. In the absence of such indicators, member states are doomed to repeat the failings of the past.

## Conclusions

Illicit drug production and trafficking has not appeared from nowhere; it is a direct consequence of global prohibition in the context of rising demand, and the increasingly “threat-based” enforcement responses adopted by member states, with the tacit approval of the UN drug control agencies. But while people who use drugs have never been a genuine threat to society, the criminal entrepreneurs profiting from the illicit market that supplies them under prohibition, are now genuinely putting society in jeopardy. As a result, the UN now faces a major international security threat of its own making.

A growing number of governments are beginning to recognise that this is the case. At the UN Commission on Narcotic Drugs in 2009, Ecuador described its approach as a “De-securitisation of drug policy which allows us to address the problem from the perspective of health and human rights”.<sup>83</sup>

However, not only are many countries moving away from enforcement-led approaches with regard to drug users, supply-side reforms that reduce the illicit trade – and accompanying security threat – are also becoming a reality. The then president of Uruguay, José Mujica, for example, has stated that the decision to establish a government-controlled cannabis market “began essentially as a security issue”.<sup>84</sup> Evidence of the impacts on security of such reforms should be increasingly apparent as more US states, and other countries follow Uruguay in legally regulating cannabis, and shifting from a threat-based to a health and human rights-based approach (see case studies chapter).

Rather than viewing drug trafficking in isolation of its policy context, the UN Security Council should, using the UNODC’s analysis, categorise the punitive enforcement-based drug control system as a threat to international peace and security. And all member states must, as a matter of urgency, review the security impacts of the drug war domestically and internationally, if true peace and stability is to be realised.

## Two parallel UN drug control systems: only one creates war and insecurity

The 1961 UN Single Convention on Narcotic Drugs created parallel drug control systems: one that treats some drugs as a threat, the other that treats some of the same drugs as resources to be traded.

### Drug war 1: created by 1961 UN Single Convention

The state criminalises non-medical drug users, suppliers and producers to combat the “evil of addiction” through global prohibition



Massive criminal market created



Organised crime groups accrue wealth and firepower to threaten states

### Regulated medical drug trade: created by 1961 UN Single Convention

The state licenses farmers/pharmaceutical companies to produce and manufacture drugs, and doctors and pharmacists to supply users



Legally regulated market created



No disruption of peace and security

### Drug war 2: created by UN Convention against Illicit Traffic in Drugs 1988

Targets transnational organised crime groups



Further militarisation creates more conflict and violence, spreads it to more countries without reducing the global criminal drugs market



Drug war 1 and 2 fought harder with same results



Increasing conflict and insecurity

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03

# Undermining development



**The war on drugs is actively undermining development in many of the world's most fragile regions and states. The impacts of drug market-related corruption and violence are undermining governance, exacerbating existing problems and throwing vulnerable producer and transit regions into permanent underdevelopment. This chapter overlaps with, and should be read with, chapter 2, which explores the security impacts of the drug war.**

## Introduction

Development is one the three pillars of the United Nations' work, alongside peace and security, and human rights. Wars always undermine these three pillars; indeed, the emergence of the UN in the post-World-War era was, in significant part, an effort by the global community to reduce and ultimately prevent precisely these harms from occurring again.

Yet under the auspices of the UN, the war on drugs' punitive, enforcement-led model, based on police and military suppression of drug markets and punishment of drug users, has dominated the global response to drugs over the past half century. As described in the preceding chapter, this is the result of taking a "threat-based" approach to drugs, in which drug use is presented as an existential threat to society to justify the imposition of increasingly extreme enforcement measures while evidence-based policy, human rights, health, and development norms are marginalised.

In both its execution and outcomes, the war on drugs is not a rhetorical construct - it is often indistinguishable from more conventional conflicts. The similarities may be most obvious in its militarised supply side interventions, but they are also evident in the uneven burden of the drug war's cost across the global population. Like all wars, this burden invariably falls most heavily on the marginalised and vulnerable, who are the primary targets of development efforts. This includes the poor, children and young people, women, minority and indigenous populations, and people who use drugs.

It is a terrible irony for the UN that the drug policy model it champions is actively undermining peace and security, development and human rights, when these are its *raison d'être*.

Given the cross-cutting nature of development, there is inevitably considerable overlap with themes explored in the other chapters of this report.

## Drugs and development

It is important to be clear from the outset that the various development costs created or exacerbated by the war on drugs are separate from very real health costs (and any related development impacts) associated with drug misuse *per se*, such as overdose and dependence. The "unintended" costs of the war on drugs specifically result not from drug use itself, but from choosing a punitive enforcement-led approach that, by its nature, abdicates control of the trade to organised crime, and criminalises and punishes people who use drugs, or who are involved in drug production or drug markets.

At the root of these problems is a dynamic in which rising demand for drugs has collided with prohibition, inevitably creating growing profit opportunities for criminal entrepreneurs, and pushing production, supply and consumption into a parallel illicit economy.

Drug trafficking organisations (DTOs) and transnational criminal organisations (TCOs) can be more confident of a cheap and reliable supply of key drug crops (coca leaf, opium poppy or cannabis) if state institutions are weak, authorities can be kept at bay, and if local populations have few viable alternatives to working in the illicit drug economy. As a result, DTOs and TCOs often gravitate to already underdeveloped areas with little economic infrastructure and weak governance, targeting geographically remote regions and already fragile or failing states to produce and transit drugs. In the absence of formal market regulation, they then protect and expand their interests using violence, intimidation, and

## What is “development”?

Development is one of the “three pillars” of the United Nations, alongside human rights, and peace and security, but is a broad and poorly defined concept that encompasses a range of overlapping analysis and disciplines.

These include economic development (improving economic health and standard of living) and social development (socio-cultural evolution, and development of civic institutions). International development (often closely related to economic development) stemmed from post-Second World War international institution building. However, it now often includes not just a country’s gross domestic product or average *per capita* income, but life expectancy, human rights and political freedoms, or areas such as literacy and maternal survival rates, in a holistic and multi-disciplinary context of human development.

This is a newer concept that incorporates elements of economic and social development into a focus on personal and community wellbeing, defined by the United Nations Development Programme as “the process of enlarging people’s choices”, allowing people to “lead a long and healthy life, to be educated, to enjoy a decent standard of living”, as well as “political freedom, other guaranteed human rights and various ingredients of self-respect”.<sup>1</sup>

Sustainable development is the concept of achieving human development whilst preserving and protecting natural resources and ecosystems – most prominently in the context of the UN’s Sustainable Development Goals.<sup>2</sup>

corruption. The resulting instability and criminalisation of the economy has a series of knock-on effects that further undermine development.

Despite the obvious and profound development implications of global drug policy, historically there has been a lack of engagement in the drugs issue by the development community, at civil society, government and UN level. This is now changing, with some substantive NGO work being undertaken, notably by Health Poverty Action and Christian Aid within the development field (see box, p. 54). At the UN level, important work on drugs as a development issue has also now emerged in the form of a groundbreaking report from the United Nations Development Programme (see p. 57).

“Evidence shows that in many parts of the world, law enforcement responses to drug-related crime have created or exacerbated poverty, impeded sustainable development and public health and undermined human rights of the most marginalized people.”

United Nations Development Programme  
2015



The war on drugs is undermining development in already fragile regions and states

**“Drug cartels are spreading violence in Central America, Mexico and the Caribbean. West Africa is under attack from narco-trafficking. Collusion between insurgents and criminal groups threatens the stability of West Asia, the Andes and parts of Africa, fuelling the trade in smuggled weapons, the plunder of natural resources and piracy.”**

United Nations Office on Drugs and Crime  
2009

The UNODC has highlighted that the current approach has created a criminal market “of staggering proportions” which undermines governance, and creates violence and insecurity. It has noted the “right to development” in its annual World Drug Report, and has recognised the “vicious cycle” of drug production, trafficking and poverty. The UN Secretary-General Ban Ki-moon has identified illicit drugs and related crime as a “severe impediment” to achieving sustainable development, as well as to securing human rights, justice, security and equality for all, urging Member States to ensure “that drug control and anti-crime strategies are sensitive to the needs of development”.<sup>3</sup>

## The development costs of the war on drugs

### 1. Fuelling conflict and violence

Any form of development is undermined by conflict and violence and, particularly in key producer and transit regions, the concept of a drug “war” has moved from political rhetoric to bloody reality. The abdication of control of the lucrative and growing illicit drugs market to adaptable and ruthless criminal entrepreneurs – and subsequent police and militarised responses to them – are the core dynamics by which the drug war fuels violence.

### Calls for the development field to engage in the drugs issue

**“While law-enforcement agencies and the UN have set out on a one-dimensional quest to tackle the illicit drugs trade, development agencies have tended to ignore the problem altogether. Reluctant to engage in the ‘war on drugs’, we have tended to view the illicit economy as something entirely separate from the work of development. That is no longer possible. Like it or not, the drugs trade and other illicit activities are now part of the lives of millions of the people we aim to support”<sup>4</sup>**

– Christian Aid (2015)

**“Just like tax dodging, climate change and unfair trade rules, current global drug policies undermine global efforts to tackle poverty and inequality. Yet, unlike with these issues, the development sector has remained largely silent when it comes to drug policy. If, as international NGOs, we are serious about dealing with the root causes of poverty and not just the symptoms, we cannot afford to ignore drug policy. It’s time we recognised the threat that unreformed global drug policy poses to our attempts to tackle poverty worldwide. The sector can no longer be absent from debates on drug policy reform”<sup>5</sup>**

– Health Poverty Action (2015)



In the absence of any formal market regulation, violence becomes the default regulatory tool in the illicit trade, and the means by which DTOs secure and expand their business. State enforcement interventions against organised crime groups can then turn drug policy into a very real battle zone. As state responses intensify, DTOs naturally fight back with ever increasing ferocity – and particularly when state enforcement becomes increasingly militarised, these clashes can precipitate a terrifying spiral of violence. Drug-related profits are so high this can even include equipping private armies, or financing insurgent or terrorist groups powerful enough to defeat state enforcement.

Police and military “crackdowns” against lower level players in the drug trade and people who use drugs can often involve significant violence in themselves. For example, there were 2,819 extrajudicial killings under the banner of the Thailand government’s war on drugs in 2003 (a 2007 government committee investigation found that 1,400 of the killings were either non-drug dealers or no reason could be found for their death).<sup>6</sup>

**“To deal with drugs as a one-dimensional, law-and-order issue is to miss the point ... We have waves of violent crime sustained by the drug trade, so we have to take the money out of drugs.**

**“The countries in [Latin America] that have been ravaged by the armed violence associated with drug cartels are starting to think laterally about a broad range of approaches and they should be encouraged to do that. They should act on evidence.”**

**Helen Clark**  
Head of the United Nations Development Programme  
2013

While perhaps counterintuitive, research suggests that enforcement responses against drug markets have tended to increase rather than decrease violence.<sup>7</sup> Even nominally successful enforcement actions against one organisation can create spikes in violence as other groups fight to take over the market. Similarly, high profile “decapitation strategies” that target the cartel bosses can destabilise criminal organisations and fuel internecine violence as different factions battle to assume control. In the longer term, endemic violence can traumatise populations for generations, in particular fostering a deeper culture of violence among young people.

It is invariably the poor, marginalised and vulnerable who suffer the most on the frontline of such conflict, and the negative development implications of pervasive violence are huge. Of low-income fragile or conflict-affected countries, not one has achieved a single Millennium Development Goal.<sup>8</sup> According to the World Bank, on average, countries where violence takes root have poverty rates more than 20 percentage points higher than in other countries. In addition, people in fragile and conflict-affected states are:

- More than twice as likely to be undernourished as those in other developing countries
- More than three times as likely to be unable to send their children to school
- Twice as likely to see their children die before age five<sup>9</sup>

The burden of drug-war violence on civic institutions, the undermining of the rule of law, the corrosive impact on community relations, and the economic burden it imposes have a disastrous combined impact on development, including acting as a block to future progress.

## 2. Increasing corruption and undermining governance

Good governance and robust institutions are key requisites for long-term development. The war on drugs and the huge criminal profits it has fuelled have led to the corruption of institutions and individuals at every level in affected countries blighted by poverty and weak governance. (See preceding chapter for more detail.) This is the inevitable result of the huge funds high-level players in the illicit trade accrue, combined with their readiness to threaten violence to force the unwilling to take bribes (as they put it in Mexico “plata o plomo”

## Colombia: a case study in drug war conflict as an obstacle to social and economic development

Since the 1970s, Colombia has been at the epicentre of illicit cocaine production. The vast profits generated have fuelled a disastrous expansion of the already problematic internal armed conflict between the government and guerrilla movements, most significantly FARC, and has driven corruption at all levels of police, judiciary and politics. Despite recent progress towards a peace settlement, the nexus of drug money, internal conflict and corruption continues.

- Colombia's armed conflict and related human rights abuses had, by 2010, displaced over 4.9 million people<sup>10</sup>
- US funding for anti-drug operations has become increasingly militarised and largely indistinguishable from counterinsurgency. The US has also pushed aerial crop eradication that has had little impact on coca cultivation, but serious impacts on human health, indigenous cultures and the environment (aerial crop spraying with glyphosate in Colombia was suspended in 2015 after WHO declared it was probably carcinogenic)
- Transparency International has described how Colombia has suffered underdevelopment and lawlessness as a result of the illicit drug trade, reporting that: "A World Bank survey released in February 2002 found that bribes are paid in 50 per cent of all state contracts. Another World Bank report estimates the cost of corruption in Colombia at US \$2.6 billion annually, the equivalent of 60 per cent of the country's debt."<sup>11</sup>

– "cash or lead"). Corruption can have a dire impact on social and economic development – distorting economies, further undermining the functioning of institutions, and creating obstacles to development aid.

Transparency International note:<sup>12</sup>

"Corruption not only reduces the net income of the poor but also wrecks programmes related to their basic needs, from sanitation to education to healthcare. It results in the misallocation of resources to the detriment of poverty reduction programmes ..."

And as the UN Drug Control Program described as far back as 1998:

"The magnitude of funds under criminal control poses special threats to governments, particularly in developing countries, where the domestic security markets and capital markets are far too small to absorb such funds without quickly becoming dependent on them. It is difficult to have a functioning democratic system when drug cartels have the means to buy protection, political support or votes at every level of government and society.

"In systems where a member of the legislature or judiciary, earning only a modest income, can easily gain the equivalent of some months' salary from a trafficker by making one 'favourable' decision, the dangers of corruption are obvious."<sup>13</sup>

## 3. Economic underdevelopment and opportunity costs

The progressive shift of labour and capital into the unregulated criminal sector creates a range of macroeconomic distortions that fundamentally undermines key foundations of sustainable economic development. As the economy and institutions of a country become progressively more criminalised, other illegal businesses under the ownership or protection of criminal cartels can gain preferential treatment, making it more difficult for legal enterprises to compete. They are forced to either bear a greater burden of taxation and regulation, or be drawn into corruption or payment for protection.

Rising levels of drug market related violence can compound such economic destabilisation by deterring inward investment from both indigenous and external businesses. High-profile spikes in drug-market violence

can also deter visitors, devastating established tourist industries, as has happened even in high-flying resorts such as Acapulco.<sup>14</sup>

While any approach to drugs requires funding, the current scale of expenditure on a policy that is not even delivering its intended goals represents a huge opportunity cost for other areas of development and social policy. As a result, many of the poorest areas of affected countries are being further impoverished by wasting money on counterproductive enforcement that could have been invested in public health and education programmes, infrastructure and institution building – or any number of vital development initiatives.

As the UN Development Programme has noted:

“The international drug control system seems to have paid less attention to consequences for human rights and development than to enforcement and interdiction efforts. Evidence shows that the economic, human and social costs of the implementation of drug policy have been enormous. Current drug policies have also diverted public institutional and budgetary resources away from development priorities. As an example, globally, the budget for drug-related law enforcement exceeds \$100 billion annually, almost the net amount of bilateral Official Development Assistance (US\$134 billion) disbursed by Member countries of the Organisation for Economic Co-operation and Development (OECD) in 2013”<sup>15</sup>

Health Poverty Action have contextualised the \$100+ billion annual drug war spend by noting that “the Overseas Development Institute (ODI) estimates that the additional financing needed to meet the proposed Sustainable Development Goal of universal health care is US\$37 billion a year”. The Harm Reduction International 10 by 20 campaign has similarly observed that the UNAIDS estimate of resources needed for comprehensive harm reduction coverage for low- and middle-income countries is just \$2.3 billion per year – but current international spending is \$170 million.<sup>16</sup>

Development aid itself can also become distorted. The US, and other countries, have diverted aid budgets from where it would be most effective, blurring it into military spending for its allies in the war on drugs – most significantly in Latin America.<sup>17</sup>

#### 4. Criminalisation: adding to the burden of poverty and marginalisation

Drug crop production is concentrated in socially and economically marginalised populations that are not made rich by their involvement in the trade. Farmers earn only around 1% of the overall global illicit drug income. Most of the remaining revenue is earned by the traffickers, and most of the mark up occurs once drugs have reached consumer market destination countries.

##### The problem with “alternative development”

A cornerstone of the international response to the illicit drug trade has been ‘alternative development’ (AD), where drug crop producers are supported in shifting to the legal economy by growing licit crops such as wheat or fruit. When undertaken appropriately, AD can help illicit crop growers make the transition to non-drug livelihoods, and support localised development and infrastructural growth. But there are major problems with many AD programmes. A critique of AD produced by the Global Drug Policy Observatory notes:

“Evidence from thirty years of AD programming demonstrates limited success in supply reduction and that poorly monitored and weakly evaluated programmes cause more harm than good; there has been little uptake of best practice approaches, cultivators rarely benefit from AD programmes, the concept of AD is contested and there is no shared understanding of ‘development’”<sup>18</sup>

But there is also a bigger issue. Like eradication efforts, in the long term AD does not impact on overall drug crop production. Localised impacts merely displace production (and the accompanying problems) to another region or country; another dimension of the “balloon effect”. So there is no overall development benefit, and there may be a net cost from drawing other populations into the illicit trade. Even the UNODC – a leading champion of AD approaches – has noted that:

“Alternative development projects led by security and other nondevelopment concerns were typically not sustainable – and might result in the spread or return of illicit crops or in the materialization of other adverse conditions.”<sup>19</sup>

“Governments devote ever increasing resources to detecting, arresting and incarcerating people involved in illicit drug markets – with little or no evidence that such efforts reduce drug related problems or deter others from engaging in similar activities ... Subsistence farmers and day labourers involved in harvesting, processing, transporting or trading, and who have taken refuge in the illicit economy purely for reasons of survival, should not be subjected to criminal punishment. Only longer-term socio economic development efforts that improve access to land and jobs, reduce economic inequality and social marginalisation, and enhance security can offer them a legitimate exit strategy.”

Global Commission on Drug Policy  
2014

Most drug crop farmers have only small landholdings, and face high transport-to-market costs from isolated areas, and significant wastage of perishable crops. Adaption to grow alternative legitimate crops would require high levels of investment and exposure to volatile markets in products that offer small and vulnerable profit margins. Most have only limited access to credit. For example, in Myanmar and Lao PDR, drug-growing households are estimated to earn just \$200 cash per annum, and drugs are grown in areas where poor health and illiteracy prevail, where physical and social infrastructures are negligible, and populations find themselves marginalised and discriminated against by the dominant ethnic group.<sup>20</sup>

Involvement by poor farmers in drug crop production can therefore generally be seen as resulting from a lack of options; the “migration to illegality” driven by “need not greed”, as the Transnational Institute describes it.<sup>21</sup>

Drug control responses in these areas usually take the form of crop eradication, alternative development (see box) and punitive enforcement targeting growers and traffickers. The results, in terms of sustainable reductions in poverty, have been mainly negative and there has certainly been no reduction in total drug production – which has more than kept pace with rising global demand. Opium bans and crop eradication programmes in South-East Asia, Colombia and Afghanistan have been linked with increasing poverty among farmers, reduced access to health and education, increased indebtedness, large-scale displacement, accelerated deforestation, and social discontent. They have also resulted in an increase in young ethnic minority women entering the sex trade, often through human trafficking. Drug control measures can also drive sections of the population to support insurgent groups, or seek employment with criminal gangs, further undermining security and governance, and with it the prospects for development.

Criminalisation of poor and indigenous communities for involvement in the illicit drug trade also exacerbates the stigma and resulting discrimination they face more broadly in society. This results in a range of negative impacts explored in chapters 1 and 7 of this report, on health, and on stigma and discrimination, including reduced access to health care and education, disproportionate imprisonment, and targeting by police and security forces.

## 5. Increasing deforestation and pollution

An often overlooked cost of the war on drugs is its negative impact on the environment and sustainable development – mainly resulting from eradication and aerial spraying of drug crops in ecologically sensitive environments, such as the Andes and Amazon basin. Eradication not only causes localised deforestation, but has a devastating multiplier effect because drug producers simply deforest new areas for cultivation – the “balloon effect” in action again. This problem is made worse because protected areas in national parks – where aerial spraying is banned – are often targeted. Colombia announced a suspension of aerial spraying in 2015 following a WHO report stating that glyphosate (the chemical used) was “probably carcinogenic”<sup>22</sup> – but manual eradication is ongoing, and glyphosate eradication continues elsewhere, including in South Africa.<sup>23</sup>

The past 20 years have seen the bulk of coca cultivation shift from Peru and Bolivia to Colombia, and then from region to region within Colombia, or more recently, back to Peru. In an example of this futility, the US Office of

National Drug Control Policy admitted that despite record aerial spraying of over 1,300 km<sup>2</sup> of coca in Colombia in 2004, the total area under coca cultivation remained “statistically unchanged”. Recent official claims of reduced areas under cultivation are likely to have been compensated for by increased productivity following selective breeding (also now allowing cultivation in lower lying regions), and more sophisticated farming techniques.

Illicit, unregulated processing of drug crops is also associated with localised pollution as toxic chemicals used in crude processing of coca and opium are disposed of in local environments and waterways. Concerns have also been raised about the myco-herbicides (killer fungi) engineered to attack opium poppies and coca bushes; scientists fear they may affect food crops, wipe out entire plant species and seriously harm ecosystems.

**“Developed countries – the major consumers – have imposed harmful policies on the drug-producing countries. These policies have had dire consequences ... for the economic development and political stability of the producer countries. The ‘war on drugs’ strategy did not have a significant impact on its goals to increase the street price of drugs and to reduce consumption. Instead ... prohibition created economic incentives for traffickers to emerge and prosper; crop eradication in the Andean region helped increase the productivity of the remaining crops; and the fight against the illegal heroin trade in Afghanistan mostly hurt the poor farmers and benefited the Taliban.”**

**Fernando Henrique Cardoso**  
34th President of Brazil  
2010

## 6. Fuelling HIV infection and other health impacts

The war on drugs creates or exacerbates a number of health-related harms that inevitably impact on development – creating human costs for individuals and communities, and avoidable burdens on scarce health and social care resources. Firstly, levels of drug use and the associated direct health harms tend to rise in the vulnerable and marginalised countries and areas used for producing and transiting drugs, as availability rapidly increases, including from employees being paid in drugs.

Secondly, criminalising people who use drugs increases health risks; pushing use into unhygienic marginal environments and encouraging risky behaviours such as sharing injecting equipment, whilst simultaneously creating practical and political obstacles to proven health interventions, including prevention, harm reduction and treatment. These factors have fuelled epidemics of HIV and hepatitis B and C among people who inject drugs in many developing countries. Roughly, one tenth of new HIV infections result from needle sharing among people who use drugs, with this figure rising to just under a third outside of Sub-Saharan Africa, and approaching or exceeding a half in some regions, including many former Soviet republics.

## 7. Undermining human rights, promoting discrimination

The protection of human rights is central to the achievement of human development. Human rights abuses, and unaccountability for those who perpetrate them, fundamentally undermines development more broadly. The UN is tasked with both promoting human rights and overseeing the international drug control regime, yet human rights abuses in the name of drug control are commonplace. State violence, including corporal punishment, executions and extrajudicial killings are frequently associated with drug enforcement. In direct contravention of international law, over thirty countries maintain the death penalty for drug-related offences with estimates of 1000 such executions taking place annually.<sup>24</sup> China is the worst offender, even marking UN International Anti-Drugs Day with mass public executions of drug offenders.

The widespread use of disproportionate punishments for minor drug offences can overwhelm criminal justice systems, draining scarce resources, and fuelling prison



overcrowding and related health and human rights harms. People who use or grow drugs are also easy targets for ill-treatment by police, subject to violence, torture or extortion of money using threats of detention, or drug withdrawal to coerce dependent users into providing incriminating testimony.

Criminalisation of drug treatment and harm reduction activities also remains widespread. Established opiate substitution therapy such as methadone remains illegal in some countries, such as Russia, despite methadone being on the WHO list of essential medicines, and its use defined as best practice in WHO, UNAIDS and UNODC guidelines. Similarly, criminal laws banning syringe/needle provision (and possession) create a climate of fear for people who use drugs, driving them away from life-saving HIV prevention and other health services, and encouraging high risk behaviours. People who use drugs are also often discriminated against when accessing healthcare, such as antiretroviral and hepatitis C treatment.

In China and South-East Asia, those arrested for possession and use of illicit drugs are often subject to arbitrary detention without trial in the form of forced or compulsory “treatment” in facilities where further human rights abuses are common, for periods from a few months to years.<sup>25</sup> Estimates of numbers detained in such ‘treatment’ centres in China alone are as high as 500,000.<sup>26</sup>

As the UN High Commissioner for Human Rights has observed: “millions of people worldwide who require essential medicines for pain, drug dependency and other health conditions find that availability is often limited or absent”. The Special Rapporteur on the right to health has also noted that access to these medications is often excessively restricted for fear that they will be diverted from legitimate medical uses to illicit purposes.

Crop eradication efforts, as well as having the environmental costs already mentioned, can also impact basic rights. Chemical spraying can lead to health problems, for example the glyphosate sprayed by US planes over coca fields has caused gastrointestinal problems, fevers, headaches, nausea, colds and vomiting. Legal food plants are additional casualties. The spraying has sometimes forced whole villages to be abandoned and the rapid elimination of farmers’ primary source of income results in economic and social harm.

## Are there benefits?

The claims that the war on drugs can reduce or eliminate drug production and availability are simply not borne out by the experience of the past half-century. Production and supply of key drug crops and related products have more than kept pace with demand, with a long term trend of falling prices and rising use and availability. As already noted, localised enforcement “successes” simply displace production and related problems geographically.

The key beneficiaries of the war on drugs are those who use it for political ends, whether for populist political reasons, or to justify military interventions, as well as the military and suppliers of military/police hardware, and the criminals who end up in control of the trade.

Drug production and trafficking does, however, represent real economic activity, and illegal earnings also feed into local economies when spent in legal markets. For certain populations and individuals with limited options, drug production, or involvement in the criminal supply chain, offers one of the few sources of income, albeit with substantial risks attached.

The intersection of licit and illicit economies has become increasingly complex and entrenched. Christian Aid has highlighted how, in many developing regions:

“... the licit and illicit economies are no longer two separate entities: they are often one and the same thing. Mafias provide much-needed jobs, investment and stability; drug lords are elected into government office; criminals are given sanctuary by the poor people they are supposed to prey on; criminal syndicates serve as shadow subcontractors of state security.”

Getting to grips with these new realities presents a profound challenge for both drug policy and development discipline – and how the two need to work together in future. Clearly any change in drug control policy must consider the development impacts – particularly for the majority of individuals involved in the illicit economy, who do not fit the stereotype of the billionaire drug barons.<sup>27</sup>

## Inadvertent benefits? Heroin and stability in Tajikistan

De Danieli's case study for Christian Aid of the illicit opiate economy in Tajikistan<sup>28</sup> – an important transit route from Afghanistan to Russia and Western Europe – forces the development field to reconsider many assumptions and policy responses.

When state institutions were too weak to impose order, government actors realised it was easier to obtain through working with, rather than against, local strongmen. So compromises were sought with the organised criminal organisations in effective control of parts of the country and economy. Informal agreements were made in the “shadow bargaining” of the 1997 peace talks, giving warlords financial incentives to disarm and become legitimate actors in the post-conflict political system. The lucrative illicit drugs trade – which had funded different sides in the civil war – was ‘allowed’ to continue as long as local drug traffickers pledged their political loyalty. Collusion, in return for a share of the business, became widespread. But more importantly, drug mafias helped preserve order.



Tajikistan President Emomali Rahmon. The illicit opiate trade consolidated the Tajik state's coercive apparatus

This led to the creation of an oligopoly of 20 to 30 groups in the drugs trade, and more stable local political economies. Poor local communities found a steady source of income, and criminal organisations became *de facto* subcontractors of security, relieving the government of the burden of governing remote and unruly areas of the country. Cash-rich criminals – who wanted more efficient and predictable supply chains – became the only effective source of investment in a cash-starved, infrastructure-poor and unstable economy.

Over time, these symbiotic relationships consolidated. In 2007, a group of scholars concluded that opiates trafficking added at least 30% to the GDP of Tajikistan, and that “The leaders of the most powerful trafficking groups occupy high-ranking government positions and misuse state structures for their own illicit businesses.” These important actors – warlords or criminals turned statesmen – are often missed in development or peacebuilding analysis. Such figures operate in the grey area of crime and business, often as legitimate entrepreneurs enjoying protection from authorities. But their main interest is the control of illegal markets, and they can resort to violence to settle disputes in what is a risky business.

When there is competition without agreement on who controls the wealth a commodity brings – whether drugs, gold, diamonds, or oil – disorder often follows. But when different groups can arrive at a settlement, even illicit drugs can provide the basis for stability. So in Tajikistan's fractured society, mafias now fulfil the role of social glue.

But not only has the opiate trade consolidated the Tajik state's coercive apparatus, so has counter-narcotic assistance, designed to combat drugs related insecurity, because the drug-control “results” delivered were largely the elimination of smaller competitors in illicit enterprises. So stand-alone attempts to destroy drugs trafficking without considering the context, and how the various players are involved, may have unintended consequences.



### Guinea Bissau: an unwanted new challenge to an already struggling state



Growing demand for cocaine in Europe, combined with the increased policing of Caribbean drug transit routes has displaced transit routes to West Africa – yet another example of “the balloon effect” in action.

Guinea Bissau, already experiencing weak governance, endemic poverty and negligible police infrastructure, has been particularly affected – with serious consequences for one of the most underdeveloped countries on Earth.

In 2006, the entire GDP of Guinea-Bissau was only \$304 million, the equivalent of six tons of cocaine sold in Europe at the wholesale level. UNODC estimates approximately 40 tons of the cocaine consumed in Europe passes through West Africa each year. The disparity in wealth between trafficking organisations and authorities has facilitated infiltration and bribery of the little state infrastructure that exists. Investigations show extensive involvement of police, military, government ministers and the presidential family in the cocaine trade, the arrival of which has also triggered cocaine and crack misuse.<sup>29</sup>

The war on drugs has turned Guinea Bissau from a fragile state into a failed narco-state in less than a decade, creating an institutional environment in which nascent development processes are curtailed or put into reverse. Other countries in West Africa are also being impacted or under threat, as are all fragile states with the potential to be used as producer or transit countries.

## How to count the costs?

Governments and international bodies have failed to properly assess the impacts of global drug control policies, including on development, for decades – let alone meaningfully explore the alternatives. But the real obstacles to proper evaluation are political not practical; the emotive and highly politicised nature of the debate around drugs has led to the war on drugs becoming largely immune from scrutiny. Worse still, as underlined repeatedly by the evidence in this report, harms caused by the drug war itself are routinely conflated with those from drug use, to bolster the apparent “drug menace” narrative then used to justify continuation of the same failed approach.

The Global Commission on Drug Policy, comprised of former world leaders and UN luminaries, has noted how “official government and UN evaluations of drug policy are preoccupied with metrics such as arrests and drug seizures. These are process measures, reflecting the scale of enforcement efforts, rather than outcome measures that tell us about the actual impacts of drug use and drug policies on people’s lives. Process measures can give the impression of success, when the reality for people on the ground is often the opposite.”<sup>30</sup>

Citing the commission and building on this narrative, the UNDP has made it clear that “the development of a comprehensive set of metrics to measure the full spectrum of drug-related health issues, as well as the broader impact of drug control policies on human rights, security and development would be an important contribution to the discussion on the development dimensions of drug policy”.<sup>31</sup> The UNDP goes further, outlining the range of metrics related to goals, targets and indicators needed to count the costs of current policy models, and evaluate alternative approaches.

There have also been discussions and proposals relating to the drugs-specific Sustainable Development Goal, and the relevance of the SDGs more broadly to assessing impacts of drug enforcement. As Health Poverty Action has stated:<sup>32</sup>

“The dominant prohibitionist approach to global drug policy is significantly impacting on progress to achieve sustainable development. It is time the development sector engaged seriously with the issue of drug policy to address these impacts by rectifying the policy incoherence between a ‘war on drugs’ approach and sustainable development. The SDGs and UNGASS 2016 present key opportunities to ensure that development policies and drug control efforts work side by side

**“If development agencies want poor communities to lift themselves out of poverty, then the causes and consequences of the continuing expansion and resilience of the illicit economy, as well as the intended and unintended consequences of programmes associated with the war on drugs, need to be fully understood. And if new cures are needed, development agencies need to be fully involved in finding them”**

**Eric Gutierrez**

Senior Advisor on Accountable Governance,  
Christian Aid  
2015

to meet common goals, but if the development community remains silent on these issues, they will at best limit their efforts and progress towards meeting a number of the SDGs and at worst render them unachievable.”

## Conclusions

All developing countries face major challenges, including lack of resources, poor governance, conflict and corruption. The last thing they need is to have these problems made still worse by a futile and counterproductive war on drugs.

For example, UNODC analysis in Afghanistan clearly links localised incidence of opium poppy production with lack of access to basic development facilities (such as child education, and access to the power grid),<sup>33</sup> and insecurity. Yet the UNODC also acknowledges that the drug control system itself is having the unintended consequence of creating insecurity, corruption and violence. So, by its own analysis, it is overseeing an enforcement led policy to reduce opium production that is creating conditions in which opium production becomes more likely. And in doing so, the UNODC is helping to lock the region into a spiral of underdevelopment.

There are other options (explored in Chapter, 10, Options and alternatives) that move away from the war mentality of the past, that can be explored at national, regional and international scale. These options should be debated and explored using the best possible evidence and analysis. Because if there is one thing development experts agree on, it is that development in a war zone is next to impossible, and the issues outlined in this report are neither unclear nor hidden.

There are signs in the NGO sector, and at the UN, that the drugs issue is finally moving towards the mainstream of the development discourse. Key forces within the development sector now have a responsibility to seriously engage with far more than the shallow analysis and calls for alternative development that have characterised the discourse to date. If they fail to do so, they will stand guilty of neglecting the marginalised populations they claim to represent.

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04

# Undermining human rights

**In every region of the world the war on drugs is severely undermining human rights. It has led to a litany of abuse, neglect and political scapegoating through the erosion of civil liberties and fair trial standards; the denial of economic and social rights; the demonisation of individuals and groups; and the imposition of abusive and inhuman punishments. This chapter should be read in conjunction with chapter 7, which explores how the war on drugs promotes stigma and discrimination.**

## Introduction

Of the five “unintended consequences” of global drug law enforcement identified by the UNODC,<sup>1</sup> only the final one points towards the potential for human rights abuses. In terms of “the way the authorities perceive and deal with the users of illicit drugs” the agency notes:

“A system appears to have been created in which those who fall into the web of addiction find themselves excluded and marginalized from the social mainstream, tainted with a moral stigma, and often unable to find treatment even when motivated to seek it.”

Like all wars, the burden of the drug war’s costs tends to fall most heavily on the most vulnerable and marginalised members of society. The human rights costs detailed in this chapter, however, go some way beyond those identified by the UNODC as being paid by people who are dependent on drugs.

Crucially, these are not costs that result from drug use itself, but from the choice of a punitive enforcement strategy. As the Executive Director of the UNODC observed in a 2010 discussion paper on drugs, crime and human rights: “Too often, law enforcement and criminal justice systems themselves perpetrate human rights abuses.”

But these human rights violations are frequently only considered in isolation – a drug user beaten by police to extract information; a drug courier executed by firing squad; a family killed at a military checkpoint; an HIV worker imprisoned for distributing harm reduction information; a family displaced by aerial fumigation of their crops; a drug user detained for years of forced labour and beatings on the recommendation of a police officer; a cancer sufferer denied pain-killing medicine. But they are not isolated. They are all a direct consequence of the war on drugs.

Positioning drugs as an existential threat, and putting policy on a war footing, has helped create a political climate in which ‘extraordinary measures’ are justified, and drug enforcement is frequently not required to meet human rights norms. In fact, despite being one of the three pillars of the UN’s work (along with development, and peace and security), the international agreements that underpin the global drug control system lack any obligation to ensure compliance with human rights. In over one hundred articles, human rights appear specifically only once (in relation to crop eradication) – a staggering omission in treaties negotiated and adopted post-World War II, in the era of the modern human rights movement.

This omission is now reflected in national law and policy worldwide. Through production, transit, sales and use, the responses to every stage in the illicit-drug supply chain are characterised by extensive human rights violations, committed in the name of supply and demand reduction.

As the outcomes described in this chapter make clear, whatever the original intention, the UN Drug Conventions have, in their implementation, effectively licensed and incentivised human rights abuses to such a degree, that they are now undermining the founding purpose of the UN, as set out in the UN Charter itself:<sup>2</sup>

“To achieve international co-operation... in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion...”



## The human rights costs of the war on drugs

### 1. Drug use and criminalisation

Global drug consumption has risen dramatically since the war on drugs began in earnest in the middle of the 20th century, despite the application of criminal penalties for drug possession in most countries. The UNODC currently estimates, probably conservatively, that 246 million people worldwide used illicit substances at least once in the last year.<sup>3</sup> Global lifetime usage figures are much higher, probably approaching one billion. Yet a punitive response to drug use remains at the core of the war on drugs philosophy. There is no specific right to use drugs, nor is an argument for one being made here. However, debates around the rights and wrongs of individuals' drug use should not obscure the fact that criminalising the consenting activities of hundreds of millions of people involves substantial human costs, and impacts on a range of human rights, including the right to health, privacy, and freedom of belief and practice. The centrality of criminalisation means that in reality a war on drugs is, to a significant degree, a war on drug users – a war on people.

The impact of criminalisation and enforcement varies, with sanctions against users ranging from formal or informal warnings, fines and treatment referrals (often mandatory), to lengthy prison sentences and punishment beatings. Within populations impacts also vary, but are concentrated on young people, certain ethnic and

“Protecting public health is a legitimate aim, but imposing criminal sanctions for drug use and possession for personal consumption is neither necessary nor proportionate.”

United Nations Office on Drugs and Crime  
2015

other minorities, socially and economically deprived communities, and people with drug problems.

Punishments for drug possession/use are frequently grossly disproportionate, violating another key tenet of international law.

- In Ukraine, the possession of minimal amounts of drugs (from 0.005g) can lead to three years in prison<sup>4</sup>
- In Russia, a person can be imprisoned for one and a half years for solution traces in a used needle
- In Georgia, urine tests for drugs can serve as a basis for imprisonment<sup>5</sup>



The war on drugs has led to widespread human rights abuses

Support for decriminalising drug possession and/or use comes from a range of human rights-focused civil society organisations and UN agencies. The UN Office of the High Commissioner for Human Rights, for example, advocates an end to criminal penalties for drug possession and use, on the grounds that they constitute an “obstacle to the right to health”.<sup>6</sup> At least nine other UN agencies – including the WHO, the World Bank, UN Development Programme, UNAIDS and UNICEF – have also unambiguously called for decriminalisation, either in their own reports or public statements, or in joint reports or statements.<sup>7,8</sup> Many of these calls were made with reference to the human rights dimension of drug policy.

Most notably, the UNODC – the agency charged with overseeing the punitive global drug control regime – has shifted its stance on the issue of decriminalisation. In 2015, the UNODC produced a briefing paper explicitly calling on UN member states to decriminalise personal drug possession and use of drugs. Political considerations led to the paper being withdrawn pre-publication, but it was already in the public domain and widely circulated.<sup>9</sup> Crucially, the paper stated: “decriminalising drug use and possession for personal consumption is consistent with international drug control conventions and *may be required to meet obligations under international human rights law* [emphasis added].”<sup>10</sup> Laws are supposed to respect and promote human rights, but as multiple UN agencies – including the UNODC – have stated, criminal drug laws are doing the precise opposite, jeopardising fundamental freedoms intended to improve global health and wellbeing.

**“Criminalizing people for the possession and use of drugs is wasteful and counterproductive. It increases health harms and stigmatizes vulnerable populations, and contributes to an exploding prison population. Ending criminalization is a prerequisite of any genuinely health-centered drug policy.”**

Global Commission on Drug Policy  
2014

**“Subjecting people to criminal sanctions for the personal use of drugs, or for possession of drugs for personal use, infringes on their autonomy and right to privacy ... Human Rights Watch research around the world has found [also] that the criminalization of drug use has undermined the right to health.”**

Human Rights Watch  
2013

## 2. The right to a fair trial and due process standards

The marginalisation of human rights in drug law enforcement can be witnessed in the widespread erosion of due process in dealing with drug offenders.

### Alternative justice systems

In many countries, drug offenders are subject to parallel systems of justice that do not meet internationally recognised fair trial standards. For example, in Iran, drug trafficking defendants are tried before revolutionary courts where defence counsels may be excluded from the hearing and appeals are not allowed on points of law. Similarly in Yemen, drug defendants are subject to trial before “specialised courts”, where “trials are generally reported to fall short of international standards of fair trial”,<sup>11</sup> according to Amnesty International. Many of the trials that are held before these courts are death penalty cases.

In Egypt, defendants have been included in decades-old emergency laws that allow certain drug cases to be tried in emergency or military courts which lack the due process protections of civilian courts. These courts have also been empowered to rule on death penalty cases.



**“The current international system of drug control has focused on creating a drug free world, almost exclusively through use of law enforcement policies and criminal sanctions.**

**Mounting evidence, however, suggests this approach has failed ...**

**While drugs may have a pernicious effect on individual lives and society, this excessively punitive regime has not achieved its stated public health goals, and has resulted in countless human rights violations.”**

**Anand Grover**

UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health  
2010

### Presumption of guilt

Elements of drug law enforcement in many countries have seen a reversal of the burden of proof, with the presumption of innocence effectively replaced with a presumption of guilt. It is the erosion of one of the most fundamental due process guarantees in international human rights law.<sup>12</sup> The phenomenon is most commonly associated with threshold quantities for drug possession:<sup>13</sup> if the threshold is exceeded, there is a presumption of a supply/trafficking offence, invariably triggering a dramatically more severe sentence. In some countries, the death penalty is mandatory for possession of an illicit substance above a certain threshold quantity.

Even when penalties are not as severe, the effects on the presumption of innocence are clear. Since 2005, in the UK, for example, an arrest for certain trigger offences (even before being charged for any crime) leads to a compulsory drug test, the refusal of which is an imprisonable offence. If the test is positive, even if no charge is brought, the individual is then mandated to attend a medical assessment, refusal of which is also criminal and punishable by incarceration.

### Detention without trial

Malaysia’s Dangerous Drugs Act empowers authorities to detain drug trafficking suspects for up to 60 days without a warrant or court appearance. The detention orders may be extended, which then requires a court appearance. However, unless the court grants the suspect release, the detainee can be held for successive two-year intervals. As of the end of 2008, more than 1,600 people were detained under this act.<sup>14</sup>

### Compulsory drug detention centres

In some countries, notably in India, East and Central Asia, drug users are routinely sent to drug detention facilities, without trial or due process – for example, on the word of a family member or police officer – for months, or even years. While sometimes termed “treatment” or “rehabilitation” facilities, they are no more than detention centres, often indistinguishable from prisons (except that those in prison have at least often seen a lawyer and a courtroom). Often run by military or public security forces, and staffed by people with no medical training, these centres rarely provide treatment based on scientific evidence. Instead, military drills and forced labour are often the norm, with detainees denied access to essential medicines and effective drug treatment, and subjected to HIV testing without consent.

- In 2013, China had 227,000 drug users in compulsory detoxification centres and another 36,000 in mandatory treatment in the community<sup>15</sup>
- In Malaysia, if an individual tests positive for use of an illicit substance and is judged to be a dependent user by a government medical officer, they are mandated to two years in a detention centre, followed by two years of community supervision upon release
- In China and Cambodia, more than 90% of heroin users have been reported to relapse following release from drug detention centres<sup>16 17</sup>

## 3. Torture and cruel, inhuman or degrading treatment or punishment

People who use drugs, or who are arrested or suspected of other drug offences, are frequently subject to serious forms of cruel and unusual punishment. This includes abuses such as death threats and beatings to extract

information; extortion of money or confessions through forced withdrawal without medical assistance; judicially sanctioned corporal punishment for drug use; and various forms of cruel, inhuman and degrading treatment in the name of “rehabilitation”, including denial of meals, beatings, sexual abuse and threats of rape, isolation, and forced labour.<sup>18</sup>

- Ukrainian police have used physical and psychological abuse against drug users, including severe beatings, electroshock, partial suffocation with gas masks, and threats of rape, often to extort money or information<sup>19 20</sup>
- In Cambodia, abuses have included: detainees being hung by the ankle on flagpoles in midday sun;<sup>21</sup> shocking by electric batons; whipping by cords, electrical wires, tree branches and water hoses; and rape – including gang rape and forcing women into sex work. Abuses are not only carried out by the staff, but delegated to trusted detainees to carry out against fellow inmates. Such abuses are also perpetrated against children, who comprise around 25% of those in compulsory drug detention centres<sup>22</sup>
- In China, detainees in compulsory detention centres have been forced to participate in unpaid labour, day and night, while suffering the effects of withdrawal. Access to methadone is denied and payment demanded for other medications that help with withdrawal. Beatings (some causing death) are commonplace, with chosen detainees also carrying out physical violence against fellow inmates<sup>23</sup>

Over 40 countries maintain corporal punishment as a sentence of the courts or as an official disciplinary punishment<sup>24</sup> – at least twelve in relation to drug and alcohol offences, including for their consumption and for relapse (Singapore, Malaysia, Iran, Yemen, Saudi Arabia, Qatar, Brunei Darussalam, Maldives, Indonesia [Aceh], Nigeria [northern states], Libya and UAE).

Judicial corporal punishment is absolutely prohibited in international law because it is a form of torture or cruel, inhuman and degrading punishment. This is reflected both in international human rights treaty law, and is a recognised rule of customary international law. Its application to people who use drugs or alcohol is, simply put, illegal.

Corporal punishment is used in some countries as a main punishment or in addition to imprisonment. Whipping, flogging or caning is often carried out in public to intentionally escalate feelings of shame and humiliation –

and can lead to profound psychological damage as well as physical injury.<sup>25</sup> Related harms can be particularly acute for vulnerable populations of people who use drugs, a disproportionate number of whom suffer from mental health problems, or are living with HIV.

#### 4. The death penalty and extrajudicial killings

33 jurisdictions currently retain the death penalty for drug offences, with thirteen having a mandatory death penalty for certain categories of drug offences.<sup>26</sup> Most executions occur in China, Iran, Saudi Arabia and Vietnam. Methods of execution include hanging, firing squads, beheading and use of lethal injections. These killings have been clearly identified as a violation of international law by the UN.

Deaths in relation to drug offences also include both extrajudicial killings and targeted killings. Police drug crackdowns have often included extrajudicial violence. Despite being flagrantly illegal under international law, the US has a policy of openly targeting alleged drug traffickers for assassination.<sup>27</sup> The Pentagon announced in 2009 that 50 Afghan drug traffickers had been placed on a list of people to be “killed or captured”,<sup>28</sup> a list that included both combatants and non-combatants. The UN Special Rapporteur on extrajudicial, summary or arbitrary executions has made it clear that:

“To expand the notion of non-international armed conflict to groups that are essentially drug cartels, criminal gangs or other groups that should be dealt with under the law enforcement framework would be to do deep damage to the IHL [International Humanitarian Law] and human rights framework.”<sup>29</sup>

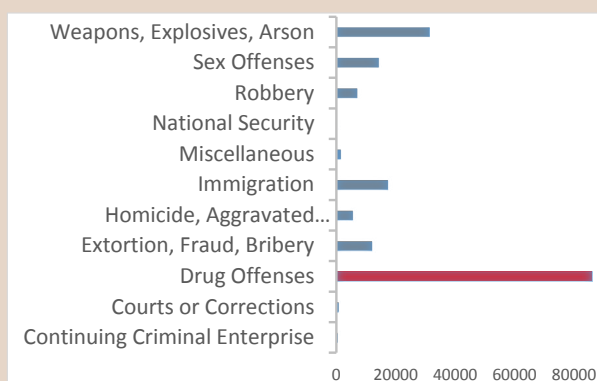
- Precise numbers of those executed for drug related offences are unknown due to the secrecy of some states, but previous estimates have suggested over 1,000 annually<sup>30 31</sup>
- However, as of 2015, there are believed to be almost 900 people on death row for drugs in Malaysia, Indonesia, Thailand and Pakistan alone<sup>32</sup>
- In recent years Iran has seen a sharp rise in reported executions. The UK Foreign and Commonwealth Office estimated there were 650 executions in 2010, 590 of which were for drug-related offences.<sup>33</sup> Amnesty International have estimated Iran executed at least 830 people between

1 January and 1 November 2015, the “vast majority” for drug offences<sup>34</sup>

- In 2003, the Thai government launched a war on drugs crackdown, the first three months of which saw 2,800 extrajudicial killings. These were not investigated and the perpetrators were not prosecuted or punished. The Thai Office of the Narcotics Control Board admitted in November 2007 that 1,400 of the people killed in fact had no link to drugs<sup>35</sup>

### The US – the “great incarcerator”

- As of 2015, almost half – 46.5% – of federal prison inmates in the US were incarcerated due to a drug offence<sup>36</sup>
- The US imprisons more people for drug offences than the EU does for all offences, even though the EU’s population is 40% higher than that of the US<sup>37</sup>
- Of US state prisoners serving sentences for drug offences in 2005, 45% were Black, 20% Hispanic and 28% White.<sup>38</sup> Yet 13% of the US population is Black, 15% Hispanic and 80% White. Levels of drug use are similar across these different ethnic groups<sup>39 40</sup>



The majority of federal prison inmates in the US were incarcerated for drugs offences as of December 2015

## 5. Over-incarceration and arbitrary detention

Punitive drug law enforcement has fuelled a dramatic expansion of prison populations over the past 50 years. While significant numbers are still incarcerated for possession or use alone, many more are incarcerated for low-level growing/production, trafficking and selling of drugs. A larger proportion are imprisoned for “drug-related” offending - involvement in drug market violence and gang activity, or low-income dependent users offending to support their use – the “low-hanging fruit” often picked up by target-driven enforcement efforts. There has also been a growing use of arbitrary detention under the banner of “drug treatment”, and the use of extended pre-trial detention for drug offenders.

## 6. The right to health

The “right to the enjoyment of the highest attainable standard of physical and mental health” is a fundamental right first articulated in the 1946 Constitution of the World Health Organization, and included in many subsequent international human rights treaties, including the International Covenant on Economic Social and Cultural Rights and the UN Convention on the Rights of the Child.

The right to health includes access to health-related education and information; the right to be free from non-consensual medical treatment; the right to prevention, treatment and control of diseases; access to essential medicines, including those controlled under drug control systems; and participation in health-related decision making at the national, community and individual levels. Good quality health provision should be available, accessible, and acceptable without discrimination – specifically including on the grounds of physical or mental disability, or health status.<sup>41</sup> In country after country around the world, however, the right to health is denied to people who use illegal drugs.

Punitive drug law enforcement often runs contrary to the right to health when dealing with drug-using populations, most prominently by increasing health harms, denying equal access to treatment and harm reduction services, and creating practical and political obstacles to getting essential medicines. This creates serious health costs, particularly for people who inject drugs – an estimated 15.9 million people,<sup>42</sup> in at least 158 countries and territories around the world.

“Repressive responses to *inter alia* drug use, rural crop production, and non-violent low level drug offences pose unnecessary risks to public health and create significant barriers to the full and effective realisation of the right to health, with a particularly devastating impact on minorities, those living in situations of rural and urban poverty, and people who use drugs.

“A range of drug control measures undertaken to reduce the supply of illicit drug crops have had significant impacts on the mental and physical health of communities, particularly those affected by crop eradication. Epidemic levels of violence in communities located along illicit transit routes and affected by militarised State responses are of particular concern.”

**Dainius Pūras**  
UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health  
2015

Injecting drug use causes one in ten new HIV infections globally, and up to 90% of infections in regions such as Eastern Europe and Central Asia.<sup>43</sup> Despite this, in many of these areas, access to proven harm reduction measures – including needle and syringe exchanges programmes (NSP) and opioid substitution therapy (OST) – is extremely limited or entirely unavailable. Yet these interventions are recognised by UN human rights monitors as a requirement of the right to health for people who inject drugs, while methadone and buprenorphine for OST are

on the World Health Organization’s essential medicines list. (For more detail, see chapter 1.)

The criminalisation of drug use, and the stigma and discrimination that often accompany it, contribute to the reluctance of people who inject drugs to utilise treatment and harm reduction services (see chapter 7). This is especially the case where laws against the carrying of injecting paraphernalia are in place (contrary to the UN’s International Guidelines on HIV/AIDS and Human Rights), or when police have a high presence near service providers.

Global drug control efforts intended to prevent the non-medical use of opiates have had a chilling effect on the medical use of these substances for pain control and palliative care. Unduly restrictive regulations and policies, such as those limiting doses and prescribing, or banning particular preparations, have been imposed in the name of controlling the illicit diversion of narcotic drugs. According to the World Health Organization, these measures result in 5.5 billion people – including 5.5 million with terminal cancer – having low to nonexistent access to opiate medicines. More powerful opiate preparations, such as morphine, are unattainable in over 150 countries in the world.

## 7. The right to social security and an adequate standard of living

The war on drugs has created far wider human rights costs through a series of disastrous negative impacts on development, security and conflict in many of the world’s most fragile states. (For more detail, see chapter 3.)

Some drug-war enforcement efforts have far more direct impacts, notably militarised crop eradication programmes – particularly those involving aerial fumigation. These have led to human displacement, food insecurity, and denial of welfare and livelihoods to those displaced.

- On average, 10,000-20,000 indigenous people were displaced each year in Colombia due to crop eradication, although aerial fumigation has now been suspended<sup>44</sup>
- In Nangarhar, Afghanistan, forced eradication, bans on cultivation, threats of NATO bombing campaigns, and the imprisonment of farmers led to a decrease in opium production. An additional consequence of this was a 90% drop in incomes for many, and internal displacement and migration to Pakistan<sup>45</sup>

- Conviction for drug offences can also result in the removal of social welfare, including public housing (e.g. in many US States<sup>46</sup>), and denial of federal funding for students – an extra punishment in addition to potential incarceration and lifelong criminal records. The result is a worsening cycle of poverty, marginalisation and criminality for individuals and families

## 8. The rights of the child

Children are at the forefront of political justifications for drug control. Indeed, there are few more politically potent justifications for any policy than child protection. But the reality is that children's rights have been increasingly violated through drug control measures, while drug use and drug-related harms among children have continued to rise. (For more detail, see chapter 9.)

The UN Convention on the Rights of the Child is the core international treaty setting out a comprehensive set of rights protections for children. All but two states (Somalia and the US) have agreed to be bound by its terms. It includes protection from drugs (Article 33), with states being required to: “take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties and to prevent the use of children in the illicit production and trafficking of such substances.”

The key question, when counting the costs to child rights of the war on drugs, is this: Are current policies “appropriate measures”, particularly given the outcomes?

- As many as 1,000 children have been killed to date in the Mexican war on drugs, and up to 50,000 have lost at least one parent<sup>47</sup>
- Children are used to fight against the drug cartels in Mexico<sup>48</sup>
- Children grow up in prison when their parents are convicted of minor drug offences<sup>49</sup>
- Children are subjected to invasive searches for drugs<sup>50</sup>
- Random school drug testing takes place, in violation of the child's right to privacy<sup>51</sup>

**“Human rights violations continue to occur in the implementation of drug control policies by States. Violations of the right to life, the right to health, the prohibition of torture and other forms of ill treatment, the prohibition of arbitrary detention, the right to equality and non-discrimination, the rights of indigenous peoples and the rights of children are all sources of serious concern”**

**Navanethem Pillay**  
UN High Commissioner for Human Rights  
2014

- Children who inject drugs are denied access to harm reduction, based on their age<sup>52</sup>
- Children are beaten and sexually abused in drug detention centres<sup>53</sup>
- Street children are subjected to police violence due to suspected involvement in drug dealing<sup>54</sup>
- Children are tortured to extract evidence<sup>55</sup>
- Aerial fumigation in Colombia damages children's physical and mental health<sup>56</sup>

It is a tragic irony that the good intentions of many who defend the status quo, with the aim of protecting and defending the rights of young people, have in practice exposed them to dramatically increased levels of risk and actual harm.

As Dainius Pūras, UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, has noted:

“One of the arguments used in support of the ‘war against drugs’ and zero-tolerance approaches is the protection of children. However, history and evidence have shown that the negative impact of repressive drug policies on children's health and their healthy development often outweighs the protective element



behind such policies, and children who use drugs are criminalized, do not have access to harm reduction or adequate drug treatment, and are placed in compulsory drug rehabilitation centres.”<sup>57</sup>

## 9. Cultural and indigenous rights

The war on drugs has led to decisions being made about long-established uses of drug crops by indigenous peoples without their participation – effectively criminalising entire cultures and putting UN drug treaty commitments in direct conflict with the UN treaty on Indigenous Rights. (For more detail, see chapter 7.)

### Human rights violations in Mexico’s “war on drugs”

- Complaints made to national human rights commissions regarding military and police abuses have increased by 900% since the beginning of the militarised “war on drugs” in 2006
- Attacks on journalists, human rights defenders and migrants by criminal groups and security forces have gone uninvestigated. For example, more than 100 journalists and media workers have been killed or disappeared since 2007<sup>58</sup>
- Children and entire families have been killed at drug-war military checkpoints. These include Bryan and Martin Almanza, aged five and nine, killed when soldiers opened fire on their vehicle in April 2010. In June 2007, two women and three children, aged two, four, and seven, were shot and killed when they failed to stop at a military checkpoint involved in “the permanent campaign against drug trafficking”. A child of fifteen and his father were killed by soldiers in Monterrey, with relatives saying they were shot without any indication to stop<sup>59</sup>

## Are there benefits?

The historical absence of human rights from the high level drug policy discourse means that – unlike health, security, or child protection benefits, for example – there are relatively few specific claims for human rights benefits made for punitive drug law enforcement, which has generally not been framed in these terms. Where attempts have been made,<sup>60</sup> these have tended to focus on arguments that enforcement helps guarantee the rights of the child (specifically by ensuring drug-free lifestyles) that, as explored above, reflect misunderstandings of the nature of the relevant human rights law and its interpretation.<sup>61</sup>

Many claim that having an international consensus on how to deal with drugs is both an indicator of success and of support for the status quo. However, as this chapter demonstrates, the human rights outcomes of this consensus are overwhelmingly negative, and the process by which the international consensus is maintained is one that, historically at least, has – until very recently – actively precluded debate on alternatives that could achieve better outcomes. There is every reason to believe that a new international consensus could be achieved and maintained around a system of drug control that is meaningfully based upon the three pillars of the UN – peace and security, development and human rights.

## How to count the costs?

International human rights law provides a wide range of broad, legally binding indicators against which to measure the costs or benefits of drug policies. Detailed indicators relating to specific areas of policy should be developed from these, and existing indicators structured to better understand a human rights-based approach to drug control.

A range of evaluative and comparative tools exist, including a well-established body of research on human rights impact assessments. At national level, human rights must be incorporated into planning, implementation and evaluation of all programmes and policies. Similarly, international funding of all drug policy interventions must pass through human rights scrutiny (something that is conspicuously not happening at present<sup>62</sup>). At the UN level, the drug control system must begin to operate as a set of mechanisms to deliver, not undermine, human rights. The UNODC has made progress in this area through the adoption of new human rights guidelines for country teams – although UNODC spending is not yet all subject to its own human rights scrutiny guidelines.



The UN Commission on Narcotic Drugs must play a role in discussing, at a political level, human rights concerns relating to drug policies, and the International Narcotics Control Board must incorporate human rights into its scrutiny of state practices.

In order to achieve this, civil society engagement is essential. Otherwise, the true human rights picture will never become clear.

## Conclusions

Some human rights are absolute and many of the abuses documented in this chapter are inexcusable, regardless of the context in which they take place, or the aims pursued. These include freedom from torture, execution and arbitrary detention, and there are many clear-cut examples of drug policies or practices violating these rights.

Some other rights, such as the exercise of indigenous and cultural rights, may be lawfully restricted. But this poses a crucial question for the current drug control system.<sup>63</sup> The test for when restrictions on human rights are permissible does not and should not lie in drug control legislation or policies; it lies in human rights law. Broadly speaking, any restriction on human rights must be prescribed by law, in pursuit of a legitimate aim, and be proportionate to the aim pursued. In considering this question, the seriousness of the restriction (which varies depending on the right and individual circumstances), its breadth (in this case global and applicable to everyone), and its duration (in this case perpetual) are key.

However, in the final analysis, the question is rather simple: If a law or policy cannot achieve its aim, or has proven incapable of doing so over a considerable length of time (in this case more than half a century), then can the restrictions on human rights that stem from it ever be proportionate and therefore permissible?

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05

# Creating crime, enriching criminals

**A key strand of the drug-war narrative has been the fight against crime. In reality, the basic economics of prohibiting a substance for which there is high demand inevitably creates a huge criminal market. As a result taking an enforcement led approach has had the disastrous consequence of creating crime at all levels – from staggeringly violent and wealthy cartels, to acquisitive crime by low-income, dependent users.**

## Introduction

In its simplest formulation, the link between the global drug control regime and crime creation was identified by the very UN agency that oversees it, the UNODC, which in 2008 noted:

“The first unintended consequence is the creation of a criminal black market. There is no shortage of criminals interested in competing in a market in which hundredfold increases in price from production to retail are not uncommon.”<sup>1</sup>

This chapter provides a fuller account of this unintended consequence of the current approach to drugs, and its impact across the world.

The 1961 UN Single Convention on Narcotic Drugs<sup>2</sup> – the legal basis of the global war on drugs – has two parallel functions. Alongside establishing a global prohibition of some drugs for nonmedical use, it also strictly regulates many of the same drugs for scientific and medical uses. In stark contrast to the Convention’s language describing medical use, the rhetoric on non-medical use frames it as a threat to the “health and welfare of mankind”, and a “serious evil” which the global community must “combat”, setting the tone for the “war” on drugs that has followed.

The convention’s parallel functions have also led to parallel markets – one for medical drugs controlled and regulated by the state and UN institutions, the other for non-medical drugs controlled by organised criminals and paramilitaries. There is a striking comparison to be made in the level of criminality associated with production and supply in these parallel trades. The legal medical opiate market, for example, accounts for around half of global opium production<sup>3</sup> but entails none of the organised crime, violence and conflict associated with its illicit twin.

By the mid-1980s the emphasis and rhetoric of international drug policy had shifted, from its earlier focus on drug use, towards a growing concern with the problems relating to organised crime involvement in drug markets.<sup>4</sup> This trend was reflected in law, specifically the third of the UN drug conventions, which focuses on tackling the dramatic increase in the “illicit traffic in narcotic drugs and psychotropic substances” that had taken place since the 1961 Single Convention.

Drug-war politics over the last 50 years, has witnessed the threat to public health from drug use become increasingly interwoven with the threat to public safety (and national security) from drug market-related crime. “Drugs and crime” have become fused together in political rhetoric (the “drug threat” or “world drug problem”), in institutions like the UNODC, and in domestic policy and law. This has led to an anomalous and malfunctioning system in which drug use is acknowledged as being primarily a public health issue, yet most of the responses to it, and resources addressing it (see chapter 6), are administered by the criminal justice system, primarily in the form of punitive police and military enforcement targeted at drug users, dealers and producers.

Ironically, as the UNODC has belatedly acknowledged, it is these same punitive, enforcement-led policies that are creating, or fuelling, much of the drug market-related criminality in the first place.



## The economic dynamics of illegal drug markets and criminality

The links between drugs and crime are complex. However, a key aspect of the link is the economic dynamics of their prohibition in the context of high demand which, actively fuels the criminality that enforcement is supposed to eliminate. The squeezing of supply in a demand-led market has two key criminogenic effects, resulting mainly from the inflation of drug prices under prohibition. The first is the creation of a huge profit incentive for criminal entrepreneurs to become involved in the drug trade. The second is acquisitive crime committed by low-income dependent drug users to support their habits.

This price increase reflects both enforcement risks being incorporated into illicit drug pricing, and unregulated profiteering that occurs in an unregulated criminal marketplace. This is the “alchemy of prohibition”<sup>5</sup> by which low-value agricultural products become literally worth more than their weight in gold. (For more detail, see chapter 6.)

### Making a bad problem worse

Drug law enforcement can also have a Darwinian “survival of the fittest” effect. The least competent criminals are not only caught more often by law enforcement (especially when driven by arrest targets), but are also more likely to be successfully convicted, leaving the market to the most powerful, efficient and ruthless.

While enforcement can show seemingly impressive results in terms of arrests and seizures, impacts on the market are inevitably marginal, localised and temporary. Indeed, as the UNODC acknowledges,<sup>6</sup> one of the unintended

consequences of the war on drugs is the so-called “balloon effect”, whereby rather than eliminating criminal activity, enforcement merely displaces it somewhere else. When enforcement does take out criminals, it also creates a vacuum, and often more violence, as rival organisations fight for control, or organisations are destabilised by internal power struggles.

## The crime costs of the war on drugs

### 1. Street crime

There is an active debate over how much drug-related street crime results from drug policy and laws, as opposed to drug use and intoxication, or to what extent involvement in crime leads to drug use, rather than the other way round.<sup>7</sup> There are also many cultural and economic factors, including inequality and deprivation, that impact on both street crime and drug use.

However, while estimates are hard to formulate and often contentious,<sup>8</sup> it is clear that a significant proportion of the street crime blighting many urban environments has its roots in the criminal trade which is fuelled by the war on drugs.

From Mexico to London, drug gang activity, especially turf wars over territory and markets, is a major source of violence, intimidation and other antisocial and criminal behaviour, with vulnerable young people in particular being drawn into such patterns of offending.



The war on drugs has put organised – and often violent – criminals in control of the drug trade

- According to the US Department of Justice, 900,000 criminally active gang members – a third of them juveniles<sup>9</sup> – in 20,000 street gangs, in over 2,500 cities, dominate the US drugs trade<sup>10</sup>
- A relatively small number of people with problematic drug dependencies and low-incomes commit large volumes of property crime to fund their habits. A study by the UK Prime Minister's Strategy Unit in 2003 stated that this population are responsible for 56% of all crimes, including: "85% of shoplifting, 70-80% of burglaries, [and] 54% of robberies"<sup>11</sup>
- Some people with problematic drug dependencies and low-incomes (mostly women) also resort to street sex work to buy drugs. The UK Home Office estimated that 80-95% of street sex work is drug-motivated. Studies from Asia, Russia and Ukraine show people who inject drugs are more likely than other sex workers to engage in street soliciting.<sup>12</sup> Drug-using street sex workers also face increased risk of arrest, and of violence from clients, pimps and police<sup>13</sup>

By contrast, these problems are virtually absent from legal alcohol and tobacco markets, underlining that such issues stem from drug prohibition and the current enforcement-based approach, rather than drug use *per se*. While there is, of course, criminality involved in alcohol and tobacco smuggling (and a smaller proportion of counterfeiting), and also street crime associated with alcohol intoxication, there are few if any of the problems of street dealing (licensed sales negating the need), violence between rival retailers (brewers, pub landlords and tobacconists do not attack each other), or fundraising crime committed by dependent users (alcohol or tobacco dependence can be maintained at a fraction of the price of heroin or crack cocaine dependence).

## 2. Criminalising people who use drugs

Despite the specific drug-war aim of significantly reducing or eliminating illegal drug use, and ultimately the creation of a drug-free world, global consumption and the size of the drug market serving it has risen dramatically since the war on drugs started. The UNODC estimates, probably conservatively, that nearly a quarter of a billion people (5.2% of 15- to 64-year-olds) used illicit substances at least once in 2013, the most recent year for which there is data.<sup>18</sup> Global lifetime usage figures probably approach one billion.

### Drug law enforcers highlight the futility of drug law enforcement

*"I invite you all to imagine that this year, all drugs produced and trafficked around the world, were seized: the dream of law enforcement agencies. Well, when we wake up having had this dream, we would realize that the same amount of drugs – hundreds of tons of heroin, cocaine and cannabis – would be produced again next year. In other words, this first dream shows that, while law enforcement is necessary for drug control, it is not sufficient. New supply would keep coming on stream, year after year."*<sup>14</sup>

**Antonio Maria Costa, Executive Director of the UNODC, 2007**

*"If demand [for drugs] persists, it's going to find ways to get what it wants. And if it isn't from Colombia it's going to be from someplace else."*<sup>15</sup>

**Donald Rumsfeld, US Secretary of Defense, 2001**

*"As long as there is a demand for drugs in this country, some crook is gonna figure out how to get 'em here..."*<sup>16</sup>

**George W Bush, US president, 2002**

*"Over the past 10-15 years, despite interventions at every point in the supply chain, cocaine and heroin consumption have been rising, prices falling and drugs have continued to reach users. Government interventions against the drug business are a cost of doing business, rather than a substantive threat to the industry's viability."*<sup>17</sup>

**UK Prime Minister's Strategy Unit Drugs Report, 2003**

**“Prohibition creates violence because it drives the drug market underground. This means buyers and sellers cannot resolve their disputes with lawsuits, arbitration or advertising, so they resort to violence instead. Violence was common in the alcohol industry when it was banned during Prohibition, but not before or after. Violence is the norm in illicit gambling markets but not in legal ones. Violence is routine when prostitution is banned but not when it’s permitted. Violence results from policies that create black markets, not from the characteristics of the good or activity in question.”**

**Jeffery Miron**  
Senior Lecturer, Department of Economics,  
Harvard University

The impact of criminalisation and enforcement varies widely, with sanctions against people who use drugs ranging from formal or informal warnings, fines and treatment referrals (often mandatory), to lengthy prison sentences and punishment beatings. Within populations impacts also vary, but tend to be concentrated on young people, certain ethnic and other minorities, socially and economically deprived communities, and people who inject drugs.

But whatever the penalties deployed, there is a startling lack of evidence that the intensity of drug law enforcement makes a significant difference to the number of people using drugs. For example, a 2008 large-scale study using World Health Organization data from 17 countries found: “Globally, drug use is not distributed evenly and is not simply related to drug policy, since countries with stringent user-level illegal drug policies did not have lower levels of use than countries with liberal ones”.<sup>19</sup> And a 2014 evidence review by the UK Home Office

came to the same conclusion, stating: “we did not in our fact-finding observe any obvious relationship between the toughness of a country’s enforcement against drug possession, and levels of drug use in that country”.<sup>20</sup> Ultimately, enforcement-related deterrence is, at best, marginal compared to the wider social, cultural and economic factors that influence drug use (for more detail, see chapter 10).

### 3. Mass incarceration

The criminal justice-led approach to drugs has fuelled a huge expansion of prison populations over the last 50 years. While significant numbers are incarcerated for possession or use alone, far more are imprisoned for minor drug market offences (growing, transporting or selling) or drug-market related offending (such as drug gang violence and disorder), overloading the criminal justice systems of countries all over the globe.<sup>21</sup>

These are mainly low-level players in the illicit trade, and people with problematic drug dependencies and low-incomes offending to support their use as described above. There has also been a growing use of arbitrary detention masquerading as “drug treatment” in centres that are often no more than prisons, as well as the use of lengthy pre-trial detention for drug offenders (see chapter 4).

### 4. Organised crime

The opportunity created by the collision of drug prohibition and high demand for drugs has been seized by organised crime with ruthless efficiency, and at devastating cost. Since 1961 the illicit trade has grown to become one of the biggest revenue generators for organised crime worldwide.<sup>22</sup> It has spawned a range of other criminal activities, including international money laundering and widespread corruption. The untaxed profits are also often reinvested in expanding criminal operations in other areas such as extortion, kidnapping and robbery.

### 5. Violent crime

In place of the formal regulation used in the legitimate economy – such as trading standards bodies, contract enforcement, unions, ombudsmen and consumer groups – it is violence that is the default regulatory mechanism in the illicit drug trade. It occurs through enforcing payment of debts, rival criminals and organisations fighting to protect or expand their market share and profits, conflict with drug law enforcers, or intimidation of the public.

Gangs or cartels that are primarily financed by the sale of illicit drugs have been implicated in a substantial proportion of street violence and homicides. In the USA it has been estimated that 13% of homicides are gang related, rising to 50% in Los Angeles and Chicago – with drugs the driver of gang crime most frequently cited by authorities.<sup>23</sup> However, far from law enforcement reducing violence, it often exacerbates the problem. As a comprehensive review by the International Center for Science in Drug Policy states:

“Contrary to the conventional wisdom that increasing drug law enforcement will reduce violence, the existing scientific evidence strongly suggests that drug prohibition likely contributes to drug market violence and higher homicide rates.”<sup>24</sup>

These findings are:

“consistent with historical examples such as the steep increases in gun-related homicides that emerged under alcohol prohibition in the United States and after the removal of Colombia’s Cali and Medellín Cartels in the 1990s. In this second instance, the destruction of the cartels’ cocaine duopoly was followed by the emergence of a fractured network of smaller cocaine-trafficking cartels that increasingly used violence to protect and increase their market share.”

Even the illegal cannabis market has reached a scale that means it is increasingly characterised by violence. Supply to the US is now a major part of Mexican drug cartels’ profits – credible estimates are around 15%,<sup>25</sup> with a value of around \$1.5 billion.<sup>26</sup> Similarly, the cannabis market in British Columbia, Canada, is estimated to be worth about C\$7 billion annually, mainly through supplying the US. It is the lucrative nature of this market that has led to a ferocious gang war being waged for control of the available profits.<sup>27</sup> These profits have recently begun to be undermined by legal market regulation in some US states. Moves towards legal regulation are likely to have an increasing impact with further reform initiatives in the US pending, as well as reforms in Canada, and Mexico.

Drug profits are also fuelling violence in wider national and regional conflicts. Many affected countries, such as Colombia, Afghanistan and Burma, have long histories of internal and regional conflict. However, drug money has played a major role in motivating and arming separatist and insurgent groups, and domestic and international terror groups, blurring the distinction between them and criminal gangs (see chapter 2). In the longer term, violence

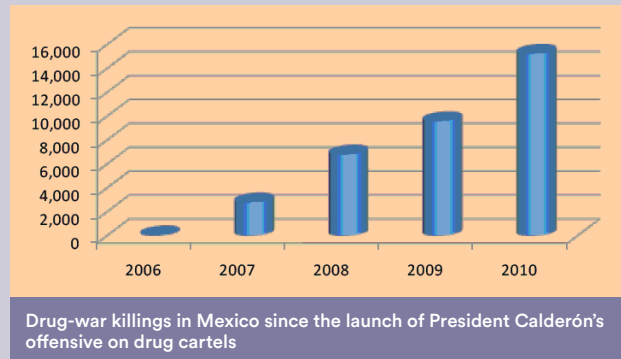
can traumatisate populations for generations, in particular fostering a culture of violence among young people.

- The opium trade earns the Taliban and other extremist groups along the Pakistan-Afghanistan border up to \$500 million a year, similar to the cocaine revenues that fund Colombia’s FARC (Revolutionary Armed Forces of Colombia)<sup>28</sup>
- At the height of the Colombian drug wars in 1990, the annual murder rate was one per 1,000 of the population – three times that of Brazil and Mexico, and ten times that of the US<sup>29</sup>
- In Southeast Asia, the growing methamphetamine trade is linked to regional instability and conflict. Minority groups from the Wa and Shan states are funding insurgency operations against Burma’s military junta through the manufacture and wholesale distribution of methamphetamine and opium to Thailand, China and other countries in the region<sup>30</sup>
- A 2011 UNODC global study into homicide estimated that in countries with high murder rates due to organised crime, such as those in Central America, men have a one in 50 chance of being murdered before they reach the age of 31<sup>31</sup>
- Mexico’s drug war violence became so acute after the government crackdown, it caused male life expectancy rates to drop on average 0.6 years between 2005 and 2010, reversing a decade of public health improvements. Male life expectancy fell by three years in Chihuahua state, which includes Ciudad Juárez – once considered the murder capital of the world<sup>32</sup>

## Drug-related violence in Mexico

The explosion of violence in Mexico since a major military-led crackdown against the drug cartels was announced by former President Calderón in 2006 has been a startling demonstration of the potential unintended consequences of the war on drugs:

- Estimates of deaths from violence related to the illegal drug trade in Mexico since the war on drugs was scaled-up in 2006 range from 60,000 to more than 100,000.<sup>33</sup> Mass killings, beheadings and public displays of the dead have become commonplace
- Violence against journalists has had a chilling effect on freedom of expression, with many reporters and editors explicitly threatened with death if they publish negative stories about Mexico's drug cartels or the politicians and officials linked to them. The choice is simple: censor or die.<sup>34</sup> Estimates vary, but it is thought that more than 100 journalists and media workers have been killed or disappeared since 2007.<sup>35 36</sup> The deaths undermine Mexican democracy and the rule of law, contributing to a culture of impunity
- Historically, victims of drug-related violence have been mainly young males. But increasingly women and children are becoming victims too. Between 2006 and 2010 alone, as many as 4,000 women and 1,000 children were killed in drug-market-related conflict, and around 50,000 children lost at least one parent<sup>37</sup>
- A 2010 US State Department report revealed the extent of the violence that Mexican cartels are capable of perpetrating: "They employ advanced military tactics and utilize sophisticated weaponry such as sniper rifles, grenades, rocket-propelled grenades and even mortars in attacks on security personnel. [Drug trafficking organizations] have openly challenged the [Mexican government] through conflict and intimidation and have fought amongst themselves to control drug distribution routes. The results led to unprecedented violence and a general sense of insecurity in certain areas"<sup>38</sup>



## 6. Crimes perpetrated by governments / states

There are a range of illegal acts perpetrated by states or governments under the banner of the war on drugs. These include use of the death penalty; extrajudicial killings and assassinations; arbitrary detention without trial; corporal punishment and other forms of torture; and cruel, inhuman and degrading treatment or punishment. (For more detail, see chapter 4.)

## 7. Economic costs of drug war-related crime and enforcement

The costs of proactive drug law enforcement run into the tens of billions, but create even greater reactive costs dealing with drug market-related crime across the criminal justice system. (For more detail, see chapter 6.)

## Are there benefits?

The key benefit promised 50 years ago for instigating a criminal justice-led drug control system was to reduce, or eliminate, the "evil" of drug addiction.<sup>39</sup> This, it was argued, would be achieved through enforcement-led supply restrictions and a reduction in levels of demand



caused by the deterrent effect of legal sanctions against users. However, since then drug use and related health harms have risen faster than any previous period of history. Despite ever increasing resources being directed into supply-side enforcement, the criminal market has more than met this growing demand.

There is also little or no evidence punitive enforcement significantly deters use. Comparisons between states or regions show no clear correlation between levels of use and toughness of approach,<sup>40</sup> nor do studies tracking the effects of changes in policy – for example if new laws decriminalising possession are introduced.<sup>41</sup>

Drug enforcement does, of course, lead to the arrest and prosecution of serious and violent criminals who are rightly brought to justice. This seems an obvious benefit both for the families and communities of the victims, and for the maintenance of civic order. However, as noted by Pierre Lapauque, chief of the UNODC's Organized Crime and Anti-Money-Laundering Unit: "imprisoned criminals will be immediately replaced by others, and their activities will continue as long as crime is lucrative."<sup>42</sup> The UNODC also now acknowledges that these individuals are part of the "criminal black market" that is an "unintended consequence" of the war on drugs in the first place.<sup>43</sup>

There are possibilities for improving the targeting of enforcement efforts towards the most harmful elements of the criminal trade<sup>44</sup> (see chapter 10), but the stark reality is that the nominal benefits of enforcement simply shift the problem geographically, from one criminal group to another, or displace users from one drug to another.

So while the war on drugs can potentially eliminate violent criminals like Pablo Escobar or Joaquín "El Chapo" Guzmán, it also enables their rise to power and, in the longer term, can do little or nothing to eliminate the wider criminal market they are a part of.

Finally, it is argued that the criminal justice system can help some offenders to access treatment via diversion schemes, drugs courts, or prison treatment programmes. While such approaches can be useful and are certainly preferable to punitive responses that do not involve any service provision, serious ethical questions remain over treatment if it is coerced (often with drug testing) with a threat of punishment or incarceration.<sup>45</sup> Evidence also suggests the stigma and fear of arrest often deter people from seeking treatment, and it is more effective to divert users into treatment without harming their future prospects with a criminal record for drug use.<sup>46</sup>

## Conclusions

The battle cry to fight a war against drugs has had such political potency that its negative costs have undergone little proper scrutiny. Evaluation of drug law enforcement still invariably focuses on process measures, like arrests and drug seizures, rather than more meaningful outcome indicators that might demonstrate failure – such as levels of availability, or wider health and social costs, including the creation of crime.<sup>47</sup> When these wider costs have been considered, the conclusions have often been suppressed or drowned out by shrill drug-war rhetoric and law-and-order populism.

Worse still, a self-justifying false logic now prevails: as the criminal justice problems associated with illegal drug markets get worse, these same problems are used to justify an intensification of the very enforcement measures that are fuelling them. As a result, while many governments, and the UNODC, publicly acknowledge the unintended crime costs of the current system, just as with all the other costs in this report, they have yet to meaningfully measure them, let alone examine policy alternatives that might reduce them. It is this lack of political will that is the main obstacle to progress, not methodological challenges in making such assessments.

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06

Wasting  
billions,  
undermining  
economies

**The economic costs of the war on drugs include a significant wasteful expenditure of valuable resources at a time of global economic uncertainty; the negative impact on legitimate economies and economic development; the costs to lawful businesses; and the wider economic costs resulting from a violent and unregulated criminal market.**

## Introduction

The war on drugs has led to the creation of the world's largest illegal commodities market. Far from producing a "drug-free world",<sup>1</sup> prohibitionist policies have simply abdicated control of the drug trade to violent criminal profiteers. Despite at least \$100 billion spent every year on tackling this trade, the illicit market has continued to expand, and is now estimated by the UNODC to have a retail value of \$320 billion<sup>2</sup> – a figure that dwarfs the gross domestic product of even many developed countries.<sup>3</sup>

The scale of profits generated by criminal drug organisations enables them to undermine state institutions through corruption and intimidation, blur the boundaries between the legal and illegal economies, and threaten the economic stability of entire countries and regions.

To begin examining how the war on drugs negatively impacts on the legitimate economy, it is necessary to look at how the trade came to be in the hands of organised crime in the first place.

The 1961 UN Single Convention on Narcotic Drugs, the international treaty that provides the legal justification for the global drug war, has two parallel functions. Alongside establishing a global prohibition of certain drugs for non-medical use, the convention also strictly regulates many of the same drugs for scientific and medical uses. These parallel functions have led to parallel markets: one for medical drugs, controlled and regulated by state and UN institutions; the other for non-medical drugs, unregulated and controlled by organised criminals.

For economists and businesspeople, this is a predictable result. Squeezing the supply (through enforcement) of products for which there is high and growing demand dramatically increases their price, creating an opportunity and profit motive for criminal entrepreneurs to enter the trade.

Prices are then further inflated as suppliers' compensate themselves for the risks of arrest and incarceration,

and for the risk of harm by other criminals and market competitors. Through this alchemy of prohibition,<sup>4</sup> low-value agricultural products become literally worth more than their weight in gold – and it is organised criminals who benefit.

Given that enforcement policies have essentially created this criminal market – and by inference much of the criminality and costs associated with it – it is startling to note that these approaches have not been subject to meaningful economic analysis and scrutiny. At a time of global economic vulnerability, it is all the more vital to evaluate the cost-effectiveness of all major public expenditure, and assess whether funds could be better

**"The first unintended consequence [of the current drug control system] is a huge criminal black market that now thrives in order to get prohibited substances from producers to consumers. Whether driven by a 'supply push' or a 'demand pull,' the financial incentives to enter this [illicit drug] market are enormous. There is no shortage of criminals competing to claw out a share of a market in which hundred fold increases in price from production to retail are not uncommon."**

**Antonio Maria Costa**

Executive Director of the United Nations Office on Drugs and Crime  
2008

spent elsewhere. After more than half a century of the war on drugs, it is time to look more closely at the return we are getting on our investment.

## The costs of the war on drugs to the economy

### 1. Billions spent on drug law enforcement

Despite the difficulties in calculating the precise amount of money spent pursuing the war on drugs, some tentative estimates and comparisons can be made:

- Total expenditure on drug law enforcement by the US has been estimated at over \$1 trillion over the last 40 years.<sup>5</sup> Federal spending on drug control in the US is officially around \$14.9 billion on domestic and international supply reduction, compared to \$10.7 billion on treatment and prevention.<sup>6</sup> It is much more difficult to obtain accurate data regarding state and local government expenditure, though one estimate of drug-related criminal justice expenditure alone is \$25.7 billion<sup>7</sup>
- The total proactive annual government expenditure on drug policy in the United Kingdom was £1.46 billion in 2011/12, out of a total spend of £2.5 billion.<sup>8</sup> Only £7 million is spent on information and education campaigns. By contrast, it is estimated that the total reactive government expenditure on drug-related offending across the criminal justice system is £3.35 billion<sup>9</sup>
- Since the beginning of the 2001 conflict, the US alone has spent \$7.6 billion on enforcement-led efforts to reduce the size of the opium trade in Afghanistan.

Despite this expenditure, opium poppy production has soared and is now at or near record levels<sup>10</sup>

- Enforcement spending tends to dominate total drug policy budgets even in countries where harm reduction is prioritised over use reduction. In Australia for example, enforcement accounts for 55% of the \$1.3 billion spent on proactive drug control programs (with 23% on prevention, 17% on treatment, 3% on harm reduction), and the majority of the \$1.9 billion spent dealing with the consequences of drug use and markets, related to crime costs.<sup>11</sup> Similarly, enforcement accounted for 75% of the Netherlands' €2.185 billion spending on drugs in 2003<sup>12</sup>
- In 2010, the Mexican government spent \$9 billion fighting drug trafficking<sup>13</sup>

These and other examples indicate it is likely that between a third and a half of proactive drug-related expenditure globally is spent on enforcement, with a considerably larger sum spent on dealing with fallout from the criminal market it has fuelled. While precise figures are impossible to formulate (and would be subject to variation according to definitions and inclusion), it is safe to say that the world spends well in excess of \$100 billion annually on drug law enforcement.

### Value for money?

In the highly politicised and often emotive drug policy debate, economic analysis offers a useful level of objectivity, focusing exclusively on costs and benefits in ways that can be easily compared and understood. To assess whether drug law enforcement represents value for money, we must simply look at what we are spending,



Billions of dollars a year are wasted on ineffective drug law enforcement



what we are getting in return, and whether the return achieves the stated aims of drug policy.

The overarching practical aim of international supply-side drug enforcement is to eliminate or significantly reduce the availability and use of illegal drugs.<sup>14</sup> Yet despite decades of growing enforcement budgets globally, each year we are further from the unrealistic goal of a “drug-free world”. Instead, global drug markets have expanded and use has continued to rise.<sup>15</sup>

On this basis, the past half-century clearly indicates that drug law enforcement offers very poor value for money, yet there remains a conspicuous absence of government-led economic or cost-benefit analyses in this field. Indeed, no government or international body in the world has undertaken a sufficiently sophisticated assessment.

### Opportunity costs

Particularly, at a time with government austerity measures adopted by many countries, growing drug law enforcement budgets translate into reduced options for other areas of expenditure – whether other enforcement priorities, other drug-related public health interventions (such as education, prevention, harm reduction and treatment), or wider social policy spending.

Further opportunity costs accrue from the productivity and economic activity that is forfeited as a result of the mass incarceration of drug offenders. In the US, for example, the number of people imprisoned for drug offences has risen from approximately 38,000 to more than 500,000 in the last four decades.<sup>16</sup> The lost productivity of this population was valued at approximately \$40 billion annually by the Office of National Drug Control Policy (ONDCP) in 2004.<sup>17</sup>

### Methodological challenges

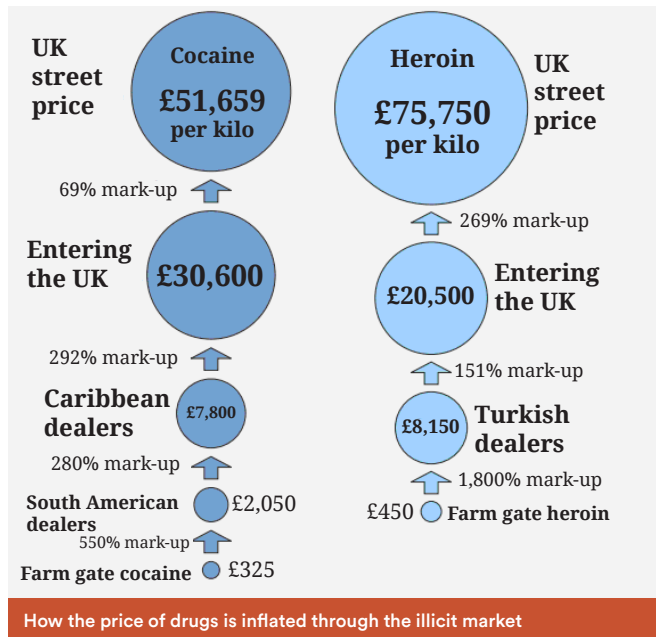
It should be relatively simple to calculate what is spent on drug law enforcement. Unfortunately, governments rarely produce transparent and accessible breakdowns of all relevant expenditure. There are various reasons for this:

- Drug-related expenditure is distributed across multiple government sectors (e.g. health, border control, policing, defence)
- There is a distinction between proactive and reactive spending. The former is supply-side drug law enforcement, which has its own discrete, labelled budget allocation; the latter is expenditure across the criminal justice system, used to deal with drug offenders and drug-related crime. This reactive spend is inevitably a much larger sum, and is also harder to define and measure – not least because measurements are retrospective
- It is difficult to make comparisons between countries because they may use different methodologies to calculate drug-related spending, data may not be available for the same year, and is subject to currency fluctuation
- Many countries publish little or no meaningful figures on drug policy-related spending, including some with very hard-line policies, including Russia, Thailand, Singapore, Saudi Arabia, Iran, and China

**“If [drug cartels] are undermining institutions in these countries, that will impact our capacity to do business in these countries.”**

**Barack Obama**  
President of the United States  
April 2012





and there are a large number of variables to consider in terms of potential tax revenue estimates from a legally regulated drug trade (including levels of use, prices and tax rates). However, some indications are available from emerging legal or quasi-legal cannabis markets; tax on recreational cannabis in Colorado state in the US reached over \$120 million in the second year of sales,<sup>18</sup> while the Dutch coffee shops, reportedly pay over €300 million in tax annually, and turn over in the region of €1.6 billion.<sup>19</sup> A more speculative report by Harvard economist Jeffrey Miron found that legalising and regulating drugs in the US would yield tens of billions of dollars annually in both taxation and enforcement savings.<sup>20</sup>

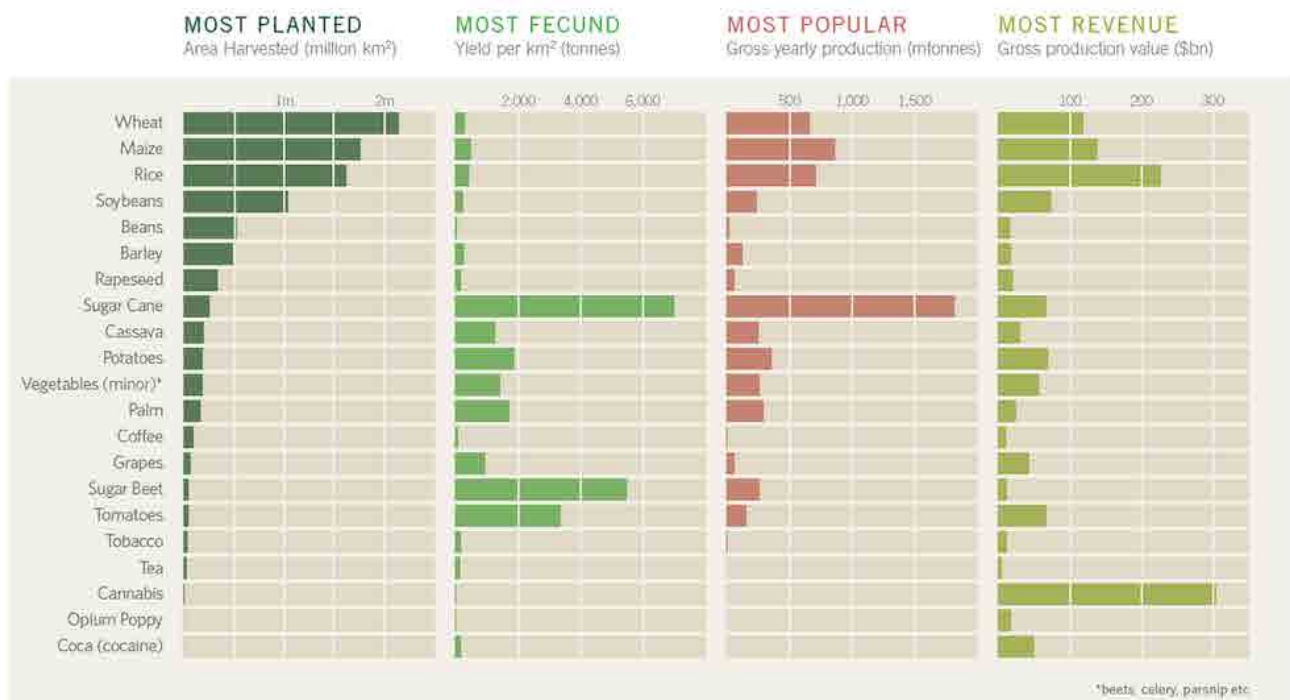
## 2. The creation of a criminally controlled, illegal drug market

### The size of the illegal market

Lost tax revenue is another opportunity cost of the war on drugs. Under prohibition, control of the drug market defaults to unregulated and untaxed criminal profiteers, meaning governments forgo a significant potential source of income. Relatively little work has been done in this area,

Estimating the size and value of illegal drug markets has important implications for policy making but presents serious methodological challenges. Drug producers, traffickers and dealers naturally do their best to remain hidden, so do not list themselves on stock exchanges, file

## What is the world's biggest cash crop?



tax returns, or publicly audit their accounts. Despite the unreliable nature of much of the data, the UNODC has made the following cautious estimates:

- In 2005, the global drug trade was worth \$13 billion at production level, \$94 billion at wholesale level, and \$320 billion at retail level – on a par with the global textiles trade<sup>21</sup> (note: figures are for market turnover rather than profits)
- In 2009, the global cocaine market was worth \$85 billion,<sup>22</sup> and the global opium market was valued at \$68 billion, of which \$61 billion was for heroin<sup>23</sup>
- Research based on UN Food and Agriculture Organisation and UNODC data suggests that cannabis is now the world's biggest cash crop in revenue terms (see graphic on previous page)<sup>24</sup>

### The economic dynamics of an unregulated criminal market

The illicit drug trade is extremely resilient. The theory behind supply-side enforcement is to restrict production and supply through crop eradication or interdiction, thereby either directly reducing availability or pushing up prices and, in turn, reducing consumption. However, in an essentially unregulated market in which the laws of supply and demand are preminent, increasing prices only serves to increase the profit incentive for new producers and traffickers to enter the market. Supply then increases, prices fall, and a new equilibrium is soon established. As a result, enforcement pressure on one production area or transit route, at best, simply displaces illegal activity to new ones, making any gains localised and short-lived. This is the now well-documented “balloon effect” that has, for example, seen coca production shifting between countries in Latin America, and transit routes shifting from the Caribbean to West Africa and Mexico – analogous to how, when pressure is applied to one area of a balloon, air is displaced into another, less resistant area which then expands.

While there is a 635% mark-up from farm gate to consumer in the price of a serving of a legal drug, coffee, the percentage price mark-up for a single serving of cocaine, has been estimated at over 6,000%.<sup>25</sup> Most of the price effects of prohibition are due to what are known as the “structural consequences of product illegality” (i.e. inefficiencies generated by producers, traffickers and dealers having to operate covertly).

Although it is clearly true that the simple illegality of drugs artificially inflates prices far beyond what they would be in an unrestricted commercial legal market, the intensity of supply-side enforcement seems to make little difference. A 2014 review of the relevant literature concluded: “...there is little evidence that raising the risk of arrest, incarceration or seizure at different levels of the distribution system will raise prices at the targeted level, let alone retail prices.”<sup>26</sup> A key issue here is that farm-gate drug prices are so low relative to street-level prices that even if drug production levels are significantly reduced, or if seizure rates increase dramatically, any impact on the final prices paid by users will most likely be negligible; increased production costs can easily be absorbed due to the huge mark-ups that are applied throughout the supply chain.<sup>27</sup>

As such, despite ever-increasing resources devoted to supply-side enforcement, evidence suggests that drug prices, while remaining far higher than legal commodities, have generally decreased over the past three decades.

Internationally, the long-term trend is of price declines despite ever-increasing resources directed towards interdiction – the direct opposite of the effect predicted by enforcement advocates. Data from official surveillance systems show that, over the past two decades, while seizures of heroin, cocaine and cannabis in major production markets have generally increased, the average inflation-adjusted and purity/potency-adjusted prices of these drugs has decreased dramatically.<sup>28</sup>

- In the US, average prices of heroin, cocaine and cannabis decreased by 81%, 80% and 86% respectively, between 1990 and 2007
- In Europe, during the same period, the average price of opiates and cocaine decreased by 74% and 51% respectively
- In Australia, the average price of cocaine decreased by 14%, while heroin and cannabis prices decreased 49% between 2000 and 2010

There are many possible explanations for this change: the increased efficiency and improved strategising of dealers and traffickers; a globalised economy, which offers more and cheaper distribution channels and makes it easier to recruit drug producers and couriers; and increased competition, as larger cartel monopolies have been broken up and replaced by numerous smaller and more flexible criminal enterprises. Whatever the reason, during a period of increasing enforcement activities designed to drive up prices, significant and long-term price decreases

## Banks and the illegal drug trade

Although legitimate businesses and financial services are often unaware of their involvement in laundering drug money, there is strong evidence that some of the world's largest banks deliberately "turn a blind eye" allowing the practice to prosper.

### Wachovia<sup>29</sup>

In 2010, one of the largest banks in the United States, Wachovia, was found to have failed to apply proper anti-laundering strictures to the transfer of \$378.4 billion into dollar accounts from casas de cambio (CDCs), Mexican currency exchange houses. According to the federal prosecutor in the case: "Wachovia's blatant disregard for our banking laws gave international cocaine cartels a virtual carte blanche to finance their operations."

For allowing transactions connected to the drug trade, Wachovia paid federal authorities \$110 million in forfeiture and received a \$50 million fine for failing to monitor cash which was used to transport 22 tons of cocaine. These fines, however, represented less than 2% of the bank's profit in 2009.

### HSBC<sup>30</sup>

In 2012, HSBC was fined a record \$1.9 billion by US authorities for its complicity in laundering drug money. Despite the risks of doing business in the country, the bank put Mexico in its lowest risk category, meaning \$670 billion in transactions were excluded from monitoring systems. Among other cases, a Mexican cartel and a Colombian cartel between them laundered \$881 million through HSBC. The US Department of Justice said the bank's executives were not made to face criminal charges because the scale of HSBC's assets, subsidiaries and investments meant doing so might destabilise the global financial system – the bank was effectively deemed too big to prosecute.

In the cases of both Wachovia and HSBC, money laundering has served to blur the boundaries between criminal and legitimate economies.

are another indicator of the futility of supply-side interventions in a high-demand environment.

There are additional direct economic costs associated with the crime implicit in a large-scale, criminally controlled drug market. This includes activity associated with the trade itself, alongside the acquisitive crime committed by some people with drug dependencies in order to fund their use. Regarding the latter, it is important to note that the crime costs related to dependent drug use vary significantly depending on the policy environment. There is, for example, little or no acquisitive crime associated with fundraising to support alcohol or tobacco dependence because they are relatively affordable. Supporters of drug law reform have argued that reduced drug prices would correspondingly reduce acquisitive crime costs.<sup>31</sup> This suggestion is supported by evidence that when dependent heroin users move from a criminal supply to prescribed medical provision, their level of offending falls dramatically.

As with the crime costs associated with the illegal drug trade, its health costs, too, have a significant economic impact. Drugs bought through criminal networks are often cut with contaminants; dealers sell more potent and risky products; and high-risk behaviours such as injecting and needle sharing in unsupervised and unhygienic environments are commonplace. The resulting increases in hospital visits and emergency room admissions for infections, overdoses, and poisonings, combined with increased treatment requirements for HIV/AIDS, hepatitis and tuberculosis, can place a substantial additional burden on already-squeezed healthcare budgets.

## 3. Undermining the legitimate economy

### Corruption

Corruption inevitably flows from the huge financial resources that high-level players in the illicit drug trade have at their disposal. The power that comes with such resources enables drug cartels to secure and expand their business interests through payments to officials at all levels of the police, judiciary and politics, harming wider society in the process. The potency of this corruption is enhanced by the readiness of some organised crime groups to use the threat of violence to force the unwilling to take bribes (as they put it in Mexico, "plomo o plata" – "lead or silver"), and by the vulnerability of targeted institutions and individuals due to poverty and weak governance in the regions where drug production and transit is concentrated.

**“The drugs trade has a range of terrible impacts on legitimate business. For example, there is not a level playing field: we cannot compete with associates of cartels who use their businesses to launder drug money. This is a major problem in tourism and real estate, and we also see it in agriculture and ranching. Businesses are also closing down because of extortion by the drug cartels, and in some areas most of the entrepreneurial class, doctors, skilled workers – basically anyone who can – has moved out.”**

**Armando Santacruz**

CEO, Grupo Pochteca, and Director of México Unido  
Contra la Delincuencia  
2012

- According to Transparency International’s 2014 Corruption Perceptions Index, the public sectors of the world’s two main opium producing nations, Myanmar and Afghanistan, are amongst the most corrupt in the world, ranked at 156 and 172 respectively out of 175 countries<sup>32</sup>
- Mexican authorities have stated that drug cartels pay around 1.27 billion pesos (some \$100 million) a month in bribes to municipal police officers nationwide<sup>33</sup>
- Drug money has been shown countless times to have a corrupting effect on law enforcement. As the escape of Sinaloa drug cartel leader Joaquin ‘El Chapo’ Guzman Loera from a Mexican jail in July 2015 has shown, corruption reaches all levels of the justice system. So far, seven prison officers have been charged with complicity<sup>34</sup>

## Money laundering

The vast profits accrued from organised crime have to be hidden from law enforcement, which necessitates large-scale money laundering operations. Disguising the money’s illicit origins, and making it appear legitimate, involves multi-tiered processes of placing the money within the financial system, reinvesting it, and moving it between jurisdictions.<sup>35</sup>

More specifically, the “dirty” money is “cleaned” through a range of methods, including the use of front companies, tax havens, internet gambling, international money transfer services, bureaux de change, transnational precious metal markets, real estate markets, and businesses with a high cash turnover, such as pizzerias and casinos.

Funds generated by the illegal drug market are also laundered through legitimate financial institutions such as international banking corporations. Many are seemingly unaware of the origins of these funds, yet in some cases banks have been complicit or implicated in criminal activity, showing wilful disregard for anti-money laundering laws.

The scale of laundered drug money is such that it may have even played a part in saving certain banks from collapse during the 2008 economic crisis. According to the former head of the UNODC, Antonio Maria Costa, there was strong evidence that funds from drugs and other criminal activity were “the only liquid investment capital” available to some banks at the time. He said: “inter-bank loans were funded by money that originated from the drugs trade,” and that, “there were signs that some banks were rescued that way.”<sup>36</sup>

Estimates of the value of global money laundering vary, due to the complex and clandestine nature of the practice and the fact that the proceeds of different criminal ventures are often intermingled. However, available estimates do at least indicate the vast scale of the operations, with drug profits probably second only to fraud as a source of money laundering cash. It is clear, both national and global financial institutions - and by inference some of those who work for them - have been corrupted by drug money.

- In 2009, the UNODC put the figure at 2.7% of global GDP, or \$1.6 trillion<sup>37</sup>
- The UNODC has stated that the largest income for organised crime groups comes from the



sale of illegal drugs, accounting for a fifth of all crime proceeds<sup>38</sup>

- According to a US Senate estimate in 2011,<sup>39</sup> Mexican and Colombian drug trafficking organisations generate, remove and launder \$18 billion and \$39 billion a year respectively in wholesale distribution proceeds

### Macroeconomic distortions

At the macroeconomic scale, drug money laundering can have a profoundly negative effect. Criminal funds can distort economic statistics, with knock-on distortions in policy analysis and development.<sup>40</sup>

Another effect is drug money causing “Dutch disease”. As the UNODC has noted,<sup>41</sup> a large influx of illicit funds stimulates booms in certain sectors of the economy, leading to the overvaluation of a country’s currency. This in turn makes the country’s exports more expensive, and imports relatively cheaper. The result is that domestic production decreases as local producers cannot compete with the cheap prices of imported goods, and the economy becomes more dependent on drug money as a result.

### Destabilising developing countries

The illegal drug economy is hierarchical in nature, with profits accruing to those at the top of the pyramid, while those who grow or manufacture the product receive very little by comparison. But drug profits not only fail to significantly impact on poverty in producer and transit countries, they also actively destabilise them by being used to finance regional conflicts, insurgencies and terrorism, and undermine state institutions at every level (see chapters 2 and 3). Drug crop eradication efforts in these countries also mean that many farmers lose their livelihoods, particularly when no viable economic alternatives are available or provided by the state.

## 4. The costs to business

The war on drugs is a major concern for legitimate businesses – particularly in producer and transit regions. They are burdened by a broad range of additional costs beyond the negative impacts on economic development and stability already mentioned. The examples below are from Mexico, a country on the front line of the drug war, but are applicable to varying degrees in every country significantly impacted by the illegal trade in drugs.

### Deterring investment

Corruption increases the cost of doing business, and creates uncertainty over the credibility of contracts. This discourages investment in affected regions and can greatly reduce competitiveness in global markets. Studies have shown that aggregate investment is 5% lower in countries identified as being corrupt. For Mexico, this translates into investment losses of up to \$1.6 billion annually.<sup>42</sup>

Drug-related violence and conflict is an additional deterrent for investors. Transnational corporations in particular do not want to employ personnel in an environment in which they may be in jeopardy, or in which they would have to pay inflated salaries to compensate for the risks involved. A 2011 survey in Mexico of more than 500 business leaders by the American Chamber of Commerce revealed that 67% felt less safe doing business in Mexico compared with the previous year.<sup>43</sup>

Migration is a further consequence of violence, as people move away to safer regions out of fear for their lives. In Tamaulipas in Mexico, drug-war migration has left virtual ghost towns across the region and many businesses have relocated as a result.<sup>44</sup>

Drug cartels empowered by drug profits have expanded into other forms of criminality. In Mexico, extortion has become a growing problem: the cartels often act with impunity, deploying threats of extreme violence (often very publicly carried out) if payments are not made. It has been estimated that 85% of Mexico’s extortion cases go unreported,<sup>45</sup> as rather than report the crime to police (who have themselves sometimes been implicated in extortion rings), or risk violent reprisals from criminals, many small business owners unable to pay the fees simply decide to close down.<sup>46</sup>

### Unfair competition

Front companies that launder illicit drug money do not need to turn a profit, and so may squeeze legitimate competitors out of the market by underselling goods or services. Consequently, there is the potential for entire sectors to come under the unique control of illegal enterprises.<sup>47</sup>

Especially during difficult economic times, with high inflation and interest rates, legitimate businesses can struggle to obtain the cash they need to survive. By contrast, liquidity is not a problem for those with access to laundered drug money. In this environment, many

companies either go under, or fall into the hands of drug trafficking organisations.<sup>48</sup>

Underlining the extent to which drug money provides an unfair financial advantage, a number of drug cartel leaders have featured on the Forbes World Billionaires List. As Forbes itself has said:

“The reason for including these notorious names has always been, and continues to be, quite simple: they meet the financial qualifications. And they run successful private businesses – though their products are quite illegitimate.”<sup>49</sup>

### Loss of tourism

Drug market-related insecurity and violence can lead to reductions in levels of tourism in many areas. This has direct impacts on businesses such as hotels, restaurants and bars in particular, with negative knock-on impacts for regional economies. In 2011, for example, following a spike in drug market related violence, the number of US holidaymakers visiting Acapulco, one of Mexico’s main tourist destinations, on spring break fell by 93% from 2010.<sup>50</sup>

### Increasing sector volatility

Legitimate business can be threatened by the unreliable nature of the funds generated by the illicit drug trade. Investments made by dealers and traffickers often depend on the continuation of their illegal activity. However, once their income streams have been disrupted by law enforcement or rival criminal enterprises, they may no longer be able to meet the terms of their investment. This leads to boom and bust cycles in sectors that are often targets for drug money, such as construction and real estate, again with serious repercussions for local or regional economies.<sup>51</sup>

### Are there benefits?

Substantial ongoing, indeed growing, drug enforcement expenditure is delivering the opposite of its stated goals – to say nothing of the wider, uncounted costs it produces. But while the average taxpayer may have little to show for their investment in the war on drugs, there are those in society who have benefitted economically from it, and these groups should not be overlooked when analysing the value and impact of current policy.<sup>52</sup>

- In some key producer countries, state security agencies and the military often benefit greatly from increased enforcement efforts. In Colombia, for instance, defence expenditure increased from 3.6% of GDP in 2003 to 6% in 2006. This resulted in an actual increase of security forces from 250,000 (150,000 military plus 100,000 police) to 850,000 over the four years
- Manufacturers of military and enforcement technology profit financially from the expansion and increased militarisation of drug law enforcement
- The prison systems of many major consumer countries – often involving profit-making enterprises – can benefit from the increased incarceration of drug offenders. For example, in the US, as the number of those imprisoned for drug offences soared in the 1980s, so too did prison spending – by approximately 127% between 1987 and 2007<sup>53</sup>

In addition, the illicit market itself has benefitted certain populations:

- Although the farmers who cultivate illegal drug crops are by no means rich, and are exposed to considerable risks, these crops provide better returns than most licit crops, as well as being more easily stored and transported (compared to fresh fruit or vegetables, for example). In Mexico, one kilo of corn, as of 2007, has a market value of four pesos. A kilo of opium, meanwhile, can fetch up to 10,000 pesos<sup>54</sup>
- The profits from the illegal market have also been shown to trickle down into the licit economy in other ways. For example, Colombian drug smugglers’ demand for luxury villas has significantly benefitted local construction businesses<sup>55</sup>
- People with criminal records or no qualifications, who struggle in the legal job market, are often able to find work in the criminal trade operating on their doorstep. Even low-level trafficking and dealing, for example, can be relatively profitable, paying substantially more than most minimum-wage jobs
- According to a detailed economic analysis of Colombia’s drug economy, only 2.6% of the total street value of cocaine produced remains within the country. The other 97.4% of profits are reaped by international criminal syndicates, and laundered by banks, in first-world consuming countries<sup>56</sup>



## How to count the costs?

The economic impacts and implications of drug law enforcement have never been adequately assessed. Evaluations of current drug policy tend to be heavily skewed towards process measures, such as arrests and seizures. These tell us how laws are being enforced, but provide no indication of actual outcomes in terms of impacts on drug availability, drug-related health costs, or wider social and economic costs.

Economic analysis lends itself to precisely this kind of challenge, yet it is studiously avoided by those implementing current policies. Few governments have ever conducted a cost-benefit analysis of drug policy; commissioned an independent audit of enforcement spending; undertaken an economic impact assessment of the primary legislation; or explored alternative policy approaches or legal frameworks that might offer better value for money.

The problem, however, appears to be a political rather than practical one. In some cases, political constraints or legal mandates actively prevent exploring alternatives.<sup>57</sup> When those responsible for developing and implementing drug policies are unable to assess options that at least have the potential to deliver better economic outcomes (whether one agrees with them or not), it is clear that we are operating in a political arena shaped by something other than evidence of cost-effectiveness.

## Conclusions

Drug law enforcement is exceptionally poor value for money. Spending billions of dollars a year of scarce public resources on demonstrably ineffective and counterproductive drug policies appears impossible to justify.

But it is not just about the poor value for money of current spending, and its opportunity costs in terms of investment in health and social development. These policies, and the criminal markets they have created, have a direct negative impact on the economies of key producer and transit regions – by deterring investment, harming legitimate businesses, and undermining governance through corruption and violence. In a globalised world, this has a knock-on effect for any company – or country – seeking to do business in affected regions.

Despite well-intentioned attempts to restrict access to drugs, it is now clear that with easily cultivated agricultural commodities, grown in a world with no shortage of poor

and marginalised people willing to produce, transport or sell them in order to survive, short of ending global poverty and drug demand, there is little hope of bringing about a meaningful reduction in supply.

It is important to recognise that the war on drugs is a policy choice. That is why political leaders across the world are beginning to call for other options – including less punitive enforcement, decriminalisation and models of legal market regulation – to be debated and explored using the best possible evidence and analysis. Without question, this should include assessing the economic impacts.

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07

# Promoting stigma and discrimination

**The war on drugs has fuelled the stigmatisation and discrimination of a range of groups, including ethnic minorities; women; children and young people; people living in poverty; people who use drugs – particularly dependent users, and certain people who produce or supply drugs. The term “war on drugs” is a misnomer: it is more accurately a war on people.**

## Introduction

Despite mounting evidence that more punitive drug laws do not significantly deter drug use, criminalisation remains the primary weapon in the war on drugs. But using the criminal justice system to solve a public health problem has proven not only ineffective, but socially corrosive, too. It promotes stigmatisation and discrimination, the burden of which is carried primarily by already marginalised or vulnerable populations, many of whom the policy is nominally designed to protect.

Discrimination is the prejudicial treatment of a person based on the group, class or category to which that person belongs. It is inevitably linked to stigma, which is the social and practical manifestation of “a distinguishing mark of social disgrace”.<sup>1</sup>

Although all drug use – particularly when associated with public intoxication – has been associated with social disapproval, there is a striking variation in how this is expressed for different drugs and drug-using environments. While it certainly surrounds users of illicit drugs, stigma, as defined above, can be amplified by political rhetoric and manufactured moral panics around certain drugs, groups or populations. Stigma is also markedly less evident for users of licit drugs such as alcohol or tobacco in most countries. Social and legal controls exist in relation to alcohol and tobacco; these mostly relate to certain behaviours – such as smoking in public places, or public drunkenness – and are by and large desirable, helping to establish healthy societal norms that minimise potential harms. However, these sanctions are of a different order to “social disgrace”, the severe form of public disapproval reserved for people involved with illicit drugs.

This disparity is not explained by differences in the effects or potential harms of drugs – indeed drug harm rankings consistently rate alcohol and tobacco as equal to or more risky than many illicit drugs.<sup>2</sup> Instead, it is the product of policies that, for historically discriminatory reasons, have created parallel yet dramatically divergent

approaches to managing the production, supply and use of various comparable substances. This can, in part, be traced back to the xenophobic social climate in the US during the 19th and early 20th centuries. The emergence of laws criminalising certain drugs was significantly associated with immigrant populations perceived to be the most prolific users: Chinese users of opium,<sup>3</sup> African Americans users of cocaine,<sup>4</sup> and Hispanic users of ‘marijuana’. The cultural and legal association of these drugs with “otherness” and deviance, as distinct from alcohol and tobacco, continues to this day.

The 1961 UN Single Convention on Drugs, which remains the fundamental legal instrument of the war on drugs, refers to drug addiction as “a serious evil for the individual”, a “threat” which the international community has a “duty” to “combat”, because it is “fraught with social and economic danger to mankind”.<sup>5</sup> The use of such language appears to be specifically intended as stigmatising, creating the “mark of social disgrace” by presenting people with drug dependencies as a threat to society.

The absence of alcohol and tobacco from such international controls again highlights the arbitrary moral distinctions they propagate. Indeed, while tobacco is associated with a level of addiction and health harms that eclipses all other drugs, both legal and illegal, it is nonetheless subject to its own UN convention. The Framework Convention on Tobacco Control has a comparable number of state signatories to the three prohibitionist drug conventions, but contains none of the stigmatising language, and by contrast to the 1961 Single Convention, outlines a series of legal, market control measures – not punitive prohibitions – for the non-medical use of a high-risk drug. The arbitrary moral distinction between “good” and “bad” psychoactive substances, and the prohibitions established as a result of this distinction, are in themselves a form of discrimination.



“The fifth unintended consequence [of international drug control] is the way we perceive and deal with the users of illicit drugs. A system appears to have been created in which those who fall into the web of addiction find themselves excluded and marginalized from the social mainstream, tainted with a moral stigma, and often unable to find treatment even when they may be motivated to want it.”

Antonio Maria Costa  
Executive Director,  
United Nations Office on Drugs and Crime  
2008

## The criminalisation of people who use drugs

As with other criminalised behaviours, drug use (or the criminalisation of possession for personal use, which in practice amounts to the same thing) and in particular drug dependence/addiction, is taken by many to be an indicator of certain objectionable character traits or dissolute lifestyle choices. Across many countries, drug addiction is the most strongly stigmatised of a range of health and social conditions, including homelessness, leprosy, being dirty or unkempt, and possessing a criminal record for burglary.<sup>6</sup> This stigma has a range of knock-on effects, all of which further marginalise and threaten the wellbeing of people who use drugs.

The relationship between criminalisation, stigma and discrimination is undoubtedly complex. While criminalisation is an inherently stigmatising process that often leads to discrimination, it is discrimination at wider social and political levels that initiates this process. Many of the most acutely affected populations – young black males living in socially deprived urban environments, for example – will experience multiple forms of discrimination. The criminalisation implicit in a “war on drugs” will tend to amplify preexisting inequalities – especially where such clusters of discrimination exist.



Punitive drug-war policies have led to the stigmatisation of a range of populations

People who use drugs can be stigmatised or discriminated against irrespective of whether they have received a criminal record for their use. However, criminalisation compounds this stigma and discrimination, as there is an inevitable link between the labelling of an individual as a criminal and how they are perceived and treated by the rest of society. Indeed, as well as the potential sentence itself, the negative associations of criminalisation are intended to have a deterrent effect for others. In the case of drugs, although criminalisation has only a marginal impact on use,<sup>7</sup> the negative associations can remain for years, often for life.

### Media portrayals

Public antipathy towards people who use or are dependent on drugs is fuelled – or at least echoed and amplified – by inaccurate or offensive media reporting. While it is now rightly considered unacceptable to describe someone with mental health problems as a “psycho” or “lunatic”, equivalently stigmatising language still persists in media descriptions of people who use drugs. Terms such as “junkie”, or “clean/dirty” to describe an individual’s drug-using status, are still widely used, essentially as bywords for social deviance. Their effect is to dehumanise, implying that a person’s drug use is the defining feature of their character. People with (prohibited) drug dependencies are one of the few populations that media commentators can still insult and demean with a large degree of impunity.

Media coverage of drug-related deaths also reinforces the discriminatory distinction between “good” and “bad” drugs and drug users. While fatalities resulting from alcohol or prescription drugs go largely unreported, illegal drug deaths receive significant press attention. Research into coverage of drug poisoning deaths in the UK in 2008, for example, found that 2% of deaths were reported in the popular media for alcohol and methadone, compared to 9% for heroin/morphine, 66% for cocaine, and 106% for ecstasy (i.e. more deaths were reported than actually occurred).<sup>8</sup>

Once identified as an illicit drug user by the media, the label can be hard to escape. News reports often reinforce and perpetuate the stigma of drug dependence, as the subject of an article can be referred to as a “former drug addict” even when the relevance of this information to the story is highly questionable.

### **“If every junkie in this country were to die tomorrow I would cheer”**

On 18th February 2011, the Irish Independent published a column entitled “Sterilising junkies may seem harsh, but it does make sense”. The opinion writer for the newspaper described people who use drugs as “vermin” and as “feral, worthless scumbags”. He wrote:

“Let’s get a few things straight – I hate junkies more than anything else. I hate their greed, their stupidity, their constant sense of self-pity, the way they can justify their behaviour, the damage they do to their own family and to others.”

He added that: “If every junkie in this country were to die tomorrow I would cheer.”

A complaint about the column made to the Irish Press Ombudsman was later upheld, finding that the newspaper:

“breached Principle 8 (Prejudice) of the Code of Practice for Newspapers and Magazines because it was likely to cause grave offence to or stir up hatred against individuals or groups addicted to drugs on the basis of their illness.”

This was a landmark ruling, according to the complainants:

“We believe this to be the first time that drug users have been identified by a media watchdog as an identifiable group, entitled to protections against hate-type speech in the press. In this sense, we think the decision of the Press Ombudsman has international significance.”<sup>9</sup>



**“Governments across the world continue to incarcerate drug users, and the cycle of stigma, HIV infection, and mass inequity goes on.”**

**Stephen Lewis**

Former Special Envoy to UN Secretary-General Kofi Annan  
and Co-Director of AIDS-Free World  
2010

felonies – even crimes as serious as robbery or rape.<sup>12</sup> These measures are discriminatory because they only impact on those who are already poor enough to have qualified for these forms of support in the first place.

### Voter disenfranchisement

An estimated 5.3 million Americans are denied the right to vote based on their felony convictions, 4 million of whom are not in prison. About a third of them are black, including 13% of all African-American men. Whilst specific numbers have been hard to pin down, it is clear that a substantial proportion, if not a majority, of these convictions are for drugs or drug-related offences.

### Limited employment prospects and life chances

The criminalisation of a personal decision to possess or consume a prohibited substance can dramatically impact on the career prospects of otherwise law-abiding individuals, as certain professions preclude employment for those with drug convictions or criminal records. Even where there is no formal ban on employment, the stigma attached to a record of drug use can lead to the same outcome anyway. This is evident from the strong association of drug use with long-term unemployment, and the receipt of social welfare, particularly where benefit claimants are subject to drug testing.

For people who are or have been dependent on drugs, issues such as low self-confidence, mental or physical health problems, ongoing treatment or chaotic lifestyles will often already restrict employment opportunities; a criminal record is merely an additional impediment. This is particularly troubling in light of evidence that the creation of job prospects adds significantly to the willingness of unemployed drug users to enter treatment,<sup>10</sup> and that steady employment is often a key part of stabilising a post-dependence lifestyle.

### Reduced standards of social welfare

Life chances can be significantly impacted by a reduction in the levels of social welfare to which those convicted for drug offences are entitled. In some parts of the United States, for example, a drug conviction can be grounds for eviction from public housing, the withholding of food stamps, the denial of benefits, and the refusal of federal loans and financial aid to students.<sup>11</sup> These last three penalties are all the more discriminatory given that no parallel sanctions exist for people convicted of other

### Restricted access to healthcare

Criminalisation and the associated stigma and discrimination frequently push drug use into unhygienic and unsafe environments, increasing health risks. It can additionally deter the hardest to reach individuals from seeking treatment, for fear of condemnation, judgement or arrest.

In much of the world, including many middle- and high-income countries,<sup>13</sup> informal barriers effectively deny antiretroviral or hepatitis C treatment<sup>14</sup> to people who use drugs. This is discrimination, given that, as the UN Special Rapporteur on the right to health has stated, treatment adherence among people who use drugs is not necessarily lower than those who do not, and should be assessed on an individual basis.<sup>15</sup>

- Despite the fact that the right to the highest attainable standard of health is affirmed in the constitution of the World Health Organization (WHO) and several UN conventions,<sup>16</sup> in many countries this right is denied to people who use drugs, as access to proven harm reduction measures – such as needle and syringe programmes (NSP) or opioid substitution treatment (OST) – is either extremely limited or prohibited outright
- According to WHO Europe, in Eastern European countries in particular, people who inject drugs have unequal access to antiretroviral treatment<sup>17</sup>
- In Russia, healthcare personnel routinely violate the principle of medical confidentiality by sharing information about people registered as drug users<sup>18</sup>

## Drug user registries

In some countries, the stigmatisation of, and discrimination against, people who use drugs is effectively a formal process, conducted through a system of compulsory registration with the state. This system labels people as drug users for years, sometimes indefinitely, regardless of whether they have ceased using drugs.<sup>19</sup>

- In Burma, people who use drugs must register, with their parents in attendance, to enter treatment, and must subsequently carry cards that identify them as drug users. Once on the list, it is unclear how their names are removed<sup>20</sup>
  - In Ukraine, state-registered dependent drug users are forbidden from holding a driver's license<sup>21</sup>
  - In Thailand, once registered, drug users remain under surveillance by police and anti-drug agencies, and information about patient drug use is widely shared<sup>22</sup>
- Many people who inject drugs do not carry sterile syringes or other injecting equipment, even though it is legal to do so in their country, because possession of such equipment can mark an individual as a drug user, and expose him or her to punishment on other grounds<sup>23</sup>

## Torture and abuse

In its most extreme form, stigma is a process of dehumanisation that can then give licence to the most serious abuses. People who use drugs are frequently subject to various forms of torture or cruel and unusual punishment. This includes abuses such as death threats and beatings to extract information; extortion of money or confessions through forced withdrawal without medical assistance; judicially sanctioned corporal punishment for drug possession; and various forms of cruel, inhuman and degrading treatment carried out in the name of “rehabilitation”.

- In China, detainees have been forced to participate in unpaid labour, day and night, while suffering the effects of withdrawal. Access to methadone is denied and payment demanded for other medications that help with withdrawal. Beatings – some causing death – are commonplace, with “chosen” detainees also carrying out physical violence against fellow detainees<sup>24</sup>
- In Cambodia, abuses have included: detainees being hung by the ankle on flagpoles in midday sun;<sup>25</sup> shocking by electric batons; whipping by cords, electrical wires, tree branches and water hoses; rape (including gang rape); and forcing women into sex work. Abuses are not only carried out by the staff, but delegated to trusted detainees to carry out against fellow detainees. Not even children are spared such brutality, as they comprise around 25% of those in compulsory drug detention centres<sup>26</sup>

## The criminalisation of drug production and trafficking

The production, transportation and sale of illicit drugs are among the most strongly reviled and penalised criminal offences. However, the arbitrary nature of drug law enforcement is again evident in the fact that only the supply of some drugs is criminalised. In 2010, the then Executive Director of the UNODC stated (in comments echoed by domestic governments): “Drugs are not dangerous because they are illegal: they are illegal because they are dangerous to health”,<sup>27</sup> yet did not issue similar condemnations of alcohol, tobacco, or the corporations that supply them.

Indeed, the sale of legal drugs is often actively celebrated or encouraged, as the heads of successful drinks companies are lauded for their business acumen and alcoholic drinks win awards for their marketing campaigns. In the UK, an alcoholic drinks company can win the Queen's Award for Enterprise,<sup>28</sup> but even relatively minor drug supply offences for prohibited drugs (often mistakenly associated with greed, wealth or violence) can lead to lengthy prison sentences.

## The stigma and discrimination costs of the war on drugs

### 1. Ethnic minorities

Over the past 50 years, drug law enforcement has frequently become a conduit for institutionalised racial prejudice. Nowhere is this problem more visible than in the United States, where certain ethnic minorities, primarily Black and Hispanic, are significantly more likely to be stopped and searched, arrested, prosecuted, convicted and incarcerated for drug offences – even though their rates of both drug dealing and drug use are almost identical to those of the rest of the population.<sup>29</sup>

Despite the similarity in levels of drug use between black and whites, black people in the US are 10.1 times more likely to be imprisoned for a drug offence than white people.<sup>30</sup> Similar levels of overrepresentation of minorities in the criminal justice system and prisons are observed in many other countries, such as the UK,<sup>31</sup> and for aboriginal peoples in Canada<sup>32</sup> and Australia.<sup>33</sup>

While racism at the level of individual police officers is a factor in the disproportionate criminalisation of minorities, it is criminalisation itself that makes this disparity inevitable. Both drug purchases and drug possession/use are consensual crimes, meaning police are alerted to them primarily through their own investigation, rather than victim reports. As a result, surveillance and “buy and bust” operations are the principal ways drug arrests are made. Returning to the earlier theme of multiple tiers of discrimination, this makes certain ethnic minorities far more likely to fall foul of drug law enforcement, as they are more likely to live in poor, urban neighbourhoods where the drug trade is more conspicuous, carried out in public areas, between strangers.

In contrast, the illicit activity of white, middle-class drug dealers and users is relatively less easily detected. As the former New York Police Commissioner Lee Brown noted: “It’s easier for police to make an arrest when you have people selling drugs on the street corner than those who are [selling or buying drugs] in the suburbs or in office buildings. The end result is that more blacks are arrested than whites because of the relative ease in making those arrests.”<sup>34</sup>

However, such a statement is effectively an admission of discrimination, as intent is not required for an act or policy to be considered discriminatory. The Committee on the Elimination of Racial Discrimination, the UN

“The reality is that if you look for drugs in any community, you will find them – when the police go looking for drugs, and only looking for drugs in one community, they’re going to find them in that community and not in others. So, the war on drugs being concentrated in poor communities of color, the overwhelming majority of the people who are arrested, who are swept up, are black and brown, because it’s those communities that have been targeted.”

**Michelle Alexander**

Legal scholar and author of *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* 2012

body responsible for monitoring such discrimination globally, has formally stated that international law “requires all state parties to prohibit and eliminate racial discrimination in all its forms, including practices and legislation that may not be discriminatory in purpose, but in effect.”<sup>35</sup>

### 2. Women

Although most commonly convicted for low-level, nonviolent drug offences, and not the principal figures in criminal organisations, women are disproportionately impacted by the war on drugs.

Mandatory minimum sentencing for trafficking often fails to distinguish between quantities carried. Even lower-end sentences are often very harsh. Rigid sentencing guidelines often limit a judge’s discretion, preventing them from considering mitigating factors that might reduce sentences. The result has been that many women involved in drug supply at a relatively low level are subject to criminal sanctions similar to those issued to high-level traffickers and other powerful market operatives.

This results in particularly severe sentences for those women who carry illicit drugs from one country to another either in their luggage or inside their person, still frequently referred to in the media using the dehumanising and stigmatising term “drug mules”. Usually coming from socially and economically deprived backgrounds, such women are commonly driven to drug trafficking either by desperation (a lack of wealth and opportunity), or by coercion and exploitation from men further up the drug trading hierarchy. The prison sentences that they often receive are all the more excessive considering that these women often have low levels of literacy, mental health or drug dependence issues, and histories of sexual or physical abuse.<sup>36</sup> Any dependents of these women are a frequently overlooked additional population of drug-war casualties.

The war on drugs contributes to the sexual abuse and exploitation of women, with sex sometimes used as currency on the illicit drug market, or women being forced to have sex to avoid arrest or punishment by law enforcement. Reports from Kazakhstan, for example, have described police performing cavity searches on female injecting drug users found in areas near to known dealing points – with any seized drugs reclaimable in exchange for sex.<sup>37</sup>

Expending resources on criminal justice responses to drug use, rather than investing in effective public health measures, further places an undue burden on women. Gender-specific treatment programmes that allow women to live with their children are often lacking in availability (where they exist at all), and in certain countries, pregnant dependent drug users do not have access to the safest and most appropriate treatment practices, compromising both their health and that of their unborn children.

Drug-taking is often equated with negligence or mistreatment of children, as a woman’s drug use or dependence can be grounds for removing a child from her care. This is blanket discrimination on the basis of a lifestyle choice or health condition, and is often fuelled by populist political and media stereotypes (a prominent example being so-called “crack moms” in the US). Such weighty decisions should in fact be made on an individual basis, taking into account the real risk of abuse or neglect in each case.

Drug-related violence, the victims of which have historically been young men, is now also claiming the lives of women. In Central America, some of this violence has been attributed to “femicides” – the murder of women because of their gender. Although a concrete link between the drug war and such killings is difficult to demonstrate, there is a growing consensus that in many regions the

atmosphere of violence and impunity created by the drug cartels has led to an environment in which women are deemed disposable and, as such, can be subjected to horrific forms of abuse.<sup>38</sup>

- Globally, women are imprisoned for drug offences more than for any other crime<sup>39</sup>
- One in four women in prison in Europe and Central Asia is incarcerated for drug offences, with levels as high as 70% in some countries<sup>40</sup>
- From 1986 to 1996, the number of American women incarcerated in state facilities for drug offences increased by 888%, surpassing the rate of growth in the number of men imprisoned for similar crimes<sup>41</sup>
- In Eastern Europe, women who have experienced domestic violence can be refused entry into women’s shelters if they are active drug users<sup>42</sup>
- In Russia, opioid substitution therapy – which is an important and internationally recognised treatment option for pregnant women who use opiates – is not available and is actively opposed by the government<sup>43</sup>

**“No one should be stigmatized or discriminated against because of their dependence on drugs. I look to Asian Governments to amend outdated criminal laws that criminalise the most vulnerable sections of society, and take all the measures needed to ensure they live in dignity.”**

**Ban Ki-moon**  
UN Secretary-General  
2008

### 3. Children and young people

Children and young people carry a disproportionate burden of the costs of the war on drugs – both as drug users, and through involvement in, or contact with, the criminal markets that supply them. Particularly in developing countries, children are driven by poverty and desperation into becoming drug-crop growers or foot soldiers of the cartels. The costs of the drug war for children and young people are explored in more detail in chapter 8.

- Early involvement in the drug trade has been well documented in Brazil, where drug gangs cultivate close ties with children and young people, building their trust by first paying them to perform simple, non-drug-related tasks, then recruiting them with the lure of weapons, power, drugs and sex.<sup>44</sup> It has been estimated that approximately 6,000 children are directly involved in drug dealing in Rio de Janeiro alone<sup>45</sup>
- As drug users, children can face discrimination when they attempt to minimise the potential harms of their use. In Central and Eastern Europe, for example, there are arbitrary age restrictions on access to sterile injecting equipment and opioid substitution therapy<sup>46</sup>
- Drug testing in schools is a violation of the right to privacy, and can publicly label individuals as a “drug user” in need of help, despite such tests not being able to distinguish between occasional, recreational use and problematic use. The stigma of this label can impact on self-esteem and aspirations, drawing individuals into the net of counselling services, treatment programmes and the criminal justice system, from which it is difficult to escape<sup>47</sup>
- Suspension or exclusion from school following a positive drug test or drug offence can jeopardise a child’s future, as reduced involvement in education and leaving school at an early age are associated with more chaotic and problematic drug use, both in the short and long term<sup>48</sup>
- Children are also negatively impacted and stigmatised when a parent receives a drug-related conviction, is imprisoned, or is killed in drug-related violence. Drug-war violence in producer countries, too, has made orphans of countless children<sup>49</sup>

**“National laws that stigmatize and marginalize drug users also need to be addressed. Known drug users may lead to loss of employment opportunities, may deprive a person of a range of parental rights including custody, and may result in other legal rights being impaired. In some states, ethnic minority and marginalized groups living in poverty have also been the target of disproportionate drug enforcement efforts”**

**Navanethem Pillay**  
UN High Commissioner for Human Rights

- Many children are forced to grow up in prison when their mother or father is convicted of minor drug offences, or are taken into care so growing up without either parent<sup>50</sup>

### 4. Indigenous peoples

International drug treaties have effectively criminalised entire cultures with longstanding histories of growing and using certain drug crops. A prominent example is the traditional use of coca for cultural and medicinal purposes in the Andean region. The 1961 UN Single Convention on Narcotic Drugs allowed a 25-year grace period for coca chewing, which has now long expired. After trying and failing to remove the ban on coca chewing from the convention through a formal amendment, the Bolivian government withdrew from it in 2011, before re-acceding with a reservation allowing for traditional uses of the coca leaf in 2013.<sup>51</sup> Although 15 UN member states objected to Bolivia’s proposed reservation, it was not enough to prevent its approval.

The whole episode underlined the way in which negotiations around the 1961 drug treaty (much of which was negotiated during the 1940s and 50s) took place without the participation of indigenous peoples, despite the UN Special Rapporteur on the rights of indigenous



people having said it is “a generally accepted principle in international law that indigenous peoples should be consulted as to any decision affecting them.”<sup>52</sup>

The now universally adopted Declaration on the Rights of Indigenous Peoples recognises this principle too, as well as the right of indigenous peoples to:

“[P]ractise and revitalize their cultural traditions and customs”, and to “maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions ... including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora.”<sup>53</sup>

## 5. People living in poverty

Despite common misconceptions of illicit drug use as the preserve of a marginalised underclass, being poor does not make someone more likely to use drugs. Living in poverty does, however, mean an increased likelihood of dependence on drugs and harm from drug use.<sup>54</sup>

- A 2006 study found that drug dependence mortality rates were 82% higher in the most deprived areas of New York than in the least deprived.<sup>55</sup> Additionally, in the city’s less affluent area of Brownsville, Brooklyn, the chances of being arrested for cannabis possession are 150 times higher than in the more affluent Upper East Side of Manhattan.<sup>56</sup>
- In 2002, Australian men classified as manual workers were more than twice as likely to die from illegal drug use than non-manual workers.<sup>57</sup>
- Drug-related emergency hospital admissions have been found to be 30 times higher in the most deprived areas of Glasgow in Scotland than the least deprived.<sup>58</sup>

On the supply side of the drug trade, too, poverty is effectively punished by current drug laws. The majority of those involved in the production of illicit drugs are poor, invariably from developing or middle-income countries or regions with negligible levels of social security. Their involvement in the drug trade is driven primarily by a lack of alternative means of survival. It is estimated that the farmers who grow drug crops earn only 1% of the overall global illicit drug income, with most of the remaining revenue going to traffickers in developed countries.<sup>59</sup>

Eliminating these farmers’ primary source of income therefore leads to greater levels of poverty, which in

turn restricts their ability to access health services and education, and in some cases results in higher rates of human trafficking and an increase in the number of women entering the sex trade.

- According to the UNODC, in the Wa Region of Myanmar, 82% of farmers cultivated opium to ensure food security, and opium accounted for 73% of the total household income before the 2005 opium ban. As a result, in 2006, annual household income in Wa dropped considerably, with serious consequences for food security.<sup>60</sup>
- In Brazil, the vast majority of those killed by police in their ongoing war against drugs have been poor, black, young boys from favela communities, for whom involvement in drug gangs is one of the few viable opportunities for employment.<sup>61</sup>
- In Afghanistan, impoverished farmers borrow money in order to meet the upfront capital investment needed for opium production. When the opium crops fail, or are eradicated by law enforcement, the only way some farmers can pay off their debt is by selling their daughters – some as young as six – to those higher up in the drug trade.<sup>62</sup>

## Are there benefits?

That punitive drug enforcement policies promote stigma can be in little doubt. Indeed, many defenders of the war on drugs acknowledge its stigmatising effect. What they contend, however, is that such an effect is both necessary and desirable: it is a means of demonstrating society’s disapproval of a potentially dangerous activity, and in turn establishes social norms that discourage people from using certain drugs.<sup>63</sup>

This position confuses the role of criminal law – which is to prevent and punish crimes, rather than to educate, “send messages”, or tutor on personal morality. This is not to say that such goals are undesirable, only that criminal law is not the tool for achieving them. A strong argument can be made that criminal law is both ineffective at the task (one far better achieved through public health and education interventions), as well as being disproportionate: the punishments far outweigh the harms they are intended to deter.

The comparison with tobacco is instructive. Increased social disapproval has certainly been a factor in reducing levels of use in much of the developed world over the past three decades. This has been achieved through effective



regulation – most obviously advertising bans, and restrictions on smoking in public spaces – combined with investment in health risk education. It has not involved blanket punitive prohibitions and their associated costs.

In an attempt to eliminate the criminal market it has helped create, the war on drugs punishes some demographics far more readily and frequently than others. This may have the supposedly positive effect of producing greater numbers of convictions and arrests, but such discriminatory application of the law undermines trust in the legitimacy of the criminal justice system and contradicts the principles of justice and equal protection of the law that should be the bedrock of all international policy making.

## How to count the costs?

While stigma related to drug enforcement can be, by its nature, difficult to quantify, indicators can be used to provide a much clearer picture of its both prevalence and impacts.

- Public attitude surveys are a well established indicator of how certain behaviours or populations are viewed, and media monitoring can provide a picture of how and where certain stigmatising language is used
- The impacts of stigmatisation – on, for example, people who use drugs, people who inject drugs, people with current or former drug dependencies, or people with criminal records for drug offenses – can be evaluated using comparative and longitudinal analysis of how different populations are able to access medical and treatment services (are services equally available to all?); welfare and housing (is some provision conditional on drug testing?); employment (are there jobs or employers that become inaccessible for certain groups?); and the exercise of democratic freedoms (do they have the right to vote?)
- The potentially discriminatory impacts of policy and law can similarly be evaluated by looking at how different populations experience the burden of punitive law enforcement, using analysis of, for example, rates of stop and search, arrest, prosecution, and incarceration

## Conclusions

While a criminal justice-led approach to drugs has had great political potency, it has not been effective even on its own limited terms - but has succeeded in further marginalising some of the world's most vulnerable populations, producing the range of negative costs outlined here and elsewhere in this report. An international drug control system that produces such negative effects is at odds with the UN's commitment to invest in programmes that contribute to the social integration of people who use drugs,<sup>64</sup> the wider drug treaty commitment to "the health and welfare of humankind", and indeed the core UN pillars of human security, human development and human rights.

Instead, if these commitments are to be honoured, the stigma and discrimination faced by people as a result of the war on drugs must not only be meaningfully counted, but also compared with the potential costs and benefits of alternative approaches (explored in chapter 10), including a reorientation of enforcement away from those at the bottom end of the illicit drug market (such as small-scale farmers, low-level dealers and traffickers), decriminalisation of drug possession and use, and systems of legal market regulation. Only by counting the costs and exploring the alternatives will we be able to rectify the disastrous effects of half a century's punitive drug policies that have fallen hardest on the most marginalised and vulnerable.

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08

# Harming, not protecting, children and young people



**The war on drugs has long been justified on the grounds that it protects children and young people, but it does the opposite. It undermines their human rights; injures or kills them in drug-market violence; tears families apart; and for those who do take drugs, leads to stigma and limited life chances from criminal convictions for drug possession, or deaths from contaminated street drugs.**

## Introduction

The war on drugs has long been justified on the grounds that it protects children and young people. Its supporters claim that people who use and supply drugs must be arrested, criminalised, and in some cases even imprisoned or executed, in order to keep drugs off our streets and society's youth safe. But this approach has been tried for more than half a century now – and the evidence is clear. Any marginal benefits that the approach may bring are dramatically outweighed by the costs it generates: the drug war, far from protecting young people, is actively putting them in danger.

The current punitive approach has not only failed in its core mission to stop young people taking drugs; it has dramatically increased the risks for those who do take them and, as recognised by the UNODC, has produced additional harms that are both disastrous and entirely avoidable.<sup>1</sup> Yet this reality is rarely recognised in the public debate on drugs.

Harms that are a direct result of the drug war – such as children and young people injured or killed in drug-market violence, the stigma and limited life chances that stem from a criminal conviction for drug possession, or deaths from contaminated street drugs – are confused or deliberately conflated with the harms of drug use *per se*.

Too often, such harms are then used to justify the continuation, or intensification, of the very policies that created them in the first place. Emotive appeals to child safety frequently play a part in this process. Populist political rhetoric and sensationalist media reports exploit parents' greatest fears, characterising drugs (although, crucially, only illegal drugs) as an existential threat to society's youth to be fought and eradicated, rather than a more conventional health and social issue to be pragmatically managed in a way that reduces harm.

This discourse has served to suppress any meaningful scrutiny and evaluation of current policy, with those questioning its logic often dismissed as simply being “pro-drugs”. In addition, it has created practical and political obstacles to prevention, treatment, and harm reduction interventions that have been shown to be effective. The terms of the debate need to change as the international community moves beyond the 2016 United Nations General Assembly Special Session (UNGASS) on Drugs and formulates the UN's new 10-year drug strategy in 2019. Frank, evidence-based criticism of the current approach must be permitted, and alternatives seriously considered.

This briefing highlights the specific costs of the drug war for children and young people. It demonstrates how this war, while declared in the name of protecting young people from the “drug threat”, has ironically exposed them to far greater harm. The war on drugs is, in reality, a war on people.

**“Narcotics addiction is a problem which afflicts both the body and the soul of America ... It comes quietly into homes and destroys children, it moves into neighborhoods and breaks the fiber of community which makes neighbors ...”**

**Richard Nixon**  
President of the United States  
1971

## The costs of the war on drugs to children and young people

### 1. Threatening young people's health

#### Maximising the risks of drug use

Drugs pose very real risks to children and young people.<sup>2</sup> While a majority do not use illegal drugs, and most who do experience little or no significant harm as a result, a small but significant proportion will experience problems – and the dangers they face are inevitably greater than those faced by adults.

Young people who use drugs are, in general, more physically and mentally vulnerable to drug risks; less knowledgeable about the potential effects of the substances they are consuming; more likely to take risks with their drug-taking; and more likely to become long-term, dependent drug users in later life.<sup>3,4</sup>

Harsh drug laws may, intuitively, seem like an appropriate response to these elevated risks. However, evidence shows that punitive drug law enforcement does not deter children and young people from using drugs, nor does it significantly restrict their access to them. A 2014 study by the UK Home Office,<sup>5</sup> which reviewed evidence from around the world, concluded that the “toughness” of a country's drug laws had no influence on its levels of drug use. Numerous similar studies, including from the European Monitoring Centre on Drugs and Drug Addiction, the World Health Organization and the Organization of American States, have come to the same conclusion.<sup>6,7,8</sup>

“Globally, drug use is not distributed evenly and is not simply related to drug policy, since countries with stringent user-level illegal drug policies did not have lower levels of use than countries with liberal ones.”

“Toward a Global View of Alcohol, Tobacco, Cannabis, and Cocaine Use: Findings from the World Health Organization World Mental Health Surveys”  
2008

Not only do harsher penalties or prohibitions fail to reduce drug use, they also make drug use far more risky, whether that use is problematic or not. The threat of criminalisation, and the associated stigma and discrimination, frequently pushes drug use into marginal, unsafe and unhygienic environments, further jeopardising the health of young people who use drugs. It can additionally deter the hardest-to-reach individuals from seeking treatment, for fear of condemnation, judgement or arrest.<sup>9</sup>

Prohibition exacerbates this situation by ensuring that drug production and supply is completely unregulated and conducted without any formal oversight. Rather than governments, doctors and licensed vendors, it is criminal



Anti-drug war protest in Mexico (photo credit: Marco Ugarte)

entrepreneurs who control the drug trade – those least likely or qualified to manage it responsibly. The result is that drugs of unknown potency and purity, often cut with dangerous adulterants,<sup>10</sup> are sold to anyone who can afford them – regardless of their age. And since street dealers do not provide health warnings and safe-dosage information, novice users – who are most likely to be young – are at greater risk of experiencing adverse effects from their drug use.

The likelihood of users suffering avoidable health harms, and even a fatal overdose, is further increased by the economics of the unregulated illicit trade. When drugs are banned, they will inevitably be produced in criminal markets in more potent forms.<sup>11</sup> In order to avoid detection by law enforcement and at the same time maximise their profits, producers and traffickers prefer to deal with more portable, concentrated drug preparations; smaller

volumes of high-strength substances are more profitable and easier to transport than larger volumes of less potent ones. This is why, under alcohol prohibition in the US, bootleggers smuggled spirits rather than bulkier and weaker beers and wines.

### Undermining youth-oriented health messages

The credibility of drug education is undermined when authorities that provide it are simultaneously attempting to punish or criminalise young people for using drugs. As a result, those most in need are often distrustful of programmes that seek to change their patterns of drug use, or prevent them from taking drugs altogether.

As well as creating an environment that is more conducive to drug education, it is important to ensure that such

## Anyone's Child: Families for Safer Drug Control

Following the death of her daughter, Martha, from an overdose of MDMA, Anne-Marie Cockburn has become an advocate for a more pragmatic approach to drugs. Along with other families negatively impacted by current drug laws, she has helped to establish a new campaign, called Anyone's Child: Families for Safer Drug Control. This is her story.

"On 20th July, 2013, I received the phone call that no parent wants to get. The voice said that my 15-year-old daughter was gravely ill and they were trying to save her life. On that beautiful, sunny Saturday morning, Martha had swallowed half a gram of MDMA powder (ecstasy) that turned out to be 91% pure. Within two hours of taking it, my daughter died of an accidental overdose. She was my only child.

"I was blissfully ignorant about the world of drugs before Martha died. Drugs are laughed about on sitcoms, joked about on panel shows. Much as I hate to admit it, they are a normal part of modern society. Young people witness their friends not dying from taking drugs all the time. So by simply spouting the 'just don't do it' line and hoping that will be enough of a deterrent, we're closing our eyes to what's really going on.

"The subject of drugs evokes so much emotion in people, it's hard for many to imagine what moving away from prohibition would actually look like in practice. Many think it would result in a free-for-all, but that's what we actually have at the moment. Drugs are currently 100% controlled by criminals, who are willing to sell to you whether you're aged 5 or 55. Everyone has easy-access to dangerous drugs, that is a fact. I've said: 'Martha wanted to get high, she didn't want to die'. All parents would prefer one of those options to the other. And while no one wants drugs sold to children, if Martha had got hold of legally regulated drugs meant for adults, labelled with health warnings and dosage instructions, she would not have taken 5-10 times the safe dose.

"When I hear that yet another family has joined the bereaved parents' club, I feel helpless as I wonder how many more need to die before someone in government will actually do something about it? As I stand by my child's grave, what more evidence do I need that things must change? A good start would be to conduct the very first proper review of our drug laws in over 40 years and to consider alternative approaches. But the people in power play an amazing game of 'let's pretend'. Well there's no way for me to hide – every day I wake up, the stark reality of Martha's absence hits me once again."

efforts are grounded in evidence. For decades, exclusively abstinence-based approaches have been the dominant model in most parts of the world – and they have not worked. Drug Abuse Resistance Education (DARE), the archetypal “Just Say No” prevention programme in the US, has been studied extensively, and researchers have concluded that children who participate in it “are just as likely to use drugs as are children who do not participate in the program.”<sup>12</sup> Worse than simply being expensive and ineffective, there is some evidence that such programmes may even be counterproductive.<sup>13</sup>

That is not to say that prevention can never work, or that it is not an important part of a wider harm reduction approach; from a public health perspective, it is obviously better to prevent drug use ever occurring than to deal with its consequences. But there is a need to be realistic. The best available evidence suggests that universal information provision alone does not change drug-taking behaviour.<sup>14</sup> Decisions to begin or stop using drugs are complex, influenced by a range of social, cultural and environmental factors. According to research, addressing these factors – by, for example, teaching children to resist impulsive behaviour in general – is likely to be most effective in preventing or reducing drug use.<sup>15</sup>

There is also a balance to be struck between positive efforts to encourage abstinence, and providing practical and targeted harm reduction advice to those for whom abstinence messages do not succeed. Because of a politically driven zero-tolerance approach to drugs, this latter group is often put at risk by a lack of information that could minimise the potential harms of their drug use.

Drug education, if it is to work, therefore needs to be based on science, rather than politics. But the drug war is a political construct: it has historically marginalised evidence and defaulted to simplistic scaremongering, driven by an ideological and implausible vision of a “drug-free world”.

### Restricting young people's access to effective services

An estimated 15.9 million people aged 15 to 64 inject drugs worldwide. However, the number of people in this group who are under the age of 18, or under 18 and infected with HIV or hepatitis C, is unknown because this data is not routinely collected in most locations.<sup>16</sup>

Delivering treatment and harm reduction services for under-18s is a complex and sensitive task, involving legal barriers, clinical considerations and widely varying socio-economic contexts.<sup>17</sup> But the longstanding absence of

accurate surveillance data only makes an already difficult challenge harder.

Even when a need is identified, it can be extremely difficult for young people and children to access services, and they often face obstacles and discrimination when they attempt to minimise harms from their drug use. In Central and Eastern Europe, for example, there are arbitrary age restrictions on access to sterile injecting equipment and opioid substitution therapy, which can reduce the harms faced by young people who use drugs.<sup>18</sup>

### Reducing access to essential medicines

Fears about the diversion of certain medical drugs for illicit, non-medical use have led to overly restrictive drug policies. Most seriously, more than 80% of the world's population – including 5.5 million people with terminal cancer – have little or no access to opiate-based pain medication. Inevitably, this means many of the world's poorest people experience entirely unnecessary suffering.

This failure on the part of the UN and domestic governments to ensure access to palliative care impacts on children in particular. Despite morphine being classified as an essential medicine by the World Health Organization, unwarranted fears about addiction have led healthcare professionals in some countries to be reluctant to prescribe the drug to children. In Kenya, punitive drug policies have served to foster the widespread perception that morphine is highly dangerous, rather than an essential, low-cost tool to alleviate pain when used in a medical setting. Not only are many young people in pain unable to access relief for themselves, but they may also have to watch their loved ones suffer, sometimes depriving them of support from parents or carers in the process.<sup>19 20</sup>

This major, avoidable cause of young people's suffering persists despite the avoidance of ill health and access to essential medicines being a key objective and obligation of the global drug control regime.



## 2. Undermining children's rights

### Abusive juvenile justice, punishment and incarceration

People who use drugs, or who are arrested or suspected of drug offences, including children and young people, are frequently subjected to imprisonment and serious forms of cruel and unusual punishment.

Many children and young people are deprived of their freedom for minor drug offences through unjust and disproportionate laws. This injustice is all the more acute given they are usually among the most marginalised and vulnerable in society, drawn into low-level drug dealing or trafficking as a direct result of poverty and a lack of alternative options. For most of these minor players, involvement in the illicit drug trade is necessary for their economic survival; it is not a sign of greed or wealth. Few match the stereotypes of moneyed gangsters portrayed in popular media and film: in 2009, 50% of those imprisoned for illicit drug sales in Mexico were selling products with a value of \$100 or less, and 25% were making sales worth \$18 or less.<sup>21</sup>

In any country, poorer young people are also at greater risk than their wealthier counterparts of being apprehended by drug law enforcement. This is because they are more likely to live in deprived, urban neighbourhoods where the drug trade is more conspicuous, carried out in public areas between strangers. Once arrested, they are also more likely to be convicted and to go to prison than wealthier young people – particularly if they are from ethnic minorities.<sup>22</sup> And when emerging from prison, the stigma and legal implications of a criminal record limit their options still further, creating obstacles to housing, employment, welfare and travel, making a return to drug use and the criminal economy more likely.

Catalogue of abuses against children and young people once they are within the criminal justice system can include police violence;<sup>23</sup> death threats and beatings to extract information;<sup>24</sup> being held in solitary confinement (for non-violent offences);<sup>25</sup> extortion of money or confessions through forced withdrawal without medical assistance; judicially sanctioned corporal punishment for drug use; and various forms of cruel, inhuman and degrading treatment in the name of “rehabilitation”, including denial of meals, beatings, sexual abuse and threats of rape, isolation, and forced labour.<sup>26</sup>

In Cambodia, where children comprise around 25% of those in compulsory drug detention centres,<sup>27</sup> abuses include: detainees being hung by the ankle on flagpoles

“[W]hat we know is that a consequence of [focussing on street-level drug transactions] was this massive trend towards incarceration, even of non-violent drug offenders ... I saw this from the perspective of a state legislator, this, just, explosion of incarcerations, disproportionately African American and Latino. And the challenge ... is, folks going in at great expense to the state, many times trained to become more hardened criminals while in prison, come out and are basically unemployable. And end up looping back in.”

Barack Obama  
President of the United States  
2015

in the midday sun; shocking by electric batons; whipping by cords, electrical wires, tree branches and water hoses; and rape – including gang rape and forcing young women into sex work. Abuses are not only carried out by the staff, but also delegated to trusted detainees to carry out against fellow inmates.

### Undermining schooling and education

The politicised and emotive nature of the public debate on drugs has led many schools to adopt zero-tolerance policies. These are designed to reassure parents and fulfil politicians' expectations, but they do not respond effectively to the realities of drug use in society, or to the complexities of most children's lives.

These hard-line policies usually involve disproportionately punitive and ultimately counterproductive sanctions for drug use or drug dealing. Students who have committed even minor infractions are often suspended or excluded from school, rather than offered support from health and welfare services. Such sanctions can seriously jeopardise a child's future, with reduced involvement in education and leaving school at an early age being associated with

more chaotic and problematic drug use, both in the short and long term.<sup>28</sup> Life chances and employment prospects can also be directly impacted. In the US, for example, many low-income students have been denied access to federal aid for college tuition due to minor drug convictions.<sup>29</sup> Vulnerable young people with difficult home lives are already more likely to be involved in drugs, and excessively punitive, knee-jerk responses serve only to exacerbate the challenges they face.

Both random drug testing and sniffer dogs are sometimes deployed for similar symbolic value – to demonstrate a school's zero-tolerance credentials, or show that it is “taking a stand” against drugs. But neither has been shown to be effective in deterring drug use.

- A study in Michigan involving 76,000 pupils found no difference in levels of drug use among students in schools where drug testing was conducted compared with those where it was not<sup>30</sup>
- The UK government's expert group, the Advisory Council on the Misuse of Drugs, reviewed the available evidence in 2005 and specifically recommended against such policies, due to the “complex ethical, technical and organisational issues” involved, and the “potential impact on the school-pupil relationship”<sup>31</sup>

As well as being an ineffective deterrent to drug use, testing and searches represent a violation of the right to privacy, and raise difficult ethical questions around both child and parental consent. Even if drugs or drug use are detected, this can lead to students being publicly labelled as a drug user in need of help, despite the inability of drug tests or low-level drug seizures to distinguish between occasional, recreational use and genuinely problematic use that requires the intervention of health or social services. The stigma of this label can impact on a child's self-esteem and aspirations, drawing them into the net of counselling services, treatment programmes and the criminal justice system, from which it is difficult to escape.<sup>32</sup>

### 3. Destroying families: the impact on parents and carers

While children and young people are often directly harmed by the war on drugs, many are also indirectly affected by the loss of parents or carers, who, due to criminalisation, incarceration or drug-war violence, are either absent, unable to adequately care for them, or dead.

### Does the drug war protect children's rights?

The protection of children's rights has been a prominent theme in political justifications for punitive drug enforcement and opposition to reform.<sup>33</sup> The UN Convention on the Rights of the Child is the core international treaty setting out a comprehensive set of rights guarantees for children. All but two states, Somalia and the US, have agreed to be bound by its terms, which include protection from drugs – the right for children to, effectively, be “drug-free”. Signatories are required to:

“... take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties and to prevent the use of children in the illicit production and trafficking of such substances.”

The key question, when counting the costs to child rights of the war on drugs, is: What constitutes “appropriate measures”? This is particularly important given the horrific litany of violence, abuse, disease and death that has resulted from the current enforcement-led system, alongside the failure to achieve the policy's stated aims.

The UN Convention on the Rights of the Child calls for the protection of children, not punishment and criminalisation. The war on drugs is at odds with the emphasis placed by the UN on human rights and health, and it is these considerations that should shape the development of drug policy for young people.

- Since 2006, when Mexico intensified and militarised its approach to drug law enforcement, more than 100,000 people have been killed in violence related to the country's illegal drug trade, and over 20,000 have disappeared.<sup>34</sup> In 2010 it was estimated that as many as 50,000 children had lost one or more parents in this violence<sup>35 36</sup> – a figure that is certain to have increased significantly in subsequent years



- The use of incarceration for drug offences has deprived many children of their parents or carers. In the US, 55% of women and 69% of men held in federal prisons for drug offences have children; in state prisons, it is 63% of women and 59% of men.<sup>37</sup> Being separated from a parent in this way can precipitate a range of emotional, psychological and social problems for children, many of whom will already be growing up in families struggling with poverty, discrimination and limited educational and employment opportunities.<sup>38</sup> Children of incarcerated parents are at greater risk of suffering from depression and becoming aggressive or withdrawn,<sup>39</sup> and boys with incarcerated fathers have substantially worse social and other non-cognitive skills at school entry.<sup>40</sup>
- Depriving children of one or both parents can also lead to their being raised by the state, something which is strongly associated with reduced life chances and poor outcomes for children. For example, children who grow up in UK local government care are four times more likely to require the help of mental health services; nine times more likely to have special educational needs requiring support or therapy; seven times more likely to misuse alcohol or drugs; 50 times more likely to wind up in prison; 60 times more likely to become homeless; and 66 times more likely to have children needing public care themselves.<sup>41</sup>

### Disproportionate sentencing

Women are most commonly convicted of low-level, non-violent drug offences, and are not the principal figures in criminal organisations. However, since they are also most commonly a child's key care provider, when they are criminalised or imprisoned due to drug-war policies, their children suffer too.

Mandatory minimum sentences for drug trafficking often fail to distinguish between quantities carried. Even lower-end sentences are often very harsh. Rigid sentencing guidelines often limit judges' discretion, preventing them from considering mitigating factors that might allow for reduced sentences or non-custodial alternatives.

The result is that many women involved in drug supply at a relatively low level are subject to criminal sanctions similar to those issued to high-level market operatives and large-scale traffickers. This results in particularly severe sentences for so-called "drug mules" – women who transport drugs across borders. Usually coming from socially and economically marginalised backgrounds, they are commonly driven to drug trafficking by desperation,

"A substantial percentage of women in prison are incarcerated for drug offenses – an estimated 70 percent in some countries in the Americas and in Europe and Central Asia – a significant number for low level, non-violent drug offenses. Many of them are young, illiterate or with little schooling, single mothers and responsible for the care of their children or other family members. While more men are incarcerated for drug offenses, the consequences of criminal punishment fall differently on women, and often have greater impact on their children and their families. Yet women's caring responsibilities are not taken into account at sentencing, nor recognized or met at the prison."

United Nations Development Programme  
2015

poverty and, ironically, a need to support their children. Alternatively, their involvement may result from coercion and exploitation by men further up the drug-trading hierarchy.

This has become an acute problem in Latin America in recent years. Between 2006 and 2011, the region's female prison population almost doubled, increasing from 40,000 to more than 74,000, with the vast majority imprisoned for drug-related offences. Estimates range from 75-80% in Ecuador, 30-60% in Mexico, 64% in Costa Rica, 60% in Brazil, and 70% in Argentina.<sup>42</sup>

Some children of women or men sentenced to long prison terms for drug crimes grow up inside prisons,<sup>43 44</sup> many of which the United Nations Development Programme has

described as “not fit to maintain the basic conditions to live with dignity”.<sup>45</sup> In Bolivia, official estimates suggest there are at least 1,500 children being raised in jails by their parents.<sup>46</sup>

### Disproportionate responses to parental drug use

Drug-taking is often equated with negligence or mistreatment of children, and a woman’s drug use or dependence in particular can be grounds for removing a child from her care. Whether drug use is problematic or not, this is blanket discrimination, often fuelled by populist political and media stereotypes. News coverage of so-called “crack moms” in the US is a prominent example.

There is no doubt that problematic parental drug dependence places children at increased risk of neglect and abuse. But as is so often the case in the drugs debate, there is a risk of generalised assumptions: for many, it is difficult to accept that parental drug use is not always synonymous with child neglect. Parents who use drugs can also be good parents. Life-changing decisions about the custody of a child should therefore be made on an individual basis, taking into account the real risk of abuse or neglect in each case, and weighed against likely negative outcomes for the child if they are taken into state care.

Beyond consideration of individual cases, as ever in public policy, prevention of a problem is best, so it is vital the most comprehensive health and social support possible is provided for all families who are, or might become, at risk of having a child removed because of problematic parental drug use. Unfortunately, rather than investing in such proven interventions, limited resources are instead expended on counterproductive criminal justice responses to drug use, which often place a further undue burden on women.

Finally, gender-specific treatment programmes that allow women to live with their children are often limited (where they exist at all), and in certain countries, pregnant dependent drug users do not have access to the safest and most appropriate treatment practices, compromising both their health and that of their unborn children.

## 4. Fuelling crime and violence, creating new dangers

Research based on several decades of data shows that, counterintuitively, police and military enforcement against illicit drug markets actually increases, rather than reduces, gun violence and homicide rates.<sup>47</sup> Historically, the victims of such drug-market-related conflict have predominantly been young males, but increasingly, women and children are becoming victims too. In Mexico, for example, as many as 4,000 women and 1,000 children were killed in violence linked to the drug trade between 2006 and 2010 alone.<sup>48</sup>

Children’s psychological development is also inevitably affected by exposure to the conflict and violence linked to the illegal drug trade. Research into the mental health of children and adolescents living in areas plagued by drug-war instability shows an association between living in violent surroundings and greater levels of social problems, rule-breaking and aggression.<sup>49</sup> Post-traumatic stress disorder among school students has also been attributed to living in drug-war conflict zones.<sup>50</sup>

The breakdown of social and political structures is another result of the volatility generated by the illegal drug trade and the enforcement response to it. Family and community norms, and functioning state services (most obviously education and healthcare) that could have mitigated the dire situation in which many children find themselves, are often eroded, completely absent, or in extreme cases, only available due to the largesse of the cartels that have displaced state actors.<sup>51</sup>

The recruitment of children is also common among drug cartels. Driven by poverty and desperation, many become drug-crop growers or foot soldiers for these violent organisations:

- In Mexico, from 2006 to 2011, more than 25,000 children left school to join drug trafficking organisations.<sup>52</sup>
- Such early involvement in the drug trade has also been well documented in Brazil, where drug gangs cultivate close ties with children and young people, building their trust by first paying them to perform simple, non-drug-related tasks, then recruiting them with the lure of weapons, power, drugs and sex.<sup>53</sup> As the country’s illicit drug trade has continued to grow, this exploitation of children has had increasingly fatal consequences. From 1980 to 2010, Brazil’s homicide rate for people aged under

19 grew by 346% to 13.8 per 100,000, almost three times the growth in the murder rate for the wider population (126%)<sup>54</sup>

### The trafficking and enslavement of children

The illicit market created by the war on drugs is leading directly to the trafficking and enslavement of children. In Afghanistan, child labour – including forced labour – is used extensively in opium poppy production, and sometimes smuggling, including at a transnational level.<sup>55</sup> Media reports have also noted the “opium bride” phenomenon, in which farmer families marry off their child-age daughters to settle debts to opium traffickers.<sup>56</sup>

The war on drugs is also fuelling the trafficking and enslavement of children to work within Western drug markets, as this story about Vietnamese children trafficked to the UK to grow cannabis illustrates:

“Hien’s journey to the UK started when he was taken from his village at the age of five by someone who claimed to be his uncle. As an orphan, he had no option but to do as he was told. He spent five years travelling overland... before being smuggled across the Channel and taken to a house in London. Here he spent the next three years trapped in domestic servitude... He became homeless after his ‘uncle’ abandoned him. He slept in parks and ate out of bins. He was eventually picked up by a Vietnamese couple, who ...forced him to work in cannabis farms in flats in first Manchester and then Scotland...He was locked in, threatened, beaten and completely isolated from the outside world. ‘I was never paid any money for working there,’ he says. When the police came he told his story... but was still sent to a young offenders’ institution in Scotland... He was released only after the intervention of a crown prosecutor led to him being identified as a victim of trafficking.”<sup>57</sup>

This story is far from unusual. According to Anti-Slavery International, of the potential trafficking victims who were forced to cultivate cannabis in the UK, 96% were from Vietnam and 81% of those were children. The UK’s National Society for the Prevention of Cruelty to Children has also said that, between 2011 and 2012, of all the trafficked children who had disappeared in the previous year, 58% were being exploited for criminal activity, including cannabis cultivation.<sup>58</sup>

### Drug-crop eradication: devastating livelihoods and threatening health

Forced drug-crop eradication has had a range of severe negative consequences, including for children, contributing to human displacement, violence, food insecurity, and further poverty.<sup>59 60 61 62</sup> In its 2006 report on Colombia, the UN Committee on the Rights of the Child stated it was “concerned about environmental health problems arising from the usage of the substance glyphosate in aerial fumigation campaigns against coca plantations (which form part of Plan Colombia), as these affect the health of vulnerable groups, including children.”<sup>63</sup>

The International Agency for Research on Cancer (IARC) – a branch of the World Health Organization – stated in 2015 that glyphosate was “probably carcinogenic to humans”.<sup>64</sup> Following the IARC announcement, the Colombian government belatedly declared that it will cease using Glyphosate (although not necessarily in all eradication efforts). However, use of the chemical agent continues elsewhere in drug-crop eradication, including in South Africa.

- In Afghanistan, it is accepted at high levels that forced eradication has helped the Taliban to recruit, and that those who joined were mostly young men
- Eradication has also impacted on educational outcomes. Research conducted by the UNODC in the Kokang Special Region 1 in Myanmar (Burma) found that eradication led to a 50% drop in school enrolment<sup>65</sup>

For all these efforts, eradication has been staggeringly ineffectual at reducing the production or availability of any drug. Former US Special Envoy to Afghanistan Richard Holbrook called it “the least effective program ever.”<sup>66</sup> At the end of coalition troops’ 13-year occupation of Afghanistan in 2014, opium production was at a record high, with 225,000 hectares under cultivation, compared to 82,000 hectares in 2000.<sup>67</sup>

### Are there benefits?

The main supposed benefit of the war on drugs in relation to children is that, while drug use may have increased over the past half-century, it is still lower than it would be under a more “liberal” approach, thereby protecting more young people from the harms of drug-taking (with some arguing that children have a right to be “drug-free”).

This appears, at face value, to be a reasonable position, but it is problematic for two reasons.

First, as already discussed, decades of evidence from all over the world show that the harshness of law enforcement has no meaningful impact on levels of drug use. However, using law enforcement in an attempt to restrict drug use unquestionably causes damage in itself. The threat of criminalisation is an unethical, ineffective and entirely disproportionate strategy for encouraging young people to make healthier lifestyle choices. And, as outlined above, enforcement measures that seek to prevent drug consumption by targeting the supply of drugs are both ineffective (and therefore, by definition, disproportionate) and actively undermine the safety of communities in which children live.

Second, in any case, levels of drug use are a poor measure of overall levels of health and social harms. While the use of some illicit drugs may be low in relative terms, prohibition ensures that the harm this use generates is very high. Indeed, many of the potential risks of illicit drugs are a product not just of their pharmacology, but of their being produced and supplied by an unregulated criminal market. Street heroin mixed with potent adulterants such as fentanyl, for example, carries far greater risks than pure, pharmaceutical-grade heroin (diamorphine).

## How to count the costs?

To meaningfully count the costs of the war on drugs to children, new policy aims and new ways of measuring policy effectiveness are required. That means moving beyond the narrow goals of use-reduction and abstinence, and beyond process indicators, such as arrests, seizures, and amount of drug crops destroyed. Instead, the analysis should be based on the actual quality of life, health and wellbeing of children and young people.

The war on drugs, and potential alternative approaches, must therefore be evaluated against a far broader range of indicators – for health, human rights, human security and human development. Given that these are the key pillars of the UN's work, it is a call that should be informing all of the agency's discussions – from the 2016 UNGASS on Drugs, the Sustainable Development Goals, the 2019 10-year UN drug strategy, and beyond. To do this effectively will require a commitment to bring existing analytical frameworks – for example, those concerned with children's rights and juvenile justice – to bear on the development and evaluation of drug policy, something

“The planes often sprayed our community. People would get very sad when they saw the fumigation planes. You see the planes coming – four or five of them – from far away with a black cloud of spray behind them. They say they are trying to kill the coca, but they kill everything. I wish the people flying those fumigation planes would realize all the damage they do. I wish they'd at least look at where they're going to spray, rather than just spraying anywhere and everywhere. The fumigation planes sprayed our coca and food crops. All of our crops died. Sometimes even farm animals died as well. After the fumigation, we'd go days without eating.

“Once the fumigation spray hit my little brother and me. We were outside and didn't make it into the house before the planes flew by. I got sick and had to be taken to the hospital. I got a terrible rash that itched a lot and burned in the sun. The doctor told us the chemical spray was toxic and was very dangerous. I was sick for a long time and my brother was sick even longer.”

Javier  
Age 11



that has been lacking in most UN and domestic political declarations to date.<sup>68</sup>

Technical challenges are not the problem here – this task simply requires political will from UN member states, and leadership from key UN agencies, key child-focused NGOs, and funding bodies, all of whom need to focus on redressing the historic deficit in evaluating the negative impacts of the war on drugs on children and young people.

## Conclusion

The protection of children is rightly a key concern in the debate about drugs and drug policy. But as this briefing demonstrates, far from protecting this most vulnerable of groups, the war on drugs exposes them to even greater risks: drugs cut with dangerous adulterants; a criminal record that can ruin lives from an early age; violent drug markets that blight entire cities; barriers to evidence-based treatment and health interventions; and ineffective education inspired by ideological visions of a drug-free world.

Aside from these direct costs of the drug war to children, there are also huge opportunity costs that come with pursuing such an enforcement-based approach. The tens of billions of dollars poured annually into failed and counterproductive law enforcement each year are not far short of total spending on international aid.<sup>69</sup> This money could be re-directed into health and social development programmes for vulnerable individuals and communities – including children and young people – that would reduce harms rather than fuel them.

As a growing number of jurisdictions implement far-reaching drug policy reforms, it is time for governments, international bodies and civil society to count the costs of the war on drugs and participate in the growing discussion on alternative approaches that could deliver better outcomes – especially for children and young people. As the UN Secretary-General, Ban Ki-moon, has said, it is essential that the drug policy debate is “wide-ranging [and] considers all options”<sup>70</sup> – and that includes the decriminalisation of personal drug possession and the legal regulation of drug markets.

There can be no further excuses for delaying a meaningful debate on reform. It is vital that the slogan of the 2016 UNGASS on Drugs – “A better tomorrow for today’s youth” – proves not to have been just more empty rhetoric designed to preserve the status quo. Because more of the same will mean a more dangerous world for young people to grow up in.

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09

# Causing deforestation and pollution

**The environment is one of the forgotten costs of the war on drugs. The heavy emphasis on supply-side enforcement – particularly when involving crop eradication – has proved futile in reducing total drug production but has had disastrous environmental consequences in terms of deforestation and pollution in some of the world’s most fragile and biodiverse ecosystems.**

## Introduction

The war on drugs has created or exacerbated a series of serious environmental harms that have remained at the margins of both high-level drug policy and environment protection debates.<sup>12</sup>

As part of ongoing international commitments to achieving a “drug-free world”, drug policies have, over the past half-century, placed a heavy emphasis on efforts to restrict the production and supply of drugs. Yet these supply-side interventions, while proving largely futile in reducing supply, are fuelling widespread environmental destruction. The most direct cause of this destruction is also the most direct means of disrupting illicit production and supply – drug crop eradication. Usually conducted without consent or forewarning, eradication involves either manually cutting down or uprooting plants, or the aerial spraying of chemical herbicides. Whatever the method used, this practice, directly and indirectly, leaves a catalogue of environmental harms in its wake.<sup>3</sup>

The areas of land under cultivation for illicit drug crops are relatively small – at least when compared to more conventional food and industrial crops. Despite this, the combination of clandestine illicit production that carries no responsibility for secondary costs, and environmentally destructive forced eradication that merely displaces production, has meant that illicit drug production and related enforcement efforts have had a disproportionate negative impact on the natural environment.

Drug cartels target areas for production that are remote, have little economic infrastructure or governance and suffer from high levels of poverty, so farmers have few alternative means of earning a living outside of the drug trade. These areas include some of the most ecologically diverse and sensitive in the world. As a result, drug crop eradication threatens biodiversity, fuels deforestation, and drives illicit crop growers to pursue environmentally hazardous methods of drug production.

Yet despite the environmental toll of this counterdrug strategy, most nations have ratified the relevant international conventions requiring the eradication of certain drug crops. Article 14, paragraph 2, of the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, declares that: “Each Party shall take appropriate measures to prevent illicit cultivation of and to eradicate plants containing narcotic or psychotropic substances, such as opium poppy, coca bush and cannabis plants, cultivated illicitly in its territory.”

But the same article of this convention also states that: “The measures adopted shall respect fundamental human rights and shall take due account of traditional licit uses ... as well as the protection of the environment.”<sup>4</sup>

In practice, however, the environment – along with human rights and traditional uses of drugs – has not been given due consideration in either the war on drugs or the crop eradication campaigns carried out in its name.<sup>5</sup>

## The futility of drug crop eradication

Although the logic of illicit crop eradications seems clear, such attempts to break the first link in the chain of the drug trade have been entirely ineffective in generating a sustained reduction in the quantity of drugs being produced. This is because without any significant, prolonged decline in demand, eradication simply increases the price of illicit drug crops: they become a rarer, yet equally sought after, commodity, which in turn provides a greater incentive to ramp up production.

The lucrative nature of this cycle means that production is never eliminated, only displaced. This is an example of the so-called “balloon effect”: production in one region is squeezed by law enforcement, causing it to expand



**“Spraying the crops just penalizes the farmer and they grow the crops somewhere else ... This is the least effective program ever.”**

**Richard Holbrooke**  
US Special Envoy to Afghanistan and Pakistan  
2002

in another region as drug producers mobilise to meet demand. Despite its continued support for eradication, the UNODC is fully aware of this effect, listing it as one of its five unintended consequences of current drug control in its 2008 World Drug Report, as well as highlighting numerous cases where, when eradications cause production to fall in one area, growers in another area pick up the slack.<sup>678</sup>

Given that eradication efforts have so comprehensively failed to deliver their intended outcome, the need to scrutinise their unintended consequences is all the more urgent. From even a cursory examination of the evidence, however, it is clear that one of the most immediate and devastating impacts of drug crop eradications is on the natural environment of some of the world's most ecologically valuable regions.

## The environmental costs of the war on drugs

### 1. How chemical eradications threaten biodiversity

Concerns over human and environmental health led Peru, Bolivia, Ecuador and Thailand to all ban the use of chemical agents in eradication efforts. But despite these concerns, for 21 years, the world's second most biodiverse country, Colombia, still permitted aerial fumigations of coca, the plant which is used to make cocaine, using a chemical mixture primarily consisting of the herbicide glyphosate.

In 2015, the aerial fumigation programme was ended, following a declaration by the WHO's International Agency for Research on Cancer, that glyphosate “probably” causes cancer in humans.<sup>9</sup> The decision to shutter the programme was met with dismay by the US, which was the primary backer and funder of the initiative. While US officials have claimed the end of the programme will reduce Colombia's ability to combat the illicit cocaine trade, there is ample evidence that aerial fumigations are both ineffective in bringing about long-term reductions in coca production and actively harmful to the environment.



Current drug policies must be comprehensively evaluated in order to minimise their environmental impact



**“This spraying campaign [in Colombia] is equivalent to the Agent Orange devastation of Vietnam – a disturbance the wildlife and natural ecosystems have never recovered from.”**

**Dr. David Olson**  
Director of Conservation Science,  
World Wildlife Fund  
2000

### **Aerial spraying: the potential human health costs**

Despite the US government’s claims that the chemical agents used in aerial fumigations pose no significant health risk to humans, conflicting evidence comes from countless reports by local people and a range of academic studies.

One of these concluded that the Roundup mixture used in Colombia is toxic to human placental cells and could lead to reproductive problems,<sup>10</sup> while the UN Special Rapporteur on the Right to Health said after a visit to Ecuador in 2007:

“There is credible, reliable evidence that the aerial spraying of glyphosate along the Colombia-Ecuador border damages the physical health of people living in Ecuador. There is also credible, reliable evidence that the aerial spraying damages their mental health.”<sup>11</sup>

Such concerns assumed a level of institutional credibility that became politically impossible to ignore only when the WHO’s International Agency for Research on Cancer upgraded its classification of glyphosate from “possibly” causing cancer, to “probably” causing cancer – an announcement that finally triggered the Colombian cessation of aerial spraying in 2015.<sup>12</sup>

Although this programme has now come to an end, it is important to not lose sight of the devastation caused by more than two decades of aerial fumigations. The issue also remains relevant as it is possible the programme may be reinstated in Colombia, or adopted elsewhere in the future, and glyphosate spraying directed at illicit cannabis-growing, reportedly continued in South Africa during 2015.<sup>13</sup>

### **Roundup™: Colombia’s “poison rain”**

Roundup is a commercial glyphosate-based herbicide, and was the main component of the mixture used in Colombia’s US-funded fumigation programme. Glyphosate is a non-selective herbicide, meaning any plant exposed to a sufficient amount of the chemical will be killed. In the mixture sprayed in Colombia, the toxicity of glyphosate is enhanced by the inclusion of a surfactant, an additive that enables it to penetrate further through leaves, increasing its lethality.

The particular surfactant used in Colombia is not approved for use in the US and its ingredients are considered trade secrets,<sup>14</sup> rendering any independent evaluation of its effects all the more difficult to conduct.

### **The destruction of plant life**

The spraying of a herbicide designed to kill flora indiscriminately, across millions of acres of land, is concerning no matter what country it takes place in. But in Colombia’s case it was especially alarming, given its approximately 55,000 species of plants, a third of which are unique to the country. The imprecise nature of aerial spraying maximises this threat to biodiversity, because rather than being applied directly, from close range (as instructions for the use of herbicides state), herbicides are sprayed from planes. This increases the likelihood of the wrong field being sprayed due to human error, and in windy conditions causes herbicide to be blown over non-target areas. Consequently, drug crop eradications often wipe out licit crops, forests and rare plants.

In addition to the short-term loss of vegetation they cause, aerial fumigations can have a more long-lasting impact on plant life. The Amazon has a fragile soil ecosystem, and farmers report that areas which have been repeatedly fumigated are either less productive or yield crops that fail to mature fully.<sup>15</sup>

### The contamination of national parks

The inadvertent environmental damage caused by chemical eradications was exacerbated by the proximity of a number of Colombia's national parks to illicit coca plantations. In effect, this meant that some of the areas most frequently targeted by aerial fumigations were also among the country's most biodiverse and ecologically irreplaceable.<sup>16</sup> As more than 17 million people depend on the fresh water that flows from these protected areas,<sup>17</sup> this undoubtedly represented a threat to human health. It also further threatened Colombia's more than 200 endangered species of amphibians that live in these aquatic environments and are particularly sensitive to herbicides such as Roundup.<sup>18</sup>

### The danger to animal health

While the US State Department denied that the chemical agents used in Colombia have any severe effects on fauna, evidence suggests that animal health can be seriously impacted by their use. Cattle have lost hair after eating fumigated pastures, and chickens and fish have been killed as a result of drinking water contaminated with the fumigation spray.<sup>19</sup>

More significantly, by eradicating large areas of vegetation, aerial fumigations destroyed many animals' habitats and deprive them of essential food sources. With numerous bird, animal and insect species unique to Colombia, this

poses a real risk of triggering extinctions, particularly given the wider pressure on natural habitats in the region.

Such effects are a clear indictment of the decision to fumigate vast areas of a country that has the world's greatest diversity of both terrestrial mammal and bird species, the latter representing 19% of all birds on the planet.

- Although the US Environmental Protection Agency explicitly prohibits the use of glyphosate solutions in or near bodies of water,<sup>23</sup> Roundup was sprayed on tropical forests and cloud forest ecosystems
- In 2002, the Colombian ombudsman received 6,500 complaints alleging that counterdrug spray planes had fumigated food crops, damaged human health and harmed the environment<sup>24</sup>
- Despite the fumigation of approximately 2.6 million acres of land in Colombia between 2000 and 2007,<sup>25</sup> the number of locations used for coca cultivation actually increased during this period, from 12 of the country's departments in 1999 to 23 departments in 2004<sup>26</sup>
- In 2004, 130,000 hectares of land were fumigated in Colombia, leading to a decrease of 6,000 hectares of coca crops against the previous year. In other words, to eradicate one hectare, it was necessary to fumigate 22,<sup>27</sup> even before taking into account resulting rises in production in other countries

## Biological warfare: the looming threat of mycoherbicides

The use of fungi known as mycoherbicides has previously been proposed as a more effective weapon in the fight against illicit crop production. One of the mycoherbicides considered for use is fusarium oxysporum, a fungus which produces a toxin harmful enough to be classified as a biological weapon by the draft Verification Protocol to the UN Convention on Biological and Toxin Weapons.<sup>20</sup>

Despite its ability to cause skin diseases and respiratory problems in humans, and despite the obvious risks of introducing novel (in this case genetically engineered) biological pathogens into fragile ecosystems, in 2000 the US lobbied the Colombian government to introduce a strain of fusarium oxysporum as part of its drug crop eradication programme. Although this proposal was eventually rejected, a number of members of Congress made subsequent attempts in 2006 and 2007 to "fast-track" research into the fungus so that it could be used for opium eradication in Afghanistan and coca eradication in Colombia.<sup>21</sup> There have been unconfirmed suspicions that a fungus infestation that struck the heart of the opium poppy cultivation region in Afghanistan in 2010, destroying almost one quarter of the year's crop, may have been deliberately instigated as part of an eradication effort.<sup>22</sup>

The eagerness with which this drastic measure has been pursued in the past indicates that the use of mycoherbicides in the war on drugs remains a potential environmental threat.

## 2. Deforestation

While eradications necessarily cause localised deforestation in the areas in which they are conducted, they also have a multiplier effect, because once an area has been chemically or manually eradicated, drug crop producers deforest new areas for cultivation. In their search for new growing sites, producers move into increasingly remote or secluded locations as a means of evading eradication efforts.<sup>28</sup> Exacerbating the environmental cost of this balloon effect, they also often target national parks or other protected, ecologically significant areas where fumigation is banned.

Mexico's Sierra Madre Occidental mountain range, for instance, is one of the most ecologically diverse regions in North America, yet is also now one of the most prolific opium and cannabis producing regions in the world. The displacement of drug producers to this area has fuelled widespread deforestation, jeopardising the 200 species of oak tree and the habitats of numerous rare bird species – such as the thick-billed parrot – found in the region. Such deforestation is not limited to the area cultivated for illicit crops. Rather, in addition to this land, drug producers also clear forest for subsistence crops, cattle pastures, housing, transport routes and in some cases, for airstrips. As a result of this, several acres of forest are often clear-cut to produce just one acre of drug crop.

- Protected ecological zones in Central America have become a hub for the trafficking of South American cocaine. The annual deforestation rate in Honduras more than quadrupled between 2007 and 2011, a period in which the illegal drug trade prospered. Huge swathes of the Río Plátano Biosphere Reserve, an endangered UNESCO world heritage site, have been caught up in this deforestation<sup>29</sup>
- In 2008, the UN reported that, for the fourth consecutive year, the Alto Huallaga region of Peru – which is located in tropical and subtropical forests – was the country's largest coca cultivating area<sup>30</sup>

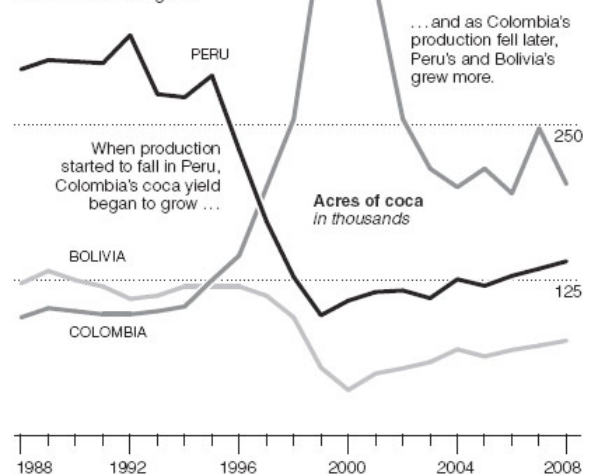
**“This destruction of the rainforest for coca production and coca plantation has gone on under the radar of the environmentalists. We hope that this will be a wake-up call. We hope that the World Wildlife Fund and Greenpeace will start saying ‘what is this?’”**

**Francisco Santos Calderón**  
Vice-President of Colombia  
2008

- The growing of opium poppy in countries such as Thailand and Myanmar depletes thin forest soils and their nutrients so quickly that slash-and-burn growers, after harvesting as few as two or three crop cycles, clear new forest plots. The cumulative effect of this has compounded the environmental destruction taking place in the Golden Triangle region<sup>31</sup>
- Significant areas of US national parks in California, Texas and Arkansas have been taken over by Mexican drug cartels growing cannabis<sup>32</sup>

### Balloon Effect

Areas under coca cultivation in the Andean region.



The balloon effect in the Andean region

**“Drug cultivation, production and related trafficking and enforcement activities can also cause serious harm to the environment, including: deforestation; soil erosion and degradation; loss of endemic species; contamination of soil, groundwater and waterways; and the release of numerous gases that fuel climate change.**

**“Eradication campaigns have had devastating consequences for the environment. [They] have not eradicated illicit production but rather displaced it to new areas of greater environmental significance.”**

**United Nations Development Programme  
2015**

### **3. Pollution from unregulated, illicit drug production methods**

Responsibility for the production of potentially dangerous substances has defaulted to unscrupulous criminal profiteers. One of the many negative consequences of this is the creation of an unregulated system of chemically processing drug crops (primarily coca into cocaine and opium into heroin).

To minimise costs and limit the risk of being apprehended by law enforcement, drug producers must dispose of waste chemicals in a clandestine manner, which in many cases means pouring toxic waste into waterways or onto the ground. This leads to soil degradation, destruction of vegetation, contamination of water sources and loss of aquatic life in ecologically important areas.

### **The Andean region: bearing the brunt of drug war deforestation**

The countries that make up the South American Andes region are among the most ecologically precious in the world, containing thousands of endemic species of plants, hundreds of endemic species of mammals, birds, fish, reptiles and amphibians, and countless endemic insect species. But it is these countries, vital though they are to global biodiversity, that are most impacted by the deforestation which stems from the war on drugs.

Although reliable data on rates of deforestation as a result of illicit drug production are hard to produce, the following statistics have been put forward by drug law enforcement agencies or public officials:

- In Colombia, at least 60% of illicit crops are grown on newly deforested land<sup>33</sup>
- In Colombia overall, 2,910 square kilometres of primary forest are estimated to have been lost to coca cultivation between 2001 and 2014<sup>34</sup>
- In 2000, the Colombian Minister of Environment suggested a million hectares of native forests had been eliminated as a result of the cultivation of drug crops<sup>35</sup>
- Between 2003 and 2004, coca cultivation within Bolivia’s national parks increased by 71%, from 2,400 to 4,100 hectares<sup>36</sup>
- According to the US Drug Tsar, 10% of Peru’s total rainforest destruction over the past century is due to the illicit drug trade<sup>37</sup>
- In both Bolivia and Colombia, researchers suggest that under “alternative development” initiatives, coca farmers cleared more primary forest to plant “land hungry substitute crops” that could not be cultivated as intensively as coca<sup>38</sup>

## Energy up in smoke: the carbon footprint of indoor cannabis production

An additional environmental cost of the war on drugs is the vast amount of electricity consumed by indoor cannabis farms. The necessarily covert nature of their operations diverts producers away from outdoor growing with the aid of natural light, instead using exceptionally energy-intensive growing facilities hidden indoors.

A report from a staff scientist at the Lawrence Berkeley National Laboratory estimated that these indoor facilities, with lighting 500 times more intense than that needed for reading, account for 1% of the US's total electricity consumption.<sup>39</sup> In California, the top producer state in the country, indoor cultivation is thought to be responsible for 3% of all electricity use. This corresponds to the amount of electricity consumed by one million average California homes, or greenhouse gas emissions equal to those from one million average cars. According to the report, such levels of energy consumption mean that a single cannabis joint represents two pounds of CO<sub>2</sub> emissions, equivalent to running a 100-watt light bulb for 17 hours.

- In Colombia, cocaine producers discard more than 370,000 tons of chemicals into the environment every year<sup>40</sup>
- Thousands of tons of chemical waste are dumped into the rivers located in the Peruvian Amazon region annually<sup>41</sup>

The production of methamphetamine is also notorious for the environmental harm it causes, due to the large number of dangerous chemicals used in its manufacture,<sup>42</sup> which include sulphuric acid, ether, toluene, anhydrous ammonia and acetone. As a result, the production of one kilo of methamphetamine can yield five or six kilos of toxic waste, which is sometimes dumped directly into water wells, contaminating domestic water and farm irrigation systems in the US, and Mexico.<sup>43</sup>

## Are there benefits?

The main claim for any environmental benefit of the current enforcement-led approach to drugs is that harsh eradication programmes and punitive law enforcement measures prevent drug producers from expanding their operations, so minimising the ecological damage they cause. Indeed, such environmental harms have frequently been highlighted as one of the justifications for enforcement efforts, and attempts to deter use.<sup>44</sup>

But this claim, frequently made by the US State Department and others, reveals a wilful blindness to the evidence. Eradication programmes have not reduced the environmental harms that result from unregulated drug production. The reality is that such interventions have magnified these harms, transferring environmental costs to ever more remote, ecologically sensitive areas such as the Amazon forests. Current drug control measures are no such thing: without proper regulatory oversight, left in the hands of unscrupulous criminals, drug production will continue to be conducted covertly, leading to the dangerous disposal of chemical waste, and damage to sensitive and important ecosystems.

## How to count the costs?

Environmental impact assessments should be conducted to establish the effects of past and future eradication programmes on non-target flora and fauna. The social, economic and health impacts of eradication efforts on humans should also be assessed. This must include a rigorous monitoring system to investigate complaints from farmers and indigenous communities.

More generally, environmental concerns and indigenous rights must be taken into account in the planning, implementation and, crucially, the evaluation of programmes and policies at national level. Similarly, international funding of any measure must pass through environmental scrutiny, and the UNODC should adopt environmental guidelines for country teams.

Finally, the environmental impacts of current drug policies should be assessed alongside a range of alternative systems – including decriminalisation of personal possession of drugs, and models of legal regulation – to provide guidance on the best ways forward.



## The Maya Biosphere Reserve: Guatemala's mini narco-state



The Maya Biosphere Reserve is the largest protected area in Central America, spanning a fifth of Guatemala and encompassing four national parks. Once home to the ancient Mayan civilisation, the reserve now houses diverse ecosystems and many endangered species. But this diversity is increasingly being threatened.

In recent years drug cartels have created large cattle ranches within the reserve in order to launder their profits and conceal key trafficking hubs, some of which include aircraft landing strips. As they encroach on this protected land, the traffickers cause significant environmental damage: the ash from the fires they start to clear fields leads to acid rain; soil erosion results from deforestation; and many rare animal species – including jaguars, river turtles and monkeys – lose their habitats.

According to Claudia Samayoa, director of Udefegua, a human rights advocacy group in Guatemala: “The narcos use violence and poverty as tools to push into the reserve. They cultivate land, put in some cattle, but often it’s just a front.”<sup>45</sup>

The governor of Guatemala’s Péten region has also drawn attention to the need to protect the reserve, stating that: “Organized crime and drug traffickers have usurped large swaths of protected land amid a vacuum left by the state, and are creating de facto ranching areas. We must get rid of them to really have conservation.”<sup>46</sup>

## Conclusions

The environment is under threat in a variety of ways, from a variety of sources – including the illicit drug trade. But what is clear, reflecting on the experience of the past 50 years, is that the war on drugs has been wholly counterproductive in its attempts to stem the environmental harms caused by this trade.

That it is the drug war itself, and the criminal market it creates, which exacerbates and spreads these harms – most frequently across ecologically rich and fragile regions – is all too apparent. Indeed, few if any of the harms outlined in this chapter occur in the legal production of coca, opium or cannabis for medicinal or other legitimate uses. It is also clear that, for the foreseeable future, poverty and inequality in producing regions mean there will be no shortage of farmers willing to grow drug crops.

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# Options and alternatives

The growing consensus that the costs of the current drug control system are unacceptably high inevitably leads to a discussion of alternative approaches. Policy choices will be shaped by local needs and available resources, but can ultimately only be guided by an objective, evidence-based review of all the options, freed from the distorting influences of drug-war politics.

This section explores the main options for drug policy. It has a particular focus on decriminalisation and legal regulation, given that these approaches are at the forefront of the reform debate. It should be read in conjunction with the more detailed real-world case studies in the following section.

## Introduction

The growing costs of the war on drugs – particularly for the worst affected producer and transit countries – have reached a crisis point that is driving an increasingly high-level and mainstream global debate on the future of drug policy, and is leading to real reform too. In fact, the 2016 UN General Assembly Special Session on the World Drug Problem was convened at the request of three Latin American governments frustrated with the failings of the war on drugs and keen to explore alternative approaches. President Santos of Colombia stated clearly at the UN General Assembly in 2013 that “it is our duty to determine – on an objective scientific basis – if we are doing the best we can or if there are better options to combat this scourge.”<sup>1</sup>

But while there is a growing consensus that current approaches to drug control have been ineffective and need to be reconsidered, there is less agreement on how these shortcomings should be addressed.

The debate on the future of drug policy often appears highly polarised between punitive “drug warriors” and “legalisers”. But this is actually an unhelpful caricature driven by the media’s desire for more dramatic debate. In reality, there exists a spectrum of options between these poles, with the majority of views nearer to the centre ground, and to each other. In a debate that is often emotive and highly politicised, it is important to stress that, on many fundamental issues, there is in fact considerable common ground.

**“I urge Member States to use [the opportunity of the 2016 UN General Assembly Special Session on Drugs] to conduct a wide-ranging and open debate that considers all options”**

**Ban Ki-moon**  
UN Secretary-General  
2013

However, it is crucial that as we explore and assess policy alternatives, we make a clear distinction between aims and related measures intended to reduce harms caused by the war on drugs (as described in the first section of this report), and aims and measures related to reducing the harms of drug use itself.

As we move beyond the UNGASS and towards the next major moment in global drug policy development – the 2019 UN review and update of the 10-year global drug strategy – the real debate needs to focus on which policy and legal options can most effectively deliver the shared goals of a healthier and safer society. For UN member states endeavouring to deliver the three pillars of the UN’s work – peace and security, human rights and development – this debate plays out in an environment of multiple, often conflicting priorities: the requirement to operate within the parameters of the UN drug conventions; the

need to meet obligations under other UN conventions, including on human rights; the need to reduce the “unintended consequences” of the war on drugs; the need to deliver improved drug policy outcomes, as well as a range of domestic and international political pressures. Additionally, there have been many decades of political and financial investment in the current approach. Reinvesting in alternatives is anything but simple, and involves potentially significant institutional reforms. Realism is needed about the pace of change.

However, as explored in chapter 2, while policy responses remain driven by a threat-based narrative – be it the threat of the drugs themselves, or the threat of the criminal market created by prohibition – evidence of effectiveness on key health, human rights, development and security indicators will always be marginalised. Moving towards more effective responses will inevitably require redefining the nature of the problem in more conventional health and social policy terms, with appropriate indicators – moving away from the threat-based security discourse, or “desecuritisising” the problem.

In this context, it is also important to acknowledge that there are no silver-bullet solutions or one-size-fits-all answers. The challenges faced by member states will vary considerably depending on whether their primary concerns are with security issues, human rights or public health, and with drug production, transit or consumption (or a combination of these). There may also be political and practical tensions between urgent short-term reforms aimed at reducing some of the most egregious harms of the drug war – such as the HIV epidemic or violence and

insecurity – with more substantial, long-term reforms to domestic and international laws and related institutions.

The ability of different countries or regions to implement alternative models is also dependent on their development status – some of the regions where problems are most severe are also the least well equipped, in terms of resources and state infrastructure, to make substantial changes in the short term.

They could, however, still benefit substantially from changes in wealthier consumer countries. That is why the primary producer and transit regions that bear the greatest burden of the war on drugs are increasingly calling on the richer consumer countries to not only demonstrate a “shared responsibility” for the problems related to drug demand, but also for the collateral damage resulting from global drug policies.

## Options for reform

The first three options described below – increasing the intensity of the war on drugs; refinements to a primarily criminal justice-led approach; and a re-orientation to a more health-based approach (including ending the criminalisation of people who use drugs) – involve legal and/or policy reforms permitted within the overarching international prohibitionist legal framework that can take place at a domestic level. The fourth option – state regulation and control of drug production and supply – requires either reforms to the international legal framework, or for reforming countries to breach their UN





treaty commitments (or break away from the drug treaty system altogether).

This briefing is a simplification and “snapshot” summary of the continuum of current, real-world policy models, some of which involve more complex interactions between health and enforcement measures at different stages of their evolution. A selection of reform models are explored in more depth in the series of case studies in the section that follows this one.

## 1. Increasing the intensity of the war on drugs

This option is premised on the idea that a highly punitive enforcement model can be effective at significantly reducing, or even eradicating, the non-medical use of certain drugs. Those advocating it believe that the failings of the war on drugs are not due to any fundamental flaw in the prohibitionist paradigm, but rather due to a lack of application and resources. They contend that the war on drugs could be won if it were fought with sufficient vigour, with more resources put into coordinated supply-side enforcement, and more punitive responses directed at people who use drugs.

Although many governments are distancing themselves from the hawkish war on drugs rhetoric of the past<sup>2</sup> and are moving away from more punitive approaches, throughout much of the world crackdowns and zero-tolerance approaches (associated with harsh sentencing and the increased militarisation of enforcement) remain a core feature of responses to the drug problem. The analysis of the Count the Costs initiative, however, clearly indicates that the arguments for a “get tough” approach are not supported by evidence. Enforcement has proven to be a blunt and ineffective tool, not only delivering dismal outcomes on stated targets such as eliminating drug use (see box, opposite), but also creating or exacerbating a range of harms associated with the criminalisation of users and criminally controlled drug markets.

Increasing the ferocity of the war on drugs with yet more punitive and militarised enforcement will therefore not deliver its intended goals, and is only likely to increase harms, as detailed in many of the examples in this report: the epidemic of HIV among people who inject drugs in Russia, the spiralling levels of violence in Mexico since 2007, or the state-sanctioned violence and human rights abuses in the name of drug control in Thailand, Iran, and China. Even countries like Sweden, which is often held up as a success story by those advocating a harsh

prohibitionist approach, is nothing of the kind when the outcomes of its drug policy are examined in detail.

## 2. Refinements to a primarily criminal justice-led approach

This position maintains a primarily criminal justice, enforcement-based approach and at least a rhetorical commitment to eliminating drugs from society, but seeks to improve effectiveness through innovation and marginal reforms to enforcement practice and public health interventions. This can include:

- Adopting more realistic and pragmatic enforcement priorities, or as the Global Commission on Drug Policy has described it: “redefining the goals of drug law enforcement to what is achievable rather than arbitrary politically motivated benchmarks. In practical terms this can mean focusing on reducing the most pernicious effects of illicit markets rather than necessarily eradicating them”<sup>3</sup>
- Improving monitoring and evaluation of enforcement outcomes, and sharing of information between domestic and international police agencies, to establish “what works”
- Improving accountability of law enforcement officers, to reduce or prevent human rights abuses and corruption, address cultures of police impunity, and help to rebuild trust between police and communities
- Targeting enforcement at the most violent organised crime groups (sometimes referred to as selective deterrence), with the primary aim of reducing drug-market-related violence. There is growing evidence that targeting the most disruptive elements of the drugs market in this way can increase the effectiveness of scarce police resources, as well as disincentivising disruptive or violent conduct<sup>4 5 6 7 8</sup>
- De-prioritising enforcement aimed at low-level participants in drug markets, including consumers, small-scale farmers, low-level dealers and drug couriers whose involvement in the trade is driven primarily by economic necessity

## Criminal penalties: do they deter drug use?

One of the most potent claims made for prohibition based approaches is that the harsher enforcement is, the more it will deter use. But in fact, levels of use are a poor indicator of levels of harm. The UNODC states that approximately 90% of illicit drug use is not “problematic”.<sup>9</sup> However, even putting that aside, the reality is that increasing the penalties for drug possession has only a marginal impact on levels of consumption.

Evidence for this comes from three main sources: longitudinal studies following the impacts of changing laws, comparative analyses of jurisdictions with different enforcement models, and qualitative survey data.

In an example of the first type of research, the European Monitoring Centre for Drugs and Drug Addiction looked at the effects of reforms to various jurisdictions’ cannabis laws over time. Researchers examined data from nine European countries, to test what they call the “legal impact hypothesis” – essentially the theory that increased penalties will lead to a fall in drug use, and reduced penalties will lead to a rise in drug use. They concluded: “... in this 10-year period, for the countries in question, no simple association can be observed between legal changes and cannabis use prevalence”.<sup>10</sup> In other words, the fact that some countries’ cannabis laws became harsher and some became more lenient had no discernible effect on the number of people using the drug.

It is not just legal changes within countries that appear to make little difference. Comparisons of different countries’ approaches to drugs and their respective levels of drug use also produce the same result. A large-scale study using World Health Organization data from 17 countries found: “Globally, drug use is not distributed evenly and is not simply related to drug policy, since countries with stringent user-level illegal drug policies did not have lower levels of use than countries with liberal ones”.<sup>11</sup> A 2014 evidence review by the UK Home Office came to the same conclusion, stating: “... we did not in our fact-finding observe any obvious relationship between the toughness of a country’s enforcement against drug possession, and levels of drug use in that country”.<sup>12</sup>

Globally, one thing is clear: the number of people using illicit drugs has not diminished – notably not since world leaders came together under the slogan “A drug-free world – we can do it!” at the 1998 United Nations General Assembly Special Session on the World Drug Problem.<sup>13</sup> In fact, since then, despite the dominance of an enforcement-led approach, global drug production and consumption have increased.<sup>14</sup>



Clearly the impacts of different enforcement practices can vary significantly, and focusing enforcement on the elements of the illicit market that are the most harmful has the potential to reduce some negative impacts<sup>15</sup> (some have even applied a harm reduction analysis of enforcement practices in this context).

Seeking to use supply-side enforcement in a more strategic and targeted way to shape and manage drug markets (and thereby reduce the harms they cause) is a more pragmatic proposition than futile attempts at eradication. Indeed, there is real potential to rapidly address some of the most urgent concerns in affected areas.

However, in the longer term, easing the burden of enforcement costs for key affected populations and reducing some of the worst drug market-related harms – particularly violence – may be the most that “smarter enforcement” can achieve. This is because such reforms are at best a symptomatic response to harms that the wider enforcement paradigm itself is responsible for creating in the first place.

### 3. Health reforms

There are a range of health interventions that have been shown to be effective at reducing the health burden of illicit drug use, specifically including investment in various forms of prevention, treatment/recovery, and harm reduction. Within each of these fields there are interventions that are more cost-effective than others, and there is good and bad practice.

Encouraging innovation and development of an evidence base for which interventions are most effective for different populations according to different indicators, independently from ideological pressures and political interference, will naturally help inform best practice, policy development and improvement of outcomes. The Swiss experience with heroin-assisted therapy is a relevant example that is explored in the following chapter.

Filling gaps in coverage, and ensuring adequate resourcing for proven approaches is also an urgent imperative. Harm Reduction International (HRI) has highlighted how even a modest reallocation of resources from enforcement to health could address current shortfalls in provision and save many thousands of lives. UNAIDS estimates that \$2.3 billion was required by 2015 to fund HIV prevention among people who inject drugs; but at the last estimate, just \$160 million – 7% of what is actually required – was invested by international donors in low- and middle-income countries. The HRI #10by20 campaign calls for a

reallocation of 10% of enforcement expenditure to health by 2020.<sup>16</sup> They note:

“If the adoption of harm reduction in new countries continues at the current pace, it will be 2026 before every country in need has even one or two harm reduction programmes operating (like opioid substitution therapy or needle and syringe exchange programmes) or has endorsed harm reduction within national policy. In the meantime we will lose thousands if not millions of lives.”

**“Repressive responses to ... drug use, rural crop production, and non-violent low level drug offences pose unnecessary risks to public health and create significant barriers to the full and effective realisation of the right to health, with a particularly devastating impact on minorities, those living in situations of rural and urban poverty, and people who use drugs.**

**“Criminal laws relating to drug use and related policing also have the clear health-deterrent effect of driving people away from the health services they need, impeding responses to HIV, hepatitis C, overdose, and drug dependence. The ineffectiveness of such criminal laws in delivering health benefits or deterring drug use is also now well established by evidence-based research.”**

**Dainius Pūras**  
UN Special Rapporteur on the Right to Health  
2015

But whether or not basic provision of UN-mandated health services can be described as an “alternative” or “reform” is questionable; it should naturally be a key component of any pragmatic drug policy model as a baseline, regardless of the overarching legal framework in which that model is implemented.

Framing improved health interventions in isolation, as the core response to the failings of current policy, is problematic. This report highlights how punitive enforcement undermines health on multiple fronts, and can create obstacles to effective responses. Calling for more resources for health initiatives in this context, while obviously a positive step in relative terms, does not address this underlying critique that the current punitive approach is responsible for creating many of the health costs in the first place.

### Does enforcement reduce the availability of drugs?

Definitions of “drug availability” are potentially complex, but it is typically assumed that prices, potency and purity, and people’s perceptions of how easy it is to obtain drugs are all relevant facets.<sup>17</sup>

The theory behind supply-side enforcement is that there must be a point at which availability becomes so low and prices so high that use would become effectively impossible. But while the simple illegality of drugs artificially inflates prices far beyond what they would be in a commercialised, legal “free” market, there is, as one recent review of the relevant literature concluded, “little evidence that raising the risk of arrest, incarceration or seizure at different levels of the distribution system will raise prices at the targeted level, let alone retail prices.”<sup>18</sup>

Farm-gate drug prices are so low relative to street-level prices that even if drug production levels are significantly reduced, or if seizure rates increase dramatically, any impact on the final prices paid by users will likely be negligible; increased production costs can easily be absorbed due to the huge mark-ups that are applied throughout the supply chain.<sup>19</sup>

In fact, while drug prices regularly fluctuate, data from official surveillance systems show that, over the past two decades, while seizures of heroin, cocaine and cannabis in major production markets have generally increased, the average inflation-adjusted and purity/potency-adjusted prices of these drugs has decreased dramatically:<sup>20</sup>

- In the US, average prices of heroin, cocaine and cannabis decreased by 81%, 80% and 86% respectively, between 1990 and 2007
- In Europe, during the same period, the average price of opiates and cocaine decreased by 74% and 51% respectively
- In Australia, the average price of cocaine decreased by 14%, while heroin and cannabis prices decreased 49% between 2000 and 2010

And between 1990 and 2007, the average purity/potency of heroin, cocaine and cannabis in the US increased by 60%, 11% and 161% respectively.<sup>21</sup> If prohibition was successfully reducing the availability of these drugs, then dealers would be using increased amounts of cutting agents (except for cannabis), and the reverse trend would be observed, with purity falling not rising.

So when assessed by these proxy measures, it is clear that supply-side enforcement has, at best, only a limited impact on drug availability, and only rarely curtails the illicit trade to the extent needed to bring about non-trivial reductions in the use of a given drug.<sup>22 23</sup>

## A “third way”?

The US has been vocal on the international stage in promoting what it calls a “third way”<sup>24</sup> between the “extremes” of legalisation and a war on drugs. This approach, borrowing heavily from the language of the wider drug law reform movement, emphasises alternatives to incarceration, including diversion into treatment for drug offenders via a “drug court” model, alongside interventions such as screening and brief interventions.

While some of these interventions are well supported by evidence (they are at least more effective than previous punitive incarceration-led approaches), there are questions over both the ethics and efficacy of drug courts in particular.<sup>25</sup> Concerns have also been raised that the supposed shift to a “public health approach” does not represent any significant shift in spending priorities.<sup>26</sup> In the case of the US, the proportions of drug budgets allocated to enforcement and health have remained roughly constant, despite the rhetoric suggesting a reorientation or better balance between the two.

The wider problem is that claiming the badge of “evidence-based” for health spending can often provide a smokescreen for the absence of an evidence base for enforcement. In the context of evidence-based health approaches on the one hand, and actively counterproductive enforcement that creates many health harms on the other, the suggestion that the two need to be “balanced” seems nonsensical when they are often working in opposite directions.

## 4. The decriminalisation of drug possession/use, and reorientation to a health-based approach

It is possible, within the existing international legal framework, for a more substantial state- or regional-level reorientation away from a criminal justice-focused model, and towards a more pragmatic health-based model. This involves attempting to reduce overall levels of harm, rather than overall levels of drug use.

The goal of a reduction in overall social and health harms does not preclude demand reduction, but focuses on reducing misuse or harmful use. As such, it can be seen as primarily a demand-side or consumption-related reform

– one that has relatively marginal impacts on supply-side issues. This approach has been adopted, in different forms, in a number of European countries, including the Netherlands, Switzerland, Portugal and the Czech Republic (see case studies in following section).<sup>27</sup>

Key elements of such a shift generally involve:

- A decrease in the intensity of enforcement – particularly user-level enforcement – in parallel with increased investment in public health measures
- Legal reforms, such as decriminalisation (explored in more detail below), and other sentencing reforms, such as the abolition of mandatory minimum sentences for drug offences
- Institutional reforms, such as moving responsibility for drug policy decision-making and budgets from government departments responsible for criminal justice to those responsible for health

### Decriminalisation

“Decriminalisation” is not a strictly defined legal term, but its common usage in drug policy refers to the removal of criminal sanctions for possession of small quantities of illegal drugs for personal use, with civil or administrative sanctions optional. Under this definition, possession of drugs remains unlawful and a punishable offence – albeit no longer one that attracts a criminal record. The term is often mistakenly understood to mean the complete removal or abolition of possession offences, or is confused with the more far-reaching step of legally regulating drug production and availability (see below). The UN drug agencies have made it clear that decriminalisation of this nature is permitted under international drug treaties.<sup>28 29</sup>

It is difficult to generalise about these experiences as there are many variations between countries (and often between local government jurisdictions within countries), as well as different legal structures and definitions of civil and criminal offences and sanctions – some countries, for example, retain prison sentences for civil offences. Significant variations also exist in terms of implementation (whether they are administered by criminal justice or health professionals, and how well they are supported by health service provision), by the threshold quantities used to determine the user/supplier distinction,<sup>30</sup> as well as the non-criminal sanctions adopted, with variations including fines, warnings, treatment referrals (sometimes mandatory), and confiscation of passports or driving licenses. A distinction is also made between *de jure*



## Harm reduction?

“Harm reduction” – the concept of reducing the harms associated with people unwilling or unable to stop using drugs<sup>31</sup> – should be central to any drug policy model and has now become stated policy and established practice in more than 90 UN member states.<sup>32</sup> Specific interventions that form the core of current harm reduction policy – such as needle and syringe programs, and opioid substitution therapy – are all now supported by an overwhelming body of evidence and are endorsed by UN agencies.<sup>33</sup> Access to harm reduction services, including in prison settings, has been clearly identified as a key element of the universal right to health. Harm reduction does, however, pose a fundamental challenge, in both principle and practice, to the punitive ethos that underpins the war on drugs. Not only is harm reduction at odds with a prohibitionist philosophy; it is primarily a response to harms either created or exacerbated by the war on drugs itself.

Consequently, there now exists an unsustainable internal policy conflict – with health professionals caught in the middle. Evidence-based harm reduction approaches are evolving and gaining ground across the globe, but operating within a politically driven, harm-maximising, drug-war framework.

decriminalisation – specific reforms enshrined in law – and de facto decriminalisation, which has a similar outcome but is achieved through the non-enforcement of criminal laws that technically remain in force.<sup>34</sup> With the exception of some of the more tolerant policies for cannabis possession (for example those in Spain, the Netherlands and Belgium), people caught in possession under a decriminalisation model will usually have the drugs confiscated.

Acknowledging the considerable variation in approaches, around 25 to 30 countries, mostly concentrated in Europe, Latin America and Eurasia, have adopted some form of non-criminal disposals for possession of small quantities of some or all drugs.<sup>35</sup> Given the wide variation in these models, and their implementation around the world, there are relatively few general conclusions that can be made about the impacts of decriminalisation beyond the observation that it does not lead to the explosion in use that many fear.

While there are certainly impacts on levels of health harms associated with use, and economic impacts for enforcement and wider criminal justice expenditure, research from Europe,<sup>36</sup> Australia,<sup>37</sup> the US,<sup>38</sup> and globally,<sup>39</sup> suggests changes in the intensity of punitive user-level enforcement have, at best, marginal impacts on overall prevalence of use.

Decriminalisation can only aspire to reduce the harms created, and costs incurred, by the criminalisation of people who use drugs. It is important to be clear that it does not reduce harms associated with the criminal trade or supply-side drug law enforcement. If inadequately devised or implemented, decriminalisation may have little impact, even potentially creating new problems such as “net widening” – expanding the number of people coming into contact with the criminal justice system, as police find it easier to hand out lesser penalties. A critical factor appears to be the degree to which the decriminalisation is part of a wider policy reorientation (and resource reallocation), away from harmful punitive enforcement, and towards evidence-based health interventions that target at-risk populations, particularly young people and people who are dependent on or inject drugs.

As many UN agencies have now acknowledged, decriminalisation can be seen as part of a broader harm reduction approach, as well key to creating an “enabling environment” for other health interventions.

## 5. State regulation of drug production and supply

As the critiques of the prohibitionist approach have gathered momentum, a corollary debate around regulatory market alternatives to prohibition has moved to the fore. The core argument is a simple one: that if prohibition is both ineffective and actively counterproductive, only retaking control of the market from criminal profiteers and bringing it within the ambit of the state, can, in the longer term, substantially reduce many of the key costs associated with the illegal trade.

This suggestion is premised on the idea of market control rather than market eradication, with proposals generally involving the introduction of strictly enforced regulatory models. This is in contrast to some popular misconceptions that such reform implies “relaxing” control or “liberalising” markets. In fact, it involves rolling out state control into a market sphere where currently there is none, with a clearly defined role for

## Decriminalisation and levels of drug use

In keeping with the finding that punitive laws do not significantly deter drug-taking (see box, p. 143), evidence from real-world decriminalisation-based reforms from around the globe shows that removing criminal penalties for personal drug possession does not result in significant increases in the prevalence of drug use.

This is true whether the decriminalisation process was accompanied by greater investment in health and harm reduction measures (as was the case in Portugal, for example), or not (as was, to varying degrees, the case in the US, the Czech Republic and the Netherlands). In fact, a 2013 study of European Union member states that took into account not only countries' stated drug policy regime, but also actual arrest rates for drug possession offences, found that lower arrest rates and decriminalisation were both associated with lower levels of last-month drug use.<sup>40</sup> The extent of this association – which was, statistically, “among the strongest and most consistent findings” – was such that in countries where criminal penalties for personal possession have been eliminated, young people have a 79% lower odds of having used drugs in the last month.

Despite having decriminalised personal drug possession, Portugal has levels of use well below the European average. However, the situation in another country that follows a similar approach is markedly different. The Czech Republic decriminalised the personal possession of drugs in 2010, and has some of the highest levels of drug consumption in Europe.<sup>41</sup> On the face of it, this undermines the case for decriminalisation. But context is crucial. The country decriminalised the personal possession of drugs in 2010, after conducting a cost-benefit analysis of criminal laws that were introduced in 2000.<sup>42</sup> The analysis found that the introduction of criminal penalties had not reduced the availability of drugs, that the social costs associated with drug use had increased significantly during the time the penalties were in force, and that the penalties had failed to prevent drug use rising. It was these negative outcomes that prompted the Czech government to (re-)decriminalise drug possession.

Importantly, although levels of drug use in the Czech Republic have historically been relatively high, they changed little following decriminalisation: lifetime, past-month and past-year prevalence of the use of a range of drugs remained more or less stable. In some cases, there were slight increases, and in other cases, slight declines.<sup>43</sup>

enforcement agencies in managing any newly established regulatory models.

Advocates are clear that regulated markets cannot tackle the underlying drivers of drug dependence, such as poverty, inequality and psychological distress. State regulation is not proposed as a solution to the wider “drug problem”; only to the specific key problems created by prohibition and the war on drugs. It is argued, however, that by promoting evidence-based regulatory models founded upon a clear and comprehensive set of policy principles, and by freeing up resources for evidence-based public health and social policy, legal regulation would create a more conducive environment for improved drug policy outcomes in the longer term.

The central argument for an effectively regulated market is summarised by the graphic on page 141, positioning it as the middle-ground option on the spectrum between unregulated, illicit markets controlled by criminals and unregulated, legal markets controlled by profit-seeking corporations.

The Netherlands and Spain (see following chapter) employ models of *de facto* legal drug regulation by testing the limits on what constitutes “decriminalisation”, with their cannabis “coffee shops” and cannabis social clubs respectively. However, any moves towards *de jure* rather than *de facto* legal regulation will require negotiating the substantial institutional and political obstacles presented by the international drug control system. Specifically, the emerging trend towards exploring *de jure* regulation creates a clear tension with the three UN drug control conventions, as it unambiguously sits outside the limits of latitude that they permit.<sup>44</sup>

Reforming countries have approached this problem in different ways. Uruguay has argued that its requirement to meet wider UN obligations to protect human rights, health, and security take precedence over technical UN drug treaty commitments; Bolivia has renounced the treaties and then re-joined them with a reservation on the specific articles that prohibit coca leaf; since early 2015 Jamaica has regulated cannabis production and use for religious, medical and scientific purposes; New Zealand's

NPS regulation framework is only for drugs not controlled under the UN conventions; and heroin-assisted therapy and other forms of maintenance prescribing as a form of harm reduction for problematic or dependent users are not prohibited under the conventions as they are considered as medical interventions. The US has gone as far as arguing that its state-level legalisation of cannabis should be allowable under a “flexible interpretation” of the conventions that would allow countries to legalise “entire categories of drugs”.<sup>45</sup>

The reality is that this area of drug policy reform is moving into uncharted waters in terms of the various potentially conflicting treaty obligations – and there are multiple outstanding questions of international law that are only now beginning to be explored in the various high-level UN forums. While it is still unclear precisely how or when these can be addressed satisfactorily, the fact that multiple reforms are already underway clearly highlights the shortcomings of an outdated international framework that is unable to meet the needs of a growing number of member states. It therefore seems inevitable that some form of modernisation must take place to provide flexibility for the evidence-based experimentation and innovation that is being demanded.

Research into regulatory options has accelerated, with the emergence of the first formal models for the legal control of cannabis, coca and NPS. More detailed proposals for regulating these and other drugs have been developed, covering aspects of the market such as drug products (dose, preparation, price, and packaging), vendors (licensing, vetting and training requirements, marketing and promotions), outlets (location, outlet density, appearance), who has access (age controls, licensed buyers, club membership schemes), and where and when drugs can be consumed.<sup>46 47 48</sup>

Transform Drug Policy Foundation’s report “After the War on Drugs: Blueprint for Regulation”<sup>49</sup> explores options for regulating different drugs among different populations, and proposes five basic regulatory models for discussion (see box). Lessons are drawn from successes and failings with alcohol and tobacco regulation in various countries, as well as controls over medical drugs and other harmful products and activities that are regulated by governments.

As the Global Commission on Drug Policy has observed, effective regulatory structures, both international and domestic, have already been demonstrated:

“The WHO Framework Convention on Tobacco Control<sup>50</sup> provides a useful template for how international best practice in trade and regulation

**“We should not be locking up kids or individual users for long stretches of jail time when some of the folks who are writing those laws have probably done the same thing. It’s important for [the legalization of cannabis in Colorado and Washington] to go forward because it’s important for society not to have a situation in which a large portion of people have at one time or another broken the law and only a select few get punished.”**

**Barack Obama**  
President of the United States  
2014

for non-medical use of a risky drug can be developed, implemented and evaluated. The Convention features a level of member state support comparable to the three existing prohibitionist drug treaties.”

As noted elsewhere in this report, regulation advocates also highlight how many of the same drugs prohibited for non-medical use are legally produced and supplied for medical uses (notably including heroin, cocaine, amphetamines, and cannabis). The UN drug conventions provide the legal framework for both of these parallel systems. The stark difference between the minimal harms associated with the legally regulated medical markets, and the multiple costs associated with the criminally controlled non-medical markets for the same products, can assist in informing the debate.

Using the example of heroin, widely regarded as one of the most risky and problematic of all drugs, and comparing the criminal and regulated models for production and use that currently exist in parallel, is illustrative of this line of argument. Half of global opium production is legally regulated for medical use and is not associated with any of the crime, conflict, or security and development costs of the parallel illegal market for non-medical opiate use (see following chapter).

The costs of developing and implementing a new regulatory infrastructure would likely represent only a fraction of the ever-increasing resources currently directed into efforts to control supply and demand. There would also be potential for translating a proportion of existing criminal profits into legitimate tax revenue.

The primary outcome of moves towards legal drug regulation is the progressive decrease in costs related to the criminal market as it contracts in size. These impacts have the potential to go beyond those that are possible from reforms such as the decriminalisation of people who use drugs within a blanket prohibitionist framework (outlined above). Rather than merely managing the harms of the illegal trade, or attempting to marginally reduce its scale through demand reduction, legal regulation – if developed and implemented responsibly – holds the prospect of a long-term and more dramatic reduction in harms.

**“How could I, a representative of the Government of the United States of America, be intolerant of a government that permits any experimentation with legalization of marijuana if two of the 50 states of the United States of America have chosen to walk down that road?”**

**William Brownfield**  
US Assistant Secretary of State  
2014

### **Cross-cutting UN support for ending the criminalisation of people who use drugs**

- **The Secretary-General of the UN, Ban Ki-moon**, has stated: “We must consider alternatives to criminalization and incarceration of people who use drugs.... We should increase the focus on public health, prevention, treatment and care, as well as on economic, social and cultural strategies.”<sup>51</sup>
- **UNAIDS** has clearly stated that criminalisation of people who use drugs is fuelling the HIV epidemic, and have long called for it to be ended<sup>52</sup>
- **The UN Office of the High Commissioner for Human Rights (OHCHR)** has highlighted the human rights abuses relating to criminalisation – especially regarding vulnerable populations including ethnic minorities, women, children, indigenous peoples, and people who inject drugs. OHCHR has stated that the criminalisation of people who use drugs is a violation of the fundamental right to health<sup>53</sup>
- **UN Women** has called for decriminalisation, highlighting the particular negative impacts criminalisation has on women<sup>54</sup>
- **The UN Office on Drugs and Crime (UNODC)** released a briefing advocating the decriminalisation of people who use drugs, highlighting the health and human rights harms and linked to criminalisation and further stating it was “neither necessary nor proportionate”, and could put member states in violation of UN commitments to the right to health<sup>55</sup>
- **The World Health Organization** has endorsed decriminalisation, calling it a “critical enabler” for key health interventions and highlighting the health harms relating to criminalisation<sup>56</sup>
- **The UN Development Programme** has clearly articulated the health, development and human rights implications of criminalisation and called for it to be ended<sup>57</sup>
- **UNICEF and nine other UN agencies – UNODC, the WHO, UNFPA, UNHCR, the World Bank, UNDP, UNESCO, UNAIDS and the ILO** – made a collective call for decriminalisation in the context of guidance on the HIV response amongst children and young people<sup>58</sup>

As criminal drug markets in consumer countries contract, the associated costs for producer and transit regions – in terms of fuelling conflict and insecurity, underdevelopment, crime and corruption – would experience a concurrent contraction. The extent to which the criminal market would shrink would depend on the particular regulatory measures brought in, but, as an example, only around 11% of the global tobacco market is illegal.<sup>59</sup>

While countries such as Afghanistan, Guinea-Bissau, Mexico and Colombia, have multiple development and security challenges independent of the criminal drugs trade, regulation offers the genuine prospect of a significant reduction in its scale and corrosive impacts. In the longer term, illegal poppy production could largely disappear from Afghanistan, the drug profits for the Mexican cartels and funding of Colombian insurgents could dry up, and the use of Guinea-Bissau as a drug transit point for illegal drug shipments could end. In Western consumer countries, the costs associated with the criminal trade at all levels would similarly diminish over time. In place of the opportunity costs of drug law enforcement would potentially just be opportunities – to reallocate billions into a range of health and social interventions, with positive impacts that could reach well beyond the confines of drug policy.

Risks of unintended negative consequences exist for any policy change, and advocates of legal regulation additionally argue that change in this direction would need to be phased in cautiously over a period of years, with close evaluation and monitoring of the system's effects. Key risks include the potential displacement of criminal activity into other areas, such as extortion or counterfeiting, and an increase in drug use associated with inadequately regulated commercialisation. Improved understanding of how social costs are influenced by the legal and policy environment (assisted by the use of impact assessments, modelling and scenario planning) can help develop policy models that mitigate such risks, for example by restricting commercial pressures and profit motives in the market through advertising and marketing controls, or state monopolies.

Cannabis is by far the most widely used illegal drug, accounting for around 80% of all illegal drug use globally. So the implementation of different cannabis regulation models in multiple jurisdictions is hugely significant. It also means best practice in cannabis regulation policy is being informed by real-world evidence. With, among other things, more state-level ballot initiatives likely in the US; the Supreme Court in Mexico declaring cannabis prohibition to be unconstitutional; the implementation of

### Five proposed models for regulating drug availability

1. **Prescription** – The riskiest drugs, such as injectable heroin, are prescribed to people who are registered as dependent on drugs by a qualified and licensed medical practitioner. This model can also include extra tiers of regulation, such as requiring that drug consumption takes place in a supervised medical venue
2. **Pharmacy** – Licensed medical professionals serve as gatekeepers to a range of drugs – such as amphetamines or MDMA – dispensing rationed quantities to people who wish to use them. Additional controls, such as licensing of purchasers, could also be implemented
3. **Licensed sales** – Licensed outlets sell lower-risk drugs at prices determined by a regulatory authority, in accordance with strict licensing conditions, such as a ban on all forms of advertising and promotion, no sales of non-drug products, no sales to minors, and health and safety information on product packaging
4. **Licensed premises** – Similar to pubs, bars, or cannabis 'coffee shops', licensed premises can sell lower-risk drugs for on-site consumption, subject to strict licensing conditions similar to those for licensed sales, described above. Additional regulation, such as partial vendor liability for customers' behaviour, may also be enforced
5. **Unlicensed sales** – Drugs of sufficiently low risk, such as coffee or coca tea, require little or no licensing, with regulation needed only to ensure that appropriate production practices and trading standards are followed, and that product descriptions and labelling (which includes use-by dates and ingredient lists) are accurate



Uruguay's non-commercial cannabis market; and Canada's government being elected in 2015 on a commitment to legally regulate the drug, cannabis regulation will remain at the forefront of the drug law reform debate.

Some free-market libertarian thinkers have gone further, arguing for what is sometimes called "full legalisation". Under this model, all aspects of a drug's production and supply would be made legal, with regulation essentially left to market forces, with only a minimal level of government intervention – in the form of, for example, trading standards and contract enforcement – combined with any self-regulation among vendors. Regulation models would be comparable with standard consumer products available in a supermarket. In contrast, advocates of a more strictly regulated legal market point to past experiences with unregulated alcohol and tobacco

sales as demonstrations of the risks of free markets for what can be harmful products.

While "full legalisation" remains a feature of the debate, demarcating one extreme end of the spectrum of options, it has few advocates and is more useful as a thought experiment to explore the perils of inadequate regulation.

### Legal regulation and levels of drug use

Evidence suggests decriminalising personal drug possession does not increase use. However, under decriminalisation, the supply of drugs remains prohibited. In contrast, when considering legal regulation, it is also necessary to factor in changes to how drugs are made available, and promoted (if at all), and how social and cultural norms around their use might evolve. Legal regulation can take many forms, from minimal controls over a commercially driven free market, to restrictive, public health-led regulations and a government monopoly. The devil is in the detail.

Evidence of the impact of legalisation and regulation on levels of use comes from a range of sources including tobacco and alcohol regulation (including repealing Prohibition in the US); medicines; heroin prescribing; the Netherlands' *de facto* legal cannabis market, cannabis social clubs in Spain; recent large-scale, *de jure* legally regulated cannabis markets in Uruguay, and several US states (see case studies in following section).

Evidence from tobacco regulation has shown that comprehensive bans on advertising reduce consumption.<sup>60</sup> Similarly, since a greater concentration of alcohol outlets is associated with increased alcohol use,<sup>61 62</sup> controls on the location and density of drug outlets are likely to constrain increases in consumption.

Regulation can also help shape the impact of legalisation on social deterrence factors that influence use levels. So while a change of legal status could provoke an increase in use among certain groups, stringent and responsible regulatory controls can moderate this effect. Adopting such controls for tobacco products, combined with better education and prevention efforts, has fostered a norm of social disapproval for smoking, contributing to a 50% decline in prevalence in some countries over the past 30 years.<sup>63 64</sup> Crucially, it was not necessary to prohibit cigarettes, or criminalise smokers, to achieve this.

Of the growing number of regulated cannabis markets, the Netherlands' is most well-established, yet has prices comparable to the illicit US market.<sup>65</sup> This shows legalisation does not have to mean dramatic price decreases, which could produce large increases in consumption. This, along with age restrictions, advertising bans, and control of numbers and location of outlets has been credited for the Netherlands having levels of cannabis use comparable with neighbouring countries, and substantially lower than the US, despite 40 years of effectively legal availability.

So the extent of any increase in drug use following legalisation is likely to be dramatically lower if commercial promotion is resisted, stringent regulations are imposed, and prices are kept relatively high.

## New Zealand's Psychoactive Substances Act<sup>66 67</sup>

In 2013, New Zealand passed the Psychoactive Substances Act, which allows certain “lower- risk” novel psychoactive substances (NPS) to be legally produced and sold within a strict regulatory framework. The new law puts the onus on producers to establish the risks of the products they wish to sell, as well as mandating a minimum purchase age of 18; a ban on advertising, except at point of sale; restrictions on which outlets can sell NPS products; and labelling and packaging requirements. Criminal penalties – including up to two years in prison – were established for violations of the new law.

The New Zealand government stated: “We are doing this because the current situation is untenable. Current legislation is ineffective in dealing with the rapid growth in synthetic psychoactive substances which can be tweaked to be one step ahead of controls. Products are being sold without any controls over their ingredients, without testing requirements, or controls over where they can be sold.” The new law remains in place, but has run into a number of technical challenges – crucially, how to establish “low-risk” harm thresholds without using animal testing – as well as political opposition. Hence as yet no NPS are regulated under the system.<sup>68</sup>

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# Drug policy case studies from around the world



# Drug decriminalisation in Portugal: setting the record straight

Portugal decriminalised the possession of all drugs for personal use in 2001, and there now exists a significant body of evidence on what happened following the move. Both opponents and advocates of drug policy reform are sometimes guilty of misrepresenting this evidence, with the former ignoring or incorrectly disputing the benefits of reform, and the latter tending to overstate them.

The reality is that Portugal's drug situation has improved significantly in several key areas. Most notably, HIV infections and drug-related deaths have decreased, while the dramatic rise in use feared by some has failed to materialise. However, such improvements are not solely the result of the decriminalisation policy; Portugal's shift towards a more health-centred approach to drugs, as well as wider health and social policy changes, are equally, if not more, responsible for the positive changes observed. Drawing on the most up-to-date evidence, this briefing clarifies the extent of Portugal's achievement, and debunks some of the erroneous claims made about the country's innovative approach to drugs.

## Background

Portugal decriminalised the personal possession of all drugs in 2001. This means that, while it is no longer a criminal offence to possess drugs for personal use, it is still an administrative violation, punishable by penalties such as fines or community service. The specific penalty to be applied is decided by "Commissions for the Dissuasion of Drug Addiction", which are regional panels made up of legal, health and social work professionals. In reality, the vast majority of those referred to the commissions by the police have their cases "suspended", effectively meaning they receive no penalty.<sup>1</sup> People who are dependent on drugs are encouraged to seek treatment, but are rarely sanctioned if they choose not to – the commissions' aim is for people to enter treatment voluntarily; they do not attempt to force them to do so.<sup>2</sup>

The initial aim of the commissions, and of the decriminalisation policy more broadly, was to tackle the severely worsening health of Portugal's drug using population, in particular its people who inject drugs. In the years leading up to the reform, the number of drug-related deaths had soared, and rates of HIV, AIDS, Tuberculosis, and Hepatitis B and C among people who inject drugs were rapidly increasing. There was a growing consensus among law enforcement and health officials that the criminalisation and marginalisation of people

who use drugs was contributing to this problem, and that under a new, more humane, legal framework it could be better managed.

Portugal complemented its policy of decriminalisation by allocating greater resources across the drugs field, expanding and improving prevention, treatment, harm reduction and social reintegration programmes. The introduction of these measures coincided with an expansion of the Portuguese welfare state, which included a guaranteed minimum income. While decriminalisation played an important role, it is likely that the positive outcomes described below would not have been achieved without these wider health and social reforms.<sup>3</sup>

Finally, although Portugal's decriminalisation policy has attracted the most media attention, it is not the only country to have enacted such a reform. While there are variations in how "decriminalisation" is defined and implemented, around 25 countries have removed criminal penalties for the personal possession of some or all drugs,<sup>4</sup> contributing to the growing global shift away from punitive drug policies.



## Drug use

One of the most keenly disputed outcomes of Portugal's reforms is their impact on levels of drug use. Conflicting accounts of how rates of use changed after 2001 are usually due to different data sets, age groups, or indicators of changing drug use patterns being used. But a more complete picture of the situation post-decriminalisation reveals:

- Levels of drug use are below the European average<sup>5</sup>
- Drug use has declined among those aged 15-24,<sup>6</sup> the population most at risk of initiating drug use<sup>7</sup>
- Lifetime drug use among the general population has increased slightly,<sup>8</sup> in line with trends in comparable nearby countries.<sup>9</sup> However, lifetime use is widely considered to be the least accurate measure of a country's current drug use situation<sup>10 11</sup>
- Rates of past-year and past-month drug use among the general population – which are seen as the best indicators of evolving drug use trends<sup>12</sup> – have decreased<sup>13</sup>
- Between 2000 and 2005 (the most recent years for which data are available) rates of problematic drug use and injecting drug use decreased<sup>14</sup>
- Drug use among adolescents decreased for several years following decriminalisation, but has since risen to around 2003 levels<sup>15</sup>
- Rates of continuation of drug use (i.e. the proportion of the population that have ever used an illicit drug and continue to do so) have decreased<sup>16</sup>

Overall, this suggests that removing criminal penalties for personal drug possession did not cause an increase in levels of drug use. This tallies with a significant body of evidence from around the world that shows the enforcement of criminal drug laws has, at best, a marginal impact in deterring people from using drugs.<sup>17 18 19</sup> There is essentially no relationship between the punitiveness of a country's drug laws and its rates of drug use. Instead, drug use tends to rise and fall in line with broader cultural, social or economic trends.

## Health

It has been claimed that the prevalence of drug-related infectious diseases rose after decriminalisation,<sup>20</sup> yet this is strongly contradicted by the evidence. Although the number of newly diagnosed HIV cases among people who inject drugs in Portugal is well above the European average,<sup>21</sup> it has declined dramatically over the past decade, falling from 1,016 to 56 between 2001 and 2012.<sup>22</sup> Over the same period, the number of new cases of AIDS among people who inject drugs also decreased, from 568 to 38.<sup>23</sup> A similar, downward trend has been observed for cases of Hepatitis C and B among clients of drug treatment centres,<sup>24</sup> despite an increase in the number of people seeking treatment.<sup>25</sup>

## Deaths

Some have argued that, since 2001, drug-related deaths in Portugal either remained constant or actually increased.<sup>26</sup> However, these claims are based on the number of people who died with traces of any illicit drug in their body, rather than the number of people who died as a result of the use of an illicit drug.<sup>27</sup>

Given an individual can die with traces of drugs in their body without this being the cause of their death, it is the second number – derived from clinical assessments made by physicians, rather than post-mortem toxicological tests – that is the standard, internationally accepted measure of drug-related deaths. And according to this measure, deaths due to drug use have decreased significantly – from approximately 80 in 2001, to 16 in 2012.<sup>28</sup>

## Homicides

A widely repeated claim is that, as a result of Portugal's decriminalisation policy, drug-related homicides increased 40% between 2001 and 2006.<sup>29 30</sup> But this claim is based on a misrepresentation of the evidence. The 40% increase (from 105 to 148) was for all homicides, defined as any “intentional killing of a person, including murder, manslaughter, euthanasia and infanticide”<sup>31</sup> – they were not “drug-related”. In fact, there are no data collected for drug-related homicides.

This claim stems from the 2009 World Drug Report, in which the United Nations Office on Drugs and Crime speculated that the increase in homicides “might be related to [drug] trafficking.”<sup>32</sup> However, neither the UNODC

nor anyone else has proposed a causal mechanism by which the decriminalisation policy could have produced this rise, and given that the policy did not include any changes to how drug trafficking offences were dealt with, the possibility of such a link seems highly implausible. Furthermore, Portugal's homicide rate has since declined to roughly what it was in 2002.<sup>33</sup>

## Crime

Despite claims to the contrary,<sup>34</sup> decriminalisation appears to have had a positive effect on crime. With its re-categorisation of low-level drug possession as an administrative rather than criminal offence, decriminalisation inevitably produced a reduction in the number of people arrested and sent to criminal court for drug offences – from over 14,000 in the year 2000, to around 5,500-6,000 per year once the policy had come into effect.<sup>35</sup> The proportion of drug-related offenders (defined as those who committed offences under the influence of drugs and/or to fund drug consumption) in the Portuguese prison population also declined, from 44% in 1999, to just under 21% in 2012.<sup>36</sup>

Additionally, decriminalisation does not appear to have caused an increase in crimes typically associated with drugs. While opportunistic thefts and robberies had gone up when measured in 2004, it has been suggested that this may have been because police were able to use the time saved by no longer arresting drug users to tackle (and

record) other low-level crimes.<sup>37</sup> Although difficult to test, this theory is perhaps supported by the fact that, during the same period, there was a reduction in recorded cases of other, more complex crimes typically committed by people who are dependent on drugs, such as thefts from homes and businesses.

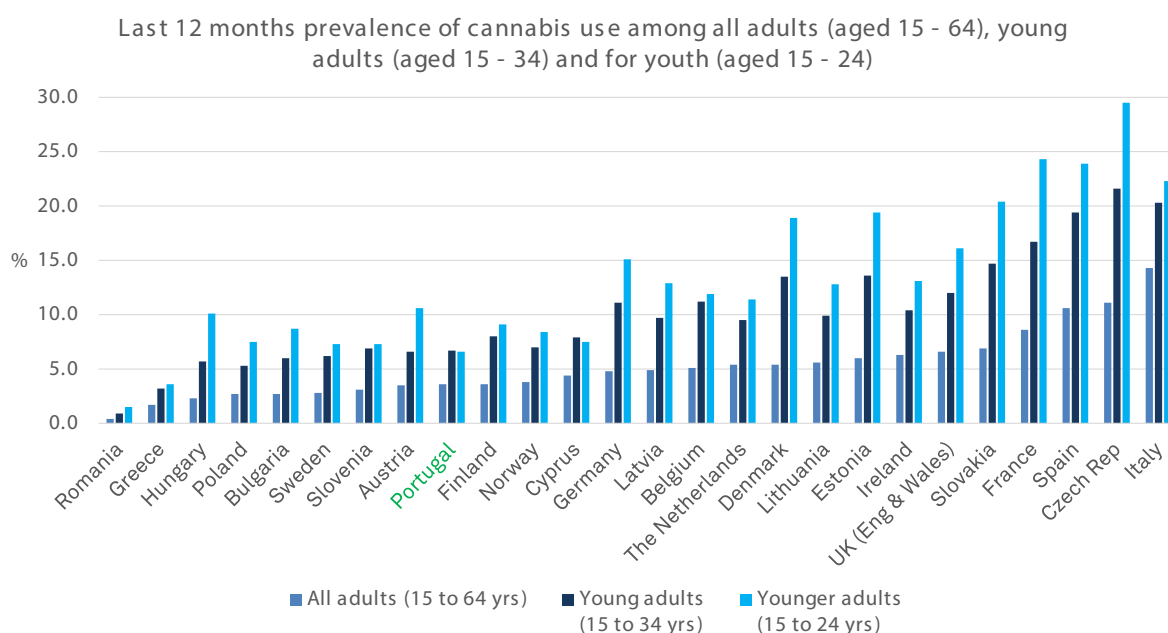
## The impact of economic recession

There is a real risk that Portugal's severe economic recession will undermine many of the drug-related health and social improvements observed since 2001.

Socioeconomic deprivation is associated with greater levels of drug-related harm and drug dependence,<sup>38 39 40</sup> and public spending cuts taken in response to economic crises can exacerbate this situation.

Significant reductions in health and welfare budgets in Portugal have led to fears that the country may experience a dramatic increase in HIV infections, as Greece did when it closed drug treatment and harm reduction programmes as part of its attempts to reduce public spending.<sup>41</sup>

The independent Institute for Drugs and Drug Addiction, which was responsible for implementing the national drug strategy, has effectively been abolished and absorbed by the country's National Health Service, which in turn has had its budget cut by 10%.<sup>42</sup> A number of harm reduction services are also facing partial closure, or experiencing



significant delays in receiving public funding, all of which has had a negative effect on the extent and quality of services provided.<sup>43</sup>

The threat posed by economic recession underscores how crucial adequate health and social investment was in achieving the gains made following decriminalisation. The challenge now for Portugal is ensuring these gains are not lost.

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# Cannabis social clubs in Spain: Legalisation without commercialisation

Cannabis social clubs (CSCs) are private, non-profit organisations in which cannabis is collectively grown and distributed to registered members. With no profit motive to increase cannabis consumption or initiate new users, the clubs offer a more cautious, public health-centred alternative to large-scale retail cannabis markets dominated by commercial enterprises. The growth of the CSC model in Spain demonstrates that cannabis legalisation does not have to mean commercialisation. As CSCs show, it is entirely possible to restrict the availability and promotion of cannabis while at the same time making the drug legally available to adult users. Additionally, the UN drug conventions have been interpreted as permitting CSCs, on the basis that they are an extension of decriminalisation policies. Because of this, the CSC model avoids many of the political and diplomatic obstacles associated with more far-reaching systems of legal regulation.

## Background

Spain has long pursued a relatively tolerant approach to drugs, particularly cannabis. Following a series of rulings by the country's Supreme Court beginning in the 1970s, the personal possession of small amounts of any illicit drug is not considered a criminal offence. With regard to cannabis, this decriminalisation policy has extended to production too, with Spanish law typically being interpreted in a way that permits private cultivation of the drug for personal use. Activists used both this provision, and the fact that “shared consumption” of cannabis has generally been tolerated by law, to develop the CSC model, through which cannabis is grown collectively and distributed to members for their own use.<sup>1,2</sup>

In the absence of formal legal regulation, the cannabis clubs continue to exist in a legally ambiguous space shaped by case law and established state and police practice. In a 2015 prosecution against a cannabis club in Bilbao, the Spanish Supreme court (in its first such ruling on a CSC), determined that the club had committed a crime against public health because the group's specific “structure and functioning exceeded the philosophy” of shared consumption. The wider applicability of the ruling to other clubs, however, remains unclear, although it is likely to at least act as a restriction on the size of the clubs.<sup>3</sup> The December 2015 election is also significant, as there is now hypothetically a parliamentary majority

favouring cannabis regulation, although the proposals of the sympathetic parties (Ciudadanos, PSOE and Podemos) differ.

The first CSC was founded in 2001, and legal experts have identified several criteria that the clubs must meet in order to comply with precedents set in case law.

## Cannabis social club rules

- CSCs must register in a regional registry of associations, with founding members subject to background checks. Associations are defined as ‘a group of people who enter into an agreement, in order to accomplish a common objective with a non-profit motive, independent (at least formally) from government, public administration, political parties and companies’.<sup>4,5,6,7</sup>
- CSCs must seek to reduce the harms associated with the supply and use of cannabis – by, for example, promoting responsible consumption
- CSCs and their premises must be closed to the public, with membership granted only upon invitation by an existing member who can vouch that the person seeking to join is already a cannabis user



Alternatively, prospective members can join if they have a doctor's note confirming that they suffer from an illness which could be treated with cannabis

- Limits on the quantity of cannabis consumed must be enforced. Daily personal allowances of, on average, three grams per person are set in order to reduce the likelihood of cannabis being diverted for sale on the illicit market. Additionally, the quantity of cannabis to be cultivated is calculated based on the number of expected members and predicted levels of consumption
- Cannabis distributed by the clubs must be for more or less immediate consumption. Small quantities are often allowed to be taken away for off-site use, but the general aim is to promote planned, non-impulsive usage and to minimise the risk of a member's supply being re-sold on the illicit market or diverted to a non-member
- Clubs must be run on a non-profit basis. Members pay fees to cover production and management costs, but all revenue generated is reinvested back into their operations. In addition, clubs pay rent, tax, employees' social security fees, corporate income tax, and in some cases VAT (at 21%)

Although they must operate in line with these criteria, the clubs are effectively self-regulating. They follow either their own voluntary codes of practice or, more often, those established by regional federations of clubs. A Europe-wide code of practice has also been created by the European Coalition for Just and Effective Drug Policies.<sup>8</sup>



All cannabis social clubs keep thorough records and operate in line with established codes of conduct

## The spread of the CSC model

The total number of CSCs in Spain is difficult to estimate precisely, as many clubs do not remain in operation for very long.<sup>9</sup> However, there are thought to be roughly 400 CSCs or similar associations in Spain,<sup>10</sup> most of which are located in Catalonia and the Basque Country. Beyond Spain, several other jurisdictions now also permit (or at least tolerate) such clubs. Uruguay has made CSCs a key component of its national, legally regulated cannabis market,<sup>11</sup> and informal CSCs have been accommodated within domestic drug laws in Argentina, Colombia and Chile. Belgium also has five CSCs,<sup>12</sup> while the local government of Utrecht, in the Netherlands, is attempting to establish a club as a means of solving the so-called “back-door problem” of illegal, unregulated supply to the city's cannabis coffee shops.<sup>13 14</sup> The Swiss canton of Geneva has also established a commission to explore the possibility of setting up cannabis user associations similar to Spain's CSCs.<sup>15</sup>

## A non-commercial approach

In a commercial market, the primary goal of cannabis producers and suppliers will usually be to generate the highest possible profits. This is most readily achieved by maximising consumption, both in total population and *per capita* terms, and by encouraging the initiation of new users. Public health problems will only become a concern when they threaten to affect sales. It is therefore crucial to design a regulatory system that removes or at least minimises profit-motivated efforts to increase or initiate use. The CSC model – as well as other alternatives such as state-run outlets and home cultivation – meets this aim. In particular, the relatively closed membership system and culture of immediate use of CSCs helps to limit availability and reduce the potential for new (and typically young) users to be initiated into cannabis use.

CSCs have the further advantage of, thus far at least, not attracting criticism from either of the primary drug control bodies, the INCB or the UNODC. As they are treated as an extension of cannabis decriminalisation policies, CSCs offer a simpler (and more cautious) alternative to comprehensive retail cannabis markets that would breach treaty commitments or require treaty reform. CSCs could be a transitional model that helps to establish healthy social norms around cannabis consumption, in advance of more far-reaching legalisation measures in the future. Equally, CSCs could be the sole legal form of cannabis supply, or operate in parallel with regulated

retail cannabis markets once they have been established. This last approach is being employed in Uruguay.

## The tension between regulation and commercialisation

Although profit-making by CSCs is a crime, the proliferation of clubs in Spain has led to concerns that some will turn away from the non-commercial ethos on which they were founded. Some clubs, particularly those in Barcelona, have grown to such an extent that they now have thousands of members, mostly as a result of the clubs adopting less stringent membership policies and admitting tourists.<sup>16</sup>

Formal regulation of CSCs would safeguard against the possibility of over-commercialisation, and many clubs have long been calling for greater oversight of their operations. This aspiration is now becoming a reality in some parts of Spain: in 2014, both the parliament of the Navarre region<sup>17</sup> and the city of San Sebastián in the Basque Country<sup>18</sup> voted to formally license and regulate CSCs, building on the voluntary codes of conduct that the clubs have been following up until now. While many CSCs throughout Spain are still subject to raids and investigations by the police, regional initiatives such as these should provide a more solid legal basis for the clubs' operations.

## Getting the balance right

There is, however, a need to get the balance right: if a club system is too restrictive, then consumers will simply turn to the illegal trade, meaning one of the main aims of legalisation – to reduce the size of the criminal market – will not be met. It may therefore be necessary to relax the criteria for club membership; accepting adults who are not existing cannabis users would be an obvious starting point. But there is no perfect solution. It is a matter of balancing priorities, seeing what works, and making responsible, informed choices based on an ongoing evaluation of the costs and benefits. In other words, it requires a rational, pragmatic approach – something that has not been a feature of drug policy-making under prohibition.



Campaigners calling for formal regulation of cannabis social clubs

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# Cannabis policy in the Netherlands: Moving forwards, not backwards

Misunderstandings and misreporting of actual and proposed changes to Dutch cannabis policy in 2011 have led some opponents of cannabis reform to suggest the country is retreating from its longstanding and pragmatic policy of tolerating the possession, use and sale of cannabis. This is not the case. In reality, most of the more regressive measures have either not been implemented, have been subsequently abandoned, or have had only marginal impacts. Additionally, there is growing public support for wider, progressive reform, including a system of legal cannabis regulation similar to that adopted in Uruguay, and efforts are underway by numerous municipalities to establish such models of production and supply.

## Background

The Dutch approach to cannabis policy has always been fundamentally pragmatic, rather than politically or ideologically driven. When the “new” approach was formally adopted in 1976, it was motivated primarily by a desire to separate the market for cannabis, deemed to be relatively low-risk, from the market for other, more risky illegal drugs. The policy effectively decriminalised the personal possession and use of cannabis for adults, but unlike other decriminalisation approaches that have been implemented elsewhere,<sup>1</sup> it additionally tolerated the existence of outlets for low-volume cannabis sales, outlets that eventually became the well-known Dutch “coffee shops”. The coffee shops are allowed to operate under strict licensing conditions, which include age-access restrictions, a ban on sales of other drugs (including alcohol), and controls on the shops’ external appearance, signage and marketing. The approach has been broadly successful:

- Just 14% of cannabis users in the Netherlands report that other drugs are available from their usual cannabis source, compared to 52% in Sweden<sup>2</sup>
- Rates of cannabis use in the Netherlands are equivalent to or lower than those of many nearby countries (which do not have coffee shops),<sup>3</sup> and are substantially lower than those of the US<sup>4</sup>
- Although the use of cannabis in the Netherlands has risen since 1976, this has been in line with wider European trends

- Annually, the coffee shops generate an estimated 400 million euros in corporate tax<sup>5</sup> (as opposed to sales tax) – money that would otherwise be forgone

Pragmatism also underpins the Dutch policy around more problematic drugs, such as injectable heroin, where they have long followed a harm reduction approach consisting of needle exchanges, substitute opiate prescribing, and some heroin maintenance prescribing. Rates of lifetime heroin use in the Netherlands are a third of those in the US.<sup>6</sup>

However, the system has not been without its problems. In some southern border towns, there have been issues caused by large numbers of visitors from neighbouring countries travelling to the coffee shops.<sup>7</sup> More significantly, the quirks of the system’s evolution within an international legal framework that strictly forbids legal production, has led to the paradox that while sales are tolerated and *de facto* legalised,<sup>8</sup> the coffee shops are still supplied via an illegal production system – often involving organised criminal groups.

Opponents of cannabis law reform have tried to paint the Dutch experience in a negative light, but have largely failed as the overwhelmingly positive outcomes speak for themselves. However, when a new conservative government decided to impose a range of new restrictions on the coffee shops in 2011, this was seized upon by critics as evidence that the Dutch “cannabis experiment” was being ended due to its failure. This briefing challenges this narrative by setting out the facts on the key issues.





A cannabis coffee shop in Amsterdam

## The 'wietpas'

One of the most high-profile initiatives for restricting cannabis sales in the Netherlands has been the proposed "wietpas" (or "weed pass") – a system that would effectively make the coffee shops private clubs with a maximum of 2,000 adult members who must be residents of the Netherlands.

Concerns about the proposed move were widespread from the outset, with objections coming from the Netherlands' largest police union, as well as the mayors of the four largest cities, Amsterdam, Rotterdam, the Hague, and Utrecht, where the majority of the coffee shops are situated. The Amsterdam authorities were particularly vocal; one third of the country's coffee shops are located in the city, generating valuable economic activity – in particular, income from tourism – with few problems.

Polling in 2012 revealed that 60% of the public thought the wietpas scheme should be stopped, and that 80% believed it would increase the illegal trade.<sup>9</sup> In a more recent survey of Dutch judges and prosecutors,<sup>10</sup> 63.9% said they did not consider the residence requirement to be an effective way of suppressing public disorder around coffee shops. These concerns were well founded: increased street dealing was widely reported in the southern municipalities that adopted such restrictions.

The wietpas was supposed to be rolled out nationwide in 2013, but was essentially abandoned by the new coalition

government in October 2012. Nevertheless, municipalities maintain control over local coffee shop policy (hence some do not allow any) and some have maintained a residents-only restriction despite the rejection of the wietpas proposals.<sup>11</sup> However, a 2014 survey found that, of those municipalities that permit coffee shops, 85% do not enforce the resident criterion.<sup>12</sup>

## Potency limits on retail cannabis

Another widely reported move was the 2011 announcement that the Dutch government intended to impose a potency limit of 15% THC on the cannabis sold from the coffee shops. Cannabis above this limit would be classed as a "hard" drug and subject to an enforcement response commensurate with its legal status. This proposed move has not yet been implemented and has been opposed by almost every government office that would be involved in enforcing the limit, including the police, and prosecution and forensic services.<sup>13</sup> The current government still intends to implement the measure, but its future is increasingly uncertain. Research from the Trimbos Institute has argued convincingly that the potency threshold is arbitrary and that there is no evidence it would reduce health harms.<sup>14</sup>



## Coffee shop closures

The total number of coffee shops in the Netherlands has gradually reduced from around 850 in 1999 to 591 at the end of 2014.<sup>15</sup> Some have interpreted this as a trend that will eventually lead to the closure of all the Dutch coffee shops, but in reality it is mostly the result of evolving municipal licensing rules. There is no suggestion that the coffee shop system is being abandoned (see public opinion below) and the number of municipalities in which coffee shops are located has remained the same.

Another development that took place in 2011 was the introduction of a ban on coffee shops within 250 metres walking distance of a high school. Although announced as a child protection measure, it was more of an eye-catching political gesture and was not supported by any meaningful evidence. In practice, however, the licensing powers granted to municipalities mean they can effectively override the ban if they so wish.

Opposition has focused on the fact that in some urban areas – where the majority of the coffee shops are situated – a strict 250-metre rule would require most of them to close. And while the question of how strictly the rule is or will be enforced remains a moot point, it means that in Amsterdam at least 28 were due for phased closure between 2014 and 2016. However, due to the increase of customers and the related nuisance in the remaining shops, the closures have been postponed.

## Public opinion

Public support for the coffee shops has increased throughout their existence. Polling in 2013, showed a significant majority of the Dutch population would like to go further, with 65% supporting the kind of legal cannabis regulation implemented in Uruguay.<sup>16</sup> The most recent data from 2015 showed support for regulated production reaching 70%,<sup>17</sup> with strong majority support across voters for all main parties.

## The ‘backdoor problem’

Perhaps the most justifiable concern with the coffee shop system is the “back-door problem”, whereby sales of cannabis are tolerated (the drug can leave the coffee shops via the front door), but production and cultivation (i.e. the

supply chain that leads up to the back door of the coffee shops) remain prohibited. This has led to concerns about the links between the coffee shops and organised crime.

However, if there is any truth in the claims about such links, it is almost entirely because of the legal paradox in which supplying cannabis to the coffee shops is a criminal act, while selling cannabis via the shops is (effectively) not. Furthermore, claims that 80% of the cannabis cultivated in the Netherlands is destined for export and controlled by criminal organisations have been exposed as unevidenced propaganda.<sup>18</sup> Efforts to resolve this issue through some form of regulated production and supply to the coffee shops have been ongoing for many years, but have recently been given fresh impetus by developments in other countries, such as the growth of Spain’s cannabis social clubs, and the legalisation of cannabis in Uruguay and multiple US states.

60 municipalities have endorsed a manifesto calling for the production of cannabis to be regulated, and 25 of the 38 biggest municipalities have applied to the Minister of Justice for permission to experiment with various forms of authorised cannabis production and wholesale supply.<sup>19</sup> These include the licensing of private growers and municipally run cannabis farms. So far, no such applications have been approved, however the mayor of one municipality in the south, Heerlen, has publicly expressed his willingness to proceed without formal permission.

Judges are also increasingly showing unease with current policies in their sentencing. A court sentenced two cannabis growers – who cultivated overtly, reported their income to the tax authorities and paid their electricity bills – but no punishment was applied.<sup>20</sup> The court criticised the policy that criminalises cannabis production while allowing its sale: “Given that the sale of soft drugs in coffee shops is tolerated, this means that these coffee shops must supply themselves and so cultivation must be done to satisfy the demand”. The ruling is potentially ground breaking, paving the way for legal supply to the coffee shops. The conviction has been appealed and is now due to be heard in the Supreme Court for a final ruling in late 2016.

While the government continues in its attempts to restrict activities that would facilitate cultivation, by criminalizing preparatory acts (such as growshops),<sup>21</sup> local authorities are increasingly supporting regulation of the backdoor through a new Cannabis Act.

A report by the Dutch platform of municipalities (VNG), in November 2015 called on the government to allow regulated cannabis production by introducing licences for growers, to take cannabis out of the hands of organised crime. The report concluded:

“The changing circumstances, in particular the fact that organised crime has a firm hold of the production and trade of cannabis, makes a toleration policy untenable.”

Furthermore, it said:

“[t]he discussion on cannabis policy has reached an impasse, between proponents and opponents of regulation. We cannot allow the various levels of administration to become bogged down in discussions, while organised crime profits and public health remains insufficiently protected. We call upon all parties to above all employ a pragmatic approach in searching for solutions. We have reached the conclusion that a system of rules for the entire cannabis supply chain offers the best possibilities.”<sup>22</sup>

In addition, the majority of voters of both the political parties that currently make up the Netherlands’ coalition government are in favour of legally regulating the supply of cannabis.<sup>23</sup> One of the major opposition parties, Democrats 66, has tabled a bill that would realise this goal.<sup>24</sup> Consequently, all signs point to there being broad popular and political support for continuing the country’s historically progressive stance on cannabis.

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# Turkey's opium trade: successfully transitioning from illicit production to a legally regulated market

Turkey provides a useful example of the practical steps involved in transitioning from illicit to legally regulated opium production, and how such changes can impact on the global illicit trade, even while wider global prohibitions remain in place alongside steady or rising demand.

Turkey's move from illicit to licit opium production for medicinal use demonstrates that an orderly transition, with a range of benefits for the producer country, is possible in places with the institutional capacity to deliver the right regulatory framework. In contrast, if there is a solution for countries like Afghanistan, which face far more acute governance and institutional challenges that make managing even small-scale regulated opium production difficult, it will be longer-term and phased in gradually. This will include progressively reducing illicit global demand through developing regulated systems for supplying non-medical opiates to dependent users in consumer countries (such as opioid substitution therapy and heroin-assisted treatment – HAT), and by addressing the underlying social and economic drivers of opiate dependence. It will need to be done in tandem with managing the remaining illicit market to reduce the harm it causes,<sup>1</sup> and wider development efforts in affected areas,<sup>2</sup> taking into account the implications for traditional and illicit growing regions where the market can be an important source of economic activity, and in some cases, even a form of stability.

However, Turkey also demonstrates that moving opium production from the illicit market to the licit medical use market alone will not reduce overall global illicit production. The economic dynamics of the illicit trade mean supply will expand in other countries to meet continuing illicit demand. This is true of all “silver bullet fantasy”<sup>3</sup> poppy-for-medicine proposals in places such as Afghanistan, Guatemala and Mexico, that are aimed at eliminating global illicit opium production.

## Background

Opium is often perceived as an illicit commodity, but in fact around half of global production is entirely legal, licensed for the manufacture of a range of pharmaceutical, opiate-based painkillers. This production for the legal medical market is not associated with any of the crime, violence, and insecurity linked to the parallel illicit market for non-medical use.

Within the non-medical market, a relatively small population of dependent users consume a disproportionate amount of the total opium produced. In Switzerland, for example, it has been estimated that the 10% heaviest users consume about 50% of the imported heroin. Use by a proportion of this group – and the production and supply to meet it – transitioned from the illicit to the licit market through the introduction of a heroin-assisted treatment (HAT) model in 1994, something a number of other countries have also explored.

If medicalised heroin prescription models were expanded to meet need in other major consuming countries, a substantial proportion of the global illicit market would shift from illicit to licit production, with a commensurate reduction in criminal activity. There are also many developing countries where opiate-based painkillers are not adequately available<sup>4</sup> and there is therefore scope to expand licit production.

This could take place through expanding opium poppy production in more industrialised countries like Australia. But a case can also be made for more traditional, illicit and quasi-licit opium production in developing countries being legalised and licensed instead. This may, however, require favourable trade arrangements to be put in place (and navigating World Trade Organization rules and regional trade agreements to do so) to allow small-scale producers to compete on the global market with the large-scale industrialised producers.

## Traditional opium production

Poppies have been farmed in Turkey for centuries, the seeds used for both human and animal food, and the poppy resin as opium for medicinal use. As far back as the early nineteenth century, Turkish opium was being shipped to England and China. When Turkey ratified the 1961 UN Single Convention on Narcotic Drugs in 1967, it opted not to apply for a transitional exemption to gradually phase out opium use and production. Instead, along with India, it was given the status of a “traditional opium producing country”, granting a right to continue production for use in essential medicines, on the condition that it was managed under a state-controlled license system.

During the gradual implementation of the system, a substantial amount of licit opium was diverted into illicit heroin production for the US market. This became an increasing source of tension with the US – particularly in light of the emerging, politically awkward challenge of heroin use among the armed services in Vietnam and returning veterans. By the end of the decade, an estimated 80% of heroin used in the US originated in Turkey. President Nixon, elected in 1968 and launching his war on drugs in 1971, viewed heroin as a threat to national stability, leading the US to exert increasing pressure, including threats to cut off aid, resulting in Turkey banning opium cultivation in 1972.

## A licensed production model

In 1974, Turkey restarted opium cultivation for medical purposes on a significant scale under a new and strictly state-controlled license system, in compliance with the UN Single Convention, and supported both politically and technically by the US. The Turkish Grain Marketing Board (TMO) was the national agency responsible for the country’s poppy licensing for medicines system. The TMO sits within the Ministry of Agriculture, which owns the nationalised poppy-to-opium processing facility. Over 350 TMO officials (excluding local administrators) are involved in the control of poppy cultivation, costing Turkey approximately \$6 million per year.

Unlike the large-scale, highly industrialised opium production in Tasmania for example, in Turkey, licit opium production remains in the hands of the 70,000 to 100,000 mostly small-scale farmers who are licensed every year, each cultivating an average of just 0.4 hectares. In 2005, the TMO estimated that 600,000 people earn their living from poppy cultivation in Turkey. 95% of the morphine (and poppy seed) production is exported, generating an export income of over \$60 million.<sup>5</sup>

In many respects, the new licensing system can be viewed as a success – providing oversight of the previously illicit and quasi-licit unregulated industry, maintaining traditional producers’ incomes, creating valuable export revenue, and successfully preventing almost all leakage of opium to the illicit market. The US State Department claims that there is “no appreciable illicit drug cultivation in Turkey other than cannabis grown primarily for domestic consumption”, and that, “The Turkish Grain Board (TMO) strictly controls licit opium poppy cultivation quite successfully, with no apparent diversion into the illicit market.”<sup>6</sup> Equally, the UNODC says that since “1974 until now [2003], no seizures of opium derived from Turkish poppies have been reported either in the country or abroad.”<sup>7</sup>

This is in contrast to India’s less robustly regulated licit opium production, which uniquely among licit producing nations allows farmers to produce raw opium gum/resin – as opposed to harvested whole plants or “poppy straw”. There, diversion rates are estimated by the Indian government to be around 10%.



## The 'balloon effect'

Turkey is now one of the major licit opiate producers for the pharmaceutical market – primarily for morphine, diamorphine (heroin), and codeine – along with India, Australia, France, Spain, Hungary and some smaller producers, including the UK. However, global demand for illicit opium for non-medical use has continued to grow, so when Turkish opium production was first banned in 1972 and then legalised and regulated for the production of medicines in 1974, illicit production was simply displaced elsewhere – a classic example of the “balloon effect”.

Production to supply the illicit heroin markets in Europe and elsewhere shifted firstly to Pakistan, Burma and Iran, then later to Afghanistan, which now dominates global illicit production. With respect to the US market, the US Drug Enforcement Administration has acknowledged this problem, saying: “Mexico emerged as a prominent source of heroin to the United States in 1974, when growers stepped up production to fill the void left by the suppression of heroin supplies from Turkey in 1972.” As early as 1975, Mexico was supplying 89% of the heroin consumed in the United States.<sup>8</sup>

This displacement of illicit opium production to other countries has also meant that Turkey remains a major transit country for illicit opiates from Afghanistan to Europe,<sup>9</sup> with Turkish organised crime groups a key presence in the trade across the continent.

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# Cannabis regulation in Colorado: Early evidence defies the critics

The core argument made by opponents of legal regulation is that any regulated market for cannabis would inevitably fuel a significant rise in use and associated harms – particularly among young people. So inevitably, as the first jurisdiction in the world to implement a legally regulated market for the production and supply of cannabis for non-medical use, Colorado is under intense scrutiny, with advocates keen to demonstrate its successes, and prohibitionists keen to highlight its failings.

Given that Colorado's cannabis market only began trading in January 2014, it is not yet possible to draw firm conclusions about longer-term impacts. But a review of early evidence on key indicators suggests that, aside from some relatively minor teething problems, the state's regulatory framework has defied the critics, and its impacts have been largely positive.

There has been no obvious spike in young people's cannabis use, road fatalities, or crime, and there have been a number of positives, including a dramatic drop in the number of people being criminalised for cannabis offences; a substantial contraction in the illicit trade, as the majority of supply is now regulated by the government; and a significant increase in tax revenue, which is now being spent on social programmes. Consistent public support for legalisation also suggests Coloradans perceive the reforms to have been a success. Where challenges have emerged, for example around cannabis edibles, the flexibility of the regulations has allowed for modification to address them.

## Background

In 2012, Colorado and Washington State became the first jurisdictions in the world to formally legalise cannabis markets for non-medical use. The reforms were passed through ballot initiatives, with voters in both states choosing legalisation by a solid margin. Colorado's Amendment 64 was approved in November 2012, with the state's first retail stores opening on January 1, 2014, following the development of a comprehensive regulatory infrastructure devised by an expert task force.<sup>1</sup>

## Cannabis use

Unfortunately, it is too early to say what the immediate impact of a commercial cannabis market has been on consumption, as the latest data on use only goes up to 2013, and the first retail cannabis stores only opened in 2014. However, Amendment 64 became law on 10 December

2012, enabling adults aged 21 or older to possess cannabis, grow up to six cannabis plants themselves, and give up to one ounce to other adult users. So while not particularly revealing at this stage, the available data provides a limited indication of the effect that a year of such legal activity has had on cannabis consumption.

- According to the biennial Healthy Kids Colorado Survey (HKCS), "The trend for current and lifetime marijuana use [for high school students in Colorado] has remained stable since 2005."<sup>2</sup> Marginal falls were observed, but deemed not statistically significant.
- The HKCS found that, in 2013, 20% of high school students admitted using cannabis in the preceding month, and 37% said they had at some point in their lives.<sup>3</sup> Both of these figures are lower than the national averages (23.4% and 40.7% respectively),

which are recorded by the National Youth Risk Behaviour Survey<sup>4</sup>

- Looking at a different youth demographic, the National Survey on Drug Use and Health found that, although cannabis use among adolescents (aged 12-17) and young adults (aged 18-25) both rose in Colorado between 2012 and 2014, these increases were not statistically significant<sup>5</sup>
- While arguably a lesser public health concern, there have, however, been statistically significant increases in cannabis use among adults in Colorado in recent years, but these are in line with broader national patterns, including states that have not legalised cannabis.<sup>6</sup> Between 2011 and 2013, past-month cannabis use among those aged 26 and above rose from 7.6% to 10.1%,<sup>7</sup> while use among those aged 18 and over rose from 10.4% to 12.6%
- A year after the retail cannabis stores opened, a Denver Post survey asked: “Since marijuana became legal, has your use changed?” 13% said it had decreased, 17% increased and 70% stayed the same<sup>8</sup>

In summary, to date, the dramatic increases in cannabis use predicted by some have not materialised, with any rises broadly in line with changes seen elsewhere in the US. While recorded adult use has risen (and was rising even before the legalisation vote in 2012), this increase may, in part, reflect a greater willingness to admit to cannabis use now that it is legal, rather than an actual change in the number of users. The novelty and huge publicity around the newly legal drug market may also have contributed to the rise in use, as curious older users in particular exercise their new freedoms. It is too early to say what will happen as this novelty wears off.

## Health harms

Assessing the health impacts of cannabis use is challenging, and isolating any impacts of a policy change related to cannabis use even more so. However, the following trends have been observed:

- The number of treatment admissions with cannabis as the primary substance of abuse has risen from around 5,500 in 2005, to around 6,900 in 2009, before falling to around 5,500 again in 2013<sup>9</sup>
- Since 2000, “cannabis-related” A&E admissions have risen consistently. More recently, admissions rose

from 8,198 in 2011, to 12,888 in 2013.<sup>10</sup> A caveat is that “cannabis-related” means the drug was “mentioned”, rather than identified as the cause of the admission (again, the legal change may have made people more forthcoming about their use). There have also been changes in how, and how consistently, emergency room data is reported, which is likely to have contributed to the increase

- Accidental ingestions of cannabis by children have risen, although in real terms, the numbers remain low – for under-9s, the number rose from 19 in 2011, to 45 in 2014,<sup>11</sup> all of whom made full recoveries (for perspective, the equivalent 2014 numbers for under-5 pediatric exposures to analgesics were 2,178, and 1,422 for cleaning products<sup>12</sup>). The reduced stigma associated with attending A&E post-legalisation may also go some way to explaining this trend

## Crime

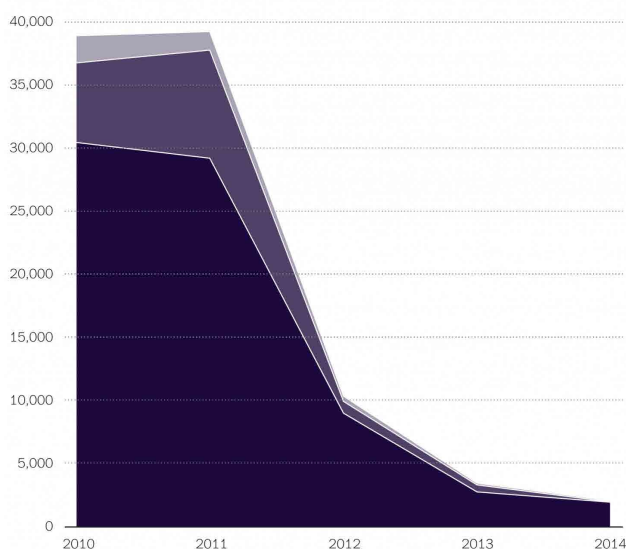
Unsurprisingly, arrests for cannabis possession have dropped dramatically – by nearly 80% – since 2012, an obvious direct and positive outcome of the change in the law.<sup>13</sup> And while it is disappointing that black people are still disproportionately arrested for cannabis-related offences, there has nonetheless been a significant drop in criminalisation across the board.

There has, however, been a contrasting rise in citations for public consumption of cannabis. In the first nine months of 2014, police wrote 668 tickets, up from 117 for the same period the year before.<sup>14</sup> Despite the size of this increase, these are still small numbers, and their significance should not be overstated given that public cannabis consumption is classed as a minor administrative offence. This trend is likely explained by an absence of legal consumption venues (outside of private homes), a poor initial understanding of the new law (particularly among out-of-state visitors, who do not have any designated consumption spaces), and changes in policing priorities now that resources are no longer needed for other cannabis offences.

Other crime data – on, for example, theft, sexual assault, and violent crime – has been seized on by both advocates and critics to support their positions. Figures for some crimes have gone up, and some have gone down, with considerable variation between demographics and regions. With the link between most of these variables and cannabis legalisation generally unclear, it is probably

## Colorado marijuana arrests plummet

Number of Colorado court cases for **possession, distribution** and **cultivation** of marijuana



WASHINGTONPOST.COM/WONKBLOG

Source: Drug Policy Alliance

unhelpful to infer much from them in the absence of more focused, longer-term comparative studies.

Estimates from the Colorado Department of Revenue suggest that 41% of the total demand for cannabis is not being met by licensed recreational vendors.<sup>15</sup> Instead, it is being met by (as they describe them) “grey-market” medical suppliers, or ‘black-market’ illicit production. This means that 59% of the recreational market has now been legalised, regulated, and taxed, which, even if total demand has increased marginally, still represents a significant contraction in the untaxed criminal market.

## Tax revenue

Some critics have noted that tax revenues from the first year of legal cannabis sales have not matched initial predictions (which curiously implies they are critical of not enough legal cannabis being sold and used).<sup>16</sup>

There are three types of state taxes on recreational cannabis: the standard 2.9% sales tax, a 10% “special marijuana sales tax”, and a 15% excise tax on wholesale cannabis transactions (to put this in perspective, cigarettes are taxed in Colorado at 3.74%). The cumulative revenue total (including both recreational and medical cannabis taxes and fees) was over \$120 million in 2015.<sup>17</sup>

The terms under which retail cannabis sales were legalised require the first \$40 million of the excise tax revenue to be spent on Colorado school construction projects. The first ten months of 2015 brought in \$28.3 million in excise tax towards this total, with a record \$3.3 million in August alone.<sup>18</sup> This compares with \$13.3 million for all of 2014.<sup>19</sup>

Sales of medical cannabis have been more resilient than expected, possibly because taxation, and hence prices, remain substantially lower than for non-medical supplies. Taken together, the legal medical cannabis industry and legal recreational industry in Colorado generated \$700 million in sales in 2014 (\$386 million and \$313 million respectively).<sup>20</sup> In the first ten months of 2015, this figure rose to \$814 million (\$475 million from recreational sales and \$340 million from medical sales).<sup>21</sup>

## Driving under the influence

Data for fatalities involving drivers testing positive for cannabis is available from the Colorado Department of Transport,<sup>22</sup> which recorded 40 in 2003, and most recently, 36 in 2013 (ranging from 20 in 2004, to 56 in 2011). No obvious trend is apparent from these figures, and there are ongoing challenges in determining the extent of the link between blood-THC levels and impairment.<sup>23</sup>

A rise or fall in the number of positive roadside tests is an even less useful indicator, as it can indicate changes in policing activity (the number of tests carried out, or types of drivers targeted), rather than actual changes in drivers’ behaviour, whether as a result of legalisation or not.

Nevertheless, there has, reassuringly, been no jump in total road fatalities, which remain at near-historic lows.<sup>24,25</sup>

This trend is likely to be driven primarily by the ongoing decline in people driving under the influence (DUI) of alcohol, which in itself indicates how DUI incidents do not simply rise when a drug is legal. Instead, cultural norms and public education are the key factors.

## Public opinion

An opinion poll undertaken by the Denver Post found that levels of support for legalisation in Colorado were virtually unchanged from the 2012 vote a year after the first retail cannabis stores had opened.<sup>26</sup> Subsequent polls have shown similar levels of support. A poll conducted in February 2015 found that 58% of Colorado voters supported keeping cannabis legal, while 38% were against it.<sup>27</sup>

## Regulatory flexibility

It is clear from an initial early assessment that Colorado's reforms are, according to most metrics, far from the disaster predicted by opponents of legalisation. Of course, given the novelty of the market, caution is needed in drawing wider conclusions about the success of cannabis regulation from the Colorado data. The state's regulatory framework is still essentially in its roll-out phase and social norms around retail sales, and novel products like edibles and concentrates are yet to be firmly established (even if the pre-existing commercial medical cannabis market has helped mitigate any cultural shocks). Colorado also remains (for now) an "island" of legalisation, surrounded by prohibitionist states. This may be distorting a number of outcomes relating to cross-border trade with neighbouring states (two have already launched legal challenges<sup>28</sup>).

Inevitably, there have been some mistakes made and some challenges have been inadequately anticipated – in particular the need for more stringent regulation of edibles. But even here, the ability of the regulatory system to respond positively to emerging evidence of problems has been reassuring. Now, only single servings containing up to 10mg of THC can be sold, all packaging of edibles must be child-proof, and all edibles must be clearly marked as containing cannabis.<sup>29</sup>

## Over-commercialisation?

Colorado's cannabis market has also been subject to some criticism from within the pro-legalisation movement for being too commercialised. Whether this is the case remains to be seen, and the data now emerging will provide an instructive contrast to that coming from other US states, and other types of cannabis markets, such as those in Uruguay,<sup>30</sup> Spain,<sup>31</sup> the Netherlands<sup>32</sup> (see other case studies) and elsewhere. What is clear is that even

if the Colorado model does turn out to be sub-optimal in some respects, it is a dramatic improvement on the prohibition it has replaced, and is providing invaluable evidence to guide other jurisdictions as they legally regulate cannabis. As a result, its very existence is already undermining decades of cannabis prohibition, not just in the US, but worldwide too.

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# Cannabis legalisation in Uruguay: Public health and safety over private profit

Uruguay is the first country to introduce a nationwide legally regulated market for the production and supply of cannabis for non-medical use, and it intends to set a good example. The government's plans are motivated by concerns over insecurity and public safety, and so intend to reduce criminality and violence by depriving organised crime groups of most of the cannabis market. Policy makers do not want a free-for-all, so the market is strictly regulated, with very limited commercial involvement. Just two companies are producing the cannabis, to sell through licensed pharmacies, to registered over-18 Uruguayan residents – and all promotion is banned. There is also scope for cultivation at home, and as part of non-profit cannabis social clubs, which also avoid the pitfalls associated with a commercialised market.

## Background

In December 2013, Uruguay passed a bill to establish a legally regulated market for cannabis.<sup>1</sup> It is the first market of its kind anywhere in the world and has taken over two years to become operational. While similar, state-level cannabis markets have been established in several US states, no other country has legalised cannabis nationwide.

The market being established in Uruguay differs from those in the US in other important ways. The US reforms were the result of ballot measures approved by popular vote, but in Uruguay, the government itself was the catalyst for change. In fact, according to a 2013 poll, only a minority of Uruguayan citizens – 28% – support cannabis legalisation. This figure did increase by around 4% once the details of the government's plans were publicised,<sup>2</sup> and polling data from 2014 showed support had increased to 33.6%.<sup>3</sup>

The government's plans were motivated primarily by concerns about crime, insecurity and public safety – its rationale being that a legal cannabis market will reclaim most of the trade from organised crime groups and subsequently reduce rates of violence.<sup>4</sup> An additional stated aim is to separate the market for cannabis from the markets for riskier drugs such as heroin or pasta base, a form of smoked cocaine paste widely used in South America.<sup>5</sup>

## Cautious regulation

Uruguay is taking a cautious approach in its attempt to achieve these goals. Policymakers are clear that they do not want to create a “free-for-all”; they envisage a cannabis trade that is strictly and responsibly regulated.<sup>6</sup> The new market will therefore be relatively restrictive – at least compared to the nascent markets in the US.<sup>7</sup> In October 2015, the Uruguayan government selected two private companies to legally cultivate cannabis.<sup>8</sup> Retail sales of the drug will be managed by licensed and regulated pharmacies only.

The task of regulating will be carried out by the newly established Institute for the Regulation and Control of Cannabis (IRCCA), which will closely oversee all aspects of the market.

## Products

Some of the details of Uruguay's regulatory model are still being developed, but according to the most recent statements made by the head of the National Drug Board, three types of herbal cannabis will be made legally available for purchase,<sup>9</sup> with potency ranging from around 5% THC (the main psychoactive ingredient in cannabis) to a maximum of 15% THC. The cannabis will be sold in plain, unbranded packaging, and retail prices will be set by the IRCCA at around \$1 per gram, which is just below current illicit-market rates (although prices will be higher for higher-potency varieties).<sup>10</sup> Cannabis

edibles or other cannabis-infused products will not be available for retail sale.

## Restricting consumption levels

The IRCCA will also maintain an anonymised national registry of cannabis users, in order to track purchasing patterns and limit sales to 40 grams per user per month (10 grams per week). This is intended to moderate use and minimise the risk that legal cannabis will be diverted for sale on the illegal market. Only Uruguayan citizens and residents aged 18 or older will be accepted in the registry. At the point of sale, they will have to provide a fingerprint scan to identify themselves as registered purchasers.

Throughout the market, Uruguay will enforce a ban on all forms of cannabis advertising, promotion and sponsorship, a measure that is both politically and practically difficult in the US, due to laws guaranteeing so-called “commercial free speech”.<sup>11</sup> The possession of cannabis has never been criminalised in Uruguay, and illicit cannabis has long been cheap and readily available, so there is unlikely to be any significant impact on use from reduced user-level deterrence or regulated supply. The main identified risk has been commercial promotion. As the history of alcohol and tobacco regulation has shown, when legal drugs are aggressively promoted by profit-seeking businesses, public health concerns are invariably marginalised. Uruguay’s cannabis regulations have been specifically designed to mitigate any potential health risks of over-commercialisation following legalisation.<sup>12</sup> Specifically, the marketing ban, combined with the limited involvement of private companies and strict government oversight, should go some way toward preventing market-led increases in cannabis consumption or the initiation of new users.

## Medical, personal and social club cultivation and use

In addition to a regulated retail market, Uruguay’s new law includes provisions for three other forms of legal cannabis supply. There will be a system to provide medical users with access to the drug, as well as the option for any adult user to either cultivate cannabis in their own home or join a club that will cultivate it on their behalf. Licensed home-growers can cultivate up to six cannabis plants per household, with the cannabis clubs – which must have between 15 and 45 members – restricted to 99

plants. With both these forms of supply, individual users can harvest no more than 480 grams of cannabis per year – the same as the annual limit on retail sales.

## A pioneering system

While some may argue that Uruguay’s cannabis regulations are unduly restrictive, it is worth reiterating the context in which these reforms are taking place. This is the first ever nationwide regulatory system for the production and supply of cannabis. Given that the eyes of the world will be upon Uruguay as it rolls out its pioneering system, proceeding with caution is probably wise. The system will therefore be closely evaluated, and the government has pledged to keep it under review.

The fact that Uruguay will regulate cannabis more strictly than alcohol and tobacco may strike some as being unfair, especially in light of the relative health harms of the three drugs. But it is perhaps more useful to view cannabis regulation as an opportunity to demonstrate best practice in drug control. And by choosing to responsibly regulate what is, after all, still a risky substance, it is clear that Uruguay intends to set a good example.

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## Heroin-assisted therapy in Switzerland: Successfully regulating the supply and use of a high-risk injectable drug

The prescription of injectable heroin to treat long-term injectors of illicit opiates (also known as heroin-assisted therapy or HAT) has been successfully used by a range of countries, including Switzerland, the UK, Germany, the Netherlands, Australia and Canada - in many cases, for decades.

While significantly less widespread, and often seen as more politically controversial than opiate substitution therapy (OST) programmes (which involve prescribing methadone or buprenorphine), HAT now has a substantial body of evidence demonstrating its effectiveness, albeit within the relatively limited populations where it has been used. As such, it provides useful lessons for managing one of the most risky and problematic drug-using behaviours as a public health challenge, rather than a criminal justice one.

HAT is legally recognised as a medical intervention, and is therefore not subject to the prohibitions of the UN drug control regime. However, importantly, in terms of lessons for drug policy, HAT also demonstrates the wider potential benefits, locally, nationally and internationally, of moving a significant segment of the illicit supply and use of a drug into a completely legal, regulated market.

As a result, if this form of treatment was rolled out widely – particularly in major consumer countries – it could have a significant impact on the scale of illicit drug markets nationally and globally.

Yet access to HAT remains difficult to obtain even in the relatively small number of countries where it exists; it is only available under strict criteria, including long-term use and failure to respond to other treatment programmes. Some argue that HAT's benefits could be extended far more broadly if the barriers to access were lower – although so far there has only been one study into this possibility.<sup>1</sup>

Other related models, such as prescribing smokable heroin, heroin “reefers”, or smokable opium have been tried but, so far, inadequately researched. HAT is also a model that could potentially be adapted for other currently illicit drugs. Indeed, there are already drug-of-choice prescribing programmes for dependent users of amphetamines.<sup>2</sup>

## Background

The prescribing of medical-grade heroin as a treatment for heroin dependence has a long history, having been firmly established in UK medical practice by the 1926 Rolleston Committee,<sup>3</sup> after which it operated in parallel with the criminalisation of non-prescribed heroin under both domestic and international law.<sup>4</sup> Coming to be known as the “British system”, it remained in place until concerns around rising heroin use among young people, overprescribing, and the risk of the drug being diverted to the illicit market, led to heavy restrictions being introduced in 1967. Despite an exponential rise in use since then, today less than 200 of the UK’s more than 200,000 users receive heroin on prescription.

Switzerland, like much of Europe, experienced a rapid rise in injecting heroin use during the 1970s and 1980s, but ultimately adopted a very different policy model to the UK. By the 1980s, heroin use had graduated into a full-blown public health crisis, as it became clear that illicit injecting – and particularly high-risk behaviours such as the sharing of needles – was associated with high rates of HIV transmission. In 1986, Switzerland had approximately 500 HIV cases per million people, the highest in Western Europe at the time.<sup>5</sup> By 1989, half of all new cases of HIV transmission were linked to illicit drug injection.<sup>6</sup> By 1990, HIV prevalence was over 40% among those who reported having used drugs for more than 10 years, and in the era before effective treatments for HIV/AIDS, mortality rates among this population were correspondingly high. Added to this, there were growing fears about sexual contact with injecting drug users leading to a rise in HIV infection rates among the wider population.

As this challenge grew, initial responses consisted mostly of traditional law enforcement crackdowns. Switzerland’s federal drug law was revised in 1975, to include a greater focus on abstinence, which led to significantly increased arrests, and mandated registration of illicit drug users and sellers by the police – rejecting harm reduction measures such as needle and syringe programmes (NSP), and imposing onerous licensing requirements on methadone prescribing. The response failed, with illicit drug injection and related health problems continuing to increase sharply. Zurich became a particular focus, with the number of people who inject drugs growing from under 4,000 at the time of the 1975 law revision, to an estimated 10,000 in 1985; 20,000 in 1988; and 30,000 in 1992.<sup>7</sup>

As Zurich’s street drug scenes became an increasingly visible, problematic and politically charged manifestation of the injecting phenomenon, new approaches were

demanding. In 1987, the city authorities made a pragmatic decision, attempting to contain and manage the problem by establishing a tolerance zone – the Platzspitz park – where people were allowed to use drugs. The space soon became known as “Needle Park”, and it did enable the injecting scene to be contained and managed to some degree, as well as facilitating the targeted provision of health services. Between 1988 and 1992, the ZIPP-AIDS project based in the park responded to 6,700 overdose episodes, vaccinated thousands for hepatitis B, and distributed 10 million sterile syringes.<sup>8</sup>

The ongoing health and crime problems linked with needle park, particularly those that spilled into neighbouring areas, ultimately led to its abrupt closure in 1992. In another example of the so-called “balloon effect”, the drug scene simply shifted elsewhere, and problems continued. However, the way in which the intervention pragmatically prioritised health helped shape the discussions around policy responses to drug injection that followed. Once again, it became clear that new thinking was needed.

In 1991, at the request of municipal authorities and state (canton) governments, a new national programme was established within the Federal Office of Public Health to reconsider the problems. Reflecting previous experiences, the recommendations that emerged were public health-led, including a combination of established harm reduction interventions (OST and NSP), treatment and social support provision, and a new call to explore HAT. In 1992, a change in the law enabled such an exploration. The Swiss HAT model differed from the old British System in that rather than being given “takeaway” prescriptions, patients were required to attend a clinic once or twice a day and to use their prescriptions on site under medical supervision. The idea was to combine the benefits of a prescribed supply (heroin of known strength and purity, free from contaminants and adulterants, and used with clean injecting equipment), with the regular access to services and benefits of supervised use in a safe and hygienic venue (as found in the more common supervised injection facilities such as Canada’s Insite facility),<sup>9</sup> while also preventing the diversion of prescribed supplies to the illicit market.

The first HAT clinics opened in 1994 as part of a three-year national trial. In late 1997, the federal government approved a large-scale expansion of the trial, aimed at accommodating 15% of the nation’s estimated 30,000 heroin users, specifically those long-term users who had not succeeded with other treatments.



## Summary of impacts<sup>10</sup>

Changing the law or regulatory infrastructure to allow heroin prescribing, while important, has not driven all the positive outcomes listed below by itself – these also reflect the wider realignment from a criminal justice to public health model, and the investment in services that has followed. However, the change in policy and law, much like the introduction of decriminalisation approaches in other countries, has enabled and facilitated this shift.

- Health outcomes for HAT participants improved significantly
- Heroin dosages stabilised, usually in two or three months, rather than increasing as some had feared
- Illicit heroin (and illicit cocaine) consumption was significantly reduced
- A large reduction in fundraising-related criminal activity among HAT participants. This benefit alone exceeded the cost of the treatment<sup>11</sup>
- Heroin from the trials was not diverted to illicit markets
- Initiation of new heroin use fell – the medicalisation of heroin made it less attractive, and there were reductions in street dealing and recruitment by former “user-dealers”<sup>12 13</sup>
- Uptake of treatments other than HAT, especially methadone, increased rather than declined (as some had feared it might)

These positive outcomes have been reproduced in other countries that employ the Swiss-style HAT model. A 2012 EMCDDA review of these programmes concluded that HAT treatment can lead to:<sup>14</sup> “the ‘substantially improved’ health and well-being of [participants]; ‘major reductions’ in their continued use of illicit heroin; ‘major disengagement from criminal activities’, such as acquisitive crime to fund their drug use, and ‘marked improvements in social functioning’ (e.g. stable housing, higher employment rate).”<sup>15</sup> A 2011 review from the renowned Cochrane Collaboration came to similar conclusions.<sup>16</sup>

The programmes were explicitly designed and implemented as an empirical investigation. They were rigorously documented and evaluated, and evolved in line with the results generated, following public consultation and debate. In this way, it was possible for the policy model to grow from a scientific experiment into a more formalised policy framework that enjoyed growing public support – a process helped by overwhelmingly positive outcomes.

## Cost-effectiveness

There have also been studies considering the cost-effectiveness of HAT in three countries – Switzerland, Germany and the Netherlands. These report the costs

of such programmes to be between €12,700 and €20,400 per patient per year – considerably higher than the cost of OST (with methadone estimated at between €1,600 and €3,500 per patient per year). This is due to both the greater costs of the drug and the additional costs of establishing and maintaining supervised facilities. But the studies also show that, despite the higher cost, the expenditure is more than compensated for by “significant savings to society”, including less spent on criminal procedures and imprisonment. The EMCDDA notes that “if an analysis of cost utility takes into account all relevant parameters, especially related to criminal behaviour, [HAT] saves money”.<sup>17</sup> The EMCDDA concludes: “While [HAT] may be a useful addition to our treatment ‘toolbox’ for opioid users, it is not a solution for the heroin problem ... But for those among whom the benefit is observed, there are major gains for themselves, their families and society.”

In Switzerland, the generally successful outcomes are also reflected in shifting public opinion. Three-quarters of the population identified drugs as one of the five major problems facing the nation in the mid-1990s; that figure had fallen to one eighth by 2007.<sup>18</sup> Reducing highly visible, public drug use was certainly identified as a key driver of support for HAT.<sup>19</sup> In a national referendum in 2008, the Swiss public voted, by a resounding margin, to make the programme permanent.<sup>20</sup>

## International benefits

It has been estimated that just the 10% heaviest users of heroin in Switzerland (most of whom fall into the HAT target group) consume around 50% of all the heroin imported.<sup>21</sup> As a result, the reduction in their consumption of illicit drugs as they enter the HAT programme (and the absence of any increase in new heroin users) represents a substantial decline in the overall production and transit of illicit heroin for use in the country. So in addition to the potential benefits on an individual and domestic level for consumer nations, if these programmes were rolled-out widely, it could significantly reduce the global demand for illicit heroin. This in turn would lead to a corresponding reduction in illicit production, transit and supply - and the vast criminal costs they generate.

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# Drug policy in Sweden: A repressive approach that increases harm

The central aim of Swedish drug policy is to create a drug-free society. To achieve this aim, the country has adopted a punitive, enforcement-led approach to drugs. It is this approach, some have argued, that is responsible for Sweden's historically low levels of drug use. This apparent success of the Swedish model is therefore often presented as an argument against drug policy reforms such as decriminalisation and legal regulation. However, the degree to which Sweden's low prevalence of drug use can be attributed to its repressive approach is highly questionable, as research consistently shows that wider social, economic and cultural factors are the key drivers of drug prevalence – not the harshness of enforcement. Also of note is that levels of drug use in Sweden, while in relative terms still very low, are increasing. Furthermore, the Swedish model – in particular its antipathy to proven harm reduction measures – has had serious negative consequences that are almost never mentioned by its advocates. These include alarmingly high rates of hepatitis C among people who inject drugs, and a 600% increase in drug-induced deaths over the last 20 years.

## Background

In its attempts to achieve a drug-free society, Sweden has pursued a “zero-tolerance” approach to drug use, investing heavily in law enforcement, prevention, and abstinence-based treatment. This policy model emerged in the 1960s, following the rise in drug use that was observed across much of the developed world at that time. Since then, the maximum penalties for drug offences have been gradually ratcheted up, and in 1988 Sweden took the unusual step of criminalising not only drug possession, but drug use too.

Initially, use was only punishable by a fine, but this changed in 1993, when imprisonment was included as a potential sanction. The introduction of this harsher penalty was a prerequisite for police to be able to conduct blood or urine tests without individuals' consent.<sup>1</sup> 30,000 such tests now take place annually, on top of the 10,000 to which drivers are subjected.<sup>2</sup>

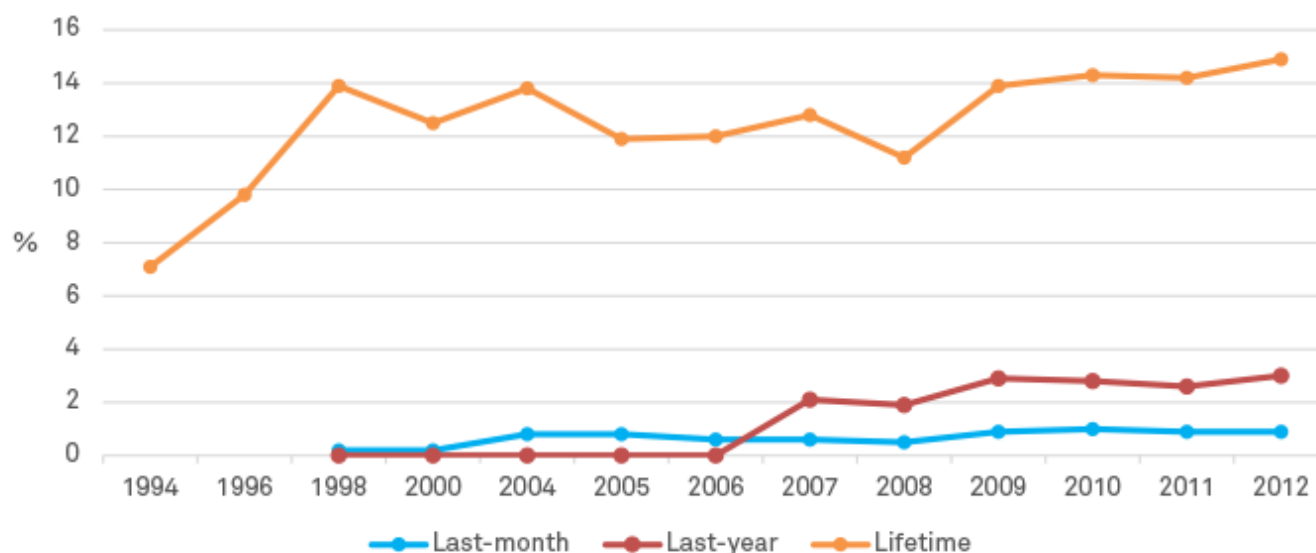
The number of people convicted of drug offences has more than doubled over the last 10 years. And while fines are by far the most common penalty issued, the vast majority of convictions (83%) are for simple drug possession or use.<sup>3</sup> It is therefore minor offenders who are overwhelmingly criminalised.

## Drug use

In 2007, the UN Office on Drugs and Crime produced a report entitled “Sweden's successful drug policy: a review of the evidence”.<sup>4 5</sup> In the introduction, UNODC director Antonio Maria Costa boldly stated: “societies have the drug problem that they deserve”, noting specifically that “in the case of Sweden, the clear association between a restrictive drug policy and low levels of drug use, is striking.”<sup>6</sup> This narrative of Sweden as an example of effective prohibitionist drug policy has been widely repeated by opponents of reforms such as decriminalisation and legalisation.

However, studies have consistently failed to establish the existence of a link between the harshness of a country's drug laws and its levels of drug use. A 2008 study using World Health Organization data from 17 countries (not including Sweden) found: “Globally, drug use is not distributed evenly and is not simply related to drug policy, since countries with stringent user-level illegal drug policies did not have lower levels of use than countries with liberal ones.”<sup>7</sup> Many other large-scale studies – including most recently a study by the UK Home Office – have come to the same conclusion.<sup>8</sup>

## Lifetime, last-year and last-month prevalence of cannabis use among 15-64-year-olds in Sweden



Other facts further undermine the notion of a causal link between Sweden's harsh drug law enforcement and its low levels of drug use:

- Although one of the main intentions behind criminalising drug use in 1993 was to deter young people from taking drugs,<sup>9</sup> the lifetime use of any drug by 15-16-year-olds increased from 6% to 9% between 1995 and 2011<sup>10</sup>
- While alcohol and tobacco use among young people is declining, illicit drug use is rising. Again, between 1995 and 2011, last-month cannabis use among 15-16-year-olds rose from 1% to 3%.<sup>11</sup> The lifetime use of illicit drugs other than cannabis among this group has also increased, from 2% to 4%<sup>12</sup>
- Among the general population (15-64-year-olds), drug use is rising. By two out of three measures (last-year and lifetime) cannabis use is now higher in Sweden than in Portugal, which decriminalised the personal possession of all drugs in 2001<sup>13</sup>
- The proportion of the adult population that have used amphetamines in their lifetime has risen from 1.4% in 1994 to 5% in 2008 (the latest year for which data are available)<sup>14</sup>

- The lifetime use of inhalants and non-prescription use of tranquillisers and sedatives among young people has risen from below the European average to above it<sup>15</sup>
- Countries that follow a similarly punitive approach to Sweden's (such as the UK and France) have significantly higher levels of drug use

Research suggests that the prevalence of drug use is driven primarily by a complex interaction of social, economic and cultural factors. Drug policy – and specifically drug law enforcement – has, at best, a marginal impact. Furthermore, the prevalence of problematic drug use correlates closely with high levels of social deprivation and social inequality – two measures that Sweden has historically fared very well on, since it is a rich country with a highly developed and generous welfare state (although in recent years wealth and income equality has worsened in the country). Sweden also has a somewhat socially conservative and abstemious culture, with relatively low levels of alcohol and tobacco use, and low levels of prescription drug use too.

But it is important to recognise that the effectiveness of drug policy should not be judged on the prevalence of use alone; there are a number of other indicators of success, and on these, Sweden fares substantially worse.

## Insufficient harm reduction

Sweden's focus on achieving a drug-free society has created a hostile environment for interventions that seek to reduce the potential harms of drug use, rather than preventing or eliminating drug use itself.<sup>16</sup> A major review published in 2011 recognised the need to scale up harm reduction,<sup>17</sup> but the government failed to act on it because of its commitment to an abstinence-based approach. Campaigners hope that the government will revisit the recommendations, but currently the provision of harm reduction services remains poor by European standards, and by those recommended by the World Health Organization and the UNODC:

- There are only five needle exchanges in the whole country – and none in Gothenburg, the second-largest city
- Opiate substitution treatment (OST) is available, but is subject to heavy restrictions (particularly for methadone)
- Some OST centres have a zero-tolerance stance on the use of other drugs, leading to fewer people being retained in treatment
- OST in prison started as a pilot project in 2007 and was continued as a national programme in 2010, but coverage remains poor<sup>18</sup>
- Sweden has no provision of safe injecting kits; no universal hepatitis B immunisation programme; limited availability of overdose information and overdose response training; and naloxone – which can counter the effects of opiate overdose – can only be obtained through medical personnel and is not available for take-home use<sup>19</sup>
- Sweden has no supervised drug consumption facilities (such as those seen in Denmark, Germany, the Netherlands, Spain and Norway), and collects no data on harm reduction provision in recreational settings such as night clubs and festivals

## Hepatitis C

This lack of harm reduction services has led to some extremely negative outcomes. Rates of hepatitis C among injecting drug users in Sweden are some of the highest in Europe. Hepatitis C is a blood-borne virus that, left untreated, can lead to cirrhosis of the liver and death. The

Stockholm needle exchange has recorded prevalence of the virus at 74% in 2013,<sup>20</sup> yet no official, national-level estimate is available, meaning it is unclear how many people need treatment for it, or how many people need access to needle and syringe programmes (NSPs).

## Drug-induced deaths

Further demonstrating that low levels of drug use do not necessarily equal low levels of drug-related harm, Sweden's drug-induced mortality rate was 62.6 deaths per million in 2012, more than three times the European average of 17.1 deaths per million.<sup>21</sup> In 2012, the drug-induced mortality rate in Portugal – which complemented its decriminalisation policy with an expansion of harm reduction services – was just 2.3 deaths per million.<sup>22</sup> Sweden's is therefore 30 times higher.

Some progress has been made, however, as Sweden's rate of overdose deaths has led some to recognise that a new approach is required. OST and NSP provision is certainly better than it was ten years ago, but is still not nearly enough. Political bureaucracy and the continued use of drug-free rhetoric remain a barrier to the comprehensive programmes needed, and have meant Sweden has been unwilling to support such programmes on the international stage.

Sweden's pursuit of a punitive, abstinence-based approach to drugs, coming at the expense of proven harm reduction services, has had negative consequences for the health and wellbeing of its drug-using population. These consequences would most likely be even more severe were it not for the country's comprehensive health and social welfare system, as well as its culture of temperance. Ultimately, the case of Sweden emphasises that prevalence of drug use is only one measure of success – overall health harms cannot be ignored.

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The current enforcement-based, UN-led drug control system is coming under unparalleled scrutiny over its failure to deliver a promised “drug-free world”, and for what the UN Office on Drugs and Crime (UNODC) describes as its negative “unintended consequences”. It is unacceptable that despite acknowledging these negative impacts, the UNODC does not include them in its flagship World Drug Report, and neither the UN nor its member states have meaningfully assessed whether

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