

Drug policy reform – From evidence to practice Session report



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“Global Drug Policy Program

Drug policies that are based on human rights and promote public health are a priority for the Open Society Foundations. Our efforts focus on developing new drug policy organizations, promoting collaboration and expanding the range of stakeholders committed to drug policy reform, empowering drug users to advocate for their rights at the national and international level, and supporting research into the economic and social costs of current drug policies.”



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The last of the series of Correlation Conferences¹, entitled ‘Getting out of the margins – Changing realities and making the difference’², took place from 12th to 14th December 2011 in Ljubljana, Slovenia. This report is an account of the discussions that took place during the final session of the Conference, ‘Drug policy reform – From evidence to practice’. Thanks are due to Thanasis Apostolou, from Diogenis, Drug Policy Dialogue in South East Europe³, for chairing the session.

1

Introduction

Much discussion is currently taking place about the ineffectiveness of drug law enforcement practices and of the role of the criminal justice system and prisons in controlling the illicit drug market.

Improvements can be observed in terms of general attitudes towards people who use drugs. For instance, human rights now constitute an important aspect of the drug policy agenda and governments have started considering drug dependence differently, shifting from a criminal approach to a health-oriented one.

Within this framework of discussion, national governments and international bodies, NGOs and other stakeholders are requested to provide effective answers to the emergence of new drugs, changes in consumption patterns and existing behaviours.

It seems clear that drug policies based on law enforcement and punishment are outdated and that new responses need to be found to tackle drugs issues. The panellists of this session informed the audience about current drug policy developments worldwide, both at the national, European and international level. The objective of this panel discussion was to comment upon new drug policy trends, and to propose concrete steps to improve drug policy.



The panel was composed of the following drug policy experts:

- Martin Jelsma, Coordinator of the Drugs and Democracy Programme of the Transnational Institute (TNI, www.tni.org/drugs)
- Ann Fordham, Executive Director of the International Drug Policy Consortium (IDPC, www.idpc.net)
- Jindrich Voboril, National Drug Coordinator in the Czech Republic
- Frederik Polak, Member of the European Coalition for Just and Effective Drug Policies (ENCOD, www.encod.org)
- Eliot Albers, Acting Director of the International Network of People who Use Drugs (INPUD, www.inpud.org)
- Nikolaos Takis, Psychiatrist at the detoxification unit of the Psychiatric Hospital in Athens, Greece (replaced Meni Malliori, the Greek Drug Coordinator, who was excused)

2

Global developments and new trends in drug policy reform

Martin Jelsma, Transnational Institute

Mr Jelsma's presentation provided a retrospective on the global drug control system and analysed recent developments that can inform drug policy reform worldwide.



This discussion takes a step back from the more pragmatic level of information shared during the rest of the Correlation Conference. Indeed, the Conference discussions focused on a specific part of the drug control system – the design of health strategies targeting problematic users, using the most problematic substances. This presentation focuses instead on wider global drug policy trends, and argues that drug control is in constant motion and development. We are now entering a new stage in the current regime.

100 years ago, 13 countries came together to sign the first international drug control agreement with the objective of limiting the international trade of problematic substances. At the time, there was no push to control their production or consumption. It was only with the signing of the UN Single Convention on Narcotic Drugs in 1961⁴ that controls were put in place to regulate the cultivation of coca and opium poppy, those raw materials used to manufacture the drugs that caused most problems at the time, as well as cannabis. The 1961 Convention aimed to limit the production, trade and use of these crops and their derivatives strictly to medical and scientific purposes. A similar convention – the 1971 UN Convention on Psychotropic Substances⁵ – was adopted ten years later to bring arrangement of other – largely pharmaceutical – drugs under international control.

The global illicit drug market started to flourish as a result of the effective controls that were placed by the UN drug control regime on the existing licit production and trade, preventing leakage from the licit market for illicit purposes.

As criminal groups became more and more involved in the illicit production and trade, drug control strategies were developed to put these groups and the illicit drug market under strict controls as well. This led to the adoption of the 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances⁶. Within the 15 to 20 years that followed the adoption of this third convention, national governments escalated their national controls over the illicit drug market using the force of criminal law. As a consequence, many countries experimented with a two- to three-fold increase in their prison population, mainly as a result of the arrest and imprisonment of low-level drug offenders.

Because of the negative consequences that emerged from these overly repressive drug strategies, several countries started to consider alternative models of drug control, one of which being the decriminalisation of drug use and simple possession. This new approach led to a split in the international community, between governments promoting the escalation of a 'war on drugs', and those who sought to de-escalate drug control policies.

Today, evidence clearly shows that the scale of the illicit drug market remains as large as ever. It is even clearer that the 'soft defections' that have taken place in some countries have not led to an increase in drug use. Harm reduction strategies, firmly embedded in European countries, are now spreading out towards Asia and former Soviet countries, while decriminalisation trends are spreading to Latin America. In some countries, cannabis legal regulation is now being considered as a serious policy option, and is gathering public support.

The divisions within the international community – the 'cracks in the Vienna consensus' – are now reaching a breaking point. Fundamental questions about the overarching principles of the international drug control system are being raised by a number of governments. In addition, UN system-wide coherence issues are raised concerning tensions with human rights principles and key UN objectives such as the Millennium Development Goals (MDGs), HIV/AIDS prevention, conflict resolution and indigenous rights. For instance, the issue of the coca leaf has recently appeared on the international political agenda, as Bolivia withdrew from the UN drug conventions to re-accede with a reservation on coca leaf chewing – being the first country to denounce one of the UN drug conventions.⁷

A radical change is to be expected in the future. In addition to the issues highlighted above, the appearance of new substances poses new fundamental challenges to the current drug control system. This will sooner or later lead to a similar situation to that of 1912 – a need to draw conclusions from recent developments and a group of countries to decide that the moment has come for a modernisation of the global drug control system.

3

The Global Commission on Drug Policy – Recommendations for better drug policies

Ann Fordham, International Drug Policy Consortium

The objective of this presentation was to present the Global Commission on Drug Policy, and provide an overview of its recommendations.



The Global Commission on Drug Policy's involvement in the drug policy debate has been able to capitalise the momentum that has been built worldwide around the need for political reform.

The Global Commission on Drug Policy draws on the work developed by the Latin American Commission on Drugs and Democracy. The Latin American Commission is an initiative from former presidents Gaviria from Colombia, Zedillo from Mexico and Cardoso from Brazil. The Latin America Commission is composed of eminent members from the region who have come together to evaluate the effectiveness of current drug policies and contribute towards more efficient, safe and humane policies in Latin America.⁸ The idea behind the Global Commission on Drug Policy was to bring the initiative of the Latin American Commission to the global level, in order to conduct evidence-based discussions on the harms caused by the current drug control regime.

The Global Commission on Drug Policy, presided by Cardoso, is composed of 18 Commissioners⁹, most of whom are former members of government, many coming from Europe. One of them was still a head of state when the report was released – George Papandreou, former Prime Minister in Greece.

After its creation, the Global Commission on Drug Policy spent six months reviewing evidence and consulting with

experts before launching its report in June 2011¹⁰. The report of the Global Commission on Drug Policy had enormous media coverage and was a great success. Since then, there have been expectations for the Global Commission on Drug Policy and its partners to disseminate the recommendations of the report.

The main conclusion of the report of the Global Commission on Drug Policy is that the global drug control system, based on a punitive approach has failed to reduce the scale of the global drug market. The approach itself has resulted in a number of negative consequences:

- It has fuelled the HIV epidemic – one in ten new HIV infections can be attributed to injecting drug use (with non-sterile injecting equipment).
- It has fuelled a powerful criminal drug market.
- It has hindered the provision of health and social services to people who use drugs.
- The criminalisation of people who use drugs has fuelled the marginalisation and stigmatisation of this group.

The Global Commission on Drug Policy therefore recommends the following:

- Put an end to the criminalisation and punishment of people who use drugs.
- Challenge misconceptions regarding the illicit drug market, drug use and drug dependence.
- Experiment with new models of legal regulation of drugs.
- Adopt a strong public health and human rights approach to drug policy.
- Refocus law enforcement efforts away from people who use drugs and low-level and non-dangerous dealers, towards those most powerful in the drug market.
- Call for leadership: there is a growing movement that questions the global regime. Decision makers at the national and international level are now faced with a political choice, and this is a question of political will to bring about change. The UN should provide leadership on this issue and be leading the calls for a comprehensive review of existing drug policies.

As can be observed above, this report does not identify or call for anything new. The key element of this initiative is that those calling for drug policy reform are eminent political figures.

In a European context, this report does not appear to be radical in terms of public health and human rights, as compared to other regions of the world with more repressive policy environments such as South East Asia. However in Europe, harm reduction is always under threat at the European Union (EU) level, and many countries lack

a truly comprehensive drug policy approach. We have to protect the ground that has been gained on the issue of harm reduction service provision and humane drug policies to ensure that there is no roll back on these issues. We cannot be complacent, and the report of the Global Commission on Drug Policy is useful in that regard. The Correlation Conference also highlighted the fact that the implementation of harm reduction programmes is limited and of poor quality in several European Countries.

The question therefore remains – will governments start a real discussion about drug policy reform? And will they choose to take advantage of available possibilities to reform their drug policies according to existing evidence?

4

Drug policy reform in the Czech Republic

Jindrich Voboril, National Drug Coordinator in the Czech Republic

The objective of this presentation was to provide an overview of the Czech decriminalisation system and its effects on the prevalence of drug use and health.



Mr Voboril is a Czech politician, from the Christian Democratic conservative party in the Czech Republic. Mr Voboril stated that the report from the Global Commission on Drug Policy created an important challenge for the heads of State and politicians responsible for drug policy. Two new formulations were made in the report – the 'legal regulation of drugs' and the call for governments to 'experiment' with this model, something that politicians are very much afraid of. According to Mr Voboril, drug

policy should be based on economically efficient health and social measures towards people who use drugs, rather than criminalisation. In this sense, the Czech drug policy is going in the right direction.

In 2010, the Czech Republic reformed its drug law to decriminalise drug use. Under the new legislation, possession for personal use is now an administrative offence, rather than a criminal one. Threshold quantities were established to determine which quantity of drugs should be considered to be for personal use, the example was given of dried cannabis for which the minimum dosage is 15g. The Czech drug law reform was criticised at the international level by the International Narcotics Control Board (INCB)¹¹, a position the INCB has adopted whenever governments have tended to adopt progressive approaches to drug policy. On Monday 14th December, the Czech government went one step further in drug policy reform, with the adoption of a new piece of legislation that allows for the production of small amounts of cannabis for personal use.

The Czech Republic also promotes harm reduction as a key element of its drug policy, and harm reduction services are available in most regions of the country. And although the economic crisis had very strong effects on the budget in terms of social, health and education, the Prime Minister sent a letter to all Ministers requesting that the drug policy budget be protected from any possible cuts. At the time of the Correlation Conference, the budget was being debated in Parliament, but it seems that the budget for drug policy programmes would remain stable.

The Czech drug policy had very positive results. Today, the prevalence of HIV infections among people who inject drugs is less than 1%; the prevalence of hepatitis C infections among people who use drugs dropped from 60% to 20% in 15 years; and the prevalence of problematic drug use has remained stable over the past 12 years.

The Czech experience is important for the international drug policy debate because it demonstrates that some governments do seek to develop rational and evidence-based drug policies. However, the rhetoric in international politics is difficult, and is mainly focusing on supply reduction, rather than demand reduction. While some governments, like the Czech Republic, have adopted a progressive approach based on public health, other countries, in particular Russia, have called for a militarisation of the fight against illicit drugs. The two opposite sides to drug policy are becoming more and more extreme. The report of the Global Commission on Drug Policy is therefore timely and important. It is necessary that politicians bring about an objective debate on drug policy, and that activists keep advocating for policy change.

5

Drug policy reform: The Greek experience

Nikolaos Takis, Psychiatrist at the detoxification unit of the Psychiatric Hospital in Athens, Greece

The objective of this presentation was to provide an overview of the recent drug policy reform in Greece.



Greece is currently in a very difficult socio-economic and financial situation. Over the past 2 to 3 years, Greece has experienced a large increase in HIV prevalence among people who inject drugs. This has been a direct result of budget cuts as needle and syringe exchange programmes (NSPs) are no longer funded, and service providers are under threat of losing their jobs.

However, there have been some positive reforms in the field of drug policy, with the drafting of a new law in October 2011, which was, at the time of the Correlation Conference, under discussion in Parliament. The main pillars of the law focus on:

- The decriminalisation of drug use;
- The imposition of more severe penalties for people found guilty of drug trafficking offences;
- The improvement of access to drug dependence treatment for those people who need it; and
- The legalisation of cannabis cultivation for personal use.

The improvement of access to drug dependence treatment, one of the key aspects of the law, is extremely important in the Greek context. Up until now, the country had 25 opioid substitution treatment (OST) programmes, with a tragic waiting line for people wishing to access treatment – a person had to wait for an average of 7.5 years before being able to initiate the programme. Under the new law, an additional 46 OST centres will be established. This measure is expected to improve

The situation, although this has to be balanced with the increasing number of people wishing to access treatment.

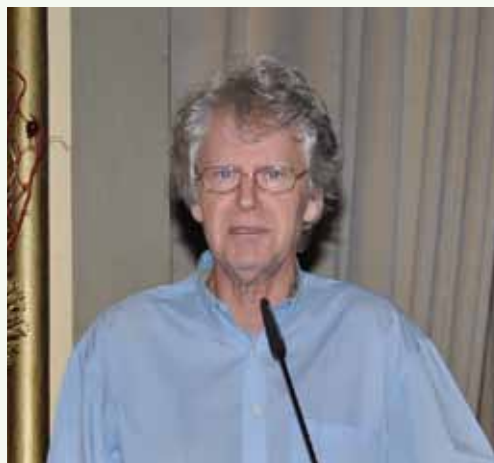
Mr Takis raised concerns about the many conservative forces from within Greek society that may resist the new law, especially with regards to decriminalisation. This may inhibit the positive impact of the law.

6

Efforts by NGOs to get alternative drug policies on the political agenda at the EU and UN level – worth our while?

Frederik Polak, Member of the European Coalition for Just and Effective Drug Policies

This presentation is about the representation of and contribution from Non-Governmental Organisations, NGOs, to the EU in the field of drug policy.



The Civil Society Forum (CSF) on Drugs is a formal mechanism for NGOs to be represented at the European Union (EU) level. The CSF is composed of 35 organisations from within EU member states. One of the major issues concerning the CSF on Drugs is that the NGOs represented in the Forum vary widely in terms of background, nature, and most importantly vision and political views (including both NGOs promoting a drug-free world and NGOs promoting drug legalisation, such as ENCOD – with a wide spectrum of middle-ground NGOs in between). As decisions are based on consensus – as is the case, for example, at the Commission on Narcotic Drugs in the UN – it has been highly difficult to reach agreements and adopt a

strong stance on drug policy. Although the use of consensus has been loosened slightly over the past two years, it remains the norm in most cases.

One of the most important objectives for ENCOD is that the issue of legal regulation of drugs be included in the political agenda. Three years ago, ENCOD came to the conclusion that it does seem possible to discuss the issue of legal regulation, but no further steps will be taken as long as the issue is not placed on the political agenda. This is what ENCOD is trying to do at the CSF on Drugs.

In order to facilitate the debate once it is on the agenda, the discussions need to be properly structured in order to address the complex issues related to drug policy. The structure should be agreed upon in advance to ensure that useful conclusions can be drawn from the debate. According to ENCOD, seven areas of work are decisive in the drug policy debate:

1. Health
2. Justice and crime
3. Ethics
4. Economics
5. Education
6. Culture
7. International aspects

Focusing on arguments around these issues will make it possible to come to conclusions for each of those issues, and on that basis, draw more general conclusions on drug policy.

This proposal for a structured debate was made at the CSF on Drugs. The CSF on Drugs is currently drafting recommendations for the European Commission new Drug Strategy. A consensus has not yet been reached among the Forum participants about such a recommendation. Within ENCOD, internal discussions are already taking place regarding what to do next. There is a lot of support for continuing on this 'diplomatic' road within ENCOD, but also much concern that this strategy may lead nowhere.

Another concern raised by Mr Polak focused on the European Commission communication entitled 'Towards a stronger European response to drugs'¹². This communication is disappointing and can be summarised, according to Mr Polak, as: 'We want more of the same, no explanation needed'. Indeed, instead of promoting an informed debate on drug policy reform, this European Commission communication promotes more coordination and harmonisation between countries on more severe drug control policies, mainly in the area of drug trafficking.

Mr Polak concluded that it is necessary to repeal the international drug prohibition system so that countries can regain their right and responsibility to choose and devise their own drug policies.

7

The voice of people who use drugs in drug policy reform

Eliot Albers, International Network of People Who Use Drugs

This presentation aimed to highlight the needs and requests of people who use drugs in the process of reforming the current drug prohibition regime.



This session presents a considerable advance from the discussions that took place during the Correlation Outreach-peer work seminar that took place in Prague in November 2010. Dr Albers declared that discussions were clearly not enough anymore, and that it was time to be clear and categorical: INPUD is unequivocal, unshakable and totally committed to the dismantling of the architecture of punitive global prohibition. According to Dr Albers, the system is based, not upon reason, but on crude superstition, moralism and racism, and is impervious to reason.

Although evidence has been accumulating massively over time, the system continues regardless of evidence of failure. Substances deemed to be dangerous were made illegal and the cycle continues today with the emergence of new drugs.

A paradigm shift is required, and we have all the evidence we need at our disposal. The criminalisation, marginalisation, repression and discrimination of people who use drugs have put them in the traditional path of civil rights movements, and it is time to make a major breakthrough. The current war on drugs is primarily a war on people: on people who use drugs, and on producing countries. The war on drugs has been a key driver of US drug policy, while the Russian government also promotes a securitisation of drug policy. In return, INPUD is engaged in a liberalisation struggle which requires absolute commitment and persistence.

Another crucial point is the fact that people who use drugs are not criminals, but they do not want to be patients either, as was mistakenly pointed out both by the United Nations Office on Drugs and Crime and the report of the Global Commission on Drug policy. Instead, they simply wish to be recognised as ‘people, who sometimes use drugs’.

Finally, Dr Albers pointed out that harm reduction came out of the movement created by people who use drugs. As such, harm reduction’s ultimate gesture would be to recognise that the harms with which we are all concerned are in fact related to drug prohibition, and more particularly to the repression faced by the community of people who use drugs. Until the harm reduction community recognises this, the services provided to people who use drugs will only be a sticking plaster over a gaping wound.

8

General discussions

This section is a summary of the discussions that took place between the panellists and the audience, following the experts’ presentations.



8.1 Concerns about civil society participation at the EU level

The audience shared common concern about the lack of participation of, and dialogue with, civil society organisations in the decision making process at the EU level.

The Commission Communication, introduced during Mr Polak’s presentation, ‘Towards a stronger European response towards drugs’ is a perfect example of this reality. The consultation process on the Communication appeared to some of the participants as a mere formality, as the European Commission has in fact already decided

on the activities that the EU will be implementing in coming years.

Another striking example is that of the role of the CSF on Drugs. At a time when the CSF on Drugs is working on recommendations to the EC to inform the drafting of the new EU Drug Strategy for 2012-2015, the European Commission is going through a parallel process with a public consultation on its Communication. The Commission seems to be pre-empting the discussion by releasing such a Communication.

The current situation within the EU can mainly be explained by a reorganisation process within the Commission that has taken place over the past two years, since the adoption of the Lisbon Treaty. Drug policy is now the responsibility of the Commissioner for Justice, and the issue is now being handled from a rather narrow, justice point of view. According to information received, the cross-cutting, horizontal element in Commission policy proposals seems to have been put on the back burner. Another preoccupying trend in Europe is that there seems to be a complete disconnect between policy and practice – the current generation of policy makers appears to be totally detached from the situation on the ground and from policy development in other parts of the world.

Several participants proposed ideas on ways forward in this domain.

- According to one of the participants, one way of getting some leverage on the drugs issue would be to prioritise public exposure on the inconsistencies of the EU approach towards drugs. These actions could focus on the way the European Commission – an unelected body – is going beyond its mandate and adopting an ideological position that will surely greatly influence member states’ stance on drugs.
- Another participant made a proposition to strengthen the role of the CSF on Drugs. It seems that the HIV/AIDS CSF is able to achieve consensus more easily than the CSF on drugs, and has some influence in the policy making processes on HIV. One way forward would be for the CSF on Drugs and the HIV/AIDS CSF to join forces and collaborate through on-line discussions, with the aim of increasing the visibility and the voice of civil society organisations in the decision making process on drugs.
- A third idea introduced in the discussion was to reach out to national government officials through the Horizontal Working Group on Drugs (HDG). Formed of drug policy experts from EU member states, the HDG prepares all relevant legislation and political documents to be adopted by the European Council. Many of these government officials do not have a formed opinion on how to tackle illicit drugs. It would therefore be useful for NGOs to target their national expert representatives through advocacy work and ensure that the expertise of these representatives is

informed by the knowledge of civil society organisations working in the drug policy field.

- Another participant drew from Dr Albers's presentation to raise the crucial issue of the participation of people who use drugs in the decision making process. It seems that we are in the same situation as we were in during the civil rights movement to promote the rights of gay people – a few gay people stood up for their rights but many remained hidden. A similar trend is taking place now, with many people who use drugs remaining hidden, and a very small fraction of this community accepting to become visible and fight for their rights. A crucial aspect of this advocacy movement should be to break stereotypes and stigmatisation and show that people who use drugs are ordinary people – they are academics, scientists, harm reduction advocates; they are also fathers and mothers, husbands and wives, brothers and sisters.
- Finally, one participant concluded that one of the main issues related to our work was the way advocates reached out to policy makers. The essential element of civil society advocacy work should be to draw on the data, research and evidence available to continue advocacy work to ensure knowledge sharing between advocates and policy makers. Advocates should also train themselves to be decision makers.

8.2 Drug policy reform and cannabis

Final discussions focused on cannabis policy. One of the participants from the Netherlands explained that the conservative coalition currently in power in the country had adopted a more repressive approach towards cannabis. If its policy proposals are implemented, access to cannabis will become more limited than in previous decades, even though the coffee shop system will remain in place.

At the European level, this new development is worrying as the Netherlands has so far been considered as an example in terms of cannabis policy. Other participants were urged to speak out about their countries' cannabis policies to inform the debate on the issue.

9

Conclusions

The session was closed with concluding remarks from each of the panellists.

Mr Jelsma stated that the new EU Drug Strategy would constitute a test for whether evidence would be taken seriously in drug policy making. It is necessary, in the current state of affairs, to ensure that the processes at the EU level are not dictated, but that recommendations from experts and stakeholders from the drugs field are taken seriously.

Ms Fordham referred to a point made during the introductory session of the Correlation Conference, during which one speaker referred to drug policy as a 'sausage' – you never know what it is made of. According to Ms Fordham, there is a wealth of evidence available for advocates to use, and although it is important to conduct more research on drug policy, frustrations often come from the difficulty to channel this evidence to the right people, at the right time. There is still a long way to go for drug policy advocates to achieve this.

According to Mr Voboril, Tony Blair won three consecutive elections as UK Prime Minister with three words: 'education, education, education'. However, when one discusses drugs issues with drugs coordinators, civil servants and policy makers, all will claim that reducing supply will reduce demand, and if you increase the amount of money available to do so, you will solve the drugs problem. There is enough evidence that demonstrates that this approach has, and will continue to, fail. But this conclusion does not seem to reach key decision makers. There therefore needs to be an increased level of advocacy to ensure that the message reaches the right target, advocates should not be complacent about the achievements that have been reached so far and continue their actions.

Mr Takis concluded that the times of hardship created by the current economic crisis provided a fertile ground for excessiveness. There is much evidence available and there is therefore a great need to initiate progressive drug policy projects now.

For his part, Mr Polak declared that, as an optimistic, he considered that there was a race, albeit slow, going on in Europe, Latin America and other regions of the world, to adopt more progressive drug policies. In the United States, for example, the next elections may bring about change in terms of cannabis legalisation. In the Netherlands, the policy can still be reversed as well, despite concerns about the conservative parties currently in power.

Finally, Dr Albers reiterated the fact that it is time for people who use drugs to be taken into account and to shake off stigma and stereotypes. INPUD will continue its activism to promote the needs of using communities above all else.

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