

Gendering the agenda: women drug mules in resolution 52/1 of the Commission of Narcotic Drugs at the United Nations

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Abstract

Purpose – *This paper seeks to analyse the content and implications of resolution 52/1 of the Commission on Narcotic Drugs of the United Nations (UN) titled “Promoting international cooperation in addressing the involvement of women and girls in drug trafficking, especially as couriers”.*

Design/methodology/approach – *Drawing on socio-legal analysis and an extensive search of UN databases, the resolution is contextualised and the findings of the resulting report which examines the scale of women’s participation in the global drug trade is summarised.*

Findings – *The article demonstrates that the data produced are unreliable as a measure of women’s participation in the international drug trade.*

Practical implications – *It is argued that this resolution is weakened by lack of clarity about how gender ought to be mainstreamed in global drug control.*

Originality/value – *As the first resolution on women and girls’ participation in the international drug trade, Resolution 52/1 is a significant step towards raising awareness and systematically accounting for their participation.*

Keywords *Women, Drug mules, Drugs, Gender mainstreaming, Drug trafficking, International drug policy, United Nations*

Paper type *General review*

Introduction

The international cocaine trade has grown significantly in the last 30 years and arguably so has the number of women involved. Whilst women’s participation is visible in the news, film and fiction, it has been largely absent from the purview of international bodies. This article examines a resolution made by the United Nations (UN) Commission of Narcotic Drugs (CND) in 2009 titled “Promoting international cooperation in addressing the involvement of women and girls in drug trafficking, especially as couriers”, and the subsequent report on its implementation, published in March 2011. This resolution is the first to highlight the issues surrounding women’s participation in the international drug trade at the level of international drug policy. This paper outlines the background and significance of the resolution and the claims made in the later report before offering a critical reading of their content. Whilst this resolution is significant as the first step towards gendering the drug policy agenda at an international level, ambiguities about what drug trafficking is, and the nature of women’s involvement, underpin the resolution and potentially weaken its impact.

Note on methodology

We offer a critical reading of the content of resolution 52/1 drawing on socio-legal methods of analysis (Banakar and Travers, 2005), and feminist reading on international law (Charlesworth *et al.*, 1991; Otto, 2010). In order to contextualise this resolution, we conducted a systematic search of resolutions adopted by the CND since 1946 on the United Nations Office on Drugs and Crime (UNODC) public electronic database and in the Commission on Narcotic Drugs annual reports since 1993. The UN's Official Documents System (ODS) and the UN Bibliographic Information System, were also searched using the following key words (in the text body): "courier", "drug courier", "human courier", "mules", "drug offenders", "women in drug trafficking" and "children in drug trafficking", "use of children in drug trafficking" and "use of women in drug trafficking". "Courier" occurred the most frequently[1]. This enabled us to gain a comprehensive understanding of the history of resolutions and discussions about the role of women in drug trafficking within the UN.

Antecedents to resolution 52/1

The CND is the central policy-making body of the UN in drug-related matters. As one of the three treaty organs of the Single Convention on Narcotic Drugs (1961) and the Convention on Psychotropic Substances (1971)[2], the commission is empowered to address all matters related to drug control. Premised on the "health and welfare of mankind" (preamble, Single Convention on Narcotic Drugs), these conventions aim to prevent illicit use and supply and ensure medical and scientific access to narcotic drugs and psychotropic substances. The third relevant treaty, the Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988) primarily aims to increase international cooperation against illicit drug trafficking (Art 2). International drug control laws are underpinned by a threat-based rhetoric (Barrett, 2010) in which drug use and supply are deemed as an "evil" (Barrett, 2010) positing a "danger of incalculable gravity" (preamble, Convention against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988). With almost universal accession, these treaties encourage countries to criminalise and punish activities related to the drug trade[3], particularly drug trafficking (Gottwald, 2006; Jelsma, 2003).

In general, resolutions are "formal expressions of the opinion or will of UN organs" (Dag Hammarskjöld Library/Department of Public Information, 2011) and while not legally binding[4], CND resolutions provide guidance to the UN International Drug Control Programme, administered by the UNODC (Economic and Social Council, 1991). Of the 195 resolutions adopted by the CND from 1993 to 2011, Resolution 52/1 is the only one to focus on the involvement of women and girls in the global drug trade. Women and children have been the focus of the CND, albeit sporadically and inconsistently. Arguably, the only significant antecedent to Resolution 52/1, with regards to its focus on drug trafficking by vulnerable groups, is Resolution A/RES/43/121 titled "Use of children in the illicit traffic in narcotic drugs and rehabilitation of drug addicted minors" adopted in 1988. In its preamble, the General Assembly (GA) expressed alarm and requested severe punishment to drug-trafficking crimes where children were involved (UN General Assembly, 1988). Resolutions dedicated specifically to issues surrounding women and drug use have been adopted in the CND since 1995 (UN CND, 1995, 2005).

Drug couriers have been the subject of discussions held by the bodies dealing directly with drugs and crime, and have been briefly mentioned in reports (INCB, 1988; UNODC, 2011) on drug trafficking trends or in national statements to the meeting of Heads of National Drug Law Enforcement Agencies[5], the CND[6], GA[7], and Security Council (SC)[8]. In UN human rights bodies, drug mules have been mentioned in country reports to the Human Rights Council (HRC)[9], the Committee on Economic, Social and Cultural Rights (CESCR)[10], Committee on the Elimination of Discrimination against Women (CEDAW)[11], and in working papers and reports for the former Commission of Human Rights (2004)[12]. Perhaps, the most significant document and statement on drug mules prior to resolution 52/1 is a 1999 report by the Special Rapporteur on violence against women. In her mission to the UN Ms. Radhika Coomaraswamy noted that drug laws were "criminalizing a large segment of its population [...] overwhelmingly composed of poor

persons of colour and is increasingly female” (Commission on Human Rights, 1999, para 17) and that there should be “a policy review [in the US] of the impact of drug laws on women, especially ‘mules’” (UN Commission on Human Rights, 1999, para 18).

UNGASS process: challenge TO international drug control paradigms

Although drug couriers have been mentioned in discussions for some time, resolution 52/1 is also a result of ongoing efforts within the CND over the last 11 years to include gender in conjunction with human rights related issues. As the international drug control system has focused on prohibition and law enforcement, health, human rights, development and gender have been side-lined (Barrett *et al.*, 2008). In the 1998, UN General Assembly Special Session (UNGASS) the international community agreed to “share the responsibility” in reducing drug supply and demand and pledged to “eliminate or significantly reduce” drug production and consumption by 2008 (UNGASS, 1998, para 14). The UNGASS process (Blickman and Bewley-Taylor, 2008) included issues not covered in the drug treaties, such as gender, drug demand and alternative development. It has also been characterized as a “missed opportunity” (EUHRN, 2009), because it reaffirmed the punitive approaches to drug control and rejected the formal inclusion of harm reduction strategies in the political declaration of 2009 (IHRA and IDPC (2009)). Despite this, it arguably provided a forum to contest the prohibition paradigm, discuss harm reduction strategies and review the effectivity of international drug policies.

It is against these wider changes that resolution 52/1 on drug mules was drawn up. Interestingly, the delegation that drafted the drug couriers’ resolution was led by a woman with a significant background in mainstreaming gender into security issues[13]. After some changes to the draft, the regional groups representing developing countries, mainly the Group of African States and the Group of 77 plus China[14], sponsored it. The resolution’s objective is exploratory, as it asked UNODC to “to carry out scientific research and analysis based on existing information and statistical data received from Member States” (UN CND, 2009b, para 5) and “to consider providing additional reporting on and analysis of data relating to the use of women and girls as couriers” (UN CND, 2009b, para 3). It also made several normative requests, calling for the protection of women and girls and punishment of criminals taking advantage of their vulnerability (UN CND, 2009b, para 7) as well as programmes to prevent and “rehabilitation” of women offenders (UN CND, 2009b, paras 7-9).

Measuring women’s participation in drug trafficking

An important aim of the resolution was to conduct a gender analysis of the international drug trade. This is the first attempt to estimate the scale of women’s involvement in the drug trade at a global level. The report on the resolution claims that “women represented about 20 per cent of the traffickers who were involved in drug seizures worldwide” and that furthermore, “the limited data available to UNODC however, suggest that the involvement of women and girls in trafficking has not increased disproportionately in comparison with men” (UN CND, 2011, p. 4). Interestingly, these results are broadly similar to international social research on people arrested for cross border drug trafficking, or “couriers” (Albrecht, 1996; Huling, 1995; Green *et al.*, 1994; Home Office 1997; cited by Harper *et al.*, 2000; Sentencing Council, 2011).

These claims are based on analysis of two data sets collected routinely by the UN: the annual report questionnaire (the basis for the World Drug Report), and individual drug seizure reports (submitted to the UN by individual nations). Since these data are based on arrests and seizures, respectively, they cannot be considered representative of women’s offending; a limitation acknowledged in the report. The report also notes that data on gender are not routinely collected for either database which rules out a comprehensive analysis. The claim that women represent around 20 per cent of drug traffickers is mainly based on individual drug seizure reports (examined in detail below). Problematically, the definition of “drug trafficking” employed in this data collection process is very broad. Indeed, this ambiguity as to what exactly drug trafficking is, echoes existing ambiguities about what constitutes trafficking in international drug control treaties (Gottwald, 2006).

Data on individual drug seizure reports are regularly produced by around 30-50 countries (UN CND, 2011, p. 4). Reports are filed for all seizures of “significant” quantities of drug, which are defined as follows: over 1 kg for cannabis (resin, plants, herb) and opium; over 100 g for cocaine, heroin and morphine; over 100 g for psychotropic substances and all quantities for seizures of drugs sent in the post (UNODC, 2010). There are six mandatory fields: case number, date, drug type, quantity, unit of measure and type of routing (“Border – inbound, National territory/domestic seizure, International waters”) (UNODC, 2010). Trafficker details are the final category in a long list (UNODC, 2010). It is not clear in either the report or methodological notes on individual drug seizures how regularly data on the sex/gender of “traffickers” is recorded (UN CND, 2011; UNODC, 2010).

First, thresholds for “significant” quantities are set lower than typical quantities for international trafficking (Mulchandani *et al.*, 2010, p. 26, Table 3b). Nonetheless, 100 g is greater than most quantities for personal use internationally (EMCDDA, 2011), therefore, employing this threshold is useful as it captures, broadly, all seizures of commercial quantities of drugs. Second, data are recorded for all “significant” seizures made domestically and at international borders or ports. Thus, the figure of 20 per cent actually describes women’s presence where commercial quantities of drugs are seized generally and not to women’s participation in international drug trafficking as couriers (the subject of the resolution).

Social research on women’s involvement in the drugs trade throws light on women’s presence where drugs are captured. Research by Rosa del Olmo in Venezuela found that women were often imprisoned for drug trafficking offences after their home was raided for drugs (Olmo, 1986, 1996). She reports that many did not know anything about the drugs that were found. Similarly, research in the USA has found that women on low incomes may “rent” out their home to dealers who use kitchens to process crack cocaine (Bourgeois, 2003). Thus, women may be present where drugs are seized simply due to being at home. They may later be found not guilty at trial but will nonetheless be recorded as “present” at drug seizures. On the other hand Anderson (2005) argues that women drug dealers may be less likely to be arrested since they work indoors (rather than on street corners). Given that available data seem to record only women’s presence where drugs are captured, this raises questions about what exactly individual drug seizure report data says about women’s participation in the drug trade. This ambiguous measure of “drug trafficking” replicates existing ambiguities inherent in the trafficking convention. Gottwald (2006, p. 108) argues that according to Article 1, the term “illicit trafficking” is all encompassing. It “covers all stages and forms of criminal involvement in the chain of commercialisation of illicit drugs” from possession and growing drugs to international traffic.

Disentangling this ambiguity is important. The resolution explicitly “Urges member states to implement broad based programs aimed at preventing women and girls from being used as couriers for trafficking in drugs” (UN CND, 2009b, para 7). If states are to action this, a clear definition of what counts as trafficking (and therefore as a drug mule) is needed. Research on drug mules (which defines them as those who carry drugs bought by someone else across national borders) finds that women and men act as drug mules as a result of financial crisis and debt (Huling, 1995; Sudbury, 2005). This may indicate the importance of general programmes, which seek to address the gendered dimensions of poverty. Interestingly, “alternative development policies” are mentioned in the original resolution. These may benefit all women who are employed in the drug trade at both local and international level, as well as those criminalised for their participation in other informal economies. Research also reports that women and men mules may also be subject to coercion through interpersonal threat (Fleetwood, 2010; Green, 1998). Alternative development is unlikely to have impact for this group. Furthermore, by defining drug mules (and appropriate responses) broadly, more specific responses are side-lined. Public information campaigns such as “Eva goes to foreign” by Hibiscus have proved very successful (Hibiscus, 2011).

Resolution 52/1: gendering the drug policy agenda?

The mandate to mainstream gender at a global level emanates from the Beijing Declaration and Platform of The Fourth World Conference on Women (Beijing, 1995). After criticism that this effort had been mostly confined to the Committee on the Status of Women (Charlesworth *et al.*, 1991), the ECOSOC approved a set of guidelines in 1997 requesting its functional commissions – including the CND – to incorporate a gender perspective into their work (UN ECOSOC, 1997, ch. 2, para A). For this purpose, gender mainstreaming was defined as:

[...] the process of assessing the implications for women and men of any planned action, including legislation, policies and programmes, in all areas and at all levels. It is a strategy for making women's as well as men's concerns and experiences an integral dimension of the design and implementation, monitoring and evaluation of policies and programmes in all political, economic, and social spheres so that women and men benefit equally and inequality is not perpetrated. The ultimate goal is to achieve gender equality (UN ECOSOC, 1997, ch. 1, para A).

The Political Declaration of 1998 formally included gender into the language of the CND. It requested member states to “ensure that women and men benefit equally, and without discrimination, from strategies directed against the world drug problem, through their involvement of all stages of programme and policy making” (UNGASS, 1998, para 4). But gender mainstreaming strategies “are less easy to keep in focus when they are being implemented in different institutional contexts within the UN” (Kuovo, 2005, p. 252) as there is a lack of consensus as to what gender and gender mainstreaming means (Kuovo, 2005).

Kuovo's criticism stands in relation to Resolution 52/1. While the latter acknowledges the relevance of men's role in the family, it does so only in passing. Men's participation remains unproblematized; there has never been a resolution addressing the gendered dimension of men in trafficking even though men represent up to 85 per cent of drug couriers. Assumptions of masculinity underpin the “war on drugs” discourse and this is rarely recognized or questioned.

Three female subjectivities recurrently appear in international law (Otto, 2005, p. 106). First, the woman and wife who needs “protection”; second, the woman who is formally equal with men, mostly in the public realm; and third, the “victim”, who “is produced by colonial narratives of gender as well as by notions of women's sexual vulnerability” (Otto, 2005). These different subjectivities overlap and have complex and productive interrelationships (Otto, 2005). In Resolution 52/1, women are cast primarily as mothers who fulfil a moral role[15]. However, as offenders, women seem to become a “problem” that “poses a danger to the well-being and development of children, families and communities” (preamble, UN CND, 2009b).

The discourse of the woman as “victim” is also present. The original title of the resolution explicitly viewed women as passive actors in the drug trade. The word “used” in the original title was changed for the generic “involvement”, to allow for the possibility of women's agency[16]. Nonetheless, this also allows for the possibility of equal punishment. Although the victim subject underpins in the preamble through the words “use” and “vulnerability”, it is unclear what “vulnerability” means in this context. The resolution and the report seem to imply that the feminization of poverty is the origin of that vulnerability. Granted, the economic need argument predominates in drug mules' research (Klein, 2009; Olmo, 1990; Green, 1998; Sudbury, 2005). However, coercion (Sudbury, 2005; Huling, 1995; Sentencing Advisory Panel, 2009), love (Torres, 2008) and desire for a different lifestyle are also cited as causes for offending. In other words, there are multiple causes yet we still have very little information (Fleetwood, 2011).

Finally, the CND requests member states “to take proper penal measures against organized criminal groups that use women and girls as couriers” (UN CND, 2009b, para 7). The verb “use” hints at exploitation but it could be also be interpreted as a situation where “naïve women and girls” did not know what they were getting themselves into. Whilst pointing to very real and complex problems, the resolution reflects unresolved tensions on conceptualizing the role of vulnerable groups in the drug trade. Whether drug mules are

considered as passive or active actors has implications for the formation of policy responses.

The resolution is loud in what it does not say: its focus is firmly on the harms resulting from women's involvement in the drug trade, rather than the harms resulting from the criminalisation of drugs. Although there is ambiguity about what can be done to prevent women participating in the drug trade as mules, research demonstrates that sentencing policies have punished women disproportionately. Mandatory minimum sentences (widely used in the USA, Europe and most recently Canada) effectively rule out the significance of women's poverty or family responsibilities (Fleetwood, 2011). The largest study done so far on drug mules in the UK show women are more likely to plead "not guilty" (Green *et al.*, 1994), but using that defence has led to higher sentences (Harper *et al.*, 2000). The effect can be seen in a small qualitative research carried out last year by the Sentencing Council, which shows that eight out of 12 of the interviewees, had entered an early guilty plea (Sentencing Council, 2011). Questions remain about the role the defence counsel play in advising defendants about their plea and the possibility of conflict of interest (Klein, 2009). Since member states are encouraged to "take into account the specific needs and circumstances that women face with regard to drug problems" (Preamble, UN CND), it would seem logical that sentencing practices should be a primary issue. However, it is clear that no efforts have been made to consider the implications of gender mainstreaming criminal justice policies. One of the main criticisms against the convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988 is that "it does not take into account the wide range of different criminal roles one may assume within the drug business by indiscriminately criminalizing all conduct under the term 'illicit traffic'" (Gottwald, 2006, p. 95). This criticism is particularly applicable in relation to women's involvement.

Conclusion

In sum, UN Resolution 52/1 marks an important introduction of gender issues into international policy making on drug trafficking. The need to mainstream gender is, in this sphere, overdue. However, this paper reveals weaknesses in the resolution. By failing to properly unpack what exactly the "problem" is it is unclear why the international community should care or how they should act on the resolution. The language of the resolution refers to women as drug couriers (implying international trafficking), yet the figures presented measure women's presence in the commercial drug market in both domestic and international trafficking. Furthermore, the resolution reflects unresolved tensions about women's role in the international drug trade. Whether mules are considered active participants or passive actors has implications for policy responses at a national level. Given that there appears to be a renewed interest in women drug couriers, tackling the gendered effects (and inequalities) of drug policy, rather than the drug trade, may prove fruitful.

Notes

1. ODS covers all types of documents of official UN documentation since 1993, and access to resolutions of the General Assembly, Security Council, Economic and Social Council (ECOSOC) and the Trusteeship Council from 1946 onwards.
2. The other two are the ECOSOC and the International Narcotics Control Board (INCB).
3. See Art. 33 and Art. 36 of the Single Convention; Art. 3 of the Convention on Illicit Traffic of Narcotic Drugs and Psychotropic Substances.
4. Only resolutions emanating from the Security Council under Chapter VII (Action with Respect to Threats to Peace, Breaches of the Peace and Acts of Aggression) in the UN Charter.
5. See UN Commission on Narcotic Drugs (1997) Fortieth Session Vienna, 18-27 March 1997 Illicit drug traffic and supply, including reports of the subsidiary bodies of the commission. Note by the Secretariat. ECOSOC. E/CN.7/1997/4/Add.1, 12 February 1997.
6. See reports on the CND for 2002, CND 2009 and CND 2011. In 2011, the Phillipines also highlighted the case for drug couriers to the Plenary of the 54th session of the CND.

7. See General Assembly Twentieth Special Session 8th Plenary Meeting Wednesday, 10 June 1998, New York, NY, A/S-20/PV.8; General Assembly Fifty-ninth session, Third Committee, Official Records, A/C.3/59/SR.73, November 2004; General Assembly, Official Records, Sixty-second Session, A/C.3/62/SR.26, 12 November 2007.
8. UNSC: UN Security Council (2009) Sixty Fourth Year, 6157th meeting, 7 July 2009, S/PV.6157; UNSC (2009b) Security Council. Sixty-fourth Year, 6233rd meeting, 8 December 2009, S/PV.6233 (Resumption 1); UNSC (2007) Report of the Secretary-General on Developments in Guinea-Bissau and on the Activities of the UN Peacebuilding Support Office in That Country, S/2007/576; and UNSC (2003) Fifty-eighth Year 4774th Meeting, 17 June 2003, S/PV.4774.
9. UN Human Rights Council (2010) Report of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism, Martin Scheinin, Human Rights Council Sixteenth Session Agenda Item 3, 15 December 2010, A/HRC/16/51/Add.3.
10. UN CESCR (2010) Forty-fourth session. Summary Record (Partial) of the 5th Meeting, 12 May 2010, E/C.12/2010/SR.5.
11. CEDAW: UN Committee on the Elimination of Discrimination Against Women (2007) Combined Sixth and Seventh Periodic Reports of States Parties, Canada. Covering the Period April 1999-March 2006 CEDAW/C/CAN/7; CEDAW (2001) Thirteenth Session, Summary Record of the 239th Meeting, E/CN.7/2001/2; CEDAW (1994) Summary Record of the 239th meeting, 4 February 1994, CEDAW/C/SR.239.
12. UN Commission on the Rights of the Child, Report submitted by the Special Rapporteur on the sale of children, child prostitution and child pornography, Mr Juan Miguel Petit, Addendum Mission to Paraguay, Commission on Human Rights, Sixty-first session Item 13 of the provisional agenda, 9 December 2004, E/CN.4/2005/78/Add.1.
13. Namibian Ambassador Selma Ashipala-Musevyi was Deputy Head of the Delegation of Namibia to the Security Council (1999-2000), which incidentally tabled Resolution 1325 on the special needs of women in armed conflicts. In 2009, she was Head of the Namibian Delegation and chair of the 52nd Commission and High-level Meeting.
14. UN commissions organize themselves according to regional groups in order to facilitate negotiations, coordinate positions and act as voting groups on specific issues. Although most groups are organized according to geographical regions, the Group of 77 plus, China is rather centred on forming a collective voice on development issues within the UN system (Group of 77 of the United Nations, n.d.).
15. In the draft resolution, women were said "in the upbringing and development of children, the maintenance of harmony in the family and the instilling of good values in children and young persons" (UN CND, 2009a).
16. The original title was "Promoting international cooperation in combating trafficking in drugs, especially the use of women and girls as couriers" (UN CND, 2009a).

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