

THE ALTERNATIVE WORLD DRUG REPORT

COUNTING THE COSTS OF THE WAR ON DRUGS



**COUNT
THE COSTS**
50 YEARS OF THE WAR ON DRUGS

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The Count the Costs initiative: Aims and activities

Document the costs

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

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. Using this available information, dedicated briefings have been produced for each of the seven thematic areas – edited versions of which are compiled in this publication. The online versions will be updated with emerging research and analysis.

A growing archive of factual and analytical resources from around the globe is also being collated on the www.countthecosts.org website, including reports, images, video, and audio media.

The website and briefings are also available in Spanish (www.countthecosts.org/es), and there is a Russian website (www.countthecosts.org/ru) with briefings in this language forthcoming. You can follow [@CounttheCosts](https://twitter.com/CounttheCosts) on Twitter and Facebook, and view a series of short films made to support the initiative here: <http://drogriporter.hu/en/count-the-costs>.

Reach 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 from organisations and individuals whose work is impacted by the war on drugs but have historically steered clear of the issue. The briefings and the resource collection 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 approaches. Over 100 NGOs and civil society groups have already offered their support to this statement (*see www.countthecosts.org for details, and see opposite page for the Count the Costs statement.*)

Promote 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 alternative approaches. 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

50 YEARS OF THE WAR ON DRUGS

The War on Drugs: Count the Costs and Explore the Alternatives

“*The global ‘war on drugs’ has been fought for 50 years, without preventing the long-term trend of increasing drug supply and use. Beyond this failure, the UN Office on Drugs and Crime has also identified the many serious ‘unintended negative consequences’ of the drug war. These costs result not from drug use itself, but from choosing a punitive enforcement-led approach that, by its nature, places control of the trade in the hands of organised crime, and criminalises many users. In the process this:*

- *Undermines international development and security, and fuels conflict*
- *Threatens public health, spreads disease and causes death*
- *Undermines human rights*
- *Promotes stigma and discrimination*
- *Creates crime and enriches criminals*
- *Causes deforestation and pollution*
- *Wastes billions on ineffective law enforcement*

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.”

**Sign the Count the Costs statement at
www.countthecosts.org**

Executive summary

Executive summary

50 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 to compare it with alternatives that could achieve better outcomes. The launch also coincides with the debate on the future of international drug control moving decisively into the political and media mainstream for the first time.

The enormous 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 interventions are left largely unevaluated and ignored, despite the fact that the current approach – which aspired to create “*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, as many as 300 million people now use drugs worldwide, contributing to a global market with a turnover of \$330 billion a year.

However, the UN Office on Drugs and Crime (UNODC) has in recent years acknowledged that the current system of global drug control 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.

The UNODC is correct in saying these negative impacts stem from the current enforcement-led approach. This is illustrated clearly by the contrasting outcomes from the two parallel functions of the 1961 Single Convention. Alongside establishing a global prohibition of certain drugs, and underpinning its enforcement, the convention also strictly regulates many of the same drugs for scientific and medical use. Regulation of this medical market, while imperfect, causes few if any of the “*unintended consequences*” identified by the UNODC as accruing from the illegal drug control system.

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 in self-reporting on a system by those who oversee, enforce and champion it. The result is that less than half the story is being told.

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. To that end, 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 and contrast it with alternatives that could achieve better outcomes.

The desire to explore alternatives is especially evident among the countries most negatively impacted by the war on drugs, particularly in Latin America, and indeed in other UN agencies, including UNAIDS, UNHRC, UNDP, WHO and the World Bank. Member states and a broad swathe of NGOs have a key role to play in supporting this process.

Ultimately, this is 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.

“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.”¹

Barack Obama
President of the United States of America
April 2012

1. Calmes, J., ‘Obama Says Legalization Is Not the Answer on Drugs’, New York Times, 14/04/12, <http://www.nytimes.com/2012/04/15/world/americas/obama-says-legalization-is-not-the-answer-on-drugs.html>

1. Wasting billions, undermining economies

Ever-expanding drug law enforcement budgets have squeezed supply while demand has continued to grow. The result is inflated prices and 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 likely to be well in excess of \$100 billion annually
- In terms of achieving the stated aims of enforcement efforts, this spending has been extremely poor value for money (displacement – rather than eradication – of illegal activities, drug prices falling, and availability rising)
- Enforcement spending incurs opportunity costs in other areas of public expenditure, including other police priorities and drug-related health interventions
- The illegal trade is estimated to turn over more than \$330 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 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

2. Undermining development and security, fuelling conflict

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 chemical crop eradications carried out by law enforcement
- Human rights violations 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 are frequently overlooked. This needs to change, and domestic governments, UN agencies and NGOs working on development and security issues have a key role in making this happen.

3. Causing deforestation and pollution

The war on drugs has put a heavy emphasis on “upstream” supply-side actions, including drug crop eradication. While this has proved futile in reducing total drug production – which has more than kept pace with growing demand – it has had disastrous consequences for the environment.

- Aerial fumigation continues in Colombia, the world’s second most biodiverse country. The chemicals used

kill plant life indiscriminately, destroy habitats of rare and endangered animals, and contaminate waterways

- Eradication does not eliminate 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
- Unregulated processing of drug crops leads to unsafe disposal of toxic waste, polluting soil, groundwater and waterways

The suggestion that supply-side drug law enforcement is justified because of the environmental damage caused by illicit drug crop production is unsustainable. While failing to significantly impact on production, the war on drugs has produced a range of environmental costs. There is an urgent need to meaningfully count these costs and build environmental impact assessments into all drug law enforcement programmes.

4. Creating crime and enriching criminals

Squeezing 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 that now turns over more than \$330 billion annually. 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.

- Drugs are now the world’s largest illegal commodity market, a market strongly linked to the criminal activities of money laundering and corruption
- 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 dependent users fundraising to support their habit
- Millions of otherwise law-abiding, consenting adult drug users are criminalised for their lifestyle choices
- The criminal justice-led approach has caused an explosion in the prison population of drug and drug-related offenders
- Violence is the default form of regulation in the illegal drug trade. Aside from conflicts with drug law enforcers, violence is used to enforce payment of debts and to protect or expand criminal enterprises. Evidence suggests that more vigorous enforcement

only exacerbates violence. Drug profits also fuel regional conflict by helping to arm insurgent, paramilitary or 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 has fuelled
- There is little evidence of a deterrent effect from user-level enforcement, or of significant impacts on 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 achieving the shared goal of safer communities.

5. 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 reducing or eliminating drug use, but has increased risks and created new health harms – all while establishing political and practical obstacles to effective public health interventions that might reduce them.

- Prevention and harm reduction messages are undermined by criminalisation of target populations, leading to distrust and stigmatisation
- Criminalisation encourages high-risk behaviours, such as injecting in unhygienic, unsupervised environments, poly-drug use and bingeing
- Enforcement tilts the market towards more potent but profitable drug products. It can also fuel the emergence of high-risk, new “*designer*” drugs, or domestically manufactured drugs (“*krokadil*”, for instance)
- 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 provision of effective harm reduction, which despite proven cost-effectiveness remains unavailable in many parts of the world. This contributes to increased overdose deaths, and fuels 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 challenges they face
- The development impacts of the war on drugs have had much wider negative impacts on health service provision
- Drug-war politics have had a chilling effect on provision of opiates for pain control and palliative care, with over five billion people having little or no access
- Various forms of torture, inhuman or degrading treatment or punishment are widespread 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 32 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 – put 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

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

6. 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 demonising of individuals and groups, and the imposition of abusive and inhuman punishments.

- While there is no specific right to use drugs, 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 possession/use are frequently grossly disproportionate, involving incarceration in many countries
- The erosion of due process when dealing with drug offenders is widespread, involving parallel justice systems, presumption of guilt (reversing the burden of proof), and detention without trial

The key human rights benefit of drug law enforcement is nominally the protection of the right to health and security through the reduction of drug availability and use – a hard argument to sustain given the historic failure to achieve these goals.

7. Promoting stigma and discrimination

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

- Criminalisation of people who use drugs fuels various forms of discrimination, problems made worse by populist drug-war rhetoric and media stereotyping and misinformation

- 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 further increase the likelihood of problematic drug use, contact with law enforcement, and involvement 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. Certain demographics are also punished far more severely than others.

8. Options and alternatives

The growing consensus that reform of the current system is needed is fuelling an active debate on a range of alternative approaches. These range from ramping up the war on drugs, through to free-market legalisation models, although most opinion sits between these poles, considering either less punitive enforcement models with a greater emphasis on public health, decriminalisation of users, or strictly regulated legal availability of certain currently prohibited products.

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 (currently inhibited by the international legal framework for regulated market models). Key alternative approaches include:

- Fighting the war on drugs with increased vigour, achieving the aim of reducing/eliminating drug use through increasing resources to enforcement and harsher punishments. The analysis in this report indicates this is likely to increase unintended consequences, without delivering significant benefits
- 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 simultaneously undermine rather than support health interventions. Reforms to enforcement practices can also target some of the most harmful elements of the criminal market to reduce crime costs from current levels, although this fails to engage with the prohibitionist framework fuelling much of the criminality in the first instance
- Re-orientation 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 re-orientation, decriminalisation can deliver criminal justice savings, and positive outcomes on a range of health indicators, without significantly increasing use – but has at best marginal impacts on criminal market-related harms
- Legal regulation of drug markets offers the potential to dramatically reduce costs associated with the illegal trade outlined in this report, but requires negotiating the obstacle of the inflexible UN drug conventions. Drawing on experiences from alcohol, tobacco and pharmaceutical regulation, increasingly sophisticated models have now been proposed for regulating different aspects of the market – production, vendors, outlets, marketing and promotion, and availability – for a range of products in different environments

Conclusions

There are a range of serious negative costs caused by current global drug law enforcement policies, cutting across a range of policy arenas, which are being ignored or inadequately evaluated. The inevitable result is a poorly informed drug policy development and implementation process at national and international levels. This can only lead to distorted policy priorities, ineffective policy making and the perpetuation of the unacceptable human and social costs documented in this report.

There is a clear and urgent need for this situation to be remedied. Meaningfully counting the costs of the war on drugs in the key thematic areas outlined here will facilitate a more objective and balanced debate, informed by the best possible evidence and analysis. For each thematic area, there is a body of scholarship, expertise and a range of analytical tools available to inform assessments of both current policies and alternative approaches that could do better. These include impact assessments, cost-benefit analyses, audits and value-for-money studies, scenario planning and more besides. The problem is not a technical one, it is a matter of political will.

The Count the Costs initiative is encouraging civil society groups in all the fields that are impacted by the war on drugs to actively engage in this debate, both to inform it with their expertise and to call on local, national and international policy makers and UN bodies to meaningfully count the costs of the policies they are responsible for, and explore the alternatives.

Introduction

“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
December 2010

Why an Alternative World Drug Report?

50 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 to compare it with alternatives that could achieve better outcomes. The launch also coincides with the debate on the future of international drug control moving decisively into the political and media mainstream for the first time.

The enormous 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 interventions are left largely unevaluated and ignored, despite the fact that the current approach – which aspires to create “a drug-free world” – has failed demonstrably on its own terms. This report estimates that enforcing global prohibition costs at least \$100 billion a year, and far from reducing use, supply and production, all have risen dramatically during the last half-century. Indeed, according to the 2012 World Drug Report, the UN Office on Drugs and Crime’s current best estimate is that approximately 230 million people use drugs worldwide (from a range of 153-300 million), contributing to the largest illegal commodities market the world has ever seen, with a turnover of \$330 billion a year.

In light of this, in 2008 the UNODC made an important acknowledgement – that the current enforcement-led system of global drug control is having a range of major negative “*unintended consequences*” (see box). These include: 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. This is a situation that could not have been imagined by those who designed today’s system of drug control.

Examining the outcomes of the two parallel functions of the 1961 Single Convention shows clearly that the UNODC is correct in asserting that these negative impacts stem from the current enforcement-led approach. 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. Regulation of this medical market, while imperfect, causes few if any of the “*unintended consequences*” identified by the UNODC as accruing from the illegal drug control system.

The Count the Costs initiative argues that although the list of negative consequences detailed by the UNODC is useful, it is also incomplete, and that a more comprehensive range includes:

- Wasting billions and undermining economies
- Undermining international development and security, and fuelling conflict
- Causing deforestation and pollution
- Creating crime and enriching criminals
- Threatening public health, spreading disease and causing death
- Undermining human rights
- Promoting stigma and discrimination

The UNODC's five negative consequences of international drug control¹

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. *"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."*

"What we don't know keeps hurting us"

Despite acknowledging the problems created by enforcement measures, neither the UN nor its member states have sought to establish 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 some 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 in self-reporting on a system by those who oversee, enforce and champion it. The result is that less than half the story is being told, and the process of policy development in a rapidly changing global environment is critically undermined before it even begins.

The systematic failure of the UNODC and governments to properly assess these costs was identified as far back as 2001, by the US National Academy of Sciences, in its report *"Informing America's Policy on Illegal Drugs; What We Don't Know Keeps Hurting Us"*.² The conclusions are as true today for the entire global drug control system as they were then for the US:

"Overall the committee finds that the existing drug use monitoring systems and programs of research are useful for some important purposes, yet they are strikingly

inadequate to support the full range of policy decisions that the nation must make. The central problem is a woeful lack of investment in programs of data collection and empirical research that would enable evaluation of the nation's investment in drug law enforcement."

They added:

"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."

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 not only a growing demand for a more balanced and comprehensive evaluation of the wider impacts of current drug law enforcement strategies, but also for an evidence-based exploration of possible alternative approaches. To that end, this report also outlines 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 and contrast it with alternatives that could achieve better outcomes.

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 built almost entirely around data garnered from country Annual Report Questionnaires³ (ARQs) – a system that is highly problematic. The UNODC is open about the “*data gaps and the varying quality of the available data*” due to “*irregularity and incompleteness in ARQ reporting by Member States*”, 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*”.⁴ States naturally have an inbuilt bias against reporting failures or poor performance, a problem assumed to be most acute in states or regions of most 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 impact areas of drug policy are not included – impacts on human rights compliance, development and conflict, stigma and discrimination, environmental impacts, and so on. Many states would not be keen to volunteer such sensitive information because it would reflect poorly on them.

For many of these data shortcomings there are alternative sources of information available (from academic research or NGO “*grey literature*”, for example), and while these are sometimes drawn upon, there is a reluctance to use alternative sources, 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 skewed towards process measures (such as seizures) rather than outcome measures. This bias in the questions is then exacerbated by the response rates to the ARQs. Governments are happy to report measures such as seizures (95%) and drug arrests (91%), while the proportion reporting less appealing, but more useful data (in terms of assessing policy outcomes) is much lower: youth prevalence (54%), prevalence of HIV (48%) and hepatitis B (41%) among injecting drug users, and drug-related mortality (34%).⁵

Overarching these data issues is the institutional nature of the UNODC. Established under the three drug conventions, its default position is to defend these conventions, and seek consensus among the member states it serves. This lends itself to inertia 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 convention*”.⁶ The annual report is 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 of international drug control.

Making drug control policy fit for purpose

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*”.⁷ While doubtless implemented with good intentions, framing the challenge in such crusading language has contributed to what can be called a “*threat-based*” approach, increasingly leading to drugs being viewed as a domestic and international security issue, rather than one of health, human rights or development, for example.

As a result, the current choice of global drug control system is predicated upon police and military enforcement of blanket prohibitions of drug production and supply, and punitive enforcement against drug users – a “*war on drugs*” in popular political, public and media discourse.

The Count the Costs initiative is broadening the debate by specifically focusing on the costs created or exacerbated by drug law enforcement, because all too often public debate either ignores them, or confuses and conflates them with the harms from drug use. This conflation has created a political narrative premised on a single, amorphous “*drug threat*”, against which the drug war is then fought. The result is a circular and self-justifying logic – the very costs created by a war on drugs are then used to justify its perpetuation or expansion, while at the same time insulating key elements of the policy from meaningful scrutiny.

The core themes of the Count the Costs initiative – the need for the negative impacts of the war on drugs to be meaningfully assessed, and alternatives properly explored – are, however, now being raised very publicly by many distinguished figures, including heads of state.⁸

The desire to explore alternatives is especially evident among the countries most negatively impacted by the war on drugs. Consequently, all policy options were under consideration by the Organization of American States⁹ in 2012, courtesy of some courageous leadership from Latin American leaders.

It is imperative that UN agencies also engage proactively in the public debate on the future of global drug control policy and law. As this report demonstrates, drug policy has significant impacts upon a broad swathe of policy areas, yet it has remained effectively ghettoised within

one agency – an agency that is itself unusually isolated from the norms and principles of the wider UN family. There have been some signs of positive change, not least with public health, human rights and development (areas which lie at the core of the UN’s mission) assuming a marginally higher profile in the UNODC’s public engagement. The UNODC director said in 2007 that: “*There is a spirit of reform in the air, to make the conventions fit for purpose and adapt them to a reality on the ground that is considerably different from the time they were drafted.*”¹⁰ As the UN Drug Control Program (the forerunner of the UNODC) noted in the 1997 World Drug Report, drug policy and law is not written in stone.¹¹

Another positive development is the maturing of the public and media debate. It is increasingly evidence-based and has evolved from emotive clashes and point-scoring, to a genuine interest in exploring which policies will best protect vulnerable individuals and communities, and provide the best value for money – especially when resources are more scarce than ever.

What is needed now, though, is for the UN – whether or not it is the UNODC – to provide real leadership and guidance as the global drug control system adapts to a world not only dramatically different to that of the 1940s and 50s, when the Single Convention was being drafted, but one that is in constant flux and that is likely to remain so.

Here too there are optimistic signs. The World Bank has been active in debating problems around the current and alternative approaches, including publishing a book on the development implications of the war on drugs, and devoting a significant part of the 2011 World Development Report to drug policy analysis.¹² 2012 witnessed twelve UN agencies, including the UNODC, UNAIDS, UNHCR, the WHO, and UNICEF issuing a joint statement unambiguously calling on member states to: “*close compulsory drug detention and rehabilitation centres and implement voluntary, evidence-informed and rights-based health and social services in the community*”¹³ (these centres are discussed in Chapter 6, pp. 74-75). This initiative, unprecedented in the history of UN drug control, illustrated a growing awareness of some of the more egregious impacts of the war on drugs and how they cut across policy areas, as well as willingness to challenge member states to address such issues. It was, however, an initiative that was driven by long and diligent research and campaigning by civil society groups, who demonstrated just one of the costs of the war on drugs that government and UN agencies had conspicuously failed to assess.

The methodologies for evaluating the many and varied

“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.”

Count the Costs initiative sign-on statement
<http://www.countthecosts.org/take-action/sign-our-statement>

impacts of the global drug control system are not without their problems, but there is a huge body of scholarship and expertise on policy monitoring and evaluation, including tools such as impact assessments, cost-benefit analyses and scenario planning, with detailed guidance already offered by the US National Academy of Sciences, among others. Nor does such evaluation come for free. But resource and technical concerns are secondary to the real problem – one of political will.

This is where member states have a crucial role to play: raising the issue in international forums, calling upon the relevant UN agencies to act, and providing the resources where necessary. There are also the first real stirrings of progress on this front, with Latin America – arguably the region that has carried a greater burden of the negative impacts of the war on drugs than any other – leading the way.

In turn, it is the responsibility of a wide range of civil society groups to become more active in their respective fields, and with their respective governments.

Without meaningful scrutiny of the full spectrum of impacts of a particular approach, failing policy is inevitably perpetuated. Without an understanding of where and why policies are ineffective or actively counterproductive, the process of developing more effective approaches is critically undermined. The time has come to bring science to bear on this key area of global policy, and begin the process needed to design drug policy that meets contemporary needs, and leaves a legacy of a healthier and safer world.

In short, the time has come to count the costs of the war on drugs, and explore the alternatives.

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01

Wasting billions,
undermining
economies

The economic costs of the war on drugs include the significant wasteful expenditure of valuable resources at a time of global economic crisis; 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

Far from creating a “*drug-free world*”, the war on drugs has fuelled the development of the world’s largest illegal commodities market. The prohibitionist global drug control system has effectively abdicated control of a growing and lucrative trade to violent criminal profiteers – at a cost in enforcement terms estimated to be at least \$100 billion a year.

Despite growing resources directed at supply-side enforcement, the illicit drug market has continually expanded, and is now estimated by the UN to turn over more than \$330 billion a year,¹ a figure that dwarfs the GDP of many countries.² The scale of profits generated by criminal drug organisations are enabling them to undermine governance and state institutions through corruption and intimidation, blur the boundaries between the legal and illegal economies, and threaten the economic stability of entire states and regions.

A useful starting point for examining how the war on drugs negatively impacts on the legitimate economy is to look at how so much of the trade came to be in the hands of organised crime in the first place.

The 1961 UN Single Convention on Narcotic Drugs, the legal foundation of 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 instead 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 they incorporate both the risk suppliers face of being caught by law enforcement and general, unregulated profiteering (see Figure 1, p. 25). Through this “*alchemy of prohibition*”,³ low-value agricultural products become literally worth more than their weight in gold. As Antonio Maria Costa, economist and Executive Director of the UN Office on Drugs and Crime, observed in 2008⁴:

“The first unintended consequence [of the 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.”

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 crisis, the importance of evaluating the cost-effectiveness of all major public expenditure against an agreed set of measures becomes even more critical. Furthermore, rational policy development also demands that where failings are identified, reforms or alternative policy approaches that could deliver better outcomes must be fully explored.

Economic evaluation of the war on drugs can be either in the form of an assessment of its impacts on the economy, or an economic analysis of its wider costs. This chapter focuses primarily on the former, but also points to the usefulness of a broader economic perspective. After half a century of failure, 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

Global spending on drug law enforcement

Despite the difficulties in calculating levels of drug-related expenditure (see box, p. 24), 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.⁵ Federal spending on drug control in the US is officially around \$15 billion (it is unclear how much reactive spending is included in this figure – see box, p. 24), of which roughly 35% is on treatment and prevention, and 50% on domestic law enforcement and interdiction.⁶ It is much more difficult to attain accurate data regarding state and local government expenditure, though one estimate of drug-related criminal justice expenditure alone is \$25.7 billion⁷
- The total proactive annual government expenditure on drug policy in the United Kingdom is around £1.1 billion annually.^{8,9} The majority of this expenditure is on treatment, with only around £300 million spent on enforcement. By contrast, it is estimated that the total reactive government expenditure on drug-related offending across the criminal justice system is more than ten times this figure, at £3.355 billion¹⁰
- In 2010, the Mexican government spent \$9 billion fighting drug trafficking¹¹

- Although it has multiple aims, reducing the opium trade is one of the goals of the 2001 US-led intervention in Afghanistan, which has cost the US alone over \$557 billion¹²
- In Australia, spending in 2002-03 was AUS\$1.3 billion on proactive expenditure (55% on enforcement, 23% on prevention, 17% on treatment, 3% on harm reduction and 1% on activities that span several of these functions). Expenditure for dealing with the consequences of drug use was estimated to be \$1.9 billion, with the majority spent on crime costs¹³

These and other examples indicate it is likely that between a third and a half of drug-related expenditure globally is spent on enforcement, with a considerably larger sum spent on dealing with the criminal market. While precise figures are impossible to formulate (and would be subject to variation according to definitions and inclusion), it is also 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, what we are getting in return, and whether the return achieves the stated aims of drug policy.

The overarching aim of the war on drugs is to eliminate or significantly reduce the availability and use of illegal drugs. Yet despite decades of growing enforcement



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

budgets globally, each year we are further from the aspirational goal of a “*drug-free world*”. Instead, drug markets have expanded and use has continued to rise.¹⁴

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.

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

Opportunity costs

Particularly during a sustained global economic downturn with government austerity measures widely implemented, 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.¹⁵ The lost productivity of this population was estimated by the ONDCP in 2004 at approximately \$40 billion annually.¹⁶

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 substantial potential source of income. Relatively little work has been done in this area, 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 legal (medical), or quasi-legal cannabis markets; the Dutch coffee shops, for example, reportedly pay over €300 million in tax annually, and turn over somewhere in the region of €1.6 billion.¹⁷ 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.¹⁸

“If they [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 of America
April 2012

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

• *The size of the illegal market*

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 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 \$332 billion at retail level – on a par with the global textiles trade¹⁹ (note: figures are for market turnover rather than profits)
- In 2009, the global cocaine market was worth \$85 billion,²⁰ and the global opium market was valued at \$68 billion, of which \$61 billion was for heroin²¹

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 deterring

use by pushing up prices. However, in an essentially unregulated market in which the laws of supply and demand are preeminent, 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 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, with often devastating results (see box, Chapter 2, p. 39).

The general risks of involvement in the illicit trade, combined with unscrupulous profiteering on the part of suppliers, leads to astronomical price “*mark-ups*”. So while there is a 413% mark-up from farm gate to consumer in the price of a legal drug, coffee,²² the percentage price mark-up for an illegal drug such as heroin can run into multiple thousands.²³

However, despite increased resources directed to supply-side enforcement, evidence suggests that drug prices, while remaining far higher than legal commodities, have decreased over the past three decades. From 1990 to 2005, for instance, the wholesale price of heroin fell by 77% in Europe and 71% in the US.²⁴

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 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 dependent drug users 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. Drug

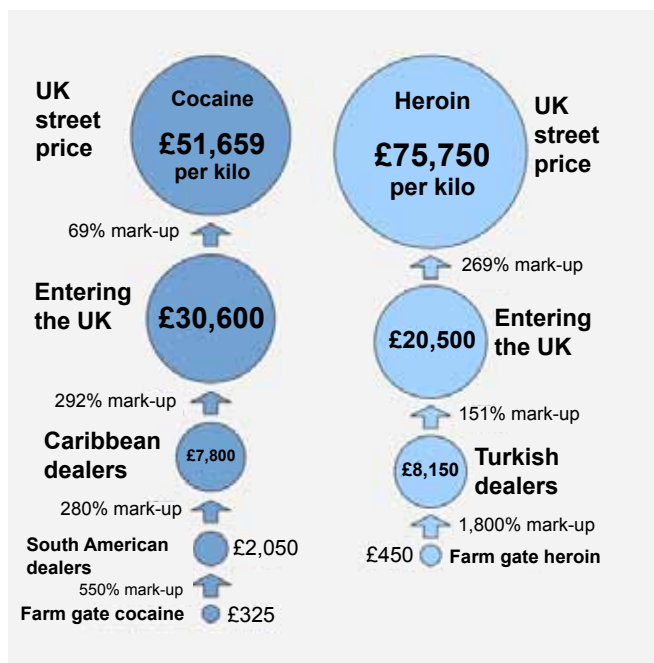


Figure 1: How the price of drugs is inflated through the illicit market

law reformers have argued that reduced drug prices would correspondingly reduce acquisitive crime costs.²⁵ 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.²⁶

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 (see Chapter 5, pp. 63-64). 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 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. 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.

- According to Transparency International’s 2011 Corruption Perceptions Index, the world’s two main opium producing nations, Afghanistan and Myanmar, have the second most corrupt public sectors in the world, both ranking at 180 on the list of 182 countries²⁷
- In Mexico, the act of paying a bribe is often merely viewed as part of the cost of business, a tax of sorts which those involved in the trade must pay in order to circumnavigate the law. A 1998 Mexican study estimated that cocaine traffickers spent as much as \$500 million a year on bribery, more than the annual budget of the Mexican attorney general’s office.²⁸ This figure has undoubtedly grown in recent years

- Drug money has been shown countless times to have a corrupting effect on law enforcement. In June 1995, the leader of Mexico’s Sinaloa drug cartel, Hector *“El Guerrero”* Palma, was arrested while he was at the home of the local police commander. It was also found that the majority of the men protecting Palma were federal judicial police²⁹

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.³⁰

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 (see box opposite).

The scale of laundered drug money is such that it has been suggested 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 that, *“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.”*³¹

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.³² 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.

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.

Wachovia³³

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* (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.

HSBC³⁴

In 2012, a report for a US senate committee revealed that subsidiaries of the British multinational bank HSBC had transported billions of dollars of cash in armoured vehicles, cleared suspicious travellers’ cheques worth billions, and allowed Mexican drug lords to buy planes with money laundered through Cayman Islands accounts.

HSBC’s Mexican operations also moved \$7bn into the bank’s US operations, and according to its own staff, much of that money was tied to drug traffickers.

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

- In 1998, the International Monetary Fund estimated that total money laundering represents 2-5% of global GDP. In 2009, the UNODC put the figure at 2.7% of global GDP, or \$1.6 trillion³⁵
- 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 proceeds³⁶
- According to a US Senate estimate in 2011,³⁷ 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.³⁸

Another effect is drug money causing “*Dutch disease*”. As the UNODC has noted,³⁹ 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.

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. 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. (*For more detail/discussion on development impacts, see Chapter 2, p. 33.*)

“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

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.⁴⁰

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.⁴¹

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.⁴²

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,⁴³ 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.⁴⁴

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.⁴⁵

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.⁴⁶

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.”⁴⁷

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, the number of US holidaymakers visiting Acapulco, one of Mexico's main tourist destinations, on spring break fell by 93% from 2010⁴⁸

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.⁴⁹

Are there benefits?

Substantial ongoing, indeed growing, 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 has 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.

- In 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 years⁵⁰
- 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 – in many cases involving profit-making enterprises – can benefit from the increased

incarceration of drug offenders. For example, in the US, as the number of those imprisoned on drug charges soared in the 1980s, so too did prison spending – by approximately 127% between 1987 and 2007⁵¹

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

- Although the farmers who cultivate illegal crops are by no means rich, and are exposed to considerable risks, the drug 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 pesos⁵²
- 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 the construction business⁵³
- The illegal drug trade is certainly an equal opportunities employer. 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 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 criminal syndicates, and laundered by banks, in first-world consuming countries⁵⁴

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 if any governments have ever conducted a cost-benefit analysis of drug policy; commissioned an independent audit of enforcement spending; undertaken an 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.⁵⁵ 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. At a time of great economic stricture, 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 producer and transit countries – 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 no realistic hope of eliminating supply.

The emotive nature of the public debate, fuelled by populist drug-war rhetoric, has pushed meaningful evaluation and rational debate of alternative approaches to the margins. But 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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02

Undermining
development and
security, fuelling
conflict

The war on drugs is actively undermining development and security 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 insecurity and underdevelopment.

Introduction

As explored in the previous chapter, prohibiting a commodity for which there is high demand inevitably creates profit opportunities for criminal entrepreneurs, pushing production, supply and consumption into an illicit parallel economy. Drug cartels and traffickers can be more confident of a cheap and reliable supply of key drug crops (coca leaf, poppy or cannabis) if state authorities can be kept at bay, and if farmers have few alternatives to drug production. As a result, traffickers prefer drug producing and transit areas with little economic infrastructure or governance. So they target geographically remote regions and already fragile or failed states, then protect and expand their interests using violence, intimidation, and corruption.

Further destabilising an area in this way deters investment, restricts the activities of NGO and government agencies, and diverts limited development aid and other resources into enforcement and security responses.

Like the war on terror, the war on drugs is framed as a response to an exceptional, existential threat to our health, our security, and indeed the very fabric of society. The “*addiction to narcotic drugs*” is portrayed as an “*evil*” the international community has a moral duty to “*combat*” because it is a “*danger of incalculable gravity*” that warrants a series of (otherwise publicly unacceptable) extraordinary measures.

This is not an exaggeration of the political rhetoric. As noted elsewhere in this report, these words are enshrined in international law, including the 1961, 1971 and 1988 UN drug conventions. This crusading language has helped create a political climate in which some commentators claim¹ that drugs have become “*securitised*” – i.e. made overwhelmingly a security issue. As drug policy has become increasingly driven by a threat-based approach, it has both marginalised development concerns and, paradoxically, undermined international security.^{2,3}

The negative effects invariably fall hardest on the poorest and most marginalised, including indigenous populations and ethnic minorities, young people and women. The same corrosive consequences historically seen in drug producing regions are now increasingly replicated in drug transit regions as traffickers trans-ship drugs through the Caribbean, Central America, Central Asia and West Africa.

Evidence from around the globe shows that enforcement at best displaces illicit markets and transit routes to new areas, and at worst actually increases the violence and harms it is intended to stop. In short, the war on drugs can lock vulnerable producing or transit regions into multi-dimensional underdevelopment, where existing problems are exacerbated, and governance further undermined.

The costs to producer and transit countries

The negative impacts of the war on drugs on international development and security outlined below overlap with each other, and with the problems faced by high-income countries.

1. Fuelling conflict and violence

There are a number of ways in which the war on drugs is undermining security and contributing to conflict and violence, mainly stemming from control of the lucrative illegal market defaulting to adaptable and ruthless criminal entrepreneurs. In the absence of any formal market regulation, violence has become their key regulatory tool.

To secure and expand their business, cartels can and do equip private armies and militias – which are in many cases able to outgun state enforcement. Organised criminal networks can also finance or merge with separatist and insurgent groups, and illicit drug profits have become a key source of funding for various domestic and international terror groups.

Corruption, combined with intimidation and actual violence against politicians, police, judiciary, and armed forces then further undermines governance and promotes conflict.

Police and military interventions can involve significant violence in themselves. For example, there were 2,819 extrajudicial killings under the banner of the Thailand government's war on drugs crackdown in 2003.⁴

State interventions can also precipitate a spiral of violence in which the cartels both fight back against government forces with ever increasing ferocity, and also fight each other for control of the trade as state action disrupts established illicit market structures. This has been shown most clearly in Mexico in recent years. In the longer term, endemic violence can traumatise populations for generations, in particular fostering a deeper culture of violence among young people. (For more detail/discussion on conflict and violence see Chapter 4, p. 57.)

2. Increasing corruption and undermining governance

The war on drugs and the huge criminal market it has created have led to the corruption of institutions and individuals at every level in affected countries. This is a result of the huge funds high-level players in the illicit trade have, their readiness to threaten violence to force the unwilling to take bribes, and the poverty and weak governance of targeted regions.

Corruption can have a dire impact on social and economic development. According to Transparency International:

*“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 ... The attainment of the Millennium Development Goals is put at risk unless corruption is tackled...”*⁵

As the UNODC has described it:

“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.”*⁶

3. Huge economic and opportunity costs

The consequences and vulnerabilities of a country relying economically on the export of a single product are well understood for legitimate commodities like oil. Similar problems can arise from illicit exports as well, with the potential threats to development made worse by the lack of taxation and the isolation from legitimate economic and social activity of illicit drug production. The related problem, a shift of labour and capital to the unregulated criminal sector, may also undermine long-term development and economic growth.



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

“Where are the voices of the development community? Prohibition is putting money in the pockets of criminals and armed groups. Profits from the illegal trade in drugs are not only used to buy guns, they also buy police chiefs and judges. Corruption is off the scale and, as it grows, democratic accountability, the key plank necessary for poor people to access and defend their rights, is progressively eroded ... The families caught up in this nightmare are the victims of an unworkable ‘war on drugs’.”

Jonathan Glennie

ODI Research Fellow and former Head of Christian Aid’s Colombia Programme
2010

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, and forcing them to bear a greater burden of taxation and regulation.

The more a region becomes destabilised, the more it:

- Deters inward investment by indigenous or external businesses
- Restricts the activities of development groups and other bodies that would otherwise assist in economic and human development
- Diverts aid and other resources from development into police and military enforcement (reducing accountability and increasing the likelihood of human rights abuses)

Globally, in excess of \$100 billion a year is spent on fighting the war on drugs (*see Chapter 1, p. 23*) – roughly the same as the total spent by rich countries on overseas aid. The US, and other countries, have diverted development aid 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 and Afghanistan.

While any approach to drugs requires funding, there is a substantial opportunity cost from this scale of expenditure on a policy which is not even delivering its stated goals. As a result, many of the poorest areas of affected countries are being further impoverished through wasting money that could have been invested in everything from education to infrastructure.

Mexico: a study in violence and corruption

Mexico is the key transit route for cocaine from the Andean region to North America, and a major source of cannabis (and to a lesser extent, heroin) for the North American market. While Mexico has a long history of internal violence, this was in decline until 2006, when President Calderón brought the full weight of Mexico’s police and military to bear on the criminal drug cartels.

Far from ending the violence, the intensified enforcement led to a dramatic escalation, as the cartels fought back against government forces, battled each other to seize control of areas where competing gangs were weakened, and stepped up efforts to corrupt officials. Since 2006 there have been over 56,000⁷ deaths related to the drug war, at least 1,300 of whom were children and 4,000 women.

Transparency International has stated: *“Mexico’s police and armed services are known to be contaminated by multimillion dollar bribes from the transnational narco-trafficking business. Though the problem is not as pervasive in the military as it is in the police, it is widely considered to have attained the status of a national security threat.”*⁸

4. Migration

Poverty and lack of opportunity are key drivers for both migration and involvement in illegal drug markets, especially in countries such as Bolivia, Colombia and Peru.⁹ Indeed, many drug crop growers are migrants. Given that for many drug production is a means of survival, drug crop eradications can lead to repeated migrations, as crop growers are forced to relocate in order to find new production areas from which they can earn a living.¹⁰ Migration of this kind is fraught with danger: Central American migrants crossing through Mexico are frequently targeted and subject to robbery, rape and kidnapping. Large-scale migrant massacres have also become common, with dead bodies sometimes dumped publicly, as a form of intimidation, or in “*narco fosas*” (mass graves).¹¹

Drug trafficking is often a more viable means of survival than production, particularly for young people. In Mexico, for example, from 2006 to 2011 more than 25,000 children left school to join drug trafficking organisations.¹² Moreover, in Latin American countries up to 70% of women in prison are there for non-violent low-level drug dealing.¹³ The majority come from socially marginalised or vulnerable communities, and are often migrants or from indigenous populations.¹⁴ While the response from countries such as Argentina, Ecuador or Mexico has been increased penalties, this has not led to reductions in trafficking or availability.

The combination of insecurity and human rights abuses along the Mexico-US border zone^{15, 16} reportedly drove over 230,000 people to flee their homes in 2010, an increase of 2,400% from previous years.¹⁷ This specific migration is fuelled by the growing number of civilians being killed in military operations.¹⁸ By 2010, one out of every six houses in Ciudad Juarez had been abandoned because of insecurity.¹⁹ Here, the war on drugs has created a vicious cycle of social decay, which has led many to migrate in search of the security and opportunity they have lost.

Afghanistan: a study in insecurity

Afghanistan faces many development challenges, and has a long history of involvement in the opium trade. Today it supplies more than 90% of global illicit opium/heroin, despite poppy eradication being one of the stated goals of the coalition invasion in 2001. Opium production has in fact increased dramatically, now dominates the economy, and is fuelling unprecedented corruption and funding insurgency, conflict and terror groups – nationally and internationally.

- The UNODC estimates that 52% of the nation’s GDP, \$2.7 billion annually, is generated by the drug trade, of which \$200-\$400 million went to Taliban insurgents and warlords in 2006-7
- 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
- The UNODC December 2010 Afghan Opium Survey demonstrates the economic realities faced by Afghan farmers when it states: “*At current prices, planting opium poppies is six times more profitable than growing wheat.*”²⁰

“Billions of dollars have gone into the anti-drug war and it has brought only huge criminal organizations. When you have poured in money for a century surely it is time for you to decide it is not working.”

Dr E.K. Rodrigo
former Drug Tsar of Sri Lanka
2005

The problem with “*alternative development*”

A cornerstone of the international response to the illicit drug trade has been “*alternative development*” (AD) to encourage drug crop producers to move to other crops, such as wheat. There are major problems with many AD projects, but when undertaken appropriately, AD can help illicit crop growers make the transition to non-drug livelihoods.

But there is a bigger issue. Like eradication efforts, in the long term AD does not impact on overall drug crop production. While demand remains, the profit opportunity remains, so any localised impacts merely displace production – and the accompanying problems – to another region or country. Consequently, there is no net development benefit.

5. Criminalising poverty

Drug crop production is generally found 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). They often have small landholdings, face volatile market prices for non-drug crops, high transport-to-market costs from isolated areas, or would require high levels of investment to grow alternative crops, but have 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.²¹

So involvement by poor farmers in drug crop production results from a lack of options: the “*migration to illegality*”, driven by “*need not greed*”, as the Transnational Institute describes it.²²

Production and trafficking of drug crops is facilitated when government control and military or police enforcement is minimal, or can be kept at bay. So

the criminals who control the illicit trade naturally prefer production and transit environments with limited economic and governmental infrastructure. Consequently, they seek out such environments, or create, maintain and control them using violence and corruption. This in turn entrenches the problems that force poor farmers into drug crop production in the first place – catching them in a vicious circle that is not of their making.

Drug control responses in these areas usually take the form of crop eradication, alternative development and the criminalisation of producers. The results, in terms of sustainable reductions in poverty, have been mainly negative. Opium bans and crop eradication programmes in South-East Asia, Colombia and Afghanistan have been linked with increasing poverty among farmers, reduced access to healthcare 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.

6. Increasing deforestation and pollution

An often overlooked cost of the war on drugs is its negative impact on the environment – mainly resulting from aerial spraying of drug crops in ecologically sensitive environments, such as the Andes and Amazon basin, combined with pollution from unregulated chemical drug processing. These harms almost all accrue in the developing and marginal regions where drug crop production is concentrated. Chemical eradication not only causes localised deforestation, but has a devastating multiplier effect because drug producers simply deforest new areas for cultivation – the so-called “*balloon effect*”. This problem is made worse because protected areas in national parks – where aerial spraying is banned – are often targeted. (For more detail/discussion on environmental costs, see Chapter 3, p. 43.)

7. Fuelling HIV infection and other health impacts

The war on drugs results in a number of health-related harms that impact on development. 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, with employees sometimes even being paid in drugs. Secondly, criminalising users encourages risky behaviours, like sharing needles, and hinders measures to help those infected with blood-borne viruses via drug injecting. As a result, there are 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. (For more detail/discussion on health costs, see Chapter 5, p. 61.)

Guinea-Bissau: the spreading threat to security

Demand for cocaine in Europe, combined with the stepping up of policing in the Caribbean, has simply shifted transit routes to West Africa – the “balloon effect” again. Guinea-Bissau, already blighted by 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 US\$304 million, the equivalent of six tons of cocaine sold in Europe at wholesale level. The UNODC estimates approximately 40 tons of the cocaine consumed in Europe passes through West Africa. 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.²³

The war on drugs has turned Guinea-Bissau from a fragile state into a narco-state in just five years. Other countries in West Africa (and increasingly in East Africa^{24, 25}) are also under threat, as are all fragile states with the potential to be used as producer or transit countries.

“Our investigation has shown that the so-called ‘war on drugs’ undermines international security.

Consumer countries of the developed world have seen whole communities devastated by epidemics of drugs misuse and crime. Addicts of drugs such as heroin have been marginalised and stigmatised and many otherwise law-abiding citizens criminalised for their consumption choices.

But the vulnerable producer and transit countries of the developing world have paid a far higher price.”

Nigel Inkster

Ex-Assistant Chief of MI6 and
Director of Transnational Threats and Political Risk,
the International Institute for Strategic Studies
2012

8. Undermining human rights, promoting discrimination

The UN is tasked with both promoting human rights and overseeing the international drug control regime, yet in practice human rights abuses in the name of drug control are commonplace. The range of abuses includes denial of the right to a fair trial and due process standards; torture and cruel, inhuman or degrading treatment or punishment; the death penalty and extrajudicial killings; over-incarceration and arbitrary detention; denial of the right to health; denial of the right to social security and an adequate standard of living; denial of the rights of the child; and denial of cultural and indigenous rights. (For more detail/discussion on human rights costs, see Chapter 6, p. 71.)

“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

Are there benefits?

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. In short, the key benefits claimed for supply-side enforcement are not being delivered. As already noted, localised enforcement “successes” just displace problems from one location to another.

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

Drug production and trafficking does, however, represent real economic activity. For certain populations and individuals with limited options, drug production, or involvement in the criminal supply chain, offers one of few sources of income, albeit with significant risks attached. It is important to acknowledge that despite the acute costs associated with elements of the drug economy, much of it functions peacefully and is relatively non-problematic. Some of the illegal profits also feed into local economies when spent in legal markets (see Chapter 1, pp. 26-27).

This limited survey suggests any such benefits appear to be significantly outweighed by the devastating social and economic development costs of the war on drugs. But any change in drug control policy should 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.²⁶

How to count the costs?

No genuine effort has been made by any international body or national government to properly assess the negative consequences on development of the current approach to drugs, let alone to meaningfully explore alternatives. Given the appalling impacts on international development, human rights, the environment and many other areas this is both shocking and unacceptable.

There is a broad range of available tools and scholarship on ways to assess the current and alternative approaches, from the more specific, such as health impact assessments, to broader measures, such as poverty and social impact assessments. As with every other chapter in this report, the real problem has been a lack of political will.

Conclusions

All developing countries face major development and security challenges, including lack of resources, weak governance, conflict and corruption. These problems are made still worse by a futile and counterproductive war on drugs.

Meaningful evaluation of the wider development and security impacts of drug policy needs to be built into all policy development and implementation as a vital first step, a process that should be actively encouraged and informed by development NGOs and concerned member

states. It is also vital to remember that the war on drugs remains a policy choice – not an immutable reality of the political landscape.

There are other options that, at the very least, should be debated and explored using the best possible evidence and analysis (see Chapter 8, p. 97). Because if there is one thing development experts agree on, it is that development in a war zone is next to impossible.

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03

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 and has had disastrous environmental consequences in terms of deforestation and pollution in some of the world’s most fragile and biodiverse ecosystems.

Introduction

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 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.

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 are some of the most ecologically rich 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. For example, 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.*”¹

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.²

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 the so-called “*balloon effect*”: production in one region is squeezed by law enforcement, causing it to expand in another region as drug producers mobilise to meet demand (see *Figure 1, p. 49*). Despite its continued support for eradication, the UNODC is fully aware of this effect, listing it as one of its five unintended consequences of drug control in its 2008 World Drug Report (see *Introduction, p. 17*), as well as highlighting numerous cases where, when eradications cause production to fall in one area, growers in another area pick up the slack.^{3, 4, 5}

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 have led Peru, Bolivia, Ecuador and Thailand to all ban the use of chemical agents in eradication efforts. But despite these concerns, the world's second most biodiverse country, Colombia, still permits aerial fumigations of drug crops using a chemical mixture primarily consisting of the herbicide glyphosate.

Roundup™: Colombia's "poison rain"

Roundup is a commercial glyphosate-based herbicide, and is 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,⁶ rendering any independent evaluation of its effects all the more difficult to conduct.

"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



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,⁷ 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.”⁸

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 this case it is especially alarming, given Colombia’s 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.⁹

The contamination of national parks

The inadvertent environmental damage caused by chemical eradications is exacerbated by the proximity of a number of Colombia’s national parks to illicit coca plantations. In effect, this means that some of the areas most frequently targeted by aerial fumigations are also among the country’s most biodiverse and ecologically irreplaceable.¹⁰ As more than 17 million people depend on the fresh water that flows from these protected areas,¹¹ this undoubtedly represents a threat to human health. It also further threatens Colombia’s more than 200 endangered species of amphibians that live in these aquatic environments and are particularly sensitive to herbicides such as Roundup.¹²

The danger to animal health

While the US State Department denies 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.¹³

More significantly, by eradicating large areas of vegetation, aerial fumigations destroy 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,¹⁴ Roundup is 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 environment¹⁵
- Despite the fumigation of approximately 2.6 million acres of land in Colombia between 2000 and 2007,¹⁶ 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 2004¹⁷
- 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 22,¹⁸ even before taking into account resulting rises in production in other countries

“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

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 simply deforest new areas for cultivation. And in their search for new growing sites, producers move into increasingly remote or secluded locations as a means of evading eradication efforts. Exacerbating the environmental cost of this balloon effect, they therefore often target national parks or other protected, ecologically significant areas where fumigation is banned.

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.¹⁹

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.²⁰

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.

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.

- 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 area²¹
- 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 region²²
- Significant areas of US national parks in California, Texas and Arkansas have been taken over by Mexican drug cartels growing cannabis²³

“Every year ... jungle [cocaine] laboratories send more than 20 million liters of toxins into the nearby tributaries that feed the Amazon and Orinoco rivers. Affected waterways are almost entirely devoid of many species of aquatic plant and animal life.”

John Walters
US Drug Tsar
2002

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 land²⁴
- 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 crops²⁵
- Between 2003 and 2004, coca cultivation within Bolivia's national parks increased by 71%, from 2,400 to 4,100 hectares²⁶
- According to the US Drug Tsar, 10% of Peru's total rainforest destruction over the past century is due to the illicit drug trade²⁷

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 and opium, into cocaine and heroin).

To avoid unnecessary costs and contact with authorities, drug producers must dispose of waste chemicals

secretively, 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.

The production of the synthetic stimulant methamphetamine is also notorious for the environmental harm it causes, due to the large number of dangerous chemicals used in its manufacture,²⁸ 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.²⁹

The environmental consequences of improper chemical disposal are arguably more pronounced in South American countries, where this waste is deposited in the jungles and forests used by drug producers to hide their operations from law enforcement and eradication attempts.

- In Colombia, cocaine producers discard more than 370,000 tons of chemicals into the environment every year³⁰
- Thousands of tons of chemical waste are dumped into the rivers located in the Peruvian Amazon region annually³¹

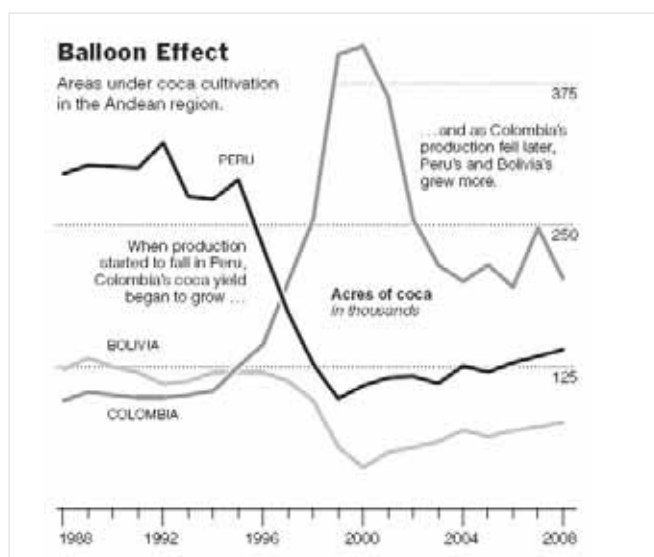


Figure 1: The balloon effect in the Andean region

Energy up in smoke: the carbon footprint of indoor cannabis production

An additional and perhaps unexpected 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 Laboratory³² 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. 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 CO₂ emissions, equivalent to running a 100-watt light bulb for 17 hours.

Are there benefits?

The main claim for any environmental benefit of the current enforcement-led approach to drugs is that it minimises the ecological damage caused by illicit drug production methods. As this chapter has outlined, it is certainly true that drug production has a heavy environmental cost; and it is this cost, it is argued, that would be far greater were it not for harsh eradication programmes and punitive law enforcement measures that prevent drug producers from expanding their operations.

But this claim, frequently made by the US State Department and others, reveals a wilful blindness to the evidence. Intense fumigation and manual eradication programmes have not reduced the environmental

harms that result from unregulated drug production. If anything, they have simply transferred these harms to more remote, ecologically sensitive areas such as the Amazon forests – an unavoidable consequence of the balloon effect.

Contrary to the assertions of law enforcement officials, it is drug-war policies themselves that are compounding the environmental devastation which ensues from illicit drug production techniques. 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 local populations.

More generally, environmental concerns 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.

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 briefing 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.

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.”*³³

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.”*³⁴

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04

Creating crime and
enriching criminals

A key strand of the drug-war narrative has been the fight against crime. In reality, over the past half-century, the policy has had the disastrous “unintended” consequence of creating crime at all levels – from wealthy cartels, to 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, in the 2008 World Drug Report, which noted that:

“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.”¹

This chapter provides a fuller account of this unintended consequence and its impact across the world.

As previously noted, the 1961 UN Single Convention on Narcotic Drugs – the legal basis of the global war on drugs – has two parallel functions. Alongside establishing a global prohibition of some drugs for non-medical 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*”,² 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 production³ but entails none of the organised crime, violence and conflict associated with its illicit twin.

By the mid-80s the emphasis and rhetoric of international drug policy had shifted, from its earlier focus on drug use, towards the growing concern with the problems relating to criminally controlled drug markets.⁴ This trend was reflected in law, specifically

the third of the UN drug conventions, which focuses on tackling the explosion of the “*illicit traffic in narcotic drugs and psychotropic substances*” since the 1961 Single Convention.

Over the last 50 years, the threat to public health from drug use has been interwoven with the threat to public safety (and national security) from drug war-related crime. “*Drugs and crime*” have become fused together in political rhetoric (the “*drug threat*”), 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 primarily a public health issue but responses are criminal justice-based, primarily dealt with by police and military enforcement aimed at drug users, dealers and producers.

Ironically, as the UNODC has belatedly acknowledged, it is these same punitive drug enforcement 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 the illegal market, which actively fuel 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 enforcement driving up price. The first is the creation of a vast opportunity for criminal entrepreneurs. 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*”⁵ by which low-value agricultural products become literally worth more than their weight in gold. (*For more detail/discussion, see Chapter 1, p. 25.*)

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,⁶ one of the unintended consequences of the war on drugs is the so-called “*balloon effect*”, whereby rather than eliminating criminal activity, enforcement just moves it somewhere else. When enforcement does take out criminals, it also creates a vacuum, and even more violence, as rival organisations fight for control.

The crime costs of the war on drugs

1. Street crime

There is 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.⁷ There are also many cultural and economic factors that impact on both street crime and drug use, including inequality and deprivation.

However, while estimates are hard to formulate and often contentious,⁸ it is clear that a significant proportion

of the street crime blighting urban environments has its roots in the criminal trade 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.

- According to the US Department of Justice, 900,000 criminally active gang members – a third of them juveniles⁹ – in 20,000 street gangs, in over 2,500 cities, dominate the US drugs trade¹⁰
- Low-income dependent drug users commit large volumes of property crime to fund their habits. A study by the UK Prime Minister’s Strategy Unit in 2003 stated that drug users are responsible for 56% of all crimes, including: “85% of shoplifting, 70-80% of burglaries, [and] 54% of robberies”¹¹
- Low-income dependent users (mostly women) also often 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 injecting drug users are more likely than other sex workers to engage in street soliciting.¹² Drug-using street sex workers also face increased risk of arrest, and of violence from clients, pimps and police¹³

By contrast, these problems are virtually absent from legal alcohol and tobacco markets, underlining that they stem from the current punitive 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



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

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).

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.”¹⁴

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.”¹⁵

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.”¹⁶

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.”¹⁷

UK Prime Minister’s Strategy Unit Drugs Report, 2003

2. Criminalising users

Despite the specific aim of reducing or eliminating illegal drug use entirely, global usage has risen dramatically since the war on drugs started. The UNODC estimates, probably conservatively, that between 153 and 300 million people worldwide, or 3.4% to 6.6% of 15- to 64-year-olds, used illicit substances at least once in the last year. Global lifetime usage figures probably approach one billion.

The impact of criminalisation and enforcement varies widely, with sanctions against drug 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 tend to be concentrated on young people, certain ethnic and other minorities, socially and economically deprived communities, and problematic users. (For more detail/discussion see Chapter 7, p. 85.)

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/use alone, far more are imprisoned for drug-related offending, overloading the criminal justice systems of countries all over the globe.¹⁸

These are mainly low-level players in the illicit trade, and low-income dependent users 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. (For more detail/discussion see Chapter 6, p. 74.)

4. Organised crime

The opportunity created by the collision of prohibition and high demand has been seized by organised crime with ruthless efficiency, and at devastating cost. Indeed, the illicit trade is one of the biggest revenue generators for organised crime worldwide.¹⁹ 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. (For more detail/discussion see Chapter 1, pp. 26-29.)

“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.”

Jeffrey Miron

Senior Lecturer, Department of Economics,
Harvard University

5. Violent crime

In place of the formal regulation used in the legitimate economy, violence 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 Los Angeles, for example, 43% of the 1,365 homicides that took place between 1994 and 1995 were gang-related, 94% of which involved firearms.²⁰ 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.”²¹

And 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 Medellin 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 the Mexican drug cartels’ profits (estimates range from 15-60%²²), with a value of around \$1.5 billion.²³ 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 to control the profits.²⁴

Drug profits are also fuelling violence in wider national and regional conflicts (see also Chapter 2, pp. 34-35). 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. In the longer term, violence can traumatise 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)²⁵
- 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 US²⁶
- 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 region²⁷

- 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 31²⁸

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/discussion see Chapter 6, pp. 74-76.)

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

The costs of proactive drug law enforcement run into tens of billions, but create even greater reactive costs dealing with drug market-related crime across the criminal justice system. (For more detail/discussion see Chapter 1, pp. 23-27.)

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.³²

This, it was credibly 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.

Drug-related violence in Mexico

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

- The Mexican government estimates that 34,000 people have been killed in drug-related murders from 2006-2010. Other estimates that include 2011 data put the figure at over 55,000.²⁹ Mass killings, beheadings and public displays of the dead have become commonplace
- According to the Mexican government, 60% of the country's drug-related deaths are those of members of organised criminal groups, 27% are government officials and 13% are innocent bystanders
- Historically, victims of drug-related violence have been mainly young males. But increasingly women and children are becoming victims too. As many as 4,000 women and 1,000 children have been killed to date, and around 50,000 children have lost at least one parent.³⁰ Young people are also being drawn into the violence, as illustrated by the recent case of a 14-year-old prosecuted for murdering four people on behalf of a Mexican cartel³¹

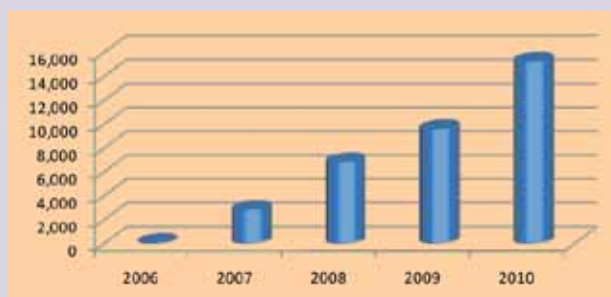


Figure 1: Drug-war killings in Mexico since the launch of President Calderón's offensive on drug cartels

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,³³ nor do studies tracking the effects of changes in policy – for example if new laws decriminalising possession are introduced.³⁴ Enforcement-related deterrence is, at best, marginal compared to the wider social, cultural and economic factors that influence drug use.

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 recently by Pierre Lapaque, 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.*"³⁵ 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.³⁶

There are possibilities for improving the targeting of enforcement efforts towards the most harmful elements of the criminal trade,³⁷ 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 – the UNODC's balloon effect in action.

So while the war on drugs can potentially eliminate violent criminals like Pablo Escobar, it also enables their rise to power and, in the longer term, can do little or nothing to eliminate the wider criminal market that people like Escobar 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.³⁸ 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.³⁹ (*For more detail/discussion see Chapter 7, p. 89.*)

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.⁴⁰ 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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05

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 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 drug use and addiction is vitally important, there is an urgent additional need to examine and find solutions to the public health costs specifically created or exacerbated by the war on drugs itself. 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*”

It is worth noting that the treaty which underpins the global drug control framework, the 1961 UN Single Convention on Narcotic Drugs, has two parallel functions. Alongside punitive, criminal justice-led controls on non-medical drug use, it put in place a strict regulatory framework for the production and supply of the same drugs for medical and scientific purposes.

This has led to the emergence of two parallel markets: firstly, the non-medical drug trade, controlled by violent criminal entrepreneurs and paramilitaries; and secondly, the medical drug trade, regulated by various government and UN agencies. The contrast between

the health and social harms associated with these twin markets could not be more stark, or more instructive (see box p. 66).

The crusading rhetoric of the war on drugs, as outlined in the preamble to the Single Convention, describes drugs as an “*evil*” we must “*combat*”. Yet in reality, enforcement focuses on 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 disproportionately punishes those most in need – patients and clients. It can more accurately be described as a war on drug users – a *war on people*. This criminalisation of people who use drugs leads to increased stigmatisation and marginalisation, limiting the potential effectiveness of health interventions, particularly for problematic users (see also Chapter 7, p. 89).

“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.”

World Drug Report
United Nations Office on Drugs and Crime
2008

The health costs of the war on drugs

1. Maximising harms to users

Risky behaviours and using environments

Criminalising people who use drugs, particularly young people, while having, at best, marginal impacts on demand, can exacerbate overall health harms by encouraging high-risk behaviours and pushing drug use into unhygienic and unsupervised “underground” environments.¹

- Authorities attempting to educate young people about drug risks are simultaneously seeking to arrest and punish them. The resulting alienation and stigma undermines outreach to those most in need. Combined with prevention messages more often driven by politics than science, this leads to distrust in even the best drug education efforts
- Enforcement against possession of drug injecting paraphernalia can encourage needle sharing, increasing blood-borne virus transmission risk.² Higher levels of enforcement are also associated with hurried and higher-risk injecting³
- The choice of high-risk injecting over safer forms of administration (e.g. snorting or smoking) to maximise “bangs for bucks” can be caused by enforcement-related price inflation⁴
- Displacement from one drug to another can also follow enforcement efforts.⁵ The impacts are

unpredictable, but as experience with amphetamine-type stimulants demonstrates, can lead to the use of new “designer” drugs about which little is known (a risk factor in itself), creating challenges for police, forensics, harm reduction, treatment and emergency services^{6,7}

- 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” in Ukraine,⁸ and “vint”⁹ and opiates such as “krokadil”¹⁰ in Russia
- Inadequate access to information can encourage high-risk behaviours such as poly-drug use and bingeing, and increase risks in crisis situations

Promoting more dangerous products

Criminal markets are driven by economic processes that encourage the creation and use of more potent or concentrated drugs that generate greater profits. 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, and cocaine markets have evolved towards smoked or injected crack cocaine.¹¹ More recently, the cannabis market has become increasingly saturated with more potent varieties.



Punitive drug policies maximise the potential harms associated with drug use

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.¹²

- Risks of overdose are increased, particularly for injectors, when drugs are of unknown potency
- There are poisoning risks associated with the adulterants and bulking agents used by criminal suppliers to maximise profits.¹³ Recent examples include Levamisole, a potentially toxic¹² 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). Even illicit cannabis has been bulked up by other substances, such as lead, which in Germany resulted in 29 hospital admissions for lead poisoning in 2007¹⁵
- Among injecting drug users, there is a particular infection risk from biological contaminants. The UK, for example, has witnessed clusters of infections associated with contaminated heroin, including 35 deaths in 2000 from *Clostridium novyi bacterium*, and over 30 infections with *Bacillus Anthracis* (anthrax), leading to ten deaths in 2009-10

“Ineffective and punitive drug policies, particularly criminalisation of drug possession, must be reformed to ensure the realisation of human rights, and to support the implementation of evidence-based interventions for people who inject drugs.”

Official Declaration of the 2011 International Harm Reduction Conference

2. Creating obstacles to effective harm reduction

A new policy model emerged in the 1980s that pragmatically focused on reducing overall drug-related harms, rather than the war on drugs’ narrower focus on attempting to eliminate use. This harm reduction approach is summarised by Harm Reduction International (HRI) 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. Harm reduction benefits people who use drugs, their families and the community.”¹⁶

However, the emergence of harm reduction can be seen, to a significant degree, as a response to harms either created or exacerbated by the policy and legal environment of a war on drugs. 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 the politically driven, harm-maximising drug-war framework.

This conflict has led to a widening of harm reduction thinking to include longer-term systemic policy and law reform issues, as demonstrated by initiatives such as the Vienna Declaration¹⁷ and the Official Declaration of the 2011 International Harm Reduction Conference,¹⁸ and their high-profile supporters.

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 has now expanded to encompass a much wider range of drugs, using behaviours and related harms. NSP and OST are now recognised by UN human rights monitors as a requirement of the right to health for people who inject drugs,¹⁹ while methadone and buprenorphine for OST are on the World Health Organization’s essential medicines list.²⁰

Despite becoming increasingly established, in 2010 harm reduction *“remains very limited, particularly in low- and middle-income countries”²¹*:

- 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 countries/territories where injecting drug use is reported, 76 have no NSP, and 88 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.²² Merely using the term “*harm reduction*” remains a contentious political issue in high-level international forums.²³

“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

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:

- 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 countries²⁴
- 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%
- 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 Asia²⁵
- 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.²⁶ 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).²⁷ The average HIV prevalence among people who inject drugs in these countries is approximately 25%, and HCV prevalence is up to 60%
- China, the Russian Federation and Vietnam have rates of HIV/HCV co-infection in populations of injectors of over 90%

Parallel example of two heroin users

A clear illustration of the impact of the drug war comes from comparing two injecting heroin users – one in a drug war/criminal supply environment, the other in a legal/prescribed/supervised-use medical environment.²⁸ Globally, and even within individual countries, these two policy regimes exist in parallel, so a real-world harm comparison is possible.

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
- Purchases supplies from a criminal dealing/trafficking infrastructure that can be traced back to illicit 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 quasi-clinical setting where they are in 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 use
- Has no risk of contracting a blood-borne infection, and a nearly zero risk of overdose death

“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

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.²⁹

While treatment for HCV and HBV remains (or is perceived to be) prohibitively expensive³⁰ 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.³¹

Tuberculosis only affects impoverished and marginalised groups, with people already infected with HIV or HCV at particularly great risk. 30% of injecting drug users in Western Europe, 25% in Central Europe and well over 50% in Eastern Europe have tuberculosis.³²

Bringing drug use into prisons

The war on drugs has directly fuelled the expansion of the prison population in recent decades (*see Chapter 6, pp. 76-77*). The growing prison population consequently has a disproportionate number of current or past drug users. Lifetime prevalence of injecting drug use in EU prisoners ranges from 15-50%.³³

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 the co-imprisonment of dependent users with drug dealers and traffickers), in an environment that creates a range of additional risks, including initiation into high-risk drug using behaviours.

As a general principle of international law,^{34, 35} 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 including 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.”*³⁶

Yet despite clear guidance on such provision from WHO, the UNODC and UNAIDS,³⁷ prison-based NSP are currently available in only ten countries, and OST is available (in at least one prison) in fewer than 40 countries.³⁸

Increasing overdose risks

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

- Overdose is commonly the leading cause of death among people who use drugs³⁹
- Around two-thirds of people who inject drugs will experience an overdose at some point, with around 4% of overdose events resulting in death⁴⁰
- 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 regions⁴¹

The last 15-20 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 1995.⁴²

Similarly, supervised injection facilities (SIFs) in eight countries have overseen millions of injections and experienced no overdose deaths.⁴³ 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.

As with harm reduction more broadly, the issue of overdose shows how the war on drugs both fuels the emergence of a health harm and then creates obstacles to health professionals developing and implementing interventions that 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 (*see Chapter 2, pp. 34-35*), are the direct health and human rights impacts (including issues around the right to health) associated with some specific enforcement practices. These include health impacts of chemical eradication (*see Chapter 3, p. 46*), arbitrary detention, torture, corporal punishment, and, in extreme cases, use of the death penalty (*see Chapter 6, p. 76*).

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.⁴⁴

Instead, according to the World Health Organization, these measures simply result in 5.5 billion people – including 5.5 million with terminal cancer – having low to nonexistent access to opiate medicines.⁴⁵ More powerful opiate preparations, such as morphine and diamorphine (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*”.⁴⁶

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.⁴⁷

Given the centrality of the deterrent effect in drug-war thinking, there is a striking absence of evidence in its favour, and comparative analysis between countries or jurisdictions with different levels or intensity of punitive user-level enforcement show no clear link.⁴⁸ The limited available research points to any deterrent effect being marginal, with other social, cultural and economic variables playing a far more significant role in determining demand.

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 addiction. 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 largely to NGOs, using a range of established evaluative tools to build up the case, but admittedly patchwork, understanding that we now have.⁴⁹ Government and UN agencies’ more systematic participation and support of this area of research – for example by using health impact assessments⁵⁰ – 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, but they have created new harms and hindered proven public health responses. Failed and counterproductive enforcement is hugely expensive (see *Chapter 1, pp. 23-24*) 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.

But it is also clear that the war on drugs is a policy choice. A re-orientation 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, the moment for a genuine debate has come.

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06

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 demonising of individuals and groups; and the imposition of abusive and inhuman punishments. (This chapter is best read in conjunction with Chapter 7, which explores how the war on drugs promotes stigma and discrimination.)

Introduction

Of the five “*unintended consequences*” of drug law enforcement identified by the UNODC in the 2008 World Drug Report, 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*”. It notes that, “*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.*”¹

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 experienced by addicts as identified by the UNODC.

Crucially, these are not costs that result from drug use itself, but from the choice of a punitive enforcement strategy – they are specifically costs of the war on drugs. 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.*”²

Too often these human rights violations are 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.

As noted in the Development and Security Chapter (p. 33), the longstanding threat-based approach to drugs, and the extraordinary measures that accompany it, has helped create a political climate in which drug policy and enforcement are 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 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)³ – 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 supply chain of illicit drugs are characterised by extensive human rights violations, committed in the name of supply and demand reduction.

In order to meaningfully count these human rights costs, it is necessary to not only see the connections between law and policy, and the effects on the ground, but also to make comparisons with what happens under alternative approaches, including the decriminalisation of drug possession, and models of legal market regulation. For example, most of the abuses resulting from a punitive, enforcement-led approach to illegal drugs do not occur in relation to the production, sale and use of tobacco, alcohol and prescription medicines.

Ultimately, just as UN member states refer to “*shared responsibility*” for drug control, so too must they bear shared responsibility for human rights abuses perpetrated in its name. That is what Count the Costs is about – taking responsibility and openly evaluating all policy impacts, and all other options.

The human rights costs of the war on drugs

1. Drug use and criminalisation

Global drug usage has risen dramatically since the war on drugs began. The UNODC currently estimates, probably conservatively, that between 153 and 300 million people worldwide, or 3.4% to 6.6% of the population aged 15-64, used illicit substances at least once in the last year. 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. 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 criminalising users 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 other minorities, socially and economically deprived communities, and problematic users.

Punishments for 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 prison⁴
- 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 imprisonment⁵

The UN Special Rapporteur on the right to health (*see quote box, p. 75*) has called on UN member states to “*decriminalize*” or “*de-penalize possession and use of drugs*”.⁶ It is a call that has been echoed by the UN Secretary-General,⁷ the heads of UNAIDS⁸ and the Global Fund to Fight AIDS,⁹ Tuberculosis and Malaria in the context of HIV/AIDS, and by high-profile politicians, including many serving and former heads of state, in the context of human rights, security and development.



The war on drugs has led to widespread human rights abuses

“Respect the human rights of people who use drugs. Abolish abusive practices carried out in the name of treatment – such as forced detention, forced labor, and physical or psychological abuse – that contravene human rights standards and norms or that remove the right to self-determination.”

The Global Commission on Drug Policy
2011

Commissioners include:

- **Kofi Annan**
former Secretary-General of the United Nations
- **Asma Jahangir**
former UN Special Rapporteur on Arbitrary, Extrajudicial and Summary Executions
- **Michel Kazatchkine**
Executive Director of the Global Fund to Fight AIDS, Tuberculosis and Malaria
- **Thorvald Stoltenberg**
former Norwegian Minister of Foreign Affairs and UN High Commissioner for Refugees
- **César Gaviria**
former President of Colombia
- **Ernesto Zedillo**
former President of Mexico
- **Fernando Henrique Cardoso**
former President of Brazil

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.¹⁰ 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”, according to Amnesty International.¹¹ Many of the trials that are held before these courts are death penalty cases. In Egypt,¹² drug 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.

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 basic of due process guarantees reflected in international human rights law.¹³ The phenomenon is most commonly associated with threshold quantities for drug possession¹⁴: if the threshold is crossed, there is a presumption of a supply/trafficking offence, invariably associated with a dramatic ramping up of punitive responses. The death penalty is a mandatory sentence in some countries for possession above a certain threshold.

Even when penalties are not as severe, the effects on the presumption of innocence are clear. Since 2005 in the UK, for example, arrest for certain trigger offences (even before being charged for any crime) leads to a mandatory 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 similarly 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 and without a 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.¹⁵

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, and detainees are denied access to essential medicines and effective drug treatment, and subjected to HIV testing without consent.

- In China, there were approximately 700 mandatory drug detoxification centres and 165 “re-education through labour” centres, housing a total of more than 350,000 drug users in 2005¹⁶

“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

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

People who use drugs, or who are arrested or suspected of 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.

- 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^{17, 18}
- In Cambodia, abuses have included: detainees being hung by the ankle on flagpoles in midday sun¹⁹; 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 centres²⁰
- 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 inmates²¹
- Denial of healthcare in places of detention (see above)

Over 40 countries maintain corporal punishment as a sentence of the courts or as an official disciplinary punishment²² – 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.²³ 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

32 jurisdictions currently retain the death penalty for drug offences, with thirteen having a mandatory death penalty for certain categories of drug offences.²⁴ 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 blatantly illegal under international law, the US has a policy of openly targeting alleged drug traffickers for assassination.²⁵ The Pentagon announced in 2009 that 50 Afghan drug traffickers had been placed on a list of people to be “*killed or captured*”,²⁶ 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.”²⁷

- As many as 1,000 executions occur worldwide for drug offences each year,²⁸ but precise numbers are unknown due to the secrecy of some states. Statistics for China, the most enthusiastic executioner, are most uncertain, with estimates of executions for all offences in 2007 varying from 2,000 to 15,000²⁹
- In recent years Iran has seen an explosion in reported executions. The UK Foreign and

Commonwealth Office estimated there were 650 executions in 2010, 590 of which were for drug-related offences

- In Malaysia, between July 2004 and July 2005, 36 of 52 executions carried out were for drug trafficking³⁰
- 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 drugs³¹

The US – the “*great incarcerator*”

- In 2008, over half of federal inmates in the US were in prison due to a drug charge³²
- 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 US³³
- Despite having similar levels of drug use, of US state prisoners serving sentences for drug offences in 2005, 45% were Black, 20% Hispanic and 28% White.³⁴ Yet just 13% of the US population is Black, 15% Hispanic and 80% White^{35, 36}

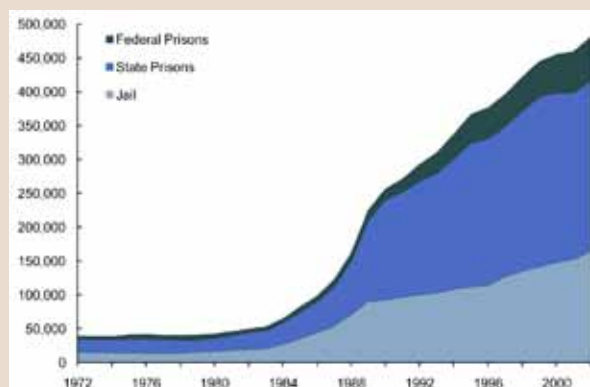


Figure 1: Estimated number of adults incarcerated for drug law violations in the United States, 1972-2002

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 incarcerated for possession/use alone, a far larger proportion are imprisoned for “*drug-related*” offending. These are mainly low-level players in the illicit trade and 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*” (see “*Drug detention centres*”, p. 74), and the use of extended pre-trial detention for drug offenders.

- In a survey of ten cities in nine European countries, over half of a sample of heroin and cocaine users had been imprisoned³⁷
- The prevalence of HIV is usually several times higher in prisons than other communities due to the overrepresentation of injecting drug users in prison³⁸

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 treatment³⁹; 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.⁴⁰ 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 denying access to treatment and harm reduction services, and creating

practical and political obstacles to getting essential medicines. This creates serious health costs, particularly for vulnerable populations of problematic drug users, including people who inject drugs – an estimated 15.9 million people⁴¹ in at least 158 countries and territories around the world.

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.⁴²

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,⁴³ while methadone and buprenorphine for OST are on the World Health Organization’s essential medicines list. (For more detail/discussion see Chapter 5, pp. 64-65.)

Enforcement activities themselves can create direct health harms, for example through aerial drug crop fumigations (which can cause damage to eyes and skin, and lead to miscarriages⁴⁴), as well as interfering with access to health services.

Criminalisation of 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, p. 89). This is especially the case when laws against the carrying of injecting paraphernalia are in place (contrary to the UN’s International Guidelines on HIV/AIDS and Human Rights⁴⁵), or when police have a high presence near service providers.⁴⁶

Global drug control efforts aimed at non-medical use of opiates have had a chilling effect on medical use 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.⁴⁷

Instead, according to the World Health Organization, these measures simply result in 5.5 billion people – including 5.5 million with terminal cancer – having low to nonexistent access to opiate medicines.⁴⁸ More powerful opiate preparations, such as morphine, are unattainable in over 150 countries in the world.

“Individuals who use drugs do not forfeit their human rights. These include the right to the highest attainable standard of physical and mental health (including access to treatment, services and care), the right not to be tortured or arbitrarily detained, and the right not to be arbitrarily deprived of their life. Too often, drug users suffer discrimination, are forced to accept treatment, marginalized and often harmed by approaches which over-emphasize criminalization and punishment while underemphasizing harm reduction and respect for human rights.”

Navanethem Pillay
UN High Commissioner for Human Rights
2009

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/discussion see Chapter 3, p. 33.*)

Some drug-war enforcement efforts have far more direct impacts, notably militarised crop eradication programmes – particularly those involving extensive use of 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 have been displaced each year in Colombia due to crop eradication⁴⁹
- In Nangarhar, Afghanistan, forced eradication, bans

on cultivation, threats of NATO bombing campaigns, and 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 Pakistan⁵⁰

- Due to crop eradications, some farmers in the region have resorted to selling their underage daughters for marriage, underlining the centrality of poverty as a driver of involvement in drug production⁵¹
- Conviction for drug offences can also result in the removal of social welfare, including public housing (e.g. in many US States⁵²), 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
- Recently, in the UK, the coalition government proposed the removal of benefits for those who use drugs or refuse treatment. The move showed no understanding of the realities of drug dependence, and raised concerns about the impact on dependent children⁵³

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.

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 USA) 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 these “*appropriate measures*”, particularly given the outcomes?⁵⁴

- 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 parent⁵⁵

- Children are used to fight against the drug cartels in Mexico⁵⁶
- Children grow up in prison when their parents are convicted of minor drug offences⁵⁷
- Children are subjected to invasive searches for drugs⁵⁸
- Random school drug testing takes place, in violation of the child's right to privacy⁵⁹
- Children who inject drugs are denied access to harm reduction, based on their age⁶⁰
- Children are beaten and sexually abused in drug detention centres⁶¹
- Street children are subjected to police violence due to suspected involvement in drug dealing⁶²
- Children are tortured to extract evidence⁶³
- Aerial fumigation in Colombia damages children's physical and mental health⁶⁴

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.

9. Cultural and indigenous rights

The war on drugs has effectively criminalised entire cultures with longstanding histories of growing and using certain drug crops. The traditional use of coca for cultural and medicinal purposes in the Andean region is well known and well established among indigenous groups. The 1961 UN Single Convention on Narcotic Drugs provided a 25-year grace period for coca chewing to continue, which has now long expired. As a result, traditional uses of coca are not permitted in international law, based on treaty negotiations that entirely excluded indigenous people.

Compare this with the view of the UN Special Rapporteur on the rights of indigenous people that:

*"[I]t has become a generally accepted principle in international law that indigenous peoples should be consulted as to any decision affecting them."*⁶⁵

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, 35 journalists were killed with eight more missing, feared dead, between 2007-10; and in Veracruz police officers kidnapped, robbed and beat a journalist who had earlier witnessed police attacking a reporter⁶⁶
- 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". More recently, a child of fifteen and his father were killed by soldiers in Monterrey, with relatives saying they were shot without any indication to stop⁶⁷

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

"[P]ractise and revitalize their cultural traditions and customs", and to "the use and control of their ceremonial heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora."

The UN Permanent Forum on Indigenous Issues (UN PFII) has recently supported the call for the removal of traditional uses of coca from the scope of international drug control.⁶⁸ In 2009, the UN PFII requested that:

“Those portions of the [1961] Convention regarding coca leaf chewing that are inconsistent with the rights of indigenous peoples to maintain their traditional health and cultural practices, be amended and/or repealed.”⁶⁹

The blanket ban on traditional uses of such plants is an area of considerable conflict.⁷⁰ This was illustrated in June 2011, by the Bolivian government’s withdrawal from the 1961 Single Convention, as a result of a failed attempt to amend it to allow for the practice of coca leaf chewing. Bolivia is now in the process of re-acceding to the convention with a reservation that permits this traditional use of coca.

Are there benefits?

The main claim for health-related human rights benefits 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, the deterrent effect of punitive user-level enforcement is highly questionable.

Comparative analyses show no significant link between punitiveness or intensity of enforcement and levels of use. The limited evidence available suggests such effects are at best marginal, relative to socio-economic and cultural factors.⁷¹ The benefits of localised enforcement successes – a violent drug trafficker captured or a drug gang dismantled for instance – can be held up as examples of contributing to the security and protection of the rights of others from the actions of criminals. But such impacts are usually temporary and marginal, normally just displacing any illegal activity to new areas – the so-called “*balloon effect*”.

It is clear that in most places drug supply has more than kept pace with rising demand – often with prices falling and availability increasing. 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 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 genuinely based upon the three principles of the UN – 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. There is potential, and an urgent need, to model current approaches alongside a range of alternative models – including decriminalisation of personal possession of drugs and models of legal regulation – to provide guidance on the best ways forward.

At national level, human rights must be incorporated into planning, implementation and evaluation of all programmes and policies. Similarly, international funding must pass through human rights scrutiny. 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.⁷²

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.⁷³ 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, any restriction on human rights must be prescribed by law, in pursuit of a legitimate aim, and be proportionate to the aim pursued.

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 50 years), then can the restrictions on human rights that stem from it ever be proportionate and therefore permissible? 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) will be key, but must be balanced against other concerns. Drug use, and the policies and laws devised to address it, impact on a wide range of policy arenas (see www.counthecosts.org), but like all areas of domestic and international policy, the driving consideration should be the promotion of the UN's three pillars – human rights, human development and human security. In drug policy, however, these goals have been marginalised by the threat-based rhetoric of the drug war, and the failed and counterproductive interventions that have flowed from it.

What is abundantly clear is that human rights will always suffer in a war zone. But it is also clear that the war on drugs is a policy choice. There are other options, including decriminalisation and models of legal regulation 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. It is time for all sectors affected by our approach to drugs, and particularly those concerned with human rights, to call on governments and the UN to properly count the costs of the war on drugs, and explore the alternatives.

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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 people who produce or supply drugs. The term “war on drugs” is a misnomer: it is more accurately a war on people. (This chapter is best read in conjunction with Chapter 6, which explores how the war on drugs undermines human rights.)

Introduction

Despite of the lack of evidence that more punitive drug laws 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 not only proven ineffective, it is also socially corrosive. 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, the social and practical manifestation of “*a distinguishing mark of social disgrace*”.¹

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 using environments. While it certainly surrounds users of illicit drugs, stigma, as defined above, can be amplified by politically 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. Social and legal controls certainly 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 those 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.² Instead, it is the product of policies that have created parallel and dramatically divergent control regimes for comparable substances for historically discriminatory reasons. Some explanation can be traced 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,³ African Americans users of cocaine,⁴ 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*”.⁵ The use of such language appears to be specifically intended as stigmatising, creating the “*mark of social disgrace*” by presenting addicts as a threat to society. In this context the narrative of “*unintended*” consequences argued by the UNODC begins to unravel.

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 eclipse all other drugs (legal and illegal) combined, it is none the less 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.”

United Nations Office on Drugs and Crime
2008 World Drug Report

Criminalisation of people who use drugs

As with other criminalised behaviours, drug use (or the criminalisation of possession, which in practice amounts to the same thing) and in particular drug dependence, is taken by many to be an indicator of certain objectionable character traits or dissolute lifestyle choices. Indeed, across a number of 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.⁶ 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 affected populations will experience multiple tiers of discrimination – a young black male living in a socially deprived US urban environment for example. The criminalisation implicit in a “war on drugs” will tend to amplify existing inequalities – especially where such clusters of discrimination exist.

People who use drugs can be stigmatised or discriminated against irrespective of whether they have received a criminal record for their use.



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

However, criminalisation exacerbates 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 does not significantly deter use,⁷ 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 drug test results), are 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. Dependent drug users 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. So, while fatalities resulting from alcohol or prescription drugs go largely unreported, illegal drug deaths receive significant press attention. Considering poisoning deaths in the UK in 2008 for example, 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 reported than actually occurred).⁸

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.”⁹

“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

Limited employment prospects and life chances

By criminalising a personal decision to possess/consume a potentially risky substance, punitive enforcement 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. Clusters of stigma and discrimination are also evident with the associations of drug use with “*long-term unemployed*”, “*welfare recipient*”, “*scrounger*” etc, particularly where drug testing is applied to benefits claimants.

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,¹⁰ 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.¹¹ These last three penalties are all the more discriminatory given that no parallel sanctions exist for people convicted of other felonies – even crimes as serious as robbery or rape.¹² Negative drug tests as a prerequisite for benefit claimants have been introduced in Florida.

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. Many of these convictions are drug-related.

Restricted access to healthcare

Criminalisation and associated stigma and discrimination frequently push drug use into unhygienic and unsupervised marginal environments – increasing 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,¹³ informal barriers effectively deny antiretroviral or hepatitis C treatment¹⁴ 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.¹⁵

- 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,¹⁶ 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, injecting drug users have unequal access to antiretroviral treatment¹⁷
- In Russia, healthcare personnel routinely violate the principle of medical confidentiality by sharing information about people registered as drug users¹⁸
- 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 grounds¹⁹

(For more detail/discussion see Chapter 5, p. 61.)

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.²⁰

- 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 removed²¹
- In Ukraine, state-registered dependent drug users are forbidden from holding driver's licenses²²
- In Thailand, once registered, drug users remain under surveillance by police and anti-drug agencies, and information about patient drug use is widely shared²³

Torture and abuse

At the extreme end of stigma is a process of dehumanisation that then potentially facilitates 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 detainees²⁴
- In Cambodia, abuses have included: detainees being hung by the ankle on flagpoles in midday sun²⁵;

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 centres²⁶

(For more detail/discussion see Chapter 6, p. 71.)

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. The UNODC Executive Director has stated (in comments echoed by domestic governments): “*Drugs are not dangerous because they are illegal: they are illegal because they are dangerous to health*”,²⁷ yet does 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. A drinks company can win the Queen’s Award for Enterprise,²⁸ 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.²⁹

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.³⁰ Similar levels of overrepresentation of minorities in the criminal justice system and prisons are observed in many other countries, including for Aboriginal populations, for example in Canada³¹ and Australia.³²

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 on the streets, in public areas, and 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.”*³³

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 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.”*³⁴

2. Women

Although most commonly convicted for low-level, non-violent 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

“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

fails to distinguish between quantities carried. Even the lower-end sentences are often very harsh. Rigid sentencing guidelines limit judges’ 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 the high-level market operatives and large-scale traffickers.

This results in particularly severe sentences for so-called “*drug mules*” – those women who carry illicit drugs from one country to another either in their luggage or inside their person. Usually coming from socially and economically marginalised 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 drug mules often receive are all the more excessive considering that these women are often characterised by low levels of literacy, mental health or drug dependence issues, and histories of sexual or physical abuse.³⁵ 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.³⁶

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, often fuelled by populist political and media stereotypes (“*crack moms*” etc). 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 murders of women who are killed 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.³⁷

- Globally, women are imprisoned for drug offences more than for any other crime³⁸
- One in four women in prison in Europe and Central Asia are incarcerated for drug offences, with levels as high as 70% in some countries³⁹
- 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 crimes⁴⁰

- In Eastern Europe, women who have experienced domestic violence can be refused entry into women's shelters if they are active drug users⁴¹
- 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 government⁴²

“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 growers or foot soldiers of the cartels.

- Such 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.⁴³ As the country's illicit drug trade has continued to grow, this exploitation of children has had increasingly fatal consequences. In 1979, Rio de Janeiro saw 92 homicides of youths under the age of 18. In 2000, this number was 352⁴⁴
- 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 therapy⁴⁵

- 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 escape⁴⁶
- 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 term⁴⁷
- 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 children⁴⁸
- Many children are forced to grow up in prison when their mother or father is convicted of minor drug offences, or are taken into care⁴⁹

4. Indigenous peoples

International law has 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 provided a 25-year grace period for coca chewing to be ended, which has now long expired. Consequently, traditional uses of coca are not permitted under the treaties as a result of treaty negotiations that entirely excluded indigenous people.⁵⁰ After formal attempts to amend the 1961 Single Convention, the Bolivian government withdrew from it in 2011, and is seeking re-accession with a reservation on traditional uses of the coca leaf.

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 mean, however, an increased likelihood of

dependence on drugs and harm from drug use.⁵¹

- 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.⁵² 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 Manhattan⁵³
- In 2002, Australian men classified as manual workers were more than twice as likely to die from illegal drug use than non-manual workers⁵⁴
- Drug-related emergency hospital admissions have been found to be 30 times higher in the most deprived areas of Glasgow than the least deprived⁵⁵

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/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.⁵⁶

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.

- In Myanmar, 73% of households rely on income from opium to provide food, shelter, education and healthcare for their families⁵⁷
- 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 employment⁵⁸
- 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 trade⁵⁹

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 a social norm that discourages people from using certain drugs.⁶⁰

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. In addition to this 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 again 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 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 is by its nature difficult to quantify, indicators can be used to provide a picture of its prevalence. Public attitudes surveys are one such obvious indicator, along with employment rates and the proportion of dependent drug users in treatment. By the same token, any discriminatory effects of policy can be

measured through drug arrest rates and incarceration rates for a range of populations.

Conclusions

The primary goal of the international drug control regime, as set out in the 1961 UN Single Convention on Narcotic Drugs, is the protection of the “*health and welfare of mankind*”. But, as the UNODC has acknowledged,⁶¹ decades of punitive policies aimed at sending a message and reducing drug use have not been effective, frequently delivering the opposite outcomes.

While a criminal justice-led approach to drugs has had great political potency, it has marginalised some of the world's most vulnerable populations, producing the range of negative costs outlined here. Yet despite being the dominant framework for half a century now, the war on drugs ultimately remains a policy choice. There is an urgent need to look at other ways of reducing the stigma and discrimination faced by those who use or supply drugs, without rendering drugs themselves significantly more attractive.

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.⁶² Instead, if this commitment is 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. These include the re-orientation of enforcement, away from those at the bottom end of the illicit drug market (such as small-scale farmers, low-level dealers and mules), decriminalisation of drug possession and use, and systems of legal regulation. Only then will we be able to rectify the disastrous effects of half a century's punitive drug policies, effects which have fallen hardest on the most marginalised and vulnerable.

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08

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.

Introduction

The growing costs of the war on drugs – particularly for the worst affected producer and transit countries – has now reached a crisis point that is driving an increasingly high-level and mainstream debate on drug policy and law reform. But while there is a growing consensus that current approaches to drug control have been ineffective or actively counterproductive, 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 libertarian “*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 most of the fundamental issues there is in fact considerable common ground. However, it is crucial that as we explore policy alternatives, we make a clear distinction between the aims related to reducing harms caused by the war on drugs, and the aims related to putting in place effective drug policy – the former being fundamentally more limited than the latter.¹

The real drug debate is around which policy and legal prescriptions are likely to deliver the shared goals of a healthier and safer society. For UN member states 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 reduce the collateral damage 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

policy. Reinvesting in alternatives is anything but simple, and realism is needed about the pace of change.

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 countries will vary considerably depending on whether their primary concerns are 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, with more substantial reforms to domestic and international laws and related institutions in the longer term.

It is the primary producer and transit regions carrying the greatest cost burden of the war on drugs that are leading the calls for reform in the international arena. They are increasingly calling on the richer consumer countries to not only share responsibility for the problems related to demand for drugs, but also for the collateral damage that is resulting from global drug law enforcement policies. This has particular relevance as the ability of different countries or regions to implement alternative models is also dependent on their development status – a key challenge being that some regions where problems are most severe are also least well equipped, in terms of resources and state infrastructure, to make substantial changes. That said, as discussed below, it has been argued that if there is a global shift to a state regulation model among major consumer states, developing countries could benefit without needing to make substantial reforms themselves.

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 re-orientation to a health-based approach and decriminalisation of drug

“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
December 2010

users – involve legal and/or policy reforms within the overarching international prohibitionist legal framework that can take place at a domestic level. The fourth – state regulation and control of drug production and supply – requires reforms to the international legal framework. This is a simplification and “*snap shot*” summary of the current real-world continuum of policy models, some of which involve more complex interactions of health and enforcement interventions at different stages of their evolution. (For further reading on alternatives see www.countthecosts.org.)

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 achieving the goal of eradicating the non-medical use of certain drugs.

Those advocating it believe that the failings of the war on drugs to date are not due to any fundamental flaw in the prohibitionist paradigm, but rather due to a lack of application and resources. The war on drugs could be won if it were fought with sufficient vigour, with more resources put into coordinated supply-side controls, and more consistently punitive responses directed at drug users.

Although many governments are distancing themselves from the hawkish war on drugs rhetoric of the past² and moving away from more punitive models, in much of the world advocating “*crackdowns*”, and “*get tough*” or “*zero tolerance*” approaches (associated with harsh sentencing and increased militarisation of enforcement) remains a core feature of responses to the drug problem.

The analysis of the Count the Costs initiative, captured in the chapters of this report, indicates that the arguments for a “*get tough*” approach are not supported by evidence that they can be effective. Enforcement has proven to be a blunt and ineffective tool for controlling drug use, instead creating or exacerbating harms associated with criminalisation of users and criminally controlled drug markets. Increasing the ferocity of the war on drugs with increasingly punitive and militarised enforcement will therefore not deliver the hoped-for goals, and is only likely to increase the costs as detailed in many of the examples in this report: the epidemic of HIV among people who inject drugs in Russia (see Chapter 5, pp. 64–65), the spiralling levels of violence in Mexico since 2007 (see Chapter 4, p. 58), or the state-sanctioned violence and human rights abuses in the name of drug control in Thailand (see Chapter 2, p. 35), Iran (see Chapter 6, p. 74), and China (see Chapter 6, p. 75).



There is growing, high-level support for alternative drug policy options to be considered

2. Refinements to a primarily criminal justice-led approach

This is essentially an orthodox prohibition position, maintaining a primarily criminal justice, enforcement-based approach and rhetorical commitment to eliminating drugs from society, but seeking to improve effectiveness through innovation and marginal reforms to enforcement practice and public health interventions.

Enforcement reforms

Some of the ideas being explored or proposed for “*smarter*” or more effective enforcement practices include:

- Improving accountability, monitoring and evaluation to facilitate a focus on “*what works*”, as well as reduce or prevent human rights abuses and corruption
- Targeting enforcement at the most violent organised crime groups with the primary aim of reducing overall market-related violence³
- Targeting enforcement at retail drug sales that are the most visible, disruptive, violent, or accessible to vulnerable groups such as young people
- De-prioritising enforcement aimed at low-level participants in drug markets, including consumers, small-scale farmers, low-level dealers and drug “*mules*”

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 impacts⁴ (some have even applied a harm reduction analysis of enforcement practices in this context⁵).

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 certainly 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, while showing promise, such approaches remain relatively underdeveloped, although there is emerging evidence from new strategies being explored in some US and Latin American cities.⁶

In the longer term, easing the burden of enforcement costs for key affected populations and reducing some of

the worst drug market-related harms may be the limits to what “*smarter enforcement*” proposals can aspire to. While such reforms are critically important, what they cannot achieve is a move beyond a symptomatic response to engage with the primary role of the wider enforcement paradigm in fuelling the creation of drug market-related harms in the first place (see Chapter 4, p. 53).

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 (see box on opposite page). Within each of these fields there are interventions that are more cost-

A “*third way*”?

The US has been vocal on the international stage in promoting what it calls a “*third way*” approach⁷ between the “*extremes*” of legalisation and a war on drugs. This approach emphasises alternatives to incarceration, including diversion into treatment for drug offenders, often via a “*drug court*” model, alongside innovative interventions such as screening and brief interventions.

While such interventions are, in many cases, well supported by evidence (they are at least more effective than previous approaches), concerns have been raised⁸ that they may not represent any significant shift in spending priorities. 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 re-orientation or better “*balance*”.

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 on the other, the suggestion that the two need to be “*balanced*” seems nonsensical – they are more often working in opposite directions.

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.

Filling gaps in coverage, and ensuring adequate resourcing for proven approaches is imperative – but whether it can be described as an “*alternative*” or “*reform*” is moot; an adequate level of provision should naturally form a key pillar of any pragmatic drug policy model, regardless of the overarching legal framework. Framing improved health interventions 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 (see Chapter 5, p. 64). 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.

“Responses to drug law offences must be proportionate. Serious offences, such as trafficking in illicit drugs must be dealt with more severely and extensively than offences such as possession of drugs for personal use. For offences involving the possession, purchase or cultivation of illicit drugs for personal use, community-based treatment, education, aftercare, rehabilitation and social integration represent a more effective and proportionate alternative to conviction and punishment, including detention.”

United Nations Office on Drugs and Crime
2012

Harm reduction?

The concept of reducing the harms associated with people unwilling or unable to stop using drugs⁹ should be central to any drug policy model (see Chapter 5, p. 64), but is largely focused on a small population of problematic illegal drug users. Specific interventions that form the core of current harm reduction interventions – such as needle and syringe programs, opioid substitution therapy, heroin assisted therapy, and supervised consumption venues – can also be seen, to a significant degree, as a symptomatic 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 reduction approaches are evolving and gaining ground across the globe,¹⁰ but operating within a politically driven, harm-maximising drug-war framework.

3. Re-orientation to a health-based approach, and decriminalisation of drug users

It is possible within the existing international legal framework for a more substantial state or regional level re-orientation away from a criminal justice-focused model, and towards a more pragmatic health-based model. This includes a shift in the primary goal of demand reduction (reducing prevalence of drug use and the achievement of a “*drug-free society*”), to one of harm reduction. The goal of reduction in overall social and health harms does not preclude demand reduction, but pragmatically focuses on reduction of 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 such as the Netherlands, Switzerland,¹¹ Portugal (see box, p. 103) and the Czech Republic.

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 abolition of mandatory minimums)
- Institutional reforms, such as moving responsibility for drug policy decisions/budgets from government departments responsible for criminal justice, to those responsible for health¹²

“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 currently 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), yet the term is often mistakenly understood to mean complete removal or abolition of possession offences, or confused with more far-reaching legal regulation of drug production and availability (see below). Decriminalisation as defined here is permitted within the UN drug conventions (see box).

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,¹³ 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* decriminalisation (specific reforms to the legal framework), and *de facto* decriminalisation, which has a similar outcome but is achieved through the non-enforcement of criminal laws that technically remain in force. With the exception of some of the more tolerant policies for cannabis possession (for example 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 25-30 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.¹⁴

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 feared. While there are certainly impacts on levels of health harms associated with use (see Chapter 5, p. 61), and economic impacts for enforcement and wider criminal justice expenditure, research from Europe,¹⁵ Australia,¹⁶ the US¹⁷ and globally,¹⁸ suggests changes in intensity of punitive user-level enforcement have, at best, marginal impacts on overall prevalence of use.

Decriminalisation can only aspire to reduce harms created, and costs incurred, by the criminalisation of people who use drugs (see Chapter 6, p. 71 and Chapter 7, p. 85 for more information), and does not reduce harms associated with the criminal trade or supply side-drug law enforcement. If inadequately devised or implemented, decriminalisation will have little impact, even potentially creating new problems (such as expanding the numbers coming into contact with the criminal justice system). The more critical factor appears to be the degree to which the decriminalisation is part of a wider policy re-orientation (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. Decriminalisation can be seen as a part of a broader harm reduction approach, as well a key to creating an enabling environment for other health interventions.

“Begin the transformation of the global drug prohibition regime. Replace drug policies and strategies driven by ideology and political convenience with fiscally responsible policies and strategies grounded in science, health, security and human rights – and adopt appropriate criteria for their evaluation.”

The Global Commission on Drug Policy
June 2011

The Portugal decriminalisation experience

Portugal provides a useful case study, with over a decade of detailed evaluation to draw on since its 2001 reforms – reforms developed and implemented in response to a perceived national drug problem, with public health prioritised from the outset. Indeed, Portugal coupled its decriminalisation with a public health re-orientation that directed additional resources towards treatment and harm reduction.¹⁹ Those caught in possession of illicit drugs are referred to a “*dissuasion board*” that decides whether to take no further action (the most common outcome), direct the individual to treatment services if a need is identified, or issue an administrative fine.

The useful volume of data collected during and since the reform offers considerable scope for filtering through different political and ideological lenses.²⁰ Contrast the evaluation of Portugal’s prohibitionist “*anti-drug*” organisations, which see it as an “*unmitigated disaster*”,²¹ with that of the high-profile, but arguably rose-tinted report by Glenn Greenwald of the libertarian CATO institute.²² A more rigorous and objective academic study of the Portugal experience from 2008²³ summarises the changes observed since decriminalisation:

- Small increases in reported illicit drug use among adults
- Reduced illicit drug use among problematic drug users and adolescents, at least since 2003
- Reduced burden of drug offenders on the criminal justice system
- Increased uptake of drug treatment
- Reduction in opiate-related deaths and infectious diseases
- Increases in the amounts of drugs seized by the authorities
- Reductions in the retail prices of drugs

In conclusion, the authors note:

“[The Portugal experience] disconfirms the hypothesis that decriminalization necessarily leads to increases in the most harmful forms of drug use. While small increases in drug use were reported by Portuguese adults, the regional context of this trend suggests that they were not produced solely by the 2001 decriminalization. We would argue that they are less important than the major reductions seen in opiate-related deaths and infections, as well as reductions in young people’s drug use. The Portuguese evidence suggests that combining the removal of criminal penalties with the use of alternative therapeutic responses to dependent drug users offers several advantages. It can reduce the burden of drug law enforcement on the criminal justice system, while also reducing problematic drug use.”

Supporting these conclusions has been a more recent “*Drug Policy Profile of Portugal*”, produced by the European Monitoring Centre on Drugs and Drug Addiction,²⁴ which observed that:

“While some want to see the Portuguese model as a first step towards the legalisation of drug use and others consider it as the new flagship of harm reduction, the model might in fact be best described as being a public health policy founded on values such as humanism, pragmatism and participation.”

“[The legalisation and regulation of drugs] is an entirely legitimate topic for debate.”

Barack Obama

President of the United States of America

January 2011

4. State regulation and control of drug production and supply

As the critiques of the prohibitionist approach have gathered momentum, the inevitable 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 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 and inequality. 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 106, positioning this option on the spectrum between the unregulated criminal markets and unregulated legal/commercial markets.

Moves towards market regulation are seen by its advocates as the logical end point of the critique of the prohibition-based approach and a continuation of the pragmatic reforms this critique has already informed (*described above*). However, options for legal market regulation are qualitatively different from other reforms in that they cannot easily be adopted unilaterally, as technically they remain strictly forbidden under the legal framework of the UN drug conventions. For any state, or states, to experiment with regulatory models requires the issue of the conventions to be negotiated. Despite this process historically being fraught with practical and political challenges,^{25, 26, 27, 28} an increasing number of countries are finding ways to begin to legally regulate some illegal drug markets. For example, through expanding medical supply models; implementing *de facto* legal regulation (*see box, p. 106*); or through withdrawing from one or more of the conventions then seeking to re-accede with a reservation regarding particular drugs, as Bolivia has done for coca leaf.²⁹

Scholarship around regulatory options has also accelerated, with the last decade witnessing the emergence of the first detailed proposals offering different options for controls over 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.^{30, 31, 32}

Transform Drug Policy Foundation’s 2009 report “*After the War on Drugs: Blueprint for Regulation*”,³³ 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 (note for example the UN Framework Convention on Tobacco Control³⁴), as well as controls over medical drugs and other harmful products and activities that are regulated by governments.

Regulation advocates also highlight how many of the same drugs prohibited for non-medical use are legally produced and supplied for medical uses (including heroin, cocaine, amphetamines, and cannabis). The UN drug conventions provide the legal framework for both of these parallel systems (and their various interactions). 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 (see Chapter 5, p. 66). Half of global opium production is legally regulated for medical use and is not associated with any of the crime, conflict, or development costs of the parallel illegal market for non-medical use.

The costs of developing and implementing a new regulatory infrastructure would be likely to 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.

Five proposed models for regulating drug availability

- Medical prescription model or supervised venues – for the highest-risk drugs, injected drugs (including heroin), and more potent stimulants such as methamphetamine
- Specialist pharmacist retail model – combined with named/licensed user access and rationing of volume of sales for moderate-risk drugs such as amphetamine, powder cocaine, and MDMA/ecstasy
- Licensed retailing – including tiers of regulation appropriate to product risk and local needs. This could be used for lower-risk drugs and preparations such as lower-strength stimulant-based drinks
- Licensed premises for sale and consumption – similar to licensed alcohol venues and Dutch cannabis “*coffee shops*”, these could potentially also be for smoking opium or drinking poppy tea
- Unlicensed sales – minimal regulation for the least risky products, such as caffeine drinks and coca tea

The primary outcome of moves towards market regulation is the progressive decrease in costs related to the criminal market as it contracts in size. These impacts have the potential to go some way beyond those that are possible from reforms 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 presents the prospect of a long-term and dramatic reduction in the scale of harms.

At the macro level, as the criminal market contracts, the associated costs it creates – in terms of fuelling conflict, underdevelopment, crime and corruption in producer and transit regions – would experience a concurrent contraction. 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 scales would similarly diminish over time. In place of the opportunity costs of 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 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 motivations in the market through advertising and marketing controls, or state monopolies.

Some free-market libertarian thinkers have gone further, arguing for what is sometimes called “*full legalisation*”. In 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 (trading standards, contract enforcement and so on) 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 market³⁵ point to historical experiences with unregulated alcohol and tobacco sales as demonstrations of the risks of free markets. 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.

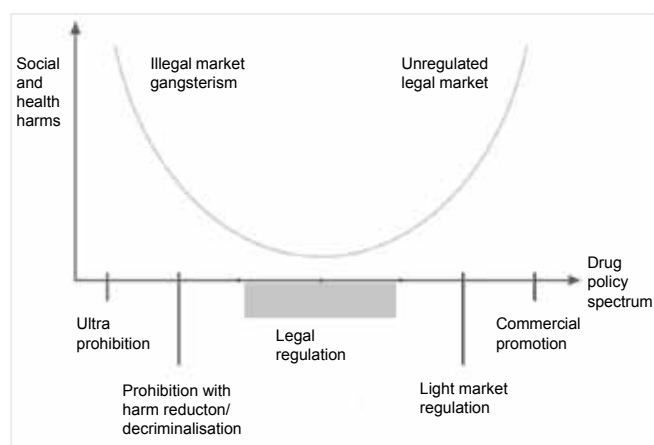


Figure 1: Graphic representation of the pragmatic argument for moves towards more effective drug market regulation

Cannabis regulation in practice

Cannabis is by far the most widely used illegal drug, accounting for around 80% of all illegal drug use globally. Policy responses to cannabis around the world vary from punitive prohibitions through to quasi-legal (*de facto*) regulated markets, offering a body of evidence to inform development of alternative regulation models. Recent developments, including state-level ballot initiatives to legally regulate non-medical cannabis in the US, suggest that cannabis is likely to be at the forefront of the drug law reform debate.

Cannabis coffee shops in the Netherlands

The Netherlands has had *de facto* legal cannabis supply and use since 1976, with a well developed system for sale and consumption in licensed outlets. While the system has functioned very effectively overall, it has struggled with the constraints of the international legal framework, most obviously the “back door problem”. There is no legal production and supply to the country’s coffee shops, so cannabis is still sourced from an illicit market and therefore linked to criminality. And because the move has been unilateral, there have been problems with “drug tourism” in some of its border towns (recently leading to coffee shops becoming “members only” clubs in some regions).

Spanish cannabis clubs

Spain’s “cannabis clubs”, now numbering more than 700, take advantage of the two-plant allowance for personal use granted under Spain’s decriminalisation policy. The pooled allowances of club members are collectively grown by the club organisers, and then used to supply the club venues which sell the cannabis to the members at around half the price charged by the criminal market. The clubs operate on a not-for-profit basis. By using the decriminalisation policy to get around the ban on production, the Spanish clubs have demonstrated how the criminality can potentially be removed from the market completely – while maintaining an acceptably self-contained and regulated production and supply model.³⁶

Medical cannabis

A number of Canadian and US states, as well as some European countries have well-developed models for regulated production and supply of cannabis for medical uses (often largely indistinguishable from the proposed regulated supply models for non-medical use). Somewhat controversially, a proportion of the “medical” supply has become a *de facto* non-medical supply infrastructure, the boundaries between the two being particularly blurred in some of the more commercial US operations.

Conclusions

Meaningfully counting the costs of the war on drugs in the key thematic areas outlined in this report will facilitate a more objective and balanced debate informed by the best possible evidence and analysis. For each thematic area identified there is a body of scholarship and expertise, and a range of analytical tools available, to inform assessments of both current policies, and alternative approaches that could do better: impact assessments,³⁷ cost-benefit analyses, audits and value-for-money studies, scenario planning and more besides.

The problem is not a technical one, it is a matter of political will. For example, in 1999 the Czech government carried out an impact analysis project that led it to decriminalise the personal possession of drugs,³⁸ while in 2012, the European Commission carried out an impact assessment comparing options to control legal highs,³⁹ and the Organization of American States initiated a review of the options for drug control under the auspices of the Inter-American Drug Abuse Control Commission (CICAD).⁴⁰

The Count the Costs initiative calls upon civil society groups in all the fields that are impacted by the war on drugs to actively engage in this debate, both to inform it with their expertise, and to engage with local, national and international policy makers and UN bodies. It also calls directly upon policy makers to meaningfully count the costs of the drug policies they are responsible for, and to explore the alternatives.

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Figure 1: ‘Graphic representation of the pragmatic argument for moves towards more effective drug market regulation’. (Adapted from the work of John Marks.)

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