

IDPC Response to the UNODC World Drug Report 2013

October 2013



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Executive summary

In view of the current tensions within the realm of international drug policy, it was no surprise that the launch of the United Nations Office on Drugs and Crime (UNODC or Office) flagship publication, the *World Drug Report 2013* had a decidedly defensive feel to it.

The comments made at the launch by the UNODC Executive Director, Mr. Yury Fedotov, closely resembled those within his Preface to the *Report* itself, where the Executive Director stated that the 'findings of the World Drug Report 2013 deliver important lessons for the forthcoming high-level review of the commitments that countries reaffirmed in 2009 on the measures for drug control'.

As is now to be expected, the *World Drug Report 2013* represents an impressive and wide-ranging set of data, analysis and policy prescription, and provides an overview of recent trends and the current situation in terms of production, trafficking, and consumption, including the consequences of illicit drug use on health. This year it also devotes considerable space to the phenomenon of New Psychoactive Substances (NPS).

In this respect, a great deal can be learned from the *Report*. For instance, as this response demonstrates, beyond the slightly misleading headline message of stability in the markets for 'traditional' drugs, it reveals a similar picture to last year: one of increasing complexity and flux, with a special emphasis on the emergence of a wide range of NPS. In addition, with some legitimacy – although on the basis of limited data – the report

presents Africa as a region of growing concern and highlights maritime trafficking as an increasing challenge for national and international authorities.

What is more disappointing, however, is the fact that the *Report* displays a persistent message around the fact that the international drug control structures remain more or less effective at the global scale and that the market for drugs included within the conventions remains 'stable'. Moreover, the issue of NPS is utilised in a convoluted attempt to highlight the effectiveness of the existing control framework. In reality, however, proliferation of NPS itself highlights the fluidity and uncertainty with which the illicit drug market evolves, and, in this situation, it is becoming increasingly difficult to argue that the global situation is 'stable'. As understanding improves on the dynamics of drug markets in various regions of the world, there are a growing number of sovereign states (or jurisdictions therein) that are moving away from the global blueprint set out by the conventions to move towards policy experimentation (in particular for cannabis, but also for other drugs via decriminalisation and depenalisation), which may require policy shifts beyond the flexibility of the treaties.

It is to be hoped that the expertise lodged within the international drug control system will be marshalled to help ease member states toward a varied range of flexible responses that take into account the specificity of this very wide panorama of substances, as well as the diverse social, economic and cultural localities within which their use must be managed.

Introduction

In view of the current international tensions on drug policy it was no surprise that the launch of the UNODC *World Drug Report*,¹ in Vienna on 26th June had a decidedly defensive feel to it.² Cracks in the so-called ‘Vienna consensus’ on the issue have been evident for some time. Yet this year’s launch took place within the context of some very real challenges to the international drug control system: policy shifts on cannabis within the United States of America (USA),³ an unprecedented report by the Organisation of American States (OAS) calling for ‘more effective ways to unravel and handle this complex problem’ within the hemisphere,⁴ and moves by Uruguay to establish a legally regulated market for cannabis at a national level.⁵ And all this with the High Level Segment of the Commission on Narcotic Drugs (CND) only six months away and the UN General Assembly Special Session on drugs (UNGASS) fast approaching in 2016 – a timetable itself compressed due to pressure from some Latin American states keen to open the policy debate.⁶

With this in mind, the comments made at the launch by the UNODC Executive Director, Mr. Yuri Fedotov, closely resembled those within his Preface to the *World Drug Report 2013* – the Preface representing the place where the head of the Office seeks to contextualise what is presented within the publication and to set the tone for debate. At the special high-level event of the CND in June, Mr. Fedotov announced: ‘We have agreed on a path for our ongoing discussion. I hope it will lead to an affirmation of the importance of the international drug control conventions, as well as an acknowledgment that the conventions are humane, human-rights centred and flexible’.⁷ Here the Executive Director built upon the opening lines to his Preface: ‘The findings of the *World Drug Report 2013* deliver important lessons for the forthcoming high-level review of the commitments that countries reaffirmed in 2009 on the measures for drug control’.

The *World Drug Report 2013* represents an impressive range of data collated and analysed by the UNODC and provides an overview of recent trends and the current situation in terms of production, trafficking, and consumption, including

the consequences of illicit drug use on health. This year, the report gives particular attention to the phenomenon of NPS. It is therefore fair to say that a great deal can indeed be learned from the *Report*. For instance, as we will see, beyond the slightly misleading headline message of stability, it reveals a similar picture to that which the International Drug Policy Consortium (IDPC) commented upon last year: one of increasing complexity and flux within the global market.⁸ Indeed, while at odds with the idea of a ‘stable’ global market, the *Report* once again notes the issue of uncertainty of data and the accompanying problems surrounding methodology and ‘hidden’ populations of people who use drugs in some parts of the world (see Box 1).⁹ Furthermore, with some legitimacy, it presents Africa as a region of growing concern (See Box 6) and highlights maritime trafficking as an increasing challenge for national and international authorities (see Box 3).

It is questionable, however, whether the publication provides evidence that the international community should give unwavering support to the drug control conventions in their current form. This, nonetheless, is clearly the way in which the authors intend the *Report* to be read, with NPS being utilised in a convoluted attempt to highlight the effectiveness of the existing control framework. As Mr. Fedotov argues, ‘At the global level, there has been an increase in the production and misuse of new psychoactive substances, that is substances that are not under international control’. In contrast, he continues, ‘The manufacture and use of substances that are under international control’, what we might call traditional drugs, ‘remain largely stable as compared with 2009, although trends in drug supply and demand have been unequal across regions and countries and across drug types’. However, the Executive Director also notes the unavoidable fact that the international system has not substantially reduced the demand for drugs and acknowledges – with considerable understatement – that ‘some challenges exist in the implementation of the drug control system’. These include the violence generated by illicit drug trafficking, the issue of NPS and ‘those national

legislative measures which may result in a violation of human rights'. Yet, he argues, 'The real issue is not to amend the Conventions, but to implement them according to their underlying spirit'. This is clearly a message that will be repeated many times between now and 2016.

In this report, the latest of the IDPC's annual response to the *World Drug Report*, we provide an overview of the data and topics presented in the *Report*, and where appropriate – and within the context of this official UNODC narrative – offer a critical analysis of both.

Box 1. The continuing challenges of data and methodology

Although at times rather opaque, it is fair to conclude that, within the main body of the text, the 2013 *Report* is more nuanced in its presentation of data. Indeed, the UNODC states at the outset of its separate methodological section that, 'Considerable efforts have been made over the years to improve the estimates presented in the *World Drug Report*' (Methodological Section p. 1). The truth of this claim is evident from a reading of the *Report*. The sweeping generalisations and strident politics that sometimes blighted the publication have been largely erased, and the Office deserves recognition for the progress made in this direction. Nonetheless, the publication still relies heavily on the completion of the Annual Report Questionnaires (ARQs) it sends out to member states each year, and the return rate of these continues to be highly variable. The *Report* acknowledges the problem it faces from the irregularity and incompleteness of ARQs. This is a shortcoming which impacts negatively upon the ambitions of the authors to achieve a global representation of drug markets, with a number of regions providing scant information. In addition, as discussed in detail below, HIV prevalence among people who inject drugs has been subject to a considerable downward revision, the grounds for which appear to be uncertain (see Box 2).

The data employed in this year's publication refer mainly to the year 2011. The questionnaires were sent out to 192 states and territories, and by February 2013, 91 replies had been returned to its questionnaire on drug consumption (Part 3 of ARQ) and 97 replies received on drug cultivation, manufacture and trafficking (Part 4 of ARQ). As usual, the most complete coverage was obtained in regard to Europe, with 90 per cent of countries responding. For other regions, the figures were: Asia, 62 per cent; the Americas, 41 per cent; Africa, less than 13 per cent, while from Oceania, 2 of 14 countries responded. As is again usual, the data on supply are more complete than those for demand: 88 per cent of replies to Part 4 were 'substantially' completed, while for Part 3 the figure was 80 per cent (Note: 'substantially complete' means that at least 50 per cent of the form has been filled in, while 'partially complete' means less than 50 per cent). Where the data are considered insufficient owing to a lack of completed returns, the UNODC supplements it with other sources, mostly from national governments, regional organisations such as the European Monitoring Centre for Drugs and Drug Addiction (ECMDDA) and the Inter-American Drug Abuse Control Commission (CICAD), Interpol, the International Narcotics Control Board (INCB), and so on.

Despite their variability, it is clear that the Office places considerable faith in the ARQ data, sufficiently so to make global characterisation of drug use trends (for example, that use of the 'traditional' drugs like heroin and cocaine is 'stable', whereas that for NPS is rising, etc.). It is questionable whether the data are sufficiently valid and reliable to bear such forms of interpretation. Moreover, it is important to recall that objects that the *Report* tries to represent are social and cultural in character, representing concealed markets and cultures of consumption, as well as highly sophisticated networks of production, all of which actively seek to modify their behaviour in order to conceal it from the government authorities that collect the primary data on which the Office depends.

The data presented in the *Report* are of great importance, however, whether they are accurate or not, as

the publication enjoys considerable credibility amongst policy makers and many observers of the world drug situation. This credibility can mean that policies change in accordance with the data featuring in the *World Drug Report* and the interpretation of that data by its authors.

The traditional drugs – A stable, but not static, market

As we noted above, and as has been the case in the past few years, the UNODC is keen to headline within the 2013 *Report* the idea that ‘*On the whole* the global drug use situation has remained stable’ (emphasis added). Despite a now characteristic lack of direct reference within the text – although Mr. Fedotov comes close within his Preface – this is, once again, a more subtle echo of the ‘containment’ narrative so prominent within UNODC publications and statements around the High-Level Segment of the Commission on Narcotic Drugs (CND) in 2009. The *Report* elaborates on this point by noting that, ‘Where there has been some increase in the estimated total number of users of any illicit substance, estimates show that the numbers of drug users with dependence or drug use disorders has remained stable’ (p. xi). At first glance, particularly after a reading of the Preface and Executive summary in isolation, this seems a fair assessment. Close examination of the *Report* as a whole, however, reveals a number of important caveats, indicating that this conception should be approached with caution. Foremost among these, as we will highlight throughout this response, is that the concept of stability must not be read as shorthand for stasis within the market for traditional drugs. Indeed, the main body of the *Report* provides important texture behind this deliberately upbeat foregrounding message. Acknowledging that there remains a great deal of uncertainty surrounding the nature of markets in certain regions – predominantly Asia and Africa – it shows how the opiate, cocaine, cannabis and Amphetamine-Type Stimulants (ATS) markets remain in a state of growing complexity and flux, including on occasions an apparent intersection

with the emerging market for NPS. Furthermore, chapter 1 provides a useful insight into the way the UNODC currently views drug use at the global level. This is the case in relation to both nature and scale.

For example, while suggesting a certain efficacy of the current international framework, the UNODC continues to incorporate the implicit understanding that not all people who use drugs are dependent or are affected by drug-related disorders. According to the data presented, in 2011, between 167 and 315 million people aged 15-64 were estimated to have used an illicit substance in the preceding year. This corresponds to between 3.6 and 6.9 per cent of the adult population (p. 1). Within this group, the Office estimates that between 16 million and 39 million are ‘problem drug users’ (a figure equating to 0.3 – 0.9 per cent annual prevalence of drug use of the population aged 15-64).¹⁰ Although this remains an appropriate analysis of the situation, the *Report* argues that the number of people who inject drugs and those of them living with HIV has declined, a questionable proposition that we explore in more detail in Box 2. It also notes that the size of the group is ‘driven mainly by the estimated number of cocaine and opiate users and therefore reflects the overall *stable trends* in the use of those drugs’ (emphasis added) (p. 1). Indeed, we are informed that, since 2009, the prevalence of cannabis, opioids, and opiates use has gone up, while the prevalence of use of cocaine, ATS and the ecstasy group have followed a declining trend between 2009 and 2011 (p. 1) (see discussion below). It is interesting to observe, however, that tucked away in a footnote, the authors include the caveat that ‘Changes in the prevalence of different drugs may be an artefact owing to revised estimates within regions and subregions that may impact the global prevalence of the drugs’ (p. 1).

Box 2. New data on injecting drug use and HIV

As in previous years, the *Report* appropriately emphasises injecting drug use and HIV as an area of concern. This year, however, the *Report* includes new global estimates of injecting drug use and HIV – figures that are lower than previous estimates.

In 2008, the UN Reference Group on HIV and Injecting Drug Use – an independent group of experts and academics from around the world – conducted a review of all the available scientific data, and estimated that there were 15.9 million (range: 11 to 21.2 million) people who inject drugs worldwide. They also estimated that 3 million (range: 0.8 to 6.6 million) of these people were living with HIV.¹¹ By contrast, this year's *Report* estimates that in 2011 there were 14 million people who inject drugs (range: 11.2 to 20 million), and that 1.6 million (range: 1.2 to 3.9 million) of these people were living with HIV (p. 3).

According to the UNODC, 'This reflects a 12 per cent decline in the number of people who inject drugs and a 46 per cent decline in the number of people who inject drugs that are living with HIV since the 2008 estimates' (p. ix). Differences between the 2008 and 2011 data are also displayed graphically in Figures 4 and 5 (p. 4). In addition, we are told, the reduced totals 'primarily reflect the fact that many countries have revised their earlier estimates downward, based on behavioural surveillance data' (p. 3), as well as other 'improvements in the methodology' (p. 3) and 'the availability of more reliable information' (p. 5). These claims cannot go unchallenged.

Indeed, , the new data, and the conclusions drawn from the *Report*, have been widely criticised by civil society organisations – who are seeking amendments to the *Report* itself. Some of the key criticisms include the fact that:

- The new estimates have not been independently peer-reviewed or analysed – they were gathered internally by the UNODC rather than by an external UN Reference Group, as in 2008.
- The data that inform the new estimates are not fully transparent. In many cases, data are drawn from available, peer-reviewed studies and reports – but in many other cases they are based solely on government submissions through ARQs (which, as stated before, are not open for public scrutiny and are notoriously problematic).
- The language in the *Report* clearly suggests an actual decline in people living with HIV and people who inject drugs, which is misleading. Any differences between the 2008 and 2013 estimates – if maintained following scientific peer-review – cannot be attributed to programmatic successes and are more likely to reflect methodological changes.

In a separate 'Information Note' issued, but relatively well-hidden on the Office website, by the UNODC HIV Section immediately after the release of the *Report*, it is made clear that 'the lower estimates do not represent a decrease in the epidemic';¹² yet the narrative in the *Report* itself has not been changed or subjected to a corrigendum. At the same time, the UN Reference Group on HIV and Injecting Drug Use has had its funding cut by the UNODC, and no longer has a functioning secretariat.

To put these concerns into context, the Joint UN Programme on HIV and AIDS (UNAIDS) has articulated 10 specific targets to be met by 2015 – the second of which is to 'Reduce HIV transmission among people who inject drugs by 50%'. There are widespread concerns that the new data may be misinterpreted as progress towards this target when there has been none. For example, it is interesting to note a different rhetoric in the UNAIDS Global Report 2013, which references the *World Drug Report*, but clearly states

that ‘The world is not on track to reduce HIV transmission among people who inject drugs by 50%, as recent evidence suggests little change in the HIV burden in this population’.¹³

In terms of the estimated total number of people who use drugs, the *Report* notes that since 2008 there has been ‘an overall 18 per cent increase’ of those people who had used an illicit substance in the preceding year’. Interestingly, on this point the UNODC suggests at various places early within the *Report* that ‘to some extent’ or to a ‘large extent’ this ‘reflects’ an ‘increase in the global population’ as well as ‘a slight increase in the prevalence of illicit drug use’ (for example, p. x and p. 1). While receiving some further mention later within the *Report*, it is important to highlight here the former explanation as another example of the Office’s implicit interpretations of the nature of the global market. That is to say, many people choose to use drugs, the global population is growing and consequently over time there will be an increase in the number of people who use drugs.

Indeed, such reasoning is also an important consideration when assessing the changing patterns of drug use. Again, as in the past few years, the data presented within the *Report* clearly reveals that patterns of drug use are increasingly fluid. As such, the notion of ‘stability’ should be seen as only one part of the global picture. This is

the case because those individuals that do choose to use drugs, presented in the *Report* as a relatively constant population, appear to be altering their preferences. This is a complex process that is more often related to fashions and trends than policy shifts and changes in drug law enforcement, i.e. increases or decreases in the intensity of anti-drug measures. To be sure, as well as shifts within what might be termed ‘traditional drug markets’, the *Report* notes that polydrug use, especially the combination of prescription drugs and ‘illicit substances’, continues to be a concern. This is not unreasonable since more than 60 per cent of those countries covered in the publication ranked sedatives and tranquillisers among the first three ‘misused’ types of substances (p. ix). Shifting patterns of substance use are, of course, also core to one of the *Report*’s main issues of concern: NPS. These are considered as a ‘major public health concern, not only because of increasing use but also because of the lack of scientific research and understanding of their adverse effects’ (p. ix) and aspects of the phenomenon will be discussed in detail below. Preceding this, however, is a discussion of the *Report*’s presentation of the data on the opiate, cocaine, cannabis and ATS markets.

Box 3. The challenge of maritime trafficking

A reoccurring theme within the 2013 *Report* is the importance of maritime trafficking to the functioning of the illicit drug market. This, ‘even in small boats’ is seen to pose ‘a particularly knotty challenge for the authorities’ (p. ix). Indeed, in many instances, this mode of transportation is linked with another of the *Report*’s concerns, new trafficking routes; especially in relation to Africa. For instance, according to the UNODC, ‘A new maritime route going southwards from Afghanistan via ports in the Islamic Republic of Iran or Pakistan is increasingly being used by traffickers to reach consumer markets through East and West African ports’ (p. ix, p. 22). Accordingly, we are told, ‘Since 2009, seizures of heroin have risen sharply in Africa, especially in East Africa, where they have increased almost 10-fold’ (p. ix).

Although it should be acknowledged that seizure rates are often in reality only a measure of increased law enforcement activity, it is difficult to dispute the centrality of maritime transportation to the operation of many drug trafficking organisations (DTOs) in various parts of the world. Put simply, DTOs are able to move larger shipments by sea than via other modes with the sheer volume of maritime trade, making it easier to conceal drugs.¹⁴ Indeed, the UNODC claims that on average each maritime seizure was ‘almost

30 times larger than seized consignments trafficked by air’.

Having already foregrounded the point by noting that maritime seizures constitute no more than 11 per cent of all cases across all drug categories globally, the UNODC argues that ‘Targeted interdiction efforts by authorities would enable them to seize larger quantities of drugs being trafficked over water’ (p. ix & pp. 20-21). While true, this perhaps underplays the difficulties facing authorities. In a globalised trading world where container traffic is core, the challenge of checking maritime freight is immense – even when deploying intelligence-led policing. Further, it is clear that DTOs are becoming more technologically sophisticated in circumventing border controls. For instance, in a scene reminiscent from series two of the US television series *The Wire*, a criminal gang in Antwerp was recently able to capture the container terminal’s computer system in order to move specific containers to safer areas of the dock for clandestine unloading.¹⁵

The opiate market

The *Report* suggests some major shifts in the production and consumption of opiates. Although data remain limited, it seems as if opioid use (including prescription opioids, heroin and opium) has increased in parts of Asia (South East Asia, as well as Central and West Asia) and Africa since 2009. That said, the use of opiates (heroin and opium) reportedly remains stable with 16.5 million people (range 12,960 to 20,030), or around 0.4 per cent of the population aged 15-64, using these drugs. The *Report* admits, however, that ‘a high prevalence for opiate use’ has been reported from countries in South West and Central Asia, Eastern and South East Europe and North America. In Western and Central Europe, there are indications that heroin use is declining due to changes in the structure of the market. This is explained by a number of factors including decreased supply, increased law enforcement activity and an aging user population, combined with an increase in the availability of treatment, particularly access to Opioid Substitution Therapy (OST), the latter

demonstrating welcome UNODC support for this scientifically proven intervention (p. x & p. 30) (see Box 4). Importantly, ‘the same’ pattern of decline ‘does not apply to the non-medical use of prescription opioids’ (p. 30) (see Box 5). Although all the explanations for a reduction in heroin use in Western and Central Europe are plausible, it is unfortunate that no supporting evidence is given to provide further clarity on what is presented as a conflation of a range of variables. This is important since not only do they all have the potential to affect the shape of the opiate market, but it is also likely that they interact in different ways under different circumstances. Indeed, the *Report* states that fluctuations in Afghan opium production affected the European market, with a decrease in supply ‘owing in part’ to successful law enforcement activities. While a decline in heroin seizures and purity figures from Western and Central Europe are essentially presented as proof of their effectiveness, we are not told what these activities are (pp. 31-2).

Box 4. The coverage and quality of drug dependence treatment: An ongoing concern

At various points within the *Report*, the UNODC note that there is still a big gap in the delivery of treatment services for dependence (p. 10), or what elsewhere is called ‘evidence-based drug dependence treatment’ (p. 57). Indeed, we are told that, in 2011, only an estimated one in six ‘problem drug users’ had received treatment in the preceding year (p. ix & p. 10). There is an acknowledgement that such an alarming picture contains regional differences, with more than the six-fold difference being the reality in some parts of the world. For instance in Africa, only one in 18 ‘problem drug users’ are accessing treatment services, and then predominantly for ‘cannabis use disorders’. The *Report* also notes that ‘to a

certain extent' these differences 'reflect varying reporting systems for treatment demand'. (p. 10). This is a fair point. But it is regrettable that, while emphasising the benefits of a range of treatment interventions – particularly methadone maintenance therapy (see p. 9) – the authors do not stress that the quality of treatment is also a core consideration. As IDPC has highlighted elsewhere, treatment in some parts of the world, though well intentioned, is of poor quality, while elsewhere coercion-based models that are classified as 'treatment' run counter not only to the position of a range of UN agencies, the UNODC among them,¹⁶ but also conflict with the principles of international human rights treaties.¹⁷

In terms of production, the *Report* reveals that Afghanistan retained its position as the lead producer and cultivator of opium globally, accounting for 74 per cent of global opium production in 2012, while Mexico remained the largest producer of opium in the Americas. The global area under poppy cultivation rose by 15 per cent in 2012, surpassing the 10-year high recorded in 2007. This was driven largely by increases not just in Afghanistan but also in Myanmar. However, global opium production actually fell by almost 30 per cent to less than 5,000 tons in 2012. This was mainly because of poor yields in Afghanistan, an issue to which the *Report* devotes a certain amount of attention.

Indeed, having 'sought expert advice' and undertaken an 'extensive study that led to the development of statistical tests for gauging the reliability of opium yield survey data', in 2011 the UNODC, with the Afghanistan Ministry of Counter Narcotics, reviewed yield data for the period 2006-2009. The result was a downward revision and a corresponding decrease in the opium production estimates for what is referred to as a 'particularly challenging period'. It should be noted that the revision did not affect production trends or Afghanistan's position as the world's leading producer of opium. What the revision does do, however, is get the UNODC out of a corner and helps explain why farm-gate opium prices appeared to rise so rapidly after mid-2009 – the first year with a comparatively low harvest after several years of record production – and remained high despite a return to relatively high levels of production in 2011. Indeed, prices fell, but remained at a much higher level than before 2010, even as the 2012 opium harvest turned out to be below average; a result of adverse weather conditions and poppy blight rather than any

counter narcotics (CN) intervention. While, despite the downward revision, the level of opium production can be considered to be "exceptionally high" in 2007, 2008 and 2011, years with relatively low levels of production (such as 2009, 2010 and 2012) can be seen to reduce the 'assumed "overproduction" in those years' (p. 31). It will be recalled that the UNODC grappled with the issue of continuing high prices in last year's *Report* and as such the downward revision adds a plausible explanatory variable to what was then a rather confused and evasive narrative.¹⁸ That said, the *Report* also notes that 'production fluctuations alone do not explain why opium prices rebounded so strongly after 2010 and remained at a high level...even after a relatively good harvest in 2011'. 'Other factors', it continues, 'such as changes in trafficking flow, demand or law enforcement are likely to have played a role...' This is a fair assessment, and mindful of the complexities of an ever-shifting market, IDPC supports the UNODC's call that these relationships need to be 'further investigated' (p. 31).

Moreover, and reflecting the fluidity of the opiate market beyond Afghanistan, the *Report* suggests that opium production in Myanmar may not be able to meet the demand posed by the increasing number of heroin users in some parts of Asia. This would 'indicate that other sources, possibly Afghanistan,' are supplying an increasing number of opiate users within China (p. 35). Certainly, all things considered, the ability of Afghanistan to supply emerging markets for opiates does not seem in doubt. While, perhaps deliberately, included within chapter 1 (under the heading 'Recent statistics and trend analysis of illicit drug markets') but not the Executive summary, the *Report* points to the worrying fact that opium cultivation looks set to increase. Referencing a preliminary assessment

of opium poppy cultivation trends in 2013 by the UNODC and the Government of Afghanistan's Ministry of Counter Narcotics, *Afghanistan: opium risk assessment 2013*,¹⁹ the *Report* notes, 'cultivation is likely to increase in the main opium growing regions, which would be the third consecutive increase since 2010' (p. 30). According to Jean-Luc Lemhieu, UNODC Regional Representative for Afghanistan and Neighbouring Countries and Special Advisor to the Special Representative of the Secretary General in Counter Narcotics, 'opium cultivation is heading toward record levels'.²⁰ This is an issue of concern, especially as Afghanistan and the international community approach 'transition' at the end of 2014.²¹ Although, the shape, capabilities and commitment of not just counter narcotics structures but also those relating more broadly to development within post-transition Afghanistan remain to be seen, it is doubtful whether they will match those operating with international support prior to the full handover of responsibility for security, governance and development to the Afghan government. Admittedly, as the production figures reveal, counter narcotics and alternative livelihood activities since 2001 have had only very

limited sustained and nationwide success. Yet it seems unlikely that the drug issue will receive the attention and resource that it has had, a situation that will surely do little to halt the upward trend. Indeed, there is much to be said for the view that drugs in Afghanistan currently appears to be a forgotten issue. As William Byrd and David Mansfield highlighted in May last year, although the security transition 'will be accompanied by greater risks to Afghanistan's polity, security and economy from the illicit drug industry – including through likely further increases in opium production', the priority attached to drug issues by the international community appears to be declining'.²² It is within this context that IDPC endorses the Executive Director's view that 'the country requires concerted efforts on the part of the international community'; providing by this he means development assistance. Indeed, although there is limited reference to the issue within the main body of the *Report*, Mr. Fedotov is correct when he notes in his Preface that the United Nations, especially the UNODC 'will need to provide far greater assistance to bring CN programmes into the mainstream of social and economic development strategies' (p. iii).

Box 5. The non-medical use of prescription drugs: Ongoing changes in the patterns of use

As has been the case for a number of years, at various points the 2013 *Report* flags up the issue of the non-medical use of prescription drugs. Although global estimates of this behaviour are unavailable, we are told that the 'misuse or non-medical use of tranquilizers and sedatives such as benzodiazepines and barbiturates remains high and at times higher than that of many illicit substances' (p. 2). The illicit use of tranquilisers and sedatives is spread across all regions with the UNODC singling out tramadol for special mention. This opioid-based painkiller, a drug that is not under international control, is reportedly being illicitly used in many countries within Africa, the Middle East, Asia (in particular China) and the Pacific Islands. With 'unregulated Internet pharmacies fast becoming a common source' (p. 2) for a range of substances (including counterfeit variants), this represents not only another manifestation of the shifting nature of the global drug market, but also an additional challenge for national authorities. That said, a broader argument can be made that in some parts of the world this 'non-medical supply' is helping to meet a medical need that the international system – principally the INCB – is failing to address. Indeed, while the INCB has demonstrated some leadership and commitment in urging countries to expand medical opiate use for pain relief, its concern with preventing leakage into the illicit market continues to take precedence over access to essential medicines.²³

The cocaine market

The Report's analysis of the cocaine market also suggests some stability, but again describes accompanying fluidity in relation to the shape of many aspects of the market. Within chapter 1, we are informed that 'Most indicators, including the cultivation of the coca bush, manufacture of cocaine, seizures of cocaine and prevalence estimates in the major consumer countries, suggest that in recent years the cocaine market has, on the whole, been declining' (p. 37). The cultivation and production figures provided, however, do not seem to support this 'decline' hypothesis. Indeed, in terms of production, it is noted that 'The global area under coca cultivation amounted to 155,600 ha in 2011, almost unchanged from a year earlier'. The UNODC is quick to point out, however, that while this is the case, the area is '14 per cent lower than in 2007 and 30 per cent less than in 2000' (p. x). The Office's estimates on the amounts of cocaine manufactured also remain constant, with the Report offering the same figures as last year: from 776 to 1,051 tons in 2011, (expressed in quantities of 100 per cent pure cocaine); a range that, while admittedly preferable to problematic point figures, is arguably so broad as to be problematic itself. The world's largest seizures of cocaine (not adjusted for purity) were once again in Colombia and the USA (200 tons and 94 tons respectively).

That said, despite this 'stability', we are informed that 'there has been an indication in recent years that the cocaine market has been shifting to several regions which have not been associated previously with either trafficking or use'. In this regard, the Report notes that significant increases have been observed in Asia, Oceania and Central and South America and the Caribbean. Indeed, in the past, North America and Central and Western Europe dominated the cocaine market. Today they 'account for approximately one half of users globally, a reflection of the fact that use seems to have stabilized in Europe and declined in North America' (p. x & pp. 41-45). Moreover, there is also an admission within chapter 1 – but significantly not the Executive summary – that 'it cannot be excluded that the available indicators do not yet fully reflect the extent of global cocaine demand and supply' (p. 18). In outlining such a significant

alteration in the shape and possible expansion of the market, the Report raises a number of interesting inter-related issues, which are addressed in varying levels of detail.

First, the UNODC highlights that, while cocaine use has been traditionally associated with the 'affluent' and high levels of 'disposable income', the evidence that this is the case is 'inconclusive'. The Report also suggests that 'the extent of use is not always led by the wallet' and that there are 'examples of wealthy countries with low prevalence rates and vice versa' (p. x & p. 40). This is clearly an important point to consider since any disconnect between wealth and cocaine use has the potential to widen considerably the geographic scope of a market commonly associated exclusively with high GNP nations. Indeed, while as the UNODC notes, the 'levels of uncertainty are especially pronounced' (p. 39), there is a possibility that there are emerging and currently hidden cocaine markets in Africa and Asia (p. 46), regions that 'harbour the potential for significant demand driven expansion of the cocaine market' (p. 18). With regard to the former, this could include states beyond South Africa and Nigeria. Both are seen to have a 'significant role as transit countries' (p. 46) and the existence of a cocaine market has been acknowledged for some time. That said, and as the Report discusses, the relationship between income and cocaine use can remain strong. Indeed, we are informed that '[A]rguably parts of East and South-East Asia run a higher risk of expansion of cocaine use', although admittedly from 'very low levels', a view supported by the fact that seizures in Hong Kong and China rose 'dramatically' in recent years. On this point, the Report contends, not unreasonably, that '(t)his can be attributed to several factors,' including those 'linked with the glamour associated with its use and the emergence of more affluent sections of society'. Other contributing factors 'notwithstanding', it is suggested that such a dynamic would point to Asia, 'with several highly populated countries registering strong and sustained economic performance', as a region 'exposed to potential increased cocaine use' (p. 40). Picking up on the point made above, it is also worth noting here that in relation to the changing shape and possible growth of the cocaine market, the UNODC notes that: 'In the long term, the growth in

global population maybe (sic) a major driving force in setting the trend for global demand' (p. 37).

Second, and related to a possible shift away from 'wallet'-led cocaine use, the *Report* suggests that increasing levels of consumption in Latin America appear to be linked to what the UNODC calls 'spill-over' – the leakage of cocaine destined for traditional consumer markets into societies within producer and transit states. This is of particular significance in the region, with cocaine 'widely available and relatively cheap owing to the proximity to producing countries' (p. x & p. 39). Yet, while a possible explanation for the apparent increase in cocaine use within Latin America is clearly an important point for consideration, it is surprising to see the limited discussion (see for example, p. 42 and p. 91) devoted to the increasing use of 'paco' and other cocaine derivatives, particularly in Brazil, Argentina and Uruguay. This is a curious omission since, beyond the considerable individual health and broader societal implications associated with the use of these substances,²⁴ increased availability and consumption within some parts of the region is an important component within the story of the changing shape of the cocaine market, not least in relation to growing quantities of 'cocaine' staying in the region and an increased blurring between the traditional demarcation of 'producer' and 'consumer' states.

Our third point here also relates to an area that would benefit from further discussion and analysis: the reduction in the size of the North American cocaine market. As mentioned above in relation to the opiate market, it is fair to posit the notion that law enforcement activity may have an effect on market conditions. Regarding cocaine, the *Office* elaborates on this point by arguing that because, until recently, the production and consumption of the drug has been 'concentrated in certain parts of the globe', the 'attention of the global community and the efforts to reduce and measure drug supply and demand may have focused on well known routes and markets' (p. 18). However, such an explanation needs to be carefully nuanced since the relationship between a range of policing activities and other variables (including a shift in drug using preferences unrelated to drug law enforcement to, for example, prescription drugs and NPS) is not well

understood. As such, it is unfortunate to see the executive summary state that: 'Between 2006 and 2011, cocaine use among the general population in the United States fell by 40 per cent, which is partly linked to less production in Colombia, *law enforcement intervention* and inter-cartel violence' (emphasis added, p. x) while the main body of the text is more circumspect. For instance, in the more detailed discussion of 'A shift in cocaine use in the Americas' the authors note: 'It is *likely* that disruption in the chain of supply resulting from law enforcement intervention and other developments, such as inter-cartel violence, contributed significantly to reducing the availability of cocaine at destination' (emphasis added) (p. 41). The inclusion of the qualifying adjective is important in order to impart a sense of understandable, if politically awkward, uncertainty – once again, the report posits what the UNODC hopes is the cause of positive trends, without giving any evidence of causality. It is possible to argue that the relationship between drug trafficking and violence within Latin America is not as straightforward as the *Report* suggests, with both the preface and the executive summary noting that 'intensified competition in trafficking of cocaine has led to growing levels of violence' (p. iii & p. x). While it might be argued to be beyond the scope of the *World Drug Report*, there is limited mention of how the anti-drug activities of a range of governments within the region (particularly Mexico since 2006) have influenced this dynamic. It is true that the well-documented phenomenon of displacement (in this case in relation to trafficking routes) is touched upon in relation to trafficking, organised crime and violence in parts Guatemala and Honduras. Yet, the way the topic is framed makes it easy to interpret market violence as an implicit function of the illicit drug trade rather than sometimes the negative consequence of ill thought-out government policies (see p. 48).²⁵ Indeed, where government policies are briefly mentioned within the Executive Director's preface, it is only to challenge the idea that legalisation will not reduce market-related violence (p. iii). More broadly, the role of state authorities and of the various agencies, institutions and practices involved in operating the drug control system must be taken into account when examining the health and social consequences of the 'world drug problem'. To attribute all of the ills

associated with that problem to the pharmacological properties of the drugs themselves or to the illicit entrepreneurs involved in the

market offers a hopelessly crude construction of a complex and ambivalent set of issues.

Box 6. Africa: A region of ongoing concern

While, as the UNODC acknowledges throughout the *Report*, the data on the drug situation in the region is extremely poor, Africa is highlighted as a point of particular concern. This is especially so for West Africa, which is singled out as a 'vulnerable' sub-region; albeit with a number of caveats. According to the Office, and without much evidence to substantiate its claims, 'West Africa continues to be a region of particular concern in the global drug phenomenon: it is facing the threat of organized crime, including drug trafficking, which may in turn have a spillover effect on the extent of drug use' (p. 23). It accordingly highlights the belief that the sub-region is acting as a transit point for heroin from Afghanistan and heading to consumer markets within Africa and beyond as well as becoming a 'hub for cocaine on its way from South America to Western and Central Europe'. It suggests that such trafficking activity may have 'contributed to a supply-driven increase' in the use of both drugs, with the number of cocaine users in West and Central Africa an estimated 1.6 million (past year use). That said, 'owing to the paucity of data', the uncertainty is 'particularly pronounced' with a corresponding range of 570,000 to 2.4 million. While, as the enormity of the range suggests, there remains a lack of reliable information, it is claimed that the 'prevalence rate' in West Africa is 'likely to be significantly higher than the global average' (emphasis added) (p. 23).

In relation to ATS, it is stated that, beginning in mid-2009 West Africa was identified as a source of high-purity crystalline methamphetamine. The reasons given for West Africa remaining vulnerable to the manufacture and trafficking of ATS include: 'The profitability of the trade, coupled with low awareness of the end products of ATS and their precursors and a relative simplicity of the manufacturing processes'. All of these are reasonable explanations, but again there remains considerable uncertainty around the issue.

The *Report* also flags up East Africa as a region of concern in relation to heroin entering the continent, with 'some indicators' suggesting that this role may be assuming increasing importance and expanding to other drug types and other destinations' (p. 23 & p. 33). However, it is important to stress the UNODC's caution on this issue, especially where it notes that, 'given the limited coverage of the data in this sub-region and the fact that the data are driven by the quantities seized in a small number of countries, the possibility that these increases are partly the result of intensified law enforcement efforts cannot be excluded' (p. 23). Indeed, where Africa is concerned the Office appears to be engaged in a precarious balancing act between pointing to the region, especially West Africa, as a growing area of concern, but simultaneously (and often opaquely) acknowledging that this view is based on limited data and a great deal of extrapolation. With this in mind, it is impossible to argue with the recommendation that 'there is an urgent need to improve data collection and analysis capacity of countries in the region' (p. ix). We would add, however, that the UNODC should take the lead in calling for the development of innovative survey techniques beyond those currently deployed that are capable of identifying populations at the highest risk of a range of drug-related harms. Moreover, it is crucial that, in light of the emerging picture of the region, the international community resist the temptation to simply apply policies that have shown to be both ineffective and counterproductive in other parts of the world.²⁶ Mindful of this caveat, IDPC supports Mr. Fedotov's request that the international community should 'make the necessary resources available to monitor the drug situation in Africa' (p. iv).

The cannabis market

According to this year's *Report*, cannabis remains the most widely used illicit substance with figures showing that there was a minor increase in the prevalence of cannabis users (180.6 million or 3.9 per cent of the population aged 15-64) as compared with previous estimates in 2009. In its discussion of the supply side of the cannabis market, the UNODC openly acknowledges that: 'Providing a global picture of cannabis cultivation and production remains a difficult task'. The authors go on to explain that 'although cannabis is produced in practically every country in the world, its cultivation is largely localized and, more often than not, feeds local markets' (p. xi). And this reality is at the core of any attempt to understand the nature and operation of the modern cannabis market. Gone are the days where traditional producer states were the dominant, if not sole, suppliers of cannabis users in a range of predominantly 'western' countries via multi-link trafficking chains that crossed a series of national boundaries. While, as the *Report* discusses, such patterns do still exist, the market has become far more complex with significant amounts of the drug cultivated near consumers at a range of scales and through various processes, including hydroponics. For example, Western and Central Europe should now be regarded as 'mixed markets' in that they remain major consumers of cannabis resin ('hashish') from Morocco, but also consume domestically produced cannabis herb (the dried flower buds of the female cannabis plant; p. 18).

With this changing picture in mind, the *Report* shows that cultivation 'seems to have gone up in the Americas' where reported cannabis herb seizures in South America increased by 46 per cent in 2011 (p. xi). In Europe, seizures of cannabis herb also increased, but, significantly, seizures of cannabis resin went down. This, we are told, may indicate that 'domestically produced cannabis' continues to replace imported resin, mainly from Morocco. Indeed, according to the *Report*, the production of cannabis resin seems to have stabilised and even declined in its main producing countries, that is to say Morocco and Afghanistan (p. xi & pp. 25-26). Compared with the more protracted process of extracting resin from the plants, the production of cannabis herb remains

widespread, mainly in North Africa, the Near and Middle East and South West Asia, (p. 24). With regard to Africa, the UNODC notes that: 'Many countries...reported seizures of cannabis herb, with Nigeria reporting the largest quantities seized in the region' (p. xi). It should be noted, however, that this is a little misleading since, as is clear throughout the *Report*, data for Africa is so sparse (see Boxes 1 and 6). Indeed, while singling out Nigeria for comment, the country's name-check results from the fact that it remains one of the few African states to provide good quality data to the UNODC.

In describing the nature of cannabis production in Europe, the UNODC alludes to some of the difficulties facing both the UN apparatus and national authorities in addressing the contemporary cannabis market. For instance, we are informed that in the region 'cannabis is generally cultivated outdoors in countries with favourable climatic conditions', although in countries like Belgium and the Netherlands – implicitly characterised as poor destinations for a summer holiday – 'a larger number of indoor plants are found'. The authors go on to stress that it is consequently 'difficult to compile an accurate picture of cultivation and eradication, as this varies widely across countries and climatic zones'. As the *Report* also notes, plant density can fluctuate widely, depending upon 'cultivation (indoor or outdoor) and environmental factors' (p. xi & see Annex II p. ix). As such it is difficult to quantify and compare eradication in terms of hectares or sites eradicated when there can be so much variation in the number of plants destroyed. Moreover, although not discussed, similar questions arise in relation to variations in the THC content of cannabis plants grown in different sites.

Finally, it is interesting to note that the UNODC deviates from its usual habit of side-stepping national policies within the main body of the *Report* to devote some attention to 'Marijuana in the United States of America'. This is predominantly a discussion of medical marijuana schemes within US states which, in intriguing contrast to the INCB, the UNODC seems to accept as a legitimate policy approach within the existing treaty framework.²⁷ That said, in relation to both medical marijuana and

moves towards the creation of legally regulated markets for non-medical cannabis production in the states of Washington and Colorado, the *Report* takes the opportunity to stress that ‘producing, selling or possessing marijuana continues to be an offence under United States Federal law’ (p. 29). As such, one wonders what was behind the decision to include the, albeit brief, section within the document. On the one hand, the UNODC is relatively positive about medical marijuana. Yet, on the other, it draws attention to the predicament within which the US Federal government finds itself.

The Amphetamine-type stimulant market

Again, sitting somewhat uncomfortably with the headline message of global drug market stability, the *Report* points out that ‘There are signs that the market’ for ATS ‘is expanding’. It goes on to state in a very direct way that ‘seizures and consumption levels are increasing, manufacture seems to be spreading and new markets are developing’ (p. x). This upward trend is placed within the context of a set of chemically simple substances, the production of which is not limited to specific climates and hence can be manufactured relatively easily anywhere in the world; a situation particularly true for methamphetamine, a substance that remains at the core of the ATS market.

Reflecting this, we are told that ATS seizures are globally at the highest-level ever recorded; 123 tons in 2011 compared with 74 tons in 2010. Seizures increased across all regions with Asia, North America and Europe registering ‘dramatic’ increases (p. 49). Within this, methamphetamine can be seen to represent 71 per cent of global seizures in 2011. Moreover, its production ‘seems to be spreading’ with new locations uncovered, among other places in Poland and the Russian Federation. The *Report* also notes an indication of increased manufacturing activity in Central America and ‘an increase in the influence of Mexican drug trafficking organizations in the synthetic drugs market within the region’ (p. xi). Although methamphetamine pills continue to be the predominant ATS in East and South East Asia, seizures of the crystalline variant have increased to their highest levels in the past five years, an

indication not only that the substance is an ‘imminent threat’(p. xi) but also that the ‘ATS market has become more diversified’ (p. 51) and complex (see Box 7).

Mindful of this picture of production and seizures, it is little surprise that the *Report* shows that ATS use, including ‘ecstasy’, remains widespread globally and appears to be increasing in most regions. In 2011, an estimated 0.7 per cent of the global population aged 15-64, or 33.8 million people, had used ATS in the preceding year. Interestingly, ‘ecstasy’ use is shown to be declining, although – reflecting the texture and regional peculiarities of the market – it ‘seems to be increasing in Europe’ with the region, followed by North America and Oceania, continuing to possess a ‘prevalence of “ecstasy” use that is above the global average’ (p. xi).

As with the UNODC’s discussion of cocaine, it seems clear that Asia and Africa are central to current and future shifts within the ATS market (see Box 7). Indeed, the *Report* notes that ‘While use is steady in the traditional markets of North America and Oceania, there seems to be an increase in the market in Asia’s developed economies, notably in East and South-East Asia, and there is also an emerging market in Africa, an assessment that is borne out by increasing diversions of precursors, seizures and methamphetamine manufacture’ (p. xi). Despite the certainty of this language, there is an acknowledgment elsewhere that both regions, but particularly Africa, remain problematic in terms of data capture regarding ATS. In terms of use, for example, it is noted that ‘prevalence estimates are not available for either region with the upward trend being the view of ‘experts from these regions’ who ‘continue to report a perceived increase in the use of ATS’ (p. 1). More generally, in relation to Africa, the authors note, among other things, that ‘There is a persistent lack of data on ATS from the region’. In one respect, we are told that this ‘can be seen from the scarce reporting of seizures of ATS and their precursors’, a situation explained by a general lack of awareness of ATS, as law enforcement authorities tend to focus on interception of the “traditional” drugs such as cannabis and cocaine’ (p. 56).

Box 7. ATS and cocaine – More complexity through complementarity rather than competition?

The *Report* reveals an interesting trend relating to seizures of cocaine and ATS, drugs that both consist of stimulant substances. ‘Although by no means conclusive’, we are told, ‘there are indications that these two classes of stimulants are complementary rather than competitive products; in other words, an increase in demand for one comes together with, and possibly even fuels, the demand for the other, rather than replacing it’ (p. 20). This view is backed up by the fact that, while significant increases occurred for both drug classes in several sub-regions (East Africa, Eastern Europe, East and South East Asia, Oceania and South Asia), the tendency for a sub-region to register a significant increase in one of the two and a decrease in the other was very limited. The UNODC go on to note that ‘A similar relationship cannot be observed when comparing any of the other pairs among the four major drug classes’ (p. 20). If this dynamic does turn out to be correct, it is yet another example of the increasing complexity of the global market. In some respects, we may be witnessing a hybridisation of the two classes, with the ATS market creating a link through to NPS via adulteration (in relation to ‘ecstasy’ in particular) or shifting consumer preference.

The challenges attendant with the ongoing shift away from the predominance of ‘traditional’ drugs are also revealed within the *Report* in relation to ATS production. Revealing similarities with the dilemmas confronting both the international drug control apparatus and member states when addressing the NPS that are entering the market, it points out that ‘traditional precursors are being replaced with alternate precursors that are not under international control’ (p. 53). We are informed, moreover, that the ‘increasing appearance of non-controlled “precursor” substances, many of which have few known legitimate uses other than for the manufacture of controlled precursors, is expected to be a continuing trend in global seizures’ and that ‘this presents a myriad of new challenges for drug control authorities’. (p.54). The cross-over and the blurring of boundaries between ATS and NPS does not end there, however. The UNODC also points out that a ‘large proportion of “ecstasy” seized on the streets continues to contain substances other than MDMA. In most cases these are NPS’. And it is to the *Report’s* significant coverage of the NPS phenomena that we now turn our attention.

New Psychoactive Substances

The global emergence of new psychoactive substances

As discussed above, the issue of NPS is prominent within this year’s *Report*. Indeed, the second chapter of the publication is exclusively devoted to these substances. We are informed, not unreasonably, that global market penetration is difficult to assess, some parts of the world having in place relatively sophisticated monitoring systems while others have few resources with which to gather data. Europe is the best equipped, its ‘early warning system’ bringing together the twenty-seven²⁸ countries of the European Union, along with Norway, Croatia and Turkey. The system provided formal notice of 236 NPS between 2005 and 2012, which represents more than 90 per cent of all substances notified to the UNODC. In terms of consumption, however, the USA is believed to be the largest market. In 2012, a total of 158 NPS were identified for the first time in the USA; this was more than twice the equivalent figure for the EU (p. 85). The substances most frequently reported were

synthetic cannabinoids and synthetic cathinones. Amongst the country's student population, NPS represented the most widely used set of substances, largely due to the synthetic cannabinoids contained in Spice and similar mixtures. Amongst US youth generally, the consumption of NPS is reported to be more than twice the levels for the EU. Within Europe, the *Report* informs us that the UK has the largest number of NPS users, at 23 per cent of the EU total. It is followed by Poland at 17 per cent, France at 14 per cent, Germany at 12 per cent and Spain at 8 per cent (p.80). The UK also identified the largest number of NPS in the EU, some 30 per cent of the total number between 2005 and 2010.

On the North American continent, the authors state that Canada shared the consumption tendencies of its near neighbour, with the authorities identifying 59 NPS in the first half of 2012, nearly as many as the USA (p. xiii). Again, the most popular substances were synthetic cannabinoids and cathinones. It is noted that the consumption of the powerful psychedelic substance *Salvia divinorum*, a plant originating in the cloud forests of Mexico and used for centuries in shamanic cultures, appears to be unusually high in Canada, with a lifetime usage prevalence of 5.8 per cent reported amongst tenth-graders (p. xiii). Continuing its global dissemination, the presence of NPS is reported in Latin America, although according to the *Report* levels of usage remain lower than in the northern portion of the continent. Ketamine, plant-based substances (notably *Salvia divinorum*), piperazines, synthetic cathinones, phenethylamines and, 'to a lesser extent, synthetic cannabinoids' were reported to be in use (p. xiii).

Meanwhile, the authors inform us that piperazines, especially BZP, occupy a primary position on the market in New Zealand. Like its neighbour, Australia plays an important role in the NPS market, with large numbers of substances available on the market. The Oceania region identified 44 NPS in the first half of 2012, a quarter of all such substances identified globally. Of this total, 33 were identified in Australia, including 13 synthetic cathinones and 8 phenethylamines.

According to the UNODC, the second largest number of countries reporting the emergence of NPS was in Asia. These countries were concentrated in East and South East Asia, along with the Middle East. Hong Kong reported the appearance of a number of synthetic cannabinoids and cathinones, while Indonesia notified the UNODC of the advent of BZP. The *Report* identifies the two major substances of consumption as ketamine and kratom, with the former, significantly, often playing the role of substitute for ecstasy, or sometimes even being sold as ecstasy. The authors note that khat is widely consumed in Western Asia, notably in Yemen. The mention of khat flags up one of the problems with the present conception of NPS; this will be discussed further below, but it is worth noting at the outset that khat is neither a 'new' psychoactive substance, nor 'newly available' in markets such as Yemen.

Africa, as noted in Box 1, remains largely opaque owing to the lack of data to represent the continent's drug consumption patterns. The *Report* observes that seven African countries reported the use of NPS: Angola, Cape Verde, Egypt, Ghana, South Africa, Togo and Zimbabwe, but concludes that 'the overall problems related to the production and consumption of NPS appear to be less pronounced in Africa' (p. xiii). Much of what counts as NPS use on the continent refers to traditional plant based forms of consumption, such as the chewing of khat.

The challenge of 'new' psychoactive substances

With the dynamics of the current situation in mind, the UNODC makes the point that, throughout its history, the international drug control regime has been faced with challenges posed by the advent of new drugs; for example, the newly synthesised opioids such as methadone, ketobemidone, pethidine and several others after the Second World War. At the present moment, however, the *Report* states with a welcome frankness that 'the international drug control system is floundering, for the first time, under the speed and creativity of the phenomenon known as new psychoactive substances' (p. xi). The total number of NPS was for the first time greater than the number of

substances 'under international control',²⁹ that is, scheduled under international law. Member states reported 251 new substances to the UNODC by mid-2012, an increase of 50 per cent on 2009. Moreover, since the publication of the 2013 *Report*, over the past year the total number of NPS reported to the UNODC has risen by a further 41 per cent to 354.³⁰

The *Report* defines NPS as 'substances of abuse' that are not included in the UN drug control conventions, but which may pose a danger to public health. The term 'new', however, does not necessarily relate to newly produced substances, but rather to those that are newly available in specific markets. The term NPS is used, therefore, as an umbrella term for unregulated and newly available psychoactive substances or products intended to reproduce the subjective effects of controlled drugs. As such, the NPS category includes both synthetic and plant-based substances, both of which have been widely disseminated throughout a range of markets. In mid-2012, however, the majority of NPS were synthetic cannabinoids and phenethylamines, each, according to UNODC data, at 23 per cent of identified substances; these were followed by cathinones, 18 per cent, tryptamines at 10 per cent, 'plant-based substances' at 8 per cent and piperazines, 5 per cent (p. xii).

A number of terms have previously been employed to refer to the group of psychoactive substances that are not under international control. These include 'designer drugs' and 'legal highs'; while the latter is still in popular use, the former has tended to fade away. The first legally inscribed definition of NPS was that used by the EU in 2005, which referred to: 'a new narcotic or psychotropic drug, that is not scheduled under the 1961 Single Convention on Narcotic Drugs or the 1971 Convention on Psychotropic Substances, but which may pose a public health threat comparable to that posed by substances listed in those conventions' (Council of the European Union decision 2005/387/JHA).³¹ The EMCDDA, which took up this definition, noted that the term 'new' did not refer to newly produced substances (many were in fact old, with some – such as Khat, Kratom and *Salvia divinorum* – being ancient), but rather 'newly

misused' (p. 62). The UNODC has borrowed this definition in its use of the term NPS, and sometimes uses the shorthand definition 'newly misused on the market'. Questions of conceptual coherence remain, however: for example, as already mentioned, khat is neither new nor newly available in many of those areas in which its consumption is popular.

An inaccurate unity is being imputed to a large and heterogeneous range of substances whose only shared characteristic may be that they may presently be outside the scope of the UN drug control conventions. So long as no unified policy prescription is derived from this status, the conceptual problem is arguably of little consequence. However, it is important that policy makers are cautious and take into account the diversity of NPS and their differing impacts upon individual and social health and well-being. It would be dangerous to assume that all of these substances are equally harmful and would all require tight restrictions on their use.

Varieties of methods have been employed by UN member states to attempt to restrict the use of these substances, including making specific substances or their analogues illegal (see Box 8). There are two main kinds of substances caught up in the use of the term NPS. They include *chemical analogues* and *mimetics*, conceptualisations which tend to feed into different regulatory strategies. An analogue is a structural derivative of a parent compound that may differ from the original chemical through relatively minor modifications. That is, a known substance, such as methamphetamine, may be chemically modified to bring about a new substance, namely, MDMA or ecstasy. The substances are similar chemically, but have very different pharmacological and subjective effects. A mimetic, by contrast, may be very different chemically while reproducing or mimicking the effects of a specific substance chosen; for example the synthetic cannabinoids in Spice are quite different in chemical structure from THC, but they imitate its effects by acting on the same set of receptors in the brain and nervous system. A third group of substances is currently emerging – these substances modify the body's signalling pathways in order to produce or enhance

the effect of analogues or mimetics. These substances are not in themselves psychoactive, but stimulate the body to produce psychoactive chemicals desired by consumers. According to the

Report, however, 'existing legislation in most countries seems unable to cope with such substances' (p. 60).

Box 8. The analogue and generic scheduling of NPS

Scheduling of substances usually involves a reactive approach, in which governments respond to an already existing set of health problems linked to a drug. The advantage of this approach is that, theoretically, it avoids precipitous errors by relying on the considered opinion of independent scientific experts rather than relying on the knee-jerk responses of politicians and news media, which may be driven by moral panic. In reality, the views of scientists are equally the product of a given social and cultural setting, and they may not be any more 'independent' than other actors in the field. The acknowledged disadvantage of the reactive approach is that it is very time-consuming and can be quickly overtaken as new chemical variants become available.

The attempt to be proactive, and to anticipate potential problems before they arise, has given rise to two main types of scheduling: *analogue* and *generic* scheduling.

The analogue system is best exemplified by the system of scheduling introduced by the USA in the 1980s. Under this legislation, a 'controlled analogue substance' is one (a) whose chemical structure is 'substantially similar' to an already-scheduled substance, and (b) whose effects are 'substantially similar' to or greater than those of an already-controlled substance. The analogue system is intended to prevent new substances from reaching the market, with a court deciding whether a given NPS fits the definition provided by the legislation. The major problem is that these definitions are not unambiguous – for example, in what, precisely, do these 'similarities' consist? King et al, for example, argue that the specification of 'substantial similarity' usually become a battle between experts with differing views. 'The outcome', the authors suggest, 'is no more than informed opinion...We might as well ask if Roquefort cheese is substantially similar to Stilton cheese.'³²

Generic scheduling, meanwhile, relates to *groups* of substances. It begins with a given molecular structure, and specifies a particular set of variations in this structure which signify that the substance will be a controlled one. The result is that each new substance produced by making small molecular alterations of the original does not have to be controlled individually, but rather the entire set be controlled. One major problem with this system is that it often takes a trained organic chemist to identify exactly which substances are controlled and which are not. This can be important, as the *Report* points out that use tends to decline only after a substance has been explicitly listed in controlled drug schedules (p. 111).

Although these two systems rely upon different methods of classification, both depend on a concept of similarity that can be viewed in different ways. King et al, once more, state that: 'Both generic and analogue approaches are essentially based on the proposition that substances with similar structures are likely to behave similarly within the human body'. This is, however, not always the case, as a simple example will illustrate: two chemical compounds whose structures are highly alike are buprenorphine and diprenorphine, the first being an opiate often used in OST for the treatment of heroin dependence, while the second is an opiate antagonist, which blocks the binding of opiates to the receptors in the brain. Functionally, these close chemical relatives are polar opposites in their effects.³³ Moreover, diprenorphine

has important medical uses in brain imaging, and the placing of legal controls on a substance is known to make it more difficult to ensure its availability for research and therapeutic purposes.

The *Report* also includes some reference to the approach to NPS recently adopted in New Zealand (p. 113). In an effort to deal with the phenomena in a pragmatic fashion, authorities there became the first to pass legislation 'that seeks to regulate NPS to ensure that they are low risk, rather than to control them through prohibition and punitive measures', by placing the responsibility of proving this 'low risk' on manufacturers, rather than on the government.³⁴ Although providing a description rather than an assessment (and as such avoiding any discussion of the potential health benefits of regulation of these substances), it is positive to see the UNODC outlining what may become an example for other countries to follow.

NPS, legal control and use

The *Report* claims that there has been a general observation that bringing a NPS within legal controls has resulted in declining use, with positive effects on public health and reductions in deaths related to the consumption of the substance. However, the long term research required to substantiate the claim is very limited. The authors, nonetheless, list some typical impacts of scheduling a substance: one, it remains on the market but its use rapidly declines, as illustrated by the case of BZP in New Zealand and MDPV in the USA; two, the use of the substance falls after a longer interval, such as happened with ketamine in the USA; third and finally, scheduling has no apparent impact on the substance's use, such as happened with MDMA in the USA and elsewhere. The *Report* does not observe, though it might have, that the rapid proliferation of NPS such as mephedrone has coincided with the reduced availability and purity of MDMA, and may be another instance of the market responding to attempts to restrict a particular drug by replacing it with others.³⁵

The *Report* goes on to state that there are also cases in which NPS disappear completely from the market, which has occurred with the majority of substances included in the 1961 and 1971 Conventions. Based on the apparent variation across this range of cases, the authors suggest, with a pragmatism that is once more to be welcomed, that there is no 'one size fits all' legislative response, and that every rule is accompanied by exceptions. They contend that a holistic approach is required, taking into account prevention and treatment, legal status, and interdiction in the

fields of both trafficking and precursors. It is also noted that long-term data are hard to generate, since as soon as one substance is scheduled, another arrives on the market, making the isolation of the long-term effects of a specific substance on health and prevalence difficult. The *Report* characterises the situation as a 'hydra-headed' one: manufacturers continuously produce new variants in order to evade the new legal frameworks; meanwhile, legal and regulatory systems are likewise subject to a process of ongoing revision.

According to the *Report*, it is the general perception surrounding NPS that makes them so problematic and dangerous; their marketing as 'legal highs' implies that they are safe to use and consume, while in fact they may be extremely risky. Their marketing as 'bath salts', 'room fresheners', 'herbal incenses' and 'plant fertilisers' has, according to the authors, identified them with relatively safe everyday products in order to mislead the authorities.

The NPS market has spread to almost all regions of the globe. The manufacture of NPS is currently located predominantly in East and South East Asia, regions possessing advanced chemical and pharmaceutical capabilities, while the internet provides the most important channel of supply to wholesalers. Although a minority of end consumers purchase NPS online, the authors claim that the majority prefer to buy face-to-face from retailers. Either way, it is clear that NPS have proliferated in tandem with the internet.

Conclusions

As is to be expected from a document of such scope, there is a great deal of valuable material – both in terms of data, analysis and policy prescriptions – within the *World Drug Report 2013*. For instance, it is difficult to contest Mr. Fedotov’s call to member states for an increase in funding for prevention and treatment and, conscious of its relationship to stability, security and economic and social development within many regions, the inclusion of the drugs issue within the international development agenda (p. iv). It is true that there remain significant issues with data capture, methodology and, on occasions, subsequent interpretation. Nonetheless the *Report* provides a thorough overview of the global situation relating to both the traditional drug groups and NPS. Moreover, when one digs beneath the headline message of stability, it reveals a growing intricacy in the worldwide picture. Indeed, as it notes: ‘The global emergence of NPS has introduced an added layer of complexity to an already complex market’ (p. 58). Additionally, in terms of drug use, the UNODC is right to highlight that the ‘emergence of NPS, increasing non-medical use of prescription drugs and poly drug use continue to blur the conventional distinction between users of one or another illicit substances’ and that more research is required in order to ‘develop comprehensive approaches’ (p. 57). Indeed, the calls at various points throughout the *Report* for further research is a legitimate position for a UN body operating within such a complex, multifaceted and in many respects still ill-understood issue area.

What is more disappointing, although understandable for a bureaucracy tasked to oversee the operation of the current international control system is the persistent message that – while there is room for improvement – the structures remain more or less effective at a world-wide scale. As we have discussed here, it remains difficult to argue that the global situation is stable when there is so much fluidity and uncertainty within the market, particularly in relation to ‘hidden’ populations in significant regions like Asia and Africa. Moreover, while (as noted above) the UNODC admits that the international drug control

system is floundering ‘for the first time’ due to the ‘speed and creativity’ of the NPS phenomena (p. xi), we might easily apply this view more widely. Indeed, as understanding of the unique dynamics of drug markets in various parts of the world improves, there is a growing desire within some sovereign states (or jurisdictions therein) to shift away from the global blueprint imposed by the conventions and move towards localised policy experimentation; experimentation that may require policy shifts beyond the flexibility of the treaties, but that have the support of democratic systems where they are being considered or implemented.

This is of course particularly so for cannabis, a drug that is already the focus of various moves away from punitive prohibition via decriminalisation, depenalisation and legal regulation in different parts of the world. And, mindful of the drug’s continuing status as the global illicit substance of choice, there is perhaps a certain functionality in the Executive Director’s view that ‘the existing international control system is equipped to deal with the emergence of new substances that pose a threat to public health’, and that the necessary international response ‘should make use of all the relevant provisions of the existing international drug Conventions’ (p. iii). Indeed, could it be that, while admittedly a concern in terms of health and a candidate for multinational cooperation, NPS are being lined up to fill the growing structural void as cannabis loses its significance within the international framework?³⁶ This view may be misplaced. Yet, there is much to be said for the idea that the proliferation of NPS, viewed presently as a regulatory conundrum, might be understood instead as an opportunity to review the over-reliance upon legal prohibitions that dominated 20th century policy making in the field of drug control,³⁷ and led to ‘unintended consequences’ of a negative kind and on a grand scale;³⁸ ‘unintended consequences’ which, while explicitly acknowledged – albeit briefly – in earlier Reports, are largely ignored this year.³⁹ It is to be hoped that the expertise lodged within the international drug control system will be marshalled to help ease member states toward a flexible and variegated response that takes into account the specificity of this very wide range of substances, as well as the

diverse social, economic and cultural localities within which their use must be managed.

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Endnotes

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⁶ According to the original schedule, the next UNGASS was planned to be held in 2019

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⁸ International Drug Policy Consortium, (October 2012) *IDPC response to the UNODC World Drug Report 2012*, <http://idpc.net/publications/2012/10/idpc-response-to-the-unodc-world-drug-report-2012>

⁹ Here the term hidden is used to denote populations of people who use drugs that currently remain beyond the reach of data capture

¹⁰ It is worth noting that, although useful in showing trends, the data ranges in Figure 1 (p. 1) are difficult to read

¹¹ Mathers, B.M. et al (November 2008), 'Global epidemiology of injecting drug use and HIV among people who inject drugs: A systematic review', *The Lancet*, **372**(9651): 1733-45, <http://www.thelancet.com/journals/lancet/article/PIIS0140-6736%2808%2961311-2/abstract>

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¹⁴ 75 per cent of internationally traded goods are carried by maritime vessels. See: <http://www.worldshipping.org/industry-issues/environment/air-emissions/faqs-answers/a1-why-is-the-liner-shipping-industry-so-important-economically>

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²¹ The term 'transition' is used here to denote the process of handing responsibility for security, political and economic affairs from the international coalition to the Afghan government

²² Byrd, W. & Mansfield, D. (18 May 2012), *Drugs in Afghanistan – A forgotten issue? Implications and risks for transition* (United States Institute of Peace, Peace Brief 126).

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²⁸ The *World Drug Report 2013* was written prior to Croatian accession to the EU.

²⁹ Rather than continually employ quotation marks to indicate a problem with the terms 'controlled', 'drug control', etc., it may be best to provide a reminder here that this is an item of UN terminology intended to indicate that those drugs that are restricted under international law, and therefore, in theory, their use is 'controlled'. In fact, these substances may be available on street corners, bars, from transnational organised crime groups, etc., and their 'controlled' status is merely a formal matter

³⁰ New data posted by the UNODC on 09.09.13. See: United Nations Office on Drugs and Crime (9 September 2013), *UNODC early warning system records rapid increase in legal highs in 2013*, <http://www.unodc.org/unodc/en/frontpage/2013/September/unodc-early-warning-system-records-rapid-increase-in-legal-highs-in-2013.html>

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In this report, IDPC provides an overview of the data and topics presented in the UNODC *World Drug Report* for 2013, and where appropriate – and within the context of this official UNODC narrative – offer a critical analysis of both.

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