

International Development Policy Series – 12

# DRUG POLICIES AND DEVELOPMENT

*Conflict and Coexistence*

*Edited by*

**Julia Buxton**

**Mary Chinery-Hesse**

**Khalid Tinasti**

THE  
GRADUATE  
INSTITUTE  
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Drug Policies and Development

# International Development Policy

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Cover illustration: 'Liberia Police Anti-Drug Squad Burns Confiscated Drugs', 01 March 2013. A staff member of the Liberia National Police Anti-Drug Squad reviews the municipal dump outside Monrovia, Liberia, where they are burning nearly 400 kg of marijuana and other drugs that were confiscated between 2011 and 2012. Courtesy of UN Photo/Staton Winter. Photo #543702.

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## Foreword

We are pleased to introduce the 12<sup>th</sup> volume of *International Development Policy, Drug Policies and Development: Conflict and Coexistence*.

This volume explores the challenges of drug policy in the context of development. It addresses the impacts of the war on drugs on vulnerable populations, the consequences of the new movement towards legalisation of recreational drugs, and the ‘stakeholders’ affected by drug policy. It also delves into specific policies and localised consequences, looking at how drug trafficking in conflict zones inhibits peace processes, and analysing practices adopted by governments and development practitioners to help small farmers and villages escape reliance on illicit cultivation for their livelihoods.

The volume is composed of contributions from authors with a broad range of expertise and disciplinary approaches, including academic scholars, researchers, health professionals, policymakers and civil society actors. It contains research articles, case studies across different regions, and policy comments, which provide both high-level perspectives and on-the-ground viewpoints on the far-reaching implications of drug policy. These 15 diverse yet complementary pieces shed light on the paradoxes and blind spots of drug policies adopted at national and international levels, and on how these policies’ limitations can have significant impacts on a variety of populations. They draw attention to the progress made in drug policy development and implementation in recent years, but also urge the international community to continue putting these in the spotlight in order to address shortcomings.

After an introduction on how drug control policies affect sustainable development, the collection is organised into three sections. The first section focuses on the context in which drug policies developed, and on how the history of the cross-border drug trade has affected current policies, and it addresses some of the impacts these policies have at every level—from local populations to the global drug market. The second section explores how drug policies affect, and are affected by, conflict and governance, and how these matters involve different types of stakeholders. It includes an interview with José Ramos-Horta, former President of Timor Leste and current Member of the Global Commission for Drug Policy (GCDP). Finally, the third section approaches the cross-cutting themes involved in drugs and development, such as the environmental impacts of intensive cannabis cultivation, and how drug policies affect women, children, public health and people who use drugs.

Draft chapters were presented and discussed in an animated Author’s Workshop held in Geneva in October 2019. We would like to thank workshop

participants for providing relevant input to the authors, and two anonymous peer reviewers for their insights, as well all those who commented on earlier drafts. Finally, we are grateful to the Swiss Agency for Development and Cooperation (SDC) and the Republic and State of Geneva—Service for International Solidarity (SSI) for their financial support.

Our hope is that this volume will make a positive contribution to discussions on how drug policy affects the development process, and will be helpful in promoting debates among scholars, practitioners, policymakers and a broader audience interested in exploring how drugs and development coexist and conflict in policy debates and practices.

*The Editors*

Geneva, May 2020

# Preface

*International Development Policy* is a critical source of analysis of development policy and international cooperation trends, with an audience of scholars, policymakers and development professionals. It offers a diverse range of academic views from both industrialised countries and emerging economies.

*International Development Policy* is edited by the Graduate Institute of International and Development Studies, an institution of research and higher education dedicated to advancing world affairs. Located in Geneva, at the heart of an international centre of multilateral governance, the Graduate Institute benefits from a rich legacy linked to the founding of the international system and the League of Nations in the 1920s, and the emergence of the developing world in the 1960s.

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# Acronyms and Abbreviations

ACLED	Armed Conflict Location & Event Data Project
AD	alternative development
ADB	Asian Development Bank
ADCRRP	(UNODC) Afghanistan Drug Control and Rural Rehabilitation Program
ADIDU	(UK) Afghan Drugs and Inter-Departmental Unit
ADP	Alternative Development Plan (of the CLA, Jamaica)
AIDS	acquired immune deficiency syndrome
AL	alternative livelihoods
ALP	Alternative Livelihoods Program (USAID)
ALP-East	Alternative Livelihoods Program (USAID)-East
AREU	Afghanistan Research and Evaluation Unit
ARTF	Afghanistan Reconstruction Trust Fund
ATS	amphetamine-type stimulants
BBC	British Broadcasting Corporation
BEDT	British Embassy Drugs Team (Afghanistan)
BMZ	German Federal Ministry for Economic Cooperation and Development
C28	(UNODC Afghanistan Pilot Program) Poppy Reduction Project
CARD-F	Comprehensive Agricultural and Rural Development-Facility (Afghanistan)
CARICOM	the Caribbean Community
CARSI	Central American Regional Security Initiative
CCC	Cannabis Certification Council
CDCS	Community Development Councils (Afghanistan)
CEDD	Collective of Studies on Drugs and Law (Colectivo de Estudios Drogas y Derecho)
CIJS	Centres of Juvenile Integration (Centros de Integración Juvenil, Mexico)
CIM	Inter-American Commission of Women
CLA	Cannabis Licensing Authority (Jamaica)
CNDH	National Commission on Human Rights (Comisión Nacional de los Derechos Humanos, Mexico)
CONADIC	National Commission against Addictions (Comisión Nacional contra las Adicciones, Mexico)
CRC	(UN) Convention on the Rights of the Child
CSR	corporate social responsibility
CSTF	Civil Society Task Force on Drugs
DCAP S	(UNODC) Drug Control Action Plans (in Afghanistan)
DCCUS	Drug Control and Coordination Units (in Taliban-controlled Afghanistan)
DDR	disarmament, demobilisation and reintegration

DEA	Drug Enforcement Administration (US)
DFID	Department for International Development (UK)
DODC	development-oriented drug control
DUDS	Drug use disorders
EC	European Commission
ECDD	(WHO) Expert Committee on Drug Dependence
ECLAC	United Nations Economic Commission for Latin America and the Caribbean
EIC	the British East India Trading Company
EIRP	Emergency Irrigation Rehabilitation Project (Afghanistan)
EMCDDA	European Monitoring Centre for Drugs and Drug Addiction
ENCODAT	Encuesta Nacional de Consumo de Drogas, Alcohol y Tabaco (Mexico)
ENPOL	Encuesta Nacional de Población Privada de la Libertad (Mexico)
EU	European Union
FARC	Fuerzas Armadas Revolucionarias de Colombia
GCDP	Global Commission on Drug Policy
GDP	gross domestic product
GDPO	Global Drug Policy Observatory
GI-TOC	Global Initiative Against Transnational Organized Crime
GIZ	German Corporation for International Cooperation (Deutsche Gesellschaft für Internationale Zusammenarbeit)
Global Fund	Global Fund to Fight AIDS, TB and Malaria
GPDPD	Global Partnership on Drug Policies and Development
HDI	Human Development Index
HFZ	Helmand Food Zone
HIV	human immunodeficiency virus
HMEP	Helmand Monitoring and Evaluation Program
HRI	Harm Reduction International
HRW	Human Rights Watch
HSRC	Human Sciences Research Council
I-ANDS	Interim Afghanistan National Development Strategy
IACHR	Inter-American Commission on Human Rights
ICG	International Crisis Group
IDEA-NEW	(USAID) Incentives Driving Economic Alternatives for the North, East, West
IDPC	International Drug Policy Consortium
IDPU	International Drug Policy Unit (of the London School of Economics (LSE))
IISD	International Institute for Sustainable Development
ILO	International Labour Organization

INCB	International Narcotics Control Board
INEGI	Instituto Nacional de Estadística y Geografía (Mexico)
INL	United States Bureau of International Narcotics and Law Enforcement Affairs
INPUD	International Network of People who Use Drugs
IPS	Inter Press Service
KFZ	Kandahar Food Zone
KMT	Kuomintang
LMICs	low- and middle-income countries
MDGs	Millennium Development Goals
MDMA	methylenedioxy-methamphetamine (known as ecstasy)
MISTI	Measuring Impact of Stabilization Initiatives (Afghanistan)
mt	metric tonne
NABDP	National Area-Based Development Program (Afghanistan)
NAS	Narcotics Affairs Section (of the US embassy in Islamabad)
NDCS	National Drug Control Strategy (Afghanistan)
NDPS	Narcotic Drugs and Psychotropic Substances (Act, India)
NEHLP	National Emergency Horticulture and Livestock Project (Afghanistan)
NERAP	(World Bank) National Emergency Rural Access Project (Afghanistan)
NGO	non-governmental organisation
NPPs	National Priority Programs (Afghanistan)
NPSS	new psychotropic substances
NRVA	National Risk and Vulnerability Assessment (Afghanistan)
NSP	National Solidarity Program (Afghanistan)
NYNGOC	New York NGO Committee on Drugs
OAS	Organization of American States
OHCHR	Office of the United Nations High Commissioner for Human Rights
OSF	Open Society Foundations
PAHO	Pan American Health Organization
PAL	(GIZ) Project for Alternative Livelihoods Program Eastern Afghanistan
PEPFAR	the United States President's Emergency Plan for AIDS Relief
PFC	patient focused certification
PHR	Physicians for Human Rights
PNIS	Programa Nacional Integral de Sustitución de Cultivos de Uso Ilícito (Colombia)
PRI	Penal Reform International
PRSPs	Poverty Reduction Strategy Papers
QUIPS	quick impact projects
RAADD	Russia-Africa Anti-Drug Dialogue
RADPs	(USAID) Regional Area Development Programs (Afghanistan)



RAMP	Rebuilding Agricultural Markets Program (of the US government, Afghanistan)
RHIPTO	the Norwegian Center for Global Analysis
RII	Resource Innovation Initiative
SASPR	South Asia Poverty Reduction and Economic Management (World Bank)
SDG(s)	Sustainable Development Goal(s)
SIGAR	Special Inspector General for Afghanistan Reconstruction
SOCA	Serious Organised Crime Agency (UK)
SSR	Security Sector Reform (Afghanistan)
STI(s)	sexually transmitted infection(s)
TB	tuberculosis
TCC	The Cannabis Conservancy
THC	tetrahydrocannabinol
TNI	Transnational Institute
UD	urban development
UK	United Kingdom
UN	United Nations
UN CND	United Nations Commission on Narcotic Drugs
UNAIDS	Joint United Nations Programme on HIV/AIDS
UNAIDS PCB	UNAIDS Programme Coordinating Board
UNDCP	United Nations Drug Control Programme
UNDG	United Nations Development Group
UNDP	United Nations Development Programme
UNGA	United Nations General Assembly
UNGASS	United Nations General Assembly Special Session on the World Drug Problem
UNICEF	United Nations Children's Fund
UNIDIR	United Nations Institute for Disarmament Research
UNIOGBIS	United Nations Integrated Peacebuilding Office in Guinea-Bissau
UNODC	United Nations Office on Drugs and Crime
UNSC	United Nations Security Council
USAID	United States Agency for International Development
US	United States
VNGOC	Vienna NGO Committee on Drugs
VRAEM	the valley of the Apurimac, Ene and Mantaro rivers (Peru)
WACD	West African Commission on Drugs
WEF	World Economic Forum
WHO	World Health Organization
WSIA	World Society of Intravenous Anaesthesia

## Notes on Contributors

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## *Introduction*







# Are Barriers to Sustainable Development Endogenous to Drug Control Policies?

*Khalid Tinasti, Julia Buxton and Mary Chinery-Hesse*

## Abstract

This introductory chapter explains the rationale behind the 12<sup>th</sup> thematic volume of *International Development Policy*, which explores the tension between development and drug control goals, both current and historic. The volume of fifteen chapters draws on a broad spectrum of thematic issues to address the following key questions: Are prohibition and development mutually exclusive or complementary international agendas? How do the harms associated with drug policy enforcement undermine development prospects? The diverse group of authors highlight the corrosive effects of criminalisation and prohibition-based approaches on the livelihoods and fundamental rights of those who are vulnerable, including women, children, people who count on drug cultivation and trafficking to make a living, and people who use drugs. They also address the limitations and feasibility of development-focused interventions in drug control strategies within the context of the prohibition paradigm.

Since the ratification in 1961 of the *Single Convention on Narcotic Drugs*, the international drug control regime (UNODC, 2013) has seen the world through the lens of achieving ‘drug free societies’. This ambition of eliminating mind- and mood-altering substances—except in robustly controlled medical and scientific circumstances—is historically rooted and based on a simple premise: that prohibiting access to substances such as opium, morphine, cocaine and cannabis would eliminate demand and ‘evil’ dependence. The progress of prohibition from a US-based nineteenth century political movement (Mennell, 1969) to a global drug strategy was premised on the assumption that state authorities possessed the legitimacy and capacity to enforce prohibition across a neatly defined national territory, and that citizens would accept this policing of their livelihoods and personal behaviours. Criminalisation, stigmatisation and repressive punishment have been the primary tools used by states to enforce prohibition and to prevent the cultivation of drug plants (opium poppy,

coca, cannabis) and the manufacture, distribution and use of their derivatives (Bewley-Taylor, 2012).

The six decades since the 1961 *Convention* have seen immense political and economic change. The experience of decolonisation, Soviet communism, the Cold War and globalisation have reshaped geographical spaces, cultures and identities; epidemics and health emergencies modified the public health architecture by making patients active partners in the response; new technologies have emerged, science has advanced, and fundamental rights and freedoms have been recognised. International drug control policy, by contrast, has ridden waves of seismic change to persist, unchanged and seemingly immune to the uptake of international obligations and scientific evidence (GCDP, 2019). The international commitment to prohibition has been reaffirmed through four political declarations since the 1990s (UN, 1990; UNODC, 2019).

Increasingly repressive (sometimes militarised) efforts to achieve (constantly renewed) international and national level goals of 'drug free societies' have run parallel to a flourishing of illegal markets. These continue to expand and diversify, including through synthetic drug manufacture, crypto-markets and other digital innovations (Aldridge and Décary-Héту, 2016). Not only have six decades of prohibition failed to eliminate illegal markets, repressive enforcement efforts have created multiple, sharply regressive outcomes (Csete et al., 2016). These have been explored through the lens of race, health and gender outcomes (Nougier, 2018). This volume considers the specific case of development, and how global development goals are impacted by prohibition-based drug strategies (GCDP, 2018).

In 2008, the UN acknowledged the 'unintended' consequences of drug control (UNODC, 2008). These included the 'value added' by criminalisation to otherwise worthless plants, shrubs and chemicals; the generation of an illicit market with an estimated annual turnover of USD 500 billion; the displacement of cultivation, manufacture and trafficking routes following interdiction; the violence and insecurity created by confrontations between law enforcement and criminal actors; ill health and disease spread; and policy and budgetary displacement in national policies. These unintended consequences have major implications for the implementation of programmes that aim to advance the Sustainable Development Goals (SDGs) and for the institutional environment in which development objectives are meant to be achieved.

This volume explores the tension between development and drug control goals, both current and historic. The contributions draw on a broad spectrum of thematic issues to address the following key macro questions: Are prohibition and development mutually exclusive or complementary international agendas? How do the harms associated with drug policy enforcement undermine

development prospects? The volume's opening contribution, from Buxton (Chapter 2), discusses the historical salience of development issues to international drug policy debates. It details the evolution of supply-focused and law-and-order based responses in global- and national-level drug strategies, and how this approach has imposed a disproportionate cost on some of the poorest and most unequal countries of the world. While the shift to development-oriented strategies in the 1990s and the new millennium was to be welcomed, she argues that early expectations have not been met, in part owing to shifts in contemporary development strategy and the failure to address land reform, as well as to the economic incentives created by the persistence of criminalisation. Collins (Chapter 3) then separates out development concerns from drug policy narratives, arguing that 'innovations' such as alternative development (AD) policies have a long historical trajectory and are not a logical extension of the international drug control system. Through a focus on colonial Asia, he argues that local elites and colonial administrations long wrestled with questions of development in drug crop cultivation areas. Continuity is seen to persist in the challenge of containing the 'alienating force' of illicit drug crops and offsetting the advantages that cultivation provides in terms of 'self-sufficiency, capital accumulation, resources for paid access to private health and economic and security services'.

In a policy comment, Brombacher and David (Chapter 4) of the German Corporation for International Cooperation (Deutsche Gesellschaft für Internationale Zusammenarbeit, GIZ) explore the uptake by national governments of development-led approaches to drug crop cultivation. They trace the evolution of AD in drug supply control from the 1970s and the institutionalisation of development-oriented responses in United Nations (UN) drug conventions and political declarations. The *Outcome Document* of the 2016 United Nations General Assembly Special Session on the World Drug Problem (UNGASS) is cited as a particular milestone for its provision of a chapter dedicated to development-oriented drug control. Endorsement and uptake have not, however, translated into an increase in funding for AD initiatives. This has eroded the viability of development-focused responses. For Mansfield (Chapter 5), the ideological, conceptual and programmatic confusions around AD were manifest in Afghanistan, to the detriment of opium poppy reduction and development ambitions. Alternative development 'came to mean different things to different people', with aid used for a variety of purposes and without consistency or clarity of ends. Despite the centrality of Afghanistan to the opium trade, and years of 'best practices' and 'lessons learned' on AD, Mansfield notes the absence of a strategy to transition farmers into licit livelihoods.

International drug policy is at an important turning point. The historic consensus on prohibition is fracturing and giving way to national-level reform initiatives (Hall, 2018). For Bewley-Taylor, Jelsma and Kay (Chapter 6), this opens up new forms of inequality, de-development and market exclusion. The boom in medical cannabis and the legal regulation of adult non-medical cannabis consumption has enabled for-profit cannabis companies in the global North to capture cannabis markets aggressively. Small-scale traditional farmers from the global South are excluded from these hesitant openings. Traditional cultivators are being pushed out of emerging legal markets, despite the economic and development opportunities participation can bring. It is argued that affirmative action, regulation of foreign investment, and well-designed legislative and market strategies are required to ensure 'a more equitable, fair(er) trade cannabis regulation model'.

The second part of this volume comprises a series of commentaries that focus on the wider conditions of development, addressing human development and the interconnections between drug policy, insecurity, participation, politics and institutions. Reitano (Chapter 7) analyses drugs and drug policies as factors driving violence and weakening prospects for conflict resolution and peace processes in conflict-affected states. Linking back to and broadening the earlier critiques of AD, her contribution argues that the drug policy community has significantly failed to 'offer proven alternatives beyond the point of cultivation for actors further along drug supply chains'. Tinasti (Chapter 8) furthers consideration of the detrimental institutional impacts of drug control with the argument that drug policy embeds neo-patrimonial practices in drug producing and transiting countries. For Tinasti, criminalisation enables penetration by organised crime, fuels corruption of state and security officials and exacerbates electorally driven clientelist practices. Moreover, prohibition narratives feed into populist political campaigns and sloganeering that stigmatise minority populations of people who use drugs.

Fordham (Chapter 9) turns her attention to the participatory aspects of drug policy governance. Her commentary considers the important question of stakeholders in drug policy processes and their relative power and influence. She argues that exclusionary practices, including those due to criminalisation, marginalise populations who are most directly and negatively impacted by drug policy enforcement. Despite powerful interests in the persistence of the prohibition paradigm and established patterns of influence lobbying, she notes the attention now given to health, human rights and development concerns as a result of activism by civil society groups. José Ramos-Horta, former President of Timor-Leste, former UN Special Representative, Head of the UN Integrated Peacebuilding Office in Guinea-Bissau, and member of the Global

Commission on Drug Policy, shares his views on prohibition as the guiding principle of drug policy, the vulnerability of politics to illicit financial flows, and his experience as former UN Special Envoy in Guinea-Bissau (Chapter 10).

The third section presents thematic case studies relating to the environment, health and the rights of women and children in order to draw attention to the effects of drug policies on development and human development. Af-sahi (Chapter 11) highlights the environmental impacts of intensive cannabis cultivation using the comparative cases of California and Morocco. This contribution explores the relationship between cannabis cultivation and water use, land, forests and wildlife. Linking back to the earlier issues of fair-trade cannabis raised by Bewley Taylor, Jelmsa and Kay, Af-sahi considers the experiences and vulnerability of cannabis farmers and their communities.

The drug trade and enforcement practices are sharply gendered. Illicit market structures, law-and-order responses and generic drug ‘violence’ affects men and women differently. Giacomello (Chapter 12) unpacks these gendered dynamics through the lens of women incarcerated and detained for drug-related offences. While highlighting the over-incarceration of women as one of the crudest manifestations of contemporary drug policy failings, the chapter demonstrates how this draconian policy approach reproduces violence towards women and exacerbates their vulnerability and marginalisation. Giacomello addresses drug control as a driver of rights violations, and as a ‘silo’ area of global governance that frequently violates and contradicts other international bodies and priorities. Similarly, Barrett and Lohman (Chapter 13) focus on children to emphasise the recurrent clash of treaty and rights obligations in the international system, which they cite as corrosive for development. They highlight that young people are frequently at the centre of policy debates, with prohibition justified as a means of protecting future generations from harm. The reality, for Barrett and Lohman, is one of superficial discourse that is particularly weak in addressing the risks and harms caused to children by supply-side control activities (crop eradication, interdiction). Their contribution focuses on commitments made through the Sustainable Development Goals (SDGs) (indicator 3.8, access to essential medicines, and indicator 8.7, addressing the worst forms of child labour) and how these are undermined by the process of scheduling drugs under international control, in turn speaking to SDG indicator 16.6 on accountable institutions and the arguments put forward by Fordham.

Our final two contributions address the health dimension of drug policies—an integral element of both rights- and development-based agendas, which is regularly undermined by criminalisation. Csete’s policy comment (Chapter 14) argues that health—understood as both a precondition and an outcome of

development—can be positively influenced by the reform of drug policy approaches, for people who use drugs and their communities, as well as with regard to general access to pain relief and essential controlled medicines for patients in need. Under current criminalisation approaches, however, drug policy inflicts a high toll ‘on the health of people and communities touched by drug consumption, drug crop cultivation and drug law enforcement’.

Scheibe, Versfeld and Shelly (Chapter 15) conclude this volume with a contribution that focuses on South Africa and draws on their experience as researchers and medical practitioners. They argue that criminalisation policies and the stigmatisation of people who use drugs in South Africa have had negative effects on health outcomes, but that the country is locked into existing approaches as a result of local conservatism and international aid conditionality. Reinforcing this volume’s emphasis on accountability in drug policy processes, their contribution calls for mechanisms to better hold officials and policymakers responsible for the health and human rights of all people.

This volume is a call to the development community to better engage with the impacts of drug policy on development objectives. It highlights the corrosive effects of criminalisation and prohibition-based approaches on the livelihoods and fundamental rights of vulnerable women, men and children. It aims to address the limitations and feasibility of development-focused interventions in drug control strategies within the context of the prohibition paradigm. It also highlights the fact that criminalisation and draconian enforcement strategies have impacts that undermine progress towards the SDGs, while reform initiatives such as cannabis legalisation risk reproducing new forms of formal market exclusion.

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**PART 1**

*Milestones of Drug Policies and Development*





# Drug Control and Development: A Blind Spot

*Julia Buxton*

## Abstract

Development questions have been central to international drug policy since the first tentative steps towards a global control regime over a century ago. The strategy that was devised to limit the cultivation of mind- and mood-altering plants imposed a disproportionate cost on cultivating territories in the global South. This burden intensified in the post-war period and as the 1961 *Single Convention on Narcotic Drugs* and United States ‘war on drugs’ in the 1970s institutionalised ‘narcotics’ as a security issue and a law enforcement concern. Despite criminalisation and coercive state eradication efforts, illicit narcotic plant cultivation (opium poppy, coca) has persisted, reaching record highs after 2015. Recent decades have seen improved understanding of development deficits as the driver of sustained illicit cultivation. However, high-level efforts to promote inter-agency and thematic linkages between drug strategy and global development goals have seen the reinvention of orthodox approaches to both drug control and poverty reduction. Neither has a record of sustainable success or of raising concerns as to the counterproductive impacts of policy reproduction. In patching together new ideas within failing paradigms, alternative development is better understood as ‘policy bricolage’.

## 1 Introduction

In 1998, the United Nations General Assembly Special Session on the World Drug Problem (UNGASS) adopted the landmark *Action Plan on International Cooperation on the Eradication of Illicit Drug Crops and on Alternative Development* (UN General Assembly, 1998). This recognised alternative development (AD) as ‘a process to prevent and eliminate the illicit cultivation of plants containing narcotics and psychotropic substances through specifically designed rural development measures in the context of sustained national growth and sustainable development efforts in countries taking action against drugs, recognizing the particular socio-cultural characteristics of the target communities and groups, within the framework of a comprehensive and permanent solution to the problem of illicit drugs’. This marked a

de-escalation (at least in declaratory terms) of coercive efforts to eliminate the cultivation of narcotic drug crops—specifically opium poppy and coca. The 1998 *Action Plan* was an implicit acknowledgement that state eradication strategies had not reduced local or global cultivation volumes, or the manufacture and supply of derivatives—opiates (morphine, heroin) and cocaine. Chemical fumigation and manual destruction of plants had instead contributed to ‘set-backs, surprising developments and unintended consequences’ (UNODC, 2009, 2, 163). Embracing of development dimensions marked recognition by international drug control bodies (the United Nations Commission on Narcotic Drugs (UN CND) and the United Nations Office on Drugs and Crime (UNODC)) that it was necessary to engage with the drivers of sustained cultivation. This was reiterated in the 2016 *United Nations General Assembly Special Session Outcome Document* (UNGASS *Outcome Document*). Institutional endorsement of AD promised a shift in supply control strategy. Rather than interpreting cultivation as incentivised by criminal gain, AD drew attention to development deficits that characterised cultivation zones (Brombacher and Westerbarkei, 2019, 89), including those resulting from violent conflict in key cultivating territories such as Colombia, Afghanistan, Peru and Myanmar.

Recognition of development aspects in drug control ran parallel with increased attention to illicit drug economies from the development and security communities. The correlation of drugs, poverty, conflict and organised crime embedded drugs as an intra-agency concern, with drug economies viewed as an obstacle to peace, state building, rule of law and poverty reduction. The promotion of thematic linkages across portfolios (Alimi, 2019) and the shift from a hard, militarised to a soft, development orientation in drug control was an opportunity to push evidenced and rights-based responses to drug crop cultivation, and for the uptake of best practice in gender mainstreaming, conflict sensitivity, stakeholder participation and ‘local ownership’ as promoted by United Nations (UN) agencies.

In the two decades since the 1998 *Action Plan*, record levels of coca and opium poppy cultivation were recorded, pushing the volume of cocaine and opiate manufacture to historic highs (UNODC, 2018). In looking at the record of AD over the last twenty years, a benign interpretation lends to the view that it has been a marginal, ill-defined and underfunded element of supply reduction strategies. At worst, AD has framed misguided interventions that have caused more harm than good in complex and vulnerable rural communities. This chapter argues that AD cannot be successful without a shift in the international drug policy paradigm of prohibition. The persistence of prohibition-based approaches constrains the potentialities of AD. It creates counterproductive

impacts that AD cannot absorb, and it causes wider development harms, which are addressed in this chapter. The effort to promote thematic linkages across peace, security and development has led to an uptake of the ‘problematisation’ of drugs that perpetuates counterproductive counter-narcotics strategies, norms and narratives. In working within the prohibition paradigm, international development is re-embedding a control strategy that is skewed against the global South and that leads to the reproduction of strategies that have been tried, that have failed, and that continue to set back development prospects. AD has assumed a capital-centric interpretation of development (Selwyn, 2017) within a global trade and financial framework that emphasises neo-liberal orthodoxies. This is in line with the mainstream development consensus that economic growth is the driver of poverty reduction, an approach that is coming under intense critical scrutiny for its record of inequality generation, failure to address the most impoverished, and reluctance to effect meaningful popular participation and empowerment. The assumptions of orthodox development strategies have been absorbed into AD, despite questions as to their appropriateness for poverty reduction in general, and for the challenge of illicit drug crop cultivation in particular. As the conjoining of prohibition and neo-liberal ‘development’ strategies, AD represents the worst of both policy worlds.

This chapter provides an overview of the incentives for cultivation created by the prohibition paradigm. It incorporates a broad historical sweep to highlight the salience of development questions over the *longue durée* of international drug control and to demonstrate how a system so antithetical to the interests of global South countries has been institutionalised. In its historicism, the chapter addresses geographical spaces that have seen changes in power, governance and territory over the century of drug control. In socio-economic terms these relate to low- and middle-income countries (LMICs) and geographically they are concentrated in the global South. The use of the global South terminology illustrates the binary approach that has underpinned the evolution of drug control.

## 2      **Establishing the Global Divide: from Free Trade to Trade Regulation**

Development questions have been at the heart of international drug control since the foundational 1909 Shanghai Conference. The follow-up 1912 *The Hague International Opium Convention* and four subsequent pre-war (World War II) drug conventions set the international community on a policy path

that regulated the historic and booming international trade in opium poppy, coca and their derivatives.

Peru's national development plans at the end of the first decade of the twentieth century had looked to an expansion of dynamic coca leaf and cocaine exports to the United States (US) and central Europe. Expanding markets for coca leaf and cocaine-based beverages, tonics and pharmaceuticals had driven massive expansion of Peruvian coca leaf exports, from 7.9 tonnes in 1877 to 943 tonnes (mt) by 1905 (Gootenberg, 2001). Markets were transformed by the publication of Sigmund Freud's *Über Coca* (1884) and uptake of cocaine in medical practice and anaesthesia. Coca leaf exports from Java (Indonesia) rose from 26 mt in 1904 to 430 mt in 1910 on the back of Dutch and pharmaceutical sector investment. Opium export revenues and state licensing systems were a strategic stream of finance for colonial administrations in South Asia. India was the engine of the British opium trade, with over 1.5 million households in east and west India (Bengal and Malwa regions) cultivating opium for export to China. After defeating China in two wars (1839–42 and 1856–60) Britain forced open the Chinese market for Indian opium exports, which soared from 200 mt in 1800 to 6,500 mt by 1880 (UNODC, 2008, 23). Opium revenues accounted for 53 per cent, 29 per cent and 6.5 per cent of the total state revenues of the British colonial administration in Singapore, Hong Kong and India, respectively, in 1907. In French Indochina (Vietnam, Cambodia), monopolies and licensing systems raised 17.1 per cent of revenues for the colonial administrations. In the Dutch East Indies (Indonesia) this figure was 14.3 per cent (UNODC, 2008, 43). After the British forced China to accept the de facto legalisation of domestic opium poppy cultivation in 1880, opium production boomed to an estimated 35,353 mt by 1906. Swaths of the Persian and Ottoman empires were under poppy cultivation, with authorities in both territories encouraging opium exports to offset trade deficits with Europe. Turkey produced an estimated 150 tonnes of opium in 1907, while Persian opium production was in the range of 450–900 tonnes (UNODC, 2008, 34). As in India, this was at the cost of food production, with the substitution of opium poppy for wheat contributing to Persia's Great Famine of 1870–72, in which some 1.5 million people died.

The early control system obliged a role for the state and colonial administrations in limiting, to medical and scientific purposes, the cultivation, export, import and use of these plants and their mass-commercialised derivatives. The approach sought to navigate the dual-use dilemma of plants and drugs with valuable pain-relieving properties also being liable to misuse. This responded to a lobby of evangelical (in the US), Quaker (in the United Kingdom, UK) and anti-imperialist 'policy entrepreneurs' (Mintrom and Norman, 2009)

that critiqued the exploitative colonial relations underpinning the opium trade and campaigned against the moral and social damage attributed to the use of these substances. US Christian groups propagated anti-opium, cannabis and cocaine norms that mobilised racist tropes and anti-immigrant sentiment and played to concerns around restive colonial subjects (Musto, 1999). It followed that international action and national legislation were necessary to protect citizens from these ‘narcotics’, and that cultivating territories had a moral and economic responsibility to accept and police a small, regulated international market.

The Shanghai conference was a ‘critical juncture’ (David, 2007). It triggered new institutional formations and a new path. In line with the emerging treaty frameworks, national and international bureaucracies were created to monitor and report cultivation, manufacture and import/export trends to the League of Nations. The US was among a number of countries that introduced restrictive domestic legislation preventing access to opiates, cocaine, and cannabis. This path marked dramatic change in the management of historically traded agricultural commodities. It had enormous implications across the globe, akin in its reverberations to steps to ban coffee, sugar or rice today.

### 2.1 *The Impact of International Trade Regulation*

The source focus in the control model required empires, European colonial administrations, and subsequently independent states to forgo sales and tax revenues from popular cash crops, to jettison commodity-led rural development strategies, and to accept rural unemployment and reduced household incomes without compensation. For the US—the country that championed the foundational Shanghai conference—the financial impacts were negligible. By contrast the nascent regulatory framework required searing adjustment by cultivating regions. Millions of households were involved in the opium poppy and coca economies, with the cultivation, transportation and trading of these cash crops being the backbone of rural and national incomes. As outlined by Ghiabi in relation to Iran (2019, 44–45), ‘Labourers, commission and export merchants, brokers, bazaar agents, chiefs, clerks, manipulators, packers, porters, carpenters, coppersmiths, retailers, and mendicants were part of this line of production. During harvest time, they were often accompanied by a motley crowd of dervishes, story-tellers, musicians, owners of performing animals and a whole industry of amusement providers who were paid for their company’.

The pre-war regulatory system and subsequent conditions of global war were successful in dramatically reducing global volumes of opium poppy, opiates, coca and cocaine. This was despite gaps of non-compliance. Peru’s coca exports (mainly to the US) fell from 584,000 kilos in 1909 to 128,000 kilos by



1929. 'Because of wobbling downward prices [...] it was a painful collapse, especially given the early national hopes for cocaine' (Gootenberg, 2001, 12). In Java, where the Dutch had built 'an especially productive and integrated industrial cocaine regime', this was 'dismantled by decree almost as quickly as it arose'. The Java coca and cocaine sectors were taken over by Japanese pharmaceutical companies such as Hoshi, Sankyo, Shiongo and Koto following Japan's invasion and occupation of Java in 1942. This made Japan the centre of 'an increasing autonomous Asian coca-cocaine network [that] appeared from 1920–45', which was subsequently suppressed by occupying US forces (Gootenberg, 2001, 11).

Opium markets experienced a similar decline. British India observed import restrictions imposed by third country ports and authorities in the 1920s, leading to a drop in opium exports across South Asia and, most precipitously, to China. This was on the back of Manchu dynasty reforms that included opium cultivation and consumption reduction, as well as a bilaterally negotiated export reduction agreement in 1907 between China and the UK, which saw 'the last chest of Indian opium [...] publicly burned in Shanghai in January 1919—ending the 300 year Indian-Chinese opium trade' (UNODC, 2008, 49). Surveillance and conditions of global war after 1939 obliterated transnational and local networks for unauthorised supply and distribution.

Going into the immediate post-war period, opium poppy cultivation continued its vertiginous decline amid the turmoil of decolonisation, coups, revolution and state repression, and as competition turned to capturing supply of the authorised, global medical market. In Iran, which was authorised to fulfil 25 per cent of the global legal opiate supply, the Shah imposed a total ban on unauthorised opium poppy cultivation in 1955, including a three-year prison sentence for possession of opium poppy seed. The prohibition impacted some 300,000 poppy farmers and rolled back a programme of opium expansion under a state monopoly established in 1928. In China, Maoist forces ran an opium suppression campaign that was pursued with ferocity after the 1952 *Directive on Eradication of Drug Epidemic* (Zhou, 1999), while in Turkey, opium poppy cultivation was prohibited in 1969 amid protests (Evered, 2011). This progress in reducing cultivation in historical zones was offset by the rise of new cultivating territories and the reinvigoration of demand-side dynamics. The post-war geography of drug cultivation shifted, dissipated and resumed an upward trajectory. As discussed below, this can be linked to the tightening of the international control regime, the shift from international regulation to control, and the militarisation of plant-eradication strategies.

### 3 The Post-war 'Drug War': Americanisation and Criminalisation

In the construction of the pre-war system, European powers balked at the US preference for an 'unambiguous prohibitionist global drug regime' (UNODC, 2008, 48). US and Christian evangelical pressure for blanket prohibition was seen as unenforceable. According to UNODC, 'the typical line of argument used by pragmatists was that: drug abuse could not be eliminated, therefore efforts should focus on limiting the consequences of drug abuse. These colonial powers felt results would be best achieved via high taxes and licence fees' (UNODC, 2008, 48).

#### 3.1 *The 1961 Single Convention*

Just as cultural and social change at the turn of the twentieth century had opened a window of opportunity for the anti-opium campaign, so geopolitical change in the post-war (1945) period provided the US with the leverage to shift the international system from regulation to prohibition (Bewley-Taylor, 2012). Through the use of military, diplomatic and economic tools, the US reconfigured the international system toward proactive interdiction, deterrence and punishment to eradicate drug markets. This was underpinned by the 1961 *Single Convention on Narcotic Drugs*, which criminalised engagement in unauthorised supply and distribution activities of dangerous psychoactive substances. These were to be 'punishable offences when committed intentionally', and it was stated 'that serious offences shall be liable to adequate punishment particularly by imprisonment or other penalties of deprivation of liberty' (Article 36). A 15-year time frame was established for the achievement of zero illicit opium poppy cultivation and 25 years in the case of coca, including the elimination of recreational, religious and cultural consumption practices.

Compliance with international drug treaty obligations was a mechanism via which the US could influence the Cold War security apparatus of strategically important states. This was initially exemplified by the experience of Turkey (Gingeras, 2013) and Iran (Gingeras, 2012). In relation to Iran, Ghiabi (2019, 49) sets out that 'By the end of World War II, a small number of US narcotics officials, many of whom had been previously working as intelligence officers, helped the Pahlavi state to re-produce a prohibitionist regime in Tehran, which, in their strategy had to embody a global model for the rest of the region and beyond. Through this collaboration, US influence within Iran increased significantly, especially for what concerned the repressive, coercive institutions of the Pahlavi state: police, intelligence and the army'.

### 3.2 *The US 'War on Drugs'*

The adoption of a more coercive approach to the enforcement of prohibition gained traction in the early 1970s after the administration of President Richard Nixon re-conceptualised drugs as a national security threat. This first iteration of the US drug war was domestic in focus. As acknowledged by Nixon's national policy advisor John Ehrlichman, there was continuity with prohibitionist strategies of associating drugs and drug use with threatening (racial and political) 'out groups' (Baum, 2016).

During the presidency of Ronald Reagan, a relaunching of the drug war saw repressive domestic drug control efforts conjoined with externally focused supply prevention efforts. At the institutional level, this was characterised by growing security sector influence and autonomy in counter-narcotics policy (Buxton, 2015, 15), the militarisation of policing responses, an expansion of US personnel overseas working on drug policy portfolios (Ayling, 2005) and an escalation of unilateral US action to stem the flow of drugs from source countries, including through decertification (after 1986) and military assistance programmes. The transfer and militarisation of US counter-narcotics strategies was largely concentrated in its southern 'backyard' of Mexico, Bolivia and Peru from the 1970s to the 1990s (Youngers and Rosin, 2004), and moved into Colombia in 1998 with Plan Colombia, followed in the subsequent decade by the Mérida Initiative of 2007 and the 2008 Central American Regional Security Initiative (CARSI). The 1988 *Convention Against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances*, which obliged international cooperation in policing, interception and extradition, marked the universalisation of US counter-narcotics approaches, including through a focus on transnationally organised gangs, the militarisation of enforcement, and punitive criminal justice responses (Woodiwiss and Hobbs, 2009).

International and national level declarations and action plans followed the conventions (and US pressure) in assuming narcotic plants could be eradicated from the planet. Yet as outlined by the Organization of American States (OAS) (OAS, 2013, 19), 'Such a conclusion assumes that the illegal economy could in fact be made to disappear—an assumption for which there is no empirical basis or historical proof—and that the process of combating it would not have costs in and of itself, which is contradicted by the historical evidence available'. Ambitious targets were repeatedly set for the achievement of a 'drug free world', the slogan of the 1998 UNGASS, at which member states committed to achieving significant and measurable reductions in illegal drug supply and demand within a ten-year period. The metrics of international drug policy were favourable to this approach. Monitoring systems developed in the pre-war period (*Geneva Convention*, 1931) required annual country submission of

data relating to unauthorised cultivation and manufacture levels, drug seizure and drug related arrests to the International Narcotics Control Board (INCB). This international exercise in collating enforcement statistics incentivised national-level, short-term gains over strategies for long-term and sustainable reductions.

Cultivator countries (re)embarked on recurrent campaigns to achieve zero cultivation, including in Bolivia (see Kurtz-Phelan, 2005), and in Peru, where authorities unveiled ambitions to eliminate illegal coca cultivation within a five-year period—by 2007 (Rojas, 2003, 13)—a timeframe shared with Laos PDR for the ending of opium poppy cultivation under the Accelerated Rural Development Programme (see Windle, 2017). Coercive responses were being accelerated at the same time that UNODC was finally recognising alternative development as a viable tool in supply reduction with the 1998 *Action Plan*. This raised tensions and contradictions in supply responses that were long-running and that were brought to the fore in the throes of dynamic expansion and change in post-Cold War illegal drug markets.

The emphasis that was placed on delineated markets and supply-side controls by the pre-war regulatory regime established a form of path dependence in international drug control, with path dependence defined as ‘decisions and courses of action available in the present being constrained by those taken in the past, thereby limiting the field of possibilities’ (Buxton, Bewley-Taylor and Hallam, 2017, 39). This had four key implications. Firstly, the evolution of international drug control treaties, agencies and approaches in the post-war period saw the embedding of the disproportionate and historic burden imposed on cultivator territories in the global South. Related here is that the post-war evolution of drug control as a ‘suppression regime’ (Boister, 2002) rendered global South cultivating and subsequently transit territories vulnerable to international pressures, intervention and loss of sovereignty under the rubric of co-operation in counter-narcotics enforcement. Secondly, the emphasis on supply termination to eliminate unauthorised markets, rather than demand reduction (in lucrative North American and European consumer markets), set in motion decades of wrangling over ‘shared responsibility’ for the world ‘drug problem’ and dispute over the importance of global North demand as the driver of South supply incentives. A third aspect is cultural. Opium poppy, cannabis and coca were prized in local medicines, religion and social practices. These traditions and opportunities for developing indigenous botanical knowledge came to an abrupt end with the post-1909 system. There was seen to be nothing to be gained from non-Christian and non-Western ritual and learning around plants that had been cultivated back to the earliest of times, and increasingly so as scientists were able to synthetically reproduce narcotic plants’ properties

(Barsh, 2001). Finally, the pre-war system placed disproportionate emphasis on the control of psychoactive plants, in contrast to the more lenient regulatory treatment afforded to synthetic drugs manufactured in the global North (Buxton, Bewley-Taylor and Hallam, 2017). This insulated synthetics and pharmaceutical drugs from robust regulatory oversight (Brunn, Pan and Rexed, 1975), while the controls around plant organics were progressively tightened, most saliently in the case of cannabis (Bewley-Taylor, Jelsma and Blickman, 2014).

## 4 Accounting for Persistence

US strategy, the valued added created by criminalisation, sustained demand in lucrative markets, and ongoing conditions of poverty and instability in cultivating territories are important for understanding the post-war growth of cultivation in the context of a drug 'suppression regime'.

### 4.1 *US Pragmatism*

The US has played a Janus-faced role in global drug control. While a vigorous promoter of prohibition, US agencies also condoned and encouraged illegal cultivation, manufacture and trafficking activities when in the national geostrategic interest. This realpolitik in US 'narco diplomacy' has been demonstrated in the development of the south-west Asian opium trade in the 1950s (McCoy, 1991), South American cocaine markets in the 1980s (Webb, 1999) and Afghanistan's opium 'boom' in the 1990s and the first decade of the twenty-first century, not to mention in the links between US security, intelligence and political actors and a variety of domestic and international trafficking networks and interests (Campbell, 1977; Raab, 2005).

McAllister (1999, 183) explains US tacit acceptance of cultivation through reference to geopolitical concerns: 'The Cold War warped attempts to impose stringent limitation by creating countervailing pressures favouring increased agricultural production and pharmaceutical manufacture. Fears that drug control measures could cause economic hardship or political upheaval, which in turn might drive strategically located producer states into the Soviet camp hindered the efforts of control advocates'. On a less benign note, the illegal drug trade provided US agencies with a mechanism to fund and enable right-wing and anti-communist insurgencies through off-budget financial channels (Levine and Kavanau-Levine, 2012; McCoy, 1991; Webb, 1999), and acted as a bargaining tool with criminal groups and non-state actors (allowing or acting against their cultivation interests), allowing these agencies to gain political leverage or security advantage. That the US can at once be unrelenting in its

advocacy of prohibition, yet assume a pragmatic posture on drug production and trafficking, reflects institutional, agency and ideological divisions that put US policymakers and programme officials at cross purposes (defence, intelligence, aid). As a 2018 US Special Inspector General for Afghanistan Reconstruction (SIGAR) (SIGAR, 2018, 44) report outlined, 'Everyone did their own thing, not thinking how it fitted in with the larger effort. State was trying to eradicate, USAID was marginally trying to do livelihoods, and DEA was going after bad guys'.

#### 4.2 *Economics of Criminalisation*

Criminalisation created a lucrative black market for otherwise worthless agricultural crops that had crashed out of global markets at the end of the Second World War. But success in reducing cultivation in traditional zones revealed the flawed assumptions of prohibition. Other territories filled illicit global market share, setting off a 'balloon effect' from the 1950s. This was characterised by the recurrent pattern of cultivation suppression being followed by geographical relocation and replanting. This was (and continues to be) observed between and within states, and across drug types. For example, US interdiction of cannabis from Colombia and Mexico led to its replacement with cocaine in the 1970s, and opiate suppression led to methamphetamine manufacture in Thailand, Myanmar and Afghanistan thirty years later. Coca cultivation pinballed across the Andean states, from Bolivia (Chapare and Yungas) to Peru (the valley of the Apurimac, Ene and Mantaro rivers (VRAEM) and Colombia (the Amazon region into Caquetá, Guaviare, Putumayo and Antioquia) in response to coercive eradication. An intra-state 'balloon effect' saw cultivation reductions in one territory (Badakshan and Balk, Afghanistan; Caquetá and Guaviare, Colombia; Kokang and Wa regions, Myanmar) absorbed by cultivation increases in another part of the national territory (Helmand and Kandahar, Afghanistan; Putumayo and Cauca, Colombia; the north-east and south of Shan State, Myanmar) (see Buxton, 2015, 13; Dion and Russler, 2008).

Caulkins and Reuter (2010, 5) emphasise risk and prices in understanding the limited gains of cultivation-eradication programmes: 'Prices in source countries account for only 1–2 percent of retail prices in developed countries. So even if alternative development, crop-eradication, or enforcement in source countries quintupled prices in source countries, the effect on retail prices downstream could be modest [...] Sometimes source-country interventions reduce production in one country, but unfortunately there seems to be no shortage of peasant farmers and criminals in relatively lawless regions who are willing to take up the slack'. Disruption of plant based drug markets (combined with cultural change) was not only ineffective, it was also counterproductive

as it galvanised synthetic drug markets (MDMA and amphetamine-type stimulants (ATS), amphetamine, and methamphetamine) and synthetic substitutes for plant based drugs for two decades, starting in the 1990s. The 2018 *World Drug Survey* showed cocaine (produced in Latin America) to be the least consumed of the traditional narcotics, at an estimated 17 million users annually. By contrast, there were 22 million annual users of MDMA and 37 million ATS users. The rise of markets for synthetics challenged the South-to-North supply paradigm and underscored the ramifications of the more lenient treatment afforded to non-plant based substances in the treaty framework. Synthetic drugs had the advantage of mobile and small-scale manufacture with readily available household products and pharmaceuticals, such as the decongestant pseudoephedrine used in methamphetamine manufacture and reagents such as iodine and phosphorous. Manufacture, distribution and supply chains for synthetics were condensed, contrasting with the long, farm-gate-to-retail chain of opiates and cocaine and its associated interception risks. Western and central European countries developed as important supply states, with East European and Asian countries such as India and China assuming roles in industrial chemical supply. The UN *Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances* (1988) imposed controls on twenty-two precursor chemicals, but the capacity for robust enforcement was eroded by the dual-use nature of the scheduled chemicals, with 'widespread uses in textile, chemical, and pharmaceutical industries' (Kumar, 1998).

Aggressive opiate-interception and coca/cocaine-eradication efforts in the 1980s and 1990s had multiple forms of 'blowback', bringing more countries into the illegal trade as onward distribution points in reconfigured plant and synthetic markets. This geographical expansion was accelerated in the post-Cold War period amid easier movement of people, goods and finance, as well as technological advances. Countries undergoing political transitions and regime change processes (the collapse of Soviet communism; end of military authoritarianism/single-party rule) and characterised by poverty and inequality, weak rule of law, institutional fragilities and a poorly remunerated security sector were particularly vulnerable to penetration by displaced drug markets. This had implications for their political (democratic), security and development prospects. The repatriation of criminal offenders from the US (1996 *Illegal Immigration Reform and Immigrant Responsibility Act*) and the UK (2002) to Central America and the Caribbean was an additional driver of drug trade dissipation and enforcement cost accretion to global South countries. The US deported 46,000 convicted offenders to Central America, 'some of whom had a record of drug trafficking and drug use', and over 160,000 undocumented migrants (OAS, 2013, 21; CARICOM, 2008).



### 4.3 *Enforcement Costs*

The dissipation of the drug trade and drug use into previously insulated territories, the 1988 *Convention*, and the elision of the wars on drugs and terrorism after 11 September 2001 increased pressure for aggressive counter-narcotics responses from national authorities and draconian new drug laws in transition countries. This extended the network of countries locked into bilateral (US) and multilateral (European Union (EU)) counter-narcotics agreements, with the requisite channelling of limited public resources (and development assistance) to enforcement activities (see, for example, Gibert (2009) on Guinea Bissau). Increased law enforcement spending reduced the 'availability of resources for other activities or services critical for development, such as education, infrastructure, environmental conservation, and social protection' (OAS, 2013, 18). To substantiate their argument that 'the opportunity cost of these resources for developing countries, for investments in health, education, or infrastructure, is almost surely larger than that in richer countries', Keefer, Loayza and Soares (2010, 13) highlight that 'The Mexican government [...] is currently spending \$9 billion per year to fight drug trafficking, more than three times the amount the United States spends relative to gross domestic product (GDP) [...] the Colombian government committed to increasing defense expenditures from 3.6 per cent of GDP in 2003 to 6 per cent by 2006 [...] In contrast, public expenditures on health in Colombia were around 5 per cent of GDP in 2000'.

For the OAS, the forfeiting of public investment was egregious given that 'such investments plausibly have particularly high returns in lower income countries, suggesting that the opportunity costs of drug enforcement per dollar spent may be particularly high in countries where the needs for poverty alleviation programs and public investments are acute' (OAS, 2013, 40). Comparing the value of illicit drugs transiting LMICs to the financial capacity of these states reveals an unbridgeable disconnect. The wholesale value of cocaine transiting West Africa was estimated by UNODC in 2006 to be USD 1.8 billion. By contrast, the annual GDP of Guinea Bissau was USD 304 million and the annual public budget just USD 125 million. Similarly, the value of illegal cocaine traffic through Central America was estimated to be USD 50 billion, compared to annual GDPs of USD 28 billion, USD 16 billion, and USD 7 billion in Guatemala, El Salvador, and Honduras, respectively (2006 figures, UNODC).

### 4.4 *Sustained Demand*

Prohibition worked on the assumption that demand for mind- and mood-altering substances would be eliminated as supplies evaporated. Where consumers were not driven to leave the market voluntarily, deterrence, stigma and



harsh criminal sanction were used to punish offenders. At the national level, this was marked by a vast expansion of the powers of states to police and punish private behaviours. This included through laws to remove the family, employment, housing, liberty and even the life of drug offenders—thirty-three jurisdictions adopted capital punishment for drug related offences. Nevertheless, the global demand for drugs continued to grow. By 2018, and despite the roll out of punitive anti-drugs laws in post-Soviet, African, and South Asian states, an estimated 275 million people (5.6 per cent of the global population (UNODC, 2018)) had used drugs at least once over the previous year. Rather than reducing the size of illegal drug markets or advancing the 1998 UNGASS ambition of a drug free world within a decade, the international drug ‘suppression’ regime presided over the diversification of markets into a range of cheaper and purer synthetic, organic and diverted pharmaceutical substances, as well as the emergence of a post-Cold War ‘Global Habit’ (Stares, 1996) of drug consumption that broke down the traditional bifurcation of Southern cultivating and Northern consuming countries.

Coercive ‘prevention’ regimes escalated in response, with record global levels of incarceration for minor, low-level, and possession-related drug offences, in addition to ever more brutal and violent state campaigns of forced treatment, arbitrary detention and extrajudicial killing. Prisons in the Philippines, Indonesia and Thailand were operating at 436 per cent, 202 per cent, and 145 per cent capacity, respectively, in 2018, and in South and Central America, El Salvador and Guatemala had a prison occupancy level of 333 per cent. The figure was 254 per cent in Bolivia, 226 per cent in Peru, and 165 per cent in Brazil. In the US, which led on the policy transfer of incarceration, imprisonment for drug related offences increased from 40,000 in 1980 to more than 500,000 in 2010 (Fellner, 2009). These statistics are underpinned by pronounced social and racial disparities, with policing and criminal justice processes discriminating against poor and marginalised communities and increasingly targeting women (WOLA, 2016; Fleetwood and Torres, 2011). This reinforced patterns of socio-economic marginalisation and rights violations drove the intergenerational transmission of poverty, and served as an incubator of violence (Camilo Castillo, Mejia and Restrepo, 2014) and disease (Csete et al., 2016). Coercive policing was additionally corrosive of the legitimacy of state actors. As outlined by the OAS, ‘The criminalization of broad sectors of the population may also have the pernicious effect of making crime and rule-breaking more “natural” for a growing proportion of society’ (OAS, 2013, 25). In relation to problematic use, the OAS cited factors of vulnerability linked to the breakdown of social cohesion, educational and employment deficits, and poor prevention, treatment and rehabilitation provision (OAS, 2013, 29). Sustained demand, unmet

treatment needs and decreased state credibility in drug policy underpinned buoyant and innovative supply chains, which were in turn incentivised and lucrative due to criminalisation.

#### 4.5 *Conditions in Cultivating Areas*

A final aspect of sustained cultivation relates to conditions of marginalisation, isolation and poverty that render engagement in the illegal drug trade (including in harvesting, collection, transportation and brokerage) a rational, if not the only option for sustaining livelihoods. Those communities that have continued with, transplanted or taken up cultivation typically live in remote, inhospitable areas and are cut off or excluded from state services, security provision and public goods due to conflict, orthodox economic adjustment processes, geography or weak (illegitimate) state penetration. These circumstances of multidimensional poverty particularly relate to displaced populations, communities marginalised due to ethnicity or race, and social sectors impacted by poverty (land, cash, infrastructure, access to markets). Where these structural characteristics intersect, the incentives for cultivation are pronounced (see Buxton (2015) for a summary of the literatures). Illicit crop cultivation offers a host of advantages over participation in formal agricultural systems with licit crops. Initial input costs are low; coca and opium poppy offer quicker and more frequent plantation-to-harvesting cycles; they are resilient crops with high resistance to blight and disease; they have a ring-fenced market usually supported by guaranteed intermediaries; they provide access to land and credit; and, most importantly, they do not need facilities for storage, refrigeration and speedy market delivery. Illegal cultivation responds to the needs and deficits of the most impoverished, as well as those who lack the assets, resilience networks and capital to participate in formal economies and transnational market chains.

While providing economic and other forms of security, illicit cultivation has negative ramifications for cultivating communities. It brings vulnerability to violence and coercion from the state, criminal organisations and informal power-holders (Norwegian Refugee Council, 2010) and food insecurity, and it contributes to environmental degradation (soil erosion; water and land pollution from chemicals in derivative manufacture) (OAS, 2013, 35).

Coercive counter-narcotics measures vigorously pursued under the mantle of the US-led 'drug war' and national counter-narcotics initiatives have exacerbated the vulnerabilities of cultivating communities and the accountability and legitimacy deficits of the state. Forced eradication has been characterised by state violence, rights abuses, land grabs and forced displacement, resulting in escalated insecurity for cultivating communities. Eradication exercises have

contributed to environmental and ecological degradation, including through the use of fumigation by chemical herbicides (glyphosate use in Colombia) and the burning and bombing of illicit cultivation sites and manufacturing facilities (Clemencia Ramírez, 2005). In response to the fear of eradication, illegal drug cultivators speed up production cycles or move deeper into protected areas and national forests to disguise cultivation from aerial surveillance, compounding the environmental damage associated with the illegal drug trade and counter-narcotics responses (Buxton, 2015; OAS, 2013, 34).

Crop destruction eliminates livelihoods, encouraging violent defensive reactions from cultivators and initiatives by cultivators to seek support and protection from insurgent groups, informal power holders and other non-state actors. Eradication is also a mechanism for corruption, empowering state actors to derive financial gain from tip-offs and negotiated eradication avoidance. An evaluation of the forced eradication strategies that have been implemented over the last four decades points to a poor record, with displacement, dissipation and transplantation offsetting short-term gains (Jelsma, 2001; Mansfield, 2016; Felbab-Brown, 2016).

#### 4.6 *National-Level Impacts*

Illegal drug exports can create wealth, employment and hard currency earnings, but with distorting effects on the wider macroeconomy. This includes through loss of fiscal revenues due to untaxed but lucrative economic activities; vulnerability to ‘commodity dependence’ and Dutch Disease, including exchange rate appreciation; reduced economic management capacity; and resource accumulation and concentration (land, cash and infrastructure). The formal economy is undermined by the loss of capital, entrepreneurs, and workers to the illegal drug sector; by increased (fiscal) risk, and by burdensome regulations intended to address the informal sector (anti-money laundering regulations; export and import certifications). This imposes operating costs that are elevated in the context of proximate drug related violence (security expenditures; kidnap and extortion risk) (Fleming, Roman and Farrell, 2000; Miron 2010; Thoumi, 2002).

The damage done by unruly but financially robust drug markets to governance, transparency and the rule of law has been extensively documented and is another important element of the drugs and development nexus. It includes the corruption of state actors and institutions by bribery and coercion, impunity, and a narrowing of participation and political debate as wealthy illegal drug interests purchase security, information and political protection (Inkster and Comolli, 2012). For the OAS, this situation ‘produces a vicious cycle of erosion of democratic governance: the more that public institutions

and procedures are weakened, the more state institutions are susceptible to being permeated by the illegal drug economy'. Prohibition based strategies presume a functioning state, and incorruptible law enforcement. This liberal institutionalism frames a clean, 'white' public administration that is contrasted with the dark forces of the 'black economy'. This ideal type has no reality in practice, with all countries located within a grey area of corruption, bribery, lawbreaking and fraud.

## 5 Alternative Development

A dramatically different approach to militarised eradication strategies recognised that cultivation was driven by more complex factors than criminal gain. It addressed household reliance on illegal crops, with the goal of enabling a sustainable transition of the household into the formal economy (Boonwaat, 2001). This AD approach was a form of 'puzzling' (learning from failure, see Wood, 2014) within the established policy paradigm of prohibition. It accepted the fundamentals of drug control, operating 'within a framework of ideas and standards that specifies not only the goals of policy and the instruments that can be used to attain them, but also the very nature of the problems they are meant to be addressing' (Hall, 1993, 279).

### 5.1 *The Thai Experience*

AD is viewed as having been most successfully implemented in Thailand, where opium poppy cultivation had been prohibited in 1959. After a decade of unsuccessful military-led eradication efforts within a wider anti-communist campaign, the Thai Royal Family took the lead in addressing ongoing cultivation in the Northern Highlands by Hmong minorities displaced from China. Led by King Boumibol, the Thai Royal Highlands Project encouraged Hmong community participation to identify and address citizenship and infrastructure deficits. Economic formalisation was supported through investment and skills training. Recognising the livelihoods vulnerability caused by the lag between crop eradication and employment in alternative, formal agriculture, it was agreed eradication would be undertaken on a negotiated basis, and only when cultivators had economic alternatives in place. In addition, the Hmong were permitted to cultivate small amounts for personal consumption (Renard, 2002). The continuity and legitimacy provided by the Royal Family has been a key factor in the success of the (ongoing) project and accounts for the long-term support received from the UN and donor governments (most prominently Germany).

For some critics, the Thai AD experience was a nationalist project of 'state extension through the administration of development-orientated projects' (Windle, 2016, 97). From this perspective, AD was a means of securing the state's presence in its frontier territories and instilling in Highland groups 'a sense of belonging and national loyalty to the nation' (Windle, 2017, 371). Nevertheless, it was successful in achieving sustained reductions in Thai opium poppy cultivation and it served as a model of best practice in long-term, non-coercive approaches to illicit cultivation elimination that was initially copied by Laos in 1994 with the Comprehensive Drug Control Programme (Boomwaat, 2001; Windle, 2017, 368).

The Thai model and official endorsement of AD in the 1998 *United Nations Action Plan on Alternative Development* and the 2016 UNGASS *Outcome Document* encouraged a move away from simple crop substitution programmes that had been trialled in a number of Latin American cultivating zones in the 1980s—with limited success in reducing cultivation. These initiatives lacked the resources and long-term donor commitment necessary to achieve sustainable cultivation reductions. They were variously critiqued for encouraging uptake of agricultural crops that were poorly remunerated and vulnerable to rot and disease; for focusing on white elephant projects; for failing to provide cultivators with the skills, assets and resources required for long-term formalisation; and for failing to engage cultivators as stakeholders in the design and delivery of AD projects. Conditionalities attached to development assistance and including prior destruction of narcotic crops failed to recognise the livelihoods vulnerabilities of cultivators, and criminalisation of cultivation precluded trust and confidence building between cultivators, development agencies and state authorities. The result was inappropriate, short-term, foreign-designed projects that had negligible impact on cultivating communities (Léons and Sanabria, 1997).

## 5.2 *To AL and DODC*

On the back of these criticisms and supported by the 1998 *Action Plan*, drug control authorities became engaged in more complex projects that incorporated health, education and infrastructure investments (GIZ, 2006; Mansfield, 2006) termed alternative livelihoods (AL) and development oriented drug control (DODC). These emphasised holistic approaches that addressed the development needs of cultivation zones within a wider framework of national poverty reduction and political incorporation. AL and DODC absorbed the participatory thrust of the Thai Royal Highlands Project, sensitivity to the gendered dynamics of cultivation and onward marketing activities, and uptake of anti-poverty initiatives such as conditional cash transfers. In contrast to US

'development' approaches, these reformulated AD initiatives did not impose prior crop-eradication as a condition for development support.

Despite this innovation and cross-sectoral learning, the record of AD has remained poor (Farthing and Ledebur, 2015; 2005; Jelsma, 2002; Mansfield and Paine, 2005). Key challenges most recently highlighted in relation to Afghanistan and Colombia include the lack of clear, consistent and long-term strategic planning; persistent funding shortfalls; short-term cycles; and programmatic incoherence. The last of these challenges is epitomised by the lack of joined-up planning and information sharing within and between foreign and domestic counter-narcotics and development agencies, and the persistence of divergent approaches and interpretations of the cultivation 'problem' (*The Economist*, 2018).

Support for militarised strategies is embedded within key actors, institutions and processes (the US, domestic security sectors) and has been reinforced by the conflict dynamics that pervade most cultivation areas. The terrorist attacks on the US of 11 September 2001 led to a reassertion of coercive supply control strategies driven by the elision of the 'war on drugs' and 'war on terror'. This marked a return to the narrative of cultivating communities as criminals and terrorist enablers, in turn legitimising state violence and eroding trust and partnership in cultivation reduction (Tickner, 2014). Particularly problematic has been the lack of consensus around the sequencing of crop eradication and receipt of development support, with domestic and foreign actors following distinct and uncoordinated approaches.

The interlinking of drugs and counter-insurgency has led to a reassertion of the security sector as the primary actor in counter-narcotics, and absorption of development briefs and budgets into security portfolios. This has resulted in strategies that have been dictated by the primacy of security and stabilisation concerns, in turn leading to dramatic policy and programme shifts and a lack of predictability in AD funding patterns. In some cases, security actors have assumed responsibility for QUIPS (quick impact projects) informed by strategic and 'hearts and minds' considerations rather than sustainable, integrated and measurable development objectives (Isacson, 2006; 2012; Vargas Meza, 2011). Mechanisms for channelling AD funding have been criticised for the mobilisation and empowerment of traditional community 'gatekeepers', informed by political pragmatism and resulting in poor oversight, corruption and the generation of new forms of rural inequality and stratification. In this context, local ownership, rights-based approaches and 'stakeholder participation' in AD programme design and monitoring and evaluation has been limited, as has been the mainstreaming of gender and conflict sensitivity.

While DODC promoted greater national ownership of localised illicit economies and encouraged a shift away from addressing cultivation zones as ‘enclave’ areas, it failed to gain the high-level uptake, domestic ownership, legal institutionalisation or the bureaucratic capacity necessary to steer more effective integration into national programming. Conversely, in emphasising national rather than localised dynamics, AD/DODC was critiqued for failing to take into account the social, political, economic and cultural conditions of cultivating areas. Programme assessments were thin, informed by weak baseline information and metrics narrowly focused on drug control not development indicators. The absence of development-oriented metrics underscored the limitations of AD as ‘experimentation’ within the existing prohibition policy paradigm (Oliver and Pemberton, 2004).

### 5.3 *The Limitations of AD*

In both its traditional and more contemporary development-oriented forms, AD does not have transformative potential. It does not challenge the structural causes of cultivation, including land inequalities, racial and ethnic marginalisation, or the imbalances of power that enable privileged spoilers to disrupt and dismantle development initiatives. The capacity of AD programmes to deliver long-term and well-remunerated rural livelihoods is eroded by the reality of conditions in formal and global markets comprised of transnational supply chains and downward consumer pricing dynamics. In the absence of large-scale social investment, land redistribution programmes and large-scale capital investment, AD does not offer cultivating communities the resources or the resilience necessary to maintain household incomes in fiercely competitive domestic and international markets. In geographical and programming terms, it is a limited response that has been confined to rural areas without engaging with the challenges presented by urban drug markets and synthetic substitution (UNODC Plenary Session, March 2019). Particularly problematic is the ongoing lack of institutional clarity around AD, AL and DODC—the terminology and ambitions of the last of these largely jettisoned in a return to the traditional and generic programming narrative of ‘AD’. ‘Development’ has continued to be variously construed as externally defined, market-led with conditional assistance (US), locally driven with unconditional assistance but market oriented (EU; OAS) or as state-led modernisation (China; Laos). The emphasis is on the role of the private sector or state entrepreneurs in leading investment and identifying market opportunities in vulnerable, unequal and unstable territories. These approaches do not enable economic empowerment of cultivating communities and do not address structural inequalities, and they create new market-driven forms of livelihoods insecurity.



At the national level, AD programmes have been subject to flux resulting from governance shifts, altered priorities and divergent problem interpretations—Colombia in the transition from President Juan Manuel Santos to Ivan Duque being a pertinent case study of such trends. Bolivia is a cogent example of the interlinked challenges of national ownership, policy innovation within the prohibition paradigm, and policy shifts linked to political change. In 2004, Bolivia legalised registered coca leaf cultivation, initially up to one cato (1,600–2,500 square metres). This was formalised in the 2009 Constitution introduced by the government of Evo Morales, former leader of the coca farmers union, and in line with his administration's *Coca si, Cocaina no* policy (Farthing and Ledebur, 2015; Grisaffi, 2019). The policy ended coercive, US-led eradication strategies and empowered indigenous communities to cultivate for the domestic coca market. Implementation was administered and policed by coca unions and communities, a strategy of participatory alternative development that was funded by the EU. But it faced strong opposition from the INCB and put the Morales government on a collision course with the US government. The move required Bolivia's withdrawal from, and subsequent readmission into, the treaty framework (Grisaffi, 2019). Despite the institutional hurdles and US antagonism, the policy was acknowledged to have been successful in reducing illicit cultivation and the violence associated with eradication exercises, as well as in generating sustainable incomes for local communities (Farthing and Kohl, 2005; Farthing and Ledebur, 2015). After the Morales government collapsed following a contested presidential election and Morales fled the country in November 2019, an 'interim', military-backed administration avowedly opposed to the *Coca si* strategy took power. The policy was reversed as the 'interim' government transitioned Bolivia back to the US diplomatic and political orbit.

While presented as radical and innovative, AD is a conservative initiative that accepts modest policy adjustment in order to keep the fundamentals of prohibition the same. It is framed by the 'zero cultivation' logic and supply orientation of the existing control system, and the rapidly disintegrating model of arbitrarily delineated medical, regulated and unauthorised markets. As outlined under objective 1 of the 1998 *Action Plan* on AD, states are required 'to take appropriate measures to prevent the illicit cultivation of plants containing narcotic and psychotropic substances and to operate to improve the effectiveness of eradication efforts, *inter alia*, giving support to alternative development'. AD is a new tool within an existing international policy and normative framework of prohibition that is biased against the global South, which continues to displace enforcement costs to LMICs and locks down the historical focus on plants. It is tepid in only addressing cultivation rather than wider development questions, poverty and exclusion in manufacture and trafficking



states, and in emphasising market-based solutions to critical problems of structural and global inequality. As such, it is a response to the ‘accumulation of anomalies’ resulting from coercive eradication efforts, but as outlined by Wilder and Howlett (2015, 106), ‘The potential for defeat in discursive battles to institutionalize ideas also raises the possibility that some or most elements of the existing paradigm may be retained and not replaced’.

## 6 Development: a Prohibition Blind Spot

Drugs and development questions are comprehensively intertwined, including in relation to the financial, social and political impacts on development prospects of coercive counter-narcotics strategies. Yet as outlined by the OAS and notwithstanding high-level commitments to better thematic and programmatic linkage, ‘drug and development policies tend to be formulated in isolation’ (OAS, 2013, 9), including due to the protracted resistance of drug control bodies (Bridge, 2017; Brombacher and Westerbarkei, 2019, 90). Efforts to break down institutional and agency silos and promote policy and operational synergies were reflected in the 2016 UNGASS *Outcome Document* and incorporation of drug-related crime and health concerns in the 2030 Sustainable Development Goals (SDGs, 16 and 3, respectively). However, the integration of drugs and development comes at a time when the record of development is—like drug policy—coming under critical scrutiny.

‘Development’ and ‘sustainable development’ are contested and ambiguous in concept and practice, with a ‘veritable industry of deciphering and advocating what sustainable development really means’ (Robert, Parris and Leiserowitz, 2005, 11). At its most basic, development can be defined as a collective responsibility for a process of change that enables individuals to realise potential, fundamental rights and improvement. On this score, the optimism of the opening decade of the twenty-first century and hopes of transformative change for all has given way to more sceptical evaluation of the recent record of development. Statistics on poverty reduction (and World Bank data) have come under scrutiny, including on the basis of measurements used and their reliability (Hickel, 2018; Sumner, 2016); the egregious concentration of wealth in the top 1 per cent (Selwyn, 2017); the precarious nature and low remuneration of employment in global market chains; and the challenges presented by a new geography of poverty that has emerged in those countries that have experienced the most dynamic growth (middle income). Liberal and market-centric assumptions have been a key concern, most specifically in the persistent emphasis on growth (rather than distribution and redistribution) as

the driver of development. Contemporary development goals are based on a broad international consensus that is epitomised in commitments such as the Millennium Development Goals (MDGs), the SDGs and in mechanisms such as national Poverty Reduction Strategy Papers (PRSPs). For critics, however, this represents a minimum consensus, does not address issues of power, and obscures a gap between declaratory statements and implementation (Cornwall and Brock, 2005; Vandemoortele, 2003).

For Cornwall and Brock, ‘Three words—“participation”, “empowerment” and “poverty reduction”—have recently gained considerable purchase in the language of mainstream development’. These have created an agenda for transformation that ‘combines no-nonsense pragmatism with almost unimpeachable moral authority’ (Cornwall and Brock, 2005, 1043), provides ‘a neat route-map for implementation’ (Cornwall and Brock, 2005, 1044), and which assumes measurability. But the extent to which development and anti-poverty agendas represent any meaningful shift in politics, policy and practice is questioned. It is argued that the radical roots of concepts such as ‘participation’ and ‘empowerment’ have been narrowed, neutered and ‘reconfigured in the service of today’s one-size-fits-all development recipes, spun into an apoliticised form that everyone can agree with’ (Cornwall and Brock, 2005, 1048; Stewart and Wang, 2003). The persistence of unequal market power, the accumulation of elite wealth, the consolidation of corporate power and the persistence of poverty raise serious questions as to how far the contemporary development agenda represents a significant change to patterns of capital accumulation, exploitation, participation and gender relations (Crewe and Harrison, 1999; Groves and Hinton, 2004; Mosse, 2005; Whitehead, 2003).

As with AD, contemporary development strategy is critiqued for having created new classes of poor while simultaneously maintaining a narrative of reaching the poorest of the poor. As highlighted by Christian Aid (2019, 7), ‘the SDGs are barely touching the places where peacebuilding challenges are most urgent: the margins (both geographical and economic) and the borderlands where violence, fragility and displacement are rife’. Cultivation zones and drug economies are a ‘blind spot’ for development in general and the SDGs in particular, failing—like AD—to meaningfully engage with power dynamics, collection of quality data or an adequate understanding of ‘how men and women in local communities mitigate risks through illicit activities’ (Christian Aid, 2019, 10). The retention of drug criminalisation within a development-oriented framework is untenable, perpetuating rights abuses, stigmatisation, violence and harm. As surmised by Christian Aid (2019, 14), ‘Overall, the SDGs reflect the conventional view that illicit drug crop economies lie outside the development sphere. Instead of being seen as integral to the lives and livelihoods

of those living on the margins, these economies are treated as a “distortion” or pathology that must be isolated, combatted and destroyed. Therefore, law enforcement—including policies associated with the war on drugs—rather than development and peacebuilding are at the leading edge of efforts to combat drug economies in fragile, borderland regions’.

## 7 Conclusion

The integration of drug policy and development policy provides an opportunity for new thinking on deeply embedded structural inequalities that exist between North and South and within global South countries. While efforts to promote improved synergies between drug and development policies are to be welcomed, limited progress can be achieved by enhancing the interface between policy paradigms that are counterproductive, unrealistic and that cause more harm than good. The 1998 *Action Plan*, the SDGs, and the 2016 UNGASS *Outcome Document* are notable for ignoring and excluding meaningful, evidence-driven engagement with the development impacts of criminalisation. Complex development questions cannot be addressed within the institutional and normative framework of criminalisation, with the associated primacy of law-and-order approaches, security actors, and enforcement metrics. Prohibition is an impediment to rights-based agendas, stakeholder participation and structural reform processes that should be the basics of any meaningful international and national effort to address poverty and insecurity. Rather than supporting policy alignment, the development community must be at the forefront of pressure for drug policy paradigm change, and as national policy experiments in the decriminalisation and legalisation of cannabis bring issues of fair trade, comparative advantage and global North hypocrisy to the fore.

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# Imperial Drug Economies, Development, and the Search for Alternatives in Asia, from Colonialism to Decolonisation

*John Collins*

## Abstract

This chapter challenges contemporary policy conceptions on the historical relationship between drugs and development policies. It uses a historical analysis to examine the interaction of drugs, governance, security, welfare and economic development policies within drug producing contexts in Asia, from colonialism through the period of decolonisation. It highlights that although modern narratives of drugs and development tend to view the latter as new and involving even immediately contemporary innovations for dealing with the outcomes of drug economies and drug policies, the historical reality is much more complex. Managing drugs and development was a fundamental historical process of state regulation, control and the settling of geographical boundaries, both economically and physically. This chapter posits two foundational ideas. First, the issues of drugs and development have always been fundamentally linked, from the globalisation of trade through mercantilist imperial policies, state formation, the limits of governance, the distribution of economic gains, and political economy outcomes stretching from the local to the global. Drugs, licit and illicit, have therefore always been an issue of economic development. Second, policymakers have long recognised and developed state responses based on the above reality. While not going under its now 'official' title, many of the principles of 'alternative development' have been ingrained in policy responses and limitations over the past several centuries.

## 1 Introduction

Modern narratives of drugs and development tend to view the latter as new and even immediately contemporary innovations for dealing with the outcomes of drug economies and drug policies (UN General Assembly, 2013). Alternative development is seen as a logical evolution of the United Nations (UN) drug control system, rather than a phenomenon whose doctrines long predated the modern control system. Moreover, attempts to link contemporary

illicit economies and their management to the Sustainable Development Goals (SDGs) again view this as a novel framework, the tenets of which policymakers have historically shunned. In both cases, the historical reality, as this chapter will demonstrate, was far more complex. Opium and the licit–illicit economy divide was always a fundamental issue of political economy and economic development. Moreover it was treated as such by local elites and European colonial elites. Its typification into a simple dichotomy between eradication and development, as often encapsulated within one-dimensional views of ‘alternative development’, misses this larger historical story. Drugs and development was a fundamental historical process of state regulation, control and the settling of geographical boundaries, both economically and physically. This chapter attempts to tell this story through the long history of drugs as development and the history of drug policy as development within the Asian region up to the period of decolonisation.

This paper posits two foundational ideas for better understanding contemporary drugs and development policies. First, the issues of drugs and development have always been fundamentally linked, from the globalisation of trade, through mercantilist imperial policies, state formation, the limits of governance, the distribution of economic gains, and political economy outcomes stretching from the local to the global. Drugs, licit and illicit have therefore always been an issue of economic development. Second, policymakers have long recognised and developed state responses based on the above reality. While not under the official title of ‘alternative development’, many of its principles have been ingrained in policy responses and limitations over the past several centuries. British administrators sought to navigate the political economy of the Indian opium trade. Administrators in Burma promoted a development-first, harm reductionist approach (although not specifically labelled as such) that placed economic and political stability ahead of ideological and drug fetishist goals of eradication and prohibitions, even if this ran counter to emerging international norms and obligations. Beneath often lofty, ideological and normative aspirational goals, policymakers frequently and explicitly recognised the issue of drugs and drug markets as one of economic development and economic fundamentals.

This of course raises the complicated and contested question of how one defines ‘development’, particularly over a long historical case study. For example, it might be pointed out that, Asian countries, during the colonial period, had little agency or right over national governance issues that were determined to a large extent in the capitals of Europe. This raises the question of ‘whose development?’ Nevertheless, to proceed with this discussion we must build a model of development based on a selection of criteria (Bassi et al., 2019). As

this is a discussion of the role of development within drug control, we must use the two most commonly referenced frameworks—that of alternative development and how the United Nations General Assembly Special Session on the World Drug Problem in 2016 addressed this (UN General Assembly, 2016), and the 2030 Agenda for Sustainable Development agreed in 2015 (UN General Assembly, 2015). This chapter thereby engages questions of development and drug control policies from UN frameworks that serve as the basis for understanding contemporary donor and member state approaches. Furthermore, it draws on drug crop cultivation literature that utilises development paradigms to understand the ‘double-edged sword’ of illicit drug economies (Buxton, 2015; Mansfield and Pain, 2005). That is, that they represent an alienating force with regard to many mainstream development processes, in many ways separating the communities from the political and economic core, while also providing cash crops to enable self-sufficiency, capital accumulation, resources for paid access to private health and economic and security services. The question, therefore, is not simply one of drug crops providing short-term economic gains or ‘growth’. It is instead about understanding the impacts of these changing drug economies and the regulations governing them, on the fundamental social, economic, political, environmental and security circumstances of communities and nation states experiencing them. These are, under the umbrella of the 2030 Agenda for Sustainable Development, key issues related to economic development and can be conceptualised as such in historical analyses. This is the jumping off point for this chapter.

## 2 Drugs as a Historical Phenomenon

As historian William O. Walker III wrote, ‘[t]here is no adequate way [...] to understand the foreign and security policy issues affecting Asia without appreciation of opium’s role’ (Walker, 1992). This chapter expands this statement to include the role of development: there is no way to understand the economic development and development policies of large parts of Asia without a thorough understanding of the role of drugs.

First, the globalisation of the opium trade in Asia closely resembled the globalisation of transnational labour and population flows. Beginning in the nineteenth century, China provided the first large-scale ‘free wage labour’ for parts of Southeast Asia. Migrant workers moved en masse into these regions—namely Malaya, Sumatra, southern Siam, Tonkin and Borneo—and were quickly recruited into tin or gold mines, or plantations of pepper, gambier, sugar, tobacco and rubber (Trocki, 2002, 300). Although Chinese migration

had less of an impact on more populous regions, such as Siam, Java, Cochinchina and Southern Burma (Trocki, 2002), the migration of Haw, Hmong and other tribes from China into other parts of Asia favoured the spread of opium cultivation and consumption (Chouvy, 2013). The two often moved hand in hand. For example, an official League of Nations Commission of Enquiry reported in 1930 that '[c]ontact with Chinese Immigrants has in other Far-Eastern territories usually been the cause of the indigenous population acquiring the opium-smoking habit' (League of Nations, 1930, 37). Indeed, the recognition of this interaction between commodity trades and labour movements helps explain the historical plurality of regulatory frameworks enforced within many Southeast Asian territories, with different rules applying to different migrant or indigenous communities within the same geographic territories (Collins, 2017a).

Second, the expansion of drug markets was an inevitably economic, and thereby developmental, phenomenon. The expansion of drug supply and drug markets globally was an innate process of globalisation. As Chouvy writes, '[t]he caravan tracks of the Haw, which crisscrossed Siam very early, largely contributed in turning Thailand into a privileged hub of heroin trafficking' (Chouvy, 2013, 4). Meanwhile, the contemporary trade routes serving legal and illegal commodities were effectively the same as those the Burmese had used previously to invade Siam, including in the sixteenth and eighteenth centuries (Chouvy, 2013). The link between illicit economies, empire, state formation and conflict is at once inextricable and innately complex.

Third, the production and consumption of mind-altering substances has been an inextricable part of social history. Globalisation merely accelerated and magnified this phenomenon, making it global. As David Courtwright highlights, like other global commodities drugs were influenced by technological changes that significantly increased the gross tonnage of supplies and trade. Efforts to control drugs were an inevitable by-product of their increasing prevalence, ubiquity, visibility and economic impacts (Courtwright, 2012). Global control initiatives therefore focused on regulating and restricting supply to socially determined notions of 'legitimate' use. As McAllister and Spillane write, 'The central question' at the turn of the twentieth century 'was not whether the state would ultimately restrict some aspects of distribution and sale, but whose authority would be privileged in the process of creating and implementing those regulations' (Spillane and McAllister, 2003, S.6). State interactions with drug markets, and attempts to define the limits of acceptability, desirability and the benefits/costs that accrued to governing political entities, represented a modern extension of earlier social norms and practices. The latter had served as checks on production and consumption in

premodern societies while modern empires and states sought to control these commodities through regulations and prohibitions in pursuit of political-economic ends.

### 3 European Empires, Mercantilism and Control of the Sino-Indian Opium Trade

Historian Peter Dale Scott similarly argues that in order to understand post-World War II illicit drug trades in Asia, one must first understand the opium policies of the British Empire in the nineteenth century (Scott, 2010). The Sino-Indian opium trade began in the mid-sixteenth century, and was soon taken over by Portuguese, British and Dutch traders. A fragmentary and ultimately localised trade soon became subsumed under the monopoly of the British East India Trading Company (EIC). With it, India became the dominant regional, and thereby global actor in the trade (Windle, 2012). Thus, European empires transformed the issue into a global one, with concomitant cross border geopolitical and legal issues. Where one imperial state, China, increasingly sought to restrict and prohibit the domestic consumption of opium (Westad, 2012), European empires looked to it as a corrective to major trading imbalances and thereby a mercantilist route towards trading and political power within the region (Trocki, 1999).

China's early opium concerns became acute as it manifested as a foreign influence. The prohibitionist policies of 1729 directly reflected its perception as a practice centred on the south-east coast. Opium, under this conception, was not a problem related to cultivation or consumption but to smuggling and foreign interference (Bello, 2003). As opium became associated with Western consumption practices, namely the mixing with tobacco to form smokable opium known as 'madak', so too did the sense of foreign incursion and threat (Courtwright, 2012). These early concerns became amplified when it became apparent that the Chinese state was haemorrhaging silver to buy Indian opium. Qing efforts to counter these outflows ultimately produced the Opium Wars with Great Britain (Bello, 2003). China's defeat in these conflicts, and its forced opening to trade with the West, saw China legalise opium. This was formalised under the *Convention of Peking* of 1860, in part to provide revenues to sustain the ever-weakening Chinese government (Brown, 2002).

Meanwhile, at a more local level, the development of Yunnan as a major source of opium reiterated both the formidable economic role of the commodity as well as the limits of the Qing State's reach. As Bello writes,

Qing prohibition in the southwest alerted authorities to the existence of an alternative domestic source of opium that thrived on weaknesses in the imperial administrative system. Ethno-geographic conditions in Yunnan weakened the central government's local administrative presence, which was already prone to a dependence on unconventional revenue sources. The southwestern traffic was well placed to exploit these weaknesses. Moreover, local cultivation of opium proved particularly suited to the needs of the indigenous peoples, Han peasants, and merchants, as well as local dynastic officials, because it was powerful enough to generate incomes for all concerned.

BELLO, 2003, 1134

Meanwhile, the Qing State itself became reliant on opium revenue, a reality that helped negate central government efforts to enforce prohibition in many interior regions (Bello, 2003, 1135). Indeed, Bello continues, 'it was competition from southwestern afurong, not pressure from central government prohibition, [that] ultimately drove Indian opium from China' (Bello, 2003, 1134).

The development of opium markets in Asia thereby had undoubtedly large macroeconomic and thus political impacts. These often simply reinforced economic development processes already underway. European powers used revenue farming systems to minimise their imperial administrative and political cost base. In this way, they 'farmed out' revenue collection to indigenous elites by auctioning the right to tax or develop a monopoly on distribution or sale of a specific good, including opium, alcohol, sex work, gambling and other activities. Opium represented a particularly liquid enterprise with high cash flow and thereby an ability to accumulate large capital stocks. Trocki goes further, arguing that the opium farming systems existing in parts of India, China and virtually all Southeast Asian states 'were important adjuncts of capitalist development within the region' (Trocki, 2002, 297). Therein developed a premodern economic fabric to weave together the complex strands of governance, taxation, local elite development and control of the most fundamental principle of sovereignty—the ability to tax. Again, as Trocki writes,

The farms also financed commodity production and helped to generate the infrastructure for consumer economies. These institutions helped to create the finance and state structures that protected businessmen and their profits [...] In fact, all Asian governments depended upon opium farms for major portions of their revenue.

TROCKI, 2002, pp. 297–8

There seems little to question, therefore, regarding the common belief that opium held 'immense importance' for the Indian and global economy in the nineteenth century (Richards, 2002a, 151). For all its merits, however, Trocki's work derives from a heavily critical framework, perhaps too deterministic in its utilisation of macroeconomic indicators to demonstrate an imperial inflection point in Asian economic development. This may help overshadow the situational role of opium within local political economies. Taking the latter approach may instead place imperialism as one strand in a broader web of development. Furthermore, Trocki's work perhaps serves to fetishise opium as a sole determinant of imperial expansion. Extending Trocki's macroeconomic insights, a microeconomic level analysis provides some additional potentially useful insights.

Kranton and Swamy examine the market structures surrounding the EIC opium monopoly and compare it to its textiles trade (Kranton and Swamy, 2008). The EIC initially operated an opium contract system, but accusations of corruption, abuse of locals and low quality products led to the adoption of an 'Agency System' in 1797 (Kranton and Swamy, 2008, 982). Private cultivation and sale was banned; agents provided capital advances to producers on behalf of the Company; farmers had to grow in specific areas, harvest and deliver opium to agents. It was then generally marked for auction in Calcutta to privateers, who would largely sell on to China (Kranton and Swamy, 2008). Profits were high, and monopoly power was openly wielded to thwart competition, and occasionally utilised to flood the market, such as during the 1830s. Meanwhile, standards and quality maintained the Opium Agency and ensured it survived for over a century. By 1860, around the time the Crown ended the EIC and assumed direct administration of India, opium represented 17 per cent of the Government of India's revenues (Kranton and Swamy, 2008). Similar stories pervaded the region. In the last decades of the nineteenth century, the Netherlands' Indies opium farms accounted for 18 per cent of total colonial revenue, or 35 per cent of tax revenue, and French Cochin-China and Siam showed comparable figures (Trocki, 2002). In Siam in 1905–6, opium farms yielded one-fifth of total government revenue, almost double the second most important revenue source, gambling farms. Yet in 1907 the Siamese government abolished the opium farm system and took over sole administration of the opium monopoly (Brown, 1993).

As a counterexample, the EIC operated a typical procurement process for textiles—providing a capital or input advance with a promise to deliver by the supplier, whereupon compensation would be provided. This proved difficult to enforce given opportunities for both sides to partially go back on these commitments, and uncertain enforcement mechanisms. Competition amongst



buyers gave weavers many potential outlets, linkages between the EIC and its local agents were weak and undermined by information asymmetries, and centralised EIC control in London limited the ability of local actors to adjust to market clearing prices (Kranton and Swamy, 2008). The EIC Opium Agency avoided many of these problems. It was a legal monopsony and monopoly, and thereby negated legal competition for suppliers' produce. Local agents had greater flexibility on pricing, while the EIC simultaneously pursued greater oversight of agents and reinvested supernormal profits into anti-corruption measures (Kranton and Swamy, 2008). Nevertheless, over time, the indigenous poppy growers of Yunnan and Sichuan provinces in China supplanted the role of traffickers and opium from British India. This meant that by the close of the nineteenth century, Qing China, specifically its south-west provinces where enforcement capabilities were more limited, was the world's largest producer of opium (Bello, 2003).

Burma, meanwhile, proved a complicated case. Ethnic divisions produced differing policies. Nineteenth century rulers in Burma had sought to prohibit opium use by ethnic Burmans, but largely excluded Chinese, Shan and Kachin inhabitants from restrictions on consumption. Initially, British conquest brought a standardisation of policies with India, including prohibitions on local production and mandating purchases of Indian monopoly opium. However, following the conquest of Upper Burma in 1885, a more strict policy was instituted, effectively mimicking the regulations imposed by previous Burmese rulers, forbidding the sale of alcohol or opium to Burmans, while establishing shops to sell to Chinese and non-Burmans (Richards, 2002b). Eventually, reformist pressure at home forced an application of these more stringent rules to Lower Burma also (Richards, 2002b). Thereby, within Burma, the Government of India had shifted from a pragmatic policy of what Richards terms 'maximum revenue from minimum consumption' and now 'committed itself to a new level of social control—one that would be exceedingly difficult to enforce' (Richards, 2002b, 413 and 418). A surge in the illicit market drove the government to quickly backtrack. It relaxed restrictions on licensed shops in Lower Burma and these gradually expanded, supplied by Indian opium as well as seizures of Chinese and Shan State Illicit Opium.

### 3.1 *Rethinking the Socioeconomic Impacts of the Sino-Indian Opium Trade*

Conventional analysis has portrayed the Sino-Indian opium trade in stark terms. It was an aggressively extractive imperial enterprise that impoverished and degraded all but investors in the metropole. As Alfred McCoy wrote, British India 'became Asia's first large-scale opium smuggler, forcibly supplying

an unwilling China' (McCoy, 2003, 78). This conception represented conventional wisdom for much of the last century, with many improbably attributing impoverishment to the suppliers as well. A 2019 BBC article, for example, sought to remind audiences 'How Britain's opium trade impoverished Indians' (Biswas, 2019).

More recent historical analysis, however, does not seem to support the viewpoint that 'opium causes poverty'. Some scholars attribute the development of capitalism in Southeast Asia to the revenue farming system, of which opium was a key pillar. As Trocki writes,

Before the nineteenth century, it is no exaggeration to say that capitalism did not really exist in Southeast Asia [...] Even those who did produce for the global market rarely sold their goods into the market and they consumed even less from it. Many exchanges were ritualised and took place within relations of dependence. Despite centuries of commerce, there was no real middle class in any Southeast Asian society, nor was there any 'free' wage labour. There was no properly commercial forms of production, finance or banking and there were no systems of law that would have protected or regulated such enterprises. Rulers were arbitrary and absolute; wealth in itself could not effectively exist without the protection of the power elites.

TROCKI, 2002, 299

It was the European empires that brought capitalism and stitched the Southeast Asian economies into the global economic system. Opium, at least in part, enabled this. However, it was not solely a European creation. Instead, it was the Chinese who largely created the local capitalist institutions capable of interfacing with the global economy. Under these conditions, opium farming served as a key impetus and mechanism, serving also as likely the largest financial generator for emerging Chinese businesses. Opium farming conferred primacy of wealth and political power, making contract holders 'inevitably the richest and most powerful individuals in their communities', extracting massive rents while engaging in minimal day-to-day activities (Trocki, 2002, 299). This is not to say that these contract holders had a largely passive role. They were key intermediaries, coalescing financial resources and investors, and subsequently managing the resultant investments. The farms, thereby, served as major focal points for capital accumulation, and with it economic and political power. This reality leads Trocki to label the opium farms as 'the first and perhaps most effective means of accumulation in nineteenth-century Southeast Asia' (Trocki, 2002, pp. 299–300). Once the opium passed through the monthly auctions, it

ceased to be a concern of the EIC and would change hands multiple times before ending up with one of the large Chinese exporting firms, which would ship it to Shanghai via Hong Kong or south China ports and their mainland wholesalers (Newman, 1989).

Richards, meanwhile, argues that the trade 'benefitted the Indian economy and some groups in society more broadly than is generally recognised' (Richards, 2002a, 152). Both its export value and quantity increased over the nineteenth century. Coupled with a high value-to-weight ratio, this meant that its large profit margins had strong direct and indirect impacts on the economy (Richards, 2002b). The 1878 Opium Act superseded provincial regulations and their inconsistent application, and gave the Government of India the sole right to regulate and control production through distribution and possession (Richards, 2002b). By the 1880s it was still likely one of the highest value commodities in global trade routes, with roughly 5,400 metric tons departing from Calcutta and Bombay each year, producing 93.5 million rupees in government revenue (Richards, 2002b, 377). Simultaneously, the Opium Act served to further cement a process already underway, namely shrinking the geographic areas under cultivation (Richards, 2002b).

Nevertheless, reformist pressure grew in Britain for the outright abolition of the trade. A Royal Commission on Opium was appointed to examine the question. Its findings, however, ran directly counter to the claims of abolitionists. The Commission minimised the impact that the trade was having on social and political decay, while pointing to the substantial financial and economic impacts an end to the trade would impose on India. Furthermore, China simply stood ready to step into the Indian void. China was under no actual obligation by that point to accept Indian opium as the British Government had publicly relinquished a right of intervention (Richards, 2002b). Reformists lambasted the report as pushing an economic status quo and 'whitewashing' of the reality on the ground (Berridge, 1999; Richards, 2002b). This negative view of the Commission has permeated much historiography since, although more recent revisionist historiography has pushed back. As Richards writes in 2005, to assume

[t]hat the Government of India somehow deceived the members of the Commission by a Potemkin village façade is also erroneous [...] The Royal Commission on opium was not a whitewash [...] Opinion in the Indian-owned English language and Indian language press strongly opposed prohibition [...] [meanwhile] a majority of the leaders of the fledgling Indian National Congress, while uneasy with the moral aspects of the opium trade [...] disapproved of the anti-opium agitation occurring

in England and [...] saw the reform campaign as a form of cultural imperialism.

RICHARDS, 2002b, pp. 380–1

Richards goes further:

In their zeal to attack the iniquities of the opium traffic and the British imperial interests that supported and profited from it, the reformers sensationalised the presumed harm done to Indian consumers of opium and minimized the costs to India of ending the traffic. They ignored Indian sensitivities by denying any cultural and social value to the use of opium. The opium reformers were blinded by strongly ethnocentric biases—more so than those British officials, physicians and others who actually lived in India.

RICHARDS, 2002b, 381

In many ways, the British rulers feared most the social unrest that could follow any attempts to interfere with local cultural sensibilities, economic activities or other political sensitivities. Since the 1857 revolt, they had assiduously avoided anything that could provoke local backlash, such as interfering with the opium system. As Richards writes,

[f]or opium, as for alcohol and cannabis (ganja), the Government of India avoided absolutist positions. It assumed that consumption of these substances would continue, that abstinence was a chimera and that the best the state could do would be to restrain these habits. The system that emerged in each major region of the subcontinent was sensitive to varying local conditions, cultural preferences and economic circumstances.

RICHARDS, 2002b, 409

This would be mirrored by the approach of British administrators in Burma half a century later. Still, proponents of the status quo faced a losing battle. Professional moralists and reformers only increased pressure and international regulations, at first bilateral, then multilateral.

#### 4 New Regimes

The beginning of the end of the mercantilist opium systems came with the Anglo-Chinese Opium Agreements of 1907–14. Britain, often portrayed as a

reluctant protagonist in the international control system, in fact helped inaugurate it through these far-reaching bilateral agreements. From its peak in the 1870s, opium had been supplanted by domestic Chinese opium by 1900. Still, it represented the Government of India's third largest source of revenue and China's biggest source of customs revenue as well as a major cash crop for millions of Indian peasant farmers. Opium also served as an important social and 'quasi-medical' outlet for large numbers of labourers throughout the region, a physical and mental escape from the daily toil of back-breaking work (Newman, 1989). While traditional historiography portrayed Britain and other imperial powers as pursuing naked economic self-interest in bucking reformist calls for international prohibitions, more recent work has drawn a more complex picture. Imperial powers were at once conflicted and ambivalent about opium's role within the economic systems and societies they managed, but ultimately reluctant to attempt grand experiments with social engineering, such as prohibition (Collins, 2015; McAllister, 2000; Mills, 2014; Newman, 1989).

Nevertheless, changing economic realities helped weaken the opposition to prohibitions. Transportation improvements reinforced the comparative attractiveness of producing bulkier and perishable commodities for global markets. Wheat, barley, sugar, tobacco and potatoes all pushed poppy out of fields (Newman, 1989). In Ghazipur, opium production succumbed to rice and oil seed production in the 1880s, opium ending the century at roughly half the production it had seen in 1875. In other parts, famine and irrigation difficulties and labour shortages drove a decline in production (Newman, 1989). Meanwhile, in the midst of controversy over the Royal Commission on Opium and accusations that local officials had 'ruthlessly stage managed' the field visits, Indian opium departments proved unwilling to allow opium prices to rise. Cultivators fled *en masse* to other crops, never to return. This led Robert Neuman to describe the sympathetic stance of the Royal Commission as 'a pyrrhic victory from which the Government of India never recovered' (Newman, 1989, 530). These issues only served to reinforce the critical challenge posed by Chinese domestic cultivation (Richards, 2002a) alongside incipient competition from Persian and Turkish opium within the region (Newman, 1989).

International opinion only hardened further against opium in the interim. A chorus of progressive and missionary opinion in the United States (US) coalesced with a vocal domestic China lobby. The latter in particular, saw opium as a policy bridge to strengthening Sino-US commercial relations (Collins, 2015). Simultaneously, the US encountered its own opium dilemma through its occupation of the Philippines. Ultimately, the US adopted a policy of outright

prohibition, despite the misgivings of its local administrators (Musto, 1999). Washington looked at the European monopolies not as a mechanism to control a complicated trade, but as an attempt to provide legitimacy to a large source for potential diversion into illicit supplies. The only regulation the US argued as sustainable was outright prohibition except for medical and scientific use. Although the European powers initially continued to push back against this aggressive approach, the tide was clearly working against them (Collins, 2015; Musto, 1999).

China meanwhile took pre-emptive action. It announced with an imperial edict in 1906 that 'foreign and native opium' would be eradicated within ten years (quoted in Newman, 1989, 531). Despite significant scepticism, and mixed implementation, the campaign proved surprisingly effective, in the short run at least. The domestic mood in China had turned strongly against opium. These Chinese domestic efforts rendered resistance from British and Indian elites seemingly more indefensible (Newman, 1989). The Government of India and their Chinese counterparts reached an agreement whereby India would reduce its exports of opium to China by ten per cent per year, resulting in a predicted cessation of the trade in 1917. This agreement, the first of the Anglo-Chinese Opium Agreements, was signed in December 1907 and came into force in January 1908 (Newman, 1989). Britain, quite justifiably, viewed itself as having made a major concession, at a significant cost to its imperial coffers. In most areas—particularly Bihar and Benares, where it constituted a monopoly—the agreement largely served to reinforce trends away from opium cultivation. These trends were driven by various push and pull factors already discussed. In the more complicated region of Malwa, reduction proved more difficult from legal, administrative and economic perspectives. As Newman writes,

The opium interests in Malwa faced difficulty if not ruin. Local merchants needed to sell their chests with a minimum of delay to the exporters in Bombay if they were to recoup their investment; moreover, many of them were holding substantial reserves of old opium which now seemed unlikely to find a market at all. If local merchants and moneylenders became bankrupt they would reduce the supply of credit to Malwa peasantry and hamper the process of crop substitution, which was already less advanced in Malwa than in northern India [...] the decline of the China trade endangered many of the princely economies [...] [while] [i]n the matter of agricultural diversification and development there was little beyond exhortation that the Government of India could do.

NEWMAN, 1989, pp. 537–8

China meanwhile surpassed its targets, as provincial officials bought into the policy, ripped up local crops, closed dens and thereby sought to minimise foreign imports. This was simply reinforced by the economic turmoil within China's regions (Newman, 1989). These factors weighed on the next round of Anglo-Chinese opium negotiations, which began in mid-1910. This, instead of an agreement, took the form of a treaty, formalising a continued and more legalistic commitment to 10 per cent annual reductions. The compromise outcome was praised in London but raised the ire of communities in India and China. The former lamented that their 'opium revenues are now practically gone' leaving them 'in a nice financial mess', while Chinese anti-opium groups reacted angrily to concessions made to India (quoted in Newman, 1989, 551). The reality, however, was the formalisation of Britain's commitment to the eradication of the opium trade with China.

In the meantime, multilateralism took root. Under Article 6 of *The Hague Opium Convention* of 1912, states parties committed to the gradual 'suppression of the manufacture, the internal traffic in and the use of prepared opium in so far as the different conditions peculiar to each nation shall allow' (*The Hague International Opium Convention*, 1912, Paragraph 6). Going into force following the Versailles settlement of World War I, under the aegis of the League of Nations, the international drug control system sought to implement this goal. It did so, however, in a broadly uneven manner. Opium smoking continued in the East Indies, Malaya, the Unfederated Malay States, Brunei, Sarawak, Burma, India, Ceylon, North Borneo, Hong Kong, Indochina and Siam (Collins, 2017a). Many governments argued that opium consumption in many of these contexts represents a form of medical use, which could be termed 'quasi-medical' use (Collins, 2015). Furthermore, outright prohibitions were seen as potentially worsening local conditions. This included undermining gains made in regulating consumption via rationing and registration, control over what would otherwise become an illicit market, and the positive spillovers from driving the revenue from opium into government coffers rather than actors that might seek to use it to weaken governance in the territories in which they operated (Collins, 2017a).

The international regulatory system, meanwhile, continued to develop at the intersection of these Sino-US and European colonial visions (Collins, 2018). However, its practical impact was limited by the functional collapse of the Chinese state. From 1917, local military leaders encouraged cultivation to strengthen their financial base in the face of dwindling central government control (Taylor, 1969). Japan also increased its role in the Chinese opium economy, shifting towards self-sufficiency in opium production and then becoming a leading supplier of illicit narcotics into China through its Southern Manchuria enclave (Jennings, 1997). In 1932, the Manchukuo puppet regime established



a government-run monopoly, going against the grain of League of Nations control efforts and buying from states perceived as rogue operators within the emerging control regime (Collins, 2017b). Many have ascribed conspiracy to Japan's efforts—a forceful 'narcotisation' of China in pursuit of imperialist goals. Indeed, the same accusations were levelled against Japan in its war with the US (Collins, 2015). Others have pointed to economic–structural determinants. Japan was, like so many protagonists in licit and illicit drug markets, merely following strategic and economic necessities dictated by local political economies. As Meyer and Parssinen write, '[w]hat looked like genocide and conspiracy at the highest levels' actually represented 'political compromise in pursuit of larger goals' (Meyer and Parssinen, 2002, 280). In reality, both Japanese and Chinese forces utilised the opium trade for local and national strategic ends (Collins, 2017b).

The 1930s in India saw an appropriation of prohibition policies. The period 1920–40 witnessed a rapid decline in domestic consumption. The Indian National Congress Party pursued policies of local prohibition from 1937, and looked towards prohibition throughout the nation (Brown, 2002). World War II placed a temporary hold on these efforts, but US pressure on Britain had produced a broad, although not uniform, commitment to end the practice of opium smoking in territories upon reoccupation (Collins, 2017a). Furthermore, after independence in 1947 the National Congress reinstated its policy aim of prohibiting all production and consumption except for medical and scientific use. The government established a Narcotics Commission to assume control of all aspects of production and pricing. Over the following six years, consumption reportedly fell by 45 per cent, largely due to restricted production and increased price. In 1959, sale was completely prohibited, and oral consumption was prohibited except for registered consumers. The shift in policy has been described by one scholar as 'one of the world's most successful campaigns to limit the drug's cultivation and use' (Brown, 2002, 627).

Others offer a more critical appraisal. As Richards writes,

Opium offered a cash crop to perhaps two million of the most skilful cultivators in both northern British and western Princely India. When opium exports dwindled and eventually ended in 1935, the Indian economy lost an economic asset, just as it did when indigo, for example, ceased to be a viable cash crop.

RICHARDS, 2002b, 180

Burma, meanwhile, emerged as a key actor in its own right in international drug policy when it separated from India in 1937. It was now expected to adhere



to the various international treaties, but with no clear sense that it held the capacity to do so. The 1923 Opium Order established an effective legal monopoly over supply, making Cis-Salween Sawbwas opium monopsonists and further limiting sale to consumers (Maule, 1992). However, implementation varied. For example, the Northern Shan States operated via monopoly auctions, policed by the monopoly owner. In the Trans-Salween Shan States, weak political control negated such an approach. Proximity to China and the unchecked production underway there was viewed as a key limiting factor. This only strengthened British resolve that any risk of social unrest was too high a price to pay for the uncertain promise of additional opium prohibitions (Maule, 1992). Security, governance and development came first, for officials in Burma at least (Collins, 2016).

In 1931 Burma officials had proposed a closed system of control, with licensed shops being supplied by Shan State opium and potentially exporting excesses to Siam, French Indochina and the Dutch East Indies. London and the Government of India quickly vetoed the idea, citing, among other issues, international obligations under the emerging League of Nations treaty system. A compromise arrangement saw a commitment from the Government of India to continue supplying Burma with cheap opium, coupled with a light touch approach to the fluid production and informal trading arrangements on the borders with Siam and China. With formal separation from India in 1937, the idea of utilising Shan opium became appealing once again (Maule, 1992). Burma received a significant mark-up reselling cost price Indian opium, producing roughly 500 per cent profit. Although opium had collapsed to around 1 per cent of India's government revenue by the 1930s, for Burma the loss of this supply provoked a more acute fiscal unease. Recognising this reality, London sought to redirect the international spotlight away from the situation in Burma, for example exempting the Shan States from new obligations agreed at the 1931 Bangkok opium conference (Maule, 1992). Beneath this protective approach was a concern that any increased reliance on Shan opium would come at the cost of increased leakages into the illicit market and would thereby draw new international attention. The issue was not so much political will as regulatory capacity, something the Burmese government lacked in these outer regions (Collins, 2017b).

British policies produced a *de facto* division of the country based on governance capabilities and a pluralistic approach to policy enforcement (Collins, 2017b). Burma gained independence in January 1948 and focused immediately on internal security and economic recovery and development. It adopted a strict policy of neutrality in the emerging Cold War; however, the US came to view it as a key potential domino for a communist takeover of the

region as well as a potential 'back door' into China (Selth, 2010). The Communist takeover of China in 1949 saw the greatest historical influx of refugees into the mountains of Shan and Kachin States. These refugees settled without the permission of the Burmese government and included remnants of the Kuomintang (KMT) army and local Yunnan militias. These groups quickly coalesced into guerilla forces in the 1950s, their bases providing security and governance infrastructure, which drew in civilian refugees seeking protection from the Burmese army and local ethnic militias (Chang, 2009). The prolonged economic crisis in Burma resulted in a shortage of consumers' goods, which in turn stimulated the cross border illicit trade, which in turn funded the militias through taxation. Some estimates placed the trade at 80 per cent of Burma's total consumption, most of which came via Thailand and through the Shan State (Chang, 2009, 550).

## 5 Decolonisation and the Emergence of the Golden Triangle

The Golden Triangle would ultimately emerge at the intersection of these forces and geographic areas. It centres on the bordering regions of Burma, Laos and Thailand. It is a remote, densely forested area populated by a diverse array of ethnic groups, many of whom traditionally followed semi-nomadic slash-and-burn agriculture practices (Chouvy, 2013). As Chouvy writes,

[T]he international borders of Burma, Laos, and Thailand also cut across two zones that are intricately woven together: the Tai linguistic zone, composed of Shan, Thai, and Lao peoples, over which is superimposed a more complex zone of numerous other ethnic groups that are dispersed throughout the tri-border area and in neighbouring China.

CHOUVY, 2013, 1

The region flourished as a postcolonial centre of the illicit trade for the same reasons it had proven so difficult to incorporate under colonial economic and political systems of control. It is based within untamed terrain of mountains, rivers and forest, with minimal infrastructure and a reality of annual monsoons that negate whatever infrastructure does exist for several months of the year. In such circumstances, the reliance on cash crops becomes not only explicable but often essential to community survival. Much like the earlier evolutions of the opium trade within the region, however, these geographic and ethnic determinants were not sufficient explainers for the emergence of the Golden Triangle. The political economy of the post-war region was also a key determining

factor. Evaluating the economic and developmental overlaps between the colonial and postcolonial periods, however, is the focus of another paper.

## 6 Conclusion

This paper demonstrates that the linkage between drugs and development is a longer historical phenomenon. While contemporary discourses rightly seek to carve greater space for development criteria within drug policy debates, this need is driven by a more recent systemic approach to drugs that has viewed its policy goals and outcomes in terms of repression, market reduction and an ever-greater reliance on prohibition (Collins, 2016). Development practitioners highlight that the most recent international drug control treaty, the 1988 *UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances*, references the role of development, but in subservience to eradication efforts. Development could serve as a mechanism to achieve drug control goals, but has not been seen as an end in itself (Brombacher and Westerbarkei, 2019). This chapter has sought to highlight the historical counter-narratives to this prohibitionist mindset that captured UN discourses following the Second World War.

Drug economies have been inextricably tied to processes of globalisation, economic development and governance over the past several centuries at least. Drug economies were often central to economic development, rather than something parallel or running counter to mainstream state consolidation efforts. Policymakers frequently viewed the issue through economic and political lenses and formulated complex policy responses based on a mix of regulatory and prohibitionist elements. The drive towards prohibition as a sole global policy goal began to slowly coalesce around the turn of the twentieth century, but was far from an inevitability or a natural policy goal. Administrators and local populations throughout Asia had a more complex interplay with these local, regional and international drug economies than is often recognised. Although the Royal Commission was accused of an amoral 'whitewashing' of the Sino-Indian opium trade in the region, the reality is just as likely that moralisers and subsequent internationalists and prohibitionists were equally, if not more, guilty of whitewashing the complexity of the socio-economic-political linkages between drug economies and societies in Asia. The recentring of the Sino-Indian opium trade into the Golden Triangle attests to the reality of drugs and drug economies as complex economic and development phenomena, eschewing dichotomous labels of 'licit' and 'illicit', or dichotomous policy frameworks of 'regulation' and 'prohibition'. Recognising these realities and re-examining the historical complexity of regulations within Asia is therefore

likely a good starting point for a better understanding of the linkages between drug economies and economic development.

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# From Alternative Development to Development-Oriented Drug Policies

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## Abstract

This policy comment aims to trace the evolution of the concept of alternative development (AD)—alongside changes in the global drug control regime during recent decades—from a practitioner’s point of view. Since the 1970s, drug supply reduction was primarily concentrated on law enforcement and crop substitution programmes. Following negative experiences, some governments focused on development-led approaches that consider the socio-economic and political conditions of drug crop cultivating areas. Both the 1988 United Nations drug control convention (*Convention Against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances*), the first to mention the concept of AD, and the 1998 Political Declaration created the latitude necessary for AD to evolve into a ‘third pillar’ within the traditional drug supply control system. Another political milestone was the *Outcome Document* of the 2016 United Nations General Assembly Special Session on the World Drug Problem (UNGASS), as it was the first to dedicate an entire chapter solely to development-oriented drug control.

In recent years—unexpectedly given the niche that AD had formerly been—a growing number of countries have declared that they either implement domestic AD measures or support them abroad. The observable increase in AD interventions may be due to a growing engagement of governments, but could also be explained by a rebranding of existing measures, given the increased popularity of AD. The funding situation in light of this enhanced political momentum is, however, rather poor. Latest figures, from 2013, show that AD only accounts for 0.1 per cent of global official development assistance. Though there seems to have been a slight increase in funding recently, the authors argue that a real surge in funding is so far not in sight.



## 1 The Evolution of the Concept of Alternative Development<sup>1</sup>

The concept of alternative development (AD) has evolved alongside the changes that the international drug control regime has been experiencing during the past four decades, moving within a field of tensions between national interests and highly diverse approaches to tackling domestic drug problems. Accompanied by emotional debates and often arguments that lack an evidence base, AD has shifted from a merely crop substitution-based approach in the 1970s and 1980s to a development-oriented method that aims to promote sustainable rural development and reducing poverty in drug crop cultivation areas (GIZ, 2016).

Drug crop cultivation, such as coca and opium poppy, had been widespread for centuries before the modern United Nations (UN) drug control system identified it as being problematic in terms of supplying illicit drugs and due to its high visibility as a form of illicit agriculture. The 1961 *Single Convention on Narcotic Drugs* (UN, 1961) was the first to include illicit drug crop cultivation in international narcotics law. As pointed out by Collins (2018, 284), ‘an illicit market accompanied growing international demand for various forms of consumption through the 1960s and beyond [,] meanwhile hubs of global insecurity emerged as key supply hubs’. Historically, state weaknesses and development deficits were often the primary cause of emerging illicit drug producing areas and corridors for drug trafficking. Illicit drug economies depend on enabling settings in order to thrive—weak governance and infrastructure and lack of access to legal markets and opportunities, as well as poverty, being some of the main root causes (Brombacher, 2013). Hence, ‘drug economies flourish because the framework conditions permit them to do so’ (GIZ, 2016, 6). Responding to the growing illicit market, the 1961 *Single Convention* has frequently served as a normative framework used to justify drug crop eradication efforts in drug producing countries by some governments (Jelsma, 2018). While the evident nexus between development and drugs is widely acknowledged today, it has not always been accepted within the global drug control regime.

AD was first mentioned in the 1988 *Convention Against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances* (UN, 1988) as an ‘integrated rural development’ measure (§14 (3)) to ‘prevent illicit cultivation’ and ‘eradicate plants containing narcotic or psychotropic substances’ (§14 (2)). Initial experiences of AD were, however, rather disappointing from a supply control point

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1 Both authors are employees at the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ). The chapter reflects exclusively the opinions of the authors and not those of the German Federal Ministry for Economic Cooperation and Development (BMZ) or GIZ GmbH.



of view. The today widely acknowledged notion of drugs also being a development issue is partly the result of substitution programmes that proved ineffective, only focusing on replacing drug crops like coca and opium poppy with legal alternatives, leaving aside the underlying social and economic root causes of the persistence of illicit drug economies. Some governments in South America and Southeast Asia started to promote sustainable development measures in drug crop cultivating areas that were not exclusively substitution-oriented at an early stage, thereby changing the paradigm in international drug control strategies towards development-oriented drug policies, often with the support of Germany and certain European governments. Over the last 20 years, the approach has evolved into a more integrative approach to development, as reflected in the 2016 *Outcome Document* of the 30<sup>th</sup> United Nations General Assembly Special Session on the World Drug Problem (UNGASS) (Council of the European Union, 2018). It includes sustainable rural development measures in drug crop cultivating areas, but as opposed to traditional substitution programmes, also considers enhancing governance and security, respecting human rights, and fostering women's empowerment.

## 2 From the 20<sup>th</sup> to the 30<sup>th</sup> UNGASS—Milestones that Paved the Way

The first internationally agreed definition of AD was set out in the 1998 UNGASS *Action Plan on International Cooperation on the Eradication of Illicit Drug Crops and on Alternative Development*.<sup>2</sup> Furthermore, the principles of a *balanced approach and shared responsibility* were first introduced in the 1998 *Political Declaration* (PD) (UN General Assembly, 1998a, §2, 2). The universal recognition that both consumer and drug producing countries share the same amount of responsibility has since then been confirmed by countless resolutions, action plans and policy framework documents of the United Nations Commission on Narcotic Drugs (UN CND). The co-responsibility of both ends of the supply chain turned into the 'life insurance' of AD (Brombacher and Westerbarkei, 2019, 90), in many cases funded by donors from the northern

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2 AD was defined as 'a process to prevent and eliminate the illicit cultivation of plants containing narcotic drugs and psychotropic substances through specifically designed rural development measures in the context of sustained national economic growth and sustainable development efforts in countries taking action against drugs, recognizing the particular sociocultural characteristics of the target communities and groups, within the framework of a comprehensive and permanent solution to the problem of illicit drugs' (UN General Assembly, 1998b, 1).

hemisphere in the decades that followed. This created the latitude necessary for AD to become a sort of third pillar within the traditional drug supply control system, establishing the normative basis for development-oriented drug policies as part of international cooperation on drugs. Quite notably, AD was for decades the only socio-economic development element within the global drug control system that was considered legitimate and had even passed the test of being included in a UN drug control convention.

As the 20<sup>th</sup> UNGASS set out the political framework for the next decade, UN member states agreed to review implementation progress ten years after the 1998 PD. Without having reached significant progress towards the goal of '[...] eliminating or reducing significantly the illicit cultivation of the coca bush, the cannabis plant and the opium poppy' (UN General Assembly, 1998a, §19, 4), a new *Political Declaration and Action Plan* (UN CND, 2009) were adopted in 2009, after months of difficult debates. AD took on a prominent role within the 2009 PD. Germany and the European Union (EU) pushed for the inclusion of two fundamental principles, *proper sequencing* and *non-conditionality*, which had already been pillars of the *EU Drugs Action Plan* (2009–12) and the Approach of the German Federal Ministry for Economic Cooperation and Development (BMZ) to Alternative Development (GIZ, 2012; GIZ, 2016). The concept of *proper sequencing* was included in the 2009 *Action Plan* (UN CND, 2009, §47(f), 45), despite its controversial character. It refers to the establishment of alternative sources of income before any eradication measures take place. Despite the agreement in 2009, only the 2013 *UN Guiding Principles on Alternative Development* (UN General Assembly, 2013) reflect this approach, while no other forthcoming UN framework drug policy document ever explicitly stated the principle of proper sequencing again. The 2009 PD and *Action Plan* partly represent the minimal consensus among states whose approaches and fundamental views differ considerably. Although it 'adopted the broader term of "development-oriented drug control" to describe socio-economic interventions addressing a wide range of drug-related problems beyond the mere drug crops, this term could not sustainably replace the term AD—and by that narrow down the concept' (Brombacher and Westerbarkei, 2019, 90).

The following years were marked by a continued effort at 'both the national and the international level to evaluate programmes and to exchange best practices and lessons learned during international workshops and expert group meetings' (Me and Kamminga, 2018, 2), which resulted in the adoption of the milestone of the *UN Guiding Principles on Alternative Development* (UN General Assembly, 2013) by the General Assembly in October 2013. Facing the consequences and high costs of repressive means, the widely criticised 'war on drugs' served as an incentive for reformist actors and some of the most

affected countries—including Colombia, Guatemala and Mexico—en route to UNGASS 2016, leading to calls for a re-evaluation of international drug policy (Fordham and Haase, 2019). While expectations were high, for many drug policy players the 2016 UNGASS *Outcome Document* was initially perceived as a disappointment (Collins, 2018; Klein and Stothard, 2019). This notion changed rapidly, however, due to some of the groundbreaking elements in global drug policy that the *Outcome Document* provided. The Document has been a significant door opener for development within UN drug control. The involvement of civil society, especially through the creation and strategic representation of the Civil Society Task Force—en route for and during UNGASS 2016—had a significant impact on strengthening development in the *Outcome Document* of UNGASS 2016 (Fordham and Haase, 2019). Major changes between the 2009 PD and the 2016 UNGASS *Outcome Document* can be found in their structure and in how the latter addresses socio-economic issues as a main driver for illicit drug crop cultivation. The 2016 UNGASS *Outcome Document* was the first UN drug policy document to dedicate individual chapters to human rights and development-oriented measures, thereby highlighting both issues in the global debate. A stronger focus on women, farmers and communities as well as the need to consider measures for rural and urban areas alike are just some examples of the progressive language and aspects introduced (Permanent Mission of Norway to the United Nations, 2018). By referring to certain aspects of the drugs value chain, including ‘cultivation, manufacture, production of and trafficking in drugs’ (UN General Assembly, 2016, §7(h), 25), the *Document* reflects the development-driven positions not only of producer, but also of transit countries. Remarkably, AD is no longer directly dependent on the illicit cultivation of drug crops, nor does it constitute a measure aiming at a complete elimination of drug consumption (Permanent Mission of Norway to the United Nations, 2018). The *Document* further links AD to Agenda 2030 and the Sustainable Development Goals (SDGs), highlighting that drug policy is indeed a development issue. Furthermore, it suggests the use of human development indicators in order to properly reflect AD as a development and not as a crop substitution concept. It also refers to ‘environmental sustainability and other measurements in line with’ the SDGs (UN General Assembly, 2016, §7(g), 25), thus broadening the scope of AD to reach beyond the realm of drugs.

By ‘strengthening a development perspective as part of comprehensive, integrated and balanced national drug policies and programmes [...], addressing risk factors affecting individuals, communities and society, which may include a lack of services, infrastructure needs, drugrelated [sic] violence, exclusion, marginalization and social disintegration, [AD] contribute[s] to the promotion of peaceful and inclusive societies’ (UN General Assembly, 2016, §7(h), 25). As

Brombacher and Westerbarkei (2019) point out, the application and definition of AD has broadened to an unexpected scale. UN member states have expanded AD from traditional rural settings to take in interventions aimed at fostering socio-economic development in urban areas, traditionally non-growing countries pushing for AD, and generally countries adapting AD to their own circumstances and necessities, thereby meeting one of the fundamental criteria for the success of AD. Meanwhile, issues such as the ‘conflicting targets’ of AD (GIZ, 2012, 8), proper sequencing, and gender mainstreaming in project design (GIZ, 2019), as well as long-term financial and political commitment, among others, remain a challenge for affected countries and implementation organisations alike.

### 3 The Post-UNGASS Scenario—Are We There Yet?

As the 2009 PD set 2019 as the target date for the review of the commitments made, the UN CND adopted a Ministerial Declaration in March 2019 that reaffirmed the 2009, 2014 and 2016 documents (UN CND, 2009; 2014; UN General Assembly, 2016) as ‘the commitments made by the international community over the preceding decade to counter the world drug problem’ (UN CND, 2019, 2), avoiding prioritising any one of them. Since the UNGASS 2016 process, development-oriented drug policies have played a more significant role within the international drug control regime than even before. Meanwhile, reforms in other areas of drug policy seem to have come to something of a halt, the Ministerial Declaration 2019 being proof of this stagnating debate. There also seems, however, to be a widespread understanding that the implementation of the UNGASS *Outcome Document’s* chapters is as vital as ever.

With the 1998 PD, the phrase ‘with full respect for [...] all human rights and fundamental freedoms’ (UN General Assembly, 1998a, §2, 2) was introduced as an underlying condition for drug policy. Additionally, there are several international guidelines on specific human rights issues that are applicable to drug policy, but until recently there have not been any explicit international standards existent, ‘let alone in the specific case of illicit cultivation’ (Jelsma, 2018, 10). In order to fill that gap, a coalition of UN organisations and UN member states<sup>3</sup> joined forces to develop the *International Guidelines on*

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3 The Guidelines were initiated by the United Nations Development Programme (UNDP) and the International Centre on Human Rights and Drug Policy at the University of Essex, supported by the German Federal Ministry for Economic Cooperation and Development (BMZ) and the Swiss Federal Department of Foreign Affairs.

*Human Rights and Drug Policy*, which were presented to the UN CND in 2019. The Guidelines constitute a further step towards expanding drug multilateralism by establishing long-known linkages between development deficits and the rights of people who cultivate illicit crops and are 'dependent on illicit drug economies' (UNDP, 2019, §3, 10), thereby reminding states of their human rights obligations. Drug policies can be counter-effective to development if they are not evidence- and human rights-based (UN System Coordination Task Team, 2019).

In December 2018, the Council of the EU adopted the *Council Conclusions on Alternative Development*, which replace the *EU Approach to Alternative Development* of 2006 (Council of the European Union, 2006). This political commitment highlights the direct link between the implementation of the UN-GASS 2016 *Outcome Document* (UN General Assembly, 2016), the '2030 Agenda and the principle of "ensuring that no one is left behind" at the global level [...]. AD programmes aim to improve livelihood opportunities and alleviate poverty, and thus contribute to the implementation of the UN Sustainable Development Goals' (Council of the European Union, 2018, §9, 5). Perceived as a 'soft reformer' on the international spectrum, the EU has been pushing evidence-based approaches in compliance with human rights for the last decade and 'backs these calls with extensive international cooperation projects in third countries' (Klein and Stothard, 2019, 10). While the political will to implement development-oriented drug policies has broadened, actual application needs to be scaled up.

#### 4 The Reality of AD—a Niche Becomes a Pillar

With the 'political emancipation of the role of development within the international drug control system' (Brombacher and Westerbarkei, 2019, 95) in the course of the UNGASS 2016 process, international recognition of AD and related interventions has reached unprecedented levels. In 2014, 23 UN member states reported to the United Nations Office on Drugs and Crime (UNODC) that they had implemented AD interventions between 2010 and 2013 (UNODC, 2015a, 81). While this included the traditional source countries for coca and opium poppy, such as Afghanistan, Bolivia, Colombia, Myanmar and Peru, countries such as Egypt, Pakistan and Vietnam also declared they had implemented AD projects (UNODC, 2015a). In recent years, several governments in South Asia, West Africa and Latin America and the Caribbean have embraced AD in their domestic drug strategies or action plans. These include non-traditional source countries, cannabis-producing countries, and countries that are predominantly affected

by drug trafficking, but not by drug crop cultivation. Almost 30 countries declared either that they had run domestic AD interventions or that they were supporting them abroad (UNODC, 2015b, 10). These numbers are rather unexpected given the niche AD had formerly constituted within the UN drug control system.

At the same time, this push for development has become quite visible through the increased political attention given to the issue within the framework of the UN CND and related international fora, including UN CND-mandated expert group meetings (GIZ and UNODC, 2014; Governments of Germany, Peru, Thailand and UNODC, 2019). In the course of the past five sessions of the UN CND, around 40 member states from all world regions consistently co-sponsored the respective annual resolutions on AD. There also seems to be widespread recognition within expert and practitioner networks that AD is an effective tool for addressing illicit drug crop cultivation, as an expert survey by UNODC shows (UNODC, 2015b, 8). This growing recognition of AD is happening at a moment when the global community is facing record highs in illicit drug crop cultivation. The two main suppliers of opium/heroin and cocaine/crack, Afghanistan and Colombia, report record levels of opium poppy and coca cultivation (UNODC, 2019a).

With UNGASS 2016 as a 'turning point' (Alimi, 2019, 38) the role of development within UN drug control was enhanced. It seems quite reasonable to assume that the growing international disenchantment with the external consequences of a belligerent strategy with regard to drugs has led to a revalorisation of development-driven approaches on the supply-control side. Forced eradication is not widely considered by experts to be an effective option for addressing illicit drug crop cultivation and there is evidence that its human and environmental costs are high (Garzón, 2019). The increase in reported AD interventions may well be due to the growing engagement of governments, but it could equally be explained by a rebranding of existing drug policy interventions, given the increased popularity of development-led versus repression-oriented approaches.

At the same time, many clichés persist with regard to AD. There is still frequent mistrust within academia and civil society spheres toward the potential hidden interests behind AD, labelling it as a disguised form of forced eradication or accusing it of being a securitised development intervention driven by counter-insurgency intentions (Buxton, 2015). Despite a lack of clear evidence, there is widespread belief that AD is economically unattractive for farmers or that farmers exclusively focus on income and not on a broader notion of secure livelihoods (Brombacher and Westerbarkei, 2019). Those assumptions are yet to be studied and properly analysed. While a

militarisation of AD has happened and is happening in some cases, its securitisation is not inherent to the concept. Neither the 1998 definition of AD nor the subsequent 2009 *Action Plan*, UNGASS 2016, or any of the annual UN CND resolutions on the issue link it explicitly to counter-insurgency objectives. On the contrary, a majority of the key proponents and donors of AD promote an approach that relies on development objectives and indicators, seeking a close alignment to the SDG s. This is, for example, the case for Thailand and Germany (Brombacher and Westerbarkei, 2019; Diskul et al., 2019). The broad array of different interpretations of the concept of AD is enhanced by the outdated nature of its definition from 1998, giving scope for militarised, development-led, or in some cases even legalisation-oriented approaches.

## 5 Talk Is Cheap—the Funding Situation for Alternative Development

Considering the indisputably growing political support for development in global drug control, the key question that arises is that of implementation. How does the funding situation evolve in light of the enhanced political momentum? A comprehensive, cross-cutting comparison of the funding situation for AD is available in the UN *World Drug Report 2015* (UNODC, 2015a). However, the aforementioned conceptual heterogeneity of AD and the potential rebranding of interventions make the classification of allocated budgets difficult. Some governments label respective projects as rural development interventions, others as law enforcement or as private sector investment, or even as part of their military budget. At the same time, non-OECD countries may not report potential budgets for AD or may use different markers. As Alimi (2016, 8) states, ‘to date, available data do not allow charting with exactitude a clear global AD portfolio. Some trends may however be noted and provide at best, an impressionist quantitative picture of total AD budget’.

This rough overall picture is rather underwhelming. From 1998 to 2013, an average of USD 219 million per year was spent on AD by OECD countries (UNODC, 2015a). In 1998, when the concept of AD was defined by the UNGASS, AD accounted for 0.11 per cent of global official development assistance (Alimi, 2016). This share had almost tripled by 2008, but gradually decreased again, reaching 0.1 per cent in 2013. While in 2007 roughly USD 470 million were invested in AD, by 2013 this amount had fallen to USD 185 million (Alimi, 2016). Between 2005 and 2013, the major international donors for AD has been, in sum, the EU and its member states, followed by the United States



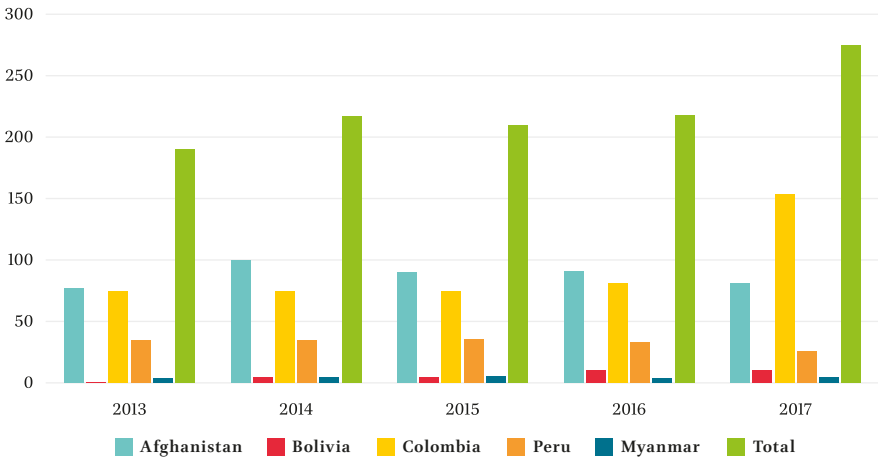


FIGURE 4.1 Total annual budget of AD projects per country and year (2013–17, annual budget, in million USD)

SOURCE: UNODC (2019B, 17)

government. AD was therefore described as a ‘poor cousin of international cooperation’ (Alimi, 2016, 8). Considering the political role the approach has gained in recent years, it may be more like a poor but popular cousin: ‘Despite the amount of attention given to alternative development at the international level, and its crucial role in realising SDG 8, there is a disconnect between international rhetoric and funding’ (UN System Coordination Task Team, 2019, 36).

Taking into consideration the preliminary results of a new UNODC study, there seems to have been a slight increase in funding from 2013 to 2017 (Figure 4.1). The 53 alternative development projects identified in the three main coca bush (Colombia, Peru and Bolivia) and two opium poppy (Afghanistan and Myanmar) cultivating countries had a total annual budget of between USD 190 and USD 275 million (UNODC, 2019b).

The clear rise in funding for AD in Colombia is, however, based on the 2016 peace agreement of La Habana and the subsequent crop substitution programme (Programa Nacional Integral de Sustitución de Cultivos de Uso Ilícito, PNIS), the biggest domestic AD programme so far. According to the aforementioned study, the United States and Germany are still the largest donors of AD among 14 countries, together with the EU (Figure 4.2).<sup>4</sup>

4 The 53 projects that were analysed for this study have received funds from one or more donors. Double counting might, therefore, occur.



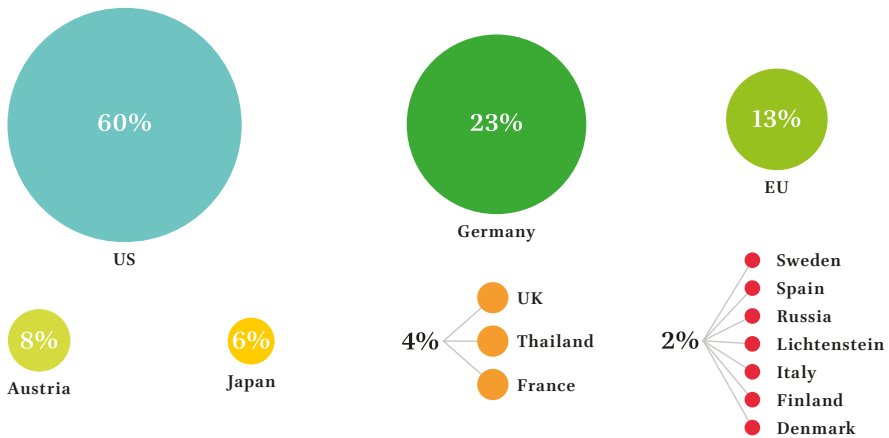


FIGURE 4.2 Percentage of AD projects per international donor (2013–17)  
SOURCE: UNODC (2019B)

In addition to the current slight increase in funding of AD in rural settings, there is anecdotic evidence on actual AD projects in urban settings as endorsed by the 2016 UNGASS *Outcome Document*, usually described as urban development initiatives (UD as opposed to AD), though little is known about most of those interventions (Governments of Germany, Peru, Thailand and UNODC, 2019).

## 6 Conclusion

Despite the partial information on enhanced investment in AD, there is clearly a gap between the overall political support for AD within the UN CND and other relevant international or regional bodies and the actual availability of funds. For many of the countries who do report to the UNODC that they are implementing AD, there is no evidence regarding the scope, volume and objectives of those interventions. While the political endorsement of development-led responses to drug economies does trickle down to domestic levels—as indicated by the growing number of governments including AD in their national or international drug strategies—a real surge in funding is not in sight so far. Repressive measures on the supply side may be less popular these days, but they do receive more financial support by far. The good news is that there is growing recognition of development as a pillar of an integral drug policy. The concept of development-oriented drug policy has spread out to countries and world regions where repression used to be the one and only element of drug supply control.

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# Trying to Be All Things to All People: Alternative Development in Afghanistan

*David Mansfield*

## Abstract

Alternative development has had little success in Afghanistan. Understood and implemented as geographically bounded interventions designed to reduce drug crop cultivation, these projects failed to achieve their objectives throughout the 1990s. Since 2001, following the fall of the Taliban, unprecedented rises in levels of opium production, and an inflow of substantial amounts of aid, alternative development came to mean different things to different people in Afghanistan. To some, alternative development continued as short-term interventions designed to extract agreements from communities to reduce opium production, or reward those that had already done so. To others, it could be any development programme implemented in a poppy growing, or potential poppy growing, area often without any consideration of the causes of cultivation and how they differed by location, gender or socio-economic group. This chapter argues that a lack of consistency and clarity in approach—and in particular the failure to articulate and implement a strategy to support farmers transitioning to licit livelihoods within a changing framework of development assistance—confined alternative development and efforts to reduce poppy cultivation though rural development to the margins in Afghanistan. To quote Corinthians, in trying ‘to be all things to all people’, alternative development saved no one.

## 1 Introduction<sup>1</sup>

The term alternative development has confused many, perhaps no more so than in Afghanistan (UNODC, 2009). To those specialising in the subject, the

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1 About the chapter title: In the King James Bible, Corinthians 9:19–23, Paul talks of ‘becoming all things to all people, so that I might by any means save some’.

This chapter draws heavily on work the author did on alternative development in Afghanistan for the Afghanistan Research and Evaluation Unit (2004–19), EastWest Institute (2012–16) and the Special Inspector General for Afghanistan Reconstruction (2014–18).

intention of alternative development is clear—it is an intervention specifically designed to support rural communities in abandoning drug crop cultivation. Yet to most development practitioners and policymakers outside this narrow clique, alternative development remains an opaque term, defined by its intended outcome—a reduction in opium, coca, or indeed cannabis cultivation—with little guidance as to how this might best be achieved.

Differences between those in the drug control community further confound development policymakers and practitioners working in drug crop-producing areas. For example, some donors, such as the United States Bureau of International Narcotics and Law Enforcement Affairs (INL), and often the United Nations Office on Drugs and Crime (UNODC), press for development assistance to be contingent on reductions in cultivation—a concept known as conditionality—and tied to eradication of the opium crop. Other donors, such as the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) and the European Union (EU), talk of alternative development as inclusive, participatory, pro-poor, and not tied to reductions in cultivation per se, but to improvements in human development indicators. These contrasting approaches can leave many of the main bilateral and multilateral donors asking if alternative development does not differ from other development programmes, why does its implementation lie with specialised institutions such as UNODC, which have a drug control mandate and rather limited development capacity? In addition, recent moves to expand the alternative development concept to include urban communities exposed to crime or drug use have further confused development donors as to what exactly alternative development is.

Afghanistan is one place where this confusion has possibly played out more than most. While some may dismiss the experience of alternative development in Afghanistan as anomalous due to the challenging security environment, the scale and amount of rural development assistance undertaken has been significant, with the United States (US) alone spending USD 1.46 billion on alternative development as part of USD 2.3 billion on agriculture, within a total budget of USD 30.5 billion on governance, economic and social development between 2002 and 2019 (SIGAR, 2019a, 132). While over the last decade some districts have been ‘off limits’ due to the insurgency, large amounts of development assistance have been delivered in rural Afghanistan, including many areas where poppy is concentrated. Moreover, as the country responsible for the production of almost 90 per cent of the world’s illegal opiates, it is hard to argue that the experience of alternative development in Afghanistan is somehow irrelevant.

In fact, the experience in Afghanistan is akin to what has been seen in other illicit drug crop-producing countries, including Colombia, Pakistan and

Bolivia, with development efforts to curb cultivation veering from short-term, single-sector interventions aimed at coercing farmers to abandon opium poppy cultivation (or rewarding those that have done so already) to large rural development programmes. In Afghanistan, many of these rural development programmes have been referred to or budgeted as alternative development, but given little to no consideration to the causes of opium production and how farmers might respond to the activities pursued, including the risk of increased opium poppy cultivation.

Drawing on extensive documentation, interviews, and the author's direct experience in Afghanistan since the 1990s, this chapter documents the continuing schism between those who see development interventions as a means of extracting an agreement from communities to reduce or abandon opium poppy cultivation in Afghanistan and those who distance themselves from the entire drug economy, despite their responsibility for delivering significant amounts of aid to rural areas, and who at best see a reduction in opium poppy cultivation as an externality of the development process and feel no obligation to ensure that their interventions do not make matters worse.

The chapter is divided into five further sections. Section 2 outlines the methodology—an approach that draws heavily on the author's own experience in-country and direct access to both grey literature and internal policy debates. Section 3 offers a brief history of alternative development in Afghanistan in the 1990s—the programmes, the actors and the reasons for its failure. Section 4 examines the period since the collapse of the Taliban regime, as well as efforts to redefine and recast alternative development within the context of significant inflows of development assistance, dominant multilateral and bilateral donors, and sector-based interventions. Section 5 examines why the effort to adopt a more effective strategy, widening the responsibility for addressing the causes and consequences of illicit drug crop cultivation to include international and national development institutions, failed. The final section offers a conclusion.

## 2 Methodology

This chapter is a retrospective exploratory inquiry and draws on the author's experience of more than two decades specialising in rural development in poppy growing areas in Afghanistan, and more than 25 years' work on alternative development and research in drug crop growing areas in Afghanistan, and elsewhere. It draws on data from direct observation, largely collected through quasi-participatory techniques; data from secondary sources, including



evaluation reports, project documents and other grey literature; and research on the ground with those growing opium poppy in Afghanistan for organisations such as the Afghanistan Research and Evaluation Unit (AREU) and the United Nations Drug Control Programme (UNDCP)—now UNODC.<sup>2</sup>

The author's experience in Afghanistan included working for UNDCP's Afghanistan Programme between 1997 and 2001 as a Monitoring and Evaluation Specialist on the Afghanistan Opium Poppy Reduction Project. He then worked for the Government of the United Kingdom (UK) between 2001 and 2014, when it was designated the lead, then partner, nation for counter-narcotics under the Security Sector Reform process. Work for, and subsequent reporting to, the UK government, included contracts with the World Bank, EU, Asian Development Bank, GIZ, the governments of the Netherlands and of Canada, the Special Inspector General for Afghan Reconstruction (SIGAR) and a number of non-governmental organisations. These and earlier contracts focused on supporting the integration into rural development programmes of measures that addressed the causes of opium poppy cultivation, as well as the evaluation of interventions in areas where drug crops were concentrated.

This experience provided direct first-hand knowledge of the workings of a number of multilateral, bilateral, national, and non-governmental institutions and how they understood drug crop cultivation and what might be done to address it. Acting as a participant in policy discussions, and both planning and monitoring and evaluation missions, it was possible to document the perceptions of policymakers and practitioners with regard to alternative development, and the extent to which decision makers and implementers believed development and alternative development interventions could be used to meet political, development and drug control objectives. The author was actively involved in these discussions, as well as in the monitoring and evaluation of a range of different programmes, including GIZ's Project for Alternative Livelihoods Program Eastern Afghanistan (PAL), USAID's Alternative Livelihoods Program—East (ALP-East), and its successor Incentives Driving Economic Alternatives—North East West (IDEA-NEW), the World Bank's National Emergency Rural Access Project (NERAP), the UK funded Comprehensive Agricultural and Rural Development -Facility (CARD-F), and the Helmand Food Zone (HFZ).

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2 The author's research on poppy cultivation in Afghanistan is extensive. It includes 24 reports on his in-depth research for AREU alone, and more than 75 reports in total. This work includes more than 20,000 household interviews and fieldwork in a wide range of rural areas, including Helmand, Nangarhar, Kandahar, Farah, Nimroz, Logar, Laghman, Badakhshan, Herat, and Ghor.

In doing this work, and subsequently leading SIGAR's Lesson Learned project on counter-narcotics—an ex post evaluation of the US government counter-narcotics effort between 2002 and 2017—the author conducted an extensive review of programme and project documents, which provided a further opportunity to determine the degree to which policies and programmes directly incorporated efforts to curb opium production and/or mitigate the risk that they could result in rising levels of cultivation.

### 3 **Alternative Development: the Bounded and Failing Interventions of the 1990s**

During the 1980s and throughout much of the early 1990s Afghanistan was at war. Following the Soviet Union's retreat in 1989 and the collapse of the Najibullah Government in 1992, the country divided along geographic and political lines, ruled by the different protagonists in what had been the armed opposition to the communist regime—the *mujahidin*. By the end of 1993, the United Nations (UN) had developed a rehabilitation and humanitarian mission in consultation with these regional leaders. The mission proposed a wide range of interventions aimed at supporting rural communities' efforts to improve their economic position, but also aided an embryonic peace process (UNDCP, 1995b). This was an environment constrained by contested space, the challenges of working with and directing aid through armed groups, and limited funds.

Part of the UN mission in Afghanistan in the 1990s included efforts to curb the production, trafficking and use of illicit drugs. In addition, during much of the 1990s there were a number of development interventions implemented in Afghanistan under the label of alternative development, their primary objective being the reduction of opium poppy cultivation. UNODC, and the Narcotics Affairs Section (NAS) of the US Embassy in Islamabad, funded the vast majority of these interventions, which included a wide array of rural development initiatives in poppy growing areas scattered across a large number of districts in Afghanistan. Some interventions took in activities aimed at improving agricultural yields and incomes, and these included irrigation projects. Others involved livestock interventions and the provision of agricultural inputs. Some programmes more resembled all-encompassing, multi-sector programmes that looked to improve the health and education of the local population, as well as local incomes. The only common feature of these alternative development programmes was their specific tie to achieving drug control targets within a given geographic boundary.

Problems beset each of these projects and programmes: all closed early, and none succeeded in reducing opium poppy cultivation. For example, both UNODC projects—the Afghanistan Drug Control and Rural Rehabilitation Program (ADCRRP), which ran from 1989 to 1996, and its Afghanistan Pilot Program's Poppy Reduction Project (C28), which ran from 1997 to 2000—ended earlier than planned due to a lack of funding. The US government also ceased its support for an alternative development project implemented by Mercy Corps International (1989–99), a US-based non-governmental organisation. This two-year programme called for communities in central Helmand to reduce opium poppy cultivation by 80 per cent in return for crop substitution and the rehabilitation of a canal, but it was closed a year early due to increased opium poppy cultivation (Mansfield, 2001, 7).

A detailed review of these alternative development interventions, particularly ADCRRP and C28, indicates that each suffered from the same structural weakness: the lack of a coherent and effective strategy for addressing the causes of opium poppy cultivation and, as a consequence, the setting of what were unrealistic goals and time frames. In the absence of a clear strategy as to how interventions might address the multifunctional role that opium played in livelihood strategies, each project adopted a rather crude model, trading development assistance for reductions in opium poppy cultivation. Sometimes this operated directly with the community and its political elite; sometimes in conjunction with local political–military actors; and, in the case of UNODC's C28, with the Taliban authorities themselves (Mansfield, 2004; 2001).

The time frame within which communities were expected to abandon opium poppy in return for assistance was short (between two and four years); the development assistance was insufficient, geographically dispersed, and failed to take account of both the uneven nature of the development process and the fact that motivations and factors that influenced opium poppy cultivation varied across population groups. The approach was so unrefined that it was often hard to tell the difference between projects funded under the rubric of 'alternative development' and those designed simply to offer respite to a rural population that was experiencing vulnerability due to conflict and poverty.

ADCRRP was an exemplar of such an alternative development intervention. Consisting of over 200 sub-projects implemented by more than 40 different international and national non-governmental organisations (NGOs) and with a budget of only USD 9.2 million (UNDCP, 1996, 4), its activities were scattered across multiple districts in the five provinces of Badakhshan, Helmand, Kunar, Nangarhar and Kandahar. There was little hope that ADCRRP could achieve much beyond the delivery of rehabilitation and reconstruction activities in the different funded sectors: agriculture, health, education, income-generation

and infrastructure. In fact, UNDCP's own assessment concluded, 'It is a disturbing fact that as yet there is insufficient evidence to state positively that the program of alternative development had made any reduction to opium production [...] Projects undertaken in the provinces have been scattered and cannot be linked to any specific reduction' (UNDCP, 1995a, 23–24).

Despite the limited development impact that ADCRRP was expected to achieve, the programme stipulated that communities that received assistance should cease opium poppy cultivation altogether regardless of the activities delivered or who accrued the benefits. It was not apparent how the delivery of the particular sub-projects selected could actually manifest in reducing opium poppy cultivation beyond the requirement that communities sign an agreement to abandon the crop—'a poppy clause' (UNDCP, 1995a, 23–28).

The poppy clause itself was criticised by implementing NGOs (Afghanaid, 1989, 22–24) as well as UNODC's own review team, which went so far as to suggest it was counterproductive. The signed agreements brought communities, NGOs and the UN into the dispute (UNDCP, 1995a, 24). At the time, some of the NGOs involved in humanitarian work such as demining questioned the ethics of making assistance conditional on reducing poppy cultivation. In some cases, the poppy clause pressed local military commanders to destroy the opium crop of remote rural communities, despite limited evidence of development impact (Afghanaid, 1989, 22–24). In most cases, continued cultivation did not lead to the termination of project activities. In the end, ADCRRP was deemed ineffective in reducing opium poppy cultivation (UNDCP, 1995a, 25). The UK's Department for International Development (DFID) went further, and—unable to discern a clear programme strategy that distinguished ADCRRP from other rural development programmes—questioned the efficacy of funding UNODC to undertake what appeared to be conventional rural development projects (Kapila et al., 1995, 52).

UNODC's follow-up Poppy Reduction Project (C28) offered some improvements on its predecessor, ADCRRP, but ultimately very few. Learning from the experience of ADCRRP and its disparate geographic spread, C28 did focus its efforts on four target districts: Shinwar district in Nangarhar in the east, and the districts of Ghorak, Khakrez and Maiwand in the province of Kandahar in southern Afghanistan.

C28, however, also consisted of more than 200 sub-projects implemented by NGOs, Drug Control and Coordination Units (DCCUs)—which belonged to the Taliban authorities of the time—and the Agricultural Departments of the Universities of Kandahar and Nangarhar. Like ADCRRP, the budget for C28 was also insufficient for the task. Of the USD 10.5 million that UNODC received in funds, approximately USD 3 million was spent in the four target districts, as

well as on a number of provincial-level initiatives aimed at gaining the support of the provincial Taliban authorities (Sloane, 2000, 10).

Like ADCRRP, C28 also committed to dramatic reductions in opium poppy cultivation over a short period. In the case of C28, opium poppy was to be eliminated in each of the target districts over a four-year period. Future development assistance was contingent on meeting an agreed schedule of reductions, formalised in what became known as Drug Control Action Plans (DCAPs), which were drawn up by UNODC and signed by the Taliban authorities and representatives of local communities.

Multiple reviews of UNODC's Afghanistan programme expressed concerns regarding the ambition of C28 and the targets that it had set for reducing opium poppy cultivation. The donors raised questions about UNODC's relationship with the Taliban, or, as they were referred to at the time, 'the presumptive authorities'; the capacity-building work the Office was doing with Taliban institutions (UNDCP, 1997, 17); the technical and financial assistance that UNODC provided to the Taliban's efforts to electrify Kandahar (UNDCP, 1997, 17); and the then Executive Director's efforts to launch a ten-year national programme (UNDCP, 1997, 15), which would undoubtedly have led to the channelling of further support to the Taliban (UNDCP, 1997, 15 and 17).

The DCAPs and the 'conditionality' under which C28 operated were also subject to criticism. Perceived as inflexible (Mackrell, 1999, 7; Gelbert, 2000, 27; Sloane, 2000, 30), inappropriate for what was meant to be a pilot programme designed 'to develop and implement replicable methodologies for achieving reductions in poppy cultivation in Afghanistan' (UNDCP, 1997), and lacking community ownership, the DCAPs often became little more than fora in which the Taliban, the local authorities and community representatives could request and negotiate assistance. Moreover, despite yearly breaches of elimination schedules, development assistance was not withdrawn (Sloane, 2000, 27). As with ADCRRP, the final Project Impact Report described C28 as 'largely a district wide, village level agricultural development project with little to distinguish it from many other such projects implemented by international agencies and NGOs' (Sloane, 2000, 27).

Based on the level of opium poppy cultivation in 1997, the year in which C28 began, Shinwar experienced a 12 per cent reduction in cultivation between 1997 and 2000, Ghorak a 60 per cent reduction, Maiwand a 22 per cent reduction, and Khakrez an 11 per cent increase. According to the revised DCAPs, which used 1998 as the base year, all four districts witnessed a reduction in opium poppy cultivation between 1998 and 2000: 5 per cent in Shinwar, 49 per cent in Ghorak, 60 per cent in Maiwand, and 61 per cent in Khakrez. The final review concluded, however, that the results in the three districts in Kandahar province were attributed to drought and not to the efforts of C28 (Sloane, 2000, 3).

In sum, by the turn of the millennium alternative development had fallen into disrepute in Afghanistan. In the absence of a coherent strategy to address the different reasons why farmers produced opium and the multiple roles that the crop played in livelihood strategies, alternative development became closely associated with crude efforts to encourage those who had gained military power—first local warlords and then the Taliban—to coerce the rural population to abandon opium poppy cultivation. The drug control community, too, favoured this persuade-to-coerce standpoint, rather than seeing development assistance as a means by which to improve the quality of the lives of those cultivating the crop. Devoid of a clear understanding of the multifunctional role of opium production and how to replace it, alternative development largely engaged in horse-trading—making offers of assistance to the local authorities and elites within communities in return for poppy elimination.

In reality, none of those involved in this horse-trading kept their end of the deal. For those delivering the development assistance, the funds received were insufficient and too short-term to deliver the necessary development outcomes required if farmers were to meet their basic needs. Moreover, the benefits that did accrue from development assistance tended to go to the wealthier members of the community, who were the least dependent on opium (Gelbert, 2000, 5; Sloane, 2000, 17). Regarding the rural population, few reduced opium poppy cultivation even where they had signed agreements to refrain from production, arguing that they could not sustain themselves on the limited assistance provided without recourse to opium production.

Finally, those charged with imposing a ban and eradicating the crop were reluctant to compel farmers to abandon the crop if the rural population was not provided with viable alternatives. Indeed, local authorities rarely acted against the crop, aware of the fact that power in rural Afghanistan is negotiated, decentralised and contested. In the absence of a concentration of coercive power, the politico-military leadership in rural Afghanistan remained concerned that marginalising large sections of the rural population, through eradication or imposing a ban on opium poppy, would result in a loss of support, and ultimately of political power (Mansfield, 2016).

#### **4 Alternative Development: Attempts to Redefine, Recast and Widen Ownership**

With the fall of the Taliban in 2001, the political and economic landscape in Afghanistan changed significantly. Alongside shifts in development thinking, there was a move away from the more small-scale, geographically

focused alternative development interventions implemented in Afghanistan in the 1990s. There was also little appetite for interventions that put drug control at the forefront of international state-building efforts in order to extract reductions in cultivation from Afghan leaders in return for development assistance.

Furthermore, at the turn of the twenty-first century, donors began to prioritise sector-based interventions, with Western nations and multilateral institutions supporting more wide-scale reform across entire areas of government delivery, including health, education, rural development and roads. In Afghanistan, sectoral assistance often took the form of technical support to central ministries in Kabul, as well as funds for the delivery of national development programmes. Much of this assistance was directed through the World Bank, which took the lead in the design and oversight of the National Priority Programs (NPPs) and administered the Afghanistan Reconstruction Trust Fund (ARTF), from which donor funds were pooled and prioritised.

The Security Sector Reform (SSR) process also placed key donors in charge of coordinating the international effort with regard to the reform of the Afghan army (US), police (Germany), disarmament and reintegration (Japan), justice (Italy) and counter-narcotics (UK). These 'lead nations', initially charged with coordinating international assistance with the newly formed Interim Administration and supporting the authorities in developing comprehensive strategies, soon acquired a growing responsibility for funding and implementing programmes in their particular area of Security Sector Reform.

Within the development architecture of sectoral assistance, NPPs, and SSR, there was less space for the kind of alternative development projects of the past. Many rural areas were decidedly more congested than they were in the 1990s, with multiple agencies and initiatives operating in the same districts and communities, often regardless of whether opium poppy was cultivated or not. With large national sectoral programmes being designed and implemented and a multitude of national, international and non-governmental organisations working across rural Afghanistan, there were few areas that drug control organisations such as UNODC could set apart, call their own, and use to implement a range of different sectoral programmes tied to reductions in opium production. The policy of conditionality was also rejected in the initial years after the fall of the Taliban by most of the major donors, on the grounds that it would undermine efforts to build a social contract between the Afghan state and the rural population, one of the core objectives of the reconstruction effort. In fact, there was broad support for an approach that put reconstruction and development first, and situated the reduction in drug crop cultivation as an externality of the development process.



Even those leading global counter-narcotics efforts within the US administration—who had long been advocates of aggressive eradication and dramatic reductions in drug crop cultivation in other parts of the world—initially argued that the situation in Afghanistan was qualitatively different from that in other drug-producing nations. For example, Rand Beers, the then head of the US Department of State's Bureau of International Narcotics and Law Enforcement Affairs (INL), argued that the scale of cultivation within the country, the formidable challenges the population faced following the civil war, drought, the collapse of state institutions, and the amount of reconstruction and development assistance that was to be made available meant that responses to drug production in Afghanistan needed to be different from those in other source countries (Mansfield, 2016, 148). As such, until 2005, neither INL nor USAID pressed for rural development programmes specifically aimed at reducing opium poppy cultivation or for making development assistance contingent on reductions in poppy cultivation (SIGAR, 2018a, 107). Instead, the emphasis in these initial years was on designing a wide range of development interventions that would meet the immediate needs of the Afghan population and, in part, address the causes of opium poppy cultivation.

Indeed, the term 'alternative livelihoods' was established to signify change and to move away from the alternative development model that had been rejected by the development community in Afghanistan and more broadly (UNODC, 2015, 84 and 118) (see Table 5.1). This represented a break from an approach to development assistance that had—perhaps unfairly—become increasingly associated with crop substitution as well as with UNODC, an organisation whose development capacity was being questioned by many donors following its experience with ADCRRP and C28 in the 1990s. The development funding available for Afghanistan far exceeded any of the alternative development programmes of the past and was beyond the capacity of a single agency to manage. For example, multilateral initiatives, such as the first phase of the National Solidarity Program (NSP)—a community-based rural development programme implemented between 2003 and 2007—cost USD 600 million. Bilateral programmes, such as the US government's Rebuilding Agricultural Markets Program (RAMP), had a budget of USD 143 million between 2003 and 2007. The development landscape of the post-Taliban era was fundamentally different from that of the 1990s.

It was also recognised that there was no single project or programme that could address the multiple factors that led to the expansion of opium poppy cultivation in Afghanistan, and that a more concerted and comprehensive effort was required. Counter-narcotics had been made a cross-cutting issue under the Interim Afghanistan National Development Strategy (I-ANDS),



TABLE 5.1 What are the differences between 'alternative development' and 'alternative livelihoods'?

	Alternative development	Alternative livelihoods
Characteristic feature	Discrete, area-based project approach	Mainstreaming of counter-narcotics objectives into national development strategy and programming
Problem analysis	Problem definition usually limited to the presence of illicit drug crops within a specific area	Analysis of the drivers of the opium poppy economy
Agenda	Primarily reduction of illicit drug crop cultivation and treats the symptoms of cultivation	A wider state-building and development agenda that addresses the causes of cultivation
Actors	Designed and implemented by both national and international drug control organisations	Designed and implemented by development actors; coordination and technical support from drug control bodies
Method of implementation	Attempts to replace on-farm income generated by coca and opium poppy	Address the factors that influence households' drug crop cultivation
Impact assessment	Measured in reduction of hectares of illicit drug crop cultivation	Measured in both human development terms as well as drug control indicators; seeks to understand the processes that influence households in their shift from illicit to licit livelihoods
Strengths	Previously the only way of delivering development assistance to marginalised illicit drug crop-producing areas	Recognises overlap between development and drug control agendas; part of national development strategy

TABLE 5.1 What are the differences between ‘alternative development’ and ‘alternative livelihoods’? (*cont.*)

	Alternative development	Alternative livelihoods
Weaknesses	<ul style="list-style-type: none"> <li>– Poor understanding of the process of change from licit to illicit livelihoods; often reduced to adoption of “conditionality clause”</li> <li>– Rarely linked to wider national development strategy</li> <li>– Ignores broader role of illicit drug crops</li> <li>– Little consideration of key development issues, poverty, gender and environment</li> </ul>	<ul style="list-style-type: none"> <li>– Danger of being reduced to alternative income source projects and ignoring the broader institutional issues</li> <li>– Complex to implement</li> </ul>

SOURCE: MANSFIELD AND PAIN (2005, 4)

and the National Drug Control Strategy (NDCS) of 2003 called for the mainstreaming of counter-narcotics policy in national and provincial plans and strategies (Government of the Islamic Republic of Afghanistan, 2003). Intimately linked with the concept of counter-narcotics mainstreaming, the intention of alternative livelihoods was to integrate efforts to address the causes of opium poppy cultivation in the wider policies and programmes of international, national and non-governmental organisations working in rural Afghanistan. This move was a recognition that the drugs issue in Afghanistan, as it is elsewhere, was a complex and ‘wicked problem’ where a ‘whole-of-government’ approach was needed, not only by the Afghan government but also by the donors and particularly by the development institutions within Western governments that programmed much of the assistance being given to Afghanistan (Conklin, 2001).

There were periods when some of the largest development donors in Afghanistan engaged heavily in efforts to integrate an understanding of drug crop cultivation and the multifunctional role it played in rural livelihood strategies into broader development planning. The Asian Development Bank, the

European Commission and the World Bank all pursued initiatives aimed at designing their programmes so that they could be more effective in addressing the causes of opium poppy cultivation. A number of NPPs were also appraised during design and implementation to ensure that they took better account of the fact that opiates were produced, traded and used in Afghanistan. These programmes were adjusted so that their activities might better address the causes or, at least, not make matters worse. This included programmes such as the National Emergency Rural Access Project (NERAP), the National Emergency Horticulture and Livestock Project (NEHLP) and the National Emergency Irrigation Rehabilitation Project (NEIRP).

The World Bank also developed a guideline note for *Treating the Opium Problem in World Bank Operations in Afghanistan*, or what became known as ‘counter-narcotics mainstreaming guidelines’. DFID and the World Bank went further, producing a major report examining how development efforts might better address the causes of opium poppy cultivation (Ward et al., 2008). This report served as the justification for the design of the Comprehensive Agriculture and Rural Development -Facility (CARD-F), a rural development programme designed to identify and then support potential turnkey operations in rural areas of economic opportunity where opium poppy had been all but eliminated.

Ultimately, these efforts to recast and redefine how development actors should respond to opium poppy cultivation in Afghanistan were shaped by political events, and in particular the changing policy positions of the major donors, as well as the Afghan government itself. The perception of the ‘state-building project’ in Afghanistan and its close association with the amount of opium poppy cultivated were critical. With each rise in cultivation there was growing political pressure, particularly from the US government—and within it INL—for initiatives that would lower opium production and do so quickly. While the main thrust of this pressure was directed at increasing levels of eradication, in particular the push for the introduction of aerial spraying, it also impacted on rural development initiatives in poppy growing areas, especially the reintroduction of conditionality.

For example, in 2005, the US government launched a large bilateral Alternative Livelihoods Program in direct response to the rise in cultivation seen across Afghanistan the previous year. This programme consisted of projects in the east (USD 115.8 million), north (USD 50.9 million), and south (USD 166.4 million), with a subsequent extension into the south-west (USD 75.1 million) that ran until 2009 (SIGAR, 2018a, 112). So that the programme could be seen to be explicitly addressing opium poppy cultivation, projects called for farmers to ‘voluntarily subscribe to the reduction of cultivation of poppy’ and

called for assistance to be halted where they failed to do so (USAID, 2009, 5).<sup>3</sup> The same knee-jerk reaction—and attempt to tie development programming directly to poppy reduction—could be seen with the Helmand Food Zone (HFZ) in 2008. This was a UK and US government funded effort to drive down opium production in the face of the unprecedented level of opium poppy cultivation in Helmand that year and lasted until 2011. Consisting of three parallel prongs—wheat seed and fertiliser provision, an awareness campaign to deter planting, and eradication—this programme also required farmers to sign guarantees that they would not cultivate opium poppy. Conditionality was back (SIGAR, 2018a).

This was despite USAID's reticence to incorporate INL's efforts to make development assistance contingent on reductions in poppy cultivation (USAID, 2001). As an institution they had learned the challenges of linking aid directly to opium poppy cultivation in Afghanistan and other drug crop-producing countries (USAID, 2001). The guarantees signed by farmers under ADP were rarely enforced and the evaluation of the ALP-south questioned whether the project had any impact on poppy at all. The perceived success of the HFZ—where cultivation fell by 37 per cent in the short term from 103,000 hectares in 2008 to 63,000 hectares in 2011 (see Figure 5.1)—changed that. It also led to USAID being pressed by the Department of State and the US Ambassador at the time to launch a similar largely single sector, two-year programme in the neighbouring province of Kandahar in 2012, the Kandahar Food Zone (KFZ), where conditionality was once again applied (SIGAR, 2018a, 124).

Alongside these more short-term, single-sector programmes that were akin to the alternative development programmes of the 1990s, USAID ran a range of large-scale rural development programmes, many of them partly funded from a Congressional budget for 'alternative development'. In contrast to programmes like HFZ and KFZ, these programmes all but ignored opium production, fuelled by the belief that a growing legal rural economy would offer farmers an alternative and deter drug crop cultivation (USAID-Afghanistan, 2016).

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3 For example, the draft notes of discussions of an Alternative Livelihoods Seminar on 3 September 2005 state 'Al Merkel from USAID added that USAID ALP had a two year "conditionality" clause in place in its programmes, which meant that if after two years there was no impact on poppy cultivation then assistance would be halted'. The workplan for RADP N also states that 'The requirement that farmers voluntarily subscribe to the reduction of cultivation of poppy is an important criteria for final selection of target areas' (USAID, 2006, 21). The project completion report for ADP North also refers to the fact that 'Conditionality may be imposed in the second year of project implementation' (USAID, 2009, 5).

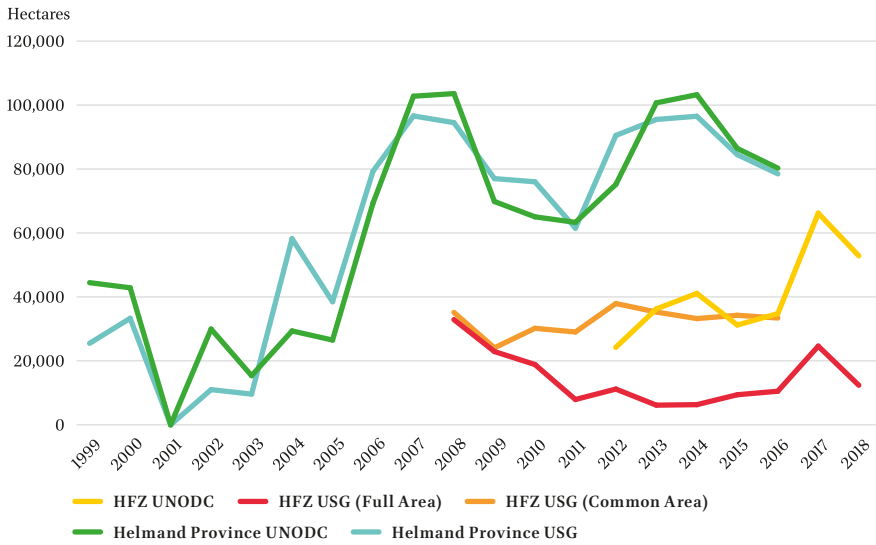


FIGURE 5.1 Opium poppy cultivation in Helmand, 1999–2018 (in hectares)  
SOURCES: UNODC (2019); CNC AND UNITED STATES GOVERNMENT (2019)

The scale of this assistance was impressive. So much so that by 2018 the US government had spent USD 1.46 billion on what it termed alternative development, the vast bulk of which was rural development programmes in poppy growing areas that made little direct reference to opium poppy in their design, implementation or subsequent evaluations (SIGAR, 2018a, 118). These included projects such as the Accelerated Sustainable Agriculture Program (2006–10) at a cost of USD 132.6 million, the Community Development Program, West, East, South and Kabul (2009–12) with a total budget of USD 334 million, the Afghanistan Vouchers for Increased Production in Afghanistan (2008–13), costing USD 323 million, and the Commercial Horticulture and Agriculture Program (2010–19) at a cost of USD 71 million.

All of these projects were funded from the US government's alternative development budget line, and operated in poppy growing areas in Afghanistan but did not offer any indication of how the interventions they delivered would support farmers' transition out of opium poppy cultivation (SIGAR, 2018a, 118–119). As USAID/Afghanistan itself concluded:

USAID's general approach with respect to [alternative development] funding, therefore, has been to assume that investments to increase high value crop production would, as a matter of course, discourage poppy production. However, there has been little effort given to examining the

impact of our programs on poppy cultivation, or as importantly, the impact of poppy production on the implementation of USAID programs. This has left USAID's [alternative development] efforts relatively diffused and unfocused, and, it is argued, led to marginal or unsustainable impacts on poppy cultivation.

USAID/Afghanistan, 2014, 4

In the absence of any mandatory requirement by the Afghan government or their own governments to incorporate interventions that would deter opium poppy cultivation, other development donors adopted the same position. In fact, by 2009, counter-narcotics had fallen off the wider political agenda, in part displaced by the growing insurgency and the challenges of the presidential elections, but also by reductions in opium poppy cultivation overall. Development donors welcomed the opportunity to delegate all responsibility for reducing opium poppy cultivation to law enforcement, and to USAID and other donors that supported initiatives such as the HFZ and KFZ, while they focused on supporting economic growth.

The challenge with many of these development programmes was not that they did not explicitly tie themselves to the objective of reducing opium poppy cultivation—this was beyond their legal mandate and ability to deliver, and few other than UNODC thought that applying conditionality across all development assistance would deliver on either development or drug control objectives. The issue was more that they did not look at how they might best contribute to reducing farmers' dependence on opium as a livelihood strategy, or—more importantly—ensure that they did not make matters worse.

The result was that some of these interventions, like that of the HFZ and KFZ, inadvertently encouraged opium poppy cultivation. For example, fertiliser was diverted to opium production, and improved irrigation led to more land falling under higher yielding opium poppy. Less direct effects could be seen from conventional rural development programmes that focused on increasing wheat production, such as the Regional Area Development Programs (RADP) that USAID launched at the cost of USD 300 million (SIGAR, 2018a). These risked (i) displacing the land-poor, who had relied on the labour-intensive opium crop to gain access to land as a sharecropper, including to former desert areas where they would cultivate even more poppy, as had been done under the HFZ, and (ii) improving wheat yields, so that more land was available for high value crops, including opium poppy. Other programmes, such as the extension of high value horticulture, could also lead to those that sharecropped land finding themselves without a home, land, and access to food crops, leading to them

uprooting their families and looking for land elsewhere where they could grow opium poppy.

In sum, while there were understandable reservations regarding the adoption of a crude and counterproductive conditionality as a means of being seen to be explicitly addressing opium poppy cultivation, ignoring the fact that opium poppy was grown in an area was not an option. Turning a blind eye to such cultivation could, in fact, encourage further cultivation, as well as displace and marginalise the poor, rendering development programmes ineffective in fulfilling their pro-poor mandates and making matters worse with regard to illicit drug crop cultivation.

## 5 Alternative Development: Resistance to Change

By 2018, the clock appeared to have been turned back all the way to the 1990s. USAID was no longer involved in any development programming with links to opium poppy cultivation (SIGAR, 2018b, 189). Other donors, such as the World Bank, ADB, and EC, also ignored opium poppy cultivation even where they were funding large-scale irrigation programmes in poppy growing areas (World Bank, 2014, 41; Byrd and Mansfield, 2014). INL and UNODC were once again in the driving seat, pressing for short-term alternative development programmes that made assistance contingent on reductions in poppy cultivation.

Attempts to reshape the debate on counter-narcotics and alternative development in Afghanistan failed. Despite a number of efforts by those donors most involved in rural livelihoods programmes to better integrate drugs into development programmes, they made little progress with implementation. The reasons for this were manifold and were largely political and technical, in addition to the ubiquitous challenge of maintaining a quorum of interested donors given the rapid staff turnover in Kabul.

As Conklin (2001) defines it, the drugs issue in Afghanistan is a complex, 'wicked problem', one that required cross-government support and ownership, not just within the Afghan government but also among Western donor nations. This was not achieved. Then Afghan President Hamid Karzai showed little interest in the subject and, despite the UK's 'lead nation' and then 'partner nation' role, successive UK prime ministers failed to understand fully what was required. What is more, neither the political leadership in Afghanistan nor that among the Western allies had a common and consistent understanding of the drugs issue or how it related to the wider 'Afghan project' in its various forms—counterterrorism, state building or counter-insurgency. Those institutions charged with the responsibility to deliver on counter-narcotics—such as

the UK Afghan Drugs and Inter-Departmental Unit (ADIDU) and the INL—did not control all the levers, nor did they always have the technical capacity to engage constructively with those institutions responsible for delivering security, governance and economic growth.

Set up as a parallel strand of institutions and activities, they found themselves in a state of constant competition for resources and the attention of senior political leaders, who did not always see the relevance of the drugs issue to the wider mission and lacked a common understanding of how best to manage the negative consequences of widespread opium production. Moreover, the drug control community was often seen as pursuing short-term drug control targets—specifically, dramatic reductions in annual levels of opium poppy cultivation—that were often viewed by members of the development, diplomatic and security communities as detrimental to their institutional objectives.

Within the development community itself, there were major challenges building ownership over the drugs issue in Afghanistan. This was particularly the case for senior officials in Afghan development ministries and Western donors. Both preferred to see the drugs issue as one for someone else to deal with—typically, the growing drug control community that inhabited institutions such as the Afghan Ministry of Counter Narcotics (previously the Counter Narcotics Directorate); INL; the British Embassy Drugs Team (BEDT); and law enforcement organisations within the Afghan Ministry of Interior and the international community, such as the US Drug Enforcement Administration (DEA) and the UK's Serious Organised Crime Agency (SOCA).

Western development donors' senior managers were particularly resistant to engaging on the drugs issue. Although technocrats in Kabul responsible for programmes promoting development in rural Afghanistan would rarely countenance designing or funding an intervention that ignored the country's most valuable export, many senior officials in other capitals did not want to see their organisation engage on counter-narcotics, fearing they would be held responsible for any subsequent fluctuations in opium poppy cultivation. They were of the view that no good would come of being part of what might be perceived as a counter-narcotics mandate and would argue that doing so would run contrary to the pro-poor development objectives of their institution. Afghan leadership would typically follow this lead, absent pressure to engage from their main development donors.

Another obstacle, particularly in the formative years of the Western allies' intervention in Afghanistan, was the largely bilateral strategy of USAID described in the previous section. The scale of the US development budget and its focus on implementing bilateral 'alternative development' programmes



through contractors meant that it could largely pursue its own agenda, separate from that of the other major donors. Thus, while some of the largest development donors involved in rural development would meet to discuss how to better integrate the drugs issue into their development plans, and even pursue joint initiatives between 2005 and 2009, USAID often was absent from the discussions. Instead, it pursued large bilateral programmes, some of which were described as alternative development and others as rural development, often with no clarity as to what differentiated one from the other (SIGAR, 2018b, 128).

The absence of USAID from donor discussions, as well as the perception that it persisted with a set of distinct alternative livelihoods/development projects, did not match the messages that technocrats in Kabul were presenting to the Afghan development ministries. The continuation of a type of 'alternative development' akin to that of the 1990s reinforced the tendency of senior managers in Western donors to look for bounded development projects that they could label as 'counter-narcotics'. This seemingly allowed senior managers to respond to political pressure within their own governments and engage in counter-narcotics, while maintaining a strategic distance—they did not have to integrate drugs into their wider portfolio of development programmes and policy dialogue in Afghanistan.

A further constraint preventing the integration of drugs into wider development was the planning process itself. Designed mostly from Kabul, development programmes were rather generic, identifying the provinces and districts that they would work in with only little detail. They lacked specifics on the context of particular areas, the resource endowments and the complex and diverse nature of the rural livelihood strategies pursued by the local population. This was all to be worked out during the implementation of individual NPPs or bilateral programmes. Efforts to build synergies between these different, centrally designed programmes at the local, district and provincial level were often hampered. The National Solidarity Program (NSP) was intended to establish local mechanisms for development planning in the form of Community Development Councils (CDCs), but some ministries and programmes were reluctant to work through them. Attempts to build provincial development plans under the National Area-Based Development Program (NABDP) also faltered. This led to the counter-narcotics community developing provincial counter-narcotics plans for a number of key provinces through the technical support it provided to the Ministry of Counter Narcotics. Due to a heavy focus on counter-narcotics and the failure to gain traction in the wider development community—which held the purse strings—this initiative proved unsuccessful.

Related to the problem of coherent provincial- and district-level development plans was the issue of technical capacity. Integrating the causes of opium poppy cultivation into rural development interventions, understanding how the reasons for cultivation differ by socio-economic group, and designing interventions that, at best, would reduce the dependency on opium as a livelihood strategy and, at least, would not make matters worse required a deep knowledge of rural Afghanistan (Ward et al., 2008). This was knowledge that many donors and the contractors that implemented their programmes—including those that provided technical assistance to Afghan development ministries—did not possess. Although this lack of knowledge became a consequence of the deteriorating security conditions and the stringent duty of care that Western donors imposed upon their staff, it was also a function of the high staff turnover that had beleaguered the Afghan reconstruction effort since its start.

In the absence of knowledge about rural Afghanistan, the default scenario for development organisations was to assume that an intervention that promotes growth in the legal economy would lead to a contraction in the opium economy. The USAID bilateral funding programme was littered with programmes that followed just such a lead, including the RADPs for South (USD 125.1 million), North (USD 78.4 million), West (USD 69.9 million) and East (USD 28.1 million) (SIGAR, 2018b, 120), as well as the Commercial Horticulture and Agricultural Marketing Program (USD 71 million) (SIGAR, 2019b, 178) and more recently the Value Chain Programs for Livestock (USD 55.6 million), High Value Crops (USD 54.9 million) and West (USD 19 million) (SIGAR, 2019b, 178). Criticised by USAID's own Inspector General (USAID, 2012, 5), this approach rested on a false assumption in the case of the programme Incentives Driving Economic Alternatives-North East West (USD 160 million) in the province of Nangarhar (Mansfield, 2015a).

Afghanistan is inundated with a variety of programmes that highlight the consequence of failing to adequately consider the impact of their activities on opium poppy cultivation. There are numerous examples of the deleterious effects of poorly planned and implemented programmes. These include the HFZ, which ignored the likely effects encouraging widespread wheat cultivation would have on different population groups, thereby marginalising the land-poor and driving them into the former desert areas of Helmand where they cultivated more poppy, and rural development programmes that provided inputs like irrigation and fertiliser that were subsequently diverted to produce higher opium yields (see Figure 5.2) (Mansfield, 2015b). What is perhaps most surprising is how little has been learned since the 1990s.

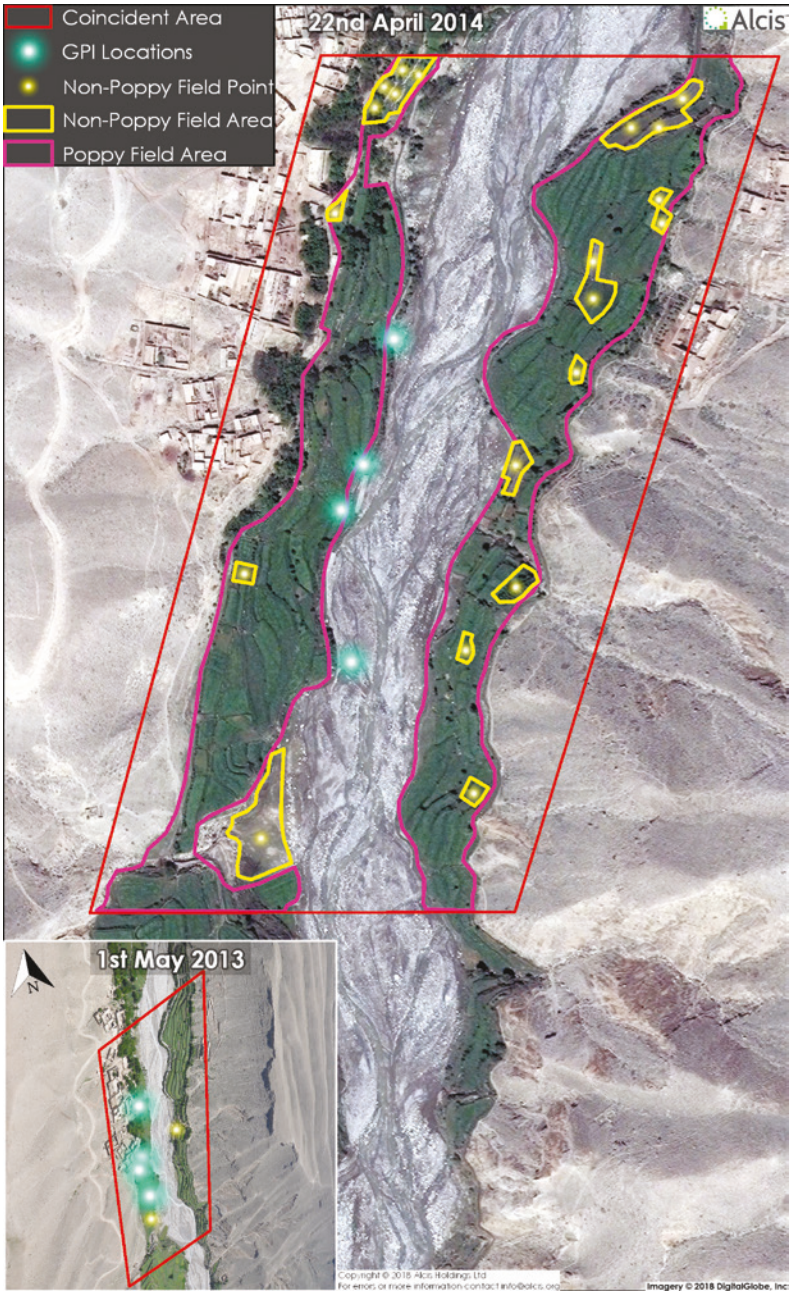


FIGURE 5.2 Irrigation project funded by the Good Performance Initiative being used to grow more opium poppy in Pachir Wa Agam, Nangarhar  
SOURCE: ALCIS (2018), CITED IN SIGAR (2018B)

## 6 Conclusion

In Afghanistan, alternative development has reverted to the default of the 1990s. Misused and misunderstood, the term came to mean all things to all people during the post 2001 reconstruction. Initial development efforts that drew on the failures of alternative development in the 1990s looked to avoid both initialising area-bound interventions of the past, and making assistance contingent on reductions in opium poppy cultivation. Instead, they looked to integrate the causes of drug crop cultivation into the design and implementation of rural development programmes, including the NPPs.

However, ultimately, the lack of senior political leadership, the inconsistent and insufficient ownership of the drugs issue among the development community, centralised and disparate development planning processes, and limited technical capacity resulted in intermittent and inconsistent engagement by development organisations on the issue in Afghanistan.

Periods of peak engagement were often when levels of opium poppy cultivation increased nationally or in a particular province, especially one where a Western government led the Provincial Reconstruction Team, and development staff would find themselves compelled to engage directly in counter-narcotics efforts. This was largely driven by the perception that rising levels of cultivation reflected a failure in the state-building project in Afghanistan or, worse still, represented poor performance of a Western nation's military and civilian effort within the province where cultivation was increasing. When levels of cultivation were static or falling, there would be no such pressure, and senior development officials would even dissuade their staff from engaging in the drugs issue at all—even when programmes they were funding were providing assistance in areas where opium production was concentrated.

In the absence of a more consistent and meaningful engagement on the drugs issue by a quorum of development donors and Afghan ministries, the drug control community filled the gap. In fact, it is fair to say that the default position has typically been one where institutions such as UNODC, the Afghan Ministry of Counter Narcotics and INL have pushed what they perceive as a development model in drug growing areas, repeating calls for conditionality or a 'social compact' that tied aid to reductions in opium poppy cultivation (Costa, 2002; UNODC, 2016). Over time, alternative livelihoods came to be seen as synonymous with alternative development, and in some areas—most notably with the provision of wheat seed in Helmand under the Food Zone initiative—even began to look like crop substitution, an approach that even the drug control community had abandoned in the 1980s.

The reality is that a simplistic understanding of alternative development where it is linked to conditionality, and what appears to be a crude exchange of development inputs for a commitment to reduce drug crop cultivation, retains a certain attraction, particularly for senior political leadership. First, tying development assistance directly to reductions in cultivation infers causality between development inputs and drug control outcomes, even where evidence in rural Afghanistan has shown that it does not exist. Second, it provides an optic of specificity between an investment of funds and reductions in cultivation that development specialists can rarely offer, particularly given the weakness in the monitoring and evaluation mechanisms of the development community in Afghanistan and the reliance on attitudinal surveys, such as those deployed in Helmand.<sup>4</sup>

Finally, perhaps the most valuable aspect of this idea of 'exchange' is that it provides a political target for subsequent recriminations when reductions in opium poppy cultivation do not occur or when they are not sustained. Once cultivation fails to fall or there is a resurgence, it is easy to blame the national leadership, provincial governors, district officials or even community leaders for their 'lack of commitment' to drug control, their cynicism in taking development monies and not living up to their side of the bargain, and perhaps even their corruption and involvement in the drug trade. Although many of these claims may be true in part, conditionality fundamentally continues to fail to reflect the decentralised and contested nature of political power in rural Afghanistan. The reality is that those in positions of power would not have the capacity to retain that power if they were to impose prolonged periods of hardship on large sections of the rural population.

Without recourse to the kind of coercive capacity required to enforce conditionality, those looking for reductions in drug crop cultivation in Afghanistan have to work at a different pace and with unfamiliar instruments. Reaching a common understanding with the development community as to how improved

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4 Examples include the Helmand Monitoring and Evaluation Program (HMEP), a UK funded initiative used to assess the impact of stabilisation efforts in Helmand. The polling conducted by HMEP was subject to significant bias. For example, HMEP reported that only 3–5 per cent of households in Helmand earned a revenue from opium in 2013 despite the scale of cultivation in the province, which had risen from 75,176 hectares to 100,693 hectares between 2012 and 2013, with some areas cultivating as much as 62.5 per cent of agricultural land. Other surveys showed the same systematic underreporting of opium poppy cultivation, including large-scale ones such as the National Risk and Vulnerability Assessment (NRVA), and more limited ones such as those carried out by Incentives Driving Economic Alternatives–North, East, West (IDEA-NEW) and Measuring Impact of Stabilization Initiatives (MISTI) (see Mansfield, 2015a, 8).



welfare, social protection and economic growth can address the causes of opium poppy cultivation and reduce dependency on drug crops as a livelihood strategy would help. Working with development donors and ministries to ensure that current and pipeline programmes do not lead to growing levels of cultivation or to the population's increasing dependency on opium production as a livelihood strategy would also prove to be an invaluable exercise. It is without question in Afghanistan that exorcising the term alternative development—and its association with bounded and conditional development assistance—would also aid both the debate on what to do about illicit drug crops, but also that on the role that the wider development community can play.

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# Cannabis Regulation and Development: Fair(er) Trade Options for Emerging Legal Markets

*David Bewley-Taylor, Martin Jelsma and Sylvia Kay*

## Abstract

Significant policy shifts have led to an unprecedented boom in medical cannabis markets, while a growing number of countries are moving towards the legal regulation of adult non-medical use. This trend is likely to bring a range of benefits. Yet there are growing concerns over the many for-profit cannabis companies from the global North that are aggressively competing to capture the licit spaces now opening in the multibillion-dollar global cannabis market. This threatens to push small-scale traditional farmers from the global South out of the emerging legal markets. Those trying to transition out of illegality face huge difficulties due to a combination of the legacy of criminalisation and administrative barriers to entry. Conquering and protecting spaces for small-scale farmers within the current overheated and corporate-driven market will require affirmative action, regulation of foreign investment, and well-designed legislative and market strategies. This policy comment explores the unfolding market dynamics from a development perspective and offers a set of guiding principles and policy proposals upon which a more equitable, fair(er) trade cannabis regulation model can be built.

## 1 Introduction<sup>1</sup>

Policy changes over the past five years or so have dramatically reshaped the global cannabis market. Not only has there been an unprecedented boom in medical markets, but, following policy shifts in several jurisdictions, a growing number of countries are also preparing for the legal regulation of adult

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1 This article draws on and develops ideas and arguments contained within Martin Jelsma, Sylvia Kay and David Bewley-Taylor (2019) *Fair(er) Trade Options for the Cannabis Market*, Cannabis Innovate, Policy Report 1, London/Swansea, March. Thanks go to the anonymous *International Development Policy* reviewers for their constructive comments and feedback. As ever, any errors of fact or interpretation remain those of the authors.

non-medical use. Such moves are triggered by the recognition that decades of repressive policies have proved ineffective and have had grave negative consequences. A reckoning with these past failures and a shift towards a new model for cannabis regulation look set to bring a clear range of benefits in terms of health and human rights, and potential reductions in crime and over-incarceration. Nonetheless, there are also growing reservations regarding unfolding market dynamics. Among these is a concern over the many for-profit cannabis companies from the global North<sup>2</sup> that are aggressively competing to capture the licit spaces now rapidly opening in the multibillion-dollar global cannabis market. This threatens to push small-scale and marginalised traditional farmers from countries such as Colombia, Mexico, Jamaica, St Vincent and the Grenadines, Morocco, South Africa, India, Nepal or Thailand out of the emerging markets, even though they have supplied illicit markets for decades.<sup>3</sup>

It is, therefore, vital amongst important and timely discussions surrounding both patient access to medical cannabis and the emerging structure of regulated markets for recreational use, particularly within the global North, that the socio-economic needs and interests of traditional cannabis producers in the global South are not overlooked. The millions of people around the world currently depending on the illicit market for their livelihoods should not be left behind in this historic transition. There should be no reason why, with the right public policies in place, small-scale farmers cannot benefit from these market openings, working in mutually beneficial partnership with or alongside ethical companies. Such an approach would not only move beyond standard corporate social responsibility (CSR), it would also align with government obligations to end poverty, hunger and the causes of structural inequality and discrimination in the context of the 2030 Sustainable Development Agenda. The 2016 United Nations (UN) General Assembly Special Session on the World Drug Problem (UNGASS) reaffirmed a spirit of 'shared responsibility' in that regard (UN General Assembly, 2016).

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2 The terms global North and global South are used here to refer to the geographical global North/South divide and the associated unequal distribution of economic and political power loosely based on the so-called Brandt Line. That said, a broader non-geographical interpretation is also applicable whereby 'power-conscious readings of place [...] challenge nation-based models of the Global North (First World) and the Global South (Third World)' and suggest that 'one may exist within the other' (Trefzer et al., 2014, 1).

3 While these are countries where, to varying degrees, there is currently some discussion about market transition, many more states from the global South can be regarded as traditional producer states. See Figure 6.4.

Drawing on evidence from some of the countries mentioned above,<sup>4</sup> this policy comment argues that policymakers at a range of governance levels should grasp the opportunities afforded by the dramatic shifts in the cannabis market to help shape its growth and to ensure that it will enable cannabis producers in the global South to transition out of illegality. From a sustainable development perspective, this would mean putting in place standards and charting a course that triggers a race to the top, not to the bottom. Moving beyond a set of minimum legal standards would pave the way for an approach that is fairer and more equitable than is currently the case within the nascent licit cannabis market; what we call a fair(er) trade cannabis model. Conscious of the definitional complexities associated with the terms ‘“Fairtrade”, ‘Fair Trade’, ‘Fairly Traded’ or other variations of spelling’ and the ‘contest for meaning between these terms’ (Tiffen, 2019; Walton, 2010; Ehrlich, 2018) yet drawing on many of the high-order principles developed by what might be called the ‘Fair Trade Movement’, such a model would, put simply, be built around a rights-based, inclusive and environmentally sustainable approach to market engagement.

The notion of fair(er) trade cannabis is not as far-fetched as it might at first appear. A 2018 review of the cannabis market in the United States (US), for example, found about a dozen nationwide voluntary cannabis-specific standards-setting organisations that claim to certify cannabis as ‘ethical’.<sup>5</sup> What this means in practice, however, varies considerably. And this also highlights problems surrounding voluntary codes/challenges in (inter)national standard setting that are not unique to the cannabis market.<sup>6</sup> Beginning with a brief overview of the current situation relating to both medical and recreational cannabis, this policy comment moves on to discuss some of the barriers pertaining to the transition from illegality for small-scale cannabis farmers. Having explored some of the key issues surrounding cannabis and development,

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4 While small-scale and marginalised traditional farmers from a range of countries are being, or are at risk of being, pushed out of the emerging market, solid empirical data on the process is uneven. Consequently, here the focus is largely on the Americas where information is currently more widely available.

5 These include the Cannabis Certification Council (CCC), Certified Kind, Clean Green, EnviroCan, the Foundation of Cannabis Unified Standards, Patient Focused Certification (PFC), Resource Innovation Initiative (RII), Oregon Sungrown Certified, and The Cannabis Conservancy (TCC), amongst others (Bennett, 2018b).

6 For example, they are industry-driven, rather than worker- or social movement-driven; lack transparent governance structures and consultation- or standard-setting processes; contain weak monitoring, evaluation and accountability mechanisms; and do not include methods for identifying and incorporating perspectives of traditionally marginalised groups.

the chapter concludes by highlighting several considerations, and offers a set of key principles to help guide the promotion and development of fair(er) trade cannabis.

## 2 Legal Market Expansion

Beginning with California in 1996, the medicinal use of cannabis has been legal for some time in numerous US states, with—as of October 2019—33 states and the District of Columbia permitting patient access. Elsewhere, at the national level, the medical cannabis market has been booming in recent years. Almost every month another country moves to regulate.<sup>7</sup> Although countries such as Israel, Canada and the Netherlands might be regarded as early adopters, with cannabis for medical use permitted since 1992, 1999 and 2001, respectively, rapid expansion has been taking place across Europe (Germany, Greece, the Czech Republic, Poland, Slovenia, Luxembourg, Switzerland), Oceania (Australia and New Zealand) and Latin America (Uruguay, Colombia, Chile, Argentina, Mexico, Peru, Paraguay), despite many shortcomings in the regulatory frameworks in place in most of the countries concerned. This trend is now also becoming visible in the Caribbean, Africa (Lamer, 2018) and Asia, in countries such as Jamaica, St Vincent and the Grenadines, Barbados, Trinidad and Tobago, the US Virgin Islands, India, South Africa, Lesotho, Ghana, Zambia, Zimbabwe, Swaziland, the Philippines and Thailand (Aguilar et al., 2018; Pascual, 2019) (see Figure 6.1).

Moving beyond medicinal uses, beginning with policy shifts in 2012, eleven US states plus the District of Columbia have now approved ballot initiatives or passed laws to regulate cannabis. Uruguay (2013) and Canada (2018) have implemented laws at the national level (see Figure 6.1). These new frameworks for the legal regulation of the whole cannabis market, including non-medical or ‘adult’ or ‘recreational’ uses, are contributing to fresh debate elsewhere in the world. For example, while many countries remain committed to punitive prohibition, cannabis regulation is on the agenda of the governments of Mexico and of Luxembourg, and in New Zealand the governing coalition has committed to a ballot initiative by 2020 on whether to legalise non-medical cannabis. The Dutch government will be permitting a four-year programme of local experiments in regulated cannabis production to supply

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7 This policy comment does not cover questions concerning the clinical efficacy of medicinal cannabis. An overview of the latest scientific evidence can be found, for example, in NASEM, 2017; EMCDDA, 2018; and Hall, 2018.

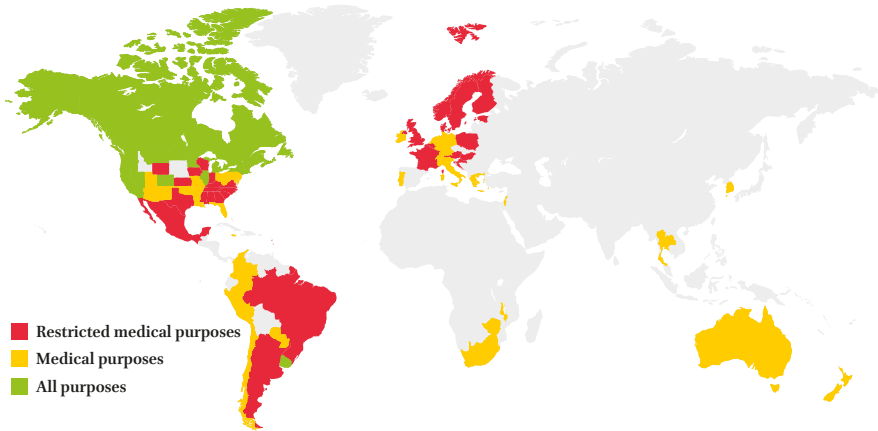


FIGURE 6.1 Cannabis regulation world map  
SOURCE: CREATED BY AUTHORS

the ‘coffeeshops’ where purchase and use has been tolerated since the 1990s. Similar experiments are also to take place in Switzerland, and multiple regulatory proposals have emerged at municipal and regional levels in other European countries (Blickman et al., 2019). Within the US, additional state ballot initiatives are being planned, and more state legislatures are considering cannabis regulation bills. In the Caribbean region, the 2018 CARICOM Regional Commission on Marijuana concluded that the UN-based ‘prohibitionist regime on cannabis/marijuana is not fit for purpose’, recommending ‘significant changes to the laws of the region to enable the dismantling of this regime [...] that has proven to be ineffective, unjust and caused more harm than it sought to prevent’ (CARICOM Regional Commission on Marijuana, 2018, 62). And, signalling a shift towards more liberal approaches to the drug, in December 2018—following in the footsteps of Jamaica—St Vincent and the Grenadines as well as Antigua and Barbados adopted legislation regulating medical use and decriminalising possession and cultivation for any personal use (*Jamaica Observer*, 2018a; 2018b).

This policy trend towards legal regulation is likely to consolidate and spread to more jurisdictions. However, while the medical cannabis boom is—with certain conditions—justifiable under the existing UN drug control regime, there can be no doubt that the legal regulation of non-medical markets is out of compliance with provisions of the UN drug control treaties. As more jurisdictions move in this direction, treaty tensions will increase, and states will be obliged to explore options to reconcile such policy changes with their obligations under international law (Jelsma et al., 2018).

### 3 Corporate Capture

These shifts in attitudes, and subsequently in policies, have generated considerable interest from the business community, including the pharmaceutical, tobacco, and alcohol industries and investment bankers and hedge funds. Despite the increasingly obvious existence of a speculative bubble, investment opportunities are especially attractive in the global South and traditional cannabis producing countries. Here, a combination of lower production costs, suitable cannabis plant varieties, possible medical cannabis export opportunities, and potential in-region consumer markets for both medical and recreational purposes has resulted in what has been referred to as a ‘green rush’ of investors and medical cannabis companies. Attracted to places such as Latin America and the Caribbean, these mostly Canadian companies are seeking to connect actual and potential demand in emerging consumer states within the western hemisphere and Europe with supply from traditional producer states, and reap the enormous profits that potentially go with it (Pascual, 2019).

Cannabis companies that went public on the Canadian stock exchange accumulated billions of dollars, triggering a financial bubble driven by highly speculative market predictions. Much of the capital generated from those share sales was invested in stock promotion, mergers, and acquisitions (Rendell and Kiladze, 2019), and part of it was used to establish new cultivation and production facilities in Southern countries or to buy up local licensed companies. To date, however, hardly any international trade in cannabis has actually materialised and clear signs of a bursting bubble became visible in the second half of 2019. The market value of Canada-based Canopy Growth, for example, still the world’s largest cannabis company, dropped from USD 18 billion (CAD 24 billion) in April 2019 to about USD 5.5 billion (CAD 7.1 billion) in mid-November (Bloomberg, 2019).

Nothing of the ‘green rush’ billions has ended up with traditional cannabis growers in the global South, who struggle to get access to the corporate-driven market, and do so despite the intention within some governments to encourage smaller local groups to enter the market, both in terms of medical cannabis and further down the line in relation to more widespread recreational use in a range of jurisdictions.

### 4 The Challenge of Transition

It would seem only fair that those who—often for basic economic survival in the absence of other viable opportunities—have endured supplying the illicit

cannabis market, those who were most affected by the ‘war on drugs’, and those who in many ways paved the way for recent policy changes should be first in line to benefit from the emergence of licit spaces in the market. Those trying to transition out of illegality, however, face huge difficulties due to a combination of the legacy of criminalisation and legal and administrative barriers to entry. Conquering and protecting spaces for small-scale farmers in traditional producing countries (Figures 6.2 and 6.3) in light of the current overheated and highly competitive global cannabis market dynamics will require affirmative action, regulation and control of foreign investment and transnational corporations, and well-designed legislative and market strategies. And, while not our focus here, the same holds true for black and Latino communities in the US or for ethnic minorities elsewhere that have been disproportionately affected by drug law enforcement (Dufton, 2017, pp. 225–248). As the market continues to emerge and find its shape in the global South, portents of the future can already be identified in the global North. Difficulties encountered in overcoming the legacy of punitive prohibition are being documented in the US and Canada, even in jurisdictions that—engaging with the concept of social justice—intended to give preferential access to those who had been involved in supplying the illicit market (Avins, 2019). Small cannabis growers in the global South (see Figure 6.4) face very similar, if not worse, obstacles to conquering a place in the licit market.

There are some positive developments. In late 2018, authorities in St Vincent and the Grenadines passed a Cannabis Cultivation Amnesty Bill as part of a suite of measures to support small-scale farmers who have been illegally cultivating and trading cannabis transition to become legal licenced growers of medicinal cannabis. Nevertheless, the business of securing a licence in St Vincent and the Grenadines as elsewhere in the Caribbean is expensive for small growers, and there are considerable additional set-up costs to meet standards, such as establishing security systems (including something as basic as fencing). Further expenses are incurred in seeking advice on and changing traditional cultivating techniques to adhere to Good Agricultural Practice standards and protocols. This means that there is a need to attract and rely on foreign capital. In Jamaica, for example, most of the 30 licences awarded by the Cannabis Licensing Authority (CLA) to cultivate and sell cannabis are said to be supported by a significant level of foreign backing. The same goes for the 170 applications conditionally approved. Such a dependence on outside investment means that appropriate framework conditions must be in place in order to solicit the right kind of investment and ensure that wealth is not extracted at the expense of local development and livelihoods.





FIGURE 6.2 Illicit cannabis cultivation in Westmoreland, Jamaica  
SOURCE: PHOTO BY AUTHOR, MARTIN JELSMAN, AUGUST 2018

Concern regarding the resulting asymmetry was, in many ways, foreshadowed by the CARICOM Marijuana Commission when it noted, ‘Embracing cannabis/marijuana as a means of economic development is not without its challenges’. Adding more detail, it continued by stressing that, ‘A serious concern is that a new system could place economic power and benefit too much in the hands of large, foreign business concerns, to the detriment of several stakeholders, including small farmers [...] cannabis has fuelled important economic gains and livelihoods for small farmers and traders, who now fear that liberalisation and legalisation might dis-empower them’ (CARICOM Regional Commission on Marijuana, 2018, 56).

Some measures have been introduced to deal with these concerns, including stipulations on the kinds of partnerships and agreements into which foreign investors can enter. According to Jamaican law, for example, foreign companies are obliged to have local partners, who retain—on paper at least—majority control. However, it is clear that the relationship with the sources and types of investment in the emerging cannabis market is an area that will need careful monitoring. This is especially true in the context of cannabis, where





FIGURE 6.3 Illicit cannabis cultivation in Colombia

SOURCE: PHOTO BY AUTHOR, MARTIN JELSMA, JUNE 2017

access to capital is already fraught with difficulties given the restrictions imposed by US banking regulations and the fact that cannabis is still illegal at the federal level. Since local Jamaican banks have ties to the US, they are unwilling to take on cannabis clients for fear of negative repercussions in the absence of correspondent banking regulations (Subramaniam, 2019). While this remains hugely challenging, the situation is evolving. St Vincent and the Grenadines has, for example, become the first country in the Caribbean to grant permission for licensed cultivators to open bank accounts with the majority state-owned Bank of St Vincent and the Grenadines. This opens up a door for small-scale farmers from the country (and other countries) to transition from the illegal to the legal market, or for those just wanting to get into the cannabis trade for the first time.

## 5 Cannabis and Development

Several countries have expressed an interest in using the rapidly opening licit spaces in the global market as an ‘alternative development’—or, more appropriately, simply a development—opportunity for small farmers currently producing for the illicit market, contrasting this as a more viable alternative to failed ‘crop substitution’ projects implemented in the past. In fact, already during the negotiations in the late 1950s for the 1961 *Single Convention on Narcotic*

*Drugs*, there was some recognition that the treaty obligation to eliminate illicit cultivation required the provision of alternative livelihood options for the communities involved. Morocco for example, having just gained independence, drew attention to the problem ‘that thousands of people had for years been living on the cultivation of kif, and it was their main source of livelihood’, and asked the international community for development assistance (UN CND, 1958, 28).

While ‘alternative development’ (AD) became a major issue for debate at the UN level for coca and opium poppy, only a handful of such projects have been set up for cannabis farmers. These have been in Lebanon, Morocco, Indonesia and the Philippines, although none have been successful. Repeated calls to the international donor community for more development assistance in this area, especially from African countries, have fallen on deaf ears. Donors do not seem to believe AD could work in the case of cannabis, nor does it rank high on the political agenda. The recent regulation trend, however, potentially offers a new perspective on providing licit (alternative) livelihood options for subsistence farmers currently dependent on the illicit cannabis economy.

For instance, a pilot project with rural communities has recently been initiated in Jamaica, representing an important first attempt to utilise the

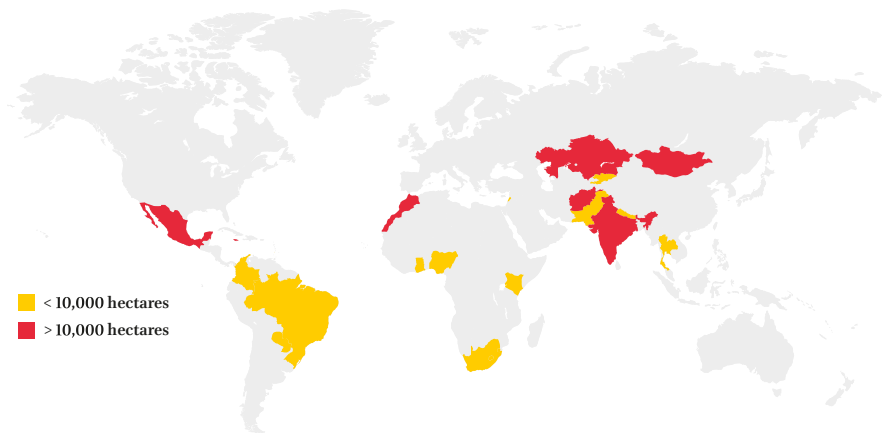


FIGURE 6.4 Traditional producer countries

Notes: Producer countries with less than 10,000 hectares: Brazil, Colombia, Ghana, Kenya, Kyrgyzstan, Lebanon, Lesotho, Nepal, Nigeria, Pakistan, Paraguay, St Vincent and the Grenadines, South Africa, Swaziland, Thailand.

Producer countries with more than 10,000 hectares: Afghanistan, India, Jamaica, Kazakhstan, Mongolia, Morocco, Mexico.

SOURCE: CREATED BY AUTHORS

opening of licit spaces in the global cannabis market as an economic opportunity for small-scale farmers currently producing for the illicit market. In 2016, the CLA introduced a tiered licensing system for medical ganja, meant to ‘enfranchise the small farmers who had previously been subject to significant punitive action by law enforcement agencies’ (Jones, Porter and Bishop, 2017, 115). Jamaican Prime Minister Andrew Holness announced that the government would, in the first quarter of 2019, ‘unveil a development programme for farmers in the ganja sector [...] to ensure the small farmers in the sector are protected as the global marijuana industry expands. [...] because it is a real fear that as that industry emerges, becomes more corporatized, that the original ganja man, the original farmer, could very well be left out of the gains and the benefits’ (Holness, 2019). The CLA ‘Alternative Development Project’ (ADP) is being developed in collaboration with the Westmoreland Hemp & Ganja Farmers Association and the St Elizabeth Maroon community and is ‘geared towards transitioning current illicit ganja farmers into the legal regulated industry’ (CLA, 2017). This goal was emphasised in April 2019 by J.C. Hutchinson, minister without portfolio at the Ministry of Industry, Commerce, Agriculture and Fisheries. Referring to the ADP rollout, he stressed that ‘cannabis is one of the crops which the government is making sure that the small farmers are involved in growing legally’ (Ferguson, 2019). The long delay, limited implementation and ongoing confusion about its status—as of October 2019 it has not been officially launched (*Jamaica Observer*, 2019)—makes even an initial evaluation of the ADP difficult. Nonetheless, the scheme is worth monitoring, especially considering the fate of programmes in other parts of the world.

Several other countries that have recently chosen to allow the use of cannabis for medicinal purposes have attempted to introduce preferential access schemes for existing small-scale farmers and restrictions on foreign investments. Unfortunately, these initial attempts are yet to prove their capacity to enable local cultivators to genuinely overcome the difficult hurdles faced when entering the competitive global medical cannabis market. Meanwhile, foreign, private companies—benefiting from governmental apathy and sometimes even the assistance of local politicians with business interests—stand ready to invade and capture these market spaces with millions of dollars to invest (Barjas, 2018). Despite perhaps good intentions and public-facing protestations concerning engagement with local communities, the track record of many medical cannabis companies currently operating in places such as Jamaica and Colombia has fallen far short of commitments made (Martínez Rivera, 2019).

## 6 Conclusion

The United Nations Office on Drugs and Crime 2006 *World Drug Report* concluded: 'The world has failed to come to terms with cannabis as a drug. In some countries, cannabis use and trafficking are taken very seriously, while in others, they are virtually ignored. This incongruity undermines the credibility of the international system, and the time for resolving global ambivalence on the issue is long overdue. Either the gap between the letter and spirit of the *Single Convention*, so manifest with cannabis, needs to be bridged, or parties to the Convention need to discuss re-defining the status of cannabis' (UNODC, 2006, 186). Historic policy changes are now reshaping the global cannabis market, and the gradual dismantling of the prohibitive regime that reigned in past decades is a welcome development. It would be a dramatic outcome, however, if the legally regulated medical and non-medical markets that are rising from the ashes of global drug prohibition ultimately lead to what prohibition intended, but never succeeded in achieving: the destruction of the remnants of traditional cannabis cultures that barely managed to survive, and the eradication of the illicit cannabis survival economies in the global South. The construction of the global cannabis prohibition regime was a historic mistake with severe consequences. But if the transition towards a legally regulated market results in a corporate takeover that concentrates profits in the pockets of a handful of Big Pharma, Agro, and cannabis companies and pushes small-scale farmers in the global South out of business, another historic mistake is already in the making.

Ensuring that fair(er) trade principles guide this transition is a responsibility for governments and the cannabis industry alike. Far from being a purely quixotic, benevolent endeavour, benefits can be derived for both. For governments in the global South, for example, carefully structured producer frameworks have the potential to help fulfil human rights commitments and to achieve hitherto elusive development outcomes in marginalised communities, thereby contributing to the achievement of the Sustainable Development Goals (SDGs) as committed to at the UN level. Kate Gilmore, Deputy High Commissioner, Office of the UN High Commissioner for Human Rights, when introducing the draft of the *Declaration on the Rights of Peasants and Other People Working in Rural Areas* in April 2018, referred to the 2030 Agenda for Sustainable Development and its promise to 'leave no one behind': 'Promises that no one is to be left behind by discrimination nor poverty; or left out through marginalization; or forgotten because their truths are inconvenient to the privileged. Yet, those universal promises have not been upheld. Peasants and other people working in rural areas have been left behind' (Gilmore, 2018).

And there is a real risk that this will be especially the case now for those dependent on illicit cannabis cultivation.

Going beyond standard CSR, companies in the cannabis sector are likely to benefit from the market appeal of ethically sourced, or fair(er) trade, cannabis. While that may be the case, as with regulative frameworks around other commodities industry voluntarism is only likely to go so far, and appropriate structures will thus necessitate a degree of public policy monitoring and evaluation. The issue is, however, also important for the drug policy reform movement, which has played a crucial role in triggering these policy changes by rightfully pointing out the many negative consequences of prohibition. Now that the wheels of change are turning, it is time to prioritise advocacy for a fair(er) trade cannabis market, to protect the rights of small-scale farmers and others who bore the brunt of repressive approaches, and to ensure a place for them in the emerging licit markets.

The challenges are manifold, and the political, legislative and commercial landscapes are fluid. Mindful of the intricate, cross-cutting and complex nature of the commercial and legal environment, careful thought must be given to a set of interconnected frameworks relating to producers, consumers, quality and standards, as well as finance and trade policies. In this regard, lessons can be drawn from other global commodity markets and the ongoing struggles of small farmers to survive amidst deregulation and globalisation, free trade and investment agreements, and unrestricted corporate capture of markets by transnational corporations. In fact, in many instances, neo-liberal trends in the global economy have directly contributed to an expansion of illicit economies. Dramatic price crashes of traditional export commodities such as coffee, cacao and bananas have forced many small farmers in the global South to take refuge in the illicit cultivation of opium, coca and cannabis—the few remaining agrarian products where they have a comparative advantage. Their illegal nature can offer them higher prices and better chances of survival. In all three cases, fair trade markets have emerged with accompanying certification mechanisms to preserve at least pockets of these global markets in which some rural communities have been able to survive.

Coffee, cacao and bananas require climatological conditions that prevent a transfer of production to the global North, while cannabis can basically be grown anywhere. The illicit and the emerging licit cannabis markets have both experienced a process of import substitution in the major Northern consumption markets with rapidly expanding greenhouse and indoor cultivation. This poses additional challenges for traditional cannabis growers in the global South and for the development of comparable fair(er) trade scenarios to protect them. More emphasis will have to be given to arguments

around ‘ethical consumerism’ (Bennett, 2018a); branding based on quality advantages of native cannabis strains and traditional cultivation techniques, using ‘geographical indications’ (Benavente, 2013) or ‘denominations of origin’ certification for example (European Union, 2016); the significant carbon footprint disadvantages of indoor/greenhouse production facilities (Milman, 2017); and so on.

On the other hand, fair trade pockets for coffee, cacao and banana had to be reconquered in an already established fully liberalised market, while the transition from an illicit to a licit global cannabis market is still in an incipient stage. Theoretically, this may offer better conditions to shape the market’s contours and introduce social justice and fair(er) trade principles from the outset. While the initial ‘green rush’ and rapid growth of big cannabis companies instilled fear of an early corporate capture of the emerging market, the recent burst of the speculative bubble may indicate that it is not yet too late to start a serious discussion about how to create a more equitable global cannabis market. Quite a few Southern traditional supplier countries of the illicit cannabis market have recently adopted medical cannabis legislation, struggling to still get a piece of the global medical pie. However, as long as major producers such as Colombia, Jamaica, St Vincent and the Grenadines, Morocco, South Africa, Lebanon, India, Nepal or Thailand remain unwilling to also legally regulate cannabis for non-medical purposes, millions of small farmers will still lose their livelihoods. Preventing that scenario will require the proactive engagement of those countries in regional and global forums soon, with the aim of opening the debate about an international cannabis trade regime and defying the strictures of the current UN drug control treaties.

Nonetheless, drawing on the initial discussions introduced here and explored more fully elsewhere (Jelsma et al., 2019), we believe that it is possible to develop a set of guiding principles and policy proposals upon which a fair(er) trade cannabis model can be built. Foundational principles include:

- *A commitment to solidarity and social justice*, with initiatives going beyond pure profit and business making opportunities to integrate ethical concerns as a foundational part of the operation.
- *Producer empowerment and community benefit sharing* through more equitable terms of trade, in which producers are not just seen as providers of raw materials but as value creators.
- *Environmental sustainability standards* in relation to the use of energy, water, and agricultural inputs.
- *Labour protections* to ensure worker safety, health, and satisfaction.
- *Democratic control, participation and decision-making processes*, through inclusive business models and systems of worker-driven social responsibility.



- *Transparency and traceability* in the operation of the cannabis market and supply chain.
- *Longer-term strategies*, with special attention placed on marginalised communities and rural areas in (traditional) producing countries.
- *Respect for social history* and the role of cannabis in the cultural and religious identities and practices of traditional growing communities.

Based on those overarching principles, several concrete policy measures can be considered:

- *Quotas* that stipulate that a certain percentage of cannabis product must be sourced from small growers;
- *Minimum pricing* for delivery of cannabis so that producers are guaranteed a specified income stream;
- *Affirmative licensing laws* that prioritise, in the first instance, small and traditional cultivators to give them a head start in the market;
- *A development fund* from the fees collected from the issuing of licenses and/or other revenue, which could be put back into cannabis growing communities and regions;
- *Lower barriers to entry* for small and medium-sized producers in terms of administrative, compliance and security costs;
- *Restrictions on foreign investment* with regard to the acquisition of licenses, company ownership, and intellectual property rights over local cannabis strains and products;
- Enable a legal national and export market for cannabis-based *alternative health products* alongside high-standard pharmaceutical prescription medicines;
- Encourage cannabis growers to organise and register themselves as *cooperatives* to pool resources and coordinate lobbying efforts and negotiations with governments and companies;
- Enact *land reform* programmes where cannabis growers currently find themselves without access to land or security of tenure<sup>8</sup>;
- *An amnesty and the expungement of criminal records* to facilitate cannabis growers to transition out of illegality.

These proposed principles and policy measures are non-hierarchical and non-exhaustive. They are intended to stimulate further debate and reflection as the licit cannabis market evolves, although there will certainly be a need for cultural sensitivity and flexibility based on the diversity of profiles of growers and consumers in different regions. Above all, however, they are a call to

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<sup>8</sup> We acknowledge that in many parts of the world, land reform is complex and problematic. Nonetheless, it remains an important policy measure for consideration.

policymakers, development agencies and investors to start taking the issue of fair(er) trade cannabis seriously and to transform the idea from a utopia into a reality.

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**PART 2**

*Human Development and Drug Policies*





# Making War: Conflict Zones and Their Implications for Drug Policy

*Tuesday Reitano*

## Abstract

The illicit drug economy has emerged as a major factor that can exacerbate violence, complicate peace negotiations and corrupt transitions from war to peace. Trafficking chains span continents, yet they often take root in fragile and conflict-affected states, where violent actors can exploit the ‘violent-governance paradigm’ to entrench their economic, political and social influence. When this combines with the international narcotics enforcement regime, it has proven to have detrimental consequences for the resolution of conflict, as well as for the long-term developmental trajectories of those whose livelihoods depend on the drug economy. A harm reduction approach can be argued for, but the drug policy community has yet to demonstrate that it can offer proven alternatives beyond the point of cultivation for actors further along drug supply chains.

## 1 Introduction

Drugs and conflict are almost inextricably interlinked—on the part both of the state and the non-state. Throughout history, many conflict actors have been fuelled by narcotics while conflicts themselves are funded by taxes on the illicit drug economy. While drugs are rarely the reason a conflict begins, there are many contemporary examples of the drug economy prolonging and exacerbating levels of conflict and violence and preventing successful peacebuilding (Cornell, 2005).

An analysis of the Resolutions of the United Nations Security Council (UNSC)—the highest ranking global body with regard to peace and security—carried out by the Global Initiative Against Transnational Organized Crime (GI-TOC) shows that the drug trade has been a growing concern over the past decade. Of a total of 1,219 UNSC Resolutions passed between 2000 and 2019, drug trafficking was mentioned in 114—around 10 per cent—and is second only to arms trafficking as the most frequently occurring form of crime. Of

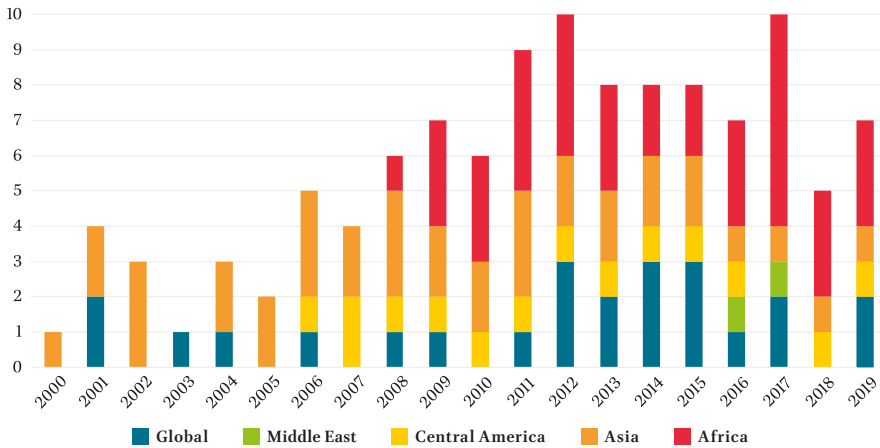


FIGURE 7.1 Mentions of drug trafficking in UN Security Council Resolutions by region (2000–19)

SOURCE: GI-TOC (2020B)

particular significance is, as Figure 7.1 clearly shows, that the rate at which drug trafficking is mentioned in resolutions is accelerating. In the period 2010–19, the number of resolutions specifically mentioning drug trafficking exceeded 20 per cent (GI-TOC, 2020a), and the geographic scope of those resolutions significantly increased.

Although references in resolutions is an imperfect measure that cannot be assumed to be a proxy for the scale of any illicit market, nor necessarily a reflection of the real-world nature of conflicts on the ground given the politicisation and complexity of the Security Council as a multilateral mechanism (Bish, 2019), the continued and growing recognition of the role of drug trafficking by the world's highest ranking peacekeeping body is nonetheless noteworthy and significant.

In their *World Atlas of Illicit Flows*, INTERPOL, GI-TOC, and RHIPTO—the Norwegian Center for Global Analysis—estimate that the proceeds from drug trafficking represents 28 per cent of the income of non-state armed groups and terrorist organisations in zones of conflict around the world. Most of this revenue comes not from the production or distribution of drugs, or from other direct means of involvement in the drug trade, but from the taxing of drugs that transit through territory controlled by criminal groups. This encompasses the Fuerzas Armadas Revolucionarias de Colombia (FARC) in Colombia, the Taliban in Afghanistan, Boko Haram in Nigeria and the various extremist groups in West Africa and the Sahel, among others (RHIPTO, 2018).



It has become a well-established assumption that peace, security and development will provide the preconditions for a reduction in levels of violence (Serwer and Thomson, 2008), and it is equally often assumed that the same three factors will reduce illicit activity and criminal behaviour. As a consequence, in the contexts of many of the conflicts of the past two decades, the challenges of addressing the illicit economy are pushed aside to be resolved after the bigger questions of political settlement are concluded and the peacebuilding track is undertaken (Boutellis and Tiélès, 2019).

The drug policy community has remained largely absent or excluded from these debates, and consequently there is surprisingly little literature that addresses why and how drug policy approaches should be considered in a conflict setting. This is perhaps because, in parallel over the same period, the attention of the drug policy community was more focused on the growing challenges of the urban environment, recognising that the countries with the highest levels of homicide and violence were no longer conflict zones, but urban areas beset by organised crime (UNODC, 2019a), and that new approaches were urgently needed to address the urban violence paradigm.

While this urgency and imperative were by no means misplaced, the era of armed conflict is far from over, and the damage that actors resourced by the illicit economy can cause is still manifold. Unresolved, protracted, and deadly civil wars are currently raging, with drug production and trafficking fueling these conflicts. The rise of Captagon production and trafficking over the course of the prolonged conflict in Syria is one notable example (Kravitz and Nichols, 2016); the transit of cocaine through the insurgencies of the Sahel and its trafficking through the ports of Libya is another (Micallef, 2019). Insurgent movements funded by the drug trade remain in Africa, the Americas and Asia.

It has become clear that the world's fragile states and conflict zones are attractive to transnational organised crime groups, which increases the likelihood of continued intersection between narcotics and conflict (RHIPTO, 2018). This policy comment, therefore, seeks to revisit—at a level higher than individual ethnographic research—the question of that intersection, and to examine what a drug policy lens can bring to peacebuilding in these contexts.

The chapter is divided into two sections. The first analyses the features of the illicit drug economy and how those who profit from it operate in situations of conflict. The second section concludes by reflecting on what this means for the way drug policy should be considered and implemented, and whether in fact there is a value to bringing a stronger drug policy approach to conflicts and their resolution.

The chapter draws upon the author's nearly two decades of experience as a specialist in organised crime, illicit economies, and conflict zones. As a former

United Nations staff member, this included work with the United Nations Development Programme on Afghanistan and Iraq, among other countries, and as a policy specialist in the United Nations Office on Drugs and Crime (UNODC). As the Deputy Director of the GI-TOC, the author has carried out extensive research on conflicts in Africa and the Middle East—including Syria, Mali and the Sahel, Guinea-Bissau, Libya, Somalia and the Horn of Africa—and on the role of the illicit economy in fuelling and furthering those conflicts. In addition, this work offered first-hand involvement in and knowledge of the workings of a number of multilateral, bilateral, and civil society initiatives to address these challenges. The present chapter also benefits from an extensive literature review across multiple continents, drawing from the body of ethnographic scientific research on narcotics and violence, conflict, and peacebuilding, as well as an increasingly rich and insightful set of grey literature produced by independent think tanks and civil society groups often using a political economy approach to analysing the illicit economy.

## 2 The Drug Trafficking and Conflict Nexus

The interaction between conflict and narcotics has been observable in the conflicts of every continent. Moreover, even long after those conflicts are purportedly resolved, the negative ramifications can still be felt and usually over a wider geographic region than the original conflict epicentre. Illicit economies and the groups that enable them have proven themselves to be highly durable, adaptive and prone to expanding their theatres of operation.

Almost all of the world's heroin supply is created in the conflict zone that is Afghanistan. The two-decade-long struggle to address the nexus between poppy cultivation and 'warlordism', corruption and underdevelopment in Afghanistan—described by Mansfield—is one example of this interaction (Mansfield, Chapter 5, this issue). Similarly, many of the longer-standing and best known narcotic-fuelled conflicts have been concentrated in producer regions, including Colombia, where coca production was a resource for the FARC military insurgency (Felbab-Brown, 2005), and in Myanmar, where opium production funded the civil war and has left a legacy of chaos and criminality in the Shan State borderlands (Cowell, 2005).

The intersection between conflict and production—in these cases and in other regions—triggered a range of policy and programmatic options that focused on alternative development for those dependent on cultivation for their livelihoods. These programmes enjoyed limited success, with some criticism levelled at the alternative development approaches. For example, in an earlier

chapter of this volume, Buxton claims that they failed to tackle the root causes of drug production and that they were seldom integrated into a more holistic strategy to address the broader illicit economy and the actors within it (Buxton, Chapter 2, this volume). Greater harm, however, was caused by the application of established counter-narcotics doctrine including heavy-handed eradication campaigns. These not only failed to meaningfully reduce funding to the armed militias and belligerent groups that the drug trade was financing, but in some notable cases actually strengthened popular support for those groups (Felbab-Brown, 2009). These criticisms are discussed in other chapters in this volume.

An issue of greater concern to the peacekeeping and peacebuilding communities emerged, however, over the next decade or so when it became apparent in contexts such as Guinea-Bissau and Mali that a transit trade in illicit narcotics was a significant contributor to state failure. Neither of these countries were drug production areas, or even particularly prominent trafficking zones, yet the profits of drug trafficking have proven potentially destabilising and have played a role in the development of unprecedented forms and levels of violence. The profits of the drug trade reached into the uppermost levels of governments, with complex networks that had overlapping political, business and social interests (ICG, 2018; Shaw, 2015). The profits of trafficking allowed militants to buy arms and political influence (Tinti, 2014), which created enormous challenges for navigating a peace process or political transition.

In the context of these conflicts, however, the heavy prior emphasis on alternative development meant that the toolbox was largely empty when it came to addressing the governance and developmental implications of the drug trade outside of a cultivation zone.

The international and multilateral system, preoccupied with negotiating the politics of the transition, preferred to silo the complex and corrosive impacts of the drug trade as a security threat to be assigned to law enforcement or even military actors, and the public health and harm reduction consensus appears to break down where there is a perceived intersection between criminality and conflict, which often justifies a hard line of law enforcement or even militarised approaches to breaking that nexus.

This has been particularly exacerbated in cases such as Mali and Afghanistan, where armed militants involved in the drug trade are also accused of terrorism. Focusing on the link between narcotics and terrorism further securitised law enforcement efforts and intelligence gathering to the point that the war on drugs and the war on terror became interlinked, and that 'the traditional separation of narcotics and terrorism counter measures and agencies has gradually faded since 9/11' (Björnehed, 2004, 313).

The criminal justice-led approaches prescribed by the international narcotics control regime proved both ineffective and damaging in weak states with limited law enforcement capacity, where the integrity of both leadership and serving officers was easily or already compromised (Aning and Pokoo, 2014), and—more importantly—where the actors involved in the illicit economy had a degree of legitimacy in their communities (Reitano and Hunter, 2016).

What we have learned, moreover, is that criminal agendas and the political landscape intersect in many different ways, so that separating criminal and conflict actors is a naive objective (Bosetti et al., 2017) that fails to account for the violent-governance paradigm.

### 2.1 *The Violent-Governance Paradigm*

Conflict zones and poorly managed post-conflict transitions offer many opportunities for those that are well resourced and comfortable using violence to achieve their own objectives and consolidate power while state institutions are weak (Shaw and Reitano, 2017). This is due to the quintessential nature of armed conflict regardless of the ideology or interest that might have sparked the conflict: that it is a competitive fight for power and influence that uses violence.

During the lifespan of a conflict what is therefore created can be termed a ‘violent-governance paradigm’—a mutually reinforcing cycle where political leverage is achieved through access to resources that have value or can be monetised; where resources buy the support of local communities through the provision of livelihoods and access to existing political influence (through corruption); and where resources also buy access to arms and foot soldiers (militias, armies or paid security or ‘heavies’), which in turn can be used to pressure or attack the opposition, erode a monopoly on violence, secure control of territory and assets, or extort support from local populations (Figure 7.2).

To describe this in another way—one that is perhaps better grounded in the established governance literature—a conflict is a sovereignty challenge, where sovereignty is defined as ‘a tentative and always emergent form of authority grounded in violence that is performed and designed to generate loyalty, fear, and legitimacy from the neighbourhood to the summit of the state’ (Blom Hansen and Stepputat, 2006). This definition justifies the right to sovereignty (either locally or nationally) for any group that wields violence to create legitimacy (Stepputat, 2018).

There are strong parallels between this definition of sovereignty and the techniques via which criminal groups operate to secure access to and control over illicit markets (Tilly, 1985). Mafia-style organised crime groups

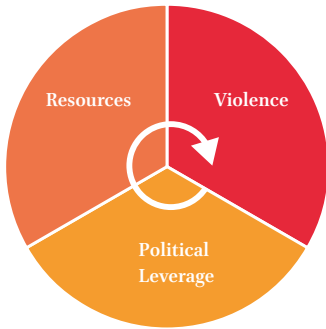


FIGURE 7.2  
The violent-governance paradigm  
SOURCE: CREATED BY AUTHOR

similarly use violence or the threat of violence to secure control over territory and resources and ensure the compliance of those living within their territory, to intimidate communities and authority figures, and to extract criminal rents (Varese, 2017). Violence is the means by which competition within and between organisations is played out, internal discipline is ensured, threats to the group are overcome, and reprisals are carried out (Reuter, 2009).

Even in a conflict zone where the monopoly on violence is contested, a government may have significant capabilities with regard to the use of force in response to security challenges. But legitimacy and violence do not always equate directly to one another. Where the legitimacy of the state using force is compromised, by corruption or the perception that the use of force was illegitimate, then non-state actors have the capacity to build their own legitimacy with the communities in which they are embedded (Idler and Forest, 2015). They can do this by using violence to secure access to resources and to earn criminal rents through the creation of protection economies (Shaw, 2016b), and then distributing part of those rents and other services to the benefit of the communities.

Criminal groups across the world provide concrete goods to communities, but also deliver services, from security and justice to social and public goods such as health, education and humanitarian relief (Cockayne, 2007). In a conflict zone all the same principles apply, but the provision of physical security to groups who feel persecuted by the state is a particularly potent means by which armed groups can challenge state authority and build the loyalty of the community (McCloughlin, 2009). If the conflict is driven by the perception that state resources are being unjustly captured and retained by the government or elites and that livelihoods for ordinary people are being provided through the illicit economy, then a Robin Hood syndrome can come into play, in which criminal actors are the ones redistributing wealth and rebalancing justice that

has been distorted by the state (Martinez-Gugerli, 2018), earning them even more social capital.

With trust and legitimacy with local populations established, these populations may offer protection and coverage for criminal groups, giving them a stronghold from which to plan and carry out their operations (Reitano and Hunter, 2016). More importantly, however, legitimacy can strengthen their political capital within a framework of disputed authority, building up criminally financed actors as viable players in conflict negotiations and giving them a seat at the table.

The violent-governance paradigm highlights the interdependence between violence, legitimacy, and access to resources, and that responses targeted at reducing any single one of these levers are likely to prove inadequate. Even where violence levels can be reduced through mediation, for example, access to resources, local legitimacy, and the constant threat of a return to violence can maintain the status quo. The gang truces negotiated in El Salvador illustrate this point very clearly (Dudley, 2013), as do the consistent failures of efforts with regard to ceasefires and ‘cantonment’ in Mali (Boutellis, 2015). In fact, as armed groups consolidate control over territory and populations, violence levels may fall (or change) as the threat of violence and of symbolic hits becomes sufficient to keep civilians aligned to their authority (Catino, 2014).

Constraining groups’ access to resources is another strategy put forward as a means to undermine the potency of armed groups that are criminally resourced. Upstream interdiction efforts to cut off drug supply chains and the freezing or seizure of criminal assets are the primary responses proposed by law enforcement to the challenge of addressing drug trafficking and the illicit economy more broadly. Yet both strategies are notoriously weak in the best case scenarios—surveillance and interdiction affect only a tiny fraction of total global flows of narcotics (UNODC, 2019b); the prohibitive costs, legal constraints and regulatory requirements of anti-money laundering regimes and asset seizure make this a symbolic rather than a practical tool (Reuter and Truman, 2004)—rendering them almost nonsensical in a conflict setting where there is no meaningful state institution to support those frameworks. Furthermore, armed groups with territorial control are able to build their resource base opportunistically from any other licit or illicit resource flow, and through protection taxation on local populations (RHIPTO, 2018; Reitano et al., 2017).

What is required is a simultaneous, coordinated and long-term effort to reduce all three aspects of the violent-governance paradigm: armed groups’ control and use of violence, access to resources, and legitimacy with local communities.

### 3 Bringing the Drug Policy Agenda to the Negotiating Table

The violent-governance paradigm illustrates that measures and strategies to combat illicit economies must be understood as profoundly political efforts (Felbab-Brown, 2017). While violence and conflict may have many drivers, too often the drugs issue is used as a catch-all concept that a simplistic set of law enforcement responses can address. Instead—as is true also in non-conflict scenarios—simplifying complex conditions and ignoring the underlying factors that underpin illicit drug economies can serve to inflame rather than mitigate violence, injustice and social fracture.

Colombia and Afghanistan are two prominent cases of countries where the ‘war on drugs’ has become enmeshed in a national conflict. In these countries, not only have counter-narcotics policies proven ineffective, they have also had disastrous consequences for the population. An overly securitised response to criminal actors has led to a spiralling ‘arms race’ between the state and well-resourced criminal groups, which has considerably intensified ordinary people’s levels of suffering and done little to reduce either the scale of trafficking or levels of violence, or to build a space around which a more sustainable return to peace may be brokered.

The nascent use of new military technology such as autonomous warfare (e.g. drones), cybertechnology, or artificial intelligence may offer some opportunities to improve surveillance and issue targeted strikes that reduce civilian casualties. But these are technologies that are unregulated, untested (Nakamitsu, 2019) and equally available to criminal groups, particularly those enriched by the drug trade or supported by external proxies. So there is little current evidence to suggest that they will significantly change the game.

A more effective focus is required to address drug markets in conflict zones, both to reduce the potential of the drug trade contributing to fuelling or prolonging conflict and to prevent it from exacerbating the humanitarian challenges or long-term development prospects of affected communities. The question, then, is if there would be any benefit in applying a drug policy lens to conflict, post-conflict, and peacebuilding scenarios where there is a significant drug economy to be addressed.

There clearly are benefits. What has become very clear in contexts both in and out of conflict zones is that there is a need to widen the concept of harm reduction to encompass the entirety of the supply chain, not just zones of production (Shaw, 2016a). The 2020 report of the Global Commission on Drug Policy focuses on the harm caused by drug-trafficking enforcement, concluding that there has been insufficient attention paid to alternative approaches to



dealing with protagonists in the illicit economy, and to applying developmental solutions to questions of their involvement (GCDP, 2020).

In matters of organised crime, the law enforcement community often has the biggest voice and speaks with the greatest authority. So, for the political actors preoccupied with negotiating a complex humanitarian emergency, a cessation of violence, and a feasible transition, there will always be a temptation to abdicate issues of narcotics control to that community. If the drug policy proponents can inject into this environment the need for harm reduction-first policies, and propose good practices based upon practical lessons learned, then that would be of considerable added value. Too often, both political and development actors are searching for innovative ideas for programming, and discover little in the process (GI-TOC, 2015).

That said, it still needs to be asked whether or not the drug policy community has those lessons learned to offer. As Felbab-Brown has highlighted, there is a big difference between cultivation countries—where there is visible evidence of production—and places where there is no visible cultivation. In the former—contexts such as Afghanistan, Colombia or Myanmar—there is a labour-intensive illicit industry that is geographically bounded and that generates livelihoods. Thus, it can clearly be linked to the territorial control of specific actors, and there are measurable yardsticks for achievement in reducing production (Felbab-Brown, 2017). It is in these theatres that alternative development approaches have proven themselves able to take root and display efficacy (Brombacher, Chapter 4, this volume). But in the context of trafficking economies, or in narcotic industries that have no visible cultivation—such as in the growing markets for amphetamines, synthetic opioids or the abuse of prescription drugs—there is far less on offer.

We have yet to see a credible alternative livelihood from the legitimate economy be crafted for militia groups whose expertise is moving illicit narcotics across difficult terrain or taxing the movement of goods in both the licit and the illicit economy. Perhaps here, the domain of disarmament, demobilisation and reintegration (DDR) has more to offer, though DDR practitioners have so far largely failed to see their own relevance in these debates. In a post-conflict period, a long-term engagement to prevent violent actors entering the criminal economy and to stop war economies centred around illicit narcotics being embedded into the peacetime economy and political transition is required (Shaw and Reitano, 2017).

Countermeasures of this sort will have to be predicated on a deep analysis of the contesting parties' interests, agendas and claims. They will also require understanding, mapping and continually updating the infrastructure of the illicit economy and who controls it. With conflict actors, resources and



commitment must be devoted to building trust and relationships, addressing their grievances and mapping alternatives—if not for the immediate warring parties then for the next generation of society, to dissuade them from continuing the struggle. Their political grievances must also be addressed if they are to see an incentive in setting aside illicit interests and the legitimacy and political leverage that they convey, and to buy in to the complete eradication of violence, and the resolution of conflict. This means that resources will need to be spent on diplomatic relations and on foreign aid. In cases where underdevelopment and inequitable land use are a source of tension, these too will have to be addressed hand in glove with drug policy. These are not a normal part of traditional counter-narcotics policy, but they are consistent with a harm reduction-based, development-led approach.

Addressing people's perceptions of and relationships with the narcotics economy can be one means of eroding the violent-governance paradigm. In drug-trafficking transit countries where there is little domestic consumption, involvement in the narcotics economy may have little stigma associated with it, as it is a significant source of livelihoods and wealth. But it can upset traditional, cultural, and religious norms, introduce new levels of violence into society, and change the domestic political economy significantly. Educating communities to understand the second-order risks of the drug trade, particularly where it is linked to conflict actors or political instability, is one area in which drug policy approaches may have experience to share, and may also serve as a way to mobilise community responses with regard to the rule of law, justice and public health (Reitano and Shaw, 2014). In regions where there are significant local user populations and harm is readily apparent—such as in the countries along the East and southern African littoral—civil society may prove a more ready advocacy group and partner when it comes to addressing the drug trade (Haysom, 2020).

The key risk, however, in pushing a drug policy agenda into a conflict or post-conflict environment without the programmatic palette of options to offer is that this might politicise and further militarise the fight against drug trafficking. The description of the violent-governance paradigm implies the importance of the state itself in defining the contours of the illicit economy, and the legitimacy that criminal groups are able to develop. Case studies of Mali and Libya have highlighted the fact that regional and central authority figures may themselves plan an active role in enabling, protecting or extracting rent from the illicit economy. On the one hand, drug trafficking can build political leverage for actors able to extract rents and translate them into violent governance. On the other hand, drawing on the international community's emphasis on drug control, actors in the central state or the prevailing authority may use

the accusation of narco-trafficking to discredit legitimate opposition or important voices in a transition (Lacher, 2014).

Arguably, boosting drug policy's position on the international agenda in an already complex environment when one has few credible solutions to offer brings with it greater risks than it does benefits. However, encouraging the drug policy community to continue to build the evidence base, to experiment and to innovate in policy and programming that target the illicit economy and violent actors along drug supply chains, and to better understand what an effective downstream harm reduction approach might look like are important steps to take.

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# The Neo-Patrimonial ‘Use’ of Drug Policy in Electoral Processes

*Khalid Tinasti*

## Abstract

The prohibition of illegal drug production, use and trafficking has resulted in several shortcomings and negative consequences for other global development objectives. According to available evidence, current drug control policies undermine the international community’s commitments to public health, criminal justice, sustainable development, women rights, human rights, poverty alleviation and the reduction of inequalities. This policy comment focuses on the impact of repressive drug policies on state institutions and politics.

In a unique conjunction of interests, prohibition allows transnational criminal organisations to weaken state institutions, corrupt civil and military officials and influence control policies because of the entrenched neo-patrimonialism in political life. Therefore, prohibition allows populist and political contenders to stigmatise a minority population—people who use drugs, in opposition to the desires of the majority rule. The use of political emotions, based on fear or promise of change, undermines effective responses to drugs, erodes the rule of law and trust between authorities and populations, and weakens state institutions and democratic governance. This policy comment provides examples from low- and middle-income countries, as well as cases from high-income countries, of the impact of drug prohibition and its illegal proceeds on governance through neo-patrimonialism, clientelism and the weakening of institutions.

## 1 Introduction

The international drug control regime, defined by international drug conventions (the *Single Convention on Narcotic Drugs* of 1961 as amended by the 1972 *Protocol*, the *Convention on Psychotropic Substances* of 1971, and the *United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances* of 1988), has as its main objective the elimination or significant reduction of the production, recreational use and trafficking of illegal drugs. These

conventions allow access to drugs for medical use or scientific research. They set the parameters for reducing the demand and supply of drugs, for cooperating judicially, and for eliminating drug money laundering (UNODC, 2013). Moreover, they contain the schedules of drugs—the tables that define which drugs are illegal and which are to be controlled—as well as what level of control is to be imposed on access to these substances.

There is extensive literature and evidence of the failure of the current control regime, based on prohibition and repression, to achieve any of its objectives in eliminating recreational drug use (GCDP, 2011; Csete et al., 2016). Furthermore, compliance with laws and policies prohibiting the use of drugs is weak, proven by the fact that several hundreds of millions of people use drugs annually.

The international control regime inspired national laws and coincided with national and regional escalations against illegal drugs. The most famous was United States (US) President Nixon's 'war on drugs' in 1971 (Nadelmann, 1998). Repression and law enforcement were used to counter the production of coca in the Andean region, opium in the Golden Crescent and the Golden Triangle and cannabis on a global scale. At the same time, national political frameworks, especially in countries that were under colonial rule in the first half of the twentieth century, have seen the development of neo-patrimonial regimes based on single parties, on military rule, or on authoritarian rule, and where social peace was usually 'bought' by the leaders in place in a client–patron relationship with their constituencies.

The sheer extent of the demand for drugs, as well as the value of the illegal market and its control by criminal organisations, provides illicit resources so extensive that they have the power to cripple state institutions, corrupt officials and deepen the neo-patrimonial nature of many political systems, as well as undermine the rule of law by expanding defiance between authorities and populations (GCDP, 2014). Current drug policies based on prohibition and repression, combined with weak institutional frameworks and allowance bases in several political systems, have a deep impact that can be seen in places such as Latin America, where corruption reaches high levels (Morris, 2012), Africa, where fragile institutional frameworks and presidentialism offer fertile ground for illicit funds (WACD, 2014), and high-income countries in specific marginalised and poor areas, where local or national Big Men<sup>1</sup> hold political power

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1 Big Men as a political science concept was developed by Jean-François Médard (1990), and inspired by the work of the anthropologist Marshall Sahlins on Melanesian Big Men, as socially important individuals that carry a mix of interest to the general well-being and calculations for personal interests, men that want the central place in society, and whose every

based on clientelism. The availability of drug proceeds has, on the one hand, allowed organised crime to infiltrate state institutions. On the other, it has blurred the lines between the officials' role as those in charge of ending drug trafficking, and the fact that those same officials ultimately benefit from it.

## 2 Politics and Drugs

The use of drugs has been steadily increasing, as documented over the past twenty years, and so has the illegal market (IDPC, 2018). The supply chain tends to find different ways of adapting to prohibition in order to respond to this existing demand—which has been described by many scholars and governments as the 'unintended' consequence of drug control—resulting in the empowerment of criminal organisations and providing them with the capacity to weaken state institutions and smuggle drugs, corrupt officials, and influence the control measures put in place in different jurisdictions. This policy comment goes further, by highlighting the opportunistic links between drug trafficking, criminal activity, political funding and electoral cycles. They each feed each other, support each other when needed, and fiercely fight each other when it best serves their interests.

The nature of political authority and its relationship to public institutions in dominantly drug producing and transit countries differ from those in dominantly consuming countries. The majority of the former were achieving independence and establishing their state institutions and political systems at the time of the adoption of the international drug control regime, starting with the *Single Convention on Narcotic Drugs* in 1961. The drug control regime, based on prohibition, can thus be seen as antithetical to the nature of institutions in these countries, where both formal and informal institutions influence the political system. One of the main characteristics of these informal institutions is neo-patrimonialism. The term is derived from the concept of patrimonialism, which Max Weber uses to describe the principle of authority in traditional politics (Weber, 2003 [1921]).<sup>2</sup> The neo-patrimonial concept,

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action calls for confrontation with others to prove the superiority that they themselves stage. For Médard, the Big Man must create loyalty with as many people as possible for his benefit, so that he can then mobilise his clients to gain prestige compared to his political competitors.

2 In patrimonial political systems, an individual holds the power and exercises it for his personal prestige, giving the people only limited rights. Authority is fully personalised, more shaped by the leader's preferences than by a codified system of laws. The leader ensures political stability and his own political survival by providing a safe zone in an uncertain



developed by Jean-François Médard, takes the following meaning: 'the notion of neo-patrimonialism has for us the interest of being less normative than that of corruption and more comparative than that of the "politics of the belly" '<sup>3</sup> (Médard, 1990).

The neo-patrimonial nature of these regimes during their establishment has allowed for political funding vacuums, where the proceeds of drug trafficking—for example, with fragile economies, nascent state institutions, and in the middle of the Cold War—became important sources of revenue for the consolidation of the political regimes themselves. In the case of Mexico, it is reported that the Partido Revolucionario Institucional (PRI, the former unique party and ruling party since 1929 with alternation for two mandates in 2006 and 2018) built relationships with drug trafficking to fund political campaigns (Andrés and Delia, 2017). In the case of West Africa, these informal neo-patrimonial characteristics are based on several rents from what were illicit economies at independence, including the control by the state of formerly illegal markets for diamonds, precious metals, oil, or fishing; and current illicit economies such as the increase in drug trafficking are fuelling corruption and funding political campaigns (Felbab-Brown, 2010).

Another characteristic of informal economies with an impact on democratisation and politics in these countries is the use of drug control to consolidate political power, and that could be read through the lenses of presidentialism and the role of Big Men. In contemporary politics, such a situation can be found in the Philippines, where—during the presidential campaign in 2016—the Duterte Administration condoned drug killings and promised to eradicate drugs (IDPC, 2018). More recently, the Hasina Administration condoned extrajudicial arrests of political opponents on drug-related offences ahead of the 2018 general election in Bangladesh (*The Daily Star*, 2019). This characterisation of the Big Man resorting to drug policy to affirm his political credentials can also be seen in the US, where the Trump Administration simplifies complex drug markets and the interconnectedness of trafficking, money laundering, production and ethnic networks in the Americas into blame for migrants and the Mexican authorities (Klar, 2019). Such a discourse is constructed for the sole benefit of the political leader, and not to reduce drug trafficking, use,

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environment, and redistributing the wealth to the populations, who are no longer citizens but become customers in a clientelist relationship.

3 Translated by the author, original text in French: « La notion de néo-patrimonialisme a pour nous l'intérêt d'être moins normative que celle de corruption et plus comparative que celle de 'politique du ventre' » (Médard, 1990, 29).

or production, or to protect the well-being of the communities concerned by the negative consequences of drug policies.

### 3 Drug Trafficking and Neo-Patrimonialism in State Institutions

State institutions, in adopting the prohibition of drugs in the 1930s and reconfirming this position in the 1960s, have given up control of the drugs issue, inadvertently or not, placing organised crime as the central authority for market regulation, while retaining the role of mitigating harmful effects (Tinasti, 2019). This policy choice of prohibition cannot be effective without the elimination of the demand and the supply of illegal drugs, and can only therefore strengthen the financial and structural capacity of transnational criminal organisations.

Two of the unintended consequences of the international drug control regime, as defined by the United Nations (UN) and based on 'reactive law enforcement' activity (UNODC, 2008), are directly linked to the weakening of state institutions: policy displacement and geographic displacement.

The former is highlighted by state investments in drug law enforcement, estimated at USD 100 billion annually (Transform Drug Policy Foundation, no date). According to UN estimates, an annual investment of USD 1.15 billion would cover the needs of all people who inject drugs (PWID) globally and end HIV transmission among this population through investments in health and harm reduction services (Schwartzlender et al, 2011). Such disproportionate budget allocation, which clearly ignores the fact that public health should be the first priority in terms of drug control, reinforces the negative impact of drug control policies not only on people who use drugs and on their communities, but also on society. This example also links to the preference of political regimes to use 'tough stance on crime' approaches and provide more resources to law enforcement agencies than to health agencies, without specific evaluations of the outcomes of such a policy preference.

Geographic displacement, also known as the 'balloon effect', refers to the relocation of the market from one location, where control measures are tight, to another, where controls are more lenient. In history, successes in controlling illegal cocaine production in Peru led to the displacement of production and its related problems to neighbouring Colombia and Bolivia. Moreover, in recent decades, the balloon effect saw the traditional cocaine trafficking route in Central America and the Caribbean migrate towards a route from Latin America to Europe and North America, crossing the Atlantic twice and transiting through West African countries.

This new route uses similar methods to smuggle drugs through West Africa. It relies on weak institutions in the region, it highlighted corruption of high-level officials, both civilian and military, and the neo-patrimonial nature of political regimes, and it weakened the rule of law (WACD, 2014). A lack of accountability structures, combined with weak law enforcement and ineffective financial system regulations to counter money laundering, along with the insufficient capacity of the judicial system, combined with normalised clientelist political behaviour, means countries in the region are more vulnerable to the reach and power of transnational organised crime (Olukoshi, 2013).

The African routes (cocaine through West Africa and heroin through the eastern coast of Africa) are representative of geographical displacement and its impact on governance and state institutions. The choice to strategically smuggle the substances along these routes is not only based on ethnic relationships that facilitate illegal trade (West African networks in Western Europe; Asian families' networks in East Africa) or on the strategic geographic position of the continent. It also depends on multilayered gaps in governance, weak institutions, and how easy these make it to infiltrate the legal economy and corrupt officials that are already basing their political legitimacy on clientelism and allowances granted. This situation is exacerbated by money laundering in high-income countries. For instance, 99 per cent of the illicit financial flows from drug proceeds laundered in Europe, where financial regulations seem stricter than elsewhere, are not recovered (Europol, 2017). According to the UN, half of the estimated profits of the illegal drug market are laundered through the legal financial system, and confiscations remain limited (UNODC, 2017).

Finally, the examples provided also highlight the vicious cycle of neo-patrimonialism leading to corruption, itself feeding weak institutions and illicit financial flows. Weak institutions—especially in areas of conflict or countries experiencing socio-economic difficulties—represent, in return, fertile ground for criminal organisations. Once these organisations infiltrate such environments, they become sources of ineffective institutions and political, social, and economic instability, ultimately influencing policy outcomes. The seemingly endless cycle destabilises any efforts to implement sustainable development.

With the same combination of policy gaps, poor areas in Mali saw the development of the illegal market as a substitute for the welfare state, providing basic services and employment opportunities to local communities. This results in the weakening of the rule of law and state interventions, and destabilises the relationship between communities and state institutions (GCDP, 2018). On the other side of the continent, powerful drug trafficking families are linked with the political elite from the ruling party in Mozambique, highlighting

corruption—from the top levels of state government to the smallest police units in border areas of the country. Moreover, these few families have succeeded in ensuring their legal protection through corruption using illicit drug proceeds (Haysom et al., 2018).

#### 4 Drug Policy, Elections and Political Emotions

Drug trafficking proceeds are also used to undermine electoral processes, to weaken political competition by intimidating certain candidates or supporting others, and to define political participation by influencing a population's choices and the ability to vote freely. For example, the assassinations of the front runner in the Colombian presidential campaign of 1990 by cartel members or of more than a hundred politicians by criminal organisations between 2017 and 2018 in Mexico showcase the power of organised crime in impacting democratic processes, including by the use of violence (Agren, 2018).

Drug control policy is also used to influence voters' choices even in established democracies. In France, Nicolas Sarkozy (President, 2007–12) used drug policy in his presidential campaigns of 2007 and 2012 to take a 'tough stance on crime', and to focus law enforcement efforts on the *banlieues*—French social housing-dominated suburban areas with major socio-economic challenges, the majority home to ethnic minorities (Gross, 2012). Taking an opposite approach, Canada's Justin Trudeau (Prime Minister, 2015–present) included the legalisation of cannabis on his electoral platform in 2015, based on the commitment to address the problematic use of cannabis, especially among minors, and to take the market away from criminal organisations that decide on the potency and availability of the substances they sell.

Whether they provoke fear or promise reform, these examples demonstrate a clear link with political emotions (Stoler, 2018). They trigger support for or rejection of an electoral platform, a party, or a candidate. Prohibitionist discourses play on the fear of insecurity related to the violence generated by the illegal market, the anger of citizens at state institutions' failure to provide safe and inclusive cities, and the hope that a harsher response to drugs will ultimately eliminate the drug market.

Moreover, the use of drug control policies to influence electoral processes is more visible, as it coincides with two major milestones that changed the reception of political discourses: the general 'democratic recession' of the last decade and the progress of drug policy reform movements. The democratic recession can manifest itself in restrictions of personal freedoms, the breakdown

of democratic practices, the instability of democratic institutions, or the rise of authoritarianism (Diamond, 2015). The instability and illiberal nature of third wave democracies (Huntington, 1991) tended to see electoral competitors rely on and be inspired by the 'war on drugs' rhetoric to advance their own political agendas, or to conceal their own shortcomings.

In the Philippines, for instance, drugs have become an important health and social issue due to a concentration of contemporary social, political, environmental and economic challenges. Drugs did not, however, cause these problems, as the Philippine administration claims. With a steady increase in economic inequalities, the lack of a welfare state, climate catastrophes, an exploding demography, religious and ethnic conflicts, and a high prevalence of drug use, drug policies based on repression were an aggravating factor of a generalised societal 'ill-being', rather than its cause. Furthermore, after three years of state-condoned extrajudicial killings, the prevalence of use or trafficking of drugs does not show any signs of receding, even if the government claims a reduction in crime of 30 per cent.

It should be noted that this figure should be understood in the context of an illegal market that continues to flourish, but functions under more difficult constraints, thereby exposing vulnerable and impoverished communities to more violence. Moreover, the targeted use of the 'war on drugs', which increased during the midterm elections in May 2019, has established a culture of political violence in the country (Kishi and Raleigh, 2019). This data does not, however, undermine administrations' populist approach of using the 'war on drugs' for political gain, since taking a 'tough stance on crime' in times of crisis is attractive to the voting body (Kenny, 2019). This trend of majoritarianism is visible even in established democracies, where increasing portions of the electoral body cast their votes in favour of populist movements.

Transnational criminal organisations also use their financial and social power to influence the outcomes of electoral processes or to weaken state institutions at different levels of the supply chain (UNODC, 2017). On the funding of electoral campaigns, Guinea-Bissau remains the most documented example. Anecdotal data on the funding of elections and support from organised crime and drug proceeds can, however, also be found in Mauritania, Jamaica, Ghana and Sierra Leone during the last two decades (Gberie, 2013). Corruption incentives from criminal organisations also influence the military. Examples include weapons reportedly transferred from the military to criminal organisations in Guatemala and almost 30 per cent of the military in Mexico deserting, often to engage in organised crime (Health Poverty Action, 2018). Another example is Indonesia, where corruption is so endemic in the police, corrections, and judicial systems that the US State Department has identified corruption

as a barrier to reducing the supply of and demand for drugs in the country (Havenhand, 2019).

## 5 Conclusions

The analysis and country examples provided in this chapter highlight how the institutional capacity to trigger and sustain development, especially in low- and middle-income countries, is undermined by drug trade proceeds and the financial power of organised crime. Politics, political regimes, opposition rights, voter rights, and participation in public and political affairs are trumped by the prohibition paradigm, providing both criminal organisations and political hopefuls with opportunities to weaken democratic governance for their private gains. Prohibition has resulted in a grey area where the illegal drug market can be used to fund electoral cycles, but can also be used as an alibi as needed on political platforms and in political campaigns.

State institutions, by adopting the 'global prohibition' approach to drugs, have not only deprived themselves of the capacity to control the drug markets and handed, to some extent, enormous profits to criminals, they have also deprived themselves of their capacity to impose the rule of law and negatively impacted their relationships with their populations. The path that seems most appropriate to an effort to end this vicious cycle of neo-patrimonialism fed by corruption, illicit financial flows, and clientelism based on the proceeds of drug trafficking is the end of the prohibition of drug use. Legal regulation of all drugs, each by a different model according to its potential for harm and its uses, carries the promise of setting legal rules that apply to all. It could end the darkness and invisible yet defining spaces such as the illegal drugs market that allow for undemocratic governance, challenge the rights of political competition, favour those with access to illicit funds and networks, and hurt political participation by discriminating against certain targeted groups of citizens linked to the illegal drugs market, including harmless consumers.

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# The Meaningful Participation of ‘Stakeholders’ in Global Drug Policy Debates—a Policy Comment

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## Abstract

This policy comment seeks to address three key questions relating to the participation of civil society in international drug policymaking. Firstly, who are the relevant ‘stakeholders’ and what options do they have to participate in drug policy discussions at the United Nations level? Secondly, have certain ‘stakeholders’ been able to positively influence the direction of global drug policies? And thirdly, who are the ‘most affected’ communities and what could be done to improve their meaningful engagement in the definition of drug policies that directly impact their lives? Unpacking the terminology around civil society, stakeholders, and most affected communities, the chapter argues for a clearer distinction between ‘rights-holders’ and ‘duty-bearers’. Masking the inherent power imbalances between the different stakeholders risks underplaying the rights of affected communities and legitimising a place at the table for corporations as ‘equal actors’ in spite of fundamentally different interests. The commentary concludes that the increased involvement over the past decade of civil society as well as other United Nations entities around the 2016 United Nations General Assembly Special Session on the World Drug Problem (UNGASS) has markedly influenced the global drug policy debate by shifting more attention towards health, human rights and development concerns.

## 1 Introduction

Everyone has the right to participate in public life. This includes the right to meaningful participation in the design, implementation, and assessment of drug laws, policies, and practices, particularly by those directly affected.

UNDP, International Centre on Human Rights and Drug Policy, UNAIDS,  
WHO, 2019, 6

This policy comment seeks to address three key questions relating to the participation of ‘stakeholders’ in the formulation, design, implementation and evaluation of drug laws and policies at the global level. Firstly, who are the ‘stakeholders’ and how are they included, or not included, in drug policy discussions? Secondly, how have certain ‘stakeholders’ been able to positively influence drug policies? And finally, what more can be done to improve the impactful and meaningful engagement of the ‘most affected’ stakeholders in the global drug policy discussions that take place at the United Nations (UN)? In addition, the framing of the development perspective when it comes to discussing the ‘most affected’ will also be examined.

For the purposes of this policy comment, the main focus will be on unpacking civil society participation in UN drug policy formulation and debates. Some reference will be made to the role of other stakeholders, particularly other UN entities whose primary focus is not drug control, and their impact on the direction of drug policy discussions. The role of the private sector needs to be better acknowledged and understood, especially in terms of the growing trend towards permitting the use of medical cannabis, as well as legal regulation of cannabis for adult recreational use. This paper, however, will largely examine the question of civil society participation, and in particular the representation and inclusion of the ‘most affected’ communities. This policy comment is not a ‘stakeholder analysis’ as that is a much more detailed exercise and as such is beyond the scope of this project. It does, however, seek to enumerate the various types of so-called ‘stakeholders’ that are relevant to drug policy.

## 2 Who Are the ‘Stakeholders’?

Numerous UN declarations on drug control have referred to ‘the important role played by all relevant stakeholders’ (UN CND, 2019, 3) and sought to ensure their involvement and participation in policy discussions. In this context, ‘stakeholders’ are often enumerated as ‘law enforcement, judicial and health-care personnel, civil society, academia and relevant United Nations entities’ (UN CND, 2019, 6). Sometimes the private sector is also included in this list.

The term ‘stakeholder’ itself merits some interrogation. It is used widely across the UN system (UN General Assembly, 2015), but it originates from the corporate world and has benefited corporations enormously by allowing them to have a legitimate seat in policymaking, standard-setting or project-oriented forums (Buxton, 2019; George, 2015). Crucially, the term does not differentiate between ‘rights-holders’ and ‘duty-bearers’. This obfuscation, whether by accident or by design, underplays the rights of affected communities, masking

power imbalances between the different stakeholders by treating them as 'equal actors' (George, 2015, 3). The recently agreed partnership framework that brings together the UN and the World Economic Forum (WEF, 2019) with the aim of accelerating the achievement of Agenda 2030 by strengthening institutional collaboration between the two entities has been called out as highly problematic in this regard. A letter to the UN Secretary-General from 240 civil society organisations expressed concern that the agreement further deepens the corporatisation of the UN, and called on him to strengthen mechanisms for engagement with the most-affected communities:

These communities which are human rights holders and are committed to preserving the common wellbeing of people and the environment; as well as to building a stronger, independent, and democratic international governance system must be treated differently from "stakeholders" who only have profit at stake.

FIAN International and TNI, 2019, 1

This is increasingly relevant to the drug policy sphere as moves towards cannabis regulation continue apace. For drug policy formulation, the role of transnational corporations (such as the rapidly proliferating pharmaceutical cannabis companies) as stakeholders must be carefully considered. Their 'stake' is significantly different from that of civil society and affected communities for example—namely, it is ultimately to increase shareholder value (George, 2015). UN drug policy does not yet have a formal multi-stakeholder forum or group, as might exist in other UN settings, such as the Multi-stakeholder Forum on Science, Technology and Innovation for the Sustainable Development Goals (SDGs) (UN, 2019), which explicitly includes 'business and industry' alongside the categories of 'women', 'farmers', 'children and young people'. It has been suggested that a system of governance that 'combines some form of legitimation with a vague undefined form of accountability has proved very advantageous to corporations' (Buxton, 2019). For example, there are serious concerns around how large corporations are behaving in the growing cannabis industry, especially with respect to marginalising traditional growers, lobbying to influence government policy and problematic practices such as land grabs (Paley, 2019). These concerns must be taken into account as cannabis companies increasingly seek to engage in UN drug policy debates. Corporations have greater power and resources than affected communities, such as traditional small farmers, but the latter have a right to meaningful participation as 'rights-holders'. In this sense, power and legitimacy must not be confused.

With respect to drug policy, the affected communities often face violations of their rights, and their role at the table is to hold the ‘duty-bearers’, in this case member states, accountable. The meaningful participation of affected communities is therefore fundamentally different from the role played by other stakeholders and this needs to be acknowledged and recognised.

### 3 Who Are ‘Most Affected’?

The 2016 *Outcome Document of the United Nations General Assembly Special Session on the World Drug Problem* (UNGASS) noted that ‘affected populations and representatives of civil society entities, where appropriate, should be enabled to play a participatory role in the formulation, implementation, and the providing of relevant scientific evidence in support of, as appropriate, the evaluation of drug control policies and programmes’ (UN General Assembly, 2016, 4).

The genuine and meaningful participation of affected communities in policy design, implementation and evaluation has long been ubiquitous in development, health and social policymaking processes. This should, however, be without reservation. In that sense, the caveat in the UNGASS *Outcome Document* of participation ‘where appropriate’ is problematic. Governments continue to reserve the right to limit participation according to their own criteria with regard to when it is deemed appropriate. This also plays out in terms of whom they deem ‘appropriate’ participants. Caveating participation in this way undermines the rhetoric of meaningful participation. From a human rights perspective, the people who are most affected have a right to be meaningfully included in all the decisions that affect their lives (UNDP, International Centre on Human Rights and Drug Policy, UNAIDS and WHO, 2019). The 2030 Agenda commitment seeks to ensure that no one is left behind, and commits to the participation of ‘all stakeholders’ (UN General Assembly, 2015).

It is relevant to drug policy discussions that the rights of certain groups have been enshrined in UN declarations. For example, indigenous peoples have been granted special rights to self-determination (UN General Assembly, 2007). The recently adopted UN *Declaration on the Rights of Peasants and Other People Working in Rural Areas* enshrines certain and specific rights for those engaged in ‘small-scale agricultural production for subsistence and/or for the market, and who [rely] significantly, though not necessarily exclusively, on family or household labour and other non-monetized ways of organizing labour, and who [have] a special dependency on and attachment to the land’ (UN General Assembly, 2018, 4). The right to participation in the ‘preparation

and implementation of policies, programmes and projects that may affect their lives, land and livelihood' is clearly stated in Article 12 of the *Declaration*.

The right to participation for people who use drugs has not yet explicitly been enshrined in a UN declaration, although the *International Guidelines on Human Rights and Drug Policy* outlines all the relevant human rights that must be respected, protected and fulfilled in relation to this affected community. People who use drugs' right to participation in the design and implementation of policies and programmes that affect them has long been championed by the International Network of People who Use Drugs (INPUD) under the slogan 'nothing about us without us' (Canadian HIV/AIDS Legal Network, 2005). The use of this slogan in activism has its roots in the disability rights movement and is a radical rejection of paternalistic control and oppression by others. Politically active people living with disabilities used the slogan to 'proclaim that they know what is best for them and their community' (Charlton, 1998, 4).

Furthermore, those most affected, and civil society and community groups more generally, often perform a vital function in the effective implementation of policies and programmes, as well as ensuring transparency, good governance and accountability in policymaking (Pompidou Group, 2015). One of the most pertinent examples of this comes from the HIV movement, where a key principle in policy and programme design denotes that people living with HIV must be central to such developments.

In drug policy debates, however, civil society and community groups have often been viewed by some governments as a problem to be managed or avoided because drug control is traditionally enmeshed in politically sensitive agendas such as national security, law enforcement, border control and criminal justice (Fordham and Haase, 2018).

In terms of seeking to ensure the meaningful participation of those most affected by drug policies, it is firstly critical to define who are the 'most affected'. The International Drug Policy Consortium has defined this as specifically including, but not limited to, 'people who use drugs, people involved in subsistence farming of crops destined for the illegal drug market, formerly incarcerated drug offenders, indigenous peoples, and other communities such as affected women, children and youth' (IDPC, 2018). This list is by no means exhaustive; for example, people who are currently incarcerated and affected ethnic minorities must be included. In addition, the lack of access to controlled medicines for the relief of pain and palliative care brings in a further affected population of pain patients. People who live in situations of conflict and/or are forcibly displaced, fleeing violence or insecurity, may also be caught up in the drug trade and impacted by drug policy responses (Gutierrez and Balfe, 2019).

Across all the different categories of communities affected, it has been widely accepted that the burden of punitive and repressive drug control policies has been largely borne by people who are marginalised and in situations of vulnerability (IDPC, 2018). More often than not, socio-economic vulnerability is a key characteristic of those who are 'most affected' when it comes to drug policies. This is logical given that an illicit economy, such as the drug market, serves as a survival economy for so many who live on the margins of society, in situations of poverty and without genuine opportunities to engage in the formal economy. Some have argued that this inconvenient truth has been largely ignored by the development sector and that there is a need to consider 'not only the harms generated by illicit economies, but also the positive roles they may play by providing a social safety net or even a means of wealth creation and upward mobility for poor, marginalised communities' (Gutierrez and Balfe, 2019, 21).

The specific impacts on women have received greater attention in recent years in global drug policy debates. 'Discrimination and inequality shape women's experiences of drug use and in the drug trade and the impact of drug control efforts on them, with disproportionate burdens faced by poor and otherwise marginalized women' (Schleifer and Pol, 2017, 253).

Women who use drugs face greater stigma, which deters them from accessing health services. In general, coupled with the overall scarcity of harm reduction services, there is a severe lack of gender-sensitive programmes (IDPC, 2018). It has been argued that the socio-economic vulnerability that women face makes them more susceptible to involvement in the drug trade, although they are most often engaged in the lower echelons (Giacomello, 2014). Women are incarcerated at much higher rates than men for drug-related offences in most parts of the world and are afforded far less familial and community support than men during incarceration (Csete et al., 2016).

In addition, the starkly disproportionate impact on people of colour is now widely acknowledged. The UN Working Group on Peoples of African Descent has stated unequivocally that there is a 'lack of recognition that enduring racial disparities and race-based outcomes are related to policy priorities that are grounded in discrimination and negative racial stereotypes' (UN Working Group of Experts on People of African Descent, 2019) and that people of African descent are disproportionately affected by punitive drug laws and policies (UN Working Group of Experts on People of African Descent, 2016). However, the 'intersecting discrimination' of racial disparity in drug law enforcement has not been adequately highlighted or acknowledged in the UN drug control debates (Schleifer and Pol, 2017).

From a more traditional development perspective, the 'most affected' would refer exclusively to those living in developing or less developed countries. If

a broader definition of development is taken, however, one that redefines the traditional 'north–south' divide that often masks the deep socio-economic inequality in the richer, developed, so-called geographical 'global North' countries, then it allows for the inclusion of those people and communities who are marginalised in developed countries as well (Trefzer et al., 2014). Towards this end, the term 'global South' is 'being employed in a postnational sense to address spaces and peoples negatively impacted by capitalist globalization' (Garland Mahler, 2018, 6). This is an important lens through which to address the question of the 'most affected' by drug policies because unjust laws and policies disproportionately affect the most marginalised in all societies. With respect to people who use drugs, for example, the brunt of draconian policies towards drug use are mostly borne by people who are vulnerable and marginalised, regardless of whether they are caught using drugs in London or in Jakarta. In both developed and developing countries, people who use drugs and who are wealthy and have social capital are far less likely to be caught up in criminal justice responses. This dynamic can also be observed in relation to access to pain medicines. What is referred to as a 'global pain crisis' is actually a crisis of access for the world's poorest, who have little or no access to pain relief and palliative care (Bhadelia et al., 2019). Access is not limited in developed countries, where 90 per cent of the world's morphine is consumed (GCDP, 2015); and the same is true of people with high revenues in less-developed nations. Financial resources can help to address this overall dearth of access.

Therefore, socio-economic vulnerability, poverty and intersectional discrimination such as that based on race and gender are the common characteristics of communities that are most affected by drug policies.

#### 4 Meaningful Participation?

'Respectful, strategic, constructive, transparent and accountable lines of communication should therefore be created between governments and civil society representatives, in order to ensure meaningful exchanges of information and perspectives. However, conditions for a truly open, respectful and meaningful dialogue with those most directly affected by drug policy will only be created if governments remove criminal sanctions for people who use drugs and subsistence farmers engaged in illicit crop production' (IDPC, 2016, 16).

The dominant punitive approaches to drug control, in particular criminalisation, further deepen and exacerbate the marginalisation, vulnerability, and in many cases the stigma and discrimination that the most affected communities



face. Although the UN rhetoric identifies them as important ‘stakeholders’ and calls on governments to ensure their meaningful participation, there is no acknowledgement of the significant barrier that criminalisation creates in terms of the ability to participate in public life. In addition to fuelling stigma and discrimination, criminalisation also becomes a literally physical barrier to participation if people are incarcerated and/or excluded because of a criminal record.

With respect to drug control, more repressive governments have shown themselves to be resistant to civil society participation and in some cases have been openly hostile to community representatives, including within the deliberations and sessions of the United Nations Commission on Narcotic Drugs (UN CND) (Fordham, Haase and Nougier, 2020). At the national level, policy makers have also been unwilling to engage with certain communities on the basis of their criminality as defined by existing drug laws. For example, in Colombia, as the medical cannabis industry opens up and the government eyes the potential profits from production, traditional cannabis farmers are struggling to get a seat at the table (Rivera, 2019). From a social justice perspective this is deeply problematic, as these traditional farmers should be supported to transition into the licit market, which will require political will, as well as capacity building, technical support and financial investment. Furthermore, restorative justice must be implemented—for those who have been criminalised under previous regimes—when the activities they have engaged in are no longer subject to criminal penalties (Jelsma, Kay and Bewley-Taylor, 2019). From the perspective of reparations towards those who have disproportionately borne the brunt of punitive drug policies, such as people of colour and people from lower-income communities, positive discrimination policies to support and enable their participation in the newly legal cannabis market are critical. Examples of social equity programmes, such as that implemented by the Massachusetts Cannabis Control Commission in the United States, which seeks to ‘promote and encourage full participation in the marijuana industry by people from communities that have been disproportionately harmed by marijuana prohibition and enforcement and to positively impact those communities’ (Massachusetts Cannabis Control Commission, 2019, 2), represent a serious and genuine effort at reparations.

Within policymaking spaces, strong resistance and hostility towards certain affected groups who are criminalised or have been criminalised makes genuine participation difficult and is also often a serious impediment to organising for collective activism. This resistance calls into question the successive commitments made to achieving meaningful participation.



## 5 The Civil Society Task Force on Drugs

In relation to the UN drug control debates, civil society participation has been facilitated for the last thirty-five years by two NGO committees, based in Vienna (Vienna NGO Committee on Drugs (VNGOC)) and New York (New York NGO Committee on Drugs (NYNGOC)), respectively. Over the years, various initiatives have been undertaken by these committees around high-level meetings and diplomatic gatherings to encourage and support civil society engagement (Fordham and Haase, 2018).

The most recent effort is the Civil Society Task Force on Drugs (CSTF), which was first convened ahead of the 2016 UN General Assembly Special Session on the World Drug Problem (UNGASS) to enable 'comprehensive, diverse, balanced, and inclusive' representation of civil society groups in the UNGASS process. In setting up the CSTF, special attention was paid not only to trying to ensure regional representation, but also—and for the first time—to including representatives of affected populations and global issues (called 'global voice' seats), which involved seats for people who use drugs, people in recovery from drug dependence, families, youth, farmers of crops deemed illicit, harm reduction, drug prevention, access to controlled medicines, health workers, and criminal justice personnel (CSTF, 2016). When the CSTF was reconvened for the 2019 Ministerial Segment, an additional seat was added for 'alternative development' as a 'global voice' seat. Representation on the CSTF had to be carefully balanced in terms of ideology, as the spectrum of civil society that engages in drug policy discussions is broad. At one end, there remain groups very much committed to the achievement of a 'drug free world'. At the other, there are advocates for the full legal regulation of all drugs. In between these two positions, there is a great deal of nuance and diversity (Fordham and Haase, 2018).

For the 2016 UNGASS, the representatives on the CSTF organised consultations with their various constituencies to facilitate genuine input into the debates and discussions. The regional representatives organised consultations within their regions, while the representatives of affected populations and the 'global voice' thematic areas organised among their peers. Numerous consultations were conducted via online surveys, interviews, and in some cases conferences (CSTF, 2016).

One of the largest in-person consultations took place in the Netherlands and convened approximately sixty farmers and farmers' representatives for the Global Forum of Producers of Prohibited Plants, for a discussion of their views on and experiences with illicit crop control policies. The *Heemskerk Declaration*, the official outcome of the forum, which included a list of policy recommendations, was presented at the UNGASS in New York and also

submitted as part of the official input from the CSTF (Metaal, 2016). INPUD made a submission based on five consultations undertaken throughout 2015; one was conducted virtually, while the others took place in Tanzania, Thailand, Georgia and the United Kingdom. Representatives from over twenty-four drug user organisations from across twenty-eight countries were consulted (INPUD, 2016). Alongside the numerous other thematic consultations, ranging from those affected by the lack of availability of controlled substances for medical and scientific purposes to recovered users, youth and families, these submissions sought to bring the perspectives of those with lived experience into the UN drug policy discussions. Despite the huge effort coordinated through the CSTF for the official civil society input into the UNGASS process, the report was never formally considered by member states during the deliberations, which was disappointing for the civil society representatives who had been active in the CSTF (Fordham and Haase, 2018).

While the CSTF mechanism has been the most inclusive to date in terms of seeking to ensure that the voices of affected populations are heard in the UN fora on drugs, it remains challenging to genuinely bring in the voices of those most affected on the ground. This difficulty is acknowledged especially in relation to the commitment to ensure ‘no one will be left behind’ and to ‘endeavour to reach the furthest behind first’ (UN General Assembly, 2015). The United Nations Development Programme (UNDP) has identified five factors affecting the furthest left behind: discrimination, geography, governance, socio-economic status, and shocks and fragility (UNDP, 2018). ‘Governance’ is a factor that is particularly poignant for drug policies and the meaningful participation of those most affected. Under this point, the UNDP asks how people are disadvantaged by ‘ineffective, unjust, unaccountable or unresponsive global, national and/or sub-national institutions’ and are affected by ‘inequitable, inadequate or unjust laws, policies, processes or budgets’. Moreover, ‘absolute deprivation’ and ‘relative disadvantage’ are underscored as preventing those left furthest behind from being able to ‘participate in or benefit from human development’ (UNDP, 2018, 7).

Within the UN drug control fora, these challenges are brought into sharp relief. Part of the issue arises from the continued lack of genuine and explicit acknowledgment by member states of the failure to achieve the stated goals of reducing the size of the illicit market, and of the damage caused by punitive drug policies. The inability to accept these inconvenient truths creates resistance to allowing participation and acknowledging inputs from certain civil society actors, in particular. This creates a challenge for member states to agree as to ‘who’ exactly is most affected. As noted above, those that the system has categorised as ‘criminals’ experience this resistance, as well as structural

barriers to their participation. One clear example of such structural barriers is the inability to travel to attend meetings because of denial of entry visas based on previous criminal records.

## 6 The False Dichotomy

Within the UN CND setting, member states are still known to question civil society participation in drug policy, continuing to regard many groups with suspicion and viewing them through a simplistic prism of whether they are 'liberal' or 'prohibitionist' (IDPC, 2008, 1). This binary categorisation of civil society has hampered access for the more reform-oriented civil society groups, including those advocating for harm reduction. In 2009, Antonio Maria Costa, the Executive Director of the United Nations Office on Drugs and Crime (UNODC), referred repeatedly to the 'pro-drug lobby' in his foreword to the annual *World Drug Report* to malign civil society organisations that challenged and questioned the status quo of prohibitionist drug policies (UNODC, 2009, 1). This analysis mischaracterised pro-reform groups as 'libertarian' bodies who sought less control of drugs in 'pursuit of the old drug legalization agenda' (UNODC, 2009, 3). In fact, the most prominent organisation calling for legal regulation, Transform, argued that prohibition left the drug market uncontrolled and in the hands of organised crime. It posited that legal regulation would allow state control of the drug market, taxation, and quality/purity standards (Rolles, 2009). This false dichotomy continues to define civil society participation in the UN drug policy fora to this day, although over the years the groups advocating for reform, for harm reduction and for stronger human rights oversight have grown in visibility, strength and number, and have in turn attained more legitimacy at the UN CND.

There has been a significant shift in the voices represented at the UN, which for the first few decades of the UN CND's existence consisted almost exclusively of civil society representatives who called for prohibition, encouraging governments to implement repressive measures to reduce demand and supply (Fordham and Nougier, 2019). Over the past two decades, however, there have been an increasing number of credible reform-minded civil society groups engaging at the UN level to redress this balance and challenge the punitive thrust of dominant drug control policies (Fordham, Haase and Nougier, 2020). In addition, many of the civil society groups from the other end of the spectrum have increasingly taken on a more moderate rhetoric, reflecting that reform groups have been successful in shifting the debate. At the UNGASS, reform messages dominated the civil society narrative, and the same has been true since.

## 7 Other 'Stakeholders'—UN Entities

The reform narrative coming from civil society has gained significant ground, which is most clearly demonstrated by the progressive tone coming from the UN system. Over the years, there has been a significant effort to draw attention to the lack of 'system-wide' coherence on the issue of drugs at the UN level, in particular with respect to the disconnect between drug control and human rights (Barrett, 2008). Although there was recognition that drug policy was a cross-cutting issue that would require coordination across the UN system (Bridge et al., 2017), several attempts to bring this about failed, creating a 'Vienna drugs and crime monopoly' that became increasingly more siloed over the years (Jelsma, 2019). While other UN entities that were not specialised in drug policy were invited to contribute to the debates that took place in Vienna as another group of 'stakeholders', in reality they were given very little space to do so (Jelsma, 2019).

The 2016 UNGASS heralded a shift in this dynamic. The UN General Assembly declared that the 2016 UNGASS 'shall have an inclusive preparatory process that includes extensive substantive consultations, allowing organs, entities and specialized agencies of the UN system, relevant international and regional organizations, civil society and other relevant stakeholders to fully contribute to the process' (UN General Assembly, 2014). In addition, the Deputy Secretary-General at the time, Jan Eliasson, reinforced this approach. The fact that, in parallel, the new SDGs were being negotiated in New York may also have provided a further impetus for strengthening UN system coordination in all relevant settings. In the end, an unprecedented number of the other relevant UN entities made submissions to the UNGASS process (Fordham and Haase, 2018). In 2015, the Human Rights Council passed the first ever resolution related to the impact of drug policies on human rights, resulting in both a high-level panel at the Council and the first report from the Office of the High Commissioner on Human Rights, which was presented as a submission to the UNGASS (UN High Commissioner for Human Rights, 2015). Nearly all of the submissions highlighted the failures and damage of punitive policies. Many of them called for reforms, including specifically the decriminalisation of people who use drugs, with the exception of the submissions by UNODC (Hallam, 2016). This broad and progressive engagement from across the UN system had a positive impact on the tone of the debate, with the UNGASS *Outcome Document* viewed as more forward-looking than previous consensus-agreed declarations on drugs from the UN (Bridge et al., 2017).

Since the UNGASS, there has also been a marked shift in the tone of UN drug control bodies, first concerned being the International Narcotics Control

Board (INCB) and the UNODC with respect to their strict view on how to implement drug control. Both organisations have since become more vocal regarding some of the most serious human rights violations committed under the guise of drug control—for example, around the question of the death penalty in Indonesia (UNODC, 2016), extrajudicial killings in the Philippines (INCB, 2017b), and human rights abuses more broadly (INCB, 2017a).

The most recent and significant development in terms of the UN system's engagement has been the development of the *UN System Common Position* to support member states in the practical implementation of the UNGASS *Outcome Document*. In addition to providing coherent messaging on drug policy for UN entities that aligns strongly with human rights obligations as well as the SDGs, the common position establishes a 'United Nations system coordination task team, to be led by UNODC, and composed of interested United Nations system entities' to deliver on the objectives of the document (Chief Executives Board for Coordination, 2019, 14). These twin initiatives of the *Common Position* and the task team have been exceptionally hard-won and 'provide unprecedented authoritative guidance for UN entities and can help guide the current international drug control system into the 21st century' (Jelsma, 2019, 1). Crucially, the *Common Position* explicitly promotes 'alternatives to conviction and punishment in appropriate cases, including the decriminalization of drug possession for personal use' (Chief Executives Board for Coordination, 2019, 14) and makes this a cross-UN recommendation. This has finally brought the UNODC in line with the other entities that recommend the decriminalisation of drug use and possession for personal use.

Reform-minded civil society groups have made a direct contribution to this shift in rhetoric, and have been consistent and unwavering in advocacy messages with respect to the UN debates for many years, seeking to create pressure and tension in the system and to draw out its inconsistencies.

## 8 Conclusion

Participation in public life by rights holders and organizations that represent them is a fundamental principle of human rights. Participation also improves the efficacy of political systems, as well as policy development and implementation. Civil society space is therefore a threshold issue, not only for human rights, but also for development and peace and security more broadly. When civil society sits at the table, policymaking is more informed, effective and sustainable.

The strong, meaningful and genuine participation of civil society, and in particular the most affected populations, must be fought for and protected. Although this principle is enshrined in numerous UN resolutions, when it comes to global drug policy debates, the reality falls far short of the ideal. In general, the key barriers to civil society participation are discrimination and inequality (OHCHR, 2018). Under a global drug policy regime that purports to actively promote a 'society free of drug abuse' (UN CND, 2019, 1), many of those most affected and criminalised by punitive policies face discrimination. These include people who use drugs and subsistence farmers of drug crops. This discrimination undermines their participation as rights-holders in the policy debates and must be challenged and questioned. Factors such as geography and socio-economic vulnerability act as further barriers to their ability to participate in policy discussions—especially at the UN level, but also at more local levels.

Much more needs to be done to facilitate the participation of the most affected in the UN drug policy debate. The efforts of the CSTF have been invaluable in this regard. For the 2016 UNGASS, the CSTF defined the affected population groups and this was critically important given that member states would not be able to reach consensus on this categorisation and, because of ideological opposition, certain groups would likely be excluded. The CSTF consultations also sought to ensure that the voices of those from the geographical global South were included, alongside those of the most affected. Given the very real resource and visa challenges faced by some community representatives who sought to participate in person, these efforts were crucial.

To further strengthen civil society participation in UN drug policy debates, including formal seats for civil society representatives in the governance structures of the Vienna-based drug control institutions could be considered. The example of the Joint United Nations Programme on HIV and AIDS Coordinating Board (UNAIDS PCB), the governance body for UNAIDS, is an enlightened model in this regard. There are five seats for non-governmental organisations on the UNAIDS PCB—three from developing countries and two from developed countries or countries with economies in transition. These five organisations have one representative each; they are also each supported by five additional NGOs, which stand as alternate members. Crucially, ensuring that people living with HIV are represented in this structure is a fundamental principle. This is a distinctly different governance model from that seen in Vienna, where civil society representatives are only permitted to participate at the UN CND as observers.

The participation of other stakeholders beyond rights-holders needs to be considered in relation to their 'stake' in the debate. Allowing the term 'stakeholders' to mask the differing status of the various groups is problematic.

Although the private sector increasingly does have a stake in drug policy as the cannabis market opens up, transnational corporations driven by the profit motive must not be elevated to the same status as those participating as rights-holders. Masking the inherent power imbalances between the different stakeholders risks underplaying the rights of affected communities and legitimising a place at the table for corporations as 'equal actors' in spite of fundamentally different interests.

Finally, the significant strides made towards ensuring greater participation in UN drug policy from across the UN system must now be further strengthened. This has been a key advocacy ask from civil society over the years, in the knowledge that the siloed approach taken at the UN with respect to drug control needed to be broken apart. The global drug policy debate has become more dynamic as a result of the increased involvement over the past decade of civil society, as well as of other UN entities, heralding an irrevocable break in the long-revered global consensus on punitive drug control and shifting greater attention towards health, human rights and development concerns.

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# The World Drug Policy Problem. An Interview with José Ramos-Horta

*José Ramos-Horta and Khalid Tinasti*

## Abstract

José Ramos-Horta is a former president of Timor-Leste, a Nobel Peace Prize laureate and a current member of the Global Commission on Drug Policy (GCDP). Khalid Tinasti, one of the guest editors of this volume, interviewed José Ramos-Horta to gain insight into his views and analyses of drug control policy. They discuss his experience as one of the drafters of the Constitution and criminal justice responses in Timor-Leste, and his role as the UN Secretary-General's Special Representative and head of the United Nations Integrated Peacebuilding Office in Guinea-Bissau (UNIOGBIS) at a time when the country was labelled a 'narco-state'. Khalid Tinasti also asked him about his views on the future of the drug market in the context of a growing drug policy divide between countries that enforce a punitive approach to drug use and those now legalising cannabis and other substances for recreational purposes.

*Drug control policies create major 'unintended' consequences such as a widespread illegal and violent drug market; policy displacement, with major resources diverted to law enforcement rather than public health; and geographical displacement, with violence moving from one region to another as the war on drugs escalates. How did these findings influence your position on drug policy? What triggered your call for drug policy reform?*

Like the rest of the world population, and for a long time, I have looked at drug control as an important feature in the security arsenal of each country to protect people from poisoning, to reduce criminals' financial profits, to protect institutions from money laundering and corruption, and to reduce the burden of disease on the health system. Like many, I could also see that while drugs were widely used, the drug trade was visible on urban streets and drug control was still capable of 'containing' the issue.

With time, it became clearer that the impacts of drug policy were not only found where they were most glaring, such as in the explosion of incarceration for non-violent offences in the last few years or the spread of infectious

diseases due to the lack of harm reduction services, but also in different aspects of development and, more worryingly, in the poorest populations (GCDP, 2018). I started seeing people in pain not being able to access pain relief; the poorest being arrested when their prevalence of use was no higher than that of wealthier members of society; women being sentenced to long prison terms for minor offences such as acting as a courier, with a devastating impact on their children and communities; and without any reduction in drug production, use or traffic. It is this inability of drug control to achieve its own stated objectives of achieving a drug free society, combined with its numerous negative consequences, that made me look into the issue of drug policy from the perspective of the people impacted, and no longer from a security angle.

The late Kofi Annan called me in 2016 with a message from the members of the Global Commission on Drug Policy, who were inviting me to look into their work, analyse it and—if I was in agreement—to join my voice to theirs. I was delighted to look into the ineffectiveness of drug policies, and to provide recommendations on reforms. As the late Kofi said privately: ‘usually, young people bring the wind of change on conservative issues. With the Global Commission, we, the elderly, have brought the wind of change on drug policy’.

*You were the UN Secretary-General's Special Representative and head of the United Nations Integrated Peacebuilding Office in Guinea-Bissau (UNIOGBIS), at a time when the country was being labelled a 'narco-state'. You have opposed the use of this rhetoric—why?*

A few months after my appointment by the UN Secretary-General as his Special Envoy, the Security Council renewed the mandate of the UNIOGBIS, adding the monitoring of drug trafficking and the fight against organised crime to its remit. The mission of accompanying the country through a political transition and democratic elections became more complex, as we had to address the interconnectedness between drug trafficking proceeds and the funding of political figures, public institutions and the military.

I have focused my efforts on rebuilding democratic institutions and dialogue, and on attracting international re-engagement with Guinea-Bissau. I have therefore focused on the social and economic determinants of the drug trade in the country. That is the reason why I refused to label Guinea-Bissau as a ‘narco-state’, a term used by academia, practitioners and diplomats. Rather, it is a country where the development gap was filled by illicit financial interests, and where there is more need for structural development support to address the issues of poverty than for enforcement support to fight organised crime.

*Since the 1930s, and the introduction of the first international drug trafficking and production crimes, the response to illegal drugs has focused on punitive policies. You have been involved in drafting the Constitution of Timor-Leste, a Southeast Asian country facing issues of smuggling similar to its neighbours, yet which chose to implement proportionate sentences and to ban the death penalty. What is the rationale behind your country's criminal justice approach to drugs?*

Our national constitutional framework was built on the premises of restoring justice and dignity to the people. As a state, we needed to ensure that we had democratic institutions and the rule of law. These two pillars needed to build on a fair institutional environment, and that starts with a constitution that is protective of people, and inclusive of their diversity. We also needed to have laws that are proportional to the offences they are designed to punish. Our penal code of 2009 has no specific penalties for drug use, but there are many other articles that punish drug use, possession and trafficking, such as the use of intoxicants in the public space, the use of children in the production or trafficking of drugs, smuggling and money laundering crimes. The latter are the most severely punished crimes, incurring prison sentences of up to 12 years (Timor-Leste Government, 2009).

Since its independence, our country has preserved the right to life and therefore never allowed or accepted the use of the death penalty for any crime. I will recall here that the UN Committee on Human Rights has repeated time and time again that drug trafficking offences do not meet the 'most serious crimes' threshold, and that the death penalty should therefore not be used to address these crimes. This stance has also been promoted by the International Narcotics Control Board, the international body in charge of country compliance with the three drug control conventions (INCB, 2016).

Therefore, the rationale behind our response to drugs is one of proportionality and of mitigating factors. We cannot, on the one hand, promote more structural and systemic changes to address poverty and, on the other, make life harder for impoverished communities through disproportionate drug policies and enforcement. This is also how the rule of law is maintained over the longer term.

*Could Southeast Asian countries, which are the fiercest proponents of punitive drug policies, enforce their way out of drug-related problems?*

The history of Southeast and north-east Asian countries and illegal drugs goes back to the massive opium dependence of the nineteenth century, and to its

impact on social, economic and cultural life. These historic landmarks cannot be minimised or overlooked; they are a central part of reforming towards people-based drug policies. Today, these same countries are facing new challenges. Being large producers of plant-based drugs but also of methamphetamine, and thanks to the socio-economic progress of the last few decades, they have also become a new transit and consumption hub. For instance, Australia's illegal market is the most expensive in retail prices to the consumer, so it seems lucrative for traffickers to transit through our region from other producing countries.

Identifying the issues is one thing, and we do it as well in Southeast Asia as it is done in the rest of the world. Now, what the most appropriate response might be is another discussion. Evidence and data show that no one can enforce themselves out of drugs, and no one can impose discipline with over-punitive laws. I believe it is time to try something different; something where people and those most concerned, such as youth, are considered as partners in drug policy. For this to be a reality, our policies need to adapt, and our societies need to accept that some people will use drugs regardless of legal or social punishment.

*Countries that spearheaded drug prohibition in the past are now radically reviewing their approaches, with some legalising the use of cannabis or psilocybin for recreational purposes. Yet other countries with a tradition of mild substance use (such as opium in India) have lost this privilege to drug prohibition. Are we witnessing a new global divide on drug policy?*

This is a gradual approach that has taken two decades (Bewley-Taylor, 2012), but that has speeded up considerably in the last decade with the establishment of the Global Commission on Drug Policy, and then the organisation of the UN Special Session (UNGASS) on drugs in 2016. Nevertheless, the growing diversity in drug policies on the ground is a worrying trend.

International norms were established to provide the international community with common tools and effective coordination against common threats. This divergence in the international drug control system, be it positive and take the form of a move towards regulated drug markets—and my hope is that these markets will be regulated according to the dangerousness of the substance and not the commercial potential of a prospective market—or negative and take the form of over-repression and sometimes extrajudicial punishments, is a breach in the implementation of international law. This is never good, and questions the rule of law. Nevertheless, this situation does nothing to mitigate the original error of the international community—that of having a normative framework that is absolutely not aligned with what evidence reports on the ground. We know demand for drugs is significant, we know that



supply will fill that demand, but we refuse to implement smart laws to reduce the harmful associated effects of drug use, while introducing many negative consequences of drug control. What good can come when our young people, simply wishing to have fun with recreational and occasional drug use, are met by the police, the criminal justice system, and the never-ending consequences of a criminal record? When laws are unfair, they are breached, and those who enforce them find ways to adapt them. This is damaging for the national and international rule of law.

*These national policies, which are currently diverse on the ground (from decriminalisation of use to harm reduction scale-up; from state-condoned extrajudicial killings to legalisation of some substances), contrast heavily with the old consensus that prevailed among UN member states until just a decade ago. Is the UN still relevant in drug policy debates?*

I am someone who will always believe in the value of multilateralism, and in the extraordinary capacity of our countries to carry out the most difficult tasks when we work collectively. The COVID-19 epidemic has indeed clearly highlighted this: no country can end the epidemic alone, there is no need to duplicate efforts, and if we work together and mutualise resources we can progress faster and better. The UN still seems to be the appropriate space for doing so.

Now, as stated by my colleague at the Global Commission, Helen Clark (an internationalist and supporter of the international system), UN norms are usually overlooked and disrespected when they are the right guide for good policies. In drug policy, these same norms and conventions, which are outdated and were drafted at the time of social hygienism, are a barrier to good policies on the ground. It is because we firmly believe in the need for international co-operation on drug policy that we have criticised the UN for not keeping up with the world, in practice or in thinking. It is not the UN's Secretariat or technical agencies but its member states that are in a position to reform and amend the drug control conventions. They are the ones that could make the UN central or irrelevant in drug policy.

*Given the low levels of investment in drug-related social and health services, combined with punitive laws and social stigma, do you consider that the Sustainable Development Goals are achievable for people who use drugs and for their communities?*

Drug policies are clearly a cross-cutting public matter, influencing and impacting a variety of policy areas and development objectives. In fact, when



law enforcement activities against drug use and trafficking are practised indiscriminately—and usually arbitrarily, focusing on the most vulnerable—the rule of law and equitable justice are under threat (Sustainable Development Goal (SDG) 16); when people who use drugs do not seek treatment or access harm reduction because of fear of arrest, healthy lives for all become impossible (SDG 3); when it is the poorest who are harmed the most, not only by drugs but also and as much by police repression, poverty eradication efforts are questioned (SDG 1); when it is women who are the most frequent victims of current drug policies, being incarcerated more than men for drug use or trafficking, gender equality is flouted (SDG 5); when there are violent confrontations between law enforcement and criminal groups, with innocent citizens caught in the middle, no cities can be safe (SDG 11); and the list could go on and on.

The implementation of the SDG s and the Agenda 2030 are a serious pathway to try to right the past's wrongs. The SDG s are a bold agenda. As Ruth Dreifuss—the Chair of the Global Commission—said, they require some pre-conditions to be agreed upon: that a drug free world will not be achieved; that drug-related health issues and social unrest are fuelled by current prohibitive laws and policies; that the war on drugs has resulted in weak and ineffective public institutions in many places; and that drug traffickers have benefitted from this very weakness. We need to recognise the issues at hand, so that we can be more pragmatic about how to address them.

*After 50 years of the war on drugs, even the UN recognises that at best the 'world drug problem' has been 'contained'. The UN also falls short—along with national authorities—of providing clear plans to achieve the desired drug free world. What are the elements that prevent the international community from recognising that the initial aim was wrong?*

The criminalisation of the consumption, production and retailing of illegal drugs seems reasonable when they are seen as unnatural contaminants pushed into a society from the outside or by deviant forces, creating a dependence that is 'evil' and takes control of people's minds and bodies. Nevertheless, consuming mind-altering substances is a near-universal impulse that has been documented across cultures throughout history. In anthropology, 'mood- or consciousness-altering techniques and/or substances' are part of the list of 'human universals', alongside music, language, play, and other elements, forming the basic cultural toolkit. And this still holds true today: there are few individuals who never consume psychoactive substances, be they alcohol, tobacco, coffee, chocolate or khat. Therefore, most individuals and societies have an

understanding of the appeal of psychoactive substances, at least of those that are socially acceptable in their culture (GCDP, 2017).

When it drew together the different pre-war conventions into the 1961 *Single Convention on Narcotic Drugs*, the international community was also hoping to stop the scourge of dependence. Nevertheless, international and national laws are made to evolve, to adapt to progress in science and in society, and to be amended or terminated by elected officials. The problem here is that dependence and its related issues are most problematic and visible among the poor, those who have no voice in the public debate, and those who are already under economic pressure. This has turned drugs from a public health issue concerned with preventing harm which could have been more effectively dealt with under another regime than prohibition; into a political problem in every country, since drug policy is now related to weak and ineffective institutions, ill-health, minority repression, corruption, unfair judiciary systems, over-punitive law enforcement apparatuses, overcrowded prisons, state-condoned extrajudicial punishments and a concentration of these harms among the poorest in society.

Yet now that we see more and more jurisdictions adopting the legal regulation of cannabis or mushrooms, we believe that more has been done in the last ten years in terms of recognising the reality of drugs than in the preceding 50 years.

*As the United States retreats from its position as the proponent of the war on drugs due to its current opioid-driven overdose crisis and the state-based legalisation of cannabis, and as the Russian Federation takes over as the global advocate of prohibition, do you foresee any major changes in international and national drug policies in the next decade?*

The major changes that I see in the next decade in terms of drug policy are both negative and positive. The current divisions of opinion in international settings provide the opportunity for countries to be more flexible in implementing better drug policies nationally, and for regional multilateral strategies to move closer to the realities of a regional block of countries. At the same time, these same opportunities are a challenge, since the noncompliance with human rights law and its violation have been occurring in the name of drug control.

Caution is also needed with respect to how the legal regulation of cannabis is implemented. If it means establishing a commercial model for a 'new' industry, then few of the issues will be solved since the majority of those involved in the 'old' illegal market will be left out. Moreover, consumers who benefit from

effective illegal supply chains have no incentive to buy in the legal market. If this regulation is inclusive and respectful of communities and the existing structures of this illegal global industry, then there is the worry that drug policy reform will end with cannabis policy reform, since the problem of over 70 per cent of consumers will be solved. However, issues related to cannabis use are not as problematic as those associated with more potent substances, such as opiates or cocaine.

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**PART 3**

*Drugs, Development and Cross-Cutting Issues*





# The Rif and California: Environmental Violence in the Era of New Cannabis Markets

*Kenza Afsahi*

## Abstract

This chapter explores the different forms of environmental violence practised against humans and nature (including the cannabis plant) in a context of intensive cannabis cultivation. In particular, it examines the effects of the industrial farming of cannabis since the 1960s on water, land, forests, animals and farmers. It also investigates the exploitation of the labour force, which has comprised vulnerable populations, especially women and landless agricultural workers since Rifian agriculture was first integrated into colonial capitalism in Morocco. While this study focuses on the Moroccan territory, the situation presented is by no means unique at the global level. The phenomenon can be seen developing both within a framework of prohibition and when legal and illegal actors adopt a capitalist system of exploitation, as is the case in California.

## 1 Introduction<sup>1</sup>

The cannabis industry has undergone numerous reconfigurations in recent years.<sup>2</sup> It is now a multifaceted sector in terms of the products it offers, the

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1 I would like to thank Khalid Mouna for his comments and suggestions on an earlier version of this text and also Najib Akesbi for giving me access to his work on Moroccan agriculture. I am also grateful to Abdellatif Adebib and Marta Jonville for our exchanges and for always being on hand when I needed them. My thanks go also to Anthony Silvaggio for sharing information on the environmental consequences of the cannabis industry in California.

2 This chapter examines industrial cannabis farming practices that pose an environmental risk. The many uses of cannabis for ecological purposes (rehabilitation of contaminated soils, replacement of forest products, etc.) are not examined here. It should be noted that the recreational and medicinal uses considered in this study are not the only potential uses of cannabis, which has also historically been used in the South for the manufacture of environmentally friendly products in domains such as food, textiles and cosmetics. However, these products, whether for commercial or family use, have been replaced by synthetic fabrics and plastic products, whose production and consumption are harmful to the environment. Significantly, cannabis-based products have made a recent comeback in the cannabis markets

large number of cannabis-producing countries involved, the mass of producers with different know-how, the many plant varieties grown and the very different qualities of cannabis weed, resin, oil and other preparations. The words used to refer to cannabis also tell their own story (Afsahi, 2017a). The past decade in particular has seen significant changes in the cultivation techniques used in European and North American countries, where cannabis cultivation has increased with the emergence of new ways of disseminating know-how, online seed outlets and shops selling indoor growing equipment to the public. These factors have all contributed to the diversification of products available. The increased acreage given over to cannabis and the selection processes it has been subject to (particularly in terms of different types of crosses) have influenced the genetics and biological characteristics of the original plant (to boost productivity and/or THC levels). The result has been a cultivated plant (Gerber, 2018) that has sustained uncontrolled hybridisation over decades of prohibition (Afsahi, 2017b).

At the same time, environmental change has accelerated since the 1960s as a consequence of intensive cannabis farming and its adoption of industrial agricultural practices. In the 1960s, agro-export models, driven by an increased demand for cannabis, led to intensive farming in the South and even to monoculture in some areas. The 1970s were marked by tolerance in regard to cannabis in the United States (US) and Morocco. This trend was to shift for the US a decade later with the criminalisation of cannabis cultivation and use (Corva, 2014). There was a considerable expansion in cannabis-growing acreage in Morocco in the 1980s, due to a rising European demand for hashish (cannabis resin) and declining production in Lebanon and Afghanistan. The 1990s saw California become the first US state to legalise cannabis for medicinal use (Corva, 2014; Silvaggio, 2018a and 2018b). At the same time, Morocco was experiencing episodic crackdowns on growers and the destruction of cannabis fields in response to international pressure, which, perversely, had the effect of intensifying cannabis cultivation in the country. Morocco's prohibition policy continued into the first decade of the new millennium. In 2012, meanwhile, Colorado and Washington became the first US states to legalise cannabis for recreational use following a referendum in each state.

Over the last decade, industrialised countries have seen the emergence of an industrial agriculture phenomenon in both indoor and outdoor cultivation in response to new cannabis markets. This expansion is, however, having the

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of industrialised countries, where many companies are now manufacturing cannabis-based foods and cosmetics.



same multiple environmental consequences as legal intensive agriculture, including soil depletion, loss of biodiversity, water pollution, increasing water scarcity and health risks to farmers and consumers. These impacts are very rarely measured or taken into account. From an economic and social point of view, these new, increasingly technology-driven cultivation practices (mechanisation, irrigation, chemicals, commodification of seeds) have created tensions between small farmers and large landowners, who have easy access to resources and a labour force made up of the most vulnerable populations, namely women, children and seasonal workers.

In rich countries, after decades of fighting to obtain the right to cultivate and consume cannabis, industrial groups both large and small are now fighting among themselves, each looking to invest in and exploit cannabis for its many possible uses in a variety of fields, including construction, textiles, food, pharmaceuticals and cosmetics. This 'green gold rush', which comes at a time of huge global environmental change, forces us to question the conditions of production, use and circulation of this plant, which can take many forms and from which many derivatives can be extracted.

Originating in central Asia, cannabis was introduced via waves of migration to the Middle East, Africa, Europe and finally the Americas. It is now grown just about everywhere on the planet and has adapted to diverse climatic conditions not just outdoors but also indoors, for example in warehouses, greenhouses and cupboards with artificial lights and soils.

In the case of the Rif region (Morocco), after the signing of the 1961 *Single Convention on Narcotic Drugs* and the subsequent increase in international demand for cannabis, the Moroccan authorities followed a logic of prohibition and repression in line with the international convention, while the farmers looked to intensify their cannabis cultivation to meet demand. Environmental questions, if they were considered at all, were secondary for both actors.

The environmental consequences of cannabis production have received very little attention from researchers of any discipline, and have scarcely been mobilised by the activists who have fought prohibition for decades. Nevertheless, the environmental argument has been put forward many times to show the benefits of cannabis (insulative, depolluting, etc.) and to moralise the market.

This study, which is part of an ongoing research project exploring the ecology of cannabis, is a reflection on the global cannabis economy and its current social, economic and environmental issues. It focuses on different forms of environmental violence against natural resources, humans and the cannabis plant, in a context of intensive cultivation. The concept of 'environmental violence', which originated in the field of environmental criminology (South

and White, 2016), is understood here as violence against the natural environment, certain species (human and non-human) and the planet. This analytical framework takes into account not just social damage but also plant protection, the violence plants are subjected to and the environmental and health impacts of intensive crop farming. The environmental crimes considered here also extend beyond those that have been defined by law. This approach, which is rooted in the field of actor-network sociology (Latour, 1994), attaches importance to non-human objects as actors in their own right.

This chapter will set out some of the changes that are affecting forests, land, water and animals. It will examine a range of social, economic, political and cultural practices that reflect a different way of telling the story of nature, a notion that seems to be taking on new meaning for growers today. It will also look at the exploitation of the labour force, which has comprised vulnerable populations, especially women and landless agricultural workers ever since Rifian agriculture was first integrated into colonial capitalism in Morocco. While the study focuses on the Moroccan territory, the situation presented is by no means unique at the global level. The phenomenon can be seen developing both within a framework of prohibition, and when legal and illegal actors adopt a capitalist system of exploitation and try to find an alternative to this ultimately doomed situation. The experiences of Morocco and the US state of California have been drawn on here as fitting examples because their differentiated regulations regarding cannabis cultivation show that the mechanisms put in place for indoor and outdoor production limit the consideration of environmental issues.

While market dynamics mean the cannabis cultivation context is subject to rapid change, environmental change can only be observed over a long period of time. It is thus impossible to measure the effects of cannabis cultivation over the space of just a few years. Moreover, it is difficult to approach the problem of environmental crime in a now globalised market at the level of a single social group and a single space. This analysis therefore needed to take into account several different levels of scale (geographical, historical, etc.) and the wide range of actors involved (farmers in the South, growers in the North, legislators, etc.). It compares the practices of actors in the South (the Rif) and in the North (California) to reveal two conceptions of a relationship to the environment in two different legislative, economic and technical contexts. The study is based on observations and informal, semi-structured interviews carried out on a sample of diverse actors in Morocco (farmers, cooperatives, etc.) and a sample of workers who had participated in growing activities in industrialised countries. In the absence of technical indicators showing changes in the natural resources concerned, we sought to gain an understanding of environmental

crime and the resulting injustices from social indicators and from stakeholders' accounts of conflicts or tensions relating to the sharing of resources (Blanchon, Moreau and Veyret, 2009). These data were supplemented by exchanges with American researchers and by documentary research on the environmental question as it related to cannabis cultivation in California.

The first part of this chapter examines how the link between the Rif farmers and their environment has evolved with the intensification of cannabis cultivation for hashish production. This over-exploitation has also impacted workers, particularly the most vulnerable, including women and landless agricultural workers. The second part of the chapter will attempt to show how environmental violence in the South has spread to industrialised countries.

## 2 Towards Environmental Simplification in the Rif

People aren't interested in crop diversity any more. In our ancestors' time, there were walnut trees, fig tree, cherry trees, vines, everything all together, and the local kif<sup>3</sup> [Morocco's traditional cannabis cultivar] was planted in small plots so that it didn't take over the place, our ancestors chose specific plots, the most fertile, land that was well prepared, it had to be flat ... they grew on terraces, mainly because it stabilised the soil, they even used the rocks, the stones they found on the plots, they kept the shape of the land, respected it, everything had a role, they planted trees when they needed to ... It was a love affair between human, earth and insect, they only touched the top 10 centimetres of soil because the fertile earth's right at the surface, because insects live in it, they're part of the system, but now with the tractors, they kill everything, there used to be butterflies and there was this really unique species of locust.

Rif farmer, interview 2019

As this Rif farmer indicated, Moroccans have had a close connection with cannabis (or kif) for centuries. They used it in food, medicine and religious rituals, as well as for technical and recreational purposes or simply to help them endure harsh labour conditions (Afsahi, 2017a). It would be grown in small quantities in gardens alongside traditional crops, either for domestic use or to sell at market.

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3 In Morocco, 'kif' refers both to the plant itself and to a traditional preparation intended to be smoked, which is made up of a mixture of dried tobacco and cannabis.

The French and Spanish protectorates (1912–56) were to play a key role in changing the Moroccan populations' relationship with this plant and their environment. France appropriated fertile land in various regions of Morocco to develop industrial plantations (Pascon, 1977; Lazaret, 2009[1968]). In 1914, with a view to financing its administration through the Régie du Tabac et du Kif monopoly (a company controlled by the Paris-based investment bank Banque de Paris et des Pays-Bas), the French authorities developed and produced a manufactured kif, which they sold to local populations at a great profit. Between 1912 and 1954, the French protectorate issued a number of *dahirs* (decrees), which were modified over time in response to the context of international prohibition, to regulate the cultivation, sale and use of cannabis (Afsahi, 2011). The Spanish authorities divided their protectorate into three zones: a political administration zone (Tétouan), an economic zone with fertile land and access to a water reserve (around the Loukkos River in Larache), and what was considered a rebel zone, which was populated by tribes and managed according to local custom (Jbala and Rif) (Mouna, 2018). The Spanish authorities tolerated cannabis cultivation in their protectorate to win over the Berber tribes. They levied taxes on the kif produced, and because they did not have access to the useful agricultural areas of Morocco, they exploited the Rif woodlands for timber. Spain changed the status of Morocco's woodlands with its *dahir* of 1919, which ordered that the woodlands, which until then had been managed by local tribes and communities (*jamaa*), would henceforth be in the public domain and managed by the state. The Spanish authorities turned the country's traditional slash-and-burn agricultural system into one that was focused on the over-exploitation of large forests for timber (Grovel, 1996).

When Morocco gained its independence in 1956, cannabis cultivation was definitively banned, although it was still tolerated within a small area located between the communes of Ketama and Bab Berred in the central Rif region, considered Morocco's historical home of cannabis cultivation. The colonial legacy, the country's prohibition of cannabis under international pressure, and the increased demand for cannabis in the 1960s all resulted in a further change in local populations' relationship to their environment. Prohibition created spaces for deviance. New tensions drove the farmers to brutally exploit the land. The government, which was trying to eradicate cannabis cultivation in the Rif, met with resistance from farmers and suspended its efforts.

The accelerated modernisation of cannabis production in the Rif and the development of a cannabis monoculture aimed largely at the export market has now become the norm. 'Monoculture' refers to an agricultural or forestry practice in which a single species is cultivated over a large area with intensive use of chemicals and no crop rotation. In the Rif, where the terrain is very

rugged, monoculture involves small areas of land, sometimes even parcels of land, devoted to a single, aligned, standardised cannabis crop. This monoculture has reshaped the Rif landscape and replaced the former multi-crop landscape described below:

On our land, there was *loubia* (beans), *dra* (maize), all the vegetables, turnips, they didn't buy anything in the old days, there were fruits, a vine for *zbibes* (grapes), which they'd eat in the winter, figs, *guergaa* (nuts), everything, cherries, these were developed people, even those who had nothing had at least forty or fifty goats. Every house had its own milk, butter and honey.

Rif farmer, interview 2019

Between 1960 and 1975, Moroccan populations largely cleared the woodland areas in response to the state's attempts, prompted by the growth of cannabis cultivation, to demarcate them (Grovel, 1996). Privatising state-owned land, burning down the woodlands and waiting for the state's reaction before starting cultivation, came to resemble a game played between the farmers and the forestry authorities. The farmers' opinions on the impact of the Spanish protectorate were mixed. Some saw the arrival of the Spanish as marking the onset of an 'ecological disaster' due to the radical change in the population's relationship to the woodlands, while others saw it as a new rationalisation of space and source of income, as this farmer recounted:

The logging companies arrived, there was an upside to the Spanish being here, they didn't just chop down trees willy-nilly, they were organised, they built sawmills, they'd chop down the trees and then plant new ones, they provided people with a living, fed them, paid them on time, they weren't exploited [...] they couldn't survive, they never used to cut anything down, only old trees[...].

Rif farmer, interview 2019

The suppression of the *jamaa's* role in managing their own needs and rights concerning land and forests changed the relationship that they had to their livelihoods and needs. Local populations no longer allowed the land to rest from one year to the next to increase its fertility, but instead used fertilisers or moved crops into the forests to conceal them better or to take advantage of more humus-rich soil. Cannabis revenues improved the livelihoods of poor populations and created new needs. This new economy also led to the emergence both of a new poor population that was dependent on the cannabis

market and of more powerful actors with access to transnational trafficking networks.

Although the laws imposed by the Spanish, and subsequently by the Moroccan state, stipulated that woodlands should be protected, they did not take into account local populations' traditional forestry practices, beliefs and intimate relationship with all living species. Nature was seen as independent of those who had inhabited and preserved it for centuries, and who would continue to use it and benefit from it.

During the 1980s and 1990s, land exploitation intensified as cannabis cultivation was established in new areas, either by historical cannabis growers or through the introduction of techniques disseminated by returning farm workers (who would capitalise on periods of tolerance from the authorities). In the 1990s, due to a lack of land and in response to tightened forestry controls, some farmers began to go in search of new arable land, particularly in the province of Taounate. In partnership with local producers, they rented land in the traditional growing areas and experimented with production processes that had been difficult to implement for topological reasons (fertilisers and pesticides, tractors, modern irrigation systems). These new farms, especially in Chefchaouen province, practised monoculture in large irrigated valleys. Cannabis cultivation thus increased from a few dozen hectares in the 1950s to more than 100,000 hectares in the early years of the twenty-first century and spread over the five provinces of Al Hoceima, Chefchaouen, Taounate, Tétouan and Larache (Afsahi, 2011).

The cannabis monoculture system was not peculiar to the Rif, however, but rather derived from the state-run agrarian system that had been developed for legal crops since the colonial period. This modern style of agriculture incorporated hydraulic systems (dams) and the development of pesticides and fertilisers. Hence, even though it was not known as an agricultural territory, the Rif was the second region in Morocco to use fertilisers (Akesbi, 2005). Throughout this period, a number of programmes were introduced across Morocco, encouraging mechanisation and the excessive monoculture of legal crops. The so-called 'agro-export' model of agricultural development that was adopted produced the same effects as it did everywhere else in the world—namely, food dependency, rural poverty and the destruction of natural resources—and for the same reasons. As a result, Moroccans today depend on international markets for their basic food supply (Akesbi, 2013).

In the Rif, the totality of the land owned has been used to the maximum extent possible for cannabis specialisation. Farmers have thus taken over the forests and communal lands, created tracks for transporting the hashish, dug wells, modified their dwellings and invested in tractors when the land has been

flat enough. They have, completely illegally, created an agro-export system that is identical to that created by the state in other agricultural regions. This approach has not, however, prevented the state from prosecuting them, and thousands have had arrest warrants issued against them or been sent to prison.

This new order, which is based on capital accumulation and the mass exploitation of natural resources, has brought with it highly visible inequalities and social injustices (Stengers, 2009). The gap between a very rich minority and almost the entire impoverished population has led to a new phase of deforestation and fighting for natural resources, even within families. Family solidarity has thus given way to competition between family members (Mouna, 2010) and all that this implies in terms of parcelling out land with increasingly reduced surface areas. As the area for cannabis cultivation has expanded beyond the historical growing area, there has been a rationalisation of both the territory and the lands used for cultivation, which are now characterised by increasingly rectilinear forms and controlled with modern production methods. The fact that this land is entirely given over to cannabis plantations has created ecological simplifications (Tsing, 2015) and reduced biodiversity in the Rif. Crop diversity, which used to limit both nature-related and commercial risks, has disappeared along with market gardens, residential gardens, fruit trees (except olive trees), some traditional livestock and some wild animals, such as monkeys and wolves, as this farmer from the historical cultivation area recounted:

There used to be a lot of animals here, all kinds of insects, butterflies I've never seen anywhere else, grey, multicoloured, birds, a huge variety of native birds, you'd never see them when you came down from high up in the mountains, in the cedars, there used to be wolves (there still are some but they're rare), wild boars, you still see a few, because they need the forest to hide in, stags in the zone, in the Spanish zone on the Tétouan side, for hunting. There used to be hyenas, my father told me. The last panther was killed in the mountains in the 50s by a Spanish officer, a white panther with black spots. You still see hedgehogs, and snakes, there used to be different kinds of snakes, my grandfather raised a snake in his house that ate mice ... my grandfather gave it eggs, he raised it, it used to be in the house, it wasn't poisonous or anything, it was like a guard dog.

Rif farmer, interview 2019

The animals that used to like eating the cannabis residues or seeds (e.g. roosters) are now tied up to prevent them from venturing into the fields. With the loss of traditional family farming, farmers are increasingly dependent on



markets for food. Nature has thus been subordinated and commodified by humans for greater economic profitability with no concern for the environmental consequences (Petel, 2018).

While the woodland areas have been one of the battlegrounds for control for the Rifian populations involved in cannabis cultivation, water resources have also become increasingly problematic. Today, this poses a real challenge for Rifian populations, given the substantial pressure on groundwater and surface water for agricultural use. Throughout Morocco, with recurrent droughts, farmers are now dependent on irregular rainfall. At the beginning of the twentieth century, droughts in Morocco occurred only once every eleven years. By the 1960s, this had increased to once every seven years, and by the 1990s there was a drought every two years. In 1999 and 2000, the country recorded two consecutive years of drought for the first time (Akesbi, 2014). These droughts have led to pressure on the woodland environment, pasturelands and water tables, whose reserves are declining. New patterns of water use have emerged that are no longer characterised by the sharing of water resources, but by conflicts between small farmers and large landowners, who can afford to dig wells and build reservoirs.

Moreover, while the Rif is the biggest user of fertilisers and pesticides in Morocco, water pollution resulting from the intensive use of these substances in cannabis cultivation has never been measured in the region. This situation brings us back to the question of environmental justice. Regarding water as a shared social and cultural good is thought to lead, in a context of no state control, to continuing environmental inequality between growers in terms of their access to and use of water (Belaidi, 2010).

Ever since the intensification of cannabis production began in the Rif, the question of resources has thus been a constant issue. It has created a divide between those who own the fertile soils, agricultural acreage, water sources and labour force needed for cannabis cultivation and production, and those who do not. Even within the same territory, the intensification of crop production has generated considerable wealth for some villages (those with large tracts of irrigable land where mechanisation is possible) and none for others (those with only small parcelled acreages, usually situated at high altitudes). This has created tensions and has even led to instability.

Profound ecological changes have altered not just these populations' way of life but also their conceptions of the land, forests, water and farming techniques and practices. Their stories about natural resources and animals have also changed. For example, many of the farmers argued that the more fertiliser and pesticides they used, the better the soil would be. As Salvador (2011) pointed out, historically, workers in industries that have caused significant



environmental damage, such as the chemical industry, have tended to defend their production methods and those of polluting enterprises more generally. Their jobs took precedence over their health and that of their descendants. The author thus shows that the environmental question is closely linked to the social dimension.

Some connections with nature have nevertheless remained for Rifian populations. Although the farmers have cleared much of the woodland area, most have continued to consider olive trees as sacred. They are the only fruit trees that can be seen still standing in the cannabis fields. Furthermore, the farmers of Ketama look on the cedar forests of Mount Tidirhine as their inviolable heritage and have protected them from timber traffickers.

### 2.1 *Women and Seasonal Workers: Exploitation of the Labour Force*

Since the 1960s, Rif farmers, in addition to exploiting natural resources in this context of intensified cannabis cultivation and hashish production, have increased their use of family and seasonal labour. Because the rugged terrain has prevented the mechanisation of some cannabis farms, thousands of workers with either precarious status (paid workers or servants) or invisible status (undocumented workers) are used at all stages of cultivation and production, namely sowing, weeding, thinning out, harvesting, drying and storage, sieving, pressing and selling (Afsahi, 2011). These workers, who are employed largely because of their vulnerability (women, seasonal agricultural workers, children), perform the most gruelling tasks in the cultivation process. The women are generally involved in the weeding, thinning out (removal of male plants) and harvesting, rather than the more technical activities such as sowing and production. Neither do they take part in the more visible activities, such as transportation and retail, but are instead used to free up the men for these tasks (Afsahi, 2015). The low visibility of women conceals a gender division in domestic roles as well as certain internal selection mechanisms (Frau, 2012) and many inequalities. Some of the tasks they are given are incorporated within domestic work more broadly, which increases their invisibility (Krinsky and Simonet, 2012). In addition to their domestic tasks, women are given the role of looking after the livestock and the children, and fetching firewood and water. They are also responsible for preparing meals for the seasonal farm workers.

This use of female labour helps to legitimise cannabis cultivation as a family activity, which to some extent minimises the risks for the men involved and shields them from being arrested (Afsahi, 2015). Very occasionally, women replace men in the retail task. This only happens when the men are in prison or, in the case of some fishing villages, out at sea for long periods. Thus, the women are emancipated by their husbands' absence (Afsahi, 2015).

Women are oppressed in many ways. As workers, daughters, mothers and wives they are burdened with many tasks and have little autonomy. They have a considerable, often unpaid workload, and they receive no social recognition or personal income. The women and men seem to have some kind of implicit social contract, which provides that—in exchange for their work in the fields—the women's standard of living or domestic comfort increases albeit they will not receive any pay.

Growers who have devoted increasing amounts of land to cannabis cultivation and begun to produce the end product themselves have supplemented family labour with a large number of agricultural workers (Aziza, 1994; Maurer, 1968). These workers come from all over Morocco, but particularly from the communes bordering the historical cultivation area of the central Rif.

Hence, every year, at the start of the cannabis cultivation period, workers from different towns and regions converge on the Rif in the certainty they will find work. Seasonal migration from some urban areas is common, notably from Meknes and Fez as well as some more distant cities such as Kenitra. The agricultural workers negotiate their daily wage with the chief of each tribe according to seniority, know-how and supply and demand. A distinction is made between multiskilled workers, who are able to help with domestic or agricultural tasks or even with road construction and marking, and specialist workers, who work solely on transforming the cannabis plants into resin. These latter workers are the more in-demand of the two types, especially in the new cultivation areas that have not yet acquired this specific know-how. Recruitment is based on trust. An employer will ask a good worker to come back the following year, and a good worker is able to recommend a new worker. Workers are also recruited at markets or in the countryside, where foreign workers are highly visible because they can be seen travelling with their personal belongings across territories according to the seasonal harvesting cycles, seeking out any contracts employers are willing to offer them. Despite being paid, seasonal agricultural workers constitute precarious and invisible labour. Very rarely do they have a voice or the right to participate in a decision (Mouna, 2010).

### **3 Internationalisation of Cannabis Cultivation and Resource Exploitation**

Today, industrialised countries are cannabis producers in both legal and illegal contexts. It is important to stress here that environmental crime is defined as an 'act' or 'omission' that harms human beings, the environment and/

or animals, regardless of its legality or illegality (Manirabona, 2016). Given the globalisation of the cannabis market, it is essential for harmful impacts, whether legal or illegal, to be considered in an international context. In a study of the intermediate actors and mediators involved in the production and circulation of both cannabis seeds and knowledge between Morocco and Holland, the present chapter's author saw how highly localised actors (in the Rif) were linked to highly mobile actors (in Holland) (Afsahi, 2017a and 2017b).

Morocco and California have been selected as cases studies for the present study not so much to show the interdependence of the two areas as to show how environmental crime today transcends state borders in terms of cannabis cultivation practices and the exploitation of natural and human resources, a phenomenon that has remained at the margins of the concerns of various actors in the cannabis industry.

After decades of campaigning by user and patient associations, as well as the high-profile activists (Michka, Miya Jansen, etc.) who have popularised knowledge about cannabis and influenced public and consumer opinion (consumers increasingly prefer local products), new legislation in different national contexts (the US, Canada, the EU, etc.) has led to new forms of the marketisation of cannabis. Countries are attempting to create regulated markets at every stage, from cultivation through to consumption, with the aims of reducing or even replacing the illegal market, adding economic value to the product through taxation, and protecting human health. As a result, the market is booming, and many industrialists are looking to invest in and exploit cannabis in a number of different sectors, including construction, textiles, food, medicine, cosmetics and recreation. As such, they are in competition with cannabis producers in the South.

These industrialised countries are beginning to think about the positive (risk reduction, economic contribution of new markets, weakening of the black market) and negative (increase in consumption by young people) effects of these new markets in the contexts of prohibition and legalisation. However, very few human and social science studies have examined the environmental consequences of industrialisation and the growth of the cannabis market in industrialised countries. Moreover, the arguments in favour of legalisation and the issues at stake have focused on economic, social and public health benefits without taking into account environmental damage. The only studies to have addressed the environmental question have been Silvaggio's (2018a and 2018b) studies of cannabis farming in Humboldt, Mendocino, and Trinity Counties (an area in Northern California known as the Emerald Triangle), Bauer and coauthor's (2015) study of water demand for cannabis irrigation and the impacts of water diversion, Mills's (2012) study of energy consumption in indoor

cannabis cultivation in the US and August's (2013) study of the role of women in the cannabis industry.

In California, cannabis was introduced most notably by the hippy communities of the 1960s and 1970s. The local industry subsequently developed through an underground network of producers, consumers and dealers (Rendon, 2012). Since the 1980s, California has been known for producing some of the best cannabis products in the world. Initially, cannabis cultivation had little impact on the environment in California. However, after decades of logging and poor land management, and following the legalisation of cannabis for medical use in 1996, California entered a new phase in its industrialisation of cannabis. Not only did cultivation increase from 20 or 30 plants per farm to plantations containing hundreds or even thousands of cannabis plants, with all the associated harmful consequences for the physical environment, this new agriculture created a real need for workers who would cultivate, harvest and sell the cannabis. Local workers were soon joined by young, international, seasonal workers. This over-exploitation of the natural environment has also been facilitated by a number of legal grey areas. Most growers in the region conceal their crops or say that they are intended for medical use or for dispensaries licensed since 2016. In reality, only a tiny fraction of production is destined for this legal market. The rest is channelled into the country's black market, an industry with an estimated value that varies considerably but that is rarely reported at less than USD 10 billion (Silvaggio, 2018a and 2018b).

Indoor cannabis cultivation in California, which emerged in response to a crackdown on outdoor cannabis cultivation in the 1980s, has also had an impact on the environment (Corva, 2014). Domestic cannabis cultivation, which has been developed in most industrialised countries to avoid control measures and unfavourable climatic conditions, uses a highly controlled environment for growing (lamps and irrigation). It has also introduced many new techniques to influence the growth cycle of cannabis, for example by crossing multiple varieties to create new varieties with higher THC levels, increased yields or new tastes and effects. In California, indoor cultivation has created a production environment that is suited to the hybridisation of different varieties of cannabis plants with specific characteristics, such as a shorter growing time, higher potency or a particular smell, making Californian cannabis among the most famous varieties in the world (Silvaggio, 2018a and 2018b).

However, these growers have impacted the local environment. Indoor production, whether small- or large-scale, requires large amounts of fossil energy to power generators, lighting and advanced climate control systems. Mills (2012) observed that the emerging industry of indoor cannabis cultivation (both legal and illegal) uses energy-intensive control processes. He estimated

that cannabis cultivation accounted for 1 per cent of national electricity consumption, which was equivalent to USD 6 billion in the case of the US. An average kilogram of end product is associated with 4,600 kg of carbon dioxide emissions. Indoor cannabis cultivation is believed to account for 3 per cent of energy consumption in the state of California (Silvaggio, 2018a and 2018b). Several other US states (including Colorado and Alaska)—along with Washington, D.C.—have legalised cannabis production, and thus encouraged indoor cannabis cultivation. Hood (2018) shows that in the state of Colorado, for example, where the majority of legal cannabis is produced indoors, electricity consumption has put a strain on power grids, with cannabis cultivation accounting for more than 4 per cent of Denver's total electricity consumption. Moreover, Ward (2018) reports that the packaging for one gram of cannabis concentrate can weigh up to 30 times more than the product itself.

The scientific literature in the field of environmental crime has shown that environmental criminals tend to target areas where legislation is most lax. Researchers have noted that environmental crime has been exported from developed to developing countries (South, 1998). This can certainly be seen in the period following the intensification of cannabis cultivation in the South in response to increased demand for cannabis in industrialised countries from the 1960s onwards. However, today, prohibition and new regulations accompanied by the rise in cannabis cultivation appear to be producing relatively similar levels of environmental damage in both developed and developing countries, albeit environmental inequalities remain (Chancel, 2017).

Countries in the South are more exposed to economic and social inequalities, which lead to environmental inequalities. These are defined as unequal access to natural resources and unequal exposure to environmental harm and risks (Hache, 2013). The populations most affected by the consequences of environmental crimes are the poorest, and often it is the wealthiest who are the agents of these crimes (Hache, 2013). Similarly, at a local level, populations with the lowest incomes are the most exposed to pollution phenomena or environmental risks (Hache, 2013). According to Chantal (2017), inequalities are cumulative because economic and social inequalities also translate into environmental inequalities.

At the global level, the cannabis cultivation context is characterised by inequalities in terms of access both to the market and to natural resources for the most vulnerable populations. This is especially true for farmers in the South, who face food security difficulties as well as technical challenges and violence when it comes to accessing land and water resources. The direct exploitation of resources by colonisers, followed by the indirect exploitation of resources after independence by the rich, continues to characterise the cannabis market.

The cannabis market is moving towards an increasingly unequal exchange between industrialised countries, which have evolved in terms of their regulations, and the South, which remains at the margins of this development.

Hence, the Rif is no longer able to rely on its scorching sun to enhance the reputation of Moroccan hashish and compete with the new European cannabis market. For at least a decade now, hybrid seeds and new cultivation and extraction techniques have been imported from industrialised countries. Hybrids produce two to three times higher yields per hectare than kif, and greater psychotropic effects than traditional Moroccan hashish (Chouvy and Afsahi, 2014). Most farmers have thus replaced their local, traditional cannabis varieties to diversify their supply. However, these hybrids are even greedier when it comes to fertilisers, pesticides, water and labour, further deteriorating an environment already weakened by decades of intensive cannabis cultivation for industrial-scale production. As ideas and knowledge have circulated between legal and illegal spheres and between industrialised countries and Morocco (Afsahi, 2017b), Morocco has adopted an increasingly technical, hyper-intensive European agricultural model that involves large quantities of fertilisers, pesticides, greenhouses, pollinators, hybrid seeds, lamps, and new hashish extraction techniques. Many foreigners have also settled in the Rif to produce locally, taking advantage of the sunshine and very cheap labour. According to judicial sources, violent crimes have been committed in Issaguen in connection with conflicts over water usage rights. This is a new development in an area known for its absence of violence.

The Rifians' connections with kif have changed with these new practices. They now have new, more distant connections with the new hybrid varieties that have been introduced. This intensification of cultivation has also snuffed out the ecological stories and cultural and religious practices that the early kif growers in Morocco drew on to give meaning to their culture and their space. As is the case with the illegal trafficking of wild species (fauna and flora) (Bernard, 2016), cannabis is today subject to risks related to biodiversity, the health of users and growers, the protection of original varieties and the plant's sustainability as a species. The circulation of hybrid varieties in Morocco is facilitated by a legislative vacuum around cannabis seeds and the ease with which actors in the seeds market can move between the two Mediterranean coasts (see Afsahi, 2017b). At the local level, the wealthiest growers, who are those most involved in the seeds circuit, have invested in damming water sources (reservoirs), which are essential for the cultivation of hybrid cannabis varieties. The specially created water police unit in Morocco turns a blind eye to the rapid degradation of water reserves. In an article on groundwater governance policy in Morocco, Del Vecchio and Mayaux (2017) show how the use of

groundwater, unlike the use of an alternative method of surface water management that is part of a classic planning policy pertaining to the state's 'hydraulic mission', reveals a liberal state policy that encourages Moroccan farmers' entrepreneurial spirit. Cannabis growers have been able to capitalise on this. Some actors in the cannabis economy even control every stage of cannabis cultivation and retail, including the short-term management of natural resources, and they know how to react to global changes in the cannabis market.

In contrast to California, the debate on the legalisation of cannabis for medicinal and industrial use in Morocco has been subject to party politics. Legalisation has been rejected by cannabis growers, who do not see the economic benefits of such a change. Some are afraid of being excluded from a legal market, particularly the pharmaceutical market, whose networks and circuits they do not control. They argue that a legislative change would primarily benefit other agricultural regions that are better equipped with natural resources (Mouna and Afsahi, 2015).

### 3.1 *Women and Vulnerable Workers in the New Cannabis Industry*

Ultimately, in both worlds (developed and developing), prohibition and new regulations seem to be harming the most vulnerable populations, namely agricultural workers, especially small farmers and women. The effects of regulation (registration fees and taxes) in California, for example, have pushed out the small farmers who produce sustainably and encouraged an increase in large-scale plantations (Silvaggio, 2018a and 2018b; Allen, 2018). With regard to the vulnerable workers employed in the sector, an ethnographic study carried out between 2010 and 2012 (August, 2013) in the Emerald Triangle showed a male dominance of the sector, both physically and in terms of decision-making. Women were thus relegated to subordinate roles. The 'heavy' work was assigned to men, and thinning out was usually assigned to women. A number of participants recounted how men dominated the sector and how they were keen to maintain the division of labour and the norms that governed this environment. Working conditions increased the women's vulnerability, a fact that resonates with the labour market in this sector more broadly. The author of this study explained that the women were fully aware that the nature of the work also exposed them to sexual harassment.

However, since the legalisation of cannabis for recreational use in California on 1 January 2018, some new trends regarding the place of women in the cannabis industry have emerged. While Anderson and Kavanaugh (2018) have highlighted the widespread perception of strong gender inequalities in the production and distribution of drugs, they have also shown how women have taken up a new place in the production of cannabis derivatives through



activities generally considered to be gendered. Hence, new businesses specialising in bakery, confectionery and other edible products have appeared since the legalisation came into force. These new uses of cannabis, which are seen as feminine by men (who are more interested in the transactional side of the business), give women an important place in the economic chain formed by the legal sale of cannabis in some US states. This gender bias has allowed many women to enter the cannabis market and has practically created the idea of 'female domination', as reflected in a US magazine's proposition: 'Will a plant named Mary Jane smash the drug market patriarchy?' Some women workers have also formed growers' collectives. It is worth noting that this reaction is not specific to California. An increasing number of cannabis events are hosting special sessions dedicated to women in the cannabis industry.

Moreover, the demand for labour—whether female, local, immigrant or young seasonal, including workers from Europe—has been growing in recent years, particularly since the legalisation of cannabis. There are two types of farms in the cannabis industry. One is made up of open, seasonal farms, and the other of closed 'factories' that continuously produce indoors. The labour force on farms comprises mainly students or 'travellers', while the labour force in the 'factories' is mainly made up of immigrant populations, particularly from Latin American and Mexican communities.

One young French woman recounted her experience in the cannabis plantations of California in 2018:

We were on a small plantation, 450 plants (two greenhouses), in the Californian backwater, the middle of nowhere. The cannabis was grown for medical use, so the owners of the place had to use organic farming methods, no chemicals. [...] I naively thought this was what happened right across the industry [...] but cannabis farming is an ecological disaster in California the same as it is anywhere else. The owners, they had a few plantations, put us in charge of the Copperhead one, there were two of us, isolated from everyone else. The nearest village was an hour's drive away, and that included twenty minutes along a dirt track. We could smell the plants half a mile before we got there. My job on the farm was watering the plants, by hand, one by one, two and a half hours a day, sprinklers weren't allowed. In the greenhouses, the temperature could reach 50°. So I'd go in with no clothes on every morning to take care of the plants, water them, take off the dead leaves, talk to them, stroke them. We formed a sensual bond really. It was an exchange of good working practices. I took care of the plants and they took care of me. They'd leave some resin on my skin, which relieved my aches and pains. Day in day



out, I sweated under those greenhouses, I meditated to the sound of the water, breathed in their smell. I was immersed in it from head to foot. And I wasn't the only one who benefited. A whole load of animals of all kinds came in to drink the water and munch on the plants. Birds, rodents, snakes, chattering squirrels, spiders, insects, they were all there with me. Sometimes I saw deer, and bobcats also venture into the area. Since legalisation though, these small farms have been disappearing. They're being replaced by large farms that privatise the seeds, like they do in traditional agriculture. We're not allowed to make a living now from doing what we depend on for our livelihoods.

Former worker in California, interview 2019

#### 4 Conclusion

Changes in cannabis regulation are intended to control cultural, environmental and social justice abuses, but the cannabis market currently has relatively few economic models that promote justice, respect for the environment and equity between South and North and rich and poor. The intensification of cannabis cultivation has further deepened territorial and social inequalities at a number of levels between the traditional growing countries, which have supplied the international market with cannabis for decades, and the industrialised countries, which have switched from importing cannabis to now specialising in cannabis cultivation and adjusting their legislation accordingly.

Environmental inequalities, which crystallise the many local conflicts over natural resources and the exploitation of labour forces, can be observed in different spaces around the world. These new cannabis-related environmental inequalities associated with access to natural resources (Hache, 2013) reveal the challenges of accessing the cannabis market and of the current cannabis economy.

In Southern countries, as exemplified by the Rif, large landowners exploit their labour force, which is made up of landless agricultural workers, women, and farmers. However, this is also true of California. Both these territories have suffered at the hands of humans, with their machinery, agricultural technology, over-exploitation, fertilisers, pesticides, and so on.

Environmental changes in the context of cannabis cultivation show us how the process of destruction has accelerated in recent years and echoes a more global and globalised ecological crisis. The environmental impact from regulatory vacuums and prohibition (Silvaggio, 2018a and 2008b; Corva, 2014) has been compounded by new legislation, which has turned a deaf ear to

prominent voices calling for environmental sustainability. Instead, it has focused on the millions or even billions of dollars that the cannabis industry has generated for large corporations, which have in turn been able to influence state administrations and regulatory advisory boards (Silvaggio, 2018a and 2008b), and push for less stringent environmental policies and regulations.

New legislation could thus risk intensifying the phenomenon of growing crops under glass, both indoors and outdoors, to accommodate the expanding market (Silvaggio, 2018a and 2008b). There is currently a lack of empirical data on the environmental costs associated with cannabis cultivation. However, it is clear that, given the economic importance of cannabis cultivation, it will have a significant impact on water, flora and fauna (Allen, 2018). We therefore need to mobilise our collective imagination to ensure that the solutions to cannabis prohibition—in other words, the new cannabis economies—do not follow the school of thought that espouses unfettered competition.

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# The Gendered Impacts of Drug Policy on Women: Case Studies from Mexico

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## Abstract

This chapter looks at women involved in drug offences and women who use drugs, from the perspective of the intersection of three axes: i) gender relationships and gender systems, ii) development, and iii) drug policy. Its purpose is to analyse the impacts of drug policy on women from a gender perspective, with a focus on two groups of 'women in detention': incarcerated women and women in residential treatment centres. The paper argues that current drug policies are part and parcel of patriarchal structures that underlie violence against women and children and undermine gender equality and development.

The international framework of drug control generates, via prohibition, illicit drug markets and drug trafficking organisations, which mirror hegemonic gender systems and treat women and children as disposable objects, maintaining sexist structures that lead to the exploitation of women's labour by their male partners, patriarchal relations with regard to illicit waged labour, and patriarchal violence and culture. The other direct results of the implementation of international drug policy are the use of incarceration as a means of deterrence and the growing number of women in prison for drug offences.

Also in the case of women who use drugs, current drug policies contribute, with practical and discursive elements, to the reproduction and justification of violence against women and girls. The two groups of women in detention analysed in this chapter, instead of being accompanied by communities, families and state institutions that address and attempt to repair the suffering and the crimes committed against them, are further isolated through institutionalisation in legal or illegal sites, in which violence against women is further reproduced and development is hindered.

## 1 Introduction

We cleaned it [marijuana], we packaged it, we bundled it up and it was like a process. In the town, people were happy when that kind

of work began, because even children, and old people, people of all ages were involved.

GABY, Female Prison Centre Tanivet, Oaxaca, Mexico

Gabriela Cruz ('Gaby') grew up in a rural area in one of the most stunning states of Mexico: Oaxaca. Situated in the south-east, Oaxaca is a place of many beauties and treasures: a varied gastronomy, lush jungles, amazingly preserved pyramids, virgin white-sanded beaches, a multitude of indigenous languages, and mind-enhancing plants—Maria Sabina's 'little children' full of psilocybin, *salvia divinorum*, and Gaby's village's main source of employment, marijuana. Nonetheless, Oaxaca's abundant contributions to the world's cultural and spiritual growth contrast with the national and local development context.

Half of the Mexican population lives in poverty,<sup>1</sup> and access to education, health, social security, housing and basic services has decreased since 2008. In this scenario, women are further discriminated against in several areas. The Human Development Index (HDI) for men is 0.789 whereas women's is 0.752, and men's 'estimated gross national income per capita' is twice that of women's (UNDP, 2018, 35).

In the Gender Inequality Index, Mexico ranks seventy-sixth. Another striking number is the adolescent birth rate: 60.3 births per 1,000 women aged 15–19 (UNDP, 2018, 39), compared to a global average of 44. Teenage pregnancies are a regional problem: according to the Pan American Health Organization (PAHO), 'although total fertility (number of children per woman) in Latin America and the Caribbean (LAC) has declined over the past 30 years, adolescent fertility rates have only dropped slightly during that period and continue to be the second highest in the world, surpassed only by those in sub-Saharan Africa' (PAHO, 2017, 13).

Gaby fits into these statistics. She had her first daughter when she was 15 years old. Her pregnancy was the product of rape by a man from her village. Gaby, a victim of violence against children (Lenzer, 2015) and of gender-based violence against women and girls (Council of Europe, 2011), was also, by then, a victim of one of the worst forms of child labour (ILO, 1999). Since the age of twelve, she had been carrying small packages of marijuana to Mexico City. Her recruiter was also a man from her village.

When she grew up, she fell in love with a drug trafficker and became pregnant again. The trafficker abandoned her. She had no money to pay for private healthcare, and public healthcare in Mexico is insufficient, especially in rural

1 See the figures in 'Medicion de pobreza 2008–2018, Estados Unidos Mexicanos', *Coneval*, [https://www.coneval.org.mx/Medicion/PublishingImages/Pobreza\\_2018/Serie\\_2008-2018.jpg](https://www.coneval.org.mx/Medicion/PublishingImages/Pobreza_2018/Serie_2008-2018.jpg) (accessed on 5 May 2020).

areas. Gaby's child was born with physical and brain paralysis, and Gaby continued to carry marijuana in order to pay for medical examinations.

So far, the state had been almost absent from Gaby's life. Neither the sexual violence nor the child-labour exploitation merited its attention or intervention. Poverty and underdevelopment were balanced by the employment provided by illicit crop cultivation, and lack of healthcare was 'compensated' with local knowledge of herbs and infusions.

One day, the state became interested in Gaby. She was arrested when transporting marijuana and given a ten-year prison sentence. She was locked away together with her child and finally became a number. The only official trace of Gaby lies in the registers of another global phenomenon with specific impacts in Mexico and Latin America: international drug policy. Mexico is not only host to opium and marijuana cultivation, cocaine and heroin flows, and other facets of international drug trafficking (UNODC, 2019). It is also home to some of what the United Nations Office on Drugs and Crime (UNODC) has labelled 'collateral consequences' (UNODC, 2008)—namely, the increasing incarceration of low-level offenders and drug users as well as lack of treatment for dependent drug users.

In light of the drug policy paradigm, where rates of incarceration are an indicator of success (Bewley-Taylor, 2016), Gaby's prison sentence represents a step forwards, towards a 'drug free world'. But as we dissect Gaby's story and peel back the layers of gender-based violence, social exclusion and racial discrimination, as well as the impacts of imprisonment on her child, the balance shifts towards other possible interpretations. Gaby's story becomes part of a global trend: the gendered impacts of drug policy on women and development.

### 1.1 *Main Arguments, Methodology, and Contents*

The impacts of drug policy on women can be analysed from the particular situation of, at least, four groups: i) incarcerated and formerly incarcerated women and girls, ii) women who use drugs, iii) female children and adolescents with an incarcerated 'appropriate adult' (an approximate form of legal guardianship) or with an appropriate adult in residential drug treatment, and iv) women carers of people in prisons or of drug users.

This chapter focuses on the first two groups, specifically on women detained in prisons and in drug treatment centres. This choice of focus is informed by the author's expertise, but also by the intersection of gender beliefs with detention,<sup>2</sup>

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2 Detention is understood in terms of the General Provision of the Principles and Best Practices on the Protection of Persons Deprived of their Liberty in the Americas (IACHR, 2008),



which constitutes a symbolic and material space for the reproduction of multiple forms of gender-based violence against women and girls.

Drug policy is understood according to the definition provided by the World Health Organization (WHO):

In the context of psychoactive drugs, the aggregate of policies designed to affect the supply and/or the demand for illicit drugs, locally or nationally, including education, treatment, control, and other programmes and policies. In this context, “drug policy” often does not include pharmaceutical policy (except with regard to diversion to non-medical use), or tobacco or alcohol policy.<sup>3</sup>

National drug policy is framed by the United Nations’ (UN) three conventions on drugs<sup>4</sup> as well as other relevant documents developed at the international level.<sup>5</sup> In the case of women, three documents highlight women’s

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which states: ‘For the purposes of the present document, “deprivation of liberty” means: Any form of detention, imprisonment, institutionalisation, or custody of a person in a public or private institution which that person is not permitted to leave at will, by order of or under de facto control of a judicial, administrative or any other authority, for reasons of humanitarian assistance, treatment, guardianship, protection, or because of crimes or legal offences. This category of persons includes not only those deprived of their liberty because of crimes or infringements or non-compliance with the law, whether they are accused or convicted, but also those persons who are under the custody and supervision of certain institutions, such as psychiatric hospitals and other establishments for persons with physical, mental, or sensory disabilities; institutions for children and the elderly; centres for migrants, refugees, asylum or refugee status seekers, stateless and undocumented persons; and any other similar institution the purpose of which is to deprive persons of their liberty’.

- 3 In its *Lexicon of alcohol and drug terms*, available on [https://www.who.int/substance\\_abuse/terminology/who\\_lexicon/en/](https://www.who.int/substance_abuse/terminology/who_lexicon/en/) (accessed on 5 May 2020), the WHO provides two definitions of drug policy. The second is: ‘In the context of WHO’s Action Programme on Essential Drugs, ‘national drug policy’ refers to a national pharmaceutical policy concerning the marketing, availability, and therapeutic use of medicines. WHO recommends that every country should have such a policy, formulated in the context of a national health policy. The WHO List of Essential Drugs is an effort to assist developing countries to develop a pharmaceutical policy attuned to allocating scarce funds for pharmaceuticals on the basis of health needs rather than market considerations’. This chapter uses only the first definition, which is reproduced in the chapter’s main text.
- 4 The *Single Convention on Narcotic Drugs* (1961) as amended by the 1972 *Protocol*; the *Convention of Psychotropic Substances* (1971); and the *United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances*, of 1988.
- 5 These include—to name only some of the more relevant documents from recent years—the *Outcome Document of the United Nations General Assembly Special Session* (UN General Assembly, 2016), adopted in April 2016; the United Nations system common position supporting the implementation of the international drug control policy through effective inter-agency

gender-specific exposure to discrimination and violence within the context of drug trafficking and drug use and call on international agencies and member states to mainstream gender in drug policy, take into account women's specific needs and realities, and adopt gender-centred actions in drug policy design and implementations. These documents are the UN Women (2014) policy brief *A gender perspective on the impact of drug use, the drug trade, and drug control regimes*, the Commission on Narcotic Drugs' resolution *Mainstreaming a gender perspective in drug-related policies and programmes* (UN CND, 2016) and the *Outcome Document of the United Nations General Assembly Special Session on Drugs* (UN General Assembly, 2016). All of these documents provide public policy proposals, which aim to take into account the gender dimension of drug use and drug trafficking and implementing women-centred drug policies, among them: i) implement alternatives to the incarceration of women accused of non-violent, minor offences and who are pregnant or the primary or sole carers of small children; ii) gather and share sex-disaggregated data; iii) provide women who use drugs with access to treatment services tailored around their needs; iv) work towards the elimination of violence and discrimination against women; and v) guarantee women's inclusion in the design, implementation, evaluation and monitoring of drug policy.

This chapter acknowledges the relevance of the analysis included in the above-mentioned documents and agrees on the general tone and contents of their proposals. It also, however, stresses the importance of placing drug policy under scrutiny using the lens of gender and feminist critique. To such ends, women's narratives are the main methodological resource used to unpack some of the gendered impacts of drug policy on women in detention and their negative impact on the achievement of Sustainable Development Goal (SDG) number 5: 'Achieve gender equality and empower all women and girls' (UN General Assembly, 2015, 14). This chapter argues that current drug policies foster violence against women and children and further undermine gender equality and development.

The case studies of women in prison for drug offences presented in the second section of this chapter are part of an awareness-raising and lobbying effort developed with the civil society organisations EQUIS Justice for Women (Mexico) and the Washington Office on Latin America (WOLA). The cases are

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collaboration, adopted in November 2018 (UN Chief Executives Board for Coordination, 2019, 12–14); and the Commission on Narcotic Drugs Implementation of All International Drug Policy Commitments. Follow-up to the 2019 *Ministerial Declaration Strengthening Our Actions at the National, Regional and International Levels to Accelerate the Implementation of Our Joint Commitments to Address and Counter the World Drug Problem* (UN CND, 2019).

discussed within the larger framework of women in prison for drug offences. They benefit from the author's over ten years of empirical research, mostly in Mexican female and mixed prisons, as well as comparative law and policy research on women in prison for drug offences with a focus on Latin America (Giacomello, 2013a, 2013b, 2017a, 2017b; Giacomello, Erreguerena and Blas, 2017).

The information presented here on women who use drugs and are deprived of their liberty in drug treatment centres or in prison is the result of one year of research, including nine months of field work in i) two prisons, ii) two public and one semi-private treatment centre, iii) a semi-private opioid-substitution-treatment clinic, and iv) five private treatment centres (for people with low incomes)—three of these being for women and girls only and the others being for both men and women and adolescents of both sexes—in four states of Mexico.

Information on the women and girls who generously participated in semi-structured interviews with the author is systematised in a figure in the corresponding section and the analysis is based on the entirety of the data collected, with two stories being narrated in more detail to give a deeper sense of the general findings. As can be seen from Figure 12.2, this information is not homogenous for all the informants as a result of the methodological choice of the author. Given the delicacy and intimacy of the topics under discussion and the life experiences women and girls shared in our fragile and time-bound space of trust, the interview was conducted as a conversation and not a closed-answer questionnaire with open questions. Therefore, if some information was not provided when asked for, if the context (time limits, a situation of danger, group interview, or the presence of authorities, among other factors) acted as an obstacle to the development of certain answers, or if the informant simply took control of the interview and 'used' it as a space for being listened to, the author did not stress particular missing elements, rather opting to preserve the continuity and confidence of the conversation.

Both the individual and the group interviews focused on three topics: i) the women's relationship with drugs; ii) the intersection of drug use with life experiences, which ended up being mostly a narrative of cyclical gender-based violence and different forms of institutionalisation (either in juvenile detention centres, drug treatment centres, prisons, or institutions for children who had been abandoned or ill-treated by their families); and iii) life conditions in treatment centres.

In the case of women in prison, we also talked about their crimes—mainly their circumstances rather than the legal process. Involvement in a criminal offence (robbery, homicide, kidnapping, drug dealing) was mostly related to relationships developed in parallel to drug use and/or linked to emotional relationships.

Group interviews mainly took place in prisons due to two main factors: the author had the opportunity to interview between four and ten women during each prison visit in a constrained amount of time (usually around three hours). In order to listen to all of the women who attended the interviews without keeping them waiting or cancelling at the last minute, it was more convenient to develop the individual interview in a group context. Of course, participation in a group interview only occurred if and when women felt comfortable with it. The second factor, which reinforced the first, is that prison authorities brought the women to me in groups, although this did not happen in all prisons. In other cases, collective interviews happened because women and girls requested it. In one case, for example, two inmates wanted to be interviewed together but not with other inmates. In a public treatment centre, two adolescents asked to be interviewed together and the centre also recommended it, since one of them had experienced a crisis after sharing, during a collective therapeutic session, that she had been a victim of rape. She was eager to be interviewed and to talk about her experience, but only if accompanied by her friend.

At the beginning of each individual or group interview, the women and girls were informed of the structure and purpose of the encounter and were invited to leave whenever they needed or wanted to, and to disclose only the type and amount of information they felt comfortable sharing. They were also promised that if they decided to withdraw from the interview, there would be no repercussions.

Generally speaking, I made efforts to make them feel at ease, listened to, and free to leave at any time, and also to discuss topics they chose if it helped make them feel better. In general, the experience of being listened to seemed to prove successful and have a soothing effect. In one case in particular, in a drug treatment centre in which I myself felt in danger, the girls wanted to talk to me even if they knew they would probably be punished for it. Despite my intention to leave once I understood the gravity of the situation, two girls insisted on being interviewed, because they were completely isolated and had nobody to talk to. I underlined that talking to me could put them in danger and that I had no means of protecting them. I added, however, that if they felt the need to talk, I would stay there until the centre's owners (a protestant pastor and his wife) told me to leave, which occurred a couple of interviews later, in threatening tones.

Lastly, it must be pointed out that the author's access to these interviewees was mainly due to her personal and professional contacts rather than to institutional processes. The latter only played out in the case of semi-public treatment centres. In positive terms, this gave the author access to data that are often difficult to gather. Nevertheless, it also mirrors how institutional barriers

or, in the case of some drug treatment centres, efforts to conceal illegal conduct often impede research that can benefit the development of public policies.

This chapter develops as follows. Section 2, 'Discrimination and Violence Against Women', outlines some theoretical concepts, as well as data that speak to the persistence of unequal gender relationships. Section 3, 'Gender and Drug Policy' includes a core of case studies that are part of the author's fieldwork on women in prison for drug offences and women drug users in public and private treatment centres in Mexico. The chapter ends with some final reflections on the challenges to mainstreaming gender in drug policy.

## 2 Discrimination and Violence against Women

I was taught that women must obey their husbands.

SONIA, sentenced to 5 years for cocaine possession,  
Female Prison Centre Tanivet, Oaxaca, Mexico

### 2.1 *Gender, Gender Systems and Patriarchal Structures*

In this chapter, the concept of gender is understood i) as an identity organiser of binary, unequal social structures in which men have power over women; ii) as a relational notion; and iii) in terms of the gender system.

It is important to underline that the fictional binary division between men and women as the only possible sexual and gender identities, which is one of the pillars of gender systems, is preserved in this piece. This is not because the author believes that it accurately describes sexual and gender identities, but because it is part of the gender systems that underpin and build the interviewed women's narratives and experiences, as well as the way drug policy refers to gender. Other gender identities, and the transformative power of what we mean by gender and how it is enacted in individual and social contexts, are therefore not part of the theoretical framework of this chapter.

Gender as a 'background identity' (Ridgeway, 2009) and 'primary form of power relationship' (Wallach Scott, 2008) refers to how characteristics, roles, attributes and expectations are built on people's perceptions of themselves and others. This is valid in people's individual and social relationships, in their relationships with their own bodies and sexual identities, and in how they are perceived and expected to be by others. Gender identity interweaves with other social identity constructs, such as race, ethnicity and class, and forms part of multi-layered levels of social stratifications and stereotypes attached to people and social groups.

Differences between men and women, men and men, and women and women operate on a horizontal scale, but also on a vertical one (Ridgeway and

Correll, 2004), with women being traditionally portrayed as inferior to men. H eritier (2007) defines women's lower social status with the concept 'differential valence of sexes', which is always present, although with differences between societies, social groups and historical times.

Gender, therefore, constitutes a changing set of cultural beliefs and symbols that underlie the ongoing construction and reinterpretation of what we mean by the binary and asymmetrical conceptions of 'men' and 'women' and how such conceptions are enacted by individuals, relationships and social contexts.

Gender roles and attributes are transmitted in the shape of a binary system of prohibitions and expectations. In other words, gender is both proscribed and prescribed. The combination of gender prescriptions and proscriptions constitutes what is here defined as 'gender axioms'—that is, particular sets of behaviours that both respond and correspond to the beliefs that lie beneath them. For instance, women are expected to love their babies and are proscribed from taking drugs during pregnancy. Such prescription and proscription are glued to each other by the traditional gender belief—rooted in the interpretation of women's bodies—that reproduction is not only biologically possible, but naturally desired. Women who do not want to become mothers have to *explain* their decision, whereas that does not happen to women who opt for motherhood. Furthermore, the 'natural role of women as life-givers' should find a cultural correspondence in the 'cultural role of women as carers', thus guaranteeing a *continuum* between sex and gender identity that can be presented as a coherent product of gender-based prescriptions and prohibitions. Not fulfilling the prescription or transgressing the proscription leads to a breach of the gender axiom, which in turn leads to stigma and punishment.

Gender axioms encompass both hegemonic gender beliefs and alternative gender beliefs (Ridgeway and Correll, 2004), with the former prevailing on the latter in terms of how people expect to be treated and conduct their behaviour. Hegemonic and alternative gender axioms are, however, not fixed, isolated structures, but exhibit interplay with each other and can be incorporated into an individual's life story simultaneously. This is the case with women involved in drug offences for example. Non-hegemonic agency (namely, transporting drugs) is framed in some of the narratives as an act of positive transgression (a choice to commit a crime), but also as the acting out of hegemonic gender beliefs and roles, such as being a poor, single mother who has to provide for her children, or being an obedient spouse. The combination of agency and gender-based victimisation, then, is not only an analytical approximation (Giacomello, 2017a) but also a narrative nurtured by a rich and plural array of gender beliefs that coexist despite binary representations of 'good' and 'bad', 'hegemonic' and 'alternative' gender-based behaviours.

Gender, therefore, must be understood not only as an identity axis and a relationship's organiser, but also as a system that operates as a matrix of mandates and hierarchies that constrain and direct people's conduct. These are also inherently difficult to resist—in part because of the fear of stigma, and partly because of the rewards of attaining 'normality' (Goffman, 1961). But also because one is always situated within gender relationships—at the interpersonal or self-identity level, as well as in the normative and cultural arrangements that regulate societies as a whole, and in its practical effects on formal and informal institutions such as language, religion, family, education, state institutions, economic organisation and political structures.

Gender systems are in constant flux and changes are reflected in the advancement of women in all spheres. As it will be shown through data and women's narratives in the following sections, however, the 'inferiorisation' of women is a persistent element. The 'differential valence of sexes' is embodied in and reproduced through the six patriarchal structures described in Walby's *Theorizing Patriarchy*: i) a patriarchal mode of production in which women's labour is expropriated by their husbands; ii) patriarchal relations with regard to waged labour; iii) the patriarchal state; iv) male violence; v) patriarchal relations in sexuality; and vi) patriarchal culture. These six partially independent structures compose patriarchy 'as a system of social structures, and practices in which men dominate, oppress and exploit women' (Walby, 1989, 214). These structures also interweave and manifest themselves in the realm of drug trafficking, drug policy, and their effects on women.

## 2.2 *Data on Gender Inequality*

Despite the fact that the last century has witnessed enormous progress towards gender equality, women still lag behind men in all areas: education, health, economic independence and access to resources, economic competitiveness, and participation in political decision-making bodies.

The World Economic Forum's Global Gender Gap 2018 'benchmarks 149 countries on their progress towards gender parity on a scale from 0 (disparity) to 1 (parity) across four thematic dimensions—the sub-indexes Economic Participation and Opportunity, Educational Attainment, Health and Survival, and Political Empowerment' (WEF, 2018, vii). The main findings show that the gender gap lies at 32 per cent and that the overall global gender gap will close in 108 years.<sup>6</sup>

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<sup>6</sup> The methodology and quantitative analysis behind these figures are described in WEF (2018, 3–7).



Gender inequality not only constitutes a violation of human rights, it hinders the development of society as a whole. As outlined in the *Human Development Indices and Indicators report*:

The disadvantages facing women and girls are a major source of inequality and one of the greatest barriers to human development progress. [...]. Worldwide, the average HDI value for women (0.705) is 5.9 percent lower than that for men (0.749) [...]. Much of the gap is due to women's lower income and educational attainment in many countries. The gender gap is widest in low human development countries, where the average HDI value is 13.8 percent lower for women than for men.

UNDP, 2018, 5–6

The 2030 Agenda for Sustainable Development includes 17 interdependent and indivisible goals with 169 associated targets. As outlined in the introduction to this chapter, goal number 5 advocates for gender equality and the empowerment of women and girls. The goal breaks down into specific targets<sup>7</sup> that reflect the main obstacles to reaching equality between men and women: violence against women, women's double or triple work burden especially in unpaid care-giving activities related to domestic tasks and child rearing (that is, caring for others at the expense of care for oneself), and women's greater exclusion from formal employment and therefore social protection, not to mention glass ceilings and pay gaps, which constitute

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7 The targets are: '5.1 End all forms of discrimination against all women and girls everywhere; 5.2 Eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation; 5.3 Eliminate all harmful practices, such as child, early and forced marriage and female genital mutilation; 5.4 Recognize and value unpaid care and domestic work through the provision of public services, infrastructure and social protection policies and the promotion of shared responsibility within the household and the family as nationally appropriate; 5.5 Ensure women's full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic and public life; 5.6 Ensure universal access to sexual and reproductive health and reproductive rights as agreed in accordance with the Programme of Action of the International Conference on Population and Development and the Beijing Platform for Action and the outcome documents of their review conferences; 5.a Undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources, in accordance with national laws; 5.b Enhance the use of enabling technology, in particular information and communications technology, to promote the empowerment of women; 5.c Adopt and strengthen sound policies and enforceable legislation for the promotion of gender equality and the empowerment of all women and girls at all levels' (UN General Assembly, 2015, 18).



some of the most powerful tools in the ongoing oppression of women and girls.

The UN Economic Commission for Latin America and the Caribbean (ECLAC) *Quadrennial report on regional progress and challenges in relation to the 2030 Agenda for Sustainable Development in Latin America and the Caribbean* (ECLAC, 2019) shows that Latin America is the most unequal region in the world. Income distribution can be illustrated by examining households' share of total income. The highest income quintile (quintile v) accounts for about 45 per cent of total household income, while the lowest-income quintile (quintile I) receives, on average, just 6 per cent (ECLAC, 2019, 114). Also, after more than a decade of falls in poverty and extreme poverty, both have increased since 2015. Poverty does not affect all people equally: the report shows that 'women make up a higher proportion of those living in poor households. In Latin America, the femininity index of poverty remained stable and high between 2012 and 2017, at around 113' (ECLAC, 2019, 116), which means that for 100 men from the age of 20 to 59 living in poverty there are 113 women in a similar situation.

### 2.3 *Violence against Women*

Gender-based violence is crucial to understanding women's participation in drug offences as well as the development of dependent drug use.

The Council of Europe's *Convention on preventing and combating violence against women and domestic violence*, also known as *The Istanbul Convention*, defines gender-based violence against women as 'violence that is directed against a woman because she is a woman or that affects women disproportionately' (Council of Europe, 2011, 8). The UN High Commissioner for Human Rights defines gender-based violence and its intersections as follows:

Gender-based violence is considered to be any harmful act directed against individuals or groups of individuals on the basis of their gender. It may include sexual violence, domestic violence, trafficking, forced/early marriage and harmful traditional practices. An understanding of how gender intersects, for instance, with race, religion, economic situation, political affiliation and geography is also critical to addressing patterns and forms of gender-based violence.

OHCHR, 2014

The intersectional approach—that is, the recognition of the intersection of multiple inequalities (Walby, Armstrong and Strid, 2012) and how this affects different people and groups in different ways—is key to understanding the gendered impact of drug policies. For example, the oppression experienced

by white middle-class women is not the same as that experienced by women of colour or indigenous women. Furthermore, women in detention, either accused of a drug offence or in treatment centres, simultaneously experience gender-based violence. This includes sexual violence, intersectional forms of violence and discrimination (for being poor, for not fulfilling the gender axiom of ‘the good mother’, for being indigenous, etc.) and specific drug policies’ impacts that reinforce gender-based violence: the deprivation of liberty, on one hand, and reinforced stigmas towards female illicit drug users, on the other. As one of the women I interviewed expressed it: ‘a male drug user is just a user; a female drug user is a user and a whore’.

According to UN Women,<sup>8</sup> 35 per cent of women worldwide have experienced either physical and/or sexual intimate partner violence or sexual violence by a non-partner (not including sexual harassment) at some point in their lives. The extreme expression of gender-based violence is the gender-related killing of women and girls. Whereas men are victims in 80 per cent of all homicides, 82 per cent of the victims of intimate partner homicide are women (UNODC, 2018a, 11). Such gender-based killings are often the culmination of years or decades of gender-based violence. Globally, the rate of gender-based killings by family members or intimate partners—legally defined as ‘femicides’ or ‘feminicides’ and punishable as such in most Latin American countries—was 1.3 per 100,000 of the female population in 2017 (UNODC, 2018a, 11). In 2018 in Latin America and the Caribbean, most countries had a higher rate than the global average: 6.8 in El Salvador (the highest in the region), 5.1 in Honduras, 3.4 in Trinidad and Tobago, 1.4 in Mexico, 1.3 in Ecuador, and 1.7 in Uruguay.<sup>9</sup>

### 3 Gender and Drug Policy

In this section, the gendered impacts of drug policy on women in detention are analysed.

Based on the theoretical framework of gender and patriarchal structures exposed in the first part of this chapter, the expression ‘gendered impacts of drug policy’ refers to two arguments: the first is that women and men involve themselves differently in drug-related activities, both in quantitative and qualitative

8 See *Facts and figures: Ending violence against women* published by UN Women at <https://www.unwomen.org/en/what-we-do/ending-violence-against-women/facts-and-figures> (accessed on 5 May 2020).

9 See the page *Feminicidio* published by the Observatorio de Igualdad de Género, CEPAL at <https://oig.cepal.org/es/indicadores/feminicidio> (accessed on 5 May 2020).

terms. For instance, the majority of drug users and people incarcerated for drug offences are men. Men achieve leadership status in drug trafficking organisations more often than women, and are also more likely to have a leading role in institutions that are responsible for drug demand or supply control efforts. That is, both drug policy institutions and affected populations are male-represented and dominated. With reference to Walby's patriarchal structures (1989), both drug trafficking organisations and drug policy reproduce patriarchy by assigning women to the lowest positions in the criminal chain with little possibility of becoming leaders, and—at the same time—exploit their labour through family and partner relationships. Women's labour is thus not only expropriated and conditioned to glass ceilings, the tasks women are induced or forced to perform also put them at greater risk of being captured by law enforcement, which is reflected in the disproportionate increase in the numbers of women incarcerated for drug offences, as we shall see later in this chapter. Also, as it will be shown by women's testimonies, both women who are accused of drug offences and women who use drugs experience cyclical gender-based violence practiced against them. Whereas this is not directly provoked or incited by current drug policy, the prominence of punitive and stigmatizing discourses and practices derived by the implementation of the current drug policy framework contributes to such violence being overlooked, and—to a certain extent—to its implicit justification.

Using gender as an analytical tool to evaluate drug policy not only requires describing the participation of women and men differently, it also implies taking into account *differential* roles: forms of participation, ways of involvement, drugs of choice and effects of the implementation of apparently neutral regulations.

Based on the above, the second assumption that underlies the understanding of the gendered impacts of drug policy is that *differential* is synonymous with *detrimental* to women, based on transversal unequal gender relationships. That is, Héritier's 'differential valence of sexes' runs across drug trafficking, drug use and related policies.

As argued by Walby (1989, 224) 'the argument that the state is a patriarchal structure does not imply that the state is a monolith'. Such a statement is valid for international drug policy itself and for its application in the national context. This is why this chapter both opens and closes with remarks on women-centred positions within the mainstream drug policy narrative, which both acknowledge and attempt to tackle gender inequalities in terms of the *outcomes* of current drug policy. Nevertheless, this chapter argues that unless drug policy is analysed and challenged as a patriarchal structure, such proposals can only scrape the surface of inequalities and not truly resolve them.

The next part of this chapter is structured in two sub-sections. In the first, women's accounts of their involvement in drug trafficking are presented, taking into account gender-based discrimination and violence and the intersection of patriarchal structures, along with the dynamics of the drug trade and the consequences of supply-control efforts. The last of these implies the increasing rate of female incarceration for minor, non-violent offences. In the second sub-section, women drug users' narratives are presented in relation to their life stories and the gender systems operating in drug treatment centres.

### 3.1 *Women in Prison for Drug Offences*

The incarceration of women for drug offences is a global phenomenon that has witnessed a staggering increase, as outlined by civil society (Álvarez, 2018, 2019a, 2019b; PRI; 2020; WOLA et al., 2016), international organisations (IACHR, 2017; INCB, 2016; UNODC, 2018b; UNWomen, 2014) and academic studies (Anderson, 2005; Bailey, 2013; Fleetwood, 2014; 2017; Giacomello, 2013a; 2017a; Maher and Hudson, 2007). It is also the main cause underlying the growth of the female prison population. Although women still constitute a significant minority in all prison systems, making up 6.9 per cent of the global prison population (Walmsley, 2017), the Institute for Criminal Policy Research's prison lists testify that the female incarceration rate has increased by 53 per cent since 2000. In comparison, general prison population growth advances at the same pace as the world population, increasing by roughly 20 per cent in the same time frame (Walmsley, 2017, 2).

As presented in UNODC's 2018 *World Drug Report*, women make up approximately 10 per cent of those brought in contact with the criminal justice system for drug-related offences around the world. This percentage varies, however, across regions: Oceania, Asia and Latin America have higher proportions, followed by Europe. Africa, meanwhile, has much lower numbers, with women constituting less than 5 per cent of those arrested for drug offences (UNODC, 2018b, 28).

In a report by Penal Reform International (PRI), which analyses sentencing practices in the case of women accused of drug-related offences—carried out in 18 different jurisdictions across the globe—it is demonstrated, for instance, that 'in a number of jurisdictions covered, non-custodial sentences are the more common form of sentences for low-level drug-related offences for women (for example, in England and Wales, Germany and New Zealand). In contrast, in Russia, non-custodial sentences are only issued in about 4% of drug-related offences cases' (Linklaters, 2020). In Thailand, meanwhile, 82 per cent of all women in prison are there for drug offences (Álvarez, 2019a); in the Philippines this number is 53 per cent (Álvarez, 2018).

In Latin America, drug offences constitute, depending on the country, either the principal or the second reason for the incarceration of women (Giacomello, 2019). This results from the intersection of three factors. Firstly, Latin America is not only the most unequal region in the world and one with high levels of violence against women, but it is also a punitive one. Whereas the world incarceration rate—the number of people in prison per 100,000 of population—stands at 145 (53 per cent of countries have a lower rate), in the Americas the rate is 233 prisoners for 100,000 inhabitants, and in Central America it goes up to 316 (Walmsley, 2018). The second factor is that Latin American countries in general tend to enforce the use of prison as a response to drug offences, thus increasing the prison population. A study by the Collective of Studies on Drugs and Law (*Colectivo de Estudios Drogas y Derecho*, CEDD) shows that in most Latin American countries the number of people in prison for drug offences has increased much more than the general prison population and the population as a whole. In Brazil, for instance, between 2006 and 2014, the general population increased by 8 per cent, the prison population by 55 per cent and the number of people in prison for drug offences by 267 per cent. These same categories, respectively, saw increases of 19 per cent, 142 per cent and 289 per cent in Colombia between 2000 and 2015 and of 13 per cent, 49 per cent and 127 per cent in Argentina between 2002 and 2014 (Chaparro, Pérez Correa, Youngers, 2017, 26).

As shown in the study *Childhood that matters (Niñez que cuenta)* (Giacomello, 2019), which looks at the impact of drug policies on children with incarcerated parents in Latin America and the Caribbean, the punitive approach to the implementation of drug policies has a proportionately higher impact on women. Figure 12.1 shows the percentage of men and women incarcerated for drug offences in selected countries.

With the exceptions of the Dominican Republic and Guatemala, the differences are striking. The use of pre-trial detention and prison sentences for minor, non-violent drug offences partly explains this trend (García Castro, 2019).

The general regional trend toward incarcerating people is a direct result of international drug policies and their implementation in punitive countries. Both the 1961 *Single Convention on Narcotic Drugs* and the 1988 *Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances* call for the use of incarceration against people who participate in drug trafficking (namely in Article 36 of the former and Article 3 of the latter). Furthermore, the number of arrests of people accused of drug offences is an indicator at the international level of successful national drug policies (Bewley-Taylor, 2016). While some margin for manoeuvre is provided in relation to dependent drug users (adding treatment or substituting it for punishment), it is not employed in most Latin

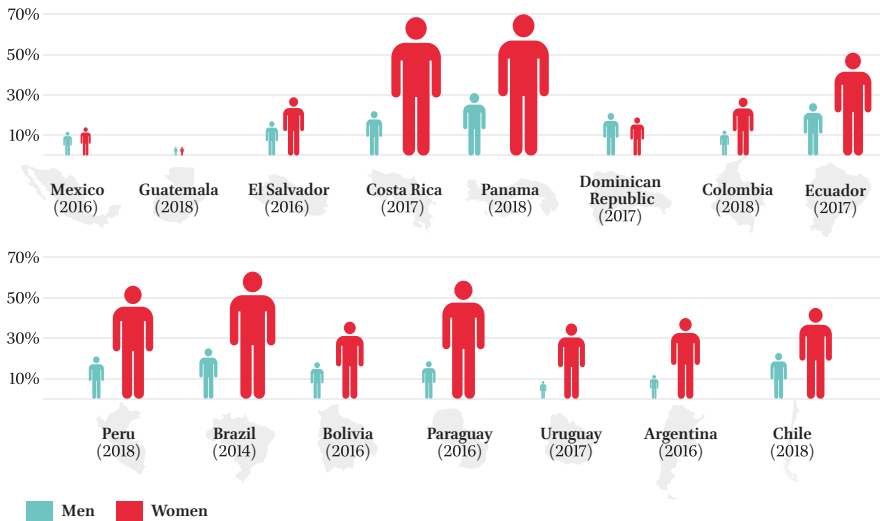


FIGURE 12.1 People in prison for drug offences in Latin America (percentages) by sex, in selected countries

SOURCE: GIACOMELLO (2019)

American countries. Furthermore, the response to micro-scale trafficking, often linked to drug dependence, is usually imprisonment or pre-trial detention. The increase in levels of incarceration, the prison crisis that affects most countries in Latin America, and the impacts of incarceration on children with incarcerated parents are therefore a direct consequence of current drug policies and their aims.

As indicated in the introduction to this chapter through the case of Gaby, what national 'success' mirrors is the continuation of an ongoing, invisible and unquestioned set of multiple forms of violence against women and girls. The following cases represent some of the women incarcerated for drug offences in Mexico. They strengthen existing knowledge with regard to incarcerated women's profiles, and to their involvement and participation in drug offences. These are often poor, uneducated women with a history of violence used against them as children and/or sexual gender-based violence used against them as women and girls, who grew up in a context of general underdevelopment and a lack of state services, in which drug trafficking organisations can proliferate. Women mainly become involved in trafficking through their male partners. Their role as agents in a context of victimisation makes the difference between consent and coercion to commit a crime more complex. Whereas most of the women I interviewed acknowledge their active participation in selling, transporting, or introducing drugs into prisons

or trafficking them across borders, the context of their involvement conveys a 'forced choice' rather than free, willing and full consent. In addition, these complexities show the inextricable relationship between gender, violence and punishment in which agency and victimisation coexist (Giacomello, 2017a).

### 3.1.1 Gaby

As described in this chapter's introduction, Gaby was a victim of sexual violence and child-labour exploitation during her childhood. Both went unpunished. Her only appearance in official records is as a drug trafficker. During her detention, she was transferred from a mixed prison—a prison where men's facilities have a few spaces for women; either dorms, sections, or some sort of separate buildings—to Tanivet, an all-female facility closer to the state capital. It is worth pointing out that female prisoners in Mexico are mostly hosted in mixed prisons, since the country only counts 19 female prisons out of a total of 311 prison centres (CNDH, 2018). Prison conditions in Mexico are dire for everybody, but women in prison are further exposed to the violation of several rights, including the right to health, sexual and reproductive rights, the right to education, dignified living conditions, work, and sometimes the right to proximity to their families and to communication, among others. Furthermore, sexual abuse can be used as a bargaining commodity in exchange for services, and human trafficking for sexual exploitation can happen in mixed prisons as well, including the sexual abuse of children who live with their mothers. According to the National Commission on Human Rights, in 2018 there were 436 children living with their mothers in prison (CNDH, 2018). Gaby's son was no longer in Tanivet with her since she had had to face the choice of whether to keep him with her or send him to a public institution to receive rehabilitation for his conditions. At first, she asked the judge to grant her the right to accompany her son to rehabilitation and come back with him so they did not have to part. The judge, however, argued that 'children are one matter and the crime is a different one', adding that 'she should have thought about it before trafficking marijuana'. Such arguments constitute a violation of Article 9 of the *Convention on the Rights of the Child*, which protects the children's right to be close to their families as long as it is in their best interest. They also do not take into account the UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules) on applying non-custodial measures to women who are sole or primary caregivers of children (Giacomello, 2018). Gaby had to choose between her son's right to health and his right to being close to her, while both rights are interdependent and indivisible human rights (Verhellen, 2015).



Gaby's involvement in drug trafficking began when she was a child. She was recruited by a high-ranking man in drug trafficking. Later, she was also involved with and participated in transporting marijuana because of a man, which exposed her even more to the risk of arrest. She was, as many of her prison companions, a child with limited opportunities who became a woman in a male-dominated environment, within a patriarchal state where violence against women not only goes unpunished, but is considered legitimate. The state's response, in the form of her incarceration, further violated Gaby's rights and reduced her opportunities for empowerment. It also put her son's well-being at risk: first by not providing proper living conditions and access to health-care in prison, and then by forcing his separation from his mother as the only option if he was actually to receive treatment and rehabilitation.

Drug policy rhetoric and its system of indicators presented the stage upon, and the umbrella beneath which, state violence could be legitimately deployed. Gaby and her son are part of an official narrative of the prosecution and punishment of offenders. Such narratives must be contrasted by others that show them as victims of continued state omissions and violations, and unequal and violent gender relationships.

### 3.1.2 Sonia

Sonia's story shares common traits with Gaby's. She was accused of possession of cocaine, which translated into a five-year prison sentence. She transported the drug from Guatemala to Mexico, hidden under her skirt, travelling on a bus, with her two-year-old son on her lap and her recruiter-husband sitting beside her. The way she tells her story echoes those of most drug mules: an economic emergency—a debt incurred by her husband—which led to her husband participating as a mule in the largest world land corridor for cocaine. He then told her to travel with him: in that way, they would pay off the debt more rapidly. She refused at first, not wanting to put her family's well-being at risk, but she finally accepted. The gender axiom mandated that she obey her husband and endure the violence. She did both and simultaneously fulfilled the prescription of the good mother: she would take her youngest son with her, since it was her responsibility to look after him.

Gender prescriptions can be used to camouflage trafficking: young, beautiful women crossing borders and seducing guards, normal-looking women queuing as prison visitors, 'families' travelling together, the woman dutifully sitting by her husband (Giacomello, 2013a). In this case, Sonia's husband suggested she should hide the drug taped to her legs, under her skirt.

When arrested, they were taken to the federal police prosecution office. Officials threatened to take Sonia's son from her 'and give him to a family who



truly loves him'. Threats using children are a rather common means of psychological torture in detention, usually threatening forms of physical and sexual torture (INEGI, 2016).

The child was later sent to a public institution and both Sonia and her husband underwent pre-trial detention. He was released and she was sentenced. The lawyer convinced Sonia to plead guilty to the accusation, so her husband could be freed and go back to Guatemala with their child. Sonia has not seen her children since her imprisonment, her husband having never fulfilled his promise to visit.

Gender axioms acted to Sonia's disadvantage. Not only was she a victim of domestic violence through the prescriptions of the role of the good wife and mother, she was made to carry drugs across borders herself. She was tortured by federal police on the basis of gender axioms, then incarcerated *in lieu* of her husband. Such women have a name in Mexican prisons: *pagadoras*—payers; that is, women that do time covering up for or being accused together with, or instead of, male partners or relatives (Giacomello, 2013a).

Both Gaby and Sonia, together with dozens of incarcerated women I have spoken with over the years, share three axes that condition their agency in drug offences, since most of them acknowledge having committed an offence. The first is underdevelopment: multifactorial poverty, lack of access to basic services, little or no economic opportunities, the feminisation of poverty, and a low level of schooling. This axis is reinforced by gender discrimination and violence, which run through these women's lives and have an impact on how they become involved in drug offences, the roles they play and their exposure to being caught transporting drugs. The axis of drug policy manifests itself in two ways. First, through the creation, via prohibition, of illicit drug markets and drug trafficking organisations, which mirror hegemonic gender systems and treat women and children as disposable objects, maintaining sexist structures that lead to the exploitation of women's labour by their male partners, patriarchal relations with regard to illicit waged labour, and patriarchal violence and culture.

The other direct result of drug policy is the implementation of a punitive discourse that rests on incarceration as a means of deterrence. This has not only clearly failed, given the growth of illicit drug markets (UNODC 2019), it has two consequences that are obliterated by the rhetoric and purposes of drug policies themselves. The incarceration of poor, uneducated women who are mostly victims of violence is one such consequence. The impact of incarceration on millions of children with incarcerated parents and the creation of institutionalised, transnational children is the other (Giacomello, 2019).

Drug policy, therefore, creates the conditions for women's exploitation in a context of structural inequality, and their further exclusion through

incarceration. Women incarcerated for drug offences are, rather than traffickers, trafficked women. The interplay of gender systems and drug policy sets the stage for the human trafficking of women by both the patriarchal state and criminal organisations. Through the current implementation of drug policy, particularly the hyper-use of the criminal justice system to the detriment of health-centred approaches, states not only fail to accomplish their mandates in terms of development and gender equality, they also generate and reinforce new and existing forms of discrimination and violence against women.

That is also the case for women who use drugs, as shown in the following section.

### 3.2 *Women's Drug Use and Access to Treatment*

In 2008, the UN Office on Drugs and Crime identified five unintended consequences related to the implementation of the current international drug policy framework, which is made up of the three above-mentioned UN conventions. These consequences are: i) the creation of a criminal market; ii) 'policy displacement', meaning that more resources have been put into supply-control efforts, thus neglecting public health-oriented measures, despite the fact that public health is 'the driving concern behind drug control' (UNODC, 2008, 216); iii) geographical displacement, or the 'balloon effect', which changes production trends and trafficking routes in order to avoid law enforcement; iv) substance displacements; and, finally v) 'the way the authorities perceive and deal with the users of illicit drugs'. The UNODC continues, 'A system appears to have been created in which those who fall into the web of addiction find themselves excluded and marginalised from the social mainstream, tainted with a moral stigma, and often unable to find treatment even when motivated to seek it' (UNODC, 2008, 216).

This section is concerned with the following unintended consequences: policy displacement (ii) and how authorities deal with drug users (v).

Available information shows that, at the global level, women use illicit drugs much less than men do, while women's non-medical use of opioids and tranquilisers is at a comparable level to that of men, or higher (UNODC, 2018b, 6). Data from Latin America (CICAD, 2019) and Mexico (INEGI, 2017) confirm these trends. Gender differences with regard to drug use tend, however, to be reduced or disappear among adolescents. Women usually become involved in drug use mainly through intimate male partners, and tend to develop dependency more rapidly than men, a phenomenon known as the 'telescoping effect' (UNODC, 2018b).

According to the Council of Europe's Pompidou Group's study *Improving the management of violence experienced by women who use psychoactive substances*, women drug users experience more and more severe violence than i) men, ii) women in the general population, and iii) male drug users. Also, people who

use drugs have experienced more violence than people who do not use drugs (Benoit and Jauffret-Roustide, 2016). Women drug users are victims of i) domestic and intimate partner violence; ii) violence during childhood; iii) drug-use scenes, mainly sexual violence; iv) sex work-related violence; v) human trafficking-related violence and vi) institutional violence. The latter manifests in different settings, including police stations and patrols, as well as in drug treatment centres, particularly in those shared by male and female patients.

Women's access to treatment is constrained by several factors, but the main one is the intersection of gender systems and drug policy. The lack of public health focus in drug policy not only voids the whole drug control system's supposed rhetoric and aims, it puts people's lives at risk. As stated by the *Study on the impact of the world drug problem on the enjoyment of human rights* from the UN High Commissioner for Human Rights (OHCHR, 2015), current drug policies lead to several violations of drug users' human rights. These include the right to health, as policies do not guarantee access to treatment. They also criminalise drug users. In addition, people who use drugs can be victims of discrimination in healthcare settings. Lack of harm reduction services in the community and in prisons further reduces opportunities to reach drug users and to reduce the transmission of HIV and hepatitis B and C, or to prevent overdoses. Stigma and criminalisation around drug use discourage users from looking for support in the healthcare sector, for fear of being arrested. SDG number 3, 'Ensure healthy lives and promote well-being for all at all ages', (UN General Assembly, 2015, 14) specifically addresses these issues in targets 3.3 (by 2030, end the epidemics of AIDS, tuberculosis, malaria and neglected tropical diseases and combat hepatitis, water-borne diseases and other communicable diseases) and 3.5 (strengthen the prevention and treatment of substance abuse, including narcotic drug abuse and harmful use of alcohol).

Lack of sufficient treatment facilities, on the one hand, and barriers to access to existing treatments, on the other, both result directly from drug policy in specific national settings. Both are worse for women. According to the International Narcotics Control Board, 'fewer women than men who need to access treatment are able to do so' (INCB, 2016, 8). This is directly related to cultural, social and structural barriers in which drug policy and gender interweave:

Globally, women make up one third of people who abuse drugs, but just one fifth of those who are in treatment. Women encounter significant systemic, structural, social, cultural and personal barriers to accessing substance abuse treatment. At the structural level, the main obstacles include a lack of childcare services and judgmental attitudes to women who abuse drugs, especially if they are pregnant. Often, residential

treatment programmes do not admit women with children. Women who use drugs may not seek treatment for fear of losing custody of their children. Other reasons for low uptake of treatment by women include hostile attitudes of medical staff or clinics being inundated with male clients, making them uninviting for female clients.

INCB, 2016, 7

Women also face greater barriers to accessing harm reduction services and treatment in prison (Sander, Shirley-Beavan and Stone, 2019) and in the community. This is not exclusive to Latin America but can be defined as a global problem, with different countries providing different levels and quality of access (Ayon et al., 2019; Médecins du Monde, 2019; Uusküla et al., 2018); furthermore, women who use drugs and are victims of violence are usually denied access to shelters for women victims of violence based on their drug use, either by law or by institutionalised practice, thus leaving them and their children in a situation of further vulnerability due to the actions of state and private institutions (Benoit and Jauffret-Roustide, 2016; HRI, 2013).

### 3.3 *Women in Drug Treatment Centres in Mexico*

In Mexico, public drug treatment facilities are scarce: only 44 residential centres, plus 11 facilities operated by Centres of Juvenile Integration (Centros de Integración Juvenil (CIJs)—a government-funded civil organisation) versus an estimated 2,108 private centres (CONADIC, 2019a). Only half of the private centres are registered with the National Commission against Addictions (Comisión Nacional contra las Adicciones, CONADIC), which is, among other functions, the authority responsible for the monitoring of drug treatment centres. Of the 1,045 registered centres, only 348 are recognised by CONADIC, which means that they have been evaluated and supervised. Of these, 99 are for men and women, 34 for women only and the rest for men only (CONADIC, 2019b). CIJs are also mixed. As in the case of prisons, therefore, women are mostly treated in mixed centres. The sizeable dominance of unregistered and unsupervised residential treatment centres translates into a myriad of methods, living conditions, and often abuses. Most centres, colloquially known as ‘barns’ (*granjas*) or ‘annexes’ (*anexos*) are places where physical punishment is common, together with psychological ill treatment, forced labour, sexual abuse and killing. For drug users forced to live in these centres indefinitely, not waking up the next day is a concrete threat. Unfortunately, academic research on this topic is scarce, as venturing into these centres is risky.

As explained in the introduction to this chapter, the following pages are based on field work carried out between February and November 2019 as part

of an ongoing research project that the author is developing for the University of Chiapas and EQUIS Justice for Women (Mexico). Table 12.1 shows how the interviews are distributed.

The interviews with women and girls were carried out individually or in groups, depending on the women's choice. Both in prison and treatment centres, privacy was guaranteed and the conversations took place in confidential settings. The interviews centred on two main topics: the development of dependent drug use in relation to interviewees' life stories, and interviewees' experiences in residential treatment. Figure 12.2 shows the information gathered for each woman or girl. It systematises the information on 21 women and 4 girls in drug treatment centres, 15 women in prison and 2 former drug users who work, respectively, as director and sub-director at private treatment centres.

The first two columns indicate name and age; in the next nine—coloured—columns the first drug used is marked with the interviewee's age at first use (either with the specific age or with an age range or time period; see the figure's key for details). Where two or more drugs were used for the first time at the same age range, the additional substances are referred to in the same way. 'ATS's' stands for amphetamine-type stimulants. The next—monochrome—column reports whether the woman or girl has been a victim of sexual abuse. This question was never formulated specifically, the topic only being brought up by the author if conditions of confidence had been established or by the interviewees themselves. Therefore, when sexual abuse was not discussed, the case is labelled 'not specified' in grey colour. If there is no sign, it indicates that the woman or girl specifically affirmed that they had not been raped. The final column records the number of children, with pregnancy at the time of interview denoted by an asterisk.

TABLE 12.1 Type and number of informants

Group	Number of interviews
Women in drug treatment centres	21
Girls in drug treatment centres	4
Boys in drug treatment centres	4
Women in prison	15
Women in prison for drug offences (no drug use)	3
People with academic or professional knowledge on this topic	15

SOURCE: CREATED BY AUTHOR

A. Women in drug treatment centres

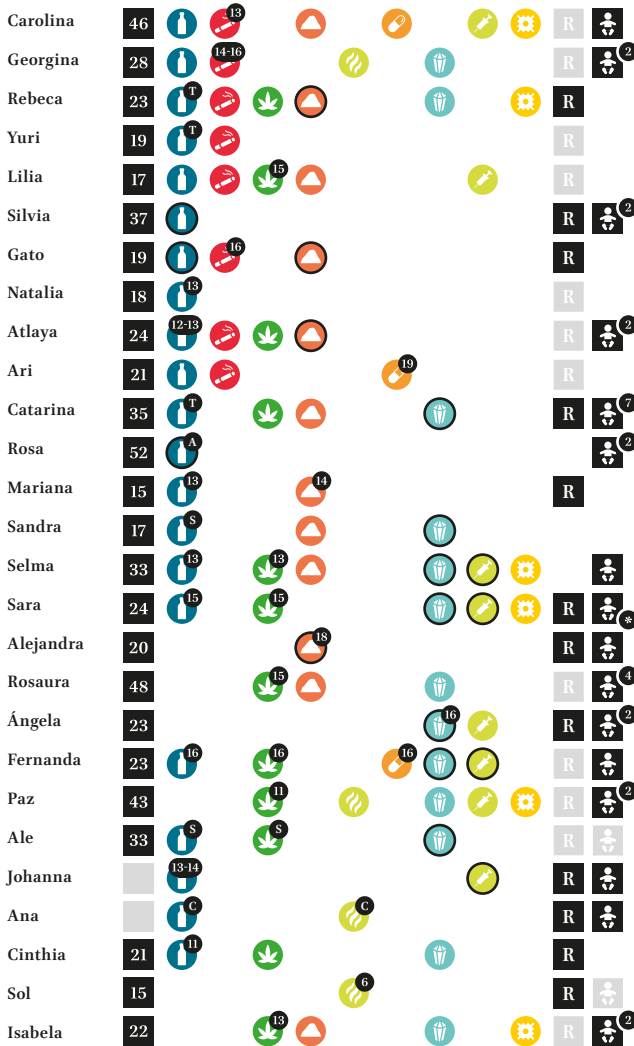


FIGURE 12.2 Information gathered on women and girls who use drugs  
SOURCE: CREATED BY AUTHOR

In terms of drug use, the data reflect national trends, with alcohol and tobacco being the first drugs used and marijuana the first illegal one (Instituto Nacional de Psiquiatría Ramón de la Fuente Muñiz, 2017). Drugs of impact—that is, those that cause more individual and social harm—are mainly crystal meth, heroin and cocaine-type drugs. All drug use, with one exception, begins in childhood (the lowest ages being six and nine) and adolescence. Family

B. Women in prison

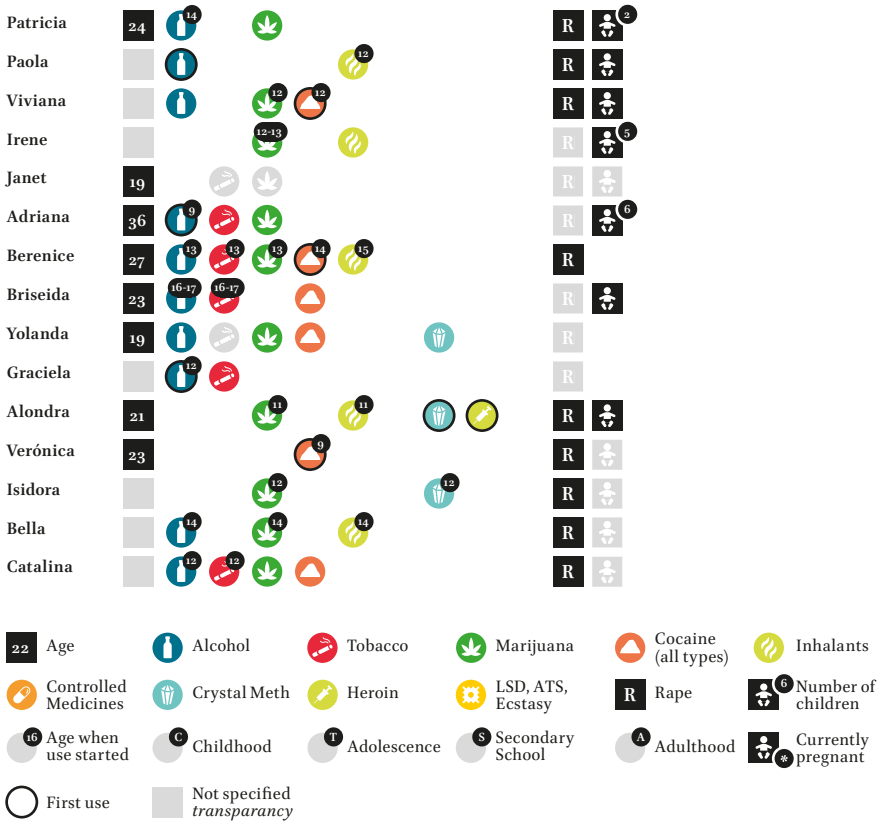


FIGURE 12.2 Information gathered on women and girls who use drugs (cont.)

members (mainly fathers and brothers) are the main vector of introduction to drug use. For example, Marta was given cocaine by her father, a federal police officer, when she was 12, so that ‘no one could fool her when she grew up’. Most women have families with precedents of alcohol abuse.

Of the 43 women and girls, 21 reported sexual abuse. The main perpetrators were uncles, stepfathers, fathers, grandparents and cousins. A total of 23 had children, reflecting the trend of teenage pregnancies mentioned in this chapter’s introduction. That was the experience of Sarah, who was abused by her older cousins when she was eight and until she was 11, every Sunday afternoon, right after mass. Or Tamara, who was abused by her grandfather and then sent to a juvenile detention centre after she stabbed him to death at the age of 16. ‘Cat’ (*Gato*) was raped by her grandfather beginning when she was three years old and then by her father at the age of 16. Sexual violence is

not usually reported, and when it is female children are usually not believed. None of the multiple forms of violence these women suffered as children led to consequences for the perpetrators. They did, though, for their victims. These women's relationships with drugs are intrinsically related to their life stories and gender (Romero Mendoza et al., 2018).

The following cases provide an example of the narratives that shape the findings of the research presented here. The first is the case of Alejandra, an incarcerated woman at the time of the interview. The second is that of Sol, a young adolescent who worked as a killer for a drug cartel and was detained against her will in a private treatment centre.

### 3.3.1 Alejandra

'You have had a very difficult life ...', I state, after more than 40 minutes of listening to her, feeling that a piece was missing. 'After a situation that happened to me ... I changed. I was happy ...' she says looking down, 'I was happy, happy ...' she reaffirms, her mind recollecting memories from a time in her childhood. 'Did someone hurt you?' I ask. Her story finally begins.

Alejandra (Ale) was thirteen and she lived in a village in Chiapas, a poor state in the south of Mexico. She lived with her grandparents and her siblings. Both her parents lived in other Mexican states. One morning she was walking to school. She usually walked with a schoolmate, her platonic love. But that day he did not show up. Two neighbours appeared. They hit her ankles with a stick and forced her to walk with them to a nearby field. She called for help, but nobody came. 'They did everything they wanted with me', she said, raping and beating her for hours. When they let her go, they urged her not to tell anybody and threatened to rape her sisters if she did. They started standing in front of her house every day, checking on her, forcing her into fearful silence. After a few days, she shared what happened with her grandmother. Yet even after her family told the police, nothing happened. She went back to school a few days after that, changing the way she went back home, trying to avoid them. But one day the same two men intercepted her. They took her to a house and kept her captive, raping and beating her. 'There were kids in the room', she said, perhaps the men's sons or nephews, and they would say to them: 'Look and learn how to treat women'. After three days, they released her.

That was the story that changed Ale's life. Her adolescence and youth were marked by drug abuse and detention in a juvenile penal centre. She was accused of being an accomplice in a homicide, and turned to prostitution to obtain money to pay for drugs. Yet she needed more drugs to find the strength to sell herself again. When I met her, she was in pre-trial detention in the female section of the medium-security prison El Amate, being held for robbery with violence.



### 3.3.2 Sol

Sol was 15 years old when I interviewed her. She was kept in an *anexo*. Her family brought her there by force and she was dragged inside, with violence, by the *anexo*'s 'guards' (inmates who acquire some degree of authority within the centres' vertical regime of control). She feared for her life: on the one hand, Fito, a 'military man' or 'former police man' in charge of the centre's security—as the women and girls I spoke to described him—could punish her and her fellow inmates for giving an interview. On the other, she knew that the drug cartel she used to work for might attempt to murder her: 'I left the cartel; there is no way out of the cartel, only death'.

Her drug use began when she was six, with inhalants. She grew up in the red zone of a city in northern central Mexico, with her mother, a sex worker. Then her mother moved to Tijuana, on the northern border, where she started working as a 'company lady' for a drug cartel. Sol's father worked for a rival drug cartel on the other side of the border, in Ciudad Juárez. Sol was raped by her stepfather when she was four and then again, at the age of eight, by her mother's boss. He forcibly enrolled Sol to sell drugs, hire other women for the cartel and, later, to become a hitwoman, a *sicaria*.

Both Alejandra and Sol, and most of the women and girls I spoke to, shared a common life experience that can be summarised as follows: first, as children, violence is perpetrated against them within their family, mainly in the form of sexual and physical violence, neglect, and verbal violence. When they attempt to share details of these episodes of sexual violence they are not believed; on the contrary, they are accused of being liars or blamed for provoking their stepfathers or other male perpetrators. Other reactions—usually from their mothers—include battery. Two main scenarios develop before them: becoming involved in a cycle of gender-based violence in the context of relationships with older men, drug-use settings, and institutional settings (police stations, prisons and drug treatment centres); this usually leads to multiple pregnancies—as teenagers first and adult women later—and, sometimes, sex work, partner-induced sex exploitation and crime. They might also end up living on the street. In either case, fleeing from violence opens up new means of abuse.

In those cases in which they are forcibly enrolled by organised crime, the hitwomen I spoke to—four of them in prison and two girls in a drug treatment centre—experienced this in early adolescence. By the time I spoke to them, they all had been victims of multiple rapes and had killed uncountable numbers of people. When asked about the role of the state, incarcerated women's opinion was clear and definite: 'The State only beats us, arrests us and kills us'.

During the first part of the interviewees' narratives, drugs are clearly a coping mechanism against the pain caused by neglect and abuse in the household and in intimate partner relationships. When dependence develops and life starts revolving around drugs, their reference points—mainly family—fall apart and riskier situations occur, such as living on the street, sex work and exposure to criminalisation and incarceration. At this point, compulsory treatment comes into play, and women, once again, as in the case of women incarcerated for drug offences, are isolated in male-dominated spaces where plural forms of gender-based violence against women take place. Patriarchal structures—namely violence against women, and patriarchal culture—reproduce themselves in drug-using circuits as well as in treatment centres.

The treatment centre where I interviewed Sol was particularly dangerous and I was prompted to leave by the owner, allegedly a protestant pastor, as already mentioned in the introduction to this chapter. As happens in other treatment centres, people were held there compulsorily for an indeterminate length of time. Selma, for instance, was held in a drug treatment centre for a full year without ever setting foot outside. It is a very gloomy, smoky place, too small for all the people living in it, with no ventilation or natural light. Because of her good conduct and achievements with regard to her treatment, she was allowed to go home to visit her young daughter. She went to the United States, near the border with Mexico, where her family lived. There she met her cousin, with whom she used to smoke methamphetamine before going into treatment. She smoked again. Despite the fact that she was reunited with her daughter, and that she had used the drug again, she dutifully returned to the drug treatment centre. Selma's return to the centre should have been seen as a major accomplishment in her recovery. The centre, however, found out that she had relapsed, and relapsing is considered a condition of drug dependence. So she was sanctioned: she had to sit for weeks on the 'bench of the relapsing users', on display for the entire centre. This happened four months before I interviewed her in August 2019. She explained to me that her relapse implied that her previous record of treatment had all but never existed. 'I have to accept that I have been here for four months, not one year and four months'.

It is important to stress that this centre is certified by the public national authority. People are held there indefinitely. The length of the treatment is decided by the owners themselves based on an arbitrary evaluation of the process of recovery, while aiming for abstinence. Patients—usually referred to as 'inmates'—are generally brought there by their families against their will and left in the hands of the owners, who isolate and make a living out of a secluded population of drug users on an obligatory path to abstinence. In other

cases, drug users are picked up—practically kidnapped—by a centre's staff and forced into vehicles to be transported to the centre. Such 'collectors' are known as 'the Celestial Patrol'. Personally, after interviewing Selma I felt an urgent need to escape. Never had I felt such a sense of imprisonment, not even in the top security section of a female federal prison.

Besides sexual violence, which does not seem to occur in the centres I visited, other forms of gender-based violence and discrimination affect women, especially in mixed centres. These can be divided into three forms: *discursive*, *structural*, and *normative*.

Discursive gender-based violence is reflected in how a centre's personnel refer to women who use drugs: more problematic than men, trying to attract men's attention for sexual purposes, individually responsible for drug dependence and its consequences. Girls and women are guilty of their drug consumption, structural conditions being completely dismissed and unaccounted for in the dependence diagnosis. Drug use is seen as an individual problem that people must resolve themselves through treatment and seclusion, aiming for abstinence. This discourse is applied to men as well; in the case of women, however, 'personal failure' is reinforced by the transgression of gender axioms. Women users are doubly labelled and stigmatised, facing even further discrimination when they are mothers.

Such discourses are entrenched in structural and normative conditions. In structural terms, mixed centres have fewer places for women. For instance, in one of the public centres I visited, out of a total of 40 beds, only six were assigned to women. The assumption that women use drugs less than men is not a sustainable justification for this disparity, since among adolescents the gender difference is almost inexistent. Also, given the barriers that women face to accessing treatment, lack of spaces can translate into exclusion, and therefore into pushing women away from healthcare rather than convincing them to seek help.

Patriarchal structures are reproduced in treatment centres' gender systems. For example, in a mixed treatment centre in Baja, California, the director, a former drug user himself, had married one of the female inmates, who is now sub-director. Women in mixed centres often need to find themselves what I define as 'a dominant male' to make them their property, so that other users or staff do not try to openly sexually objectify them. In horizontal relationships among competing masculinities and their interaction with vertical patriarchal sexual domination over women, women are forced to 'choose' a sexual partner that will take them out of the realm of 'disposable sexual object' to the legitimate place of 'woman *of* someone'. This is also pointed out in the Pompidou Group's report:

The relations between women users, men users and the staff of these communities reproduce relations in the outside world: women are often stigmatised and harassed by certain male users, but also by some members of staff. Any friendly gesture on the part of the women may be perceived as an attempt to seduce. If they flirt, women are also judged and found guilty because of the deeply ingrained notion that they are using their bodies to get drugs in exchange. This sometimes leads women to accept, as they did before taking up residence, a relationship based on a protection strategy, to avoid harassment and violence on the part of other male residents and the staff of the centre.

BENOIT and JAUFFRET-ROUSTIDE, 2016, 25

In that same centre in Baja, while men were allowed to go out to carry out 'services' for the centre—basically collecting money in the street or working for free in bakeries and other similar establishments or warehouses—women could never leave the centre. The reason given was that women had to be 'protected', mainly from themselves, since they were believed to sexualise themselves to seduce men.

Gender discrimination beliefs detrimental to women are reproduced in other practices. In two public mixed treatment centres I visited, men and women can have no contact with one another and have to follow clothing regulations that do not provoke sexual behaviours. For example, women cannot wear shorts, skirts or dresses. When verbal, written or oral interchanges happen between men and women, women are usually accused of inciting the men. One female patient told me that on one occasion she left her dorm in the middle of the night to go to the toilet and that she was wearing tight leggings. The day after, she received a warning and was told, 'You are trying to get yourself raped'. This woman had been a victim of sexual abuse since she was three years old.

Empirical research, together with the wider framework of gender systems, drug policy and women's barriers to accessing treatment, support the argument that in the case of female drug users and in addition to discursive and practical elements, current drug policies are inscribed in patriarchal structures that create conditions for, and the justification of, gender-based violence, domestic violence and violence against women and girls. The two groups of 'women in detention' analysed in this chapter, instead of being accompanied by communities, families and state institutions that are supposed to address and attempt to repair the suffering and the crimes committed against them, are further isolated through institutionalisation on legal or illegal sites, in which violence against women is further reproduced.

#### 4 Conclusions

This chapter has focused on two groups of women in detention: incarcerated women and women in residential drug treatment centres. It has analysed, within the theoretical framework of gender, how gender, development and drug policy intersect. It has argued that the current system of drug control is part and parcel of patriarchal structures and that the interplay of drug policy and gender systems that are detrimental to women establishes the conditions for gender-based violence against women and girls. It does so by promoting the prosecution and incarceration of people accused of non-violent, minor drug offences, and by a discursive and practical framework of the stigmatisation and criminalisation of people who use drugs. Drug policy creates a platform for the trafficking and sexual and labour exploitation of women and children, in their families and communities, as well as by organised crime and state institutions. By fostering a system of law enforcement to the detriment of a public health approach, current drug policies have unleashed a human rights crisis that mainly affects disadvantaged populations in developing countries and drug users. Interwoven with gender systems based on the 'differential valence of sexes' as discussed above, disparities manifest themselves in the feminisation of poverty and violence against women. Both elements are underlying causes of women's involvement in drug offences and dependent drug use, and hinder development and women's empowerment, as well as the achievement of gender equality.

The international drug policy arena has taken notice of these issues in recent years. UNODC has produced material on women and drug use and dedicated a booklet to women in the 2018 *World Drug Report* (UNODC, 2018b). The International Narcotics Control Board (INCB, 2016) has dedicated a special chapter in one of its annual reports to women's participation in drug offences and drug use.

As introduced at the beginning of this chapter, in preparation for the UN Special General Assembly on Drugs in 2016 (UN General Assembly, 2016), UN Women (2014) submitted the policy brief *A Gender Perspective on the Impact of Drug Use, the Drug Trade, and Drug Control Regimes*. In it, the organisation affirms that 'apart from a more humane and balanced approach to international drug control efforts, centered on human rights and emphasizing the public health dimensions of this crisis, this approach must also be gender-responsive' (UN Women, 2014, 3).

In March 2016, the Commission on Narcotic Drugs approved the resolution *Mainstreaming a Gender Perspective in Drug-related Policies and Programmes* (UN CND, 2016). Despite the existence of the two previous resolutions on women, this one distinguishes itself by being integral in its approach. The text

recognises women as users and points out barriers to access to treatment. It also stresses women's involvement in trafficking—mainly in the lowest positions of criminal organisations and often occurring through deceit and coercion—and highlights the importance of women as agents in drug policy, calling for women's active involvement in 'the development and implementation of national drug-related policies and programmes' (UN CND, 2016, 3). Among other actions proposed by the resolution are i) to collect and share quantitative and qualitative data, disaggregated by age and sex, related to the world drug problem; ii) to prefer non-custodial measures when sentencing or deciding on pre-trial measures for a pregnant woman or a woman who is a child's sole or primary carer; and iii) 'to increase the coverage of existing programmes and to ensure access to those programmes while providing training and supervision for all relevant health and social care professionals working with women, including in prison settings' (UN CND, 2016, 4).

Also, in the final document of the UN General Assembly (2016), there is a specific reference to mainstreaming gender perspectives:

Mainstream a gender perspective into and ensure the involvement of women in all stages of the development, implementation, monitoring and evaluation of drug policies and programmes, develop and disseminate gender-sensitive and age-appropriate measures that take into account the specific needs and circumstances faced by women and girls with regard to the world drug problem and, as States parties, implement the Convention on the Elimination of All Forms of Discrimination against Women.

UN General Assembly, 2016, 15

Such calls are meaningful and necessary. Collecting sex-disaggregated data, promoting the use of alternatives to incarceration for women who are pregnant or primary caregivers, improving and broadening women's access to treatment and including affected women in drug policy's design, implementation and evaluation are all fundamental steps that should be encouraged. However, they will only have a cosmetic impact if they are not part of a wider spectrum of urgently needed transformations in the international system of drug control and its implementation, rhetoric, indicators and practices. A 'deep evaluation'<sup>10</sup>

10 Bacchi develops the methodology of deep evaluation as an ex ante policy analysis that consists of developing 'a form of policy evaluation that encourages critical scrutiny of conceptual premises, models of implementation and conventional forms of evaluation within a proposed or existing policy' (Bacchi and Eveline, 2010, 16).

(Bacchi and Eveline, 2010) should replace the current practice of gender analysis in drug policy, to ensure the transformative power of gender mainstreaming and to eradicate the reproduction of patriarchal structures. Such an approach should start at the core of the international system of drug control and its institutions, which should lead the way for nations to undertake the same paths.

Furthermore, it is paramount that women who use drugs, drug use communities, professionals, and civil society organisations working on related issues, foster and become part of alternative, stigma-free, empowerment-oriented narratives and practices around gender, the use of drugs, women's needs and strengths, gender-based violence, and caring responsibilities. The active participation of women who use drugs is not only ethically desirable, it is indispensable to the development of tools that i) effectively respond to the diverse situations of women and drug use, ii) address women's needs, and iii) acknowledge and build on their strengths, providing orientation, strategies and practices for women who use drugs in general, with an intersectional approach.

Given the current status of violence against women and structural inequalities in most developing countries, it is obvious that current drug policy is not the only or even the main cause of violence against women and girls and that even deep changes in the way the drug conventions are implemented would not tackle background gender systems. If, however, gender inequality is not addressed properly by the international system of drug control as part of a 'scrutiny from within', drug policy will remain a strong component of patriarchal structures, and a handy rhetoric and practical tool to reproduce women's symbolic and concrete detention.

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# Incorporating Child Rights into Scheduling Decisions at the UN Commission on Narcotic Drugs

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## Abstract

This chapter focuses on the child rights implications of bringing new substances into the global drug control regime. Focusing on the examples of ketamine and khat, which in turn highlight the issues of access to medicines (SDG 3) and child labour (SDG 8), it outlines the process for placing substances under international control and the child rights implications of such decisions. To date, however, child rights law has not been featured in this procedure. While child rights law may not be determinative in terms of outcome, the chapter focuses on an important process in global drug policy governance. If decisions to place substances under international control within the drug control architecture of the United Nations engage the obligations of child rights treaties, then there is a strong case for formally taking the obligations arising under those treaties into account.

## 1 Introduction

Children are at the centre of drug policy debates, but aside from prevention, and rhetorical statements of concern about future generations, substantive policy discussions remain limited. This is especially noticeable in relation to supply-side controls (e.g. crop eradication, interdiction) and their development aspects. Similarly, child *rights* discussions have become more prevalent in drug policy discussions as the silos between human rights and drug policy within the UN have been broken down over time. Mention of child rights remains, however, fairly superficial, usually a mere reference to the *Convention on the Rights of the Child* in a preambular resolution paragraph. Less visible are substantive aspects relating to state obligations under international child rights law across the supply chain. This chapter focuses on the child rights implications of placing substances under international control, the legal and administrative effects of such decisions, and their relevance for development. Building on commitments made in the Sustainable Development Goals (SDGs), it

focuses on access to essential medicines (SDG 3.8) and addressing the worst forms of child labour (SDG 8.7). Its central argument is straightforward.

If decisions to place substances under international control within the drug control architecture of the UN engage the obligations of child rights treaties, then there is a strong case for formally taking the obligations arising under those treaties into account. The examples of ketamine (an essential medicine, used for anaesthesia) and khat (a stimulant plant), both not yet under international control, illustrate the relevance of the scheduling process for child rights and development, and make the case for the routine inclusion of child rights obligations in that process. Our argument is therefore procedural, rather than one of outcome. But in aiming to mainstream child rights in an important aspect of global drug policy governance, it speaks directly to SDG 16.6—accountable institutions.

## 2 The International Drug Control System: Two Imbalances

Three multilateral treaties form the core legal framework for international drug control. Each enjoys near universal ratification or accession: the *Single Convention on Narcotic Drugs* 1961, as amended by its 1972 *Protocol* (UN, 1961. Hereafter: ‘*Single Convention*’), the *Convention on Psychotropic Substances* 1971 (UN, 1971. Hereafter: ‘1971 *Convention*’), and the *Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances* 1988 (UN, 1988. Hereafter: ‘*Trafficking Convention*’). The *Single Convention* replaced multiple prior treaties, creating one ‘single’ treaty, and primarily controls plant-based substances and their derivatives—in particular coca, opium poppy and cannabis. The 1971 *Convention* controls synthetic substances that had been omitted from the *Single Convention*. These include, for example, amphetamines, LSD, and ecstasy (MDMA). The *Trafficking Convention*, on the other hand, is primarily an instrument of transnational criminal law, bolstering the weak penal provisions of the earlier treaties, and was adopted in response to the growing illicit drug trade. Critically, the entire system builds upon the ‘general obligation’, set out in Article 4(c) of the *Single Convention*, ‘[...] to limit exclusively to medical and scientific purposes the production, manufacture, export, import, distribution of, trade in, use and possession of drugs’. That obligation recognises that many of the substances controlled under the drugs conventions have important medical uses (e.g. morphine). However, any other uses, such as for recreational, cultural or religious purposes, fall outside of this definition and are therefore proscribed by international law (see Article 49(2)(d)-(g), *Single Convention*).



Beyond debates about the ethics of the above distinctions (e.g. the effects on indigenous communities or cultural minorities of controlling traditional plants), there are at least two imbalances in the system that are of relevance to development, and that the cases of ketamine and khat exemplify. The first is the administration of the licit market for medical and scientific purposes. Under the *Single Convention*, a system of import/export authorisation is established as an 'estimates' and 'statistical returns' system (Articles 12 and 13). This is intended to ensure adequate supply of controlled medicines and to verify that imports and exports are for such purposes. There is no such system for the 1971 *Convention*, the preamble of which states merely that access for medical purposes should not be 'unduly restricted'. The system has not been working. For example, an estimated 83 per cent of the world's population lives in countries, overwhelmingly in the developing world, with low to non-existent access to opiates for moderate to severe pain (Seya et al., 2011). Paediatric access brings additional challenges (Marston, 2011). While non-medical use of certain substances is a serious problem, national and international scheduling leads to reduced availability and accessibility of medicines, may negatively affect perceptions of the medicine, creating a 'chilling effect' on prescribing (HRW, 2009, 2011, 2013, 2015, 2016 and 2017), and may drive up cost (De Lima, 2018). These concerns go to the heart of controversies surrounding ketamine, to which we return below.

The second imbalance is its supply-side focus. While there are general provisions relating to the prevention of drug use and the treatment of dependence, the three treaties are overwhelmingly geared towards cutting off drugs at source, and interrupting illicit flows (see Barrett, 2020, Annex 11). As part of this, the production of certain crops (coca, cannabis and opium poppy) is to be made a crime (Article 3, *Trafficking Convention*), and the eradication of those crops is a specific obligation of States Parties (Article 22, *Single Convention*; Article 14, *Trafficking Convention*). These measures are known to complicate development policy in producer regions (UNDP, 2015). If placed under international control, khat would be subject to the same requirements. A further complication discussed below, however, is the role of children in the farming of such crops once they are rendered illicit. On that, the drugs conventions are silent.

### 3 Placing Substances under International Control

However bland it may seem on the surface, the process for deciding which substances enter into international control in the first place, often referred to



as 'scheduling', is critical. The process involves both a technical review by the World Health Organization (WHO) and a political vote by the United Nations Commission on Narcotic Drugs (UN CND). Made up of fifty-three member states, the UN CND is the main policy-making body within the UN system for drug control, and has the mandate under the drug treaties to place substances under international control, which it can do via a majority vote, following the review by the WHO.

Under the treaties, controlled substances are listed according to their risk profile. Each 'schedule' carries specific international obligations in relation to the substances it contains (see Hallam, Bewley-Taylor and Jelsma, 2014). Substances seen as particularly risky, with little or no therapeutic value, are placed in the schedules carrying the most stringent controls (Article 2, *Single Convention*; Article 2, 1971, *Convention*; Article 12, *Trafficking Convention*). Thus, for example, all of the substances in schedule I of the Single or 1971 Conventions are subject to all of the obligations under the relevant treaty, while substances in schedule III of each treaty are only subject to some of them. Importantly, without a decision to 'schedule' a substance, the treaties do not apply to that substance at all. For example, as alcohol is not under international control, despite being a harmful substance, these treaties do not apply to it. Similarly, they do not currently apply to ketamine or khat.

Under the *Single Convention's* system, a state party to the conventions, or the WHO, may notify the UN Secretary-General of the need for a change to the schedules—that is to say, the inclusion of a substance, its removal, or moving it from one schedule to another (Article 3(1) *Single Convention*; see also UN, 1973, 80). The Secretary-General then brings this to the attention of the UN CND, or to the WHO if the issue was raised by a State Party. A technical review of the substance, weighing the risk of abuse versus its therapeutic potential, is then carried out by the WHO's Expert Committee on Drug Dependence (ECDD). Based on this review, the WHO may recommend not scheduling the substance or that it be placed on a specific schedule, or, if the substance is already on a schedule, it may recommend moving it to another, or removing it entirely. The process under the 1971 *Convention* is similar, but the role of the WHO is explicitly 'determinative as to medical and scientific matters'. Moreover, states are expressly allowed to take into account other relevant 'economic, social, legal, administrative and other factors' (Article 2(5), 1971 *Convention*). This is not stated clearly under the *Single Convention* process.

Scheduling decisions are ultimately made by a majority vote at the UN CND. Under the *Single Convention* system decisions are made through a simple majority vote. Under the 1971 *Convention* it requires a two-thirds majority. Thus, following a vote in which only twenty-seven states under the *Single Convention*,

or thirty-six states under the 1971 *Convention*, explicitly agree to schedule a substance, international legal obligations for all states parties are engaged. This is a rare power for such a commission, as it effectively changes the scope of the relevant treaty without the need for a plenipotentiary conference. There is no possibility for states to opt out of their treaty obligations with regard to a specific substance. States must 'carry out the onerous decisions of the Commission as expeditiously as practicable' (UN, 1973, 98). Rarely discussed, however, is that the above decisions, made by majority vote, not only affect drug treaty obligations, but also have consequences for broad child rights obligations of universal application.

#### 4 Scheduling Decisions: Delimiting the Scope of Child Rights Treaties

The *Convention on the Rights of the Child* (UN, 1989. Hereafter: 'CRC') is the only core UN human rights treaty to refer to drugs. Article 33 reads:

States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the 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 (emphasis added).

There are two clauses here, or essentially two rights of direct relevance to the examples of ketamine and khat: protection from the illicit use of drugs, and prevention from involvement in the illicit drug trade. The key word is 'illicit'. The reference to the 'relevant international treaties' establishes how 'illicit use' is 'defined', but also indicates which substances Article 33 covers. The drafting history of the CRC demonstrates that the reference to the 'relevant international treaties' was intended to delimit the scope of Article 33. In the technical review phase of drafting, the wording of the drugs conventions then in force (the *Single* and 1971 *Conventions*) was adopted, limiting Article 33 to the substances under international control, and thereby excluding alcohol and tobacco from this provision (WHO, 1988).

Substances 'defined by the relevant international treaties', of course, is not a closed list. The scheduling process can change it, thereby changing the scope of application of the CRC. In practice, it has been an ever-expanding list with many more substances now controlled than were at the time when the CRC

was adopted. As substances enter onto international drug treaty schedules, all states party to the CRC must, because of Article 33, take ‘all appropriate measures’ to protect children from using them illicitly, and prevent the use of children in illicit production and trafficking. This in turn affects the remaining articles of the CRC, which must be read as a whole when considering what an ‘appropriate measure’ may be (Barrett and Tobin, 2019). As such, scheduling decisions made by the few dozen Commission members in Vienna affect the legal obligations of all 196 states party to the CRC, and may extend beyond the relatively vague wording of Article 33 itself. This includes states that have not yet ratified or acceded to the drug conventions at all,<sup>1</sup> or those that may one day denounce them. In other words, if a state were to decide that it no longer wished to be bound by the *Single Convention*, its child rights obligations would still be engaged by decisions made under a regime to which it is no longer a party. There is no indication from the available drafting documents that the consequences of scheduling decisions for CRC obligations were fully discussed (Barrett, 2020, 50–53).

A further treaty involved is International Labour Organization (ILO) *Convention No 182* on the Worst Forms of Child Labour (ILO, 1999a. Hereafter: ‘ILO 182’; see also ILO, 1999b). One of the ‘fundamental’ ILO treaties, it too enjoys near universal ratification or accession, including by the United States, which is the only state to have not ratified the CRC. Article 1 requires that States Parties ‘[...] take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency’.

From there, the definition of the worst forms of child labour includes, at Article 3(c), ‘the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs *as defined in the relevant international treaties*’. (emphasis added.)

Article 7(1) further requires the ‘effective implementation of the treaty’, including ‘the provision and application of penal sanctions or, as appropriate, other sanctions’ (See Noguchi, 2016).

The same delimitation ‘as defined in the relevant international treaties’ is there. The drafting history reveals that the wording was intended to mirror Article 33 of the CRC in order to avoid contradiction. There was, however, no discussion of the fact that scheduling decisions by a vote at the UN CND would engage the obligations of all ILO 182 states parties (ILO, 1999c). As with the

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<sup>1</sup> Currently these are Palau, Papua New Guinea, Equatorial Guinea, Kiribati, the Solomon Islands, South Sudan, the State of Palestine, and Tuvalu.

CRC, then, these explicit obligations under ILO 182 (including applying criminal sanctions) are engaged by decisions of the UN CND.

## 5 Child Rights Implications of Scheduling Decisions

Article 33 is central to any discussion of child rights and drug policy, but given the scope of the CRC, it is genuinely difficult to find any article that cannot be linked to drug use or the drug trade. For example, the child's right to health (Article 24) and access to essential controlled medicines; the child's right to an adequate standard of living (Article 27), and crop eradication campaigns; or protection from economic exploitation (Article 32) and agricultural work. In addition, the 'general principles' of the CRC apply to all policies, including the principle of the best interests of the child (relating the wider CRC to Article 33; see Barrett and Tobin, 2019 and Barrett, 2020). Traditionally, this principle has focused on children's best interests being served by their not using drugs. This is obvious, but does not end the discussion. What of those children affected in other ways by what seem to be arcane procedures in Vienna, including those along the supply chain, or those in need of access to essential medicines?

### 5.1 *Ketamine and the Child's Right to Health*

Ketamine is a synthetic medicine, is included on the WHO model essential medicines list for children (WHO, 2017), is recognised as a 'safe and effective choice for sedation in children', and is 'perhaps the most widely used agent in the world' for this purpose (WSIA, 2014). The medicine is not currently under international control, but over the years there has been political pressure for ketamine to be controlled internationally due to its recreational use (e.g. UN CND, 2014a). The WHO has, however, recommended against scheduling ketamine at repeated meetings of its Expert Committee on Drug Dependence. This is due to its low risk as a public health concern and its high medical benefit. In the words of the ECDD, it is 'a widely used anesthetic and analgesic, especially in developing countries, because it is easy to use and has a wide margin of safety when compared with other anesthetic agents' (WHO, 2016). The WHO's caution against scheduling ketamine is borne out of the lack of access to controlled medicines already noted above, which is seen as a failing of the system into which ketamine would be drawn. The worry was that 'if ketamine were placed under international control, this would adversely affect its availability and accessibility. This in turn would limit access to essential and emergency surgery, which would constitute a public health crisis in countries where no affordable alternative anaesthetic is available' (WHO, 2014).

In 2015, however, China sought to place ketamine on schedule I of the 1971 *Convention*. According to China, ketamine had become a major public health concern due to recreational use. For China, placing the medication under international control was essential to countering this public health threat (UN CND, 2015a). China's proposal ran contrary to the WHO recommendation, leading to lengthy debates at the CND as to the legality of acceding to it (UN CND, 2015a; TNI, 2015). Some states supported China, while others disagreed, focusing on the medical benefits of ketamine (UN CND, 2014b). What was not at issue were the international child rights obligations raised by the debate. The importance of the medicine certainly was discussed, but the child rights obligation on CRC states parties to ensure access to such medicines for children in need was not. In particular, the child's right to health under Article 24 of the CRC would clearly be affected—including, importantly, its 'core minimum' standard of access to essential medicines (UN Committee on the Rights of the Child, 2013). This right applies to every state, bar the US, whether voting on the decision at the UN CND or not. These obligations were entirely missing from the UN CND ketamine discussions.

With a WHO review assessing risk versus therapeutic benefit, however, the added value of bringing in a child rights perspective is a valid question. First, the CRC demands a focus on the impact on *children* and foregrounds their best interests as a legal requirement. This, alone, is an important factor, and brings the challenge of appropriate paediatric access to the forefront. Second, states do not cast off their human rights obligations because they are voting at the UN CND. Bringing in human rights law—in this case child rights law—may help to redress the above imbalances in a system that, rooted in concerns about addiction and the drug trade, has tended towards ever more substances being controlled. Third, and directly related to this, a child rights focus strengthens the access-to-medicines aspect of the drug control system, which is by far its weakest element. Under the drug conventions, there is—strictly speaking—an obligation to ensure adequate *stocks*. The right to health focuses on ensuring *access*, locating this in a duty of the state towards everyone within its territory (under the CRC the right to health is not linked to citizenship but to geographical location in the territory).

Finally, states party to the CRC must give reasons for limiting the child's right to health. As ketamine is an existing, widely used essential medicine, placing it under international control would (as the ECDD noted) have the effect of limiting its current availability. While states may limit rights in certain circumstances, such limitations must be justified with respect to the goal being pursued, necessity, and proportionality. These factors are currently missing from UN CND decision-making (Lohman and Barrett, 2020). Incorporating child rights into the process may help to fill this gap, at least with regard to the child rights obligations directly engaged by the process.

## 5.2 *Khat, Child Labour, and Prevention from Involvement in the Illicit Drug Trade*

Turning to a very different example, khat is a stimulant plant with a long history of use, especially in East Africa and the Arabian Peninsula, as well as among immigrants from these regions (Beckerleg, 2008). It is primarily used socially and in some cases for traditional medicine (EMCDDA, undated). It is a major export commodity for some countries. Its active components, cathinone and cathine, are controlled under the 1971 *Convention*, but unlike coca, opium poppy, and cannabis—which each have traditional, cultural, or religious uses—khat itself was not placed under international control when the treaties were drafted.

While khat has been discussed at the UN *CND* for decades, concerns about excessive use, in particular among men from diaspora communities in European countries, have increased recently. The International Narcotics Control Board (INCB), which oversees the implementation of the drug conventions, has recommended that states place plants containing psychoactive substances under international control (a recommendation aimed at khat), while many states have banned the plant (Hallam, Bewley-Taylor and Jelsma, 2014). In 2006, however, the ECDD reviewed khat and recommended against scheduling the plant itself, stating, “The level of abuse and threat to public health is not significant enough to warrant international control [...] The Committee recognized that social and some health problems result from the excessive use of khat and suggested that national educational campaigns should be adopted to discourage use that may lead to these adverse consequences” (WHO, 2006, 11).

To date, khat remains outside of international controls, but the debate remains active. Here, however, we see a limitation of the ECDD technical review, which focuses on pharmacology and on the health risk versus benefits. What the ECDD does not look into are the potential negative effects on traditional practices or the economies of developing countries, not to mention the risk of adding to the criminal market in drugs or potential damage to relations between the authorities and immigrant communities (GDPO, 2014). Children may, of course, be affected by all of these aspects, and many rights within the CRC are applicable. The UN *CND* decision-making process does not, however, currently provide official space for such consequences to be foregrounded. The fact that child rights treaties are explicitly affected by scheduling decisions may assist in opening up this space. Children’s involvement in khat production is a clear example of why this is needed.

There are many ways in which children are involved in the khat industry, including picking, trimming and bundling; selecting good quality plants; transport to market; and assistance with sales. As a 2017 study from Ethiopia found, the average age of child involvement is 14 (with children as young as 8

involved), and with the work varying from family smallholdings to larger commercial operations in the context of a growing industry (Negash, 2017, 25–31).

While there are important concerns about child labour in this context (i.e. work that harms the child's physical or mental well-being, or deprives children of a childhood), placing khat under international control would result in a very specific legal distinction, which is why attention to process matters. By a vote of the UN CND, khat would become illicit 'as defined by the relevant international treaties', thereby engaging Article 3 of ILO 182. By the decision of the UN CND, then, children's involvement in khat production would automatically become a 'worst form of child labour', even though no working conditions will have changed. This would be a profound difference, brought about by a diplomatic process rather than attention to the realities on the ground. Instead of being a qualitative assessment of child labour conditions and standards relating to agriculture (e.g. type of work, hours, access to rest and leisure, access to education), the UN CND vote would in effect result in an absolute ban under a fundamental ILO treaty and, indeed, the CRC. Children's involvement would automatically become illegal exploitation, thereby proscribing any and all of the above types of activities. Indeed, the word 'use' was an intentionally broad formulation used in drafting the CRC and the *Trafficking Convention*, mirrored in ILO 182, and intended to capture even very minor roles in the drug trade (Barrett 2020, 45–46 and 50–56). Recalling the wording of Article 7(1) of ILO 182, then, states would have obligations to '[...] take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency', including the 'application of penal sanctions or, as appropriate, other sanctions'.

This is not to say that khat farming is without problems. All agricultural work carries child rights implications, and there is much harm, as the above-mentioned Ethiopian study identified, including access to education and uptake of khat chewing. But to legally define all involvement in khat production as a 'worst form of child labour' would be a significant legal difference demanding direct attention in UN CND decision-making. Currently, however, these child rights questions rooted in treaties outside of the drug control regime are not accounted for in the scheduling process.

## 6 Conclusion: from Discretion to the Routine Inclusion of Child Rights Considerations in Scheduling

The drug conventions do not preclude taking CRC and ILO obligations into account. Article 2(5) of the 1971 *Convention* provides more explicitly for the



ability of the UN CND to take into account other relevant 'economic, social, legal, administrative and other factors' in making its decisions. No such aspects are set out explicitly in the *Single Convention*, though the element of discretion is retained. In drafting, it was agreed that 'administrative' and 'social' considerations may guide the decision (UN, 1973, 90). As such, child rights law and child rights effects 'may' be brought to bear based on the terms of the drug conventions themselves.

Such discretion, however, necessarily entails the discretion not to include child rights considerations. This chapter has proposed instead that there is a legal imperative to do so. As we have discussed, there is a clear linkage between UN CND scheduling decisions and child rights treaties. There is a range of child rights—beyond those specific to drugs—that may be engaged, and certain decisions (as exemplified by khat) that can change the legal status of something as serious as child labour. Every time the Commission adds a substance to international control it extends the obligations of child rights treaties to that substance. Every time it removes one, it removes those obligations.

To move child rights considerations from ad hoc discretion to a routine aspect of such decisions, however, would require a formal process of some sort. One way to do this would be to adopt a form of child rights impact assessment relating to the substances in question. This could be done in isolation, or as part of a wider human rights impact assessment of such decisions (e.g. based on the right to health; see Lohman and Barrett, 2020). Such a system could be set up via a resolution of the UN CND, requesting child rights assessments from its secretariat, the UN Office on Drugs and Crime (UNODC). As politically unlikely as this may seem, UN CND resolutions have called for the need to bear in mind CRC obligations, including those sponsored by some of the most conservative governments (e.g. UN CND, 2018). Even without a resolution, the UNODC could still produce a Conference Room Paper for each substance in question, advising states of the child rights implications of their decisions, perhaps seeking assistance from UNICEF and the WHO in this regard. In many cases there may be little to add, such as a new compound very similar to a substance already controlled. In some important cases, however, as ketamine and khat demonstrate, there may well be important legal and practical child rights considerations to address. A rights-based analysis, rooted in treaty obligations, would place the relevant child rights implications before the entire Commission, and could also be distributed to the more than 140 non-members of the UN CND that are parties to the CRC and ILO 182, but would not have a scheduling vote. This would allow those states to engage diplomatically on issues that would affect their legal obligations within and beyond the drug control system. Moreover, should this transpire, such information should be shared



with the monitoring bodies of the child rights treaties—the UN Committee on the Rights of the Child and the ILO Committee of Experts on Standards and Recommendations—given that the scope of those treaties would be expanded by each new substance placed under international control.

In this way, accountability for child rights could be strengthened within the scheduling process, and the silos between human rights and drug control within the UN system could be further broken down.

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# More Harm than Public Health in Drug Policy? A Comment

*Joanne Csete*

## Abstract

Well-conceived drug-control policies could contribute importantly to economic and social development and public health. Unfortunately, the reality of drug policies in most countries is rather that they undermine public health by failing to protect people who use drugs from infectious disease and the risk of drug overdose. Drug laws and policies that mandate incarceration for minor, non-violent drug offences have profound health costs as the risk of infectious disease in prison is high, and too few prisons offer appropriate health services for people who use drugs. Overly zealous drug-control policies, moreover, have led to enormous human suffering, as many countries have restricted the use of opioids for the relief of pain associated with cancer and other conditions. Protection of the health of communities involved with the production of drug crops such as coca leaf and opium poppy has rarely figured in 'alternative development' programmes for these populations. A few countries have shown that intentionally health-focused drug-control policies can lessen some of these harms.

## 1 Introduction

Health is rightly understood as both a precondition of development and a crucial outcome of development processes and policies. Policies on psychotropic drugs have the potential to influence public and individual health positively, one route by which they might contribute to sustainable development. However, even as it has become almost obligatory in international drug policy circles for governments to espouse 'public health approaches' to drug policy issues, it is clear that drug policymaking is taking a toll on the health of people and communities touched by drug consumption, drug crop cultivation and drug law enforcement. In most countries, drug policies consistent with good public health practices have been much harder to find than the corresponding rhetoric. This chapter considers ways in which drug policies undermine public

health but, by extension, have the potential to contribute greatly to the health of the public and thus to sustainable development.

## 2 Infectious Disease

The importance of drug policies and programmes, both for national responses to infectious diseases and for the health of individuals, is well documented. As noted by the Joint UN Programme on HIV/AIDS (UNAIDS), '[a]mid the widespread stigma and discrimination, violence and poor health faced by people who use drugs, [they] are beset by persistently high rates of HIV' (UNAIDS, 2019, 2). The incidence (rate of new infections) of HIV declined by about 25 per cent in the global population from 2010 to 2017. Yet among people who use drugs, it increased in many countries, particularly outside of the European Union (EU) (UNAIDS, 2019, 2). Hepatitis and tuberculosis also disproportionately affect people who use drugs, partly because in many countries they are likely to find themselves in prison or jail at some point, settings that can be incubators of TB, hepatitis and HIV.

Drug-related infectious diseases are preventable by well-understood, effective and cost-effective measures. With regard to HIV, hepatitis C, and tuberculosis, governments' failure to invest in drug-related harm reduction measures is a global health tragedy. Vast evidence supports the fact that HIV, for example, can be well contained among people who inject drugs by ensuring their ready access to clean injection equipment and, for people who use opioids, by making opioid maintenance therapies and other well-tested treatments easy to take up and sustain, including in prison (UNAIDS, 2019).

In most of the EU and Switzerland, harm reduction services with respect to infectious disease are extensive and well established as part of drug policy. HIV incidence among people who inject drugs is rare in these countries (European Monitoring Centre for Drugs and Drug Addiction, 2019b). Equally importantly, countries in which drug use and the possession of drugs for personal use are decriminalised or at least not penalised—that is, people are not incarcerated for minor infractions—are able to steer people to the health and social services they may need, rather than undermining their health by incarceration.

Some lower-income, lower-middle-income, and middle-income countries have also made strides in drug-related harm reduction with respect to infectious disease outcomes. For example, Moldova has sustained a widely praised syringe programme in its prisons for many years (HRI, 2018). Numerous countries—including Malaysia, Afghanistan, India, Vietnam, Kyrgyzstan and Mauritius—have established methadone maintenance therapy in at least

one prison setting (HRI, 2018). In the Middle East and North Africa, Morocco and Iran have pioneered methadone therapy, Iran in prisons as well as in the community, showing the feasibility of this intervention in middle-income countries (Himmich and Madani, 2016).

Sub-Saharan African countries have, in many cases, struggled to sustain harm reduction activities, but there are some successes. Tanzania led the way in the region with a methadone programme launched in 2011. Integrated methadone and HIV treatment services have been piloted there more recently (Cooke et al., 2019). Kenya and South Africa have followed, with methadone programmes as well as sterile syringe programmes (HRI, 2018). Controversies remain, especially around needle exchange. For example, the city of Durban, South Africa (now part of the eThekweni Metropolitan Municipality) discontinued its needle exchange in 2018, alleging that the service was ineffective in curbing the unsafe disposal of syringes (Scheibe et al., 2020). Although many of these programmes have benefited from donor support, there is substantial evidence that harm reduction interventions such as these are cost-effective as investments for governments in countries of all income levels, mostly because of savings from averted HIV and hepatitis C transmission (Wilson et al., 2015).

Investment in harm reduction services is, in many countries including the United States (US), impeded by the scientifically unsound idea that the only way to deal with health problems associated with drug use is to insist on abstinence from all drug use (HRI, 2018; Smith, 2019). Harm reduction is thus alleged to facilitate or encourage drug use, even though there is no evidence that providing clean syringes or a safe space to inject drugs leads people to initiate drug use or to sustain drug use longer than they otherwise would.

### 3 Overdose Mortality and Morbidity

In addition to infectious disease, morbidity and mortality related to drug overdoses are beginning to be seen on a previously unimaginable scale, due partly to the dramatic expansion of markets for fentanyl and other lethal synthetic opioids. In the US, for example, overdose deaths linked to opioids increased six-fold from 1999 to 2017 (Scholl et al., 2019). Overdoses were an important contributor to a decline in life expectancy among some age groups in the white population, a phenomenon rarely seen in US history (Woolf and Schoemaker, 2019). About 60 per cent of overdose deaths in the US in 2017 were linked to synthetic opioids, mostly fentanyl, a 45 per cent increase over the 2016 level (Scholl et al., 2019). The proportion of overdose deaths linked to fentanyl in Canada rose from an estimated 50 per cent in 2016 to 73 per cent in 2018 and to



79 per cent in the first quarter of 2019 (Government of Canada, 2019). Fentanyl and its analogues such as carfentanil are among the most lethal examples of new psychotropic substances (NPSs)—relatively easy to manufacture, usually potent in tiny doses, and requiring new laws and law enforcement approaches globally.

As with infectious diseases, death and disability linked to drug overdoses are eminently preventable. Overdose mortality in the EU in 2017 was estimated at 22.6 deaths per million of population, about one tenth the rate of 217 per million in the US that year (European Monitoring Centre for Drugs and Drug Addiction, 2019a). This difference undoubtedly reflects the much greater policy embrace of overdose prevention measures in the EU compared to the US, including the testing of street drugs for toxins, ensuring availability of naloxone for recently released prisoners and others at risk, as well as emergency medical personnel, supervised consumption sites, and the prescription of medical-grade heroin for selected patients (discussed below). The overdose mortality crisis in the US is directly related to decades of unscientific demonisation of these and other overdose-related harm reduction measures (Chen et al., 2019).

In Canada, where policy-level and programmatic development of harm reduction services is more advanced than in the US, there has been a recognition in some circles of the need for services that not only mitigate the effects of an overdose (such as naloxone distribution and supervised consumption sites), but more directly address the toxins in street drugs that are causing overdose (Fischer et al., 2019). Some Canadian policymakers and service providers have called for an expansion of the harm reduction pillar of their drug policy to include more of these ‘safe supply’ measures (Vancouver City Council, 2019). Safe supply means ensuring access to safer versions of the drugs people regularly use, including heroin, rather than leaving people to rely on street drugs of unknown origin.

Supervised provision of medical-grade heroin to allow people to avoid the harms of street drugs—a prime example of safe supply—has been part of drug policy for some time in Switzerland, Germany, the Netherlands, the United Kingdom, Denmark and more recently Canada (Strang et al., 2015). These programmes have generally been conceived as intentionally small-scale for the relatively small proportion of people who use opioids for whom methadone and other traditional therapies have not been optimally effective. But widespread adulteration of street drugs with lethal substances argues for the expansion of such programmes. The argument cannot go far, however, in places where harm reduction is seen only as facilitating drug use. The same may be said for drug testing, another safe-supply programme that is underused

for political, not scientific, reasons. Drug testing means using fentanyl strips or more sophisticated tools such as mass spectrometry to detect adulterants in street drugs before they are ingested. Again, numerous NGOs conduct drug testing, especially at night spots and festivals, in the EU (European Monitoring Centre for Drugs and Drug Addiction, 2019b), but this activity remains relatively rare in the US and in lower-income countries. It is unsurprising that prescription heroin programmes are found only in higher-income countries since these programmes have relatively heavy requirements in terms of human resources and security measures. However, some testing of street drugs is possible with relatively low-cost equipment and does not require highly trained medical personnel.

#### 4 Access to Controlled Medicines

Beyond treatment for drug use disorders (DUDs), opioids and other psychotropic medicines have a wide range of clinical uses, including for persons living with pain and those with terminal conditions. The World Health Organization (WHO) encourages national policymakers to find a balance between ensuring that controlled medicines are available to those who need them and ensuring that these medicines are not diverted to non-medical use (WHO, 2011). It is clear that overzealous drug-control policies in many countries have resulted in unbalance, to the point where doctors are afraid to prescribe medicines that are associated with criminal sanctions for non-medical use. Furthermore, the drug-control hoops through which they must jump are perceived as too onerous to be worth the trouble (Burke-Shyne et al., 2017).

As noted by the Lancet Commission on Palliative Care, there is thus an ‘access abyss’. For example, a miniscule 0.1 ton of the approximately 300 tons of morphine used in the world is used in low-income countries (Knaul et al., 2017). Millions of terminal patients die in needless pain, and millions suffer from chronic pain over long periods in low- and middle-income countries, as essential controlled medicines for palliative care and pain relief stay largely in high-income countries. As the Lancet Commission asserts:

A prevalent but unwarranted fear of non-medical use and addiction to opioids [...], both among health-care providers and regulators and among patients and their families, has led to insufficient medical use. Unbalanced laws and excessive regulation perpetuate a negative feedback loop of poor access that mainly affects poor people [...] Efforts to prevent non-medical use of internationally controlled substances, such as morphine

and other opioid analgesics, have overshadowed and crippled access to opioids for palliative care [...] [and other] legitimate health needs.

KNAUL et al., 2017, 1398

Drug-control authorities and health ministries urgently need to work with legislators and other policymakers to find a way to ensure that drug policies do not add to this unnecessary and massive human suffering.

The Lancet Commission noted progress in a few countries—including Mexico, Jamaica and Vietnam—but concluded that the mentality associated with the over-regulation of controlled medicines by drug authorities can take a long time to overcome, even when better policies are in place. This point is well illustrated in India. One estimate suggests that as many as 10 million people may have needed palliative care in India in 2015, but there was virtually none to be had (Jacob and Mathew, 2017). Although morphine and penthadine were prescribed for palliative care in India before 1985, the Narcotic Drugs and Psychotropic Substances (NDPS) Act of that year introduced burdensome requirements for physicians to obtain permission to prescribe them, instilling fear of arrest if the requirements were not met. As a result, the use of these medicines fell dramatically (Jacob and Mathew, 2017). Following concerted advocacy by palliative care advocates, an amendment to NDPS in 2014 lightened these requirements and eased fears among physicians about using these medicines. However, both a long period of little or no training of physicians in palliative care and a culture among patients of fearing opioids and hiding pain have remained obstacles to better use. A more effective official strategy and longer experience with palliative care in the southern state of Kerala, which include extensive training of health professionals, may signal a way forward for the country (Jacob and Mathew, 2017; Laurance, 2017).

## 5 Health Problems Associated with Law Enforcement and Incarceration

As already noted, when drug use and minor possession are not punished by imprisonment or other harsh penalties, access to health and social services is obviously greatly facilitated. Avoiding the health consequences associated with incarceration and involvement with criminal law systems is desirable. Because of harsh drug laws, including significant custodial sentences for small-scale possession, drug use disorders are over-represented in prison populations in many countries (PRI, 2018). With the exception of a number of EU countries,

Canada, and Australia, relatively few countries offer treatment of drug use disorders in prisons (HRI, 2018)—again despite evidence that methadone programmes, for example, are very effective and manageable in this setting.

It is well documented that where prisons do not offer treatment for those with opioid use disorder, overdose risk for these persons is high in the first days after release (Binswanger, 2019). Where treatment is offered in prison, links to treatment providers in the community can be made to ensure that people who are released from prison have a smoother transition to care once outside prison walls. Ensuring access to naloxone for recently released persons and their family and friends can also save lives, but it is a priority in too few countries (HRI, 2018). Treatment for drug use disorders in prisons and links to care upon release are cost-effective and feasible best practices, but they are impeded by the low priority of prison health, moral judgments against prisoners and people who use drugs, and unscientific prejudice against harm reduction.

In some countries, people charged with drug offences are particularly susceptible to being held while awaiting trial, often because they are unable to pay bail—or bribes—to secure pretrial release. Pretrial detention settings are probably even less likely than prisons to offer any kind of treatment for drug use disorders. The Global Fund to Fight AIDS, TB and Malaria (2017) advises its grantees that reducing reliance on pretrial detention can be an important means of reducing prison overcrowding, which is a major contributor to TB in prisons and undoubtedly an overall impediment to improving health services for people in the custody of the state. Reduction of prison overcrowding is appropriately seen as part of health-based drug policy. For people who use drugs, overcrowding in non-prison settings is also a TB risk factor (Deiss et al., 2009).

True alternatives to incarceration for drug-related offences can also be an important part of health-oriented drug policy. Unfortunately, some countries that claim they are trying to see people who use drugs as ‘patients, not criminals’ do not seem to exemplify good health practices (Csete and Wolfe, 2017). Too many countries, notably in East and Southeast Asia, impose ‘treatment detention’ on people, in institutions that resemble forced labour camps and rarely have any scientifically sound treatment services (Lunze et al., 2018). Detention and coerced labour must not be imposed in the name of treatment. Cruel, inhuman and degrading practices too often figure prominently in what is called ‘treatment’ for DUDs, and in detention centres these practices are hard to monitor and reform.

Police practices can also contribute to positive or negative health outcomes among people who use drugs. Aggressive and repressive policing can cause people who use drugs to engage in more dangerous practices—such as

injecting rather than smoking—and to seek refuge in more remote and dangerous places, where harm reduction services are hard to find (Jürgens et al., 2010). Too many countries still reward and promote drug police based on the number of arrests they make, which tends to encourage arrests of small-scale users who are often the lowest-hanging fruit—exactly the population that should be steered out of the criminal law system and towards health services. Arrest quotas may also push police to focus their activities near needle exchange sites or other places where people who use drugs may congregate, a practice that may discourage use of these vital services.

It is encouraging that police forces in some cities are seeking to do better. The Open Society Foundations have documented a number of cases, including in low-income countries, where, after training and with the support of senior police officials, police have modified their practices to minimise interference with or even to encourage the use of health and harm reduction services (OSF, 2018). Police in some jurisdictions, even in places with harsh drug laws such as the US, have agreed to steer people engaged in minor drug infractions to health and social service-providers rather than into the criminal legal system (OSF, 2018).

## 6 Health among Drug Crop Growers

Challenges associated with efforts at alternative development for households and communities involved with the production of coca, opium poppy, cannabis and other drug crops are described elsewhere in this volume. It is worth underscoring that alternative development programmes have generally neglected both the lingering health consequences of crop eradication efforts and the importance of ensuring access to health services as part of development initiatives. The long-term health impact of decades of mass spraying of coca fields in the Andes with glyphosate, for example, may not be known for years. But the work of Camacho and Mejía (2017), for example, suggests that the short-term consequences of this action may include an elevated risk of miscarriage, respiratory illness, and dermatological problems. In 2015, the International Agency for Research on Cancer (IARC), a group affiliated with the WHO, declared glyphosate a probable carcinogen based on a review of about 1,000 studies by independent experts (Guyton et al., 2015). Monsanto (acquired by Bayer in 2018), the principal manufacturer of glyphosate under the brand name RoundUp<sup>®</sup>, faces legal actions in several countries from claimants alleging cancer incidence linked to the product (Croft, 2019). Aside from the effects of eradication, the work of processing coca leaves into coca paste and cocaine

also poses health hazards that are often not addressed due to the illicit nature of the work (Grisaffi, 2014).

As Buxton (2015) notes in her critique of alternative development schemes, health is at the centre of every internationally agreed concept of sustainable human development, but it is sorely lacking as a central element of many alternative development schemes for drug crop producers. Ensuring access to health services, which is often precarious for communities depending on illicit drug markets for survival, should be a priority in alternative development. The Doi Tung development effort in opium poppy-growing regions of Thailand beginning in the 1980s and the innovative *cato* scheme in Bolivia, both regarded as successful alternative development efforts, featured significant investments in health, education and transportation infrastructure as central activities (Williamson, 2005; Ledebur and Youngers, 2013).

## 7 Conclusions

Evidence-based, health-focused drug policies could be an avenue leading to the improved health of the public and thus sustainable development. They could help the public worldwide to understand and confront the social determinants and stigma of drug dependence and the futility of abstinence-only approaches. They plainly could play a direct role in the reduction of infectious diseases and lethal overdoses. They could help to save millions of people living with pain from their suffering. They could be an example and a vehicle for criminal justice reform of the kind that would underscore the importance of alternatives to incarceration for non-violent offences, and could greatly improve the health of communities affected by draconian drug laws and law enforcement. They could improve the quality of life of people whose livelihoods depend on the production of drugs and drug crops.

But the history of drug control, by contrast, is littered with policies energised by pious moral judgement, implemented by gross misapplication of criminal law, and exemplifying a rejection of science that is at times nearly inexplicable. The explosive spread of HIV linked to drug injection in the 1980s and 1990s led some countries, especially in Europe, to find ways to allow some consideration of good public health practices to temper repressive drug policies, at least to some degree. It remains to be seen whether the overdose mortality crisis in North America, which is unfortunately likely to spread to other regions with the proliferation of fentanyl markets, will create new corners of policy space in which scientifically sound drug control may emerge.

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# Prohibitionist Drug Policy in South Africa— Reasons and Effects

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## Abstract

The moral approach that has been used to interpret and implement the *Single Convention on Narcotic Drugs* exacerbates the health burden faced by people who use drugs. Drawing on our experience in research, programming and policy relating to drug use and health in South Africa, we illustrate the negative consequences prohibition has had for the health of people who use drugs in our country. We argue that South Africa illustrates how approaches that stigmatise people who use drugs are morally justified at the expense of human rights and public health outcomes. We highlight how South Africa is perpetuating prohibitionist approaches on international platforms and question why this has endured. Conflicting health and law enforcement policies, local conservatism and donor conditionality have thwarted harm reduction expansion and evidence-based drug policy development, resulting in notable harms. Persistent morally-based perspectives contribute to stigma and discrimination in healthcare facilities and negatively affect treatment-seeking by people who use drugs. Criminal justice responses have increased TB exposure and entry into correctional centres that do not offer evidence-based drug treatment services. Encouragingly, progressive health and HIV policy affecting people who use drugs has recently been developed, and the recent decriminalisation of cannabis opens a door for policy debate. We recommend that to improve health, the *Single Convention on Narcotic Drugs* should be challenged to prioritise rights and health and that the personal use of drugs be decriminalised. We also highlight the need for mechanisms to hold health and other actors accountable for ensuring that the health and rights of all people are prioritised and strengthened.

## 1 Introduction

It was early evening when Taariq, aged 30, arrived at the emergency room of a public hospital in Cape Town, South Africa. He had recently transitioned from smoking to injecting heroin. Due to inexperience, had missed the vein, and injected into the surrounding area. His arm was swollen and

painful, and he was scared. He revealed his drug use and explained what had happened to the healthcare worker, who said he would have to wait to see the doctor. Through the night he was kept waiting, watching staff assist people who arrived long after him. The doctor, who eventually saw him the next morning, opened with a volley of assault, 'There are other people out there with real sicknesses, and now I must sit here with you?' The doctor did not touch him, barely looked at his swollen arm, prescribed antibiotics and said, 'If your arm turns blue, come back. We will have to look at amputation.' Taariq was sent away, fearful of engaging with the healthcare system again.

People who use drugs face a range of health risks, including those directly related to their substance use, as well as the social and structural risks related to the use of illegal substances. The majority of countries in the world, including South Africa, criminalise the non-medical use of scheduled drugs (Csete et al., 2016). Our starting point is that, internationally and locally, prohibitionist policy is deeply rooted in the moral and political past. The United States (US) and selected Western European countries, and more recently the Russian Federation and China (IDPC, 2018b), have imposed their moral, political and prohibitionist agendas on sovereign nations (Alexander, 2008; Hari, 2015). Like many less powerful countries, South Africa has been drawn into, and continues to enact, these policies under the guise that they are for the international good, despite well-documented and significant harms (Csete et al., 2016; IDPC, 2018a). Even given recent moves in the country to decriminalise personal cannabis use (Parry et al., 2019), there are unlikely to be significant changes in drug legislation in the foreseeable future. However, as the opening vignette and the rest of this chapter show, prohibition-oriented policy has significant health and well-being ramifications in South Africa.

We begin by summarising the international public health consequences of prohibitionist policy, following this by a description of the socio-demographic, health and policy context in South Africa, as well as a historical perspective on local drug policy. We then turn to examining how these local policy dynamics were developed in South Africa in the context of international frameworks, before examining what the local ramifications of prohibitionist policies and approaches are. Finally, we note positive changes, towards more rights-centred approaches, that have recently taken place, before concluding with our vision for a better approach to drug policy and practice in South Africa.

In our approach, we include a focus on harm reduction, and the particular issues affecting people who inject drugs. We focus on this group of people because they are highly marginalised and at particular risk with regard to the

health and social consequences of drug policy and its implementation. A further reason for the focus on people who inject drugs is particularly relevant to this chapter: despite the predominance of smoking drugs and a historical absence of widespread injecting drug use, foreign donor funds have focused only on people who inject drugs as part of HIV prevention programming.

We draw on our reflections, discussions, reading and experience as researchers and practitioners in the realms of health and substance use in South Africa. Our collective experience reflects more than 30 years of involvement in HIV prevention and harm reduction, community-based quantitative research among people who use drugs, anthropological research on substance use, evidence-based substance use services and engagement around drug policy processes. Although we bring a wealth of experience to this chapter, we acknowledge that there are likely to be other perspectives and nuances linking the health of people who use drugs and drug policy, which we have not included. Furthermore, the political agenda, processes and actors that drive drug policy are not always clear (Gstrein, 2018). Nonetheless, we suggest that this chapter contributes to a global understanding of how and why standing drug policies continue to dominate, despite the failures and harms they have caused. This contribution to the literature also provides a concrete example of the health consequences that prohibitionist policies have had and continue to have in South Africa.

## 2 Prohibition and (Ill) Health

Overdose, hepatitis C, HIV and extrajudicial killings and torture illustrate some of the public health consequences of prohibitionist approaches. The largest public health impacts of overdose and infectious diseases are seen in the US, China and Russia, collectively home to 45 per cent of people who inject drugs (UNAIDS, 2019). In 2017, 70,237 people died from drug-related causes—mostly opioid-related overdoses—in the US (UNODC, 2019c). Approximately 1.4 million people who inject drugs in China live with hepatitis C (Liu et al., 2019; UNODC, 2019c). In Russia, 336,542 people who inject drugs are living with HIV, and HIV incidence is increasing (UNAIDS, 2019; UNODC, 2019c). Over the past decade, more than 4,000 people have been executed globally for drug offences (Girelli, 2019). In the Philippines, there have been more than 27,000 extrajudicial killings since President Duterte came to power (IDPC, 2018a). High levels of torture, disappearances, forced treatment and rights violations linked to the drug trade are reported in low- and middle-income settings (IDPC, 2018a).

Prohibition precludes the safe supply of drugs, contributing to poisoning and death (IDPC, 2018a; Karamouzian et al., 2018; CTV News, 2019). Criminalisation

results in clandestine use in hostile environments (Belackova and Salmon, 2017) and unintended injury (Kaushik et al., 2011; Hartogsohn, 2017). Prohibition limits access to evidence-based health services. Less than 1 per cent of people who inject drugs globally have access to sufficient and required levels of needle and syringe programmes and opioid substitution therapy services (Csete et al., 2016; UNODC et al., 2017; WHO, 2018; International AIDS Society, 2019; UNAIDS, 2019). Even fewer people who use drugs have access to overdose prevention and management services (Harm Reduction International, 2018). Current drug policy also contributes to inequitable distribution of and access to opioids for pain relief—less than 0.5 per cent of morphine-equivalent opioids are distributed to low-income countries (Knaul et al., 2018).

As a result of the criminalisation of drug use, many people come into contact with law enforcement and are incarcerated (Dolan et al., 2016). Medications for the management of withdrawal or replacement therapy while in police custody are seldom available (UNODC, 2019b). People in prison who use drugs, particularly in low- and middle-income settings, face a significant risk of contracting TB and other infectious diseases (Dolan et al., 2016). Outside of high-income settings, most prisons have poor living conditions and violence is common, increasing the risk of trauma and mental illness (Baranyi et al., 2019). Few prison services provide the recommended package of evidence-based health services for people who use drugs or the appropriate mental health services (UNODC et al., 2013; Fazel et al., 2016). Incarceration has profound adverse effects on the physical health of people and their dependents (Wildeman and Wang, 2017). Post-release, unemployment is inevitable, and there are high risks of recidivism and associated consequences (Baranyi et al., 2019).

People of colour, women and the poor are at greater risk of experiencing the harmful consequences of drug use in the context of prohibition (Taylor et al., 2016; Mitchell and Caudy, 2017; Muehlmann, 2018). This is highlighted in the US, where the levels of incarceration (Carson, 2018), likelihood of arrest for a drug-related offence (Carson, 2016), and likelihood of receiving a higher sentence (Rehavi and Starr, 2014) are significantly higher among African American males than among their white counterparts. The racial disparity in policing the war on drugs has also been well documented in the United Kingdom (Eastwood et al., 2013).

### 3 Responding to Drug Use

The dominant models of ‘treatment’ for people who use drugs in the US are abstinence-based and focus on 12-step facilitation as the primary intervention

(Fletcher, 2013). Belief in the all-or-nothing approach has caused great harm to some people (Moos, 2005), and can prolong drug dependence (Miller, 2008). Medical explanations of addiction have recently challenged the moral explanation for dependent drug use (Leshner, 1997). The 'brain disease' theory, promoted by the United States National Institute on Drug Abuse, supports the need for medically assisted therapy, but pays little attention to contextual and other factors that contribute to drug use and its effects (Hammer et al., 2013). As an alternative to abstinence and incarceration, harm reduction provides a less rigid response to problematic drug use. This public health-inspired approach focuses on concerns and interventions at community and individual levels, rather than on the causes of drug use and ways to stop it. It aims to maximise health through beneficent, equitable and fair means while limiting harm. It is also pragmatic, involves precise planning to meet clearly defined goals, and includes the evaluation of outcomes (Single, 1995; Pauly, 2008).

#### 4 South Africa

In 1994, after almost 50 years of apartheid rule, and hundreds of years of colonialism, both of which sought to maximise the power and opportunities of the white minority population, South Africa became a democracy. The transition to democracy was marked by the development of one of the world's most progressive constitutions. In contrast to the regime that preceded it, the constitution prioritises human rights and dignity for all and puts extensive protections in place for citizens (Cock, 2003). It emphasises that all people have the right to freedom from discrimination based on 'race, gender, sex, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language or birth, amongst others' and guarantees the right to equality, dignity, life and access to healthcare services (South African Government, 1996). State institutions and ministries were tasked with improving the lives of the previously disadvantaged population in a context of widespread poverty, a stagnated economy, and infrastructure (including the health system) designed for a minority of the population. Needing new systems and funding, the government turned to international and donor bodies, institutions, and frameworks to structure local policy (Coovadia et al., 2009). The newly designed health policies drew directly on World Health Organization (WHO) recommendations, except for the response to HIV, which became a contested area in the years of President Mbeki (Fassin, 2007).

Currently, South Africa's population stands at 59 million (2019), 51 per cent of whom are female, while 80 per cent are black African and Christian



(Schoeman, 2017; Statistics South Africa, 2019a). Despite efforts to mitigate the effects of colonialism and apartheid, they continue to shape society. Though South Africa is considered an upper-middle-income country, with a gross domestic product of USD 368 billion, it has one of the highest levels of socio-economic inequality in the world: half the population lives in poverty and a third of adults are unemployed (Statistics South Africa, 2019b; World Bank, 2019). Massive disparities in socio-economic status continue to play out along racial lines. Many people face considerable challenges in exercising their constitutional rights and—as we show in what follows—the context with regard to inequality has a significant impact on health outcomes (Ataguba, Akazili and McIntyre, 2011).

#### 4.1 *Health Context*

South Africa has more people living with HIV (7.9 million) than any other nation, with the highest proportion of new infections among young, black women aged 15 to 25 (Human Sciences Research Council, 2018). It also has one of the world's highest TB incidence rates, with 301,000 active cases in 2018 (WHO, 2019).

Non-communicable diseases account for half of all deaths (260,000 annually). A third of South Africans will develop a mental illness in their lifetime (Herman et al., 2009). Violence is ubiquitous: 40 per cent of children are exposed to or have been victims of violence, a quarter of women have been raped, and the homicide rate is 33 per 100,000 people (Day, Gray and Ndlovu, 2018). In 2018, South Africa's score for Universal Health Care coverage<sup>1</sup> was 66 (of a maximum of 100) (Day, Gray and Ndlovu, 2018) in comparison with a global average of 65 (range 22–86) (Hogan et al., 2018).

#### 4.2 *The South African Health System and Financing*

The South African health system is sharply divided between a highly sophisticated private healthcare system, supported by the extensive use of private medical insurance (covering less than a quarter of the population), and a public healthcare system that provides care and treatment (including HIV and TB treatment) free of charge or on an income-based scale to the majority of the population (Health Policy Project, 2016). In addition to public facilities, the Department of Correctional Services has primary health facilities and programmes for HIV, TB, sexually transmitted infections (STI s) and primary health

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1 Score based on 16 indicators, four each for reproductive, maternal, newborn and child health; infectious diseases; non-communicable diseases; and service capacity and access.

conditions (Department of Correctional Services, 2018). Overall, public health resources largely remain distributed along previous apartheid-informed lines, with previously advantaged historically white areas, which are often physically and practically inaccessible to the economically excluded black majority, hosting the most comprehensive, quality services (Harris et al., 2011; Coovadia et al., 2009). A substantial portion of healthcare, particularly for marginalised populations and as part of the HIV response, is now provided by civil society organisations (South African National AIDS Council, 2017).

Health expenditure in South Africa comes from three primary sources. The government finances approximately half of all expenditure (in 2017/18 this was approximately USD 12.8 billion). In the 2017 Medium Term Budget Policy Statement, USD 0.3 billion was allocated to National Health Insurance over three years to establish a national health insurance fund and to enhance health technology assessment capacity, with additional investments planned (Day, Gray and Ndlovu, 2018). Donor investments account for a small proportion (2.4 per cent) of overall health spending, and the remaining financing is from the private sector (Day, Gray and Ndlovu, 2018). In 2016/17, approximately half of the government's total health budget was allocated to the HIV/TB response, and 5 per cent to mental health (Docrat et al., 2019), of which services for people who use drugs form a small part.

After the Government of South Africa, the US President's Emergency Plan for AIDS Relief (PEPFAR) has been the largest investor in the HIV/TB response (over USD 5.6 billion since 2004), accounting for a quarter of costs (United States Embassy and Consulates, 2017), followed by the Global Fund to Fight AIDS, TB and Malaria (Global Fund). Apart from a project in the city of Tshwane, no other harm reduction services are funded by the South African Government (Scheibe et al., 2018). Between 2016 and 2019, South Africa's Global Fund programme for HIV prevention allocated 1 per cent of its budget to people who inject drugs (Global Fund, 2015). PEPFAR and the Global Fund have projects for people who inject drugs that will run until September 2021 and March 2022, respectively. As a middle-income country, South Africa's support from PEPFAR and the Global Fund, if it continues, is likely to be significantly reduced. As others have pointed out, like international drug policy, these stakeholders are important external forces shaping how South Africa responds to drug use (Hearn, 2000).

### 4.3 *Drug Use*

The number of people who use drugs in South Africa is unknown, which is inherent in a system where the illegality of drugs precludes accurate assessment (Larney et al., 2017). The substances most used in South Africa include

cannabis, methaqualone, methamphetamine, and heroin (Dada et al., 2018). It is estimated that over 75,000 people inject drugs (Setswe et al., 2015; Haysom, 2019), but the most common way to consume drugs in South Africa is through inhalation. Cannabis most likely came to the region from Asia via Arab traders and has been cultivated and used for centuries (Du Toit, 1975). Methaqualone was introduced as a sleeping tablet and was made illegal in 1977 after it became widely used outside medical contexts (Standing, 2006). Post-apartheid investigations revealed that methaqualone was being used in covert experiments related to crowd control (Gould and Folb, 2002). Methamphetamine use, previously uncommon, increased at the turn of the millennium, as more relaxed border controls increased availability either through direct imports or imports of precursor substances (Standing 2006). Heroin has been available since the 1980s, but limited international trade and apartheid policies that discouraged black Africans from seeking employment in South Africa allowed for tighter border controls and fewer transnational syndicates, reducing supply, keeping prices high, and limiting use to a small portion of the (largely white) population (Haysom, 2019). Since the 1990s, the heroin trade routes from Afghanistan have shifted down the East Coast of Africa, resulting in increased availability and a threefold reduction in the price of heroin (Haysom, Gastrow and Shaw, 2018). Locally, heroin<sup>2</sup> of varying quality is often smoked with cannabis or nicotine.

#### 4.4 *The Burden of Disease among People Who Use Drugs*

Emerging data point to a notable burden of infectious diseases, deaths, and mental illness among people who use drugs, as well as health issues of particular importance for youth, women, and incarcerated people who use drugs. HIV prevalence among people who inject drugs is estimated at 21 per cent (Scheibe et al., 2016; University of California San Francisco, Anova Health Institute and National Institute for Communicable Diseases, 2018; Scheibe, Young, Moses, et al., 2019), and hepatitis C at 55 percent (UCSF and Anova Health Institute and National Institute for Communicable Diseases, 2018; Scheibe, Young, Moses, et al., 2019). Local data has highlighted that without appropriate and acceptable services, people living with HIV who use substances experience challenges in adhering to antiretroviral treatment, and, due to anxiety and depression, are less likely to report psychological distress (Kader et al., 2015). There are no accurate estimates for TB, but people who use drugs are defined as a population at increased risk (South African National AIDS Council, 2017).

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2 Several local names are used to describe heroin, specifically Unga (Swahili for *n*: flour; *v*: to sprinkle) and the derivative Whoonga, and Nyaope (Swahili for 'be afraid').

Furthermore, the burden of infective endocarditis among people who inject drugs is increasingly being documented (Meel and Essop, 2018; De Villiers et al., 2019). The burden of disease among people who use drugs who are in prison settings has not been quantified (Dos Santos et al., 2014; Booyens and Bezuidenhout, 2015; Luyt and Moshoeu, 2017).

Data on drug-related deaths are limited by the large number of medical–legal autopsies that should be carried out (ca 70,000 per annum) in the context of limited forensic pathology and toxicology services (Du Tooit-Prinsloo and Saayman, 2012). Under-reporting is likely another factor. For example, the 2019 World Drug Report shows that the latest reported mortality data from South Africa is from 2012, and is limited to the city of Pretoria: 10 drug-related deaths, with opioids ranking as the most common cause (UNODC, 2019c). Between 2016 and 2019, at least 13 people who inject drugs who accessed harm reduction services in two South African cities died as a result of overdose.<sup>3</sup> None of these deaths, however, were captured and reported in the country's formal surveillance system. Moreover, people who use drugs often die prematurely from other causes, often linked to lack of access to appropriate services (Shelly et al., 2017).

Moral reflections on drug use are associated with self-stigmatisation and poor self-esteem among people who use drugs, which further contribute to mental illness (Luoma et al., 2007). People who use drugs in South Africa report persistent and extensive human rights violations. Between July 2015 and May 2019, 1,105 rights violations were reported by 403 people across three cities as part of the human rights reporting system implemented by TB HIV Care—54 per cent (598) due to the confiscation or destruction of sterile injecting equipment by law enforcement officers,<sup>3</sup> resulting in significant trauma.

The high prevalence of childhood adversity among South African youth increases the likelihood of developing substance use problems and mental illness, as well as HIV infection (Jewkes et al., 2010). Recent research has identified high levels of violence and trauma among women who use drugs (UNODC, 2019a). The prevalence of HIV and TB among incarcerated adult males is notably higher than among males in the general population (2 percent versus <0.5 per cent and 23 per cent versus 15 per cent, respectively), with higher levels probable among incarcerated people who use drugs (South African National AIDS Council, 2017; Human Sciences Research Council, 2018).

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3 Personal communication with Zara von Homeyer, monitoring and evaluation coordinator for TB HIV Care's projects for people who use drugs, on 11 October 2019, Durban, South Africa.

#### 4.5 *South Africa's Post-apartheid Legislative and Policy Frameworks*

The post-apartheid government inherited policies influenced by international drug policy frameworks. South Africa was (and remains) a signatory to the *Single Convention on Narcotic Drugs* (UN, 1961). The maintenance of these prohibitionist perspectives is evident in subsequent legal documents, including the Drugs and Drug Trafficking Act 140 (1992) (Gray, 2019), which draws overtly on the *Single Convention* in that it aims ‘To provide for the prohibition of the use or possession of, or the dealing in, drugs and of certain acts relating to the manufacture or supply of certain substances or the acquisition or conversion of the proceeds of certain crimes [...]’. This conservatism has continued in subsequent policies such as the Prevention and Treatment of Drug Dependency Act (Act 70 of 2008), which describes the national response to the use of internationally scheduled drugs.

This overarching conservatism and attachment to a punitive approach continues within a fragmented government environment in relation to drugs. The development and implementation of local drug policy frameworks is the responsibility of the national Department of Social Development. This Department houses the Central Drug Authority, the institution tasked with issuing a guiding policy document—the National Drug Master Plan—approximately every five years.

The first National Drug Master Plan (1999) aimed to address ‘health risks and other damages associated with drug misuse, including the spread of communicable diseases, related injuries and premature death’. Despite the stated desire to minimise harm and promote human rights, there was no explicit focus on harm reduction, and the plan primarily supported supply reduction and a criminal justice response to drugs, as well as prevention strategies focused on treatment and rehabilitation (Geyer and Lombard, 2014). With each subsequent version, there has been increasing emphasis on punishment or the need to ‘rehabilitate’ people who use drugs. The most recent National Drug Master Plan (2019–24), however, illustrates a partial shift towards harm reduction through its five key principles: human rights, scientific evidence, ‘inter-sectionality’, person-centred approaches, and the inclusion of people who use drugs.<sup>4</sup> While the latest National Drug Master Plan was accepted by parliament on 1 November 2019, it was publicly released on the 26<sup>th</sup> of June 2020.

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4 Information obtained from a presentation by the Central Drug Authority during a meeting held in Tshwane on 11 February 2020. Further confirmed by an advance copy of the National Drug Master Plan, forwarded to the authors in February of 2020 by members of the Central Drug Authority.

Resistance around harm reduction are, we suggest, partly due to challenges the Central Drug Authority faces in providing clear leadership and direction. Firstly, the institution has been set up to be inter-sectoral and it is made up of representatives from 21 government departments and 13 experts, not all of whom come to the table with the same mandates or requirements. As the institution itself has noted, ‘The broader Central Drug Authority contains many civil servants representing different government departments and reporting to their ministers, each of whom may have different positions on aspects of policy related to alcohol, tobacco, cannabis and psychoactive substance use’ (Stein, for the ECCDA, 2016).

Departments focused on law enforcement are concerned with international legal frameworks. For example, at the 2019 United Nations Commission on Narcotic Drugs, South Africa committed to strengthening relationships with other international law enforcement agencies and confirmed that its response to drug use is guided by the three major drug policy conventions, with law enforcement at the forefront (UN CND, 2019). In contrast to the principles of the constitution, South Africa abstained from the vote supporting the Resolution on Contribution to the Implementation of the Joint Commitment to Effectively Addressing and Countering the World Drug Problem with Regard to Human Rights (OHCHR, 2018). In these moves, South Africa appears to be adopting and promoting prohibition as a policy choice.

In contrast, health-orientated institutions tend to lean more towards harm reduction. The Department of Health, which is responsible for managing medical emergencies, medical complications, detoxification, and co-morbidities relating to drug use,<sup>5</sup> is developing a more public health-oriented approach to drug use. This is evident, for example, in the National Hepatitis Action plan and the Health Sector Drug Master Plan, which provide support for increased coverage by harm reduction services (National Department of Health, 2018a) and opioid substitution therapy for people who use drugs (National Department of Health, 2018b). The policies of the South African National AIDS Council support efforts to reduce stigma and discrimination, to increase coverage of harm reduction services, and to protect human rights, and support legislative reform (South African National AIDS Council, 2017, 2019b). The Department of Health has a policy to support access to opioids for the management of pain (see Box 15.1).

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5 See the National Mental Health Policy Framework and Strategic Plan (2013–20) and National Health Mini Drug Master Plan (2011/12–2013/14).

**BOX 15.1 Access to opioid medications for pain**

South Africa has greater access to opioids for pain relief than other African countries (Drenth et al., 2018) and had the highest levels of prescribed opioid consumption in Africa, with a defined daily dose of 338 per million people per day, in 2011–13, compared to an African average of 41 and a global average of 3,027 (Berterame et al., 2016). Increased access to opioids for chronic disease and cancer-related pain was driven largely by the palliative care movement (Drenth et al., 2018). A National Policy Framework and Strategy on Palliative Care (2017–22) exists (National Department of Health, 2017), and standard treatment guidelines for the management of acute and chronic pain that includes tramadol and morphine exist for use at the primary care level (National Department of Health, 2018). Access to these medications in South Africa is partially limited by their scheduling and the requirement of a doctor's prescription. In Africa more broadly, this limitation is mostly linked to challenges with sourcing from industry and importation (Berterame et al., 2016).

Differences are sometimes even evident within departments and institutions. Despite the Central Drug Authority being housed within the Department of Social Development, these two institutions have not always presented a uniform perspective. Some of the tentative shifts towards harm reduction seen in Central Drug Authority position statements (Stein, for the ECCDA, 2016a; Stein and Manyedi, 2016) have been publicly countered by the Minister of the Department of Social Development. For example, in the Minister's statement at the Commission on Narcotic Drugs in March 2019, she said that the event was 'a clear illustration of the political will of our Governments to give practical effect to the implementation of the Three Drug Conventions in order to fulfil the desire and aspirations of our people to rid society of the scourge of drugs' (Shabangu, 2019, 3). The Department of Social Development also illustrated its preference for an abstinence-based approach in the framing of an International Substance Abuse Conference (November 2019) it hosted and that aimed to 'review prevention, demand and harm reduction, including law enforcement strategies and to address new and emerging trends as well as mitigation of the impact of the scourge of alcohol and substance abuse on families' (South African Government, 2019). Notably, organisations that implement needle and syringe and/or opioid substitution therapy programmes were not invited to participate in the conference.



Fragmented government perspectives are accompanied by varied implementation processes. Within departments, policy implementation is distributed to the nine provincial government structures, which vary between provinces, districts, and municipalities, depending on the dominant perspective in the region (Department of Planning Monitoring & Evaluation, 2016). This means that policy and action can be discrepant. Between departments differences in perspective can result in conflicting actions. For example, law enforcement agencies frequently challenge the legality of needle and syringe services, harass or arrest outreach workers, and continue to confiscate and destroy injecting equipment (TB HIV Care Association, 2017; Dada et al., 2019). Overall, prohibition-inspired approaches continue to dominate the local implementation landscape.

## 5 Historical Insights into Drug Policy Development and the Health of People Who Use Drugs

A historical analysis illustrates the extent to which drug prohibition in South Africa has been directly tied to concerns about controlling labouring people (Waetjen, 2019). Cannabis is an exemplar of this. In 1870, cannabis became a prohibited drug in the Colony of Natal (now part of South Africa). This ban expanded to the Cape in 1891, and in 1922 came to cover the area that now constitutes South Africa when the 'Customs and Excise Duties Amendment Act prohibited the cultivation, sale, possession and use of cannabis, cocaine and a number of opiates' (Paterson, 2009, 52). Cannabis prohibitions were tied to concerns that it was undermining the discipline and obedience of South African labour, and encouraging people of different races to interact through trade. In 1923, South Africa requested that the Council of the League of Nations' Advisory Committee on the Traffic in Opium and Dangerous Drugs include cannabis as an internationally banned substance. In 1925, the League of Nations listed cannabis as a dependence-forming substance, thus justifying South Africa's ban.

During apartheid (from 1948) the church played a variety of roles—both in justifying apartheid and as a core location for the development of resistance (Prozesky, 1990). The most powerful church was the Dutch Reformed Church. A notably conservative institution, it was closely tied to the government and—though not uniformly so—supported notions of racial purity and white superiority, and shaped conservative social laws (Kuperus, 1999). In this respect, international prohibitionist approaches aligned with local political views during the apartheid period, supporting their adoption.

### 5.1 *The Long Reach of International Moral Conservatism*

Globally, the framing of drug use as evil serves to justify any approach to excise drugs and their use, at the level of national and international practice (Lines, 2010). Deployment of armed forces and the militarisation of police forces and training are all justified by 'the war on drugs', an approach originating in the US, and serve to increase the influence of the Northern powers in the global South. In 2016, the US Department of Defense requested more than USD 1 billion for international drug control activities (Office of National Drug Control Policy, 2016). The economic benefits to industry and businesses are massive, and most of the money from the illicit drug trade is laundered through Northern banks (Esquivel-Suarez, 2018). Pursuit of this Northern agenda, particularly the global control policies of the US, has been described as a form of neocolonialism or 'narcocolonialism' (Oliver and Cottle, 2011).

The agendas of other superpowers such as China and Russia have played out locally through the partnership between Brazil, Russia, India, China and South Africa (BRICS). Russia's increasing influence, due to the economic incentives it has provided to South Africa, has led to its undue level of influence in the African setting, as evidenced by the Russia-Africa Anti-Drug Dialogue (RAADD). In a speech to the 2016 RAADD, Lieutenant General Ntlemenza of the South African Police Service made this clear: 'The Russia Africa Anti-Drug Dialogue has one aim which is to achieve a drug-free society'. He added that the proliferation of drugs was fuelled by increased international trade and because money laundering was made easy by the 'free movement of people' (Lt. Gen. Ntlemenza, 2016). What is critically missing is an analysis of who trades and uses drugs, when, and how, and—importantly—who does so in a way that is visible to the broader public. There is, therefore, no recognition that the people who make and use drugs in publicly discernible ways are often those who have limited alternative opportunities to craft meaningful lives in which their basic needs are met (Adler and Aniskiewicz, 2003; Bourgois and Schonberg, 2009).

As South Africa is heavily reliant on international funders, their agendas also shape local health policies in ways that are not necessarily aligned with local needs. This has been particularly evident in the HIV response (Johnson, 2008). Investments in the health of people who use drugs have been relatively small and focused on HIV prevention. For example, PEPFAR supported staffing and infrastructure for needle and syringe services in three cities from 2014 (Scheibe et al., 2017a; Scheibe et al. 2017b), but PEPFAR funds cannot be used to purchase needles and syringes (United States Centres for Disease Control, 2016). Needles and syringes for these initial services were purchased with support from the Ministry of Foreign Affairs of The Netherlands through the NGO Mainline. In 2016, PEPFAR focused support on priority districts, and two of

their support sites transitioned to being funded by the Global Fund, which also established two additional sites in the same year and started two small opioid substitution therapy pilots shortly thereafter (Global Fund, 2019). In 2019, four additional harm reduction sites were established in different health districts: three through the Global Fund and one through PEPFAR (Dada et al., 2019). To date, donor support has been insufficient to enable the provision of the full WHO package of services, with neither naloxone nor hepatitis services available.

The ongoing controversy and policy disharmony around harm reduction and the health of people who use drugs is best highlighted by the closure of the needle and syringe programme in Durban (see Box 15.2). Below, we turn to how morally inspired policy prevents the attainment of health for people who use drugs.

#### **BOX 15.2 Enacting inaction**

The needle and syringe programme in Durban (KwaZulu-Natal province) started in 2015 to address an unmet need (Scheibe, Shelly, et al., 2017). Initially, the programme was supported by PEPFAR, and in 2016 it transitioned to the Global Fund (Global Fund, 2017), with consistent support from Mainline and the Dutch Ministry of Foreign Affairs (Mainline and TB HIV Care, 2017). From its inception, individuals within the municipal and provincial departments of health contested the effectiveness of needle and syringe programmes, and highlighted their potential to increase drug use.<sup>6</sup> These officials supported the then Deputy Mayor's decision to halt the needle and syringe service in May 2018 (van Dyk, 2018a). This was sparked by needles and syringes that washed up on one of the city's beaches and received media coverage (Mbanjwa, 2018). Later, claims were made of insufficient consultation preceding project implementation, followed by a request to obtain a trading license to distribute and collect injecting equipment (eThekweni Municipality, 2018). Efforts by the local network of people who use drugs to voice their concerns and demand access to this service were unsuccessful (Walford, 2018). Many meetings took place, several with ward councillors who were opposed to harm reduction and whose positions did not shift despite attempts to engage them on the public health benefits and supporting science (van Dyk, 2018b). After 24 months of negotiations, the implementing service

6 A full listing of the correspondence documenting the engagement between project implementers and the eThekweni Municipality and the provincial and national Departments of Health are available from the authors upon request.

provider received authorisation from the provincial and local Departments of Health, and the service restarted on 29 June, 2020 (KwaZulu-Natal Department of Health, 2020). People who inject drugs have grown increasingly desperate as well as frustrated with the harm reduction service provider (van Dyk, 2018b). Reports have been documented of increased needle and syringe sharing and an increased prevalence of infections (UNODC, 2019a). A repeated HIV and HCV prevalence survey has not been conducted since the closure of the service, but it is likely that infections have been widely transmitted.

### 5.2 *Discrimination and Hindrance to Healthcare*

Equivocal non-acceptance of harm reduction in policy allows for the continued moral—rather than rights-based—approach to drug use. Relevant policy, such as the National Drug Master Plan, frames the key aim of drug treatment as ‘reintegration’ into society. The assumption seems to be partly that people who use substances are not already and consistently part of communities, and partly that the communities they are part of are not deemed worthy of being called ‘society’. Yet anthropological work has shown that drug use is part and parcel of its fabric (Garcia, 2010; Saris, 2013). Even people who use drugs, live on the streets, and may appear to passers-by as ‘external’ to communities are part of families and social networks that often straddle street life and the communities they come from. This conceptual segregation, we suggest, serves not only to shape treatment modalities, but also to justify the lack of attention to the needs and health of people who use drugs by framing them as external and unworthy. This approach has undermined access to, and the quality of care for, people who use drugs.

Healthcare providers in South Africa tend to come from the communities they serve and are often representative of dominant moral positions around drug use. They are neither sensitised nor equipped to manage the realities and needs of people who use drugs (TB HIV Care and StopTB Partnership, 2018; Duby et al., 2019). Consequently, stigma and discrimination towards people who use drugs is widely accepted in healthcare facilities. This includes denial of care, conditional access to care, shaming, lack of confidentiality and privacy and being made to wait disproportionately long periods for services (Shelly et al., 2017, Versfeld et al., 2020). Moreover, there are currently no effective accountability mechanisms within healthcare facilities to manage these rights abuses, nor is there easy access to legal recourse for people who use drugs whose rights have been violated (TB HIV Care and StopTB Partnership, 2018).

Stigma does not have to be personally experienced to impact on individuals. Peers' experiences of stigma are powerful disincentives for individuals to access healthcare in South Africa. Stigma in the healthcare system also reinforces low self-worth, which in turn inhibits health-seeking behaviour (Versfeld et al., 2020). An assessment of TB and people who use drugs found that of the eight people who use drugs and acknowledged that they had received TB diagnoses, only one had started treatment (while incarcerated), only to cease on release from prison (TB HIV Care and StopTB Partnership, 2018). In a recent viral hepatitis study among 1,200 people who use drugs across three cities, less than 1 per cent of participants diagnosed with hepatitis C were linked to treatment. Fears of the public health sector were some of the reasons for not accessing care (TB HIV Care et al., 2018; Scheibe, Young, et al., 2019). Earlier dialogues with people who use drugs revealed that emergency services frequently discriminated against people who use drugs—either not arriving for an overdose if reported, or arriving only after several hours (Shelly et al., 2017).

### 5.3 *Continued Support for Non-evidence Based Approaches*

Nationally, the programmatic responses to drug use are seldom evaluated, and when they are, the results tend to be poor. In the Western Cape, the Matrix Model outpatient programme for people who use stimulants (Center for Substance Abuse Treatment, 2006) was adapted to include people who use opioids. However, after 12 weeks, only 7 per cent of people using opioids were retained at 'graduation' (Magidson et al., 2017). The City of Tshwane is an exception, and the city funds South Africa's largest methadone programme. However, even after demonstrating early successes, the project is unlikely to expand.<sup>7</sup> One factor is limited political effort to reduce the high price of methadone<sup>8</sup> (Herrmannsen, 2015). Fear of diversion is a second factor (Adult Hospital Technical Sub-Committee of National Essential Medicine List Committee, 2019), and the favoured models informed by American policy often impose a level of social control (Bourgeois, 2000) in an attempt to prevent diversion. Along with others (Harris and Rhodes, 2013), we argue that a more effective approach is to ensure that there is sufficient coverage through low threshold community-based services.

7 During a review of the COSUP Programme attended by the University of Pretoria on 12–13 March 2020, the City expressed a reluctance to expand the programme and some members of City Management wanted to cut the programme.

8 Methadone in South Africa is 10–30 times more expensive than in other low and middle-income countries.

Despite the absence of data, there is continued government support for expanding the availability of abstinence-based drug rehabilitation (Zulu, 2019) to the exclusion of a wide range of interventions that can prevent escalation or achievable alternatives for people wanting to change patterns of use (Miller, 1998).

## 6 Windows of Opportunity

Despite the overwhelming influence of prohibitionist policy and approaches in South Africa, some progressive changes have taken place in terms of the law, policy, practice and evidence. While some have notable limitations, these, as we describe below, also open important opportunities for transformation.

In 2018, the South African Constitutional Court handed down a judgement that effectively decriminalised the possession and use of cannabis in private spaces (Minister of Justice et al. 2018). While this is cause for celebration, it comes with limitations. The judgement still referred to cannabis as a 'great social evil' and people who do not have 'private space' where they can consume cannabis, effectively remain criminalised for their use. Parliament is further required to determine arrest thresholds as well as the mechanisms for legal regulation within 24 months of the judgement. Furthermore, possession, growing or production of cannabis remains illegal. This continues to justify the persecution of rural populations who, for generations, have relied on cultivation for survival. These same growers stand to lose out in the future if the government issues production licenses to global cannabis businesses.

In terms of policy, the South African National AIDS Council has recently overtly supported a call for the decriminalisation of drug use (South African National AIDS Council, 2019b). Furthermore, the National Drug Master Plan 2019–2024 and the National Strategic Plan on HIV, TB and STIs 2017–2022, explicitly support the evidence-based comprehensive package of HIV prevention, treatment, care and support services for people who inject drugs, as recommended by the WHO. Together, these policies provide the scaffolding for harm reduction to take place and to contest people and institutions that perpetuate prohibitionist agendas.

In terms of practice, attempts at inter-sectoral collaboration around drug use are taking place at the local and national level. This includes the development of technical working groups that include members of the South African Network of People Who Use Drugs, which have informed national policy (Shelly and Howell, 2018), and the participation of networks of people who use drugs in some regional and local drug action committees (Scheibe, Shelly

et al., 2020). These relationships can be nurtured to influence future policy. The South African Network of People Who Use Drugs is a sub-recipient of a Global Fund grant and other philanthropic grants. This will support the development of people to champion the rights of people who use drugs. The funding of the largest opioid substitution therapy programme in South Africa by the City of Tshwane is an important step towards investing in effective interventions. While the remaining harm reduction interventions remain donor-funded, it is possible that another round of PEPFAR and Global Fund support for HIV prevention for people who inject drugs and harm reduction will be available and provide the opportunity to plan for the transition towards government support.

Data is also improving. The effects of the criminalisation of drug use, including the negative health consequences, are being better quantified and qualified (Harm Reduction International, 2018; UCSF and Anova Health Institute and National Institute for Communicable Diseases, 2018; Scheibe, Young, et al., 2019; South African National AIDS Council, 2019a). Furthermore, community-based harm reduction services are now included in the national accounting of services, as documented in the South African Community Epidemiology Network on Drug Use since 2018 (Dada et al., 2019).

## 7 Conclusion and Recommendations

Racial discrimination in South Africa played a significant role in the history of prohibition. Despite the negative consequences for the health of people living in the global South, South Africa's (home-grown) prohibitionist perspectives and policies continue to reinforce the 'war on drugs' approach. Critical reflection on the ways the past and the current policies impact on the rights and health of South Africans is essential for a rights-based approach and should inform and motivate new policy directions.

State entities must challenge the application of the *Single Convention on Narcotic Drugs*. Policymakers must rethink the dominant law enforcement and criminal justice approach, and encourage an emphasis on the rights, health and well-being of people who use drugs. Perhaps most importantly, the moral and stigmatising language, particularly the framing of drug use as 'evil', must be addressed.

The decriminalisation of the possession and use of drugs will immediately reduce the burden on marginalised communities. Reducing the number of people who use drugs that enter the criminal justice system will reduce exposure to TB, HIV and other health consequences of incarceration and post-release



economic exclusion. Reallocation of financial resources from supply reduction and the criminal justice system towards community development and a continuum of evidence-informed prevention and harm reduction services would strengthen communities. Healthier communities with better social integration and opportunities will ultimately reduce the levels of problematic drug use as well as many of the associated harms.

While there is a need for people who use drugs to be able to access appropriate health services—free of stigma, within the community—it is also essential to avoid the over-pathologisation of people who use drugs. The solution is not a simple health response to drug use, but a more comprehensive intersectoral response that looks at systemic and contextual issues. Mechanisms are required to enhance accountability around violations of the human rights of people who use drugs. Locally, strategic litigation against the state, institutions and individuals should be instituted where the health and well-being of people who use drugs are violated.

Stigma is pervasive. It ranges from the stereotypes portrayed in the media to the dismissive treatment of people who use drugs by healthcare workers, and it needs to be addressed. Following the principle of ‘nothing for us without us’, people who use drugs should actively be involved in, and consulted on, the design and implementation of research, service delivery, the training of health professionals and journalists, and the development of drug policy.

The inequitable access to services and issues of spatial discrimination can best be addressed by locating services within communities and providing services to people who use drugs along a continuum of medical and social services. Policy needs to support a range of evidence-based interventions that would cater for drugs commonly used and the methods people use them. Examples include harm reduction services for people who smoke stimulants and drug consumption rooms.

The human resources required to provide harm reduction services need to be capacitated. In addition, policy and practice needs to allow for task shifting, with increased health services provided by trained peer outreach workers, counsellors, registered nurses and other cadres of health professionals.

Harm reduction services should be created with a sense of inclusion and social integration, both geographically and ideologically. We would suggest that there are lessons to be learned from the City of Tshwane Community Oriented Substance Use Program that provides integrated interventions for drug use as part of a community-oriented primary healthcare approach.

Countries, communities and organisations that rely on donor funding that is restrictive and only funds a narrow set of prescriptive interventions and

programs should advocate for non-restricted funding, and insist on support for evidence-based interventions for substance use.

Countries from the historical global South, specifically South Africa, must re-evaluate their drug policies and look to approaches based on the science and needs of their communities. There are windows of opportunity that need to be used to protect the rights of all people and provide opportunities for all to enjoy health. Perhaps all that is needed is that our policies align with our constitution, the highest law of the land.

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