

GLOBAL COMMISSION ON DRUG POLICIES



Drug Policy – Lessons Learnt, and Options for the Future

Mike Trace *

* Chairman, International Drug Policy Consortium. Former Deputy UK Drug Czar, President of the European Monitoring Centre on Drugs and Drug Addiction, and Chief of UNODC Demand Reduction Section.

Abstract

After almost 100 years of international drug control agreements, that have pursued prohibitions on the production, distribution and use of some psychoactive substances, questions about the efficacy, and even the validity, of these strategies are growing louder. It seems clear that the objective of a 'drug free world' - or at least a significantly reduced illegal market in plant based drugs such as cocaine, heroin and cannabis, and synthetically produced drugs such as ecstasy, amphetamines, and LSD – is as far away as ever. This paper examines why the vision of the architects of the global prohibition regime has not been achieved, but also goes on to describe the damage to human health and welfare that has arisen from badly conceived and implemented drug control policies and programmes. The author goes on to analyse the political and institutional barriers to objective review and modernisation of drug policies at national government level, and at the United Nations. Finally, the concluding section lays out the broad options that policy makers face for a future 'direction of travel'.

What is the 'logical framework' behind the current international drug control regime? What objectives does it set out to achieve, and what assumptions have been made about how best to meet these objectives?

The international community has experienced almost 100 years of international drug control agreements since The Hague Convention was adopted in 1912. The current United Nations comprehensive framework for the control of psychoactive drugs – represented by the 1961 Single Convention on Narcotic Drugs – is almost 50 years old. While the nature of the markets and patterns of use of the various substances controlled under these agreements have changed significantly since 1961, it is useful to start an analysis of future policy options by returning to the original purpose and assumptions behind the Single Convention.

First, it is important to remember that the experts drafting the Single Convention, and the diplomats negotiating its passage, were operating in a very different political and social environment than today. Drug use was much less widespread, and illegal drug markets were more geographically confined, and less diverse. The phenomenon of international organised crime deriving most of its income from drug markets had not yet arisen, the widespread use of cocaine and other stimulants was not a significant consideration, and no-one could have predicted the arrival of HIV, and its widespread transmission through injecting drug use.

Nonetheless, the political will at that time was sufficient to create a unified framework for the control of a wide range of psychoactive substances, using a twin track approach – the creation of a supervised global system for the production, distribution and use of psychoactive substances for medical and research purposes; and the prohibition of the production, distribution and possession of those substances for any other purpose. The preamble to the Single Convention¹ makes it absolutely clear that the ultimate aim of the drug control system is the improvement of the 'health and welfare of mankind', but the design of the system, and the focus of implementation since its adoption by member states, betrays a number of assumptions on how best to achieve this objective, that have since been shown to be questionable at best, and in some cases clearly flawed.

A paper prepared for the Commission by Martin Jelsma will give more detail on the experience of the UN system, but this paper will focus on four key assumptions implicit within the creation of that system:

- That it is possible to suppress the wholesale illicit supply of controlled substances by removing sources of production, and preventing their distribution across borders.
- That it is possible to suppress illicit retail distribution of controlled substances, thereby preventing access to those substances by potential users, either physically or economically (i.e. by raising the price).
- That it is possible to suppress demand for the recreational use of controlled substances through a mixture of education and information on their risks, and deterrence through detection and punishment of users.
- That, through successes in each of the above areas, the phenomenon of illicit drug use would gradually be reduced in scale, which in turn would lead to the desired objective of maximised human health and welfare.

This set of assumptions is based on a wider belief that there was a simple linear relationship between the scale of the drug market, and the level of harm to human health and welfare (i.e., the smaller the market, the fewer the harms), so the singular focus of the system has been on reducing the scale of the illegal drug market, with the eventual aim of a 'drug free world'. The experience of the last 50 years shows that the relationship between scale and harms is much more complex, with different drug market dynamics and patterns of consumption leading to different levels of problems, for example:

- A cannabis market in which the product is grown near the point of consumption, and distributed through small scale friendship networks produces much lower social and criminal problems than a cannabis market involving the control by organised gangs of production and distribution across long distances.²
- The injection of street heroin of unpredictable purity, and the lifestyle associated with obtaining and using the drug through illicit channels, creates much higher levels of health and social harms than the oral ingestion of other forms of opiate (particularly if supplied or administered under medical supervision), even if the overall number of users is the same.³

As a result, many governments have started to move the focus of their drug policy away from a singular drive (usually referred to rhetorically as a 'war on drugs') to reduce the scale of their drug markets, towards greater attention and resources being applied to tackling specific market or consumption related problems, such as HIV/AIDS or petty crime. The speed and extent to which this change of focus should be followed remains hugely controversial, with many governments and institutions fighting to retain the simplicity of the original model.

To what extent have the objectives of the system been achieved over the past 50 years?

Much of the political debate between 'tough' (i.e. enforcement focus) and 'soft' (i.e. health and social focus) approaches to drug policy is based on moral and ideological beliefs. While this position may have an attractive clarity and simplicity, policy makers have a duty to understand and act on the evidence of effectiveness or otherwise, and to pursue policies and public investments that

maximise the health and welfare of their citizens. Fortunately, the evidence and understanding of how drug policies and strategies impact on drug use and markets has increased markedly in the 50 years since the system was created. Unfortunately, the gaps in the evidence base, and complexity of the issues, mean that there can be no universally 'correct' policy deduced from what we currently know.

Therefore, we need to critically examine the extent to which current policies and strategies are achieving the objectives set out for them, and apply the lessons to the development of future policy. This section reviews progress and lessons against the assumptions articulated in section 1 above:

Suppressing Wholesale Supply

Strategies in this regard have been in place for the full century of drug control, and have received unequivocal political support, and massive financial investment. Unfortunately, all this effort has not achieved the desired control and constriction of wholesale markets. The scale of global markets in the main plant based psychoactive products – heroin, cocaine and cannabis – is now significantly larger than when the Single Convention was adopted. While there have been some signs of stabilisation in recent years at an overall global level, this masks significant increases in new markets and distribution routes for these substances (particularly in developing countries), and the parallel growth in markets for a wide range of synthetically produced alternatives.

Tactics designed to reduce wholesale supply have had very limited impact – action in source countries has been expensive and complicated, and even when implemented, serves only to drive cultivation and production to new areas (this is referred to as the 'balloon effect'):

- Decades of careful eradication and alternative development work in the opium growing areas of the golden triangle of Laos, Myanmar (then Burma) and Thailand eventually had an impact, but the focus of production then moved to Afghanistan, with consequences that still haunt the international community.
- Extensive (and expensive – US\$ 7.3 billion have been spent by the USA on Plan Colombia alone since 2000)⁴ military interventions and eradication programmes in the Andean coca growing region over the past 30 years have only served to move the concentration of cultivation within and between the countries of Peru, Bolivia and Colombia, with no reduction of overall production, and no sustained impact on wholesale or retail prices or availability.
- While much more widely grown, and therefore less subject to source country action, cannabis retail markets in Europe have increasingly been served by production close to the point of consumption, as opposed to the previous pattern of large scale cultivation in North Africa, and distribution by organised crime.

Suppressing Retail Markets

Efforts to stifle the flow of drugs from points of production to retail markets (generally described as interdiction), have also met with fundamental problems. Even the largest seizures of drugs en route to consumer markets have failed to make a sustained impact on price, availability or purity. This is due to a mixture of practical and economic considerations – in a globalised world, the opportunities and methods for moving consignments of compact commodities are just too diverse, and the resources and ingenuity of traffickers too great, for law enforcement authorities to prevail. Furthermore, the level of seizures required to make a meaningful impact on the consumer market are beyond the capacity of even the most well resourced state agencies – the UK government

commissioned an economic analysis on this question that concluded that it would be necessary to seize 60 to 80% of plant-based drugs coming in to the country to make a measurable impact on price and availability, while the best estimate of the proportion actually seized per year has never exceeded 20%.⁵ [NB – While this analysis has certainly been true historically, there are signs of significant upheavals in the UK heroin market in early 2011. The reasons and impacts are not yet understood, but may give us further insights into the relationship between enforcement and price. IDPC will produce a briefing paper on this issue later in the year].

This depressing picture of supply reduction failures is actually compounded by analysis of what happens on the rare occasions when the strategy succeeds in creating a sustained shortage of a particular substance. A series of successful operations by Australian law enforcement agencies, allied with shifting priorities of Asian trafficking organisations, led to a 2-year heroin shortage in Australia in the early part of this century. While this phenomenon did result in a significant downturn in heroin use in that country (leading to reduced injecting and overdose deaths), users tended to switch to other drugs such as cocaine and methamphetamine, rather than to give up or seek treatment, leading to an upsurge in the problems associated with those substances (mainly an increase in mental disorders and street violence).⁶

Reducing Demand

In parallel with these supply reduction efforts, demand reduction strategies have attempted to reduce the number of people wanting to use drugs, primarily through two mechanisms – education and deterrence. Both strategies have, in general, had little impact on overall population rates of drug use.

Large scale education and prevention programmes aimed at the whole population have been tried in most countries in some form or other. The idea is that potential drug users will be less likely to initiate or continue drug use if they are presented with warnings of the health and social risks of such use. Many of these campaigns have exaggerated the risks in an attempt to maximise the impact. Where long term evaluations of whole population education campaigns have been carried out, they have found that, at best, these programmes have had only marginal and short lived impacts on overall levels of drug use. Initiation into drug use generally occurs amongst the young, who have a high tolerance of risk taking, and low levels of trust in official information, particularly when it is exaggerated and inconsistent with their own experience.⁷ More promising results have been achieved by targeted and community based prevention projects, where more tailored approaches are delivered to smaller sub-populations at risk (for example children in care, or those in trouble at school). Some of these have been shown to divert a proportion of the target population away from a drug using lifestyle but, by their ‘micro’ nature, do not impact on the ‘macro’ whole population prevalence.

Beyond education and information, governments have used more direct forms of deterrence – primarily the threat of arrest and punishment under the criminal law, but also mechanisms for detection and punishment in schools, work places, and clubs and associations. Drug testing programmes, allied with punishments such as exclusion from school or other institutions, sacking or other disciplinary actions at work, or denial of access to benefits such as university grants, have all been tried. Once again, we find that the results in terms of deterring initiation and continuing use are limited.⁸ Surveys of drug users show that the reasons behind their decisions are primarily driven by personal social and emotional factors, peer pressure, and fashion.⁹ The risk of being caught and the

nature of associated punishment played little part. All countries have enacted laws against possession of controlled drugs, and to varying extents hoped that the enforcement of these laws will deter potential users. Some countries have consciously tried to raise the level of detection and punishment to a point that every potential user is in constant fear of being caught. The USA has gone furthest down this road, with a peak of 1.66 million drug-related offences in 2009 (and among these, 1.35 million for drug possession alone), and the implementation of mandatory minimum prison terms.¹⁰ Despite this massive political and financial investment, levels of drug use in the USA have for decades remained consistently higher than almost any other country in the world.¹¹ Even at this high level of arrests, it has been calculated that the average drug user in the USA has a miniscule chance of detection on each occasion of use – hardly the level of risk that is going to alter their behaviour.¹²

Some countries have tried to reduce drug dependence by pursuing treatment models that punish and humiliate users. This philosophy was behind some of the early therapeutic communities developed in the USA and Europe in the 1960 and 1970s, and has more recently been employed in a range of ‘forced treatment’ facilities that have been developed in many south-east Asian countries in recent years. These facilities have corralled large numbers of drug users, often without due process or any assessment of treatment need, in conditions that breach international human rights standards.¹³ Unsurprisingly, these facilities have had very little success in rehabilitating users, and have attracted widespread condemnation.

Impact on the overall scale of the market

Various mixtures of these strategies and tactics have been implemented around the world over the last 50 years, but there is no evidence that any national government has been able to achieve anything like the objective of a controlled and diminished drug market, let alone a drug free world. There are some countries that have never experienced the same growth of drug markets as neighbouring countries (e.g. Japan), and a very small number that have managed to limit an already established drug market – claims are often made that Sweden has achieved this turnaround through a mixture of strong enforcement, and consistent prevention and social messaging. While it seems true that Sweden has kept overall population rates of drug use relatively low by European standards, their rates are no lower than countries with liberal policies (such as Portugal and the Netherlands), and some of the related problems such as market related violence, and HIV and overdose rates, are no lower in Sweden than comparable countries.¹⁴ While there is no conclusive research on this issue, it seems likely that the comparative wealth and social cohesion of countries like Sweden and Japan, together with their strong public commitment to an anti-drug philosophy (conditions that are hard to replicate through policy decisions) are significant factors in their relatively low prevalence, but these countries do continue to experience significant levels of drug use and problems.

At a global level, the picture is clearer. Although figures are not available for the early 1960s, it is universally acknowledged that the scale of drug use and drug markets have grown exponentially over the period of implementation of a global control regime that had reduction and eradication as its objectives.¹⁵ In countries where time series data are available (Europe, North America and Australasia), there is a documented steady growth of the use of the three main plant based drugs (heroin, cocaine and cannabis) throughout the 1970s, 1980s and 1990s and, when there were some signs of stabilisation in these markets in the last 10 years, a corresponding growth in the use of a bewildering variety of synthetically produced stimulants and hallucinogens.¹⁶ This diversification of

substances, production and consumption patterns moves much faster than the ability of lawmakers, educators and enforcement agencies to respond.

Defenders of the current system (most notably, the former head of the United Nations Office on Drugs and Crime – UNODC, Antonio Costa) have argued that the implementation of strong prevention and enforcement policies have ‘contained’ the problem at a lower level than, for example, alcohol or tobacco. Also, using the example of pre-revolutionary China, that unfettered trade in narcotics would lead to massive rates of addiction and social upheaval.¹⁷ While both of these contentions have little historic evidence to back them up,¹⁸ and can to some extent be put down to the ‘wishful thinking’ of the man responsible for claiming success of existing policies, it is important that any proposal to take more liberal approaches addresses the question of what impact it will have on the overall scale of the market.

What are the negative side effects of the implementation of the drug control system?

The primary strategies and tactics, in which the authors of the drug control regime have put so much faith, have failed to deliver a significant and sustained reduction in the scale of supply or demand for any of the main types of drug, over a 50 year period in which the international community has shown unequivocal political and financial commitment. When viewed from the perspective of the fundamental objective of the system – to maximise human health and welfare – we also need to consider the negative side-effects (what the UN describes as ‘unintended consequences’) of the implementation of the system on the health and welfare of individuals and communities.

The UNODC (the agency charged with overseeing the implementation of the conventions) itself acknowledges significant negative consequences of the drug control regime, some of which can be summarised as¹⁹:

An increase in the power and reach of organised crime

One of the most significant ‘unintended consequences’ of the international drug control regime has been the growth in the power and wealth of a global web of organised crime networks. These groups operate in a transnational and transcontinental market through which they link the producers and consumers of illicit drugs; they are also deeply involved in the manufacture of synthetic drugs, and the movement of precursor chemicals. With widespread corruption and (often) high levels of violence, they control and operate a vast global market whose overall worth is the subject of controversy, but certainly runs into the 100s of billions of US dollars,²⁰ the high end estimate being in the region of \$400 billion.²¹ While the social impact of this increased wealth is hard to measure, it is certain to increase the crime and corruption challenges faced by legitimate authority in many parts of the world.

The stigmatisation and marginalisation of large numbers of citizens

It is well documented that harsh living conditions, trauma and emotional difficulties are major factors leading to drug use. It is therefore unsurprising that drug dependence remains concentrated among the most marginalised groups in society. Whereas much of the work of social affairs and development agencies at the national and international level have focused on improving the living

conditions of poor and marginalised groups, and on promoting their social and economical integration in society, many aspects of drug control policies have had the opposite effect. Programmes focusing on widespread arrests and harsh sanctions towards drug users have led to further marginalisation and stigmatisation, pushing them away from jobs, education and other health and social services, and driving them into more risky behaviours.²² This process of criminalisation and marginalisation is acknowledged by the United Nations as a major barrier to the global challenges of tackling HIV/AIDS, and of promoting social and economic development.²³

Misdirected expenditure

Over the past decades, the vast majority of financial resources allocated by governments and the international community has targeted the illicit market.²⁴ At global, regional and national levels, resources have been committed to reducing the size of drug markets, primarily through law enforcement activities. Public health, treatment and harm reduction measures have suffered accordingly, the support they have received being more rhetorical than substantial. Instead of the most dangerous and influential criminals within the illicit market, it is street dealers and mules – those most easily replaced in the drug trade – that have made up prosecution statistics. This strategy has produced little impact on the overall scale of the market, while the socio-economic poverty that often underpins problematic use in consumer countries and illicit crop growing in production zones has lacked adequate, sustained and properly sequenced funding.

Human rights violations

Many human rights abuses have resulted from the implementation of drug control strategies,, including excessive use of force and extra-judicial killings; the destruction of the main means of subsistence of many farmers and environmental destruction due to crop eradication campaigns; ill-treatment of drug users in the name of drug treatment; violations to the right to health because of the failure to provide drug users with adequate drug dependence treatment and lack of access to essential medicines for pain relief; the implementation of discriminatory policies towards drug users, minorities, women and children; and the imposition of disproportionate punishments, including the death penalty and life imprisonment, for drug-related offences.²⁵

Why do policy makers remain attracted to ‘war on drugs’ approaches in the face of these problems?

Given the ever-growing body of evidence demonstrating the lack of impact of current drug policies and strategies on the overall scale of illegal drug markets, and the growing awareness of the negative side effects of these strategies on health and social welfare, it could be seen as surprising that most policy makers continue to support the current approach. In western democracies with decades of experience in drug policy design and review, most political rhetoric continues to focus on the need to maintain resolve, or to strengthen commitment, or to clamp down on some new drug or pattern of use or supply. In developing countries, where drug problems are a newer challenge, the initial impulse of political leaders is invariably to respond to new concerns with calls for a fight against the ‘scourge’ of drugs. It is hard to think of another area of social policy where such a clear lack of progress maintains such widespread political support, so we need to understand why this is so. I would suggest that there are four inter-related reasons:

- The main political attraction of war on drugs rhetoric, and the policies that follow, is that they allow the government to look tough and active on a problem that the public cares about. The picture in the public's mind, built up over decades of news coverage and cop shows, is of all drug traffickers as ruthless criminals, and all drug users as morally suspect. While there are, of course, real life examples that fit these caricatures, we now know that most drug producers are some of the world's most marginalised rural poor; that many traffickers are couriers (or 'mules') coerced into transporting drugs across borders; and most drug users are indistinguishable from other citizens, apart from their choice of substance. Policy makers can therefore use a very effective rhetorical symbolism, by promising to tackle the drug problem through tough enforcement, and can demonstrate their commitment by pushing through tougher laws, publicising big seizures, and arresting more users. These have been largely effective political strategies, as the awkward reality that the underlying drug related problems remain unresolved receives little attention.
- The political alternative – that of questioning the 'tough on drugs' orthodoxy, of promoting policies that are more tolerant of drug use, or that reduce enforcement or punishment – represents a high risk strategy for any politician. As the former Prime Minister of Luxembourg, Jean-Claude Juncker, has succinctly put it: 'We know what to do, but we don't know how to get re-elected once we have done it'. Drug policy is often referred to as a 'third rail' issue – a railway metaphor that loosely means that if you touch it, you are going to be electrocuted. In the bear pit of local and national politics, any leader who questions traditional policies, or promotes alternatives, is easily caricatured by media and political opponents as 'soft on drugs', weak on law and order, or in favour of greater drug use. It is perhaps therefore not surprising that a large number of policy makers at all levels privately hold views on the best direction for drug policies and strategies that they are unwilling to express in the public arena.
- These political dynamics are underpinned by some real conceptual and intellectual problems regarding the case for drug policy reform. The first of these is how to address the contention – often stated, and currently the position of the UNODC – that, although enforcement based policies have not reduced the scale of the drug problem, they have at least contained what otherwise would be an 'epidemic' or 'flood' of increased drug markets and use, with all the related problems increasing accordingly. This once again has a seductive political message – that the government and law enforcement authorities are protecting society from social and moral breakdown. It is also a contention that cannot be disproved until alternative models are implemented, and the impact on levels of use and problems fully tested. However, a political leader considering alternative approaches will surely be criticised for taking great risks with a 'leap into the unknown'. In fact, there are some policy lessons we have learnt regarding the impact of more tolerant policies on the level and nature of drug use and markets – broadly, in countries and states where laws or enforcement practices have been liberalised, there seems to have been a minimal impact on overall levels of use, and broadly positive impacts on related health and social problems, and costs to the taxpayer. Similarly, simple comparisons between countries with high or low levels of enforcement and punishment show no correlation between tough approaches and lower levels of use. Certainly, there has been no sign (in places like The Netherlands, Switzerland, Portugal and Australia) of the explosion of drug use and addiction that has often been feared. Levels of

drug use in a given society seem to be largely a function of the innate properties of the substance (i.e. do people like its effects or not), fashion, the nature of that society – levels of inequality, social cohesion or trauma, and the availability and price of particular substances. What remains unknown, of course, is what would be the impact on these market dynamics of the full legalisation of drugs – and, within such a system of regulation, the impact of the involvement (in marketing and political lobbying terms) of legitimate commercial businesses, such as is currently the case with the alcohol or tobacco companies.

- The second problem facing the reform-minded policy maker is that the issue is so complex, that trying to replace a simple and seductive political message with one that acknowledges such complexity, and recognises that the government cannot in fact ‘solve’ the drug problem entirely, is a high-risk political strategy. Most policy makers who have tried this approach, have been criticised as giving in to the drug barons, or for not showing enough bravery for the fight. These particular dynamics have improved in recent years – to a varying extent in different political cultures – but the reasons for reform are still difficult to synthesise into an effective political message. A number of difficult propositions have to be sold to the public – that the current system (that we have all supported politically and financially) is not working; that a better approach involves the management of drug markets and drug use, because they will never be completely eradicated; and that this approach involves being more tolerant of the behaviour of a proportion of drug producers, distributors and users. Support for these propositions requires the audience to accept and understand the complexity of the policy challenge, while there will always be other voices reiterating the simple message ‘if we get tougher we will eventually win’.

Therefore, considering the political dynamics surrounding this issue, it is perhaps not so surprising that so few policy makers have openly questioned the status quo, or pushed for reform. However, these political realities seem to be changing quickly in many parts of the world – there are increasingly clear challenges to the idea that harsh enforcement leads to reduced health and social harms, so that claims for success based on seizures or arrests are greeted with scepticism; most electorates now have a broad view that the war on drugs is not working; increasing numbers of citizens know friends and family who are drug users, or who have developed drug problems, so are less likely to accept the stigma and condemnation; and a rapidly increasing number of political leaders are ‘coming out’ to acknowledge that we need to think about new approaches, which gives legitimacy and profile to a more sophisticated debate.

What are the budgetary and institutional impediments to review and reform of drug policies?

In addition to the difficult political dynamics around drug policy issues, we need to be aware of the institutional and budgetary dynamics as well. In any field of national and international government activity that has received unequivocal political and financial support over decades, there will inevitably be a significant and established network of institutions and agencies that have been built up on the back of a particular view of policy and strategy. In the drug control field, these institutions owe their budgets and power to the war on drugs, and will be resistant to policies or initiatives that question their value, or threaten their financial and political pre-eminence. As drug control has been

seen for 100 years as primarily a crime and law enforcement issue, the dominant institutions at national and international level are rooted in that sector:

At national level, the budgets and power of law enforcement agencies in many countries have been built up to a large degree on the contention that their activities are essential to achieving victory in the war on drugs. This is particularly true of those institutions specifically created for drug control purposes, such as the Drug Enforcement Administration in the USA (annual budget \$2.6 billion), which is typical in that it has become a significant political force in US national debates, and atypical in that it also exerts significant influence in other countries. While the DEA is the largest and best known of the national drug control agencies, there are structures in most countries that only exist to design and implement drug control strategies. While some of these structures have included health and social programmes in their work more recently, they still tend to be dominated culturally and financially by law enforcement imperatives. They have a significant institutional investment, therefore, in the continuation of existing patterns of resource allocation.

Law enforcement agencies that have more generic responsibilities have also expanded and benefited from drug control policies – police services at all levels, together with court and prison administrations, customs agencies, and even the military, have used the drugs issue to expand their budgets and influence in good times, and to defend against cuts in the bad times.. In the drug policy debate around the world, representatives of these institutions can be strong and effective advocates for a continuation of law enforcement investment, a message that usually finds a receptive ear in the corridors of power. The publication in early 2010 of the Obama administration's first drug control budget was expected to represent a reversal of the trend of ever-increasing budgets for the DEA and other law enforcement institutions and initiatives. In the event, and despite the avowed intention of the new administration to subject the value for money of these investments to close scrutiny in an era of fiscal restraint, the new budget has maintained the same pattern and level of funding.

Internationally, the institutions developed to oversee and implement the UN agreements on controlled drugs have similarly been built on the assumption that strong prohibition strategies, and a law enforcement focus, were the best way to achieve the objectives of the control system. All three of the main institutions have been slow to react to the limited success of 'Plan A', and the increasing need for balance in policy and programming:

- The UNODC is the Vienna-based UN executive agency that oversees the shared work of the international community to implement the drug control treaties. With an annual budget of US\$250 million,²⁶ and around 1,500 staff based around the world, much of its early work was focused on encouraging member states to sign and ratify the drug control conventions, and supporting them to enact strong domestic drug laws, and establish strategies and institutions to implement them. The agency has therefore developed on the basis of a strong vested interest in the success and continuation of member state commitment to these activities. It is a relatively small executive agency, but has been successful in maintaining a high level of ratification for the 3 conventions it oversees²⁷ and no member state has followed procedures to pull out of any of the agreements. Operationally, the agency has been less successful – it receives a very small allocation of general funds from UN headquarters, so is heavily reliant on voluntary donations from member states. The majority of these donations have traditionally come from countries (particularly the US) who have at times used them as a lever to ensure that the UNODC maintains a strong 'war on drugs' line. These dynamics have, however, changed in recent years, with a greater proportion of funds coming from the

EU and its member states, and more of it being directed towards health and social programmes. It is probably no coincidence, therefore, that the policy positions of the UNODC have become more balanced over this period. However, the extent to which the management of the agency can reform its operations is limited by an ever present financial crisis, allied to the need to maintain existing funding streams. This does not create helpful conditions for strategic thinking, or planned reforms.

- Another reason for the inability of the UNODC to adapt quickly to changing circumstances is the fact that its governing body, the Commission on Narcotic Drugs (CND), has inbuilt mechanisms that block reform. Although the CND officially consists of just 53 member states, there is a longstanding convention that all member states present at its annual meetings (held in Vienna in March of each year) should agree by consensus to any key policy decision. The budget, key operations, and policy positions of the agency are therefore decided through CND resolutions that are negotiated in minute detail, resulting in confused and often surreal mandates being handed down to the executive. In a situation where at least some member states – for many years led by the US, but now led by other influential countries such as Russia and Japan – have been committed to the global strengthening of the war on drugs at all costs, those member states that have wanted to modernise and achieve more health and development based policies have found it almost impossible to advance their cause through the CND. One particularly absurd example is that it is still impossible to use the words ‘harm reduction’ in any CND resolution, despite the fact that harm reduction strategies have been the accepted UN and WHO approach to HIV prevention amongst drug users for many years. This bias against reform and in favour of law enforcement is underpinned by the fact that the vast majority of member state delegations to the CND are made up of senior law enforcement officials.
- There is a third body within the UN drug control architecture that has become an even more strident opponent of drug policy reform. In addition to the responsibility for operating the system set up to manage the legal production, distribution and use of controlled substances for medical and scientific purposes, the International Narcotics Control Board (INCB) was established by the 1961 Convention to act as a watchdog of the conventions: helping member states to find the right balance between control and health responsibilities, pointing out where member states were failing to comply with the obligations that they had signed up to, and working with them to address these concerns. The Board consists of 13 members who are meant to be appointed for their legal and medical expertise, and act independently of the political interests of member states and UN agencies. It has a secretariat based within the UNODC. The culture and methods of operation of the Board have fluctuated since its inception but, at least for the last 25 years, it has acted more as a guardian of the traditional view of global drug control – promoting strong laws and enforcement practices, and being quick to criticise any perceived liberal initiative. Member states have colluded with this one-eyed approach, voting members on to the board who are politically motivated rather than technical experts, and failing to demand changes in the Board’s methods of operation. It is becoming clearer however, that the work of the INCB is out of step with the norms and standards of the UN system, and the enthusiasm amongst member states for reforming their role is increasing.

Finally, the fact that drug control debates within the multilateral system have been entirely channelled through the Vienna based crime and enforcement structures is itself a major impediment

to a co-ordinated and coherent international system. Most national governments, recognising that the drugs phenomenon is multi-faceted (requiring a balance between health, criminal justice, education, security and social policies), have established co-ordinating mechanisms to manage these inter-relationships, but the UN system continues to leave the issue to its law enforcement agencies. Much larger multilateral bodies - such as the World Health Organisation, UNAIDS, the UN Development Programme and the Human Rights treaty bodies - struggle to have their voices heard in Vienna. This must change if the UN is to give coherent global leadership on this issue.

Therefore, at the national and international level, strong institutional interests mitigate against objective strategic review, and the implementation of the necessary modernising reforms. While there are signs that all of these structures are adjusting their rhetoric and positions in reaction to changing circumstances – realities on the ground, changing public opinion, and the work of NGOs and academic analysts – it is disappointing that the biggest governmental organisations act as a brake on these debates, rather than their leaders. Any proposals for reform will therefore need to recognise these realities, and include strategies for convincing the leaders of these institutions to accept the need for change.

Conclusion

Policy makers have discovered that the achievement of drug control objectives is a much more difficult and complex task than was ever conceived of by the architects of the global system. What is now common knowledge – that prohibition and harsh enforcement cannot control the basic human impulse to use psychoactive substances, and the immutable rules of commodity markets – was hypothesised by a small number of voices through the 20th century, and has been repeatedly indicated by all respectable academic and policy analysis conducted in recent years.²⁸ The appropriate political and strategic debate in reaction to this learning has for decades been hampered by the willingness of policy makers and the responsible institutions to use drug policy as a symbolic issue, rather than as a search for practical responses to wider health, social and crime problems. Now that this trick is becoming more exposed, and therefore less viable, governments have broadly four options of how to react to the current impasse:

- Pursue policies and investments that ramp up enforcement activities and punishments to a level that actually succeeds in stifling the flow of controlled substances around the world, and in deterring a large proportion of the population from deciding to use them. Despite the rhetoric, this approach is not currently being implemented in any part of the world.
- Continue with policies that try to show that enforcement and deterrence are the priority, while offering minority support to health and social programmes in the name of balance, and defending limited impact with promises of new crackdowns and initiatives. This is the current political strategy of most governments around the world.
- Refocus drug policies and programmes explicitly away from attempts to reduce the scale of the market, and on to reducing the specific harms arising from drug use and markets, such as HIV/AIDS, addiction, or violence and corruption. While many countries have introduced aspects of a targeted problem solving approach within their strategies, none have explicitly

made this the guiding principle of their policy, and openly articulated to the electorate that market reduction is not the main goal.

- Conclude that greater control of supply, demand and related problems can be achieved through moving to a regulated system of distribution – i.e. legalisation. This change of paradigm has not been implemented anywhere in the world, and any country wishing to do so would need to withdraw from the UN conventions.²⁹ Notwithstanding this, a policy option that was difficult to discuss seriously as recently as 2009, is now being given close attention at all levels, with the strong showing for California's 'Proposition 19', and public support from an increasing number of high profile public figures.

The final issue to consider is the level of hunger for change amongst the public and policy makers. For various reasons, there are stronger pressures for reform in some countries (for example in North and Latin America, or South-East Asia) where the issues are at the top of the political agenda, than others (for example much of Europe) where the issue has less immediacy. The proposals for reform that the Commission wishes to bring forward will therefore be received with differing levels of enthusiasm, depending on the level of comfort and complacency on this issue amongst governments and institutions, and the citizens that support them.

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