

# **TAKING CONTROL:**

## **PATHWAYS TO DRUG POLICIES THAT WORK**



**GLOBAL COMMISSION  
ON DRUG POLICY**

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*The international drug control regime is broken. In our 2011 report we called on global leaders to join an open conversation on drug policy reform. We recommended that they immediately discuss alternatives to the failed war on drugs. In subsequent reports we drew their attention to the urgent need for reform to reduce the devastating epidemics of HIV and Hepatitis C. We asked policy makers to break the fifty year taboo on talking about more effective and humane ways to manage drugs.*

*Today, three years later, we are pleased to see that a genuine debate on new approaches to drug policy is underway in an array of national and regional forums. Crucially, the discussion is based on evidence, and new, exciting innovations are spreading across the Americas, Africa, Europe, South and South East Asia, and Australia and the South Pacific. The discussion is truly global, and governments and civil societies are learning from one another, and testing out new approaches on the ground.*

*The reality in 2014 is that governments and civil societies are not just talking, many are taking action. Drug policy reform is moving from the realm of theory to practice. Courageous leaders from across the spectrum are seeing the many political, social and economic dividends from drug policy reform. They recognize the critical mass of voices demanding a new course. And recognizing that*

*change is inevitable, they are beginning to experiment with a range of solutions drawing from solid data and with an open mind. Informed approaches are trumping ideological ones and the results are encouraging.*

*In this report, we set out a broad roadmap for getting drugs under control. We recognize that past approaches premised on a punitive law enforcement paradigm have failed, emphatically so. They have resulted in more violence, larger prison populations, and the erosion of governance around the world. The health harms associated with drug use have got worse, not better. The Global Commission on Drug Policy instead advocates for an approach to drug policy that puts public health, community safety, human rights, and development at the center.*

*We need to be bold but pragmatic. There is no one-size-fits-all pathway to enacting drug policy reform. We recognize that the shift will demand changes in domestic and international policy and practice. It will entail trial and error and an honest and critical engagement with results. But we are encouraged by the signposts that are emerging that can help governments and citizens take the right steps forward. They have momentum on their side, and can gather insights from the many positive developments around the world that have occurred since 2011.*

*What is now needed is action by the world's multilateral institutions, first of all the United Nations (UN). We are delighted to see the quality of high level debate being generated from heads of state and senior UN figures. It is also encouraging to see important regional organizations contributing to positive reform. Reports supporting change from the Organization of American States, the West Africa Commission on Drugs, and the Global Commission on HIV and the Law, are all critical building blocks of drug policies that work. They are also openly challenging the international drug control regime and creating political space for new players to explore similar approaches.*

*We are driven by a sense of urgency. There is a widespread acknowledgment that the current system is not working, but also recognition that change is both necessary and achievable. We are convinced that the 2016 United Nations General Assembly Special Session on drugs (UNGASS) is an historic opportunity to discuss the shortcomings of the drug control regime, identify workable alternatives and align the debate with ongoing debates on the post-2015 development agenda and human rights. The Global Commission encourages all UN member states and agencies to continue rethinking the question*

*of drug policy reform. We encourage leaders to seriously engage with new challenges, not least new synthetic drugs appearing on the market almost daily, which demand more creative responses.*

*A stale political declaration in 2016 that promises to 'solve the drugs problem' and make the world 'drug-free' is not going to be the answer the world needs. We reiterate that the international community needs to come to terms with the reality that easy answers to solve the drug problem do not exist.*

*Our report does not offer the definitive solution. Rather, it provides a roadmap for pragmatic policy change we think will make the drug-related problems the world faces today much more manageable. We ask that countries take advantage of the 2016 UNGASS as an opportunity to finally start getting drugs under control.*

**Fernando Henrique Cardoso**  
*Former President of Brazil (1994-2002)*

The upcoming United Nations General Assembly Special Session on the World Drug Problem (UNGASS) in 2016 is an unprecedented opportunity to review and re-direct national drug control policies and the future of the global drug control regime. As diplomats sit down to rethink international and domestic drug policy, they would do well to recall the mandate of the United Nations, not least to ensure security, human rights and development. Health is the thread that runs through all three of these aspirations, and the UN global drug control regime has the ‘health and welfare of mankind’ as its ultimate goal. But overwhelming evidence points to not just the failure of the regime to attain its stated goals but also the horrific unintended consequences of punitive and prohibitionist laws and policies.

A new and improved global drug control regime is needed that better protects the health and safety of individuals and communities around the world. Harsh measures grounded in repressive ideologies must be replaced by more humane and effective policies shaped by scientific evidence, public health principles and human rights standards. This is the only way to simultaneously reduce drug-related death, disease and suffering and the violence, crime, corruption and illicit markets associated with ineffective prohibitionist policies. The fiscal implications of the policies we advocate, it must be stressed, pale in comparison to the direct costs and indirect consequences generated by the current regime.

The Global Commission proposes five pathways to improve the global drug policy regime. After putting people’s health and safety at the center of the picture, governments are urged to ensure access to essential medicines and pain control. The Commissioners call for an end to the criminalization and incarceration of users together with targeted prevention, harm reduction and treatment strategies for dependent users. In order to reduce drug related harms and undermine the power and profits of

organized crime, the Commission recommends that governments regulate drug markets and adapt their enforcement strategies to target the most violent and disruptive criminal groups rather than punish low level players. The Global Commission’s proposals are complementary and comprehensive. They call on governments to rethink the problem, do what can and should be done immediately, and not to shy away from the transformative potential of responsible regulation.

The obstacles to drug policy reform are both daunting and diverse. Powerful and established drug control bureaucracies, both national and international, staunchly defend status quo policies. They seldom question whether their involvement and tactics in enforcing drug policy are doing more harm than good. Meanwhile, there is often a tendency to sensationalize each new “drug scare” in the media. And politicians regularly subscribe to the appealing rhetoric of “zero tolerance” and creating “drug free” societies rather than pursuing an informed approach based on evidence of what works. Popular associations of illicit drugs with ethnic and racial minorities stir fear and inspire harsh legislation. And enlightened reform advocates are routinely attacked as “soft on crime” or even “pro-drug.”

The good news is that change is in the air. The Global Commission is gratified that a growing number of the recommendations offered in this report are already under consideration, underway or firmly in place around the world. But we are at the beginning of the journey and governments can benefit from the accumulating experience where reforms are being pursued. Fortunately, the dated rhetoric and unrealistic goals set during the 1998 UNGASS on drugs are unlikely to be repeated in 2016. Indeed, there is growing support for more flexible interpretations and reform of the international drug control conventions aligned with human rights and harm reduction principles. All of these developments bode well for the reforms we propose below.

## OUR RECOMMENDATIONS CAN BE SUMMARIZED AS FOLLOWS:

**Putting health and community safety first requires a fundamental reorientation of policy priorities and resources, from failed punitive enforcement to proven health and social interventions.**

Both the stated goals of drug control policies, and the criteria by which such policies are assessed, merit reform. Traditional goals and measures – such as hectares of illicit crops eradicated, amounts of drugs seized, and number of people arrested, prosecuted, convicted and incarcerated for drug law

violations – have failed to produce positive outcomes. Far more important are goals and measures that focus on reducing both drug-related harms such as fatal overdoses, HIV/AIDS, hepatitis and other diseases as well as prohibition-related harms such as crime, violence, corruption, human rights violations, environmental degradation, displacement of communities, and the power of criminal organizations. Spending on counterproductive enforcement measures should be ended, while proven prevention, harm reduction and treatment measures are scaled up to meet need.

**Ensure equitable access to essential medicines, in particular opiate-based medications for pain.**

More than eighty per cent of the world’s population carries a huge burden of avoidable pain and suffering with little or no access to such medications. This state of affairs persists despite the fact that the avoidance of ill health and access to essential medicines is a key objective and obligation of the global drug control regime. Governments need to

establish clear plans and timelines to remove the domestic and international obstacles to such provision. They also should allocate the necessary funding for an international program – to be overseen by the World Health Organization (WHO) and developed in partnership with the United Nations Office on Drugs and Crime (UNODC) and the International Narcotics Control Board (INCB) – to ensure equitable and affordable access to these medicines where they are unavailable.

**Stop criminalizing people for drug use and possession – and stop imposing “compulsory treatment” on people whose only offense is drug use or possession.**

Criminalization of drug use and possession has little to no impact on levels of drug use in an open society. Such policies do, however, encourage high risk behaviours such as unsafe injecting, deter people in need of drug treatment from seeking it, divert law enforcement resources from focusing

on serious criminality, reduce personal and government funds that might otherwise be available for positive investment in people's lives, and burden millions with the long-lasting negative consequences of a criminal conviction. Using the criminal justice system to force people arrested for drug possession into ‘treatment’ often does more harm than good. Far better is ensuring the availability of diverse supportive services in communities. This recommendation, it should be noted, requires no reform of international drug control treaties.

**Rely on alternatives to incarceration for non-violent, low-level participants in illicit drug markets such as farmers, couriers and others involved in the production, transport and sale of illicit drugs.**

Governments devote ever increasing resources to detecting, arresting and incarcerating people involved in illicit drug markets – with little or no evidence that such efforts reduce drug-related problems or deter others from engaging in similar activities. Community-

based and other non-criminal sanctions routinely prove far less expensive, and more effective than criminalization and incarceration. Subsistence farmers and day laborers involved in harvesting, processing, transporting or trading and who have taken refuge in the illicit economy purely for reasons of survival should not be subjected to criminal punishment. Only longer-term socioeconomic development efforts that improve access to land and jobs, reduce economic inequality and social marginalization, and enhance security can offer them a legitimate exit strategy.

**Focus on reducing the power of criminal organizations as well as the violence and insecurity that result from their competition with both one another and the state.**

Governments need to be far more strategic, anticipating the ways in which particular law enforcement initiatives, particularly militarized

‘crackdowns’, may exacerbate criminal violence and public insecurity without actually deterring drug production, trafficking or consumption. Displacing illicit drug production from one locale to another, or control of a trafficking route from one criminal organization to another, often does more harm than good. The goals of supply-side enforcement need to be reoriented

from unachievable market eradication to achievable reductions in violence and disruption linked to the trafficking. Enforcement resources should be directed towards the most disruptive, problematic and violent elements of the trade – alongside international cooperation

to crack-down on corruption and money laundering. Militarizing anti-drug efforts is seldom effective and often counterproductive. Greater accountability for human rights abuses committed in pursuit of drug law enforcement is essential.

**Allow and encourage diverse experiments in legally regulating markets in currently illicit drugs, beginning with but not limited to cannabis, coca leaf and certain novel psychoactive substances.**

Much can be learned from successes and failures in regulating alcohol, tobacco, pharmaceutical drugs and other products and activities that pose health and other risks to individuals and societies. New experiments

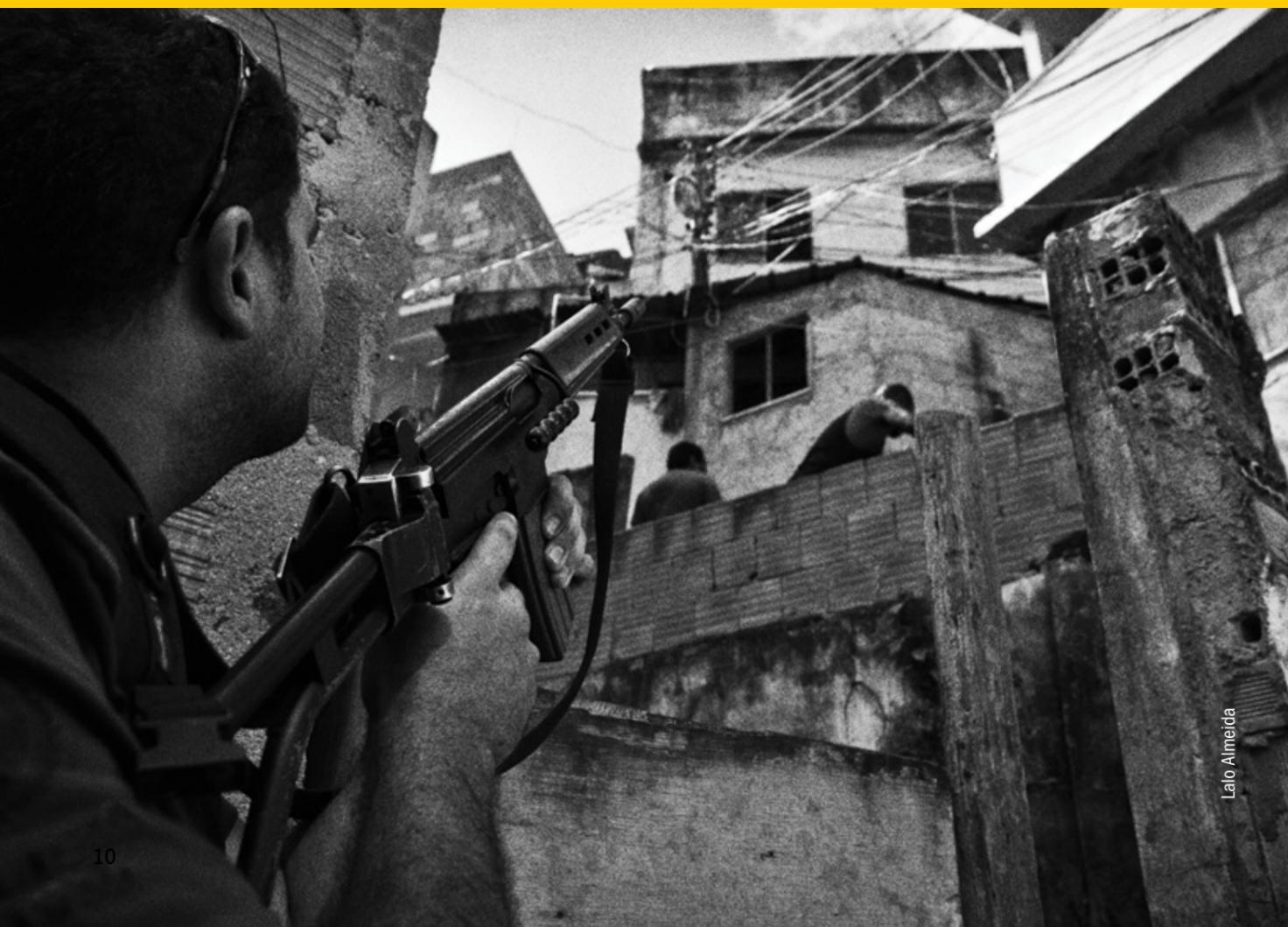
are needed in allowing legal but restricted access to drugs that are now only available illegally. This should include the expansion of heroin-assisted treatment for some long-term dependent users, which has proven so effective in Europe and Canada. Ultimately the most effective way to reduce the extensive harms of the global drug prohibition regime and advance the goals of public health and safety is to get drugs under control through responsible legal regulation.

**Take advantage of the opportunity presented by the upcoming UNGASS in 2016 to reform the global drug policy regime.**

The leadership of the UN Secretary-General is essential to ensure that all relevant UN agencies – not just those focused on law enforcement but also health, security, human rights and development – engage fully in a ‘One-UN’ assessment of global drug control strategies. The UN Secretariat should urgently facilitate open discussion including new ideas and recommendations that are grounded in scientific evidence, public health principles,

human rights and development. Policy shifts towards harm reduction, ending criminalization of people who use drugs, proportionality of sentences and alternatives to incarceration have been successfully defended over the past decades by a growing number of countries on the basis of the legal latitude allowed under the UN treaties. Further exploration of flexible interpretations of the drug treaties is an important objective, but ultimately the global drug control regime must be reformed to permit responsible legal regulation.

# 1. THE ‘WAR ON DRUGS’ HAS FAILED – NEW APPROACHES ARE EMERGING



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*Global drug prohibition has not only failed to achieve its original stated objectives, it has also generated alarming social and health problems. Alternative policies are emerging aimed at safeguarding the health and safety of communities, and strengthening security, human rights, and development.*

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The international drug control regime has two basic objectives.<sup>1</sup> The first is to ensure access to drugs for scientific and medical purposes. The second is to prohibit access to certain drugs for other uses. Notwithstanding an overarching goal to protect the ‘health and welfare of mankind,’ the regime, and policies adopted to support it since the 1960s, is premised on the criminalization of people who produce, sell or use drugs.

After more than half a century of this punitive approach, there is now overwhelming evidence that it has not only failed to achieve its own objectives, but has also generated serious social and health problems. If governments are genuinely committed to safeguarding the safety, health, and human rights of their citizens, they must urgently adopt new approaches. A number of national and local governments are already taking courageous steps in this direction.

The design of effective drug policy demands a clear reading of the issue. It requires making tight distinctions between the problems arising from drug use, such as dependence or overdose, and the problems generated by enforcement-led drug policies, such as the crime and violence associated with the illicit trade. Yet there is an unhelpful tendency by some governments to conflate the harms arising from drug consumption and the harms generated by repressive drug policy.

As a result, many policy makers talk in generalized terms of the ‘world drug problem’<sup>2</sup> or the ‘drug menace’. This threat-based narrative is routinely deployed by proponents of prohibition to justify the continuation, and in some cases intensification, of criminal justice measures that have fuelled many of the drug related harms to begin with. And in some parts of the world, this heavy handed approach burnishes their ‘tough on crime’ credentials.

In reality, the use of drugs encompasses a wide spectrum of behaviors. These range from the non-problematic to the compulsive and profoundly harmful. According to the UNODC, 10 per cent of people who use drugs globally are considered to be ‘problem users’.<sup>3</sup> This suggests that the significant majority of drug consumption is essentially non-problematic. Yet global drug policy continues to treat all drug use as if it constitutes a grave threat to society. Drug policy remains narrowly framed in terms of ‘combating’ the ‘evil’ of drug addiction.<sup>4,5</sup>

It is from this initial, flawed, generalization of all drug use as an ‘evil’ to be tackled with repressive criminal justice-based measures, that so many irrational and ineffective policy responses have flowed, and so many dysfunctional institutions emerged. These easy simplifications contribute to political decisions that are divorced from basic scientific, public health, and human rights norms. At the heart of the Global Commission’s recommendations, then, is a call for realigning global drug policy with these basic standards.

Until recently, decision makers have found it difficult to challenge the *status quo*. Advocacy for alternative policies is often portrayed as ‘surrendering’, as being ‘soft on drugs’, or even ‘pro-drugs’. Fortunately, the drug policy debate is beginning to move beyond such misconceptions and simple generalizations. The Global Commission’s call for reform underlines the importance of drug policy principles that actively protect – rather than undermine – the health and welfare of individuals and societies. There is no contradiction in being both ‘anti-drug’ and ‘pro-reform’.

# COUNTING THE COSTS OF OVER HALF A CENTURY OF THE 'WAR ON DRUGS'

## A FAILURE ON ITS OWN TERMS

The international community is further away than ever from realizing a 'drug-free world'. Global drug production, supply and use continue to rise despite increasing resources being directed towards enforcement.

- The UNODC's 'best estimate' for the number of users worldwide (past year use) rose from 203 million in 2008, to 243 million in 2012 – an 18 per cent increase, or a rise in prevalence of use from 4.6 per cent to 5.2 per cent in four years.<sup>6,7</sup>

- Global illicit opium production increased by more than 380 per cent since 1980, rising from 1,000 metric tons to over 4,000 today.<sup>8</sup> Meanwhile, heroin prices in Europe fell by 75 per cent since 1990 and by 80 per cent in the US since 1980, even as purity has risen.<sup>9</sup>
- The international drug control system is, by its own admission, 'floundering' in the face of the proliferation of novel psychoactive substances (NPS).<sup>10</sup> In 2013, the number of NPS exceeded the number of drugs prohibited under the international drug control framework.

## THREATENING PUBLIC HEALTH AND SAFETY

Punitive drug law enforcement fuels crime and maximizes the health risks associated with drug use, especially among the most vulnerable. This is because drug production, shipment and retail are left in the hands of organized criminals, and people who use drugs are criminalized, rather than provided with assistance.

- Clandestine production and retail often leads to adulterated drug products of unknown potency and purity that pose significantly higher risks. Examples of this problem include heroin contaminated with anthrax,<sup>11</sup> and cocaine cut with levamisole (a de-worming agent).<sup>12</sup>
- More than one third (37 per cent) of Russia's 1.8 million people injecting drugs are infected with HIV. Owing to a preference for criminalizing users, access to life-saving harm

reduction services, such as needle exchange and syringe programs (NSP), is either highly restricted, or in the case of opioid substitution treatment (OST), banned outright.<sup>13</sup>

- The current drug control regime has generated significant legal and political obstacles to the provision of opiates for pain control and palliative care. There are over 5.5 billion people with severely limited or no access to the medicines they need.<sup>14</sup>
- Restrictive policies increase the risk of premature death from overdoses and acute negative reactions to drug consumption. For example, in 2010, there were more than 20,000 illicit-drug overdose deaths in the US.<sup>15</sup> Naloxone – a drug that can counter the effects of opiate overdoses – is still not universally available.

## UNDERMINING HUMAN RIGHTS, FOSTERING DISCRIMINATION

Punitive approaches to drug policy are severely undermining human rights in every region of the world. They lead to the erosion of civil liberties and fair trial standards, the stigmatization of individuals and groups – particularly women, young people, and ethnic minorities – and the imposition of abusive and inhumane punishments.

- Although the death penalty for drug offences is illegal under international law<sup>16</sup> it is nevertheless retained by 33 countries. As a result of such offences, around 1,000 people are executed every year.<sup>17</sup>
- Drug law enforcement has fuelled a dramatic expansion of people in detention (prisons, pretrial detainees, people held in administrative detention). Many people are held in

mandatory 'drug detention' centers, including some 235,000 people in China and South East Asia.<sup>18</sup>

- Globally, more women are imprisoned for drug offences than for any other crime.<sup>19</sup> One in four women in prison across Europe and Central Asia are incarcerated for drug offences,<sup>20</sup> while in many Latin American countries such as Argentina (68.2 per cent),<sup>21</sup> Costa Rica (70 per cent)<sup>22</sup> and Peru (66.38 per cent)<sup>23</sup> the rates are higher still.
- Drug law enforcement disproportionately impacts on minorities. In the US, African Americans make up 13 per cent of the population. Yet they account for 33.6 per cent of drug arrests and 37 per cent of people sent to state prison on drug charges. Similar racial disparities have been observed elsewhere including the UK,<sup>24</sup> Canada<sup>25</sup> and Australia.<sup>26</sup>

## FUELING CRIME AND ENRICHING CRIMINALS

Rather than reduce crime, enforcement-based drug policy actively fuels it. Spiraling illicit drug prices provide a profit motive for criminal groups to enter the trade, and drive some people who are dependent on drugs to commit crime in order to fund their use.

- Drug prohibition has fuelled a global illegal trade estimated by the UNODC to be in the hundreds of billions. According to 2005 data, production was valued at \$13 billion, the wholesale industry priced at \$94 billion and retail estimated to be worth \$332 billion.<sup>27</sup> The wholesale valuation

for the drugs market is higher than the global equivalent for cereals, wine, beer, coffee, and tobacco combined.<sup>28</sup>

- Illicit, unregulated drug markets are inherently violent. Paradoxically, successful interdiction efforts and arrests of drug cartel leaders and traffickers routinely create power vacuums. These in turn can spur renewed violence as the remaining players compete to gain market share.<sup>29</sup>
- The trafficking in illicit drugs can strengthen armed groups operating outside the rule of law. For example, the opium trade earns paramilitary groups operating along the Pakistan-Afghanistan border up to \$500 million a year.<sup>30</sup>

## UNDERMINING DEVELOPMENT AND SECURITY, FUELING CONFLICT

Criminal drug producers and traffickers thrive in fragile, conflict-affected and underdeveloped regions, where vulnerable populations are easily exploited. The corruption, violence, and instability generated by unregulated drug markets are widely recognized as a threat to both security and development.

- Estimates of deaths from violence related to the illegal drug trade in Mexico since the war on drugs was scaled-up in 2006 range from 60,000 to more than 100,000.<sup>31</sup>

- Illegal drug profits fuel regional instability by helping to arm insurgent, paramilitary and terrorist groups.<sup>32</sup> The redirection of domestic and foreign investment away from social and economic priorities toward military and policing sectors has a damaging effect on development.
- In Colombia, approximately 2.6 million acres of land were aerially sprayed with toxic chemicals as part of drug crop eradication efforts between 2000 and 2007. Despite their destructive impact on livelihoods and land, the number of locations used for illicit coca cultivation actually increased during this period.<sup>33</sup>

## WASTING BILLIONS, UNDERMINING ECONOMIES

Tens of billions are spent on drug law enforcement every year.<sup>34</sup> And while good for the defense industry, there are disastrous secondary costs, both financial and social.

- The emphasis on counterproductive law enforcement strategies to tackle drugs generates 'policy displacement'. In other words, it distracts attention and resources from proven health interventions, other police priorities, and other social services.<sup>35</sup>
- The illicit drug trade creates a hostile environment for legitimate business interests. It deters investment and tourism, creates sector volatility and unfair competition (associated with money laundering), and distorts the macroeconomic stability of entire countries.

- The illicit drug business also corrodes governance. A 1998 study from Mexico<sup>36</sup> estimated that cocaine traffickers spent as much as \$500 million a year on bribes, more than the annual budget of the Mexican attorney general's office. As of 2011, Mexican and Colombian drug trafficking groups launder up to \$39 billion a year in wholesale distribution proceeds.<sup>37</sup>

# PATHWAYS TO DRUG POLICY REFORM AROUND THE WORLD

Many countries are already changing their drug policies. And there are multiple pathways to more humane and effective strategies.



## United States

Today, 23 US states have legal medical cannabis markets, and 17 states have decriminalized the personal possession of cannabis for non-medical use since Oregon became the first to do so in **1973**. Reforms are also currently underway that would put an end to the use of mandatory minimum sentences for low-level drug offenders.



## The Netherlands

A **1976** law led to the evolution of a *de facto* legal system of cannabis sales, made via so-called cannabis 'coffee shops'. Pressure is now growing from municipal governments and the public to legally regulate not just retail supply, but production too.



## Switzerland, Germany, Denmark and the Netherlands

Since the **1980s**, these countries have pioneered the development of pragmatic approaches to reducing the harms faced by people who inject drugs, establishing needle and syringe programs, opiate substitution treatment, heroin-assisted treatment programs and supervised drug consumption facilities.



## Moldova

Since **1999**, Moldova has been considered a world leader in provision of harm reduction services in prisons, including opioid substitution treatment and needle and syringe programs.



## Iran

Since **2000**, the provision of harm reduction services, including opioid substitution treatment and needle and syringe programs, has expanded in Iran. The country now also provides such services to prisoners.



## Portugal

In **2001**, Portugal removed criminal penalties for personal possession of all drugs and implemented a more health-centered approach to drugs that included proven harm reduction measures.



## Australia

The Sydney Medically Supervised Injection Centre was opened in **2001**.



## Canada

Canada is home to two medically supervised safer injecting facilities, the first of which opened in **2003**. At these facilities, dependent drug users can inject pre-obtained illicit drugs. Canada has also conducted two trials of heroin assisted therapy.



## Ukraine

Since **2004**, Ukraine, supported by the Global Fund, has had the most extensive harm reduction provision in Eastern Europe. By 2012 it reached over 171,000 people who use drugs, with numbers of new HIV cases falling in 2011 for the first time since 1999.<sup>38</sup>



## China and Vietnam

Long opposed to harm reduction measures, both China and Vietnam have since **2004** adopted large-scale opioid substitution and needle and syringe programs



## Spain and Belgium

Since **2005**, activist-led 'cannabis social clubs' have utilized laws that permit small-scale cultivation of cannabis plants for personal consumption, in order to establish a *de facto* legal system of production and supply for club members.



## Ecuador

Ecuador decriminalized personal possession of drugs in 1990, and in **2008** pardoned many so-called 'drug mules' who were serving prison sentences.



## Latin America

In **2009**, led by three former presidents, the Latin American Commission on Drugs and Democracy launched 'Drugs and Democracy: Towards a Paradigm Shift',<sup>39</sup> kick-starting the high level hemispheric debate on drug law reform.



## Czech Republic

In **2009**, the Czech Republic removed criminal penalties for personal drug possession, following an impact assessment that demonstrated the failings of previous punitive approaches.



## Global

In **2011**, the Global Commission on Drug Policy launched its report - War on Drugs. The report has transformed the global debate on drug policy. Its launch inspired national changes in legislation and emboldened civil societies to call for reform around the world.



## Washington and Colorado in the United States

In **2012**, following ballot initiatives approved by voters, the states of Washington and Colorado became the first jurisdictions in the world to establish legally regulated markets for non-medical cannabis.



## Bolivia

In **2012**, Bolivia became the first country to withdraw from the 1961 UN Single Convention on Narcotic Drugs, following a dispute over the traditional cultivation and use of coca leaf. It was later readmitted to the convention, with a reservation on coca.



## Uruguay

In **2013**, Uruguay became the first nation state to pass legislation to establish a legal, regulated market for non-medical cannabis.



## New Zealand

In **2013**, New Zealand passed groundbreaking legislation that permits the legally regulated sale of certain lower-risk novel psychoactive substances (NPS), the control of which is not covered by existing international law.



## Tanzania

In **2013**, Tanzania became the first sub-Saharan country to launch a national methadone program.



## The Americas

In **2013**, the Organization of American States published its 'Report on the Drug Problem in the Americas'<sup>40</sup> - the first report from a multilateral organization to meaningfully engage with wider drug law reform questions.



## West Africa

A **2014** report by the West Africa Commission on Drugs cautioned: "West Africa must not become a new front line in the failed 'war on drugs,' which has neither reduced drug consumption nor put traffickers out of business", and recommended "the consumption and possession for personal use of drugs should not be criminalized".<sup>41</sup>



## The Caribbean

Cannabis law reform is now being discussed across the region. In Jamaica, a government taskforce has been investigating the possibility of legally regulating the drug, and in **2014** a new decriminalization approach to cannabis possession was announced.



## UNGASS 2016

United Nations General Assembly Special Session on the World Drug Problem. Momentum for reform is building.

1970 1980 1990 2000

2010

2016

## 2. KEY PATHWAYS TO DRUG POLICIES THAT WORK



*The international drug control system was founded with two core goals. First, it sought to reduce the negative health consequences generated by drugs. Second, it promised to guarantee access to essential medicines. Neither of these aims has been achieved. To the contrary, drug policy emphasizing criminal justice has generated new social and health problems.*

*The Global Commission recommends a comprehensive approach to drug policy. If governments are to deliver on the original promise of the international drug control system, ineffective and harmful enforcement-led approaches must be replaced with responses that prioritize public health and community safety. There are at least five basic policy shifts that are urgently required.*

*The five pathways proposed by the Global Commission are complementary – they form a comprehensive set of proposals. There are some that can and should be implemented at once. Putting health first is essential. Ensuring access to life-saving medicines, ending criminalization, and refocusing law enforcement are immediate actions that can and should be pursued now. Regulation offers the most transformative route to getting drugs under control, reducing violence, undermining crime and improving people's safety and wellbeing.*

## 2.1 PUT PEOPLE'S HEALTH AND SAFETY FIRST

*Instead of punitive and harmful prohibition, policies should prioritize the safeguarding of people's health and safety. This means investing in community protection, prevention, harm reduction, and treatment as cornerstones of drug policy.*

Virtually everyone agrees that the good health of the population should be the first priority of drug policy. Yet if this aspiration is to be realized in practice, a change of approach is urgently needed. In addition to a redoubled focus on reducing drug-related health harms (above all dependency, overdose, and the transmission of infectious blood-borne diseases) there is also a need to clarify the principles underpinning an approach that genuinely focuses on public health.

Such an approach must overcome political barriers and be backed by adequate investment in evidence-based policy and practice. It should enable societies to more effectively prevent and delay drug use among young people, reduce risks for those who do decide to experiment with drugs, and provide appropriate treatment options for individuals with dependence or substance use disorders.

Prevention, harm reduction and treatment strategies should also be compliant with basic human rights, respond compassionately to the needs of the intended beneficiaries and be cost-effective. Unfortunately, the emotive and ideological nature of drug policy means this is seldom the case. Instead, best practice is frequently derailed by unhelpful and unrealistic aspirations for a 'drug-free world' and an overly narrow focus on abstinence-based approaches. Policies too often rely on expensive 'zero-tolerance' measures which routinely do more harm than good, and there is rarely real engagement with robust monitoring and evaluation to measure impacts.

### PREVENTION

Prevention includes interventions that prevent and delay the initiation of drug use, address high-risk behavior, and limit progression to dependent or problematic use. Such interventions are a vital front-line component of a health-centered approach. The evidence of effectiveness for different preventive interventions is growing. Even so, there are gaps in knowledge since most research is conducted in higher-income environments,<sup>42</sup> particularly North America and Western Europe. As a result, most scientific evaluations are biased toward abstinence-based approaches, school-based programs and intervention aimed at young children. There is a pressing need for more rigorous evaluations of a wider range of interventions, including in medium- and low-income settings.

In many countries, prevention strategies are still narrowly confined to simplistic drug education measures. Such programs advocate 'just say no' messaging, shock tactics and the provision of selective – and in many cases erroneous – information. While aligned with

*"In seeking to reduce drug-related harm, without judgment, and with respect for the inherent dignity of every individual, regardless of lifestyle, harm reduction stands as a clear example of human rights in practice."<sup>43</sup>*

**Professor Paul Hunt, former UN Special Rapporteur on the Right to Health, 2010**

political priorities advocating zero tolerance, the available evidence indicates that these strategies – in particular those that involve mass-media campaigns and drug testing in schools – are at best ineffective, and at worst harmful.<sup>44,45,46</sup> In many cases, young people simply do not trust prevention messages issued by state authorities – particularly if those authorities are simultaneously administering punitive sanctions to those who possess and use drugs.

A wider array of evidence-based interventions is necessary to address the many needs of different groups, and adequate resourcing for both services and evaluation is essential. A 'just say know' approach may yield a more positive impact among those for whom a 'just say no' campaign has failed. Prioritizing safety and responsibility among older youth is a priority. A reliance on abstinence alone seldom generates lasting results. Instead what is needed is an emphasis on supporting young people to make informed decisions based on credible scientific information.

The most effective forms of prevention are those that are comprehensive. Rather than pursuing stand-alone interventions, drug prevention strategies should be integrated into a wider social and health policy framework, addressing environmental influences and opportunities for social development. This means informing and encouraging responsible decision making not just around drugs, but also of other risky behaviors, including alcohol and tobacco use, unsafe sex, and unhealthy eating. Prevention should also address populations that are historically overlooked, including non-dependent users of drugs in environments outside school such as street and club scenes.<sup>47</sup>

### RECOMMENDATION 1

*Putting health and community safety first requires a fundamental reorientation of policy priorities and resources, from failed punitive enforcement to proven health and social interventions. Both the stated goals of drug control policies, and the criteria by which such policies are assessed, merit reform. Traditional goals and measures – such as hectares of illicit crops eradicated, amounts of drugs seized, and number of people arrested, prosecuted, convicted and incarcerated for drug law violations – have failed to produce positive outcomes.*

*Far more important are goals and measures that focus on reducing both drug-related harms such as fatal overdoses, HIV/AIDS, hepatitis and other diseases as well as prohibition-related harms such as crime, violence, corruption, human rights violations, environmental degradation, displacement of communities, and the power of criminal organizations. Spending on counterproductive enforcement measures should be ended, while proven prevention, harm reduction and treatment measures are scaled up to meet need.*

### REDUCING HARMS ASSOCIATED WITH DRUG USE

Many interventions that successfully reduce the harms associated with drug use are strongly supported by scientific evidence.<sup>48</sup> These include needle exchange and syringe programs, opioid substitution treatment, supervised drug consumption facilities, and overdose prevention and reversal (including the provision of naloxone<sup>49</sup>). These measures are highly cost-effective and, where adequately resourced, contribute to significant public health improvements.<sup>50</sup> However, there are considerable political

obstacles to the provision of harm reduction. Many elected officials and their constituents are reluctant to accept the impossibility of eradicating drugs. They often feel that support to harm reduction somehow condones the use of drugs. As a result, funding is often several orders of magnitude less than that allocated for law enforcement.<sup>51,52</sup> The Global Commission reiterates its calls for the scaling-up of harm reduction services to meet demand – in accordance with the joint guidance provided by WHO, UNAIDS and UNODC<sup>53</sup> – and that legislative and political obstacles to such provision be lifted wherever they remain.

*"The concept of 'harm reduction' is often made into an unnecessarily controversial issue as if there were a contradiction between prevention and treatment on one hand, and reducing the adverse health and social consequences of drug use on the other hand. This is a false dichotomy. These policies are complementary."<sup>54</sup>*

**UN Office on Drugs and Crime 'World Drugs Report 2008'**

### TREATMENT

Treating problematic or dependent drug use is a key responsibility of governments. It is not just a moral obligation, but also clearly defined within international drug control and human rights laws. A wide range of treatment options exists – including various psycho-social, abstinence-based, behavioral and substitution-based therapies – which have been shown to be effective at improving health and reducing the social costs of drug misuse.

The treatment model most likely to deliver the best outcomes for an individual is one decided between the individual and their doctor or service provider, free from political interference or coercion. The concept of 'holistic care' is also important, and can improve treatment outcomes. It involves addressing not only an individual's drug-use issues, but other areas of his or her life including mental health, housing, and employment training.

However, in most countries the range of available treatments is limited. It is often restricted to a single abstinence-only model, while provision is only sufficient to meet a small fraction of demand, or is poorly targeted, failing to focus resources where need is greatest. At the same time, abusive practices carried out in the name of treatment, such as arbitrary detention, forced labor, and physical or psychological abuse, continue to be widespread.<sup>55</sup>

## 2.2 ENSURE ACCESS TO ESSENTIAL MEDICINES AND PAIN CONTROL

*The international drug control system is failing to ensure equitable access to essential medicines such as morphine and methadone, leading to unnecessary pain and suffering. The political obstacles that are preventing member states from ensuring an adequate provision of such medicines must be removed.*

Access to essential medicines is a core component of the internationally recognized right to the highest attainable standard of health.<sup>56,57</sup> Although such access is one of the two core aims of the international drug control system, concerns regarding the abuse and diversion of opiates into the criminal market have overshadowed the goal from the outset. Owing to what some physicians call 'opioidphobia' there is a continued lack of, or inadequate access to, essential medicines for the treatment of severe pain and opioid dependence around the world.

Global and national drug control efforts aimed at prohibiting the non-medical use of opioids have a chilling effect on medical use in lower- and middle-income countries. Unduly restrictive regulations and policies – such as those limiting doses or banning particular preparations – are routinely imposed in the name of preventing diversion. According to the WHO, these measures contribute to a global health crisis which leaves over 5.5 billion people (83 per cent of the world's population) – including 5.5 million terminal cancer patients – with little or no access to opioid-based medicines.<sup>58</sup>

As of 2014, strong opioids and opiates are virtually unobtainable in over 150 countries. Consequently, access to opioid substitution treatment remains heavily restricted in the majority of UN member states, and in some states, including Russia, banned altogether. This is despite the fact that morphine and methadone are both included on the WHO Model List of Essential Medicines.<sup>59</sup>

Removing barriers to the provision of essential opioid medicines is a global public health priority that demands the international community's urgent attention.<sup>60</sup> It is not acceptable to wait for broader reform consensus; demand for these medicines is driven not by parochial political expediencies, but by the universal human susceptibility to illness and pain. The international community must make equitable access to controlled medicines for pain, palliative care and opioid dependency a top priority as the developing world confronts the growing burden of ageing, accidents, and non-communicable diseases.

### RECOMMENDATION 2

*Ensure equitable access to essential medicines, in particular opiate-based medications for pain. More than 80 per cent of the world's population carries a huge burden of avoidable pain and suffering with little or no access to such medications. This state of affairs persists despite the fact that the avoidance of ill health is a key objective and obligation of the global drug control regime. Governments need to establish clear plans and timelines to remove the domestic and international obstacles to such provision. They also should provide the necessary funding for an international program – to be overseen by the WHO and developed in partnership with the UNODC and the INCB – to ensure equitable and affordable access to these medicines where they are unavailable.*

## 2.3 END THE CRIMINALIZATION AND INCARCERATION OF PEOPLE WHO USE DRUGS

*Criminalizing people for the possession and use of drugs is wasteful and counterproductive. It increases health harms and stigmatizes vulnerable populations, and contributes to an exploding prison population. Ending criminalization is a prerequisite of any genuinely health-centered drug policy.*

Punitive drug law enforcement is predicated on the idea that criminalization serves as a deterrent. Notwithstanding its popularity, this theory is not supported by evidence. Instead, research indicates that criminalizing drug users actually worsens drug-related problems. Comparative studies among different countries reveal no correlation between intensity of enforcement and prevalence of use.<sup>61</sup> Research within countries, looking at the effects of changes in drug laws over time, comes to the same conclusion.<sup>62,63</sup>

But criminalization is not only ineffective from the perspective of deterring use. As detailed in previous Global Commission reports,<sup>64</sup> criminalization – whether of drug use, possession of small quantities for personal use, or possession of drug paraphernalia – is a key driver of a range of health and social harms. Criminalization is the opposite of a pragmatic, health-centered, harm reduction approach – it is, in effect, a policy of harm maximization.

Criminalization has a disproportionately damaging impact on public health affecting populations who are already marginalized and vulnerable. It encourages higher-risk behavior such as the sharing of injection equipment, which leads to HIV and hepatitis C transmission.<sup>65</sup> Criminalization pushes drug use into unhygienic marginal environments, increasing the risk of infection and death from overdose, and it expands the total population of people using and injecting drugs in prison, a high-risk environment widely associated with poor health service provision.

Furthermore, criminalization introduces political and practical obstacles to the implementation of proven health interventions. Many of those most in need of treatment, harm reduction, or credible information – in particular young people who may be beginning to experiment with drugs – are reluctant to seek help for fear of arrest, a criminal record, and the resulting stigma. Criminalization also discourages people from requesting medical assistance when friends or family members suffer overdoses. The introduction of 'Good Samaritan' laws in most US states,<sup>66</sup> which encourage people to call emergency services by offering them immunity from prosecution, are a good example of a pragmatic harm reduction approach.

Ultimately, the criminalization of drug users brings no benefits to society. Instead, it generates a legacy of stigmatization, undermining basic life opportunities such as access to housing,

credit and personal finance and meaningful employment. Paradoxically, all of these protective factors are positively correlated with improved likelihood of recovery for problematic users, and health and wellbeing of people who use drugs more broadly. Yet substantial resources are still devoted to counterproductive enforcement measures, while proven health interventions are starved of resources, a situation that must be reversed.

*“Countries should work toward developing policies and laws that decriminalize injection and other use of drugs and, thereby, reduce incarceration.*

*Countries should work toward developing policies and laws that decriminalize the use of clean needles and syringes (and that permit NSPs) and that legalize OST for people who are opioid-dependent.*

*Countries should ban compulsory treatment for people who use and/or inject drugs.”<sup>67</sup>*

**World Health Organization, 2014**

The Global Commission contends that for any jurisdiction, ending the criminalization of people who use drugs (commonly referred to as 'decriminalization' – see Glossary, page 45) is an absolute prerequisite for any genuinely health-based approach. This is the baseline from which future policy and programming innovations can evolve. Taking this first step is an urgent priority, and since it requires no amendment to existing UN drug treaties, it can happen immediately with no international legal implications.<sup>68</sup>

Ending the criminalization of people who use drugs does not mean rejecting the role of the police or criminal justice system. But it does imply that some rethinking of their roles is required, together with the metrics and strategies used to judge successful drug policy. There are many examples of measures demonstrating how local police forces can work in partnership with public health professionals and other service providers to achieve better health outcomes.

Police can actively support harm reduction measures such as needle exchange and syringe programs, opioid substitution therapy, and supervised drug consumption facilities, and can be trained in overdose prevention. When people who use drugs come into contact with police, they can also be referred to relevant health services.<sup>69</sup> Overall, police can play a crucial role in promoting community safety, though this demands adequate investment in strategic direction, management and training.

### RECOMMENDATION 3

*Stop criminalizing people for drug use and possession – and stop imposing ‘compulsory treatment’ on people whose only offense is drug use or possession. Criminalization of drug use and possession has little to no impact on levels of drug use in an open society. Such policies do, however, encourage high risk behaviours such as unsafe injecting, deter people in need of drug treatment from seeking it, divert law enforcement resources from focusing on serious criminality, reduce personal and government funds that might otherwise be available for positive investment in people’s lives, and burden millions with the long-lasting negative consequences of a criminal conviction. Using the criminal justice system to force people arrested for drug possession into ‘treatment’ often does more harm than good. Far better is ensuring the availability of diverse supportive services in communities. This recommendation, it should be noted, requires no reform of international drug control treaties.*

### REVISITING DRUG COURTS

Several countries have taken concrete steps to replace the incarceration of drug offenders with their diversion into supervised treatment programs monitored and enforced by the criminal justice system. The most notable example of this practice is the use of ‘drug courts’ in the US, which are widely lauded across North America.

Compared to more punitive responses, drug courts appear – at least superficially – to be a move in the right direction. Yet the devil is in the detail of how such programs are administered. Most sentences issued by drug courts demand abstinence, with opioid substitution treatment often arbitrarily denied.<sup>70</sup> There are good reasons to be skeptical of their effectiveness.<sup>71</sup>

Abstinence is typically enforced with regular drug testing and the threat of incarceration for those who register positive results. This in effect means that people are punished for relapse – an acknowledged reality in drug dependence. It also raises ethical concerns about whether and when treatment can involve coercion.<sup>72</sup> Individuals are required to waive constitutional trial rights to participate in drug court programs: failure to successfully complete the program results in an automatic criminal conviction.

Although some types of court-ordered treatment may be appropriate for certain drug-using offenders guilty of violent or predatory offences, this is not the case for those convicted only of drug possession or use. The Commission finds that, on their own, drug courts are conceptually flawed and insufficient. They represent an attempt to retrospectively impose a health-based approach within a failed criminal justice paradigm. What is required is a more fundamental realignment towards a public health centered paradigm, one that both reduces the likelihood of people who use drugs coming into contact with the criminal justice system in the first place, and that also makes prevention, harm reduction and treatment services available according to need.

## 2.4 REFOCUS ENFORCEMENT RESPONSES TO DRUG TRAFFICKING AND ORGANIZED CRIME

*A more targeted enforcement approach is needed to reduce the harms of the illicit drug markets and ensure peace and security. Governments should deprioritize the pursuit of non-violent and minor participants in the market, instead directing enforcement resources towards the most disruptive and violent elements of the drug trade.*

Reversing the current punitive approach to drug users does not mean scaling down the fight against organized criminals involved in the drug trade. The extent of drug trafficking organizations is immense and growing in many regions generating widespread violence, insecurity, corruption, economic and political instability.<sup>73,74,75</sup> But if meaningful progress is to be made in tackling these problems, policy makers must, as part of the wider paradigm shift advocated by the Global Commission, challenge and reconsider a number of established assumptions, goals, and practices when it comes to taking on organized crime.

A starting point must be an acknowledgement that prohibition, in the face of rising global demand, is counterproductive. It creates the vast profit margins that sustain the illegal trade and enriches organized crime groups responsible for undermining peace and security around the globe. Many veteran police representatives fully understand this issue, and their concerns should be listened to.<sup>76</sup> A sober analysis is required of the unintended negative consequences of misguided drug law enforcement and the costs and benefits arising from different forms of intervention.

Furthermore, misconceptions about drug markets and how they function must be corrected. For one, significant sectors of the trade function in a relatively stable and non-violent manner, and the majority of those involved are not violent cartel members. Most drug growers, drug mules and drug runners are drawn into the trade not out of greed, but economic necessity. Some refer to the drug economy as a ‘survival economy’.<sup>77</sup> Harsh enforcement targeting these individuals and groups not only fails to generate a meaningful impact on the scale of illicit drug markets, it also drains limited resources, results in overcrowded prisons, encourages low-level corruption, and undermines families and communities.

The burden of enforcement responses to curb drug production and trafficking invariably falls heaviest on the most vulnerable and marginalized members of society – low-income groups, children and young people, women, people who are dependent on drugs, and ethnic minorities. The case for ending punitive responses to low-level, non-violent operatives in the illicit drug trade is therefore based on much of the same pragmatic reasoning that underpins the case for eliminating penalties for people who use drugs. It can also be made on development grounds, since enforcement disproportionately hits the poor and marginalized.

The first priority should be to put in place more proportionate responses. To start with, this will require immediately ending the illegal use of the death penalty and corporal punishment,<sup>78</sup> as well as the expensive and counterproductive use of incarceration. Where punitive sanctions are deployed, these should preferably be community-based and include support for helping people exit from the drug trade, promoting rehabilitation, developing skills and alternative livelihoods. Such approaches are not only more humane – they are cost-effective. The resort to criminal prosecutions should be avoided. The stigma that accompanies a criminal record makes reintegration into the legitimate economy more difficult and re-entry into the criminal economy more likely.

An alternative response is also necessary to deal with those higher up the criminal hierarchy. The ‘war on drugs’ represents a poor application of strategy and tactics. Approaches must instead be measured and pragmatic if peace and stability are to be restored where a culture of war has flourished. All-out militarized enforcement responses have, counter-intuitively, undermined security in places like Afghanistan, Colombia, and Mexico.

*“For decades, Colombia implemented all conceivable measures to fight the drug trade in a massive effort whose benefits were not proportional to the vast amount of resources invested and the human costs involved. Despite the country’s significant achievements in fighting the drug cartels and lowering the levels of violence and crime, the areas of illegal cultivation are again expanding as well as the flow of drugs coming out of Colombia and the Andean region.”<sup>79</sup>*

**Latin American Commission on Drugs and Democracy, 2009**

A 2011 review found that increased enforcement pressure on illicit drug markets around the world was associated with increases, rather than decreases, in levels of violence.<sup>80</sup> In some cases, militarized responses in one country have resulted in dramatic spikes in violence in others.<sup>81</sup>

Nor is there compelling evidence that supply-side enforcement has achieved lasting reductions in total drug production or availability. Despite increasing resources directed towards eradication and interdiction, drug production has more than kept pace with growing global demand, and localized 'successes' often appear to displace production or trafficking routes elsewhere (the 'balloon effect' described by the UNODC<sup>82</sup>). Militarized enforcement responses have sometimes led to infiltration and corruption of governments, armies and police by cartels, and a culture of impunity for human rights abuses, especially extra-judicial killings and disappearances.<sup>83</sup>

Where enforcement lacks strategic direction, it is generally the lowest down in the drug supply chain who are affected. The focus on generic targets such as arrest quotas or drug seizures can lead to a spike in apprehensions and arrests, but often of the least relevant players. Such approaches yield virtually no long-term impact on levels of drug production since there is always a ready supply of individuals willing to fill the resulting labor gap. Instead what is achieved is a temporary geographical displacement of criminal activity and the overloading of prisons and criminal justice systems.<sup>84</sup>

*"West Africa, a region with limited resources, would remove a huge weight from an already over-burdened criminal justice system if it were to decriminalize drug use and possession, and expend greater effort in pursuing those traffickers whose 'pernicious behavior has a much deeper impact on society,' and rooting out corruption from within. More specifically, freed up resources can be channeled to more promising law enforcement alternatives such as 'focused-deterrence strategies, selective targeting, and sequential interdiction efforts.'"*<sup>85</sup>

**West Africa Commission on Drugs, 2014**

#### **RECOMMENDATION 4**

*Rely on alternatives to incarceration for non-violent, low-level participants in illicit drug markets such as farmers, couriers and others involved in the production, transport and sale of illicit drugs. Governments devote ever increasing resources to detecting, arresting and incarcerating people involved in illicit drug markets – with little or no evidence that such efforts reduce drug-related problems or deter others from engaging in similar activities. Community-based and other non-criminal sanctions routinely prove far less expensive, and more effective than criminalization and incarceration. Subsistence farmers and day laborers involved in harvesting, processing, transporting or trading who have taken refuge in this illicit economy purely for reasons of survival of their families should not be subjected to criminal punishment. Only longer-term socio-economic development efforts that improve access to land and jobs, reduce economic inequality and social marginalization, and enhance security can offer them a legitimate exit strategy.*

Looking forward, attempts to prevent and reduce the harms generated by organized crime involvement in drug production and trafficking must involve social and economic development for affected communities. Governments can also support moves to progressively reduce the influence of organized crime groups through a phased transition towards legally regulated drug markets (see 2.5). These two approaches are, however, not the only ways in which the harm caused by illicit drug markets and organized crime can be lessened. There is good evidence that, in the shorter term, more strategically deployed enforcement efforts can reduce violence and insecurity.

*"I've been a health minister in my past and there's no doubt that the health position would be to treat the issue of drugs as primarily a health and social issue rather than a criminalized issue... To deal with drugs as a one-dimensional, law-and-order issue is to miss the point ... We have waves of violent crime sustained by drug trade, so we have to take the money out of drugs ... The countries in the region that have been ravaged by the armed violence associated with drug cartels are starting to think laterally about a broad range of approaches and they should be encouraged to do that ... They should act on evidence."*<sup>86</sup>

**Helen Clark, Administrator of the United Nations Development Program, 2013**

Governments could benefit by redefining the goals of drug law enforcement to what is achievable rather than arbitrary politically motivated benchmarks. This requires adopting an approach to managing problematic drug markets that is, in some respects, analogous to harm reduction approaches for managing problematic drug users. In practice, this means focusing on reducing the most pernicious effects of illicit markets, rather than necessarily eradicating them. The deployment of resources toward the most violent and disruptive elements of illicit drug markets can be an effective way of achieving this.<sup>87</sup>

Recent experiences in Latin American and North American cities have demonstrated that it is possible to reduce the drug trade's negative impacts with demographically and geographically focused strategies.<sup>88</sup> Selective deterrence focused on high-risk perpetrators, especially gangs, has yielded some positive returns. Likewise, intelligence-led targeting of enforcement that increases the costs for the most disruptive elements of the drug market, can maximize the impact of limited enforcement resources and improve public safety.<sup>89,90,91,92</sup>

Such refocused efforts can complement ongoing international co-operation to address money laundering and corruption related to the illicit drug trade. Investment in strengthening criminal justice institutions will also support more effective enforcement responses. However, this does not imply simply increasing the 'firepower' of law enforcers. Rather, it requires that resources should be directed towards reinforcing the rule of law and fostering trust between communities and the police. A key element of this process is better monitoring and improved systems of accountability, so that law enforcement officials do not operate within a culture of impunity that too often permits human rights abuses and perpetuates corruption.

#### **RECOMMENDATION 5**

*Focus on reducing the power of criminal organizations as well as the violence and insecurity that result from their competition with both one another and the state. Governments need to be far more strategic, anticipating the ways in which particular law enforcement initiatives, particularly militarized 'crackdowns', may often exacerbate criminal violence and public insecurity without actually deterring drug production, trafficking or consumption. Displacing illicit drug production from one locale to another, or control of a trafficking route from one criminal organization to another, often does more harm than good.*

*The goals of supply-side enforcement need to be reoriented from unachievable market eradication to achievable reductions in violence and disruption linked to the trafficking. Enforcement resources should be directed towards the most disruptive, problematic and violent elements of the trade – alongside international cooperation to crack-down on corruption and money laundering. Militarizing anti-drug efforts is seldom effective and often counterproductive. Greater accountability for human rights abuses committed in pursuit of drug law enforcement is essential.*

## 2.5 REGULATE DRUG MARKETS TO PUT GOVERNMENTS IN CONTROL

*The regulation of drugs should be pursued because they are risky, not because they are safe. Different models of regulation can be applied for different drugs according to the risks they pose. In this way, regulation can reduce social and health harms and disempower organized crime.*

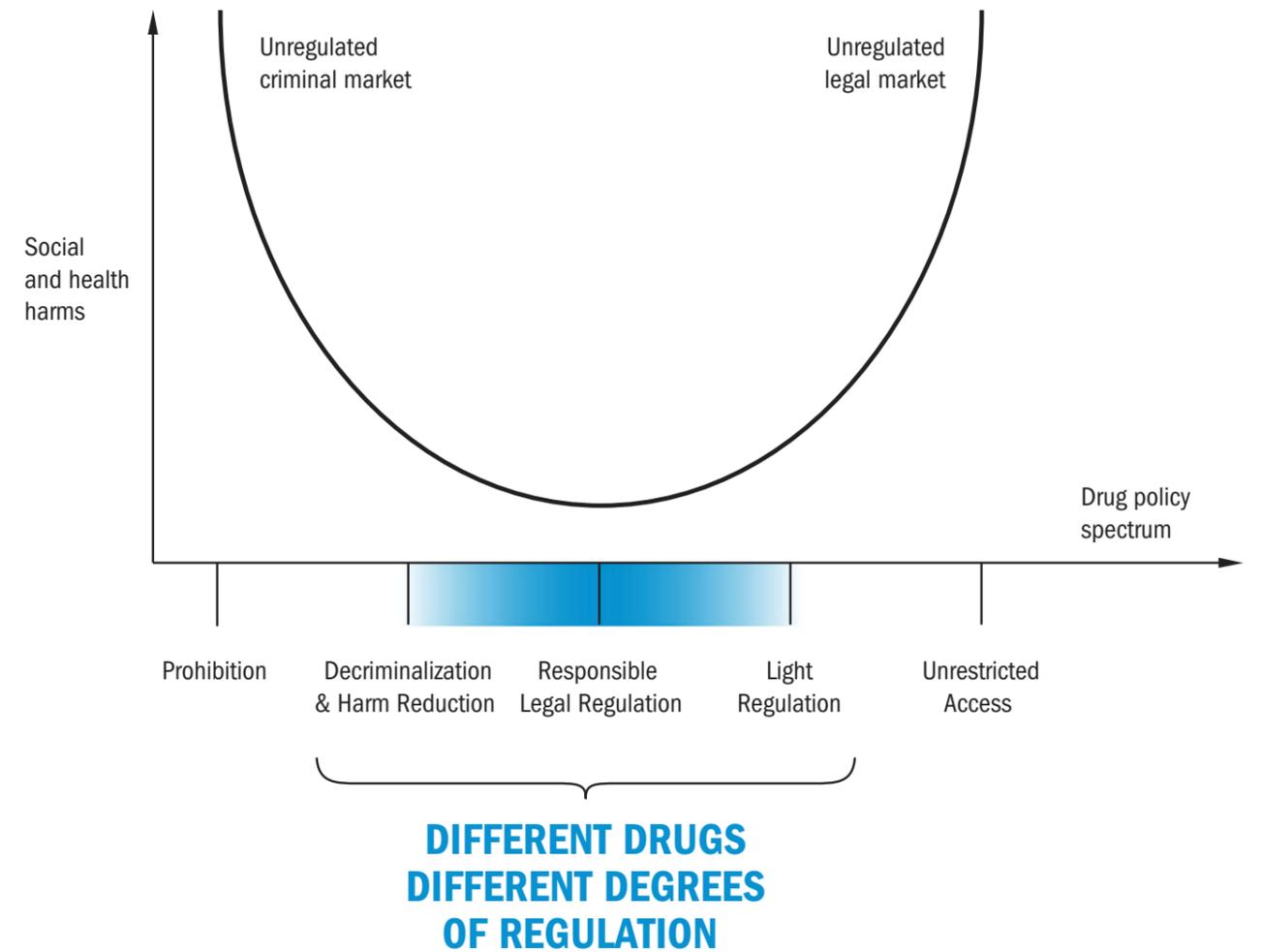
Ending the criminalization of people who use drugs is vital, but it does little or nothing to address the harm associated with illicit drug markets. The continued expansion of the illicit trade despite growing enforcement efforts aimed at curtailing it demonstrates the futility of repressive prohibitions. Therefore, following pragmatic harm reduction principles, in the longer term, drug markets should be responsibly regulated by government authorities. Without legal regulation, control, and enforcement, the drug trade will remain in the hands of organized criminals. Ultimately this is a choice between control in the hands of governments or gangsters; there is no third option in which drug markets can be made to disappear.

There is a public health imperative to legally regulate drugs not because they are safe, but precisely because they can be dangerous and pose serious risks. However dangerous a particular drug may be on its own, its risks increase, sometimes dramatically, when it is produced, sold and consumed in an unregulated criminal environment. Drugs of unknown strength are sold with no quality controls, often cut with adulterants, bulking agents or other drugs,<sup>93</sup> and lack information about contents, risks or safety guidance. Putting accountable governments and regulatory bodies in control of this market can significantly reduce these risks.

Drug regulation is not as radical as many believe. Such a move does not require a fundamental rethink of established policy principles. The regulation and management of risky products and behaviors is a key function of all government authorities around the world, and is the norm in almost all other areas of policy and law. Governments regulate everything from alcohol and cigarette consumption to medicines, seatbelts, the use of fireworks, power-tools and high-risk sports. If the potential risks of drugs are to be contained and minimized, governments must apply the same regulatory logic to the development of effective drug policies.

There is a wide spectrum of policy options available for controlling the production, supply and use of various types of drugs (see graphic on page 29). At one end of this spectrum are illegal, criminally controlled markets subject to a full-scale war on drugs. At the other end are legal, unfettered free markets controlled by commercial enterprises. Both of these options are characterized by an absence of regulation, with governments essentially forfeiting control of the drug trade. As presented in Figure 1, appropriately regulated legal drug markets can deliver the best social and health outcomes from the range of policy models available.

**FIGURE 1. GETTING DRUGS UNDER CONTROL**<sup>94</sup>



Depending on the situation, policies ranging from decriminalization and harm reduction to legal regulation constitute the pragmatic, middle ground position. These and associated interventions introduce an appropriate level of government control into a trade where there is currently little to none. As well as demonstrating the need to regulate some currently illegal drugs, this also points to the need to better regulate alcohol and tobacco. These parallel calls are not inconsistent; the goals of better regulation are the same, but the starting points are different.

Around the world, the debate about the legal regulation of cannabis – and potentially other drugs – is moving into the mainstream.<sup>95</sup> The discussion is no longer a purely theoretical one: multiple jurisdictions are developing and implementing models of legal cannabis regulation, and regulatory approaches for other drugs are also emerging (see box, page 32). Parliamentarians, mayors, businessmen, physicians, educators, civil society and religious leaders are openly welcoming the debate around drug policy reform and the need to experiment. Now that the taboo around regulation is broken, it is important to dispel any misconceptions and clarify what it means in practice.

*“Assuming well-functioning regulatory structures, legalization could reduce many of the negative consequences with which society is most concerned, including violence, corruption, and public disorder surrounding drug distribution; the transmission of blood-borne diseases associated with shared needles; and the incarceration of hundreds of thousands of low-level drug offenders.”<sup>96</sup>*

**Organization of American States, 2013**

*“The world needs to discuss new approaches ... we are basically still thinking within the same framework as we have done for the last 40 years ... A new approach should try and take away the violent profit that comes with drug trafficking ... If that means legalizing, and the world thinks that’s the solution, I will welcome it. I’m not against it.”<sup>97</sup>*

**Juan Manuel Santos, President of Colombia, 2011**

There is no simple blueprint for drug regulation. A flexible array of established regulatory tools is available and will need to be applied as appropriate for regulating different drugs, within different populations and environments. Just as spirits are regulated differently from beer, so the riskier the drug product, the more restrictive the controls are likely to be.

It is also important to stress that many activities and products would remain prohibited under a system of legal regulation. Sales to minors, for example, would obviously not be permitted within any regulatory framework. Exploring regulatory models for a range of drugs does not suggest that all drugs or drug preparations should be made legally available. Maintaining prohibitions on the most potent and risky drugs or drug preparations, such as ‘crack’ cocaine or ‘krokadil’<sup>98</sup> (a homemade injectable opioid) is also a health imperative. Responses to the continued use of such high-risk prohibited substances in any future scenario should, however, adhere to the principle of harm reduction, rather than be based on the criminalization of users.<sup>99</sup>

By way of contrast, under prohibition, no similar product controls exist. Drug markets are driven by economic processes that encourage the production and supply of more potent – and therefore more profitable – drug preparations. For example, smokeable cocaine products like crack, ‘paco’ or ‘basuco’ are in many places more widely available than less potent, safer preparations like coca leaf or other coca-based products. Effective regulation could help to gradually reverse this dynamic.

Drug regulation is not a leap into the unknown. Many drugs that are already prohibited for non-medical use – including opiates, amphetamines, cannabis and even cocaine – are currently produced safely and securely for medical use without any of the chaos, violence and criminality of the illicit trade. Almost half of the world’s opium crop is entirely legal, produced under a strict regulatory framework for medical purposes.

Experiences with alcohol and tobacco are also instructive. While serious concerns remain about inadequate controls on the availability and marketing of alcohol and tobacco in many regions, these two drugs are produced and transited largely without problem – certainly compared to instances where alcohol prohibition has been attempted.

It is necessary to distinguish between key terms and concepts in order to avoid unnecessary confusion. ‘Legalization’ is merely a process – of making something illegal, legal. What most reform advocates understand by the term is more usefully described as ‘regulation’, ‘legal regulation’ or ‘legally regulated markets’. These terms refer to the end point of the legalization process – the system of rules that govern the production, supply and use of drugs.

Drug markets that are subject to strict legal regulation are not ‘free markets’. Nor does exploring alternatives to prohibition imply a drug market ‘free for all’, where access to drugs is unrestricted and availability is dramatically increased. Regulation is about taking control, so that governments, not criminals, make decisions on the availability and non-availability of different substances, in different environments. Inevitably, while some drugs will be accessible with appropriate controls and some only available via medical prescription, other more harmful drugs will necessarily remain prohibited. Unlike in criminal drug markets, legal regulation enables governments to control and regulate most aspects of the market, including:

- Production and transit (location, licensing, and security);
- Products (dosage/potency, preparation, price, and packaging);
- Vendors (licensing, vetting, and training requirements);
- Marketing (advertising, branding and promotion);
- Outlets (location, outlet density, and appearance); and
- Access (age controls, licensed buyers, club membership schemes, medical prescription)

A legal regulatory framework therefore establishes strict and transparent parameters for the drug trade. Rather than expand what is available, it would instead control what is permitted and set guidelines for the availability of specific products. The precise details of which drugs or drug products should be available and under what regulatory framework would need to be decided by local jurisdictions themselves, based on their specific realities and challenges.

*“We should not be locking up kids or individual users for long stretches of jail time when some of the folks who are writing those laws have probably done the same thing. It’s important for [the legalization of cannabis in Colorado and Washington] to go forward because it’s important for society not to have a situation in which a large portion of people have at one time or another broken the law and only a select few get punished.”<sup>100</sup>*

**Barack Obama, President of the USA, 2014**

As with any policy innovation, moving towards a regulated market model for drug control involves risks and potential negative outcomes. The most frequently raised concern has been that of over-commercialization leading to an increase in use and related health issues. Minimizing this risk requires moving forward in a cautious and incremental manner as the cost-benefit balance of different regulatory approaches are better understood. The lessons from pioneering regulatory models with cannabis, maintenance prescribing and novel psychoactive substances will inform this ongoing evidence-led and evolutionary process.

Key lessons must also be drawn from the successes and failings of alcohol and tobacco regulation. If use does increase with moves toward regulation – and the possibility cannot be discounted – it is worth recalling that the totality of associated social and health problems is still likely to decrease. The use of legally produced products in regulated environments will be intrinsically safer, the harm linked to both the illegal trade and punitive enforcement will be reduced, and obstacles to more effective health and social interventions removed. Nonetheless, preventing runaway commercialization and limiting profit-motivated marketing that aims to initiate or increase consumption, will be a central challenge for policy makers and regulators.

The WHO Framework Convention on Tobacco Control<sup>101</sup> provides a useful template for how international best practice in trade and regulation for non-medical use of a risky drug can be developed, implemented and evaluated. The Convention features a level of member state support comparable to the three existing prohibitionist drug treaties. As in the case of alcohol and tobacco policy, the WHO can assume a lead role in assessing regulatory options for other drugs and providing clear guidance on best practice.

An approach that embraces flexibility is crucial. Unlike blanket prohibitions, successful regulation models will need to adapt and evolve in response to changing circumstances and evidence from careful monitoring and evaluation, both positive and negative.<sup>102</sup> The precise details of any framework, and how it evolves, would need to be decided by local jurisdictions themselves, based on their specific realities, opportunities and challenges rather than imposed from above.

Questions also remain around the capacity of some lower- and middle-income countries to effectively regulate drug markets given the existing difficulties faced regulating alcohol, tobacco and pharmaceuticals. The question can equally well be asked of such countries' capacity to enforce prohibition. There are no easy answers.

Many impoverished households and communities have been drawn into the illicit drug economy. Their needs should not be overlooked during the transition to legally regulated markets. Such considerations should be more fully incorporated into the policy decisions of governments, UN agencies and non-governmental organizations.

It is also important to acknowledge the limits of what regulation can achieve – it is not a panacea. Just as prohibition will never produce a drug-free world, regulatory models cannot be expected to create a risk free world. Regulating markets within a responsible legal framework can nevertheless dramatically reduce the harms associated with the illegal trade, and in the longer term, create a far better environment to address problematic drug use and other social ills. The benefits of regulation can be significant, but these will emerge gradually as the reform process unfolds at different speeds with different drugs, in different places.

## RECOMMENDATION 6

*Allow and encourage diverse experiments in legally regulating markets in currently illicit drugs, beginning with but not limited to cannabis, coca leaf and certain novel psychoactive substances. Much can be learned from successes and failures in regulating alcohol, tobacco, pharmaceutical drugs and other products and activities that pose health and other risks to individuals and societies. New experiments are needed in allowing legal but restricted access to drugs that are now only available illegally. This should include the expansion of heroin-assisted treatment for some long-term dependent users, which has proven so effective in Europe and Canada. Ultimately the most effective way to reduce the extensive harms of the global drug prohibition regime and advance the goals of public health and safety is to get drugs under control through responsible legal regulation.*

## NATIONAL EXPERIENCES

In 2013, **New Zealand** passed the 'Psychoactive Substances Act',<sup>103</sup> which allows certain 'lower risk' novel psychoactive substances (NPS) to be legally produced and sold within a strict regulatory framework.<sup>104</sup> The new law puts the onus on producers to establish the risks of the products they wish to sell, as well as mandating a minimum purchase age of 18; a ban on advertising, except at point of sale; restrictions on which outlets can sell NPS products; and labeling and packaging requirements. Criminal penalties – including up to two years in prison – were established for violations of the new law. The New Zealand government states: "We are doing this because the current situation is untenable. Current legislation is ineffective in dealing with the rapid growth in synthetic psychoactive substances which can be tweaked to be one step ahead of controls. Products are being sold without any controls over their ingredients, without testing requirements, or controls over where they can be sold."<sup>105</sup>

In 2013 **Uruguay** became the first state to pass legislation to legalize and regulate cannabis for non-medical uses.<sup>106</sup> The Uruguayan model involves a greater level of government control than the more commercial models in the US states of Washington and Colorado.<sup>107</sup> Under the control of a newly established regulatory body, only production of specified herbal cannabis products by state licensed growers is permitted.<sup>108</sup> Sales are permitted only via licensed pharmacies, to registered adult Uruguayan residents – at prices set by the new regulatory body.<sup>109</sup> There is a complete ban on all forms of branding, marketing and advertising, and tax revenue will be used to fund new cannabis risk education campaigns.

**Switzerland** in the 1980s was faced with a growing public health crisis relating to injecting heroin use. Rather than resort to failed punitive responses the Swiss government became part of the wave of European harm reduction pioneers implementing a raft of measures including needle and syringe programs (NSP) and opiate substitution treatment. Indeed, Switzerland pioneered an innovative new model of heroin assisted therapy (HAT) in which long term users who had failed on other programs were (alongside other forms of psycho-social support) prescribed pharmaceutical heroin which could be injected under medical supervision in a local day clinic.<sup>110</sup> The impressive outcomes on a range of key health and criminal justice metrics has led to similar programs being launched in other countries including Canada, Germany, the Netherlands, and the UK.

## EXAMPLES OF DRUG REGULATION

There are at least five basic possibilities for regulating drug supply and availability,<sup>111</sup> all of which have been applied to existing products:

- **Medical prescription model** (which may include supervised drug consumption facilities) – The riskiest drugs, such as injectable heroin, are prescribed by qualified and licensed medical professionals to people who are registered as dependent on drugs. Swiss heroin clinics are a prominent working example of this model.
- **Specialist pharmacy model** – Licensed medical professionals serve as gatekeepers to a range of drugs, facilitating over-the-counter sales. Additional controls, such as licensing of purchasers or sales rations, can also be implemented. This is the model adopted for retail sales of cannabis in Uruguay.
- **Licensed retail model** – Licensed outlets sell lower-risk drugs in accordance with strict licensing conditions that can include controls on price, marketing, sales to minors, and mandated health and safety information on product packaging. Less restrictive examples of this model include off-licenses, tobacconists, or front-of-counter sales in pharmacies.
- **Licensed premises model** – Similar to pubs, bars, or cannabis 'coffee shops', licensed premises sell lower-risk drugs for on-site consumption, subject to strict licensing conditions similar to those for licensed retail (above).
- **Unlicensed retail model** – Drugs of sufficiently low risk, such as coffee or coca tea, require little or no licensing, with regulation needed only to ensure that appropriate production practices and trading standards are followed.

# 3. GLOBAL LEADERSHIP FOR MORE EFFECTIVE AND HUMANE POLICIES

*The evolution of an effective, modern international drug control system requires leadership from the UN and national governments, building a new consensus founded on core principles that allows and encourages exploration of alternative approaches to prohibition.*

Drug policy is a transnational issue that requires a coordinated multidisciplinary response. Guided by its original commitments to international peace and security, human rights, and sustainable development, the United Nations is a critical forum for developing and overseeing global responses to today's and tomorrow's challenges. Change will not happen on its own. Bold and pragmatic leadership is needed. The paradigm shift advocated by the Global Commission in its reports is already helping reshape thinking on the direction of drug policy. What is now needed is the courage to ensure drug policy is fully in line with the UN's principles from which it has been divorced for too long. It is time to reverse the direction of repressive drug policy.

The shift of drug policy toward principles of health, security, human rights and development requires honest reflection by United Nations member states and agencies. It demands systematically reviewing the institutional and legal reforms required to bring the international drug control system's original goal of securing 'the health and welfare of mankind' closer to reality. The system's inability to deliver on this goal has ultimately led to the convening of the 2016 UNGASS. This represents a unique opportunity for an open and critical review, and the exploration of 'all options' urged by the Secretary-General and world leaders. The Commission hopes that the recommendations issued in this report can usefully inform and support the process.

As the appetite for reform gathers pace around the world, many new questions are emerging. For one, is the international drug policy regime sufficiently flexible to accommodate reforms that are being proposed or are already underway? What institutional or legal reforms at national and international level are necessary to make the system 'fit for purpose'? Does today's existing drug control regime adequately reflect twenty-first century realities? There are at least three considerations to make when tackling these pressing questions.

First, the international drug control regime offers some degree of flexibility. There are some positive reforms that can occur within the existing treaty framework, including ending the criminalization of people who use drugs and low level participants in the drug trade, and implementing harm reduction interventions.<sup>112</sup> For states that have yet to implement such measures, the drug treaties offer no

*"This [Commission on Narcotic Drugs] will be followed, in 2016, by the UN General Assembly Special Session on the issue. I urge Member States to use these opportunities to conduct a wide-ranging and open debate that considers all options."<sup>113</sup>*

**Ban Ki Moon, Secretary-General of the United Nations, 2013**

excuse for inaction. Indeed, UN human rights monitors have clearly identified that the failure to provide key harm reduction services constitutes a violation of the right to health.<sup>114</sup>

Second, the concept of flexibility should not be used to justify or condone repressive or abusive practices that have often characterized drug policy over the past half century.<sup>115</sup> While it is true that there are limits to what is permissible under the drugs conventions in terms of reform,<sup>116</sup> it is also the case that there are clear constraints as to what is allowable with respect to international human rights law.

The development of 'international standards on human rights while countering the world drug problem' is a necessary step forward. An agreement to develop such standards – which may be modeled on existing guidelines on how to ensure counter-terrorism<sup>117</sup> activities or business practices<sup>118</sup> comply with human rights – should be a key outcome of the General Assembly Special Session process in 2016. This will require input from UN human rights mechanisms and civil society in relation to applicable human rights standards, such as proportionate infringements of rights; fair trials and sentencing; the use of force; extradition; equality and non-discrimination; indigenous peoples' rights, cultural rights and religious freedom; the rights of the child; and the right to the highest attainable standard of health.



*“The United Nations should exercise its leadership, as is its mandate ... and conduct deep reflection to analyze all available options, including regulatory or market measures, in order to establish a new paradigm that prevents the flow of resources to organized crime organizations.”<sup>119</sup>*

**President Santos of Colombia, President Calderón of Mexico, President Molina of Guatemala, Statement to the UN General Assembly, 2013**

Third, there are limits to the flexibility available within the existing system. Different states naturally face distinct challenges, and have varying priorities in moving forward. But any progress requires experimentation and innovation, and the system needs to support and evaluate these new approaches, rather than trying to suppress them. While some reforms are possible, the current regime explicitly prohibits experimentation with legal regulatory models, acting as a straightjacket on a key area of innovative policy development.

The strength of the UN treaty system is based on the consensus of support from member states and the legitimacy of its goals. For the drug control treaties this consensus has fractured,<sup>120</sup> and their legitimacy is weakening owing to their negative consequences. More and more states are viewing the core punitive elements of the drug treaties as not merely inflexible, but outdated, counterproductive and in urgent need of reform. If this growing dissent is not accommodated through a meaningful formal process to explore reform options, the drug treaty system risks becoming even more ineffectual and redundant, as more reform-minded member states unilaterally opt to distance themselves from it.

A weakened drug control system in turn jeopardizes the important role of a United Nations framework for regulating access to essential medicines, providing guidance, and monitoring compliance with recommended best practice and minimum rights standards. Rather than slipping into irrelevance, the ambitions of the treaties to regulate medical and scientific uses of drugs need to be extended to embrace the regulation of drugs for non-medical uses, in pursuit of the same set of UN goals.

Unilateral defections from the drug treaties are undesirable from the perspective of international relations and a system built on consensus. Yet the integrity of that very system is not served in the long run by dogmatic adherence to an outdated and dysfunctional normative framework.

## RECOMMENDATION 7

*Take advantage of the opportunity presented by the upcoming UNGASS in 2016 to reform the global drug policy regime. The leadership of the UN Secretary-General is essential to ensure that all relevant UN agencies – not just those focused on law enforcement but also health, security, human rights and development – engage fully in a ‘One-UN’ assessment of global drug control strategies. The UN Secretariat should urgently facilitate an open discussion including new ideas and recommendations that are grounded in scientific evidence, public health principles, human rights and development. Policy shifts towards harm reduction, ending criminalization of people who use drugs, proportionality of sentences and alternatives to incarceration have been successfully defended over the past decades by a growing number of countries on the basis of the legal latitude allowed under the UN treaties. Further exploration of flexible interpretations of the drug treaties is an important objective, but ultimately the global drug control regime must be reformed to permit responsible legal regulation.*

*“There is a spirit of reform in the air to make the [UN drug control] conventions fit for purpose and adapt them to a reality on the ground that is considerably different from the time they were drafted.”<sup>121</sup>*

**Antonio Maria Costa, Executive Director, UNODC, 2008**

The evolution of legal systems to account for changing circumstances is fundamental to their survival and utility, and the regulatory experiments being pursued by various states are acting as a catalyst for this process. Indeed, respect for the rule of law requires challenging those laws that are generating harm or that are ineffective.

A lynchpin of the current debate is cannabis policy. Reforms in this area – particularly those involving regulatory experiments – are swiftly progressing due to the widespread use of cannabis, the way which it is cultivated, its moderate risk profile compared to most other drugs, and its ongoing regulatory experimentation.

Although the inevitability of further cannabis reforms looks set to be the issue that opens the debate around a wider treaty system renegotiation,<sup>122</sup> longer term questions around potential regulation models for other drugs must not be overlooked or sidelined. It is important that short-term reforms focused on cannabis are not the end of the story, but instead act as the catalyst for a more fundamental review of the international drug control system.

Member states and UN agencies have an unprecedented opportunity to demonstrate leadership, using the 2016 UNGASS to initiate a meaningful multilateral reform process. This will require openness to greater flexibility for experimentation, as well as a willingness to reconsider the dated punitive paradigm. At an institutional level, the necessary realignment of the system towards the core health, human rights and security priorities of the UN can begin by recognizing the responsibility of the WHO (and ensuring it is funded to fulfill its existing or expanded mandate).

Reform can also be propelled forward with meaningful inputs from, and coordination with, other agencies such as UNAIDS, the United Nations Development Program, and the Office of the UN High Commissioner for Human Rights. The UN System Task Force on Transnational Organized Crime and Drug Trafficking established by the Secretary-General could play an important role in this process if its focus incorporates a wider public health agenda. This task force, or a similar entity convened for the purpose, could also be given a mandate to lead a post-UNGASS process of exploring the options for multilateral reforms.

*“The United Nations drug control bodies should:*

*Consider creating a permanent mechanism, such as an independent commission, through which international human rights actors can contribute to the creation of international drug policy, and monitor national implementation, with the need to protect the health and human rights of drug users and the communities they live in as its primary objective...*

*Consider creating an alternative drug regulatory framework in the long term, based on a model such as the Framework Convention on Tobacco Control.”<sup>123</sup>*

**Anand Grover, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 2010**

## THE ORGANIZATION OF AMERICAN STATES ‘PATHWAYS’ SCENARIO REPORT

In 2013, the Organization of American States – which is the main political forum for all 35 independent states of the Americas – produced an expert report on ‘Scenarios for the Drugs Problem in the Americas 2013-2025’.<sup>124</sup> The report includes possible futures for global drug policy, with its ‘Pathways’ scenario mapping out a course of events in which individual state challenges to the existing drug control system ultimately force the issue of treaty reform to be discussed at

the 2016 UNGASS. In this scenario the question is subject to a heated UNGASS debate but remains unresolved.

The scenario then foresees a group of likeminded states coalescing in the post-2016 period and producing a ‘Modernizing Drug Control’ proposal. Said proposal would call for greater flexibility for individual states to explore regulatory alternatives to prohibition, while preserving key elements of the existing framework (including around production, trade and access to essential medicines). The pressure generated by this reform grouping on the existing system ultimately results in the prohibitionist block giving way, and the emergence of a new, more flexible single convention on drugs, replacing the existing three.

## NEW METRICS TO SUPPORT AN EVIDENCE-BASED DRUG POLICY PARADIGM

Key to designing more effective policy is the development of a new set of metrics with which to monitor and evaluate impacts of different approaches. A first step is acknowledging that the overarching goal of a 'drug-free world' is unhelpful, and leads to irrational policy prescriptions. It hinders the debate on pragmatic responses to the reality of widespread drug use as it currently exists, while stifling experimentation of alternative policies. It is time to reframe the goal as reducing the health and social harms caused both by drug use, and by misguided, repressive drug policy.

Official government and UN evaluations of drug policy are preoccupied with metrics such as arrests and drug seizures. These are process measures, reflecting the scale of enforcement efforts, rather than outcome measures that tell us about the actual impacts of drug use and drug policies on people's lives. Process measures can give the impression of success, when the reality for people on the ground is often the opposite. Numbers of drug users or the scale of the illicit drug market are more useful, but still imperfect, proxy measures for public health and community safety.

What is urgently needed to inform the development of more just and effective policies is a comprehensive set of metrics that measure the full spectrum of drug-related health issues, as well as the wider social impacts of different policy interventions. The UNODC has identified some of the key costs, or as it refers to them, 'unintended consequences', of the global drug control system, including; 'the creation of a criminal black market'; the displacement of limited drug budgets from public health into enforcement, the 'balloon effect' (geographical displacement of illicit market activity), and the marginalization and stigmatization of people who use drugs.<sup>125</sup>

Despite having taken the important step of identifying these negative consequences, the UNODC has not systematically evaluated them, or required member states to do so. They may be 'unintended' but can no longer be seen as unanticipated or irrelevant. Notwithstanding some recent improvements, substantive policy impact areas remain conspicuously absent from the UNODC's flagship annual World Drug Report. There is little mention of sophisticated measures of drug related health harms and drug service provision, human rights compliance in enforcement and treatment, economic impacts, and impacts of policy and illicit drug markets on violence, conflict, security and development. As it stands, the 'official' evaluation of global drug control, is therefore telling less than half of the story.

Meanwhile, elsewhere in the UN, the role of the WHO in global tobacco and alcohol policy provides a useful template for how international drug policy evaluation could function better. There are also other useful models emerging from the UN Department of Peace-keeping Operations on early warning systems, UN Women on gender mainstreaming, and UNAIDS.

The Global Commission also proposes that member states' progress towards more effective policy frameworks could be assessed using a series of institutional indicators relating to the Commission's core recommendations and linked to the establishment of minimum standards. These could include for example; the removal of criminal sanctions for users, the provision of essential medicines for pain control, the provision of core harm reduction services, and human rights monitoring of law enforcement.

Another opportunity to reshape the drug policy reform debate is the ongoing negotiation over the future content of the post-2015 development agenda. United Nations member states are reviewing possible Sustainable Development Goals (SDGs) to replace the Millennium Development Goals agreed in 2000. At present, there are 17 Goals that focus on various development priorities including ending poverty and hunger, promoting healthy lives, ensuring quality education and gender equality, and making cities and settlements safer and achieving peaceful, inclusive and just societies.<sup>126</sup>

If progress is to be made in future SDGs, drug-use and drug policy related harms must be prevented and reduced. A key goal for states, however, is ensuring that unachievable goals such as a 'drug-free world' are abandoned. Rather, their focus must be on ensuring pragmatic goals, targets and indicators that prioritize the safety, health and human rights of all people. The Global Commission looks forward to working with UN member states and civil societies to identify language that will most effectively achieve these aims.

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While often viewed as an obscure technical issue, the challenge of scheduling drugs within a graded system is one of the primary functions of the international drug control regime. And decisions over the types and intensities of controls have become a flashpoint. There are mounting tensions and concerns associated with the general orientation of the drug policy regime and the functioning of its institutions.<sup>127</sup>

The UN drug conventions were designed to facilitate both the prohibition of certain drugs for non-medical use and the legal regulation of many of the same (and other) drugs for medical and scientific uses. Although the implementation of the conventions has historically been biased toward prohibition, there is growing awareness of the importance of re-balancing the system and reaffirming the importance of health principles.<sup>128</sup>

The asymmetric application of the conventions is reflected in the historic marginalization of the WHO and its treaty-mandated role in making recommendations on scheduling through its Expert Committee on Drug Dependence (ECDD). Specifically, the WHO has long been starved of funding and technical resources to fulfill its duties. Indeed, the ECDD has been compelled to restrict its regular meetings to six-year increments, when by custom, it should convene biannually.

The lack of technical resources to undertake reviews, and the frequent rejection of expert recommendations considered politically unacceptable by more repressive member states, has led to numerous anomalies in the system. For example, the last scientific review to make a recommendation on cannabis occurred in 1935, under the previous League of Nations system. As a result, cannabis still sits alongside heroin in the most restrictive schedule.

And while the scientific expertise of the WHO has been progressively marginalized, other UN drug control bodies that lean towards more repressive positions, including the International Narcotics Control Board (INCB), have been reinforced. The INCB has arguably exceeded its mandate through increased interference in scheduling decisions. The Commission on Narcotic Drugs (CND) has also been used as a platform by repressively inclined governments to criticize the WHO. The CND is required to take the WHO scientific evidence in 'good faith' and already has very wide discretion to reject recommendations on social, economic and other grounds.

A prominent example of the tensions between the CND and the ECDD is the ongoing dispute over the scheduling of ketamine. Ketamine is a drug that has important uses as an anesthetic and is included on the WHO Model List of Essential Medicines. The ECDD has repeatedly recommended that it not be scheduled under the conventions, due to concerns that it would restrict its medical availability, which would in turn 'limit access to essential and emergency surgery', constituting 'a public health crisis in countries where no affordable alternative anesthetic is available'.

However, owing to concerns over the non-medical use of ketamine, the INCB has repeatedly called for it to be scheduled, and has attempted to bypass the WHO recommendation by urging member states to put in place national controls. At the same time, state parties have attempted (so far unsuccessfully) to use resolutions at the CND to overrule the WHO, and encourage states to schedule ketamine at a domestic level.

### Prohibition

The establishment of criminal sanctions for the production, distribution, and possession of certain drugs (for other than medical or scientific uses). This term is used in reference to the international drug control regime as defined by the UN conventions and treaties of 1961, 1971 and 1988, as well as domestic legislation (sanctions varying widely).

### Decriminalization

Most commonly used to describe the removal or non-enforcement of criminal penalties for use or possession of small quantities of drugs or paraphernalia for personal use (sometimes also used in reference to other minor drug offences). While no longer criminal, possession still remains an offence subject to administrative or civil sanctions, such as fines or referrals to services.

### Legalization

The process of ending prohibitions on the production, distribution and use of a drug for other than medical or scientific uses. In the drug policy context 'Legalization' is generally used to refer to a policy position advocating 'legal regulation' or 'legally regulated drug markets' for currently prohibited drugs.

### Regulation

The set of legally enforceable rules that govern the market for a drug, involving application of different controls depending on drug risks and needs of local environments. Includes regulation of production (licensed producers), products (price, potency, packaging), availability (licensed vendors, location of outlets, age controls), and marketing (advertising and branding).

### Harm reduction

'Harm reduction' refers to policies, programs, and practices that aim to mitigate the negative health, social, and economic consequences of using legal and illegal psychoactive drugs, without necessarily reducing drug use.

### Novel/New Psychoactive Substances (NPS)

Generally (although not exclusively) this term is used to describe recently emerging synthetically produced drugs used for non-medical or scientific purposes, not subject to control under the United Nations Single Convention on Narcotic Drugs 1961 and the United Nations Convention on Psychotropic Drugs 1971 (although some Nation States may act unilaterally and regulate or prohibit certain NPS under domestic legislation).

## RESOURCES

- Count the Costs  
[www.countthecosts.org](http://www.countthecosts.org)
- Cupihd  
[www.cupihd.org](http://www.cupihd.org)
- Drug Policy Alliance  
[www.drugpolicy.org](http://www.drugpolicy.org)
- European Monitoring Centre on Drugs and Drug Addiction  
[www.emcdda.europa.eu](http://www.emcdda.europa.eu)
- Global Commission on Drug Policy  
[www.globalcommissionondrugs.org](http://www.globalcommissionondrugs.org)
- Global Commission on HIV and the Law (convened by UNDP)  
[www.hivlawcommission.org/](http://www.hivlawcommission.org/)
- Harm Reduction International  
[www.ihra.net](http://www.ihra.net)
- Igarapé Institute  
[www.igarape.org.br](http://www.igarape.org.br)
- Intercambios  
[www.intercambios.org.ar](http://www.intercambios.org.ar)
- International Drug Policy Consortium  
[www.idpc.net](http://www.idpc.net)
- International Network of People who use Drugs  
[www.inpud.net](http://www.inpud.net)
- LSE Ideas; International drug policy project  
[www.lse.ac.uk/ideas/projects/idpp/international-drug-policy-project.aspx](http://www.lse.ac.uk/ideas/projects/idpp/international-drug-policy-project.aspx)
- Talking Drugs  
[www.talkingdrugs.org](http://www.talkingdrugs.org)
- Transform Drug Policy Foundation  
[www.tdpf.org.uk](http://www.tdpf.org.uk)
- Transnational Institute; drug law reform resources  
[www.druglawreform.info/](http://www.druglawreform.info/)
- The Beckley Foundation  
[www.beckleyfoundation.org](http://www.beckleyfoundation.org)
- UN Office on Drugs and Crime  
[www.unodc.org](http://www.unodc.org)
- Washington Office on Latin America - Drug Policy program  
[www.wola.org/program/drug\\_policy](http://www.wola.org/program/drug_policy)
- West Africa Commission on Drugs  
[www.wacommissionondrugs.org/](http://www.wacommissionondrugs.org/)

## PUBLICATIONS

- Reports by the Global Commission on Drug Policy:
- War on Drugs - 2011
  - The War on Drugs and HIV/AIDS: How The Criminalization Of Drug Use Fuels The Global Pandemic - 2012
  - The Negative Impact of the War on Drugs: The Hidden Hepatitis C Epidemic - 2013
- [www.globalcommissionondrugs.org/reports/](http://www.globalcommissionondrugs.org/reports/)
- HIV and the Law: Risks, Rights And Health - Global Commission on HIV and the Law - 2012  
[www.hivlawcommission.org/index.php/report](http://www.hivlawcommission.org/index.php/report)
- The Drug Problem in the Americas - Organization of American States - 2013  
[www.cicad.oas.org/Main/Template.asp?File=/drogas/elinforme/default\\_eng.asp](http://www.cicad.oas.org/Main/Template.asp?File=/drogas/elinforme/default_eng.asp)
- Ending the Drug Wars - London School of Economics - 2014  
[www.lse.ac.uk/ideas/publications/reports/pdf/lse-ideas-drugs-report-final-web.pdf](http://www.lse.ac.uk/ideas/publications/reports/pdf/lse-ideas-drugs-report-final-web.pdf)
- Not Just in Transit - West Africa Commission on Drugs - 2014  
[www.wacommissionondrugs.org/report/](http://www.wacommissionondrugs.org/report/)

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# **GLOBAL COMMISSION ON DRUG POLICY**

**THE PURPOSE OF THE GLOBAL COMMISSION ON DRUG POLICY IS TO BRING TO THE INTERNATIONAL LEVEL AN INFORMED, SCIENCE BASED DISCUSSION ABOUT HUMANE AND EFFECTIVE WAYS TO REDUCE THE HARM CAUSED BY DRUGS TO PEOPLE AND SOCIETIES.**

## **GOALS**

- Review the basic assumptions, effectiveness and consequences of the 'war on drugs' approach*
- Evaluate the risks and benefits of different national responses to the drug problem*
- Develop actionable, evidence-based recommendations for constructive legal and policy reform*

## **CONTACT**

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