

## 2.0 Confronting unintended consequences: Drug control and the criminal black market

Last year's *World Drug Report* reviewed 100 years of drug control efforts, documenting the development of one of the first international cooperative ventures designed to deal with a global challenge. This pioneering work brought together nations with very different political and cultural perspectives to agree on a topic of considerable sensitivity: the issue of substance abuse and addiction. Despite wars, economic crises, and other cataclysmic events of state, the global drug control movement has chugged steadily forward, culminating in a framework of agreements and joint interventions with few precedents or peers in international law.

Today, a number of substances are prohibited in the domestic legislation of almost every country. As discussed below, this unanimity has created a bulwark shielding millions from the effects of drug abuse and addiction. In the past, many of these substances were legally produced and, in some cases, aggressively marketed, to devastating effect. The collective nations of the world have agreed that this state of affairs was unacceptable, and have created an international control system that allows crops such as opium poppy to be produced for medical use, with very little diversion to the illicit market.

Despite this achievement, drug control efforts have rarely proceeded according to plan. There have been reversals and set-backs, surprising developments and unintended consequences. Traffickers have proven to be resilient and innovative opponents and cultivators difficult to deter. The number, nature, and sources of controlled substances have changed dramatically over the years. None of this could have been predicted at the outset.

But then, very little has been simple or smooth about developments in international affairs over the last century. Other international problems – including poverty, war, weapons proliferation and infectious disease – have defied early projections of a swift resolution. Some efforts have been more successful than others, but, in all cases, the learning process could be described as “challenging”. Today, the enterprise of global coordination and cooperation remains a work in progress. Tremendous gains have been made, however, and the need for collaborative solutions to the problems facing us all is greater than ever before.

### 2.1 Why illicit drugs must remain illicit

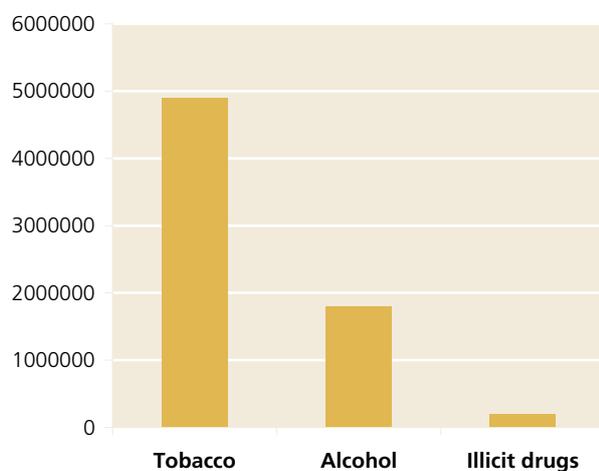
Oddly, of all areas of international cooperation, drug control is uniquely subject to calls that the struggle should be abandoned. Despite equally mixed results in international interventions,<sup>1</sup> no one advocates accepting poverty or war as inevitable. Not so with drugs, where a range of unintended consequences have led some to conclude that the only solution is to legalise and tax substances like cannabis, cocaine, ecstasy, methamphetamine, and heroin.

The strongest case against the current system of drug control is not the financial costs of the system, or even its effectiveness in reducing the availability of drugs.<sup>2</sup> The strongest case against drug control is the violence and corruption associated with the black market. The main problem is not that drug control efforts have failed to eliminate drug use, an aspirational goal akin to the elimination of war and poverty. It is that in attempting to do so, they have indirectly enriched dangerous criminals, who kill and bribe their way from the countries where drugs are produced to the countries where drugs are consumed.

Of course, the member states of the United Nations created the drug conventions, and they can modify or annul them at will. But the Conventions would have to be undone the way they were done: by global consensus. And to date, they are very few international issues on which there has been so much positive consensus as drug control. Drug control was the subject of broad-based international agreements in 1912, 1925, 1931, 1936, 1946, 1948, and 1953, before the creation of the standing United Nations Conventions in 1961, 1971, and 1988. Nearly every nation in the world has signed on to these Conventions.<sup>3</sup>

Nonetheless, there remains a serious and concerned group of academics and civil society organisations who feel the present system causes more harm than good. Plans for drug “legalisation” are diverse, and often fuzzy on the details, but one of the most popular alternative models involves taxation and control in a manner similar to tobacco and alcohol.<sup>4</sup> This approach has appeal of ideological consistency, since all these addictive substances are treated in the same way.

The practice of banning certain addictive substances

**Fig. 1: Global deaths related to substance use in 2002**Source: World Health Organisation<sup>7</sup>

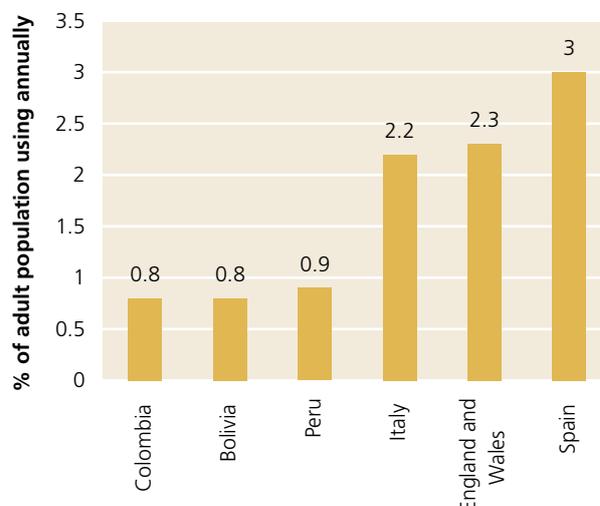
while permitting and taxing others is indeed difficult to defend based on the relative harmfulness of the substances themselves. Legal addictive substances kill far more people every year than illegal ones – an estimated 500 million people alive today will die due to tobacco.<sup>5</sup> But this greater death toll is not a result of the licit substances being pharmacologically more hazardous than the illicit ones.<sup>6</sup> This greater death toll is a direct result of their being legal, and consequently more available. Use rates of illicit drugs are a fraction as high as for legal addictive drugs, including among those who access the legal drugs illegally (i.e. young people). If currently illegal substances were made legal, their popularity would surely increase, perhaps reaching the levels of licit addictive substances, increasing the related morbidity and mortality.

Is the choice simply one of drug-related deaths or drug-market-related deaths? Some palliative measures would be available under a system of legalisation that are not available today. If drugs were taxed, these revenues could be used to fund public health programmes aimed at reducing the impact of the increase in use. Addicts might also be more accessible if their behaviour were decriminalised. With bans on advertising and increasingly restrictive regulation, it is possible that drug use could be incrementally reduced, as tobacco use is currently declining in most of the developed world.

Unfortunately, most of this thinking has indeed been restricted to the developed world, where both treatment and capacity to collect taxes are relatively plentiful. It ignores the role that global drug control plays in protecting developing countries from addictive drugs. Without consistent global policy banning these substances, developing countries would likely be afflicted by street drugs the way they are currently afflicted by growing tobacco and alcohol problems.

**Fig. 2: Annual cocaine prevalence**

Source: 2009 World Drug Report



In most developing countries, street drugs are too scarce and expensive for most consumers. They are scarce and expensive because they are illegal. Today, traffickers concentrate on getting almost all of the cocaine and heroin produced to high-value destinations, placing the burden of addiction on those well suited to shoulder it, at least financially. If these pressures were removed, lower value markets would also be cultivated with market-specific pricing, as they presently are for most consumer goods.

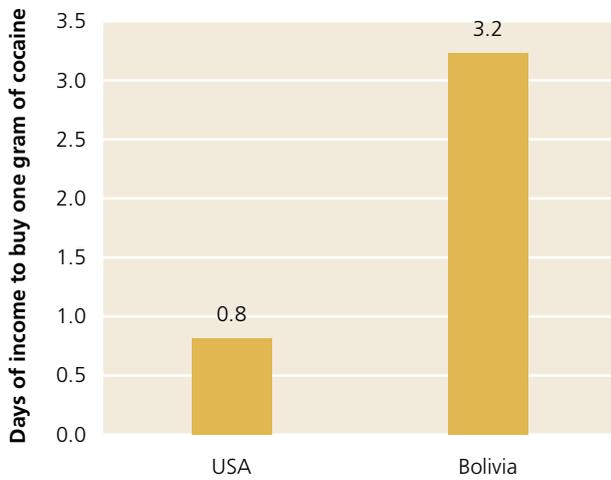
For example, cocaine use in the countries where cocaine is actually produced is less than half as high as in many European countries or the United States. This could easily change. Bolivia is a poor country where 42% of the population lives on less than US\$2 per day<sup>8</sup> and which produces about 10% of the global cocaine supply. According to reported figures, cocaine in Bolivia was US\$9 per gram in 2005, about 10% of the price in the United States. But GDP per capita was 42 times higher in the US than in Bolivia, so the price was effectively four times higher in Bolivia.<sup>9</sup>

In contrast, 27% of the adult population of Bolivia smokes cigarettes daily.<sup>10</sup> A pack of cigarettes was priced at just US\$0.62 at official exchange rates in 2006, so even the poor find an imported addictive substance more affordable than the locally-produced one.<sup>11</sup> Bolivia is not unique in this respect: in many poor countries, more than 10% of household expenditure is for tobacco.<sup>12</sup>

Indeed, the spread of tobacco to the developing world gives a hint of what could happen if other addictive substances were made legal. Many transition countries have much higher tobacco use prevalence than the richer ones, and Africa's tobacco market is presently growing by 3.5% per year, the fastest rate in the world.<sup>13</sup> By 2030, more than 80% of the world's tobacco deaths will

**Fig. 3: Price of a gram of cocaine as a share of daily GDP per capita in 2005**

Source: 2008 WDR, Human Development Report 2007/2008

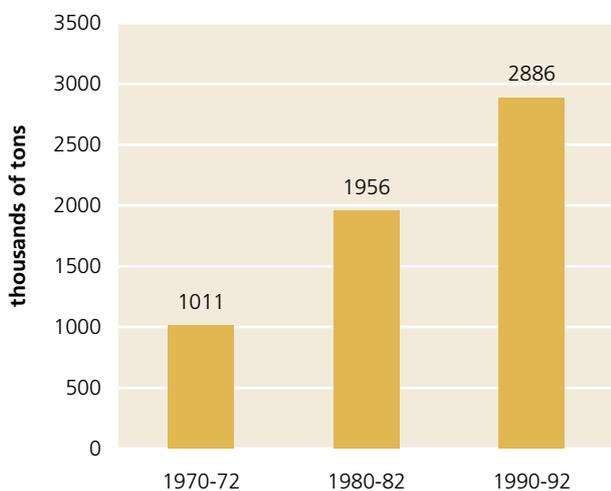


occur in developing countries.<sup>14</sup> These countries can ill-afford this burden of disease. They are even less capable of giving up a share of their productive work force to more immediately debilitating forms of addiction.

“Vice taxes” are also used to control the spread of legal addictive drugs, making them more expensive and thus reducing demand. But again, capacity to enforce these taxes is less in developing countries, and high taxes generate large shadow markets, as illustrated by tobacco markets today. Recent estimates suggest 10% or more of global tobacco consumption is untaxed, and that the illicit share of the market is particularly pronounced in Africa (15%) and Latin America (20%). An estimated 600 billion cigarettes are smuggled each year.<sup>15</sup> If these were priced at just a dollar a pack, this would represent a global market worth US\$30 billion, comparable to the

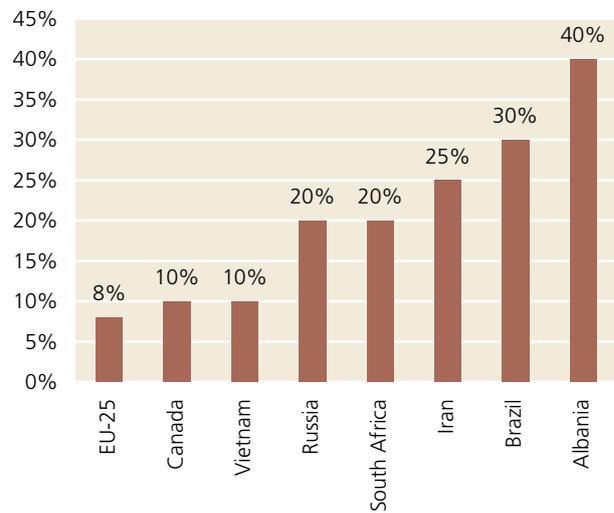
**Fig. 4: Cigarette consumption in developing countries, 1970-1992**

Source: UN FAO<sup>16</sup>



**Fig. 5: Share of national tobacco markets that are illicit (recent low end estimates)**

Source: Framework Convention Alliance, 2007<sup>17</sup>



US\$65 billion market for illicit opiates and US\$71 billion market for cocaine.<sup>18</sup> As with illicit drugs, illicit tobacco has been used to fund violence in places as diverse as the Balkans<sup>19</sup> and West Africa.<sup>20</sup>

The universal ban on illicit drugs thus provides a great deal of protection to developing countries, and must be maintained. At the same time, the violence and corruption associated with drug markets is very real, and must be addressed. Fortunately, there is no reason why both drug control and crime prevention cannot be accomplished with existing resources, if the matter is approached in a strategic and coordinated manner.

**Control drugs while preventing crime**

Drug addiction represents a large social cost, a cost we seek to contain through the system of international drug control. But this system itself has its costs, and these are not limited to the expenditure of public funds. International drug control has produced several unintended consequences, the most formidable of which is the creation of a lucrative black market for controlled substances, and the violence and corruption it generates.

Drug control generates scarcity, boosting prices out of proportion to production costs. Combined with the barriers of illegality and prevention efforts, scarcity and high prices have helped contain the spread of illicit drugs. This has kept drugs out of the hands of an untold number of potential addicts. At the same time, however, high prices allow transnational traffickers to generate obscene profits, simply for being willing to shoulder the risk of defying the law.

Given the money involved, competition for the opportunity to sell is often fierce, resulting in small wars on the streets of marginalised areas in the developed and the

developing world alike. Profits are ploughed back into increasing the capacity for violence and into corrupting public officials. Together, violence and corruption can drive away investment and undermine governance to the point that the rule of law itself becomes questionable.

As a result, some have argued that the costs of controlling illicit drugs outweigh the benefits – in effect, that the side effects are so severe that the treatment is worse than the disease. But this is a false dilemma. It is incumbent on the international community to achieve both objectives: to control illicit drugs and to limit the costs associated with this control. More creative thinking is needed on ways of reducing the violence and corruption associated with containing the drug trade. Progress must be made toward simultaneously achieving the twin goals of drug control and crime prevention.

To do this, there are several ways present efforts could be improved and expanded. First, it is possible for law enforcement to do what it does much better:

- High volume arrests are the norm in many parts of the world, but their efficacy is questionable – to conserve resources, prison space should be reserved primarily for traffickers, particularly violent ones.
- Drug addicts provide the bulk of drug demand; treating this problem is one of the best ways of shrinking the market.
- The links between drug users and drug dealers also need to be severed, closing open drug markets and disrupting information networks using the techniques of problem-oriented policing and situational crime prevention.

Second, both local and international efforts need to be strategically coordinated to address the particularities of specific drug problems:

- The right “balance” between supply-side and demand-side interventions depends very much on the particularities of the situation, and may require resources and expertise beyond those found in agencies traditionally involved in prevention, treatment, and law enforcement.
- At all points in the market (production, trafficking, consumption), strategies should be based on the specific characteristics of the drug involved and the context in which it has become problematic.
- Focus should be placed on shrinking the markets, not just disabling specific individuals or groups.
- Where drug flows cannot be stopped, they should be guided by enforcement and other interventions so that they produce the least possible damage.

Finally, the international community must rally together to assist more vulnerable members in resisting the incursion of drugs:

- Post-conflict reconstruction and development aid should be integrated with crime prevention efforts.
- Better use should be made of the Conventions, particularly toward international action on precursor control, money laundering, asset forfeiture, organised crime, and corruption.
- Information systems need to be improved so that problems can be tracked and interventions evaluated.

## 2.2 Move beyond reactive law enforcement

Drug possession and sale are illegal in most countries of the world, and, as a result, the drug problem was long seen as primarily a criminal justice issue. Those who take the “drug war” metaphor literally may feel this effort is best advanced by people in uniform with guns. Law enforcement must continue to play a key role, of course, keeping drugs illegal and scarce, but much can be done to make the criminal justice response more effective and efficient.

In the end, the criminal justice system is a very blunt instrument for dealing with drug markets. As necessary as the deterrent threat remains, the arrest, prosecution, and incarceration of individuals is an extremely slow, expensive, and labour intensive process. The key to disrupting drug markets and the associated violence and corruption must lie in making the business of drug dealing more complicated, making it more difficult for buyers and sellers to connect. To do this, the techniques of situational crime prevention and problem-oriented policing should be employed.

### Stop jailing petty offenders

Current street enforcement actions could be divided into two categories:

- Opportunistic enforcement, usually against those found in possession of drugs when stopped for an unrelated reason.
- Pro-active enforcement, including buy-and-bust actions against dealers at open markets; searches of suspect premises or persons; and more sophisticated long-term investigations.

All of these actions are justified under the law, but all absorb scarce criminal justice resources. The decision to perform any given form of enforcement has opportunity costs for other approaches. It is important, then, to weigh the impact of any given action both in terms of its efficacy in reducing the size of the black market and any potential side-effects it might have.