

# **The 2009 World Drug Report: A Response From the International Drug Policy Consortium**

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The United Nations Office on Drugs and Crime (UNODC or *Office*) published its latest report on the state of the global drug market for illegal drugs, the *World Drug Report 2009*, on June 24. In a departure from previous years, the *Report* was launched two days before the UN's International Day Against Drug Abuse and Illicit Trafficking. Any loss of potential synergies in publicity, however, was arguably offset by the involvement in its launch of President Obama's Director of the United States Office of National Drug Control Policy (ONDCP). In a symbolic display of unity, the *Report* was launched in Washington D.C. by the UNODC's long serving Executive Director, Antonia Maria Costa, and the ONDCP's recently confirmed Gil Kerlikowske.

As in previous years, the 2009 *Report* contains impressive and wide-ranging data collated and analysed by the UNODC. It also once again includes a more subjective statement of the *Office's* position on certain aspects of drug policy debate, as represented in the Executive Director's preface. Significantly, this was the first edition of what is marketed as the UNODC's flagship publication since the completion of the 1998 UNGASS review process in March. Indeed, it was the first publication of note of any sort from the *Office* since the High Level Segment of the 2009 Commission on Narcotic Drugs (CND). As such, the *Report* was eagerly anticipated for not only what it would say about the trends in world drug markets, but also what it might reveal about the post-review outlook of the senior management of the *Office* itself.

In headline terms, the *World Drug Report 2009* suggests that the global markets for cocaine, opiates and cannabis are stable or in decline,

but that there are concerns that the production and use of synthetic drugs may be increasing in the developing world. On the production side, the *Report* estimates that opium cultivation in Afghanistan (where over 90% of the world's opium is grown) decreased by nearly 20% in 2008. In Colombia, the source of around half the world's cocaine, the cultivation of coca and the production of cocaine were said to be lower than in 2007. Elsewhere, "Trends in other production countries are mixed, but are not large enough to offset the decline in these two major producers. Although the data are not complete enough to give a precise estimate of the global reduction in opium and coca, there can be little doubt that they did, in fact, decrease." (p. 9) The *Report* also noted a shift in drug trafficking routes and presented data suggesting that after five years of growth, cocaine flows through West Africa had decreased. In terms of consumption, the UNODC estimates that between 172 and 250 million persons used illicit drugs at least once in 2007. While recognising the particular problems surrounding assessment of drug use, particularly synthetic drugs, the *Report* estimates that in 2007 15-21 million people used opiates, 16-21 million people used cocaine and 16-51 million people Amphetamine Type Stimulants (ATS). Cannabis, however, remained the world's most widely used drug with the global figure of people who used cannabis at least once in 2007 estimated to be between 143 and 190 million. As in recent *Reports*, the authors were careful to make an important distinction between the total number of people using drugs, last year prevalence, and what they define as "problematic" drug users. These are defined as those individuals who are "very likely to be dependent upon

drugs, would benefit from treatment, and many of the impacts upon public health and public order are likely to be affected by levels of use.” The figure for this group (aged 15-64) was put at 18-38 million persons.

It is important to note, however, that this year such an approach was not accompanied by the UNODC’s previously dominant containment narrative. It will be recalled how since 2006 the *World Drug Report* has been used increasingly to promulgate the idea that, while perhaps not reducing global levels of illicit drug use, the international drug control system had succeeded in containing it to less than 5% of the adult population. (For a discussion, see *The 2008 World Drug Report: A Response From the International Drug Policy Consortium*. [http://www.idpc.net/sites/default/files/library/IDPC\\_ResponseWorldDrugReport\\_Sept08\\_EN.pdf](http://www.idpc.net/sites/default/files/library/IDPC_ResponseWorldDrugReport_Sept08_EN.pdf)) Having apparently served its purpose in defending the continuing utility of the international system, including of the UNODC itself, in the lead up to what became the High Level Segment, this highly problematic narrative has apparently been banished from the publication. This is a welcome if perhaps expected move. Another area of enormous improvement within this year’s *Report* concerns the presentation of the data itself. As alluded to in the previous discussion, this year for the first time the UNODC has chosen to present ranges of data rather than point figures. This departure demonstrates recognition of the high, though varied, levels of uncertainty surrounding assessment of different facets of the illicit market. As a result, and as noted at a number of places within the *Report*, it is not possible to compare previous point estimates with those presented in 2009; an admission that effectively marks this year’s publication as the start of a new age of reporting. Any hope that these specific improvements in approach indicate a wholesale recalibration in outlook from the UNODC is, nonetheless, dashed when read alongside the Preface. This part of the *Report* has often displayed an obvious contrast between the Executive Director’s

highly personal view of key issues within international drug policy, and the analysis of the global situation produced by the UNODC’s Division of Policy Analysis and Public Affairs and others involved with the preparation of the main body of the text. That the sophistication of the discussion of trends in world drug markets that comprises the bulk of the *Report* is greatly enhanced this year only serves to deepen this contrast. As a consequence, the *2009 World Drug Report* can be viewed in many ways as a fractured discourse containing both welcome improvements and alarming and problematic developments. In this brief review, we explore three key themes and issues contained within the document; the Executive Director’s preface; a new approach towards the presentation of data; and the unintended consequences of the international drug control system.

## The Executive Director’s Preface

Our analysis of the *World Drug Report* has had previous cause to remark on the strident tones and sweeping generalizations to which the UNODC’s current Executive Director’s introductory texts are sometimes given. This year, as noted above, the disconnect between the main body of the *Report* and the Preface is still more striking in view of the increasingly measured tone adopted in the body of the work. Moreover, the authors of the latter, while remaining firm in their arguments, take care to address those having different or conflicting opinions in respectful terms (p.163), while Mr Costa, as we shall see, continues in the gladiatorial posture he has adopted in prefatory remarks made in recent Reports. This antagonistic tone is exemplified above all in his now-familiar references to the “pro-drug lobby”, but is underpinned by an “us and them” construction of the entire issue which colours his analysis throughout, resulting in inflated claims about the role of UNODC and an attribution of demonic qualities to those pursuing an agenda of change in relation to drug policy.

The Preface begins with some paragraphs that seek to contextualize debates about the future shape and direction of drug policy. A top-down view of social processes is developed in which it is the institutions of governance that appear to drive public debate and perceptions; in this case, according to Mr Costa, it was the UNGASS Review and the centennial of the Shanghai Opium Commission that “stimulated reflection on the effectiveness, and the limitations, of drug policy” (p.1.) In addition, the “UNODC has highlighted some negative, obviously unintended effects of drug control, foreshadowing a needed debate about the ways and means to deal with them.” (p.1.) Is this in fact an accurate or adequate account of how the public debate around the efficacy of drug control has developed historically? We would argue that the structures of governance, far from leading these debates, have come belatedly and often grudgingly to recognize that they cannot be avoided. While the UNODC has been a participant in the process and has recently contributed some valuable perspectives to the debates, it is untrue to claim that it initiated them. Mr Costa continues: “Of late, there has been a limited but growing chorus among politicians, the press, and even in public opinion saying: *drug control is not working*” (Emphasis original, p.1.) The patrician tone of this version of events is striking, and its reversal of the current of change may be hard to recognize for the civil society groups, academics, analysts, and the affected communities that have driven the reform discourse<sup>1</sup>.

The Preface then provides an account of the “several arguments” that have been deployed in support of “repealing drug controls”, resolving them into three main groupings: 1: economic, 2: health and 3: security, and its author then proceeds to demolish them. The task is rendered simple by having offered an impoverished and distorted version of the arguments in the first place. We will not seek here to provide a set of counter-arguments, but rather point out the unhelpful

tendency of the Preface to construct the field of political possibilities as a simplistic either-or choice in which drug policy reform is always automatically viewed as being a matter of total legalization of all drugs. The concomitant of this view is that those arguing for reform and modernisation constitute a “pro-drug lobby.”

Mr Costa concedes that the most serious issues related to the failings of the current drug control regime comes under his heading “security”—specifically, the problem of organized crime. He acknowledges the growth of organized crime on the back of the present regime. “*Legalize drugs, and organized crime will lose its most profitable line of activity, critics therefore say*” (Emphasis original, p.1.) He goes on: “Not so fast. UNODC is well aware of the threats posed by international drug mafias...” Again, the UNODC is posited as the inspiration for and source of the very widespread debates surrounding the relations of drugs and crime: “Having started this drugs/crime debate, and having pondered it extensively, we concluded that these drug-related organized crime arguments are valid. They must be addressed” (p.2.)

This acknowledgement, despite the grandiose claims to having started a debate that was present, as we demonstrate later in this paper, at the inception of the present drug control system in the early 20<sup>th</sup> century, is very much to be welcomed. However, the response that flows from it is one which is arguably perverse, and is certainly not adequate to addressing the complex realities of the global situation. For the text continues: “I urge governments to recalibrate the policy mix, without delay, in the direction of more controls on crime, without fewer controls on drugs.” (Emphasis original p.2.) At first sight, it seems curious that the problem of criminal markets parasitic on the regime which is supposed to restrict the availability of drugs is met with a recommendation to do more of the same—to criminalise and prosecute further. Isn’t this what was just acknowledged as ineffective?<sup>2</sup>

The text attempts to justify its exhortations by arguing that while it is correct that organized crime feeds off the illegal drugs market, we must not conclude therefore that legalizing the market is the solution. “Why? Because we are not counting beans here: we are counting lives.” Mr Costa, an economist himself, pleads against an econometrics of social policy, and sets himself up as the champion of the downtrodden, the addict “lost to addiction” (p.1.) It is from this point that the Preface becomes both increasingly lyrical in its appeals and increasingly rambling in the social problems it introduces, only to solve with a rhetorical flourish: “I appeal to the heroic partisans of the human rights cause worldwide, to help UNODC promote the right to health of drug addicts: they must be assisted and reintegrated into society” (Original emphasis). While IDPC is pleased to witness the languages of health and human rights becoming a familiar component of the drug control discourse, such rhetoric is in this context simply too general to evaluate. What constitutes “health” in these phrases? Who defines it? What kind of “reintegration into society” are we speaking of? As we have repeatedly pointed out in previous reports, it is the stigmatisation and criminalisation of drug users that is promoted within the drug control system that is itself the biggest barrier to their re-integration. Consequently, these passages could be anything from humanitarian to totalitarian in their implication for living in the real world. Moreover, these generalized acts of lyricism have yet to be accompanied by concrete instances where the UNODC intervenes on behalf of the health of drug users in settings where their rights are most egregiously denied, for instance, the Russian Federation, where methadone remains illegal.<sup>3</sup> It is of course easier to gesture in support of an abstract “addict” than to intervene with concrete measures in specific locations.

In arguing, next, for a “better policy mix”, the Preface references the themes elaborated by the Executive Director in his paper entitled

“*Organized Crime and its Threat to Security: tackling a disturbing consequence of drug control*”<sup>4</sup>, which he presented at the 52<sup>nd</sup> CND, and to “*Making drug control fit for purpose*,” his groundbreaking paper of the previous year. The greatly improved policy spread advocated here entails a change of focus for law enforcement, which should focus on traffickers instead of users. This, it is argued, should be combined with achieving the goal of universal access to drug treatment – “Drug addiction is a health condition: people who take drugs need medical help, not criminal retribution” (p.2.) That the Executive Director of the UNODC is now routinely conceptualizing drug policy in these terms and re-casting drug users as patients rather than criminals is of course to be welcomed. Nonetheless, this welcome should be accompanied with a degree of caution. Although it is valid to argue that “Attention must be devoted to heavy drug users” (p. 2) it should not be forgotten that, insofar as we know, the vast majority of those who use illicit drugs “need” neither criminal retribution *nor* medical help. This is implicitly acknowledged within the body of the *Report* itself where, as in previous years and noted above, a clear distinction is made between the total number of people who have used illicit drugs and the far smaller group of “problem drug users.” Moreover, there have throughout the modern period been numerous instances where unasked-for “medical help” has been imposed upon those whose beliefs and cultures were regarded as pathological by powerful elites, from Soviet dissidents in psychiatric hospitals to drug users in Thai<sup>5</sup> treatment camps. As Reinerman points out, the “Addiction-as-disease” discourse can be both “a humane warrant for necessary health services” and a “legitimation of repressive drug policies.”<sup>6</sup>

The lengthy section on policy adjustment is perhaps the most lacking in coherence. The paragraph dealing with “cities out of control” lacks focus in its argument and consistency in its analysis. The security issue is, of course, to

the fore, with the claim being made that “drug deals, like other crimes, take place mostly in urban settings controlled by criminal groups” (p.2.) In fact, we might argue that this is the setting in which they are most visible, but that drug deals are very diffuse. The passage continues by observing that the problem (of crime) “can only be solved by addressing the problem of slums and dereliction in our cities, through renewal of infrastructure and investment in people...” (p.2.) On this point, the IDPC is firmly in agreement with Mr Costa. Indeed, one of the main problems with much of the rest of his argument is that it seems to imply that the problems of crime can be solved by simply more enthusiastic enforcement (albeit of traffickers instead of users), rather than by addressing the social, economic, political and cultural context in which it arises.<sup>7</sup> Indeed, in the very next sentence, this kind of punitive assumption seems to return to his analysis: “Ghettos do not create junkies and the jobless: it is often the other way round” (p.2.) This curious turn in the argument appears to blame the very people he was identifying as victims just a moment ago – an interpretation supported by use of the pejorative terms “junkies”. It is eerily reminiscent of the morally absolutist construction of the drug problem so effectively deployed by the self-proclaimed “New Right” in the United States of America in the 1980s. Then “Unemployment, poverty, urban decay, school crises, crime and all their attendant forms of human troubles were spoken of and acted upon as if they were result of individual deviance, immorality and weakness.” In reversing a basic premise of social science - that individual choices are influenced by social circumstances - Mr. Costa, like the New Right during the Reagan era and their neoliberal epigones, consequently conceptualizes “people *in* trouble as people who *make* trouble.”<sup>8</sup>

The Executive Director’s remoteness from not only the basics of social science but also popular culture is betrayed by his suggestion for targeting the resources he wants invested

in people, especially in the youth who are “vulnerable to drugs and crime.” This vulnerability can be protected by providing them with “education, jobs and sport.” While few would argue with the suggestion of offering educational and economic opportunities, the emphasis on sport is strange. Not, of course, because there is anything wrong with sport, but because its choice as the sole cultural activity to be mentioned here gives us a feeling for what Mr Costa’s idea of “health” is likely to involve. Many elements of youth, which has its own cultures, styles, tastes and ethics, would not feel engaged by a notion of health limited to sporty activities.<sup>9</sup> It is important to note that this is not a trivial issue; the Preface’s mention of sport does not represent an arbitrarily assigned term to signify the spectrum of cultural practices, but rather a discourse repeatedly invoked by the *Office* and Mr Costa in particular.<sup>10</sup> Sport is regularly made to bear the solitary burden of acting as prophylactic against drugs. When several prominent researchers<sup>11</sup> have pointed to popular culture as perhaps the single most important factor driving global drug use, a more sophisticated understanding of the cultural formation of drug use, the meanings it carries and its role in youthful identity, is essential.<sup>12</sup>

The “policy-mix” section goes on to exhort governments to make more use of the international crime conventions; this is “the most important point” and it is here that Mr Costa is at his most critical of the behaviour of governments, who have not taken sufficiently seriously their duty to crack down on the “uncivil society” of organized crime. In so doing, he is returning to a favourite theme, namely that governments get the drugs and crime problems they deserve.<sup>13</sup> He warns that money laundering and the internet are both largely out of control, the latter being used as a “weapon of mass destruction by criminals (and terrorists)” (p.3.) Calling for new international conventions to control these two domains and finding his calls unanswered, he alleges that “drug policy gets the blame, and is subverted” (p.3.)

The Preface concludes by asking for “a double NO”—to both drugs and crime. Mr Costa argues that the “drug/crime trade-off argument...is no other than the pursuit of the old drug legalization agenda, persistently advocated by the pro-drug lobby” (p. 3) He claims that this agenda has been firmly resisted “by the majority of our society,” and finds this fact laudable. However, he declares, it is “no longer enough to say: *no to drugs*. We have to say an equally vehement: *no to crime*.” To do anything else would be an “epic mistake” (p.3.) The construction of a response centred on crime prevention and its inadequacies are discussed in detail below.

By way of summary, we would suggest that Mr Costa’s Preface adopts an unhealthy and antagonistic tone that is entirely inappropriate for the leader of a UN agency, and is in striking contrast to the more measured style of the body of the text and its presentation of data. Claims as to the UNODC’s initiation of debates are grandiose, and may be linked to the patrician views expressed at a number of points and the accompanying discomfort with civil society.<sup>14</sup> The preface is at times unstructured, arguments appearing to be organized around a series of the Executive Director’s pet topics, while the analysis of crime and security issues lacks overall conceptual coherence.

## The Admission of Uncertainty; A New Approach To Data

As a new addition, this year’s *World Drug Report* includes a Special Features section containing welcome discussion on police recorded drug offences, drug use among young people and drug data. In a short but informative overview, the *Report* examines some of the problems associated with identifying statistically the relationship between crime and drug use, but reveals that of the countries reporting information to the UNODC, the “majority show an increase in the number of

drug crimes in recent years.” This holds true for both possession and trafficking offences. The *Report* is careful to stress “...it is difficult to say whether this trend is the result of a growing problem or increased enforcement activity.” There is, however, a suggestion that “these increases may be driven by increased drug law enforcement rather than changes in the drug situation itself.” (p. 29) If this is the case, any growth in the number of offences relating to possession must be seen as a point of concern, particularly in light of calls from the Executive Director and others to focus attention on drug traffickers rather than users.

Prefacing the discussion of drug use among young people, we are told that this is an area of importance for a number of reasons. First, most people start using drugs during their youth and it is among young people that drug prevention activities are best targeted. Second, drug use trends among young people may indicate shifts in markets since they usually react to changes in availability or social perceptions about drug use more rapidly than older users. Third, starting drug use at an early age has been linked to negative health and social outcomes in later life. These are all of course valid points and fully justify the accompanying analysis that comes under the heading “Trends in drug use among young people: What do we know?” Indeed, the discussion is constructive inasmuch as beyond merely showing the trends in the use of cannabis, cocaine and ATS, it reveals that, as with patterns of drug use within the wider population, there are many things that we still do not know. As the *Report* acknowledges, more research is needed on among other things the increasingly popular and widespread use of pharmaceutical drugs, drug use among young people in Asia and Africa, and the recent picture of ATS use in Oceania. It also notes the limitations of school surveys in capturing those young people outside the education system and the limited amount of comparable data for cannabis use across South American states. Whilst these are all important lacunae worthy of attention,



we also encourage the UNODC to further develop its analysis by enhancing discussion of the causes of drug use among young people, including for example patterns of initiation across ages groups and substances.<sup>15</sup> It is only through a greater understanding of the risk and protective factors that affect levels and patterns of use, that we will be able to devise more effective responses. Moreover, since prevention activities are focused predominantly on young people, does not the actual effectiveness of such programmes also warrant attention? It would be naïve to believe that the operationalization of these suggestions, even a review of existing research in this area, would not have cost implications for the UNODC. That said, donors should acknowledge that the development of a true global centre of excellence with a capacity to go beyond trend analysis of production, trafficking and use requires sustained and proportionate investment.

The themes of “what do we know?” and appropriate resourcing in many ways also underpin the “improving the quality of drug data” portion of the Special Features section. Noting the improvements in the quality and availability of illicit drug data over the last decade, the *Report* candidly acknowledges that serious challenges remain. Key among these is filling the gaps in use and production data and monitoring trends across time; processes that require “technical and financial resources as well as political will” (p. 21.) While we are yet to see the necessary financial commitments, some increase in political desire to improve the quality of drug data was manifest at the fifty-second session of the CND in March 2009. Here the issue received considerable attention, including a Resolution (52/12) focusing on data collection, reporting and analysis (For a full discussion see The 2009 Commission on Narcotic Drugs and Its High Level Segment – Report of Proceedings, IDPC.) As noted in the 2009 *World Drug Report*, “The aim is to develop simpler, more integrated data collection processes, and to increase the capacity of

countries to collect and report information on their drug situation.” “UNODC” it continues, “invites Member States to join this effort to improve data collection at the national level, and reporting at the global level” (p. 22.) This is a clarion call that the IDPC wholeheartedly echoes. Significant moves to improve not only the quality and quantity of the data collected, but also the way in which it is presented by the UNODC hopefully mark the beginnings of a new approach to this crucial area.

Indeed, the high levels of uncertainty concerning certain aspects of the illicit market, particularly in relation to the cultivation of cannabis and the manufacture of ATS, is this year fully acknowledged by the UNODC. “Considering the level of confidence in data on the production and use of illicit drugs,” the *Report* notes, “it is not always possible to provide precise information on levels and trends.” The open acceptance of this reality has meant that, as noted above, this year’s *Report* moves away from point figures and “explicitly addresses” the question of uncertainty by using ranges “where the level of confidence is not sufficient to support point estimates” (p. 21.) This is clearly an enormous step forward in reporting methodology and brings the UNODC in line with the practice of other organizations and academic studies in this field. That said, coca and cocaine production estimates mark a conspicuous exception to the shift to reporting ranges rather than the point figures; none of the coca and cocaine estimates in the 2009 report are presented as ranges, despite the acknowledged uncertainties involved in these measures.

Beyond the general shift to ranges, this year’s *Report* also does much to de-mystify data sources and the approaches taken in generating the aforementioned ranges. In regard to the construction of estimates of national and global figures for drug users for example (p. 22.) To this end the document is also peppered with highly informative and reader-friendly boxes on areas such as

“Estimating opium cultivation and production,” (p. 40) and the “Interpretation of seizure data.” (p. 51.) An additional benefit of this approach is that it allows for the easy presentation of information regarding UNODC activities such as the “Joint UNODC-WHO Programme on Drug Dependence Treatment and Care” (p. 86), and hugely important issues, like “Injecting drug use and HIV” (p. 57) that have in previous years received relatively little attention. The enhanced transparency in methodology is an immeasurable improvement upon previous Reports where, while available, all details concerning methodology were tucked away in the final and somewhat impenetrable chapter following the statistical annex; an issue discussed in the IDPC response to the 2008 *World Drug Report*.

Among other things, in adopting Resolution 52/12, “Improving the collection, reporting and analysis of data to monitor the implementation of the Political Declaration and Plan of Action on International Cooperation towards an Integrated and Balanced Strategy to Counter the World Drug Problem,” Member States agreed for intergovernmental expert consultations to take place to review current data collection tools and the development of revised set of survey instruments for consideration at the 2010 CND. Both are important initiatives that will be watched with interest. The IDPC is also supportive of ongoing moves to develop a reference group to the UN on drug statistics. Having established processes to improve the quality of the data received by the UNODC, it makes perfect sense to utilize the epidemiological expertise operating within other organizations during the process of analysis by the *Office* and other UN agencies, including the WHO and UNAIDS.

Refinement of the UNODC’s methodology this year does not mean, however, that the current data is without its problems. Indeed, while there has been increased sophistication in dealing with prevalence data, there remain questions on the production side of the issue.

As with previous Reports, a particular area of dispute relates to Colombian coca figures; a subject discussed at length in last year’s IDPC response and consequently not reprised here. Nonetheless, the UNODC figures for the total area of under cultivation in Colombia in 2007, 99,000 ha, (p. 63) are as in previous years in no way comparable to those presented by the US government which estimated 167,000 ha. It is worth pointing out that, reflecting an 8% decline, the UN’s 2008 figure for *total* area under coca cultivation (Bolivia, Colombia, Peru) is 167,600 ha.<sup>16</sup> Other research exists to suggest that UNODC figures for both area under coca cultivation and potential cocaine production (430 mt) are gross underestimations.<sup>17</sup> Putting these disparities aside, it is also important to appreciate that while encouraging, a purported 18% drop in Colombian coca-bush cultivation from 2007 to 2008 “is not as remarkable as it sounds.” Indeed, as the CIP Colombia Program points out, “It represents a return to the same levels of coca cultivation that the UN agency detected in 2003-2006, the years after Plan Colombia brought an increase in eradication.” Indeed, when one removes what were regarded as anomalous 2007 data, Colombia has experienced a stable level of coca-cultivation. “In five of the last six years, the UN has found Colombian coca-growing to be consistently within a narrow band between 78,000 and 86,000 hectares. The 2008 figure, 81,000 hectares, fits comfortably within that band.”<sup>18</sup> Within the context of data accuracy, it is also worth highlighting that only a few days after its launch, the Brazilian government challenged the accuracy of the figures concerning HIV among injecting drug users contained within the *Report*. What the Ministry of Health in Brasilia claimed to be outdated figures showed a HIV prevalence rate of 48%; one more reflective of the national picture in the 1990s than those in contemporary Brazil.<sup>19</sup> Although the precise details underlying the confusion remain unclear, the incident reflects the challenges facing both Member States and the UNODC in ensuring the collection and transmission of accurate information.

Mindful of the enormity of the task facing the UNODC in preparing the *World Drug Report*, perhaps periodic glitches are to a certain extent inevitable. That said, in addition to necessary and continuous refinement of the operation of the extant *Report* framework, it remains valid to suggest that both the methodologies and type of data collected and analysed by the *Office* should continue to move beyond current parameters. For example, while Member States have endorsed the collection of data on injecting drug use, HIV among IDUs, drug treatment and drug related mortality, these indicators still receive relatively scant attention compared to the focus on the drug supply side. This could be remedied by increasing cooperation with UNAIDS and the WHO; both of which have mandates to monitor these domains. A widening of scope could also be achieved by drawing upon the work of the European Monitoring Centre on Drugs and Drug Addiction on drug related infectious diseases and drug related deaths and relevant sections of the WHO's Global Burden of Disease analysis. An additionally constructive domain of enquiry might include investigation of what the Executive Director refers to as the "unintended consequences" of the control system.<sup>20</sup> The relevance of the *World Drug Report* would surely be enhanced if its scope were expanded "to include data on what is going wrong in international drug control, not just how well things are going."<sup>21</sup> Furthermore, as the IDPC noted last year, "In order to strengthen demand reduction activity, and more broadly to improve understanding of the phenomena under investigation, it may be worth the UN considering extending the range of research tools it brings to bear to improve qualitative and cultural methods." (*The 2008 World Drug Report: A Response from The International Drug Policy Consortium*, September 2008, p. 10)

## Unintended Consequences: Dealing With Collateral Damage

The thematic chapter in this year's *Report* is entitled "Confronting unintended consequences: Drug control and the criminal black market." The chapter draws on the influential text produced by Mr Costa during the UNGASS Review, "*Making drug control fit for purpose*", and also develops the "100 years of drug control"<sup>22</sup> theme from the *World Drug Report 2008*. It constructs a historical analysis that provides a narrative context for the present. This organizing narrative frames the work of UNODC and the broader drug control regime in a way which subsumes the previous discourse of "containment" and absorbs elements of critical discourse previously deployed by reformers. Celebrating both the establishment of a global control system and its achievements in "shielding millions from the effects of drug abuse and addiction" (p.163), it nonetheless recognizes that the system has "unintended consequences", the most significant of which is the growth of the criminal black market. In this final section, we will examine the *Report's* analysis of these unintended consequences and its plans for ameliorating them.

In introducing the chapter on "unintended consequences", the *Report* points to the almost universal adherence of states to the drug control treaties;<sup>23</sup> and, while it does exaggerate the consensual character of the historical development of the treaties, it is accurate in describing the endurance of the drug control regime, which has "chugged steadily forward, culminating in a framework of agreements and joint interventions with few precedents or peers in international law" (p.163.) However, while it is true that adherence by governments is close to universal, there are two sets of phenomena that should be remarked: firstly, that the consensus, while certainly broad, is increasingly fractured in terms of depth, as witnessed at this year's CND where 26 states insisted on interpreting

the Political Declaration as including harm reduction practices;<sup>24</sup> secondly, that among the populations of states that are signatory to the drug control treaties there exist minorities, often quite large, of citizens who do wish to non-medically consume substances controlled by those treaties. This last item points up a significant blind spot in the analysis offered by UNODC in this section of the *Report*. The authors remark several times on the “curious” fact that, while the global community has not been successful in abolishing war or poverty either, it is the drug control system which is “uniquely subject to calls that the struggle should be abandoned” (p.163.) Similarly, Antonio Costa in his Preface berates reformers for inconsistency, asking why they do not also call for the abandonment of gun control—“No to guns, yes to drugs” (p.3.)

There are a number of reasons why drug policy represents a different case from the other topics mentioned. Many people would argue that drugs can have beneficial as well as harmful effects—aside from their medicinal uses. Indeed, it would be very surprising if none of amongst the authors of the *Report* themselves consumed alcohol for non-medicinal purposes. Alcohol is, of course, a drug. The reason it is not illegal throughout the UN constituency is one connected with cultural preference, power and history rather than any pharmacological properties that distinguishes it from other, illicit substances. To be sure, the dynamics of the extant system reflect the dominance of the US and Europe at its inception during the early years of the Twentieth Century. Had the balance of power existed in an alternative formulation, the current normative framework for the control of “drugs” might have looked very different.<sup>25</sup> As Hans Halbach, the former chief of the WHO Section on Addiction Producing Drugs, pointed out, “If in those days the opium-producing countries had been as concerned about alcohol as Western countries were concerned about opium, we might have had an international convention on alcohol.”<sup>26</sup>

Alcohol is amongst the most dangerous of drugs when used to excess—much more harmful to the body than heroin. Yet we know that millions of people use alcohol relatively safely; it oils the wheels of conviviality and brightens social life for all kinds of people, including across the spectrum of opinions about drug control. The same principle applies to some of those substances that are currently illegal. Citizens around the world derive pleasure, relaxation, creativity in art and music, insights and exploration of human subjectivity from these materials: this is one important reason why the topic of their control is a legitimate one to raise, and why drug control is radically different from laws against violent crime, from war and poverty. Drugs, legal and illegal, pose an ethico-political problem which is quite specific. It is surprising that the analysts at UNODC appear not to recognize these important aspects of the question of drugs. To acknowledge them is not to adopt a “pro-drug” position; rather it involves the empirical observation of a complex reality (drug use has good results as well as bad, large numbers of otherwise law abiding citizens choose to use them) and to confront the resultant dilemmas honestly.

Nonetheless, the general tone of the chapter, which is analytical rather than rhetorical, and the terms in which critics of the regime are addressed, are a great improvement on the Preface, discussed above, and deserve explicit welcome. Speaking of the reform movement as “a serious and concerned group of academics and civil society organizations who feel that the present system causes more harm than good” (p.163) is considerably more polite, if nothing else, than reference to a “pro-drug lobby.” It is more likely to facilitate creative debate rather than mutual antagonism in a situation where cooperative intelligence is sorely needed.

## Intention and Prediction

It has been necessary to address some of the underlying assumptions in play in this chapter of the *Report*. Most of the attention of a thoughtful and at times highly sophisticated piece of work is, however, devoted to the discussion of “unintended consequences”, and it is to these specifically that we now turn.

The concept of unintended consequences is a somewhat problematic one, and it is given no precise definition in the chapter. After noting the achievements of the drug control regime, the authors acknowledge “reversals and set-backs, surprising developments and unintended consequences.” It gives a brief enumeration of these: “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.*” (p. 163, emphasis added)

The concept of unintended consequences has been usefully discussed by Peter Reuter,<sup>27</sup> who notes the difference between “unintended” and “unpredicted”. This should draw our attention to the final, italicized sentence in the last quoted paragraph above. The statement in fact entails an historical error, for some of the unintended consequences not only *could* have been predicted at the outset, but *were* indeed predicted. These include the one evaluated by the *Report* as the most serious consequence—the growth of the criminal black market. The advent of a criminal entrepreneurial response to the prohibition of opiates, cocaine, cannabis and the rest was explicitly predicted by numerous commentators in the early days of the system and prior to its inception. From the 1890s, when the Royal Opium Commission<sup>28</sup> investigated the prohibition of opium in India, through to the Dutch government’s preference for a public health understanding of addiction during the negotiations of the opium conventions at the Hague and Geneva,<sup>29</sup> a plethora of sources<sup>30</sup>

warned that illicit sources would take over the supply of those drugs made illegal under the international system.

The reference to what could reasonably have been predicted at the inception of the system appears to indicate that the terms “unintended consequences” refers to the intentions of those who pioneered it in the early twentieth century. It then becomes necessary to ask at what point these unintended consequences become intentional; if an action has undesirable effects yet we keep on repeating it regardless, is it still reasonable to claim that these effects are unintentional? The question of bad faith must arise, since one is aware of the consequences yet making use of their “unintentional” nature to absolve oneself of responsibility.

Nonetheless, it is a most welcome development to see the growing recognition within the agencies of the international control system that drug policy has had major “side-effects” and that it is necessary to shift the balance of the system to try to ameliorate some of them. Much of this chapter is in fact dedicated to suggesting ways in which this might done, and there is much here that IDPC supports. Indeed, despite the reservation outlined in the foregoing, it is most encouraging to see that the decriminalization experiment in Portugal is spoken of in largely positive terms. Portugal’s 2001 reforms meant that possession of drugs became an administrative rather than a criminal offence. The *Report* notes that, as drug possession remains illegal, the INCB has declared that these reforms remain within the parameters of the Conventions. The *Report* states: “These conditions keep drugs out of the hands of those who avoid them under a system of full prohibition, while encouraging treatment, rather than incarceration, for users” (p.168.) In fact, only dependent users are steered toward treatment; but the essential point is that such reforms are widely viewed to be working, and appear to have the potential to provide some common ground between the drug control system and its critics. Mexico

decriminalized personal possession in April 2009, and Argentina looks set to follow. In numerous jurisdictions in Europe and beyond, there is a *de facto* tolerance of possession. The trend of the times appears to be toward reform, the widespread adherence to the Conventions notwithstanding.

The suggestions for ameliorating the unintended consequences of the international drug control regime provide evidence that this trend has also entered the UNODC. In addition to its guarded approval of Portugal's "creative" approach, the *Report* goes on to note, rightly, that such approaches have tended to be restricted to "the extreme ends of the trafficking chain"—namely, end-users and crop growers, who are "seen, in effect, as victims..." (p.168.) It is encouraging to read the authors arguing that alternatives to incarceration should be considered for dealers also; in practice, many dealers, especially at the retail end, are themselves drug users. Similarly, many of those arrested and receiving harsh punishments through interdiction operations are the 'foot soldiers' of dealing operations – drug 'mules' who, while not entirely innocent, are not the drug barons of popular myth. As for users, the text goes on to say that imprisonment "should only be applied in exceptional cases to users." (p.169.) The main response advocated lies in reducing demand by "mainstreaming the half-a-percent"; the term refers to that 0.5% of the global adult population who are defined as "problematic." The authors argue that the market can be undermined and the traffickers denied their best and most reliable clients by directing the "problem user" into treatment. These are commendable sentiments, and it is encouraging to see them in the flagship publication of the *Office*, but it would be even more encouraging to see a greater willingness to point out where countries are clearly out of line with the global evidence base, for example through widespread incarceration of drug users, or the refusal to allow access to proven treatments.

There is considerable attention directed to those "cities out of control" mentioned in the Preface, in a section entitled "*Close open drug markets.*" The text here makes a promising start, speaking of the waste involved in continuously arresting the same individuals, proposing instead "interventions...going beyond arrest and seizures to address the social conditions on which drug markets are reliant" (p.170.)

However, the analysis then moves once more toward "crime prevention", employing conceptual tools derived from situational crime prevention theory. This focuses on "neglected spaces" in which drug markets function, and which "also harbour fugitives, sex workers, runaways, and illegal immigrants, and anyone else who wants to avoid the law" (p.170.) What should be done to address these apparently unregulated zones, say the authors, is to target those who have an interest "in the appearance of chaos. If these authorities could be called to account, these areas could be reclaimed, with serious consequences for the drug markets" (p.171.) While users and street dealers have nothing to lose, those who own the properties should be targeted. The threat which will make them comply is the loss of their property. "Legislation that requires that owners take responsibility for what goes on in their establishments could go a long way toward restoring order." A system of escalating fines and ultimate forfeiture of property is advocated; moreover, "as actions under the civil law, a lower standard of proof would be required than under the criminal law, and procedures could be streamlined to reduce delays due to litigation." The enthusiasm with which an attenuation of the burden of proof is here greeted sits uneasily in an agency at the same time issuing lyrical appeals in support of human rights. More generally, the solutions offered by situational crime prevention have a mixed history, do not address to underlying problems of the society which generates this suffering and alienation, and certainly cannot be seen as a panacea for very complex socio-economic problems. The

fact that these ‘criminologies of everyday life’ as they are called by Garland<sup>31</sup> may reduce the visibility of the drug scene essentially by displacing it is only one drawback with the proposal.<sup>32</sup> More generally, their focus is entirely on crime suppression; while this is indeed part of the *Office’s* mandate, there is no analysis of the broader social context of the drugs/crime nexus, no situation of poverty and marginality within political and economic structures outside the control of those who inhabit these marginal zones, no analysis of the wider culture they inhabit. Indeed, drug users are conceived as lacking rationality or awareness of their “best interests” by merely virtue of being drug users (p.171.)

There are further flaws in the next set of enforcement tactics advocated, which involve “disrupting information networks.” The statement is made that “An inherent weakness of black markets is that most of the participants are untrustworthy” (p. 172.) This is a curious claim which is not referenced and appears to be drawn from television portrayals of drug markets rather than criminal networks, which for the most part function in much the same way as other businesses—which is partly what makes them so resilient.<sup>33</sup> The call to develop “flow-specific drug strategies” essentially involves matching the globalizing methods of the traffickers themselves; there is some quite sophisticated strategic thinking underway here, though the difficulties of achieving “balanced approaches” are recognized: “Until the full range of government powers is available to the drug control effort, it is likely that the same agencies will continue to do the same work in very much the same way.” In this passage, it is clear that an awareness of the complexities of the social and economic setting of drug use—particularly “problematic drug use”— is recognized. We would like to see more of this kind of analysis from the UNODC, which in the past has tended to remain somewhat entangled in law enforcement responses to issues whose solutions lie largely outside the competence of the law.

The remainder of the chapter develops the call for a more nuanced response, though the arguments made could often be deployed in favour of different strategies and tactics. It is acknowledged, for example, that the ways in which drugs are consumed varies between drugs and across social contexts. “These differences are real and have implication for control strategies, but they should not be mistaken for inherent properties of the drug. The same drug can have very different sorts of impacts in different social contexts.” Alcohol and cannabis are employed as examples of this phenomenon, the *Report* pointing out how cannabis is associated in certain countries with violence, “a fact which Western consumers may find difficult to believe” (p.175.) However, despite this analysis, the authors are unwilling to concede that much of what is usually referred to as “the drug problem” is in reality located in discourse and cultural practice,<sup>34</sup> and that informal controls embedded in a social context are more likely to prevent drug use becoming problematic for individuals and for societies than legal measures.<sup>35</sup> It is perhaps here worth recalling the words of the father of American criminology, Edwin Sutherland, who once remarked, “Where customary restraints are adequate, no laws are necessary; where customs are inadequate, laws are useless.”<sup>36</sup>

Much of the thinking in this chapter provides ground for rapprochement between the UNODC and critical voices in civil society, particularly the shift away from the punishment of consumers. It is to be hoped that such an engagement, undertaken in good faith and with respect on both sides, will lead to a menu of policies equipped to address the negative consequences of drug control, regardless of the degree to which these were or were not predictable in the past. We welcome this movement within the *Office*, and encourage it to go still further in seeking solutions outside the parameters of crime control and repression, a restrictive inheritance from an enforcement-dominated paradigm that is undergoing a

process of slow but steady erosion at the dawn of the twenty-first century.

We are in a period of review and reflection for the UNODC, with the completion of the 10-year review, and the potential change of leadership. The 2009 *World Drug Report* represents a welcome step forward, building on concepts contained in other recent UNODC documents, that demonstrate the *Office's* recognition that data needs to be improved, policy conclusions need to be cautiously drawn from currently available information, and there are real policy dilemmas that need to be addressed soberly and objectively at national and multilateral level. Once again, however, we need to record that the preface to the *Report* (often the only section read) fails to live up to these standards, using rhetoric, faulty logic and selective interpretations of evidence to justify a particular world view. This can only undermine the reasonable search for more effective policies, and we have to hope, once again, that we do not have to witness it again in the 2010 *Report*.

### (Endnotes)

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