



COUNT THE COSTS

50 YEARS OF THE WAR ON DRUGS

The War on Drugs: Promoting stigma and discrimination

The global “war on drugs” has been fought for 50 years, without preventing the long-term trend of increasing drug supply and use. Beyond this failure, the UN Office on Drugs and Crime (UNODC) has identified many serious negative “unintended consequences”⁽¹⁾ of the drug war – including the stigma and discrimination faced by a range of populations. These costs are distinct from those relating to drug use, stemming as they do from the choice of a punitive enforcement-led approach that, by its nature, criminalises many users – often the most vulnerable in society.

This briefing summarises these stigma and discrimination costs. There is naturally overlap with other areas of the Count the Costs project, including: security and development, human rights, crime, the environment, and economics. For briefings and a more extensive collection of resources on these costs, see www.countthecosts.org.

Introduction

Despite the lack of evidence that more punitive drug laws significantly deter drug use, criminalisation remains the primary weapon in the war on drugs. But using the criminal justice system to solve a public health problem has proven not only ineffective, but also socially corrosive. It promotes stigmatisation and discrimination, the burden of which is largely carried by already marginalised or vulnerable populations, many of whom the policy is nominally designed to protect.

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Discrimination is the prejudicial treatment of a person based on the group, class or category to which that person belongs. It is inevitably linked to stigma, the social and practical manifestation of “*a distinguishing mark of social disgrace*”.⁽²⁾

Although all drug use – particularly when linked with public intoxication – has been associated with social disapproval, there is a striking variation in how this is expressed for different drugs and using environments. While it certainly surrounds users of all illicit drugs, stigma, as defined above, can be amplified by politically manufactured moral panics around certain drugs, groups or populations. Stigma is also markedly less evident for users of licit drugs such as alcohol or tobacco. Social and legal controls certainly exist in relation to these drugs, yet they mostly relate to certain behaviours (such as smoking in public places, or public drunkenness) and are by and large desirable, helping to establish healthy societal norms that minimise potential harms. However, these sanctions are of a different order to “*social disgrace*”, the severe form of public disapproval reserved for those involved with illicit drugs.

This disparity is not explained by differences in the effects or potential harms of drugs – indeed drug harm rankings consistently rate alcohol and tobacco as equal to or more risky than many illicit drugs.⁽³⁾ Instead, it is the product of policies that, for historically discriminatory reasons, have created parallel and dramatically divergent control regimes for comparable substances. Some explanation can be traced to the xenophobic social climate in the US during the 19th and early 20th centuries. The emergence of laws criminalising certain drugs was significantly associated with immigrant populations perceived to be the most prolific consumers – Chinese users of opium,⁽⁴⁾ African Americans users of cocaine,⁽⁵⁾ and Hispanic users of “*marijuana*”. The cultural and legal association of these drugs with “*otherness*” and deviance, as distinct from alcohol and tobacco, continues to this day.

The 1961 UN Single Convention on Narcotic Drugs – the founding legal instrument of the war on drugs – refers to drug addiction as “*a serious evil for the individual*”, and a

“*threat*” which the international community has a “*duty*” to “*combat*” because it is “*fraught with social and economic danger to mankind*”.⁽⁶⁾ The use of such language appears to be specifically intended as stigmatising, creating the “*mark of social disgrace*” by presenting addicts as a threat to society. In this context, the narrative of “*unintended*” consequences argued by the UNODC begins to unravel.

The absence of alcohol and tobacco from such international controls again highlights the arbitrary moral distinctions they propagate. Indeed, while tobacco is associated with a level of addiction and health harms that eclipse all other drugs – legal and illegal – combined, it is nonetheless subject to its own UN convention. The Framework Convention on Tobacco Control has a comparable number of state signatories to the three prohibitionist drug conventions, but contains none of the stigmatising language, and by contrast to the 1961 Single Convention, outlines a series of legal, market control measures – not punitive prohibitions – for the non-medical use of a high-risk drug. The arbitrary moral distinction between “*good*” and “*bad*” psychoactive substances, and the prohibitions established as a result of this distinction, are in themselves a form of discrimination.



Through criminalisation, the war on drugs compounds the stigma and discrimination experienced by people who use drugs

“The fifth unintended consequence [of international drug control] is the way we perceive and deal with the users of illicit drugs. A system appears to have been created in which those who fall into the web of addiction find themselves excluded and marginalized from the social mainstream, tainted with a moral stigma, and often unable to find treatment even when they may be motivated to want it.”

United Nations Office on Drugs and Crime
2008 World Drug Report

Criminalisation of people who use drugs

As with other criminalised behaviours, drug use (or the criminalisation of possession, which in practice amounts to the same thing) and in particular drug dependence, is taken by many to be an indicator of certain objectionable character traits or dissolute lifestyle choices. Indeed, across a number of countries, drug addiction is the most strongly stigmatised of a range of health and social conditions, including homelessness, leprosy, being dirty or unkempt, and possessing a criminal record for burglary.⁽⁷⁾ This stigma has a range of knock-on effects, all of which further marginalise and threaten the wellbeing of people who use drugs.

The relationship between criminalisation, stigma and discrimination is undoubtedly complex. While

criminalisation is an inherently stigmatising process that often leads to discrimination, it is discrimination at wider social and political levels that initiates this process. Many affected populations will experience multiple types of discrimination – a young black male living in a socially deprived US urban environment, for example. The criminalisation implicit in the “war on drugs” will tend to exacerbate existing inequalities – especially where other forms of discrimination exist.

People who use drugs can be stigmatised or discriminated against irrespective of whether they have received a criminal record for their use. However, criminalisation exacerbates this stigma and discrimination, as there is an inevitable link between the labelling of an individual as a criminal and how they are perceived and treated by the rest of society. Indeed, as well as the potential sentence itself, the negative associations of criminalisation are intended to have a deterrent effect for others. In the case of drugs, although criminalisation does not significantly deter use,⁽⁸⁾ the negative associations can remain for years, often for life.

Media portrayals

Public antipathy towards people who use or are dependent on drugs is fuelled – or at least echoed and amplified – by inaccurate or offensive media reporting. While it is now rightly considered unacceptable to describe someone with mental health problems as a “psycho” or “lunatic”, equivalently stigmatising language still persists in media descriptions of people who use drugs. Terms such as “junkie”, or “clean/dirty” (to describe drug users), are widely used essentially as bywords for social deviance. Their effect is to dehumanise, implying that a person’s drug use is the defining feature of their character. Dependent drug users are one of the few populations that media commentators can still insult and demean with a large degree of impunity.

Media coverage of drug-related deaths also reinforces the discriminatory distinction between “good” and “bad” drugs and drug users. So, while fatalities resulting from alcohol or prescription drugs go largely unreported, illegal drug deaths receive significant press attention. Considering poisoning

deaths in the UK in 2008 for example, 2% were reported in the popular media for alcohol and methadone, compared to 9% for heroin/morphine, 66% for cocaine, and 106% for ecstasy (i.e. more deaths were reported than actually occurred).⁽⁹⁾

Once identified as an illicit drug user by the media, the label can be hard to escape. News reports often reinforce and perpetuate the stigma of drug dependence, as the subject of an article can be referred to as a “former drug addict” even when the relevance of this information to the story is highly questionable.

“Governments across the world continue to incarcerate drug users, and the cycle of stigma, HIV infection, and mass inequity goes on.”

Stephen Lewis

Former Special Envoy to UN Secretary-General Kofi Annan and Co-Director of AIDS-Free World
2010

“If every junkie in this country were to die tomorrow I would cheer”

On 18th February 2011 the Irish Independent published a column by Ian O’Doherty entitled “Sterilising junkies may seem harsh, but it does make sense”. In it, he described people who use drugs as “vermin” and as “feral, worthless scumbags”. He also wrote:

“Let’s get a few things straight – I hate junkies more than anything else. I hate their greed, their stupidity, their constant sense of self-pity, the way they can justify their behaviour, the damage they do to their own family and to others.”

He added that: *“If every junkie in this country were to die tomorrow I would cheer.”*

A complaint about the column made to the Irish Press Ombudsman was later upheld, finding that the newspaper, “breached Principle 8 (Prejudice) of the Code of Practice for Newspapers and Magazines because it was likely to cause grave offence to or stir up hatred against individuals or groups addicted to drugs on the basis of their illness.”

This was a landmark ruling, according to the complainants:

“We believe this to be the first time that drug users have been identified by a media watchdog as an identifiable group, entitled to protections against hate-type speech in the press. In this sense, we think the decision of the Press Ombudsman has international significance.”⁽¹⁰⁾

Limited employment prospects and life chances

By criminalising a personal decision to possess/consume a potentially risky substance, punitive enforcement can dramatically impact on the career prospects of otherwise law-abiding individuals, as certain professions preclude employment for those with drug convictions or criminal records. Multiple forms of stigma and discrimination are also evident in the associations of drug use with the “long-term unemployed”, “welfare recipients”, and so-called “scroungers”, particularly where benefit claimants are subject to drug testing.

For people who are or have been dependent on drugs, issues such as low self-confidence, mental or physical health problems, ongoing treatment, or chaotic lifestyles will often already restrict employment opportunities – a criminal record is an additional impediment. This is particularly troubling in light of evidence that the creation of job prospects adds significantly to the willingness of unemployed drug users to enter treatment,⁽¹¹⁾ and that steady employment is often a key part of stabilising a post-dependence lifestyle.



Stigma and discrimination increases the potential health harms of drug use

Reduced standards of social welfare

Life chances can be significantly impacted by a reduction in the levels of social welfare to which those convicted for drug offences are entitled. In some parts of the United States, for example, a drug conviction can be grounds for eviction from public housing, the withholding of food stamps, the denial of benefits, and the refusal of federal loans and financial aid to students.⁽¹²⁾ These last three penalties are all the more discriminatory given that no parallel sanctions exist for people convicted of other felonies – even crimes as serious as robbery or rape.⁽¹³⁾ Negative drug tests as a prerequisite for benefit claimants have also been introduced in Florida.

Voter disenfranchisement

An estimated 5.3 million Americans are denied the right to vote based on their felony convictions, 4 million of whom are currently not in prison. About a third of them are black, including 13% of all African-American men. Many of these convictions are drug-related.

Restricted access to healthcare

Criminalisation – and the associated stigma and discrimination – frequently pushes drug use into unhygienic and unsupervised marginal environments, increasing risks. It can additionally deter the hardest-to-reach individuals from seeking treatment, for fear of condemnation, judgement or arrest.

In much of the world, including many middle- and high-income countries,⁽¹⁴⁾ informal barriers effectively deny antiretroviral or hepatitis C treatment⁽¹⁵⁾ to people who use drugs. This is discrimination, given that, as the UN Special Rapporteur on the right to health has stated, treatment adherence among people who use drugs is not necessarily lower than those who do not, and should be assessed on an individual basis.⁽¹⁶⁾

- Despite the fact that the right to the highest attainable standard of health is affirmed in the constitution of the World Health Organization (WHO) and several UN

conventions,⁽¹⁷⁾ in many countries this right is denied to people who use drugs, as access to proven harm reduction measures – such as needle and syringe programmes (NSP) or opioid substitution treatment (OST) – is either extremely limited or prohibited outright

- According to WHO Europe, in Eastern European countries in particular, injecting drug users have unequal access to antiretroviral treatment⁽¹⁸⁾
- In Russia, healthcare personnel routinely violate the principle of medical confidentiality by sharing information about people registered as drug users⁽¹⁹⁾
- Many people who inject drugs do not carry sterile syringes or other injecting equipment, even though it is legal to do so in their country, because possession of such equipment can mark an individual as a drug user, and expose him or her to punishment on other grounds⁽²⁰⁾

Torture and abuse

At its most extreme, stigma can involve dehumanisation that has the potential to lead to the most serious forms of abuse. People who use drugs are frequently subject to various forms of torture or cruel and unusual punishment. This includes abuses such as death threats and beatings to extract information; extortion of money or confessions through forced withdrawal without medical assistance; judicially sanctioned corporal punishment for drug possession; as well as various forms of cruel, inhuman and degrading treatment carried out in the name of “rehabilitation”.

- In China, detainees have been forced to participate in unpaid labour, day and night, while suffering the effects of withdrawal. Access to methadone is denied and payment demanded for other medications that can help with the withdrawal process. Beatings – some causing death – are commonplace, with detainees chosen to carry out physical violence against each other⁽²¹⁾

- In Cambodia, abuses have included: detainees being hung by the ankle on flagpoles in midday sun⁽²²⁾; shocking by electric batons; whipping by cords, electrical wires, tree branches and water hoses; rape (including gang rape); and forcing women into sex work. As in China, abuses are not only carried out by staff, but delegated to trusted inmates to carry out against fellow detainees. Not even children are spared such brutality, as they comprise around 25% of those in compulsory drug detention centres⁽²³⁾

Drug user registries

In some countries, the stigmatisation of, and discrimination against, people who use drugs is effectively a formal process, conducted through a system of compulsory registration with the state. This system labels people as drug users for years, sometimes indefinitely, regardless of whether they have ceased using drugs.⁽²⁴⁾

- In Burma, people who use drugs must register, with their parents in attendance, to enter treatment, and must subsequently carry cards that identify them as drug users. Once on the list, it is unclear how their names are removed⁽²⁵⁾
- In Ukraine, state-registered dependent drug users are forbidden from holding driver’s licenses⁽²⁶⁾
- In Thailand, once registered, drug users remain under surveillance by police and anti-drug agencies, and information about patient drug use is widely shared⁽²⁷⁾

“The reality is that if you look for drugs in any community, you will find them – when the police go looking for drugs, and only looking for drugs in one community, they’re going to find them in that community and not in others. So, the war on drugs being concentrated in poor communities of color, the overwhelming majority of the people who are arrested, who are swept up, are black and brown, because it’s those communities that have been targeted.”

Michelle Alexander

Legal scholar and author of *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*
2012

Criminalisation of drug production and trafficking

The production, transportation and sale of illicit drugs are among the most strongly reviled and penalised criminal offences. However, the arbitrary nature of drug law enforcement is again evident in the fact that only the supply of *some* drugs is criminalised. The Executive Director of the UNODC has stated (in comments echoed by domestic governments) that: “*Drugs are not dangerous because they are illegal: they are illegal because they are dangerous to health*”,⁽²⁸⁾ yet does not issue similar condemnations of alcohol, tobacco, or the corporations that supply them.

Indeed, the sale of legal drugs is often actively celebrated or encouraged, as the heads of successful drinks companies are lauded for their business acumen and alcoholic drinks win awards for their marketing campaigns. By contrast, even relatively minor drug supply offences for prohibited drugs (offences which are often mistakenly associated with greed or violence) can lead to lengthy prison sentences.

The stigma and discrimination costs of the war on drugs

1. Ethnic minorities

Over the past 50 years, drug law enforcement has frequently become a conduit for institutionalised racial prejudice. Nowhere is this problem more visible than in the United States, where certain ethnic minorities, primarily black and Hispanic people, are significantly more likely to be stopped and searched, arrested, prosecuted, convicted and incarcerated for drug offences – even though their rates of both drug dealing and drug use are almost identical to those of the rest of the population.⁽²⁹⁾

Despite the similarity in levels of drug use between blacks and whites, black people in the US are 10.1 times more likely to be imprisoned for a drug offence than white people.⁽³⁰⁾ Elsewhere, other minorities are similarly overrepresented in the criminal justice system and prisons – Aboriginal populations in Canada⁽³¹⁾ and Australia⁽³²⁾ are a prime example.

While racism at the level of individual police officers is a factor in the disproportionate criminalisation of minorities, it is criminalisation itself that makes this disparity inevitable. Both drug purchases and drug possession/use are consensual crimes, meaning police are alerted to them primarily through their own investigation, rather than victim reports. As a result, surveillance and “*buy and bust*” operations are the principal ways drug arrests are made. Returning to the earlier theme of multiple tiers of discrimination, this makes certain ethnic minorities far

more likely to fall foul of drug law enforcement, as they are more likely to live in poor, urban neighbourhoods where the drug trade is more conspicuous, carried out on the streets, in public areas, and between strangers.

In contrast, the illicit activity of white, middle-class drug dealers and users is relatively less easily detected. As the former New York Police Commissioner Lee Brown noted: *“It’s easier for police to make an arrest when you have people selling drugs on the street corner than those who are [selling or buying drugs] in the suburbs or in office buildings. The end result is that more blacks are arrested than whites because of the relative ease in making those arrests.”*⁽³³⁾

However, such a statement is effectively an admission of discrimination, as intent is not required for an act or policy to be considered discriminatory. The Committee on the Elimination of Racial Discrimination, the UN body responsible for monitoring such discrimination globally, has formally stated that international law, *“requires all state parties to prohibit and eliminate racial discrimination in all its forms, including practices and legislation that may not be discriminatory in purpose, but in effect.”*⁽³⁴⁾

2. Women

Although most commonly convicted for low-level, non-violent drug offences, and not the principal figures in criminal organisations, women are disproportionately impacted by the war on drugs.

Mandatory minimum sentencing for trafficking often fails to distinguish between quantities carried, and even lower-end sentences can be very harsh. Rigid sentencing guidelines often limit judges’ discretion, preventing them from considering mitigating factors that might reduce the sentences handed down. The result has been that many women involved in drug supply at a relatively low level are subject to criminal sanctions similar to those issued to high-level market operatives and large-scale traffickers.

This results in particularly severe sentences for so-called *“drug mules”* – those women who carry illicit drugs from one country to another either in their luggage or inside their person. Usually coming from socially and economically marginalised backgrounds, such women are commonly driven to drug trafficking either by desperation (a lack of



Despite often being exploited by men further up the drug trading hierarchy, women can face severe sentences for involvement in the drug trade

wealth and opportunity), or by coercion and exploitation from men further up the drug trading hierarchy. The prison sentences drug mules can receive are all the more excessive considering that these women are often characterised by low levels of literacy, mental health or drug dependence issues, and histories of sexual or physical abuse.⁽³⁵⁾ Any dependents of these women are a frequently overlooked additional population of drug-war casualties.

The war on drugs contributes to the sexual abuse and exploitation of women, with sex sometimes used as currency on the illicit drug market, or women being forced to have sex to avoid arrest or punishment by law enforcement. Reports from Kazakhstan, for example, have described police performing cavity searches on female injecting drug users found in areas near to known dealing points – with any seized drugs reclaimable in exchange for sex.⁽³⁶⁾

Expending resources on criminal justice responses to drug use, rather than investing in effective public health measures, further places an undue burden on women. Gender-specific treatment programmes that allow women to live with their children are often lacking (where they exist at all), and in certain countries, pregnant dependent drug users do not have access to the safest and most appropriate treatment practices, compromising both their health and that of their unborn children.

Drug taking is often equated with negligence or mistreatment of children, as a woman's drug use or dependence can be grounds for removing a child from her care. This is blanket discrimination on the basis of a lifestyle choice or health condition, often fuelled by populist political and media stereotypes (the term “*crack mom*” is a notable example). Such weighty decisions should in fact be made on an individual basis, taking into account the real risk of abuse or neglect in each case.

Drug-related violence, the victims of which have historically been young men, is now also claiming the lives of women. In Central America, some of this violence has been attributed to “*femicides*” – the murders of women who are killed

because of their gender. Although a concrete link between the drug war and such killings is difficult to demonstrate, there is a growing consensus that in many regions the atmosphere of violence and impunity created by the drug cartels has led to an environment in which women are deemed disposable and, as such, can be subjected to horrific forms of abuse.⁽³⁷⁾

- Globally, women are imprisoned for drug offences more than for any other crime⁽³⁸⁾
- One in four women in prison in Europe and Central Asia are incarcerated for drug offences, with levels as high as 70% in some countries⁽³⁹⁾
- From 1986 to 1996, the number of American women incarcerated in state facilities for drug offences increased by 888%, surpassing the rate of growth in the number of men imprisoned for similar crimes⁽⁴⁰⁾
- In Eastern Europe, women who have experienced domestic violence can be refused entry into women's shelters if they are active drug users⁽⁴¹⁾
- In Russia, opioid substitution therapy – which is an important and internationally recognised treatment option for pregnant women who use opioids – is not available and is actively opposed by the government⁽⁴²⁾

3. Children and young people

Children and young people carry a disproportionate burden of the costs of the war on drugs – both as drug users and through involvement in, or contact with, the criminal markets that supply them. Particularly in developing countries, children are driven by poverty and desperation into becoming drug growers or foot soldiers of the cartels.

- Such early involvement in the drug trade has been well documented in Brazil, where drug gangs cultivate close ties with children and young people, building their trust by first paying them to perform simple, non-drug-related tasks, then recruiting them with the lure of

weapons, power, drugs and sex.⁽⁴³⁾ As the country's illicit drug trade has continued to grow, this exploitation of children has had increasingly fatal consequences. In 1979, Rio de Janeiro saw 92 homicides of youths under the age of 18. In 2000, this number was 352⁽⁴⁴⁾

- In Central and Eastern Europe there are arbitrary age restrictions on access to sterile injecting equipment and opioid substitution therapy⁽⁴⁵⁾
- Drug testing in schools is a violation of the right to privacy, and can publicly label an individual as a “*drug user*” in need of help, despite such tests not being able to distinguish between occasional, recreational use and problematic use. The stigma of this label can impact on self-esteem and aspirations, drawing individuals into the net of counselling services, treatment programmes and the criminal justice system, from which it is difficult to escape⁽⁴⁶⁾
- Suspension or exclusion from school following a positive drug test or drug offence can jeopardise a child's future, as reduced involvement in education and leaving school at an early age are associated with more chaotic and problematic drug use, both in the short and long term⁽⁴⁷⁾
- Children are also negatively impacted and stigmatised when a parent receives a drug-related conviction, is imprisoned, or is killed in drug-related violence. Drug-war violence in producer countries, too, has made orphans of countless children⁽⁴⁸⁾
- Many children are forced to grow up in prison when their mother or father is convicted of minor drug offences, or is taken into care⁽⁴⁹⁾

“*No one should be stigmatized or discriminated against because of their dependence on drugs. I look to Asian Governments to amend outdated criminal laws that criminalise the most vulnerable sections of society, and take all the measures needed to ensure they live in dignity.*”

Ban Ki-moon
UN Secretary-General
2008

4. Indigenous peoples

International law has effectively criminalised entire cultures with longstanding histories of growing and using certain drug crops. A prominent example is the traditional use of coca for cultural and medicinal purposes in the Andean region. The 1961 UN Single Convention on Narcotic Drugs provided a 25-year grace period for coca chewing to be ended, which has now long expired.

Consequently, traditional uses of coca are not permitted as a result of treaty negotiations that entirely excluded indigenous people.⁽⁵⁰⁾ After formal attempts to amend the 1961 Single Convention, the Bolivian government withdrew from it in 2011, and is seeking re-accession with a reservation on traditional uses of the coca leaf.

5. People living in poverty

Despite common misconceptions of illicit drug use as the preserve of a marginalised underclass, being poor does not make someone more likely to use drugs. Living in poverty does, however, mean an increased likelihood of dependence on drugs and harm from drug use.⁽⁵¹⁾

- A 2006 study found that drug dependence mortality rates were 82% higher in the most deprived areas of New York than in the least deprived.⁽⁵²⁾ Additionally, in the city's less affluent area of Brownsville, Brooklyn, the chances of being arrested for cannabis possession are 150 times higher than in the more affluent Upper East Side of Manhattan⁽⁵³⁾
- In 2002, Australian men classified as manual workers were more than twice as likely to die from illegal drug use than non-manual workers⁽⁵⁴⁾
- In Glasgow, Scotland, drug-related emergency hospital admissions have been found to be 30 times higher in the most deprived areas of the city than the least deprived⁽⁵⁵⁾
- In Myanmar, 73% of households rely on income from the production of opium to provide food, shelter, education and healthcare for their families⁽⁵⁷⁾
- In Brazil, the vast majority of those killed by police in their ongoing war against drugs have been poor, black, young boys from favela communities, for whom involvement in drug gangs is one of the few viable opportunities for employment⁽⁵⁸⁾
- In Afghanistan, impoverished farmers borrow money in order to meet the upfront capital investment needed for opium production. When the opium crops fail, or are eradicated by law enforcement, the only way some farmers can pay off their debt is by selling their daughters – some as young as six – to those higher up in the drug trade⁽⁵⁹⁾

On the supply side of the drug trade, too, poverty is effectively punished by current drug laws. The majority of those involved in the production of illicit drugs are poor, invariably from developing or middle-income countries/regions with negligible levels of social security. Their involvement in the drug trade is driven primarily by a lack of alternative means of survival. It is estimated that the farmers who grow drug crops earn only 1% of the overall global illicit drug income, with most of the remaining revenue going to traffickers in developed countries.⁽⁵⁶⁾

Eliminating these farmers' primary source of income therefore leads to greater levels of poverty, which in turn restricts their ability to access health services and education, and in some cases results in higher rates of human trafficking and an increase in the number of women entering the sex trade.



People living in poverty are most susceptible to the potential harms of drug use

Are there benefits?

That punitive drug policies promote stigma can be in little doubt. Indeed, many defenders of the war on drugs acknowledge its stigmatising effect. What they contend, however, is that such an effect is both necessary and desirable: it is a means of demonstrating society's disapproval of a potentially dangerous activity, and in turn establishes a social norm that discourages people from using certain drugs.⁽⁶⁰⁾

This position confuses the role of criminal law, which is to prevent and punish crimes, rather than to educate, “*send messages*”, or tutor on personal morality. This is not to say that such goals are undesirable, only that criminal law is not the tool for achieving them. A strong argument can be made that criminal law is both ineffective at the task (one far better achieved through public health and education interventions), as well as disproportionate: the punishments far outweigh the harms they are intended to deter.

The comparison with tobacco is again instructive. Increased social disapproval has certainly been a factor in reducing levels of use in much of the developed world over the past three decades, yet this has also been achieved through effective regulation (most obviously advertising bans and restrictions on smoking in public spaces), combined with investment in risk education. It has not involved the criminalisation of users, or blanket, punitive prohibitions and their associated costs.

In an attempt to eliminate the criminal market it has helped create, the war on drugs punishes some demographics far more readily and frequently than others. This may have the supposedly positive effect of producing greater numbers of convictions and arrests, but such discriminatory application of the law undermines trust in the legitimacy of the criminal justice system and contradicts the principles of justice and equal protection of the law that should be the bedrock of all international policy making.

How to count the costs?

The discriminatory effects of drug policy can be identified through a range of indicators, such as incarceration and arrest rates for affected demographics. In contrast, stigma is more difficult to measure, although media monitoring, public attitude surveys, and qualitative research into drug users' perceptions and experiences can reveal its prevalence.

“*Individuals who use drugs do not forfeit their human rights. These include the right to the highest attainable standard of physical and mental health (including access to treatment, services and care), the right not to be tortured or arbitrarily detained, and the right not to be arbitrarily deprived of their life. Too often, drug users suffer discrimination, are forced to accept treatment, marginalized and often harmed by approaches which over-emphasize criminalization and punishment while underemphasizing harm reduction and respect for human rights.*”

Navanethem Pillay
UN High Commissioner for Human Rights
2009

Conclusions

The primary goal of the international drug control regime, as set out in the 1961 UN Single Convention on Narcotic Drugs, is the protection of the “*health and welfare of mankind*”. But, as the UNODC has acknowledged,⁽⁶¹⁾ decades of punitive policies aimed at sending a message and reducing drug use have not been effective, frequently delivering the opposite outcomes.

While a criminal justice-led approach to drugs has had great political potency, it has marginalised some of the world’s most vulnerable populations, producing the range of negative costs outlined here. Yet despite being the dominant framework for half a century now, the war on drugs ultimately remains a policy choice. There is an urgent need to look at other ways of reducing the stigma and discrimination faced by those who use or supply drugs.

An international drug control system that produces such negative effects is at odds with the UN’s commitment to invest in programmes that contribute to the social integration of people who use drugs.⁽⁶²⁾ Instead, if this commitment is to be honoured, the stigma and discrimination experienced by people as a result of the war on drugs, must not only be meaningfully counted, but also compared with the potential costs – and benefits – of alternative approaches. These include: the reorientation of enforcement away from those at the bottom end of the illicit drug market (such as small-scale farmers, low-level dealers and mules); decriminalisation of drug possession and use; and systems of legal regulation. Only then will we be able to rectify the disastrous effects of half a century’s punitive drug policies, effects which have fallen hardest on the most marginalised and vulnerable.



The current enforcement-led approach to drugs has not delivered its stated aims and has marginalised countless people

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