

3.5

Modernising drug law enforcement

Key recommendations

- Illicit drug markets cannot be fully eradicated, but can be managed in a way to reduce the most harmful effects of the drug trade. Drug law enforcement should therefore focus on wider social objectives instead of merely trying to reduce the size of the black market
- A new and more comprehensive approach should focus on tackling organised crime more broadly, notably corruption and money laundering, as well as other types of smuggling (tobacco, alcohol, weapons, etc.) and criminal activities (extortion, kidnapping, etc.)
- With this in mind, cross-government approaches should be established – police authorities should partner with justice, health, education, welfare services, youth ministries, as well as civil society organisations and representatives of affected communities
- Efforts should be strengthened on arms control, through disarmament initiatives and initiatives against arms trafficking to help mitigate the harmful effects of the drug trade, given the overwhelming scientific evidence that fewer guns leads to less violence, deaths, and crime
- New metrics and indicators of drug law enforcement performance – focused on social outcomes rather than interdiction process indicators – should be developed and independently evaluated.

Introduction

The UN drug conventions are based on the ‘belief that that there [is] a simple linear relationship between the scale of the drug market and the level of harm to human health and welfare (i.e., the smaller

the market, the fewer the harms)¹⁵⁵ Partly as a result of that, national drug policies have largely focused on the overall objective of decreasing the size of the illicit drug market, with the ultimate goal a ‘drug-free world’.¹⁵⁶ In this context, crop eradication (including through aerial spraying with glyphosate), drug seizures, and arrests have been seen as positive steps towards this goal, and therefore often used as indicators of policy success.

This approach has proved largely ineffective and harmful. Globally, the average price of controlled substances has decreased while their purity has increased.¹⁵⁷ Meanwhile, drug policies have not managed to cut down overall illicit drug consumption worldwide,¹⁵⁸ while people have switched from one substance to another, partly in response to changes in price and availability. Illicit drug production has also remained high. Afghanistan, which produces an estimated 90% of the world’s opium, has had record-high cultivation levels in recent years.¹⁵⁹ Successes in curbing production in some countries have often shifted production to nearby areas, including from China to the Golden Triangle, from Thailand to Myanmar, from Turkey, Iran and Pakistan to Afghanistan,¹⁶⁰ and more recently between Bolivia/Peru and Colombia.¹⁶¹

Drug law enforcement practices have had numerous negative impacts that have outweighed their benefits. First, law enforcement crackdowns on certain drug trafficking routes have led to the emergence of other routes. For instance, until the 1990s, the Caribbean was the primary transit route for cocaine planes, often stopping for refuelling en route to Florida. When US law enforcement stepped up, the Pacific, Central America and Mexico became increasingly used instead, while more cocaine was directed to the European market by air and sea. Officials from Europol and the United Nations Office on Drugs and Crime (UNODC) also noted that more recent law enforcement efforts in the Netherlands, including a total controls policy on flights from specific Latin American countries in the early 2000s, may have led traffickers to use different routes, notably through West Africa, a transit area increasingly af-

fectured by the transatlantic cocaine trade.¹⁶² As long as there is demand and profit to be made, traffickers have shown great adaptability and sophistication in their tactics as well. In particular, the vast profits to be gained from illicit drug markets have constituted important economic incentives for criminal organisations' continued involvement in the drug trade.

Second, national drug policies focused on reducing the size of the drug market have led to more violence and instability. Retail drug markets are not inherently violent; there are a number of more important factors in levels of violence, including 'demographic factors, such as the age of criminal capos and the geographic concentration of minority groups, levels of poverty, the balance of power in the criminal market as well as the capacity of policing agencies and their choice of strategies.'¹⁶³ A 2011 study found that 'gun violence and high homicide rates may be an inevitable consequence of drug prohibition and that disrupting drug markets can paradoxically increase violence.'¹⁶⁴ Examples of drug law enforcement contributing to more violence include Colombia between the mid-1980s and the mid-1990s;¹⁶⁵ Mexico, whose homicide rate nearly tripled between 2007 and 2012;¹⁶⁶ and Brazil, where police officers killed over 11,000 people between 2008 and 2013.¹⁶⁷

Militarised interventions have proven to be even more problematic. In Mexico, as part of the military crackdown carried out under President Felipe Calderón (2006-2012), over 70,000 people died in drug-related killings, and more than 26,000 disappeared. Between 2007 and 2010, kidnapping increased by 188%, extortion by 100%, and aggravated

robbery by 42%.¹⁶⁸ While changes in the balance of powers between the six main 'drug cartels' as well as an increased availability of weapons from the USA constituted other important factors in the increased violence in the country, the military response certainly aggravated the situation on the ground. The Mexican government's military gains against the 'drug cartels' La Familia Michoacana and Los Zetas led to the emergence of a new and highly violent group, Los Caballeros Templarios (Knights Templar). Meanwhile, Los Zetas were not defeated but merely displaced to new areas, including Monterrey, Nuevo León and further south near the border with Guatemala.¹⁶⁹

High-level targeting (also called leadership removal or decapitation) against organised crime groups has proved even less effective in reducing violence than in the case of terrorist organisations. Notably, studies have demonstrated that 'leadership removals are generally followed by increases in drug-related murders',¹⁷⁰ and that the 'competitive structure of the illicit drug market in Mexico has created the paradoxical result that state crackdowns increase incentives for [drug trafficking organisations] to fight turf wars by reducing the costs of fighting against the decapitated [drug trafficking organisation]'.¹⁷¹ Interestingly, arresting leaders can result in less violence than killing them,¹⁷² and the short-term reduction of violence is even more robust when a mid-level leader, instead of a high-level one, is arrested.¹⁷³

Third, in a context of budgetary pressures, a disproportionate law enforcement focus on drug interdiction has created opportunity costs, diverting crucial law enforcement resources away from prevention



Seized cannabis being destroyed in Ivory Coast

Credit: Issouf Sanogo, AFP

and investigation. Because of this, murders, kidnappings, sexual violence, and corruption, have arguably been neglected. Mexico's National Institute for Statistics and Geography estimated that in 2013 almost 94% of crimes were not investigated.¹⁷⁴ Similarly, at least 600,000 murders have gone unsolved in the USA since the 1960s.¹⁷⁵ In Colombia, 95% of the 3,000 cases of assassination of trade union members of the past 30 years remain unprosecuted.¹⁷⁶ In Guatemala, impunity for perpetrators of rape and domestic violence stood at approximately 98% in 2012.¹⁷⁷

Fourth, *mano dura* (or 'tough on crime') policing has been a key factor in overcrowding prisons. Incarcerating low-level drug offenders has proved most controversial, damaging their economic and social prospects in the long-term, and making their participation in drug dealing and other types of crime more likely following their release. Former prisoners face low career prospects, and effective rehabilitation and reintegration programmes remain rare in many countries (see Chapters 3.4 and 3.6).

Fifth, *mano dura* approaches have contributed to the emergence of oversimplifying the links between drug trafficking and terrorism, as reflected in the term 'narcoterrorism', often used to describe situations in countries such as Afghanistan, Mali, Mexico, and Peru. The term is problematic in that it suggests a 'symbiotic relationship' between drug traffickers and terrorists, rarely confirmed in practice. The term oversimplifies an extremely complex situation and diverts attention from other important issues, such as corruption, state abuses, arms trafficking, human trafficking and other types of organised crime and violence. Overestimating the importance of the drug trade in funding terrorism, and of the use of terrorist tactics by drug traffickers, may lead to disproportionate and counterproductive policies.¹⁷⁸

Lastly, heavy-handed drug law enforcement has caused massive human rights violations, such as illegal detention, forced treatment and forced labour, physical and sexual abuse, as well as the moral and social stigmatisation of low-level drug offenders, including subsistence farmers¹⁷⁹ (see Policy principle 3).

Legislative/policy issues involved

In order to address those limitations, drug law enforcement needs to be refocused and modernised to target those most harmful aspects of the illicit drug market.

Box 1 Social programmes in Boston and Chicago

In the mid-1990s, the Boston police put in place one of the first applications of the concept of community-based deterrence. Operation Ceasefire prioritised its efforts on the most violent gangs in the city, and involved local community leaders. A coalition of religious groups held forums for gang members, police officers, church ministers, and social services staff to discuss relevant issues, and to give an opportunity for offenders to receive education and training in exchange for leaving the gangs.¹⁸⁰ Studies found that Operation Ceasefire 'was associated with statistically significant reductions in all time series, including a 63% decrease in the monthly number of youth homicides in Boston, a 32-percent decrease in the monthly number of citywide shots-fired calls, a 25% decrease in the monthly number of citywide all-age gun assault incidents, and a 44% decrease in the monthly number of District B-2 youth gun assault incidents.'¹⁸¹

Similar initiatives in High Point, North Carolina and Santa Tecla, El Salvador have proved effective as well.¹⁸² More recently, interventions carried out in parts of South Side and West Side, Chicago aiming at improving the outcomes of low-income youth by teaching them to be less automatic in their behaviour, showed promising results. Cognitive behaviour therapy was used to help youth to overcome their difficulties by changing their thinking, behaviour, and emotional responses.¹⁸³ In a series of randomised controlled trials, a programme called Becoming a Man developed by Youth Guidance showed that 'participation improved schooling outcomes and reduced violent-crime arrests by 44%' and 'reduced overall arrests by 31%'.¹⁸⁴

Prioritising violence reduction

National drug policies have largely placed priority on reducing the size of the drug market at all costs. Instead, policing designed to proactively shape the drug markets towards more benign, less violent forms, is a more realistic and effective way to mitigate the harms caused by the drug trade, as demonstrated by effective programmes put in place in Bos-

Box 2 Police support to health services: Switzerland, Vancouver, Australia and the UK

In the early 1990s, Switzerland reformed its drug policy around a 'Four Pillars' approach (prevention, treatment, harm reduction and law enforcement), endorsed by the Federal Council in 1994. Police authorities, initially reticent, came to accept the shift in perspective from public order to public health. They were made equal partners with public health officials as the new drug policy was developed and implemented. A cross-government drug committee helped improve communication and coordination between services towards a common strategy. The new drug policy and the introduction of harm reduction programmes contributed to a significant drop in the number of HIV deaths among people who use drugs from the early 1990s to 1998.¹⁸⁵

Based on the Swiss model, a similar drug strategy emerged in the early 2000s in Vancouver, Canada. The strategy has centred on harm reduction, including measures such as condom distribution,

needle exchange, and North America's first safe injection site, opened in 2003. Despite political difficulties, police authorities have supported Insite in practice, and diverted people using heroin to the site.¹⁸⁶ 'Protocols between police and harm reduction service providers ensure drug trafficking laws are enforced – open drug dealing is discouraged, while drug users are encouraged to access needed services', the Ministry of Health of British Columbia noted.¹⁸⁷ Since 2003, numbers of overdose deaths and new HIV infections among people who inject drugs went down to the lowest on record, and treatment levels have increased considerably.¹⁸⁸

Measures put in place in Australia in the early 1990s offer another relevant example of beneficial cooperation between law enforcement and health services at the national and local levels, including through harm reduction courses for the police, greater use of police discretion, direct involvement in harm reduction efforts, and the creation of a Drug Programs Co-ordination Unit 'responsible for fostering a harm reduction approach to drug law enforcement by both generalist and specialist police'.¹⁸⁹

A similar multi-disciplinary approach emerged in the mid-1990s in the UK, involving drug law enforcement cooperation with community policing, health and social authorities, and the justice system. Drug Action Teams were created, and tasked with identifying problems, coordinating the local response and reporting back to relevant national public health authorities. This led to more harm reduction trainings for the police, increased awareness of their role and responsibilities, and greater cooperation between services.¹⁹⁰ In 2013, an Independent Commission on Drugs convened by the Safe in the City Partnership also highlighted the benefits of collaboration between police, council, health services and community organisations in Brighton & Hove.¹⁹¹

Credit: Skeptic North



Front door of Insite in Vancouver, Canada

ton and Chicago (see Box 1). Stronger actions on the number of weapons in circulation and against arms trafficking are key in that regard.

Focusing on wider social objectives

A focus on improving the socio-economic circumstances of populations affected by the drug trade would go a long way in addressing some of the root

causes of the problem, while mitigating the unintended, yet entirely foreseeable negative consequences of *mano dura* policing. Recent experiences in Seattle provide a relevant case study (see Box 1 in Chapter 3.4).

Promoting community policing

Community policing concentrating on crime prevention should be inclusive and welcome participa-

tion and input from the local population, civil society organisations and affected communities. Lessons can be learnt from the experience of the Police Pacification Units (UPPs), launched in Rio de Janeiro, Brazil in 2008. In particular, the UPPs' objective to deliver social services and new infrastructure to boost social and economic development in the *favelas* could be useful elsewhere. However, the UPPs have also been criticised because of the militarisation of some of the *favelas'* communities, leading to tight police controls, arbitrary searches and harassment. Others have raised concerns about the capacity of the UPPs to truly tackle drug-related violence – in fact, out of the 1,000 *favelas* of Rio de Janeiro, only 17 have been pacified so far, often leading organised criminal groups to move to neighbouring *favelas* to resume their activities.¹⁹² The UPPs' mixed results demonstrate the need for sustained efforts in the long term, accompanied by measures such as those designed to reduce economic and social inequalities, improve work conditions, and decrease school dropout rates.

Building partnerships with health and social authorities

As part of this new approach, police authorities should work in close cooperation with health authorities, to divert people dependent on drugs towards treatment and other harm reduction services available. In particular, the successful experiences of Switzerland and Vancouver, with police notably informing and directing people who inject drugs towards supervised injection sites, are worth building upon (see Box 2). In addition, partnering with social organisations focusing on rehabilitation and reintegration, through welfare support, career counselling, cognitive behaviour therapy, or social skills training, is likely to have a stronger positive impact than punitive measures for low-level drug offenders.

Tackling corruption and money laundering

Going after the main enablers of the drug trade and organised crime are key dimensions of an effective drug law enforcement approach. Ultimately, corruption is a leading factor behind violence and organised crime. A concerted effort at the local, regional, national and international levels, and support from civil society on the matter, are essential, and could learn from previous experiences in Georgia, Croatia and Sierra Leone (see Box 3). Preventing criminals from easily spending, investing and hiding proceeds from the drug trade is another crucial element of the law enforcement response.¹⁹³

Box 3 Anti-corruption initiatives in Georgia, Croatia and Sierra Leone

A World Bank report highlighted a number of measures behind achievements in Georgia: 'exercising strong political will; establishing credibility early; launching a frontal assault; attracting new staff; limiting the state's role; adopting unconventional methods; coordinating closely; tailoring international experience to local conditions; harnessing technology; and using communications strategically'.¹⁹⁴

In Croatia, the government created the Bureau for the Suppression of Corruption and Organised Crime, a specialised prosecution service. After early struggles, the Bureau now holds a conviction rate higher than 95%, and has successfully prosecuted a former prime minister, a former vice president, a former top-level general, and other high-level officials. Strengthened legislation, popular support, media scrutiny, and the perspective of European Union membership have been considered as key factors behind this progress.¹⁹⁵

A 2013 report on Sierra Leone pointed out that effective anti-corruption efforts may include the creation of institutions specifically dedicated to tackling corruption, the development of oversight processes led by civil society, parliamentary committees or the judiciary, a focus on education, accountability and transparency, especially regarding asset disclosure and political party financing, and engagement with the private sector (learning for instance from the South African Initiative – Business Against Crime South Africa).¹⁹⁶

Building up investigation capacity and strengthening the criminal justice system

Much of the foreign aid and national investments in drug law enforcement have targeted screening and interdiction capabilities. While some of these are needed, an important tool has often been neglected: the authorities' capacity to investigate and prosecute drug cases and their associated networks. This not only requires tackling corruption amongst government, police, and the judiciary, but also a renewed focus on education, training, more system-

atic and comprehensive data gathering processes, personnel, budgets, and international cooperation.

Mid-level targeting

Targeting low-level, non-violent drug offenders has led to a dramatic increase in prison populations, and negative socio-economic effects in the long term. ‘Kingpin’ strategies to remove top leaders often make little impact on the work of their organisations, and may lead to cycles of violence for succession. Instead, investigating and arresting mid-level leaders are likely to have a stronger impact on violence reduction and the drug trafficking organisations themselves.

Implementation issues involved

Reforming drug law enforcement is an arduous task, affected by a number of factors. These include:

- **Sunk cost fallacy**, or ‘the idea that a company or organization is more likely to continue with a project if they have already invested a lot of money, time, or effort in it, even when continuing is not the best thing to do.’¹⁹⁷ In other words, we have invested so much money, time and effort in the current drug law enforcement approach, that reforming it is seen by many as a waste, or giving up, while related bureaucracies are now embedded in our law enforcement budgets and infrastructures.
- **A third-rail issue:** Although the debate has significantly evolved in recent years in several countries, a reform of drug law enforcement strategies remains a politically controversial topic. Many politicians remain unwilling to champion more liberal policies by fear of being labelled as ‘soft on drugs’ or ‘weak on crime’.
- **Counter-narcotics aid:** Foreign assistance and training has also disseminated and perpetuated outdated and inadequate drug law enforcement approaches across the world.¹⁹⁸

There is thus a clear need to work with law enforcement officials, politicians, the media and the greater public to explain that the current approach is not only largely ineffective but also harmful, and explain the merits of the new approach and the scientific evidence behind it.

Crucially, change will only occur if the objectives and performance indicators to incentivise effective practice are amended (see Box 4). These should no longer focus on the number of seizures, arrests,

Box 4 Examples of new drug law enforcement performance indicators

Indicators of drug markets that focus more on the outcomes of law enforcement operations:

- Have law enforcement operations reduced the availability of a particular substance to young people (measured by the level of use or ease of access)?
- Have law enforcement operations affected the price or purity of drugs at the retail level? If so, has this had positive or negative effects on the drug market and people who use drugs?

Indicators measuring drug-related crime:

- Have the profits, power and reach of organised crime groups been reduced?
- Has the violence associated with drug markets been reduced?
- Has the level of crime committed by people to support, or as a consequence of, their drug use been reduced?

Indicators measuring the law enforcement contribution to health and social programmes:

- How many people dependent on drugs have law enforcement agencies referred to drug dependence treatment services?
- How many people have achieved a sustained period of stability as a result of treatment?
- Has the number of overdose deaths been reduced?
- Has the prevalence of HIV and hepatitis among people who use drugs declined?

Indicators evaluating the environment and patterns of drug use and dependence:

- How did law enforcement activities impact affected communities’ socio-economic environment and people’s feelings of safety and security?
- Have patterns of drug use and dependence changed as a result of law enforcement actions?

crops eradicated, or extraditions (*processes*), but rather on evidence of fewer harms associated with the drug trade, and an improved quality of life (*outcomes*), independently evaluated.¹⁹⁹

Key resources

- Brookings Institution (2015), *Improving global drug policy: Comparative perspectives and UNGASS 2016*, <http://www.brookings.edu/research/papers/2015/04/global-drug-policy>
- International Drug Policy Consortium, International Institute for Strategic Studies & Chatham House (2012-2013), *Modernising Drug Law Enforcement publication series*, <http://idpc.net/policy-advocacy/special-projects/modernising-drug-law-enforcement>
- Organization of American States (2013), *Report on the drug problem in the Americas*, http://www.oas.org/en/media_center/press_release.asp?sCodigo=E-194/13
- Werb, D. Rowell, G., Guyatt, G., Kerr, T. & Montaner, J. (2011), 'Effects of drug market violence: A systematic review', *International Journal of Drug Policy*, **22**(2): 87-94, [http://www.ijdp.org/article/S0955-3959\(11\)00022-3/abstract](http://www.ijdp.org/article/S0955-3959(11)00022-3/abstract)
- West Africa Commission on Drugs (2014), *Not just in transit: An independent report of the West Africa Commission on Drugs*, <http://www.wacommissionondrugs.org/report/>