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An Exposé of the International Drug Policy Debate

Christina Gynnå Oguz, Director, Ministry of Health & Social Affairs, Sweden

Last year marked the 100th anniversary of the first international drug convention – the International Opium Convention, signed at the Hague in 1912. The Hague Convention was the result of the Chinese opium epidemic: tens of millions of Chinese were addicted to opium. In 1906, more than 40,000 tons of opium was produced, mostly in China and India (compared to less than 6,000 tons in Afghanistan last year). The global opium market was free. National governments and state-sponsored monopolies played an active role in peddling opium across borders. The profits were enormous and the supply of drugs was out of control.

The Hague Convention was designed to curb shipments of narcotic drugs that were not meant to be used for medical purposes. It called on signatories to strictly regulate the distribution and production of opium, morphine and cocaine and to prohibit the non-medical use of these drugs. Russia, by the way, was one of the signatories.

Over the next fifty years, a multilateral system to control production, trafficking and abuse of drugs was developed. The scope of controlled substances has been gradually expanded and the means of international cooperation have developed over the years.

The three international drug conventions adopted under the auspices of the United Nations in 1961, 1971 and 1988 enjoy almost universal adherence. All three conventions share the same fundamental goal: to limit the use of narcotic drugs to medical and scientific purposes. Narcotic substances must not be taken for pleasure as they are addictive and can have harmful, and in some cases, fatal side effects.

This premise is being increasingly called into question in the international drug policy debate by those who argue that the conventions have failed, that they are obsolete and must be revised – or abolished.

The initiative in the debate has passed to those who are pressing for a paradigm shift involving decriminalization – and in some cases legalization – of drugs, primarily cannabis. The opponents of the conventions describe it as a debate between “prohibitionism” and “pragmatism”, between “ideology” and “evidence”, between “status quo” and “reform”, or between “human rights defenders” and “repressive law enforcement”. So, those who argue for revision of the conventions – or even abolishment of international control of drugs – describe themselves in positive terms: they are pragmatic, evidence-based, reform inclined, and defend human rights while those who defend the conventions are described as driven by ideology, repressive and defending status quo, no matter what.

There are nuances, of course, but looking at the extreme positions in the debate, I think this is a fair description. I will later on try to describe the more nuanced debate positions.

Let us now take a closer look at some of the arguments and the underlying notions of the opponents of the conventions. They say, for example that

- People have always used drugs and always will. Most drug use is non-problematic.
- Marijuana generally is not more harmful than alcohol and tobacco if used in moderation.
- Prohibition creates new public health problems. Many of the harms associated with the use of drugs are not caused by the drugs but by the fact that it is illegal to use them.
- Legalizing drugs takes the market away from criminals.

Before examining some of these arguments, I would like to say something about the use of the term “prohibition” to describe drug policies that are grounded in the UN drug control conventions. The public understanding of the word “prohibition” derives from the national ban on the sale, production and transportation of alcohol in the United States from 1920 to 1932, popularized by gangster movies about characters such as Al Capone. The idea here is to influence the direction of our thoughts so that when we hear the word “prohibition”, we immediately think of criminal syndicates and rampant corruption among politicians and within police forces. If conventions-based drug policy is about “prohibition”, then it must lead to corruption and organized crime.

I have problems with this analogy. First of all, alcohol is a substance that is part of our cultural heritage; its use is extremely widely spread and it would not be possible to forbid, even though it may cause major health problems such as liver problems and increased risks of various cancers and heart attacks. Not to forget the social consequences such as domestic violence. Why should we allow the free availability of marijuana and other narcotic drugs, because we allow alcohol that is also harmful?

Secondly, and more important, is the fact that the drug conventions do not prohibit the use of drugs. They regulate the use, production, trade, etc., based on the scientific knowledge of their dependence-producing characteristics, and their side effects. The drugs are placed in different categories with varying degrees of control. And all is based on the fact that most of the drugs are essential for treating pain, etc. and that they have very dangerous side effects. The regulation is evidence-based!

The conventions have agreed procedures for making changes in the level of control, for including new substances and for removing substances that no longer fulfill the requirements for international control, based on new evidence. Cocaine, for example, was originally used for treatment of morphine dependence. Sigmund Freud, the father of psychoanalysis, tried to treat his morphine dependent colleague and friend, Dr. von Markow, by using cocaine as a cure. It did not work. Dr. von Markow developed cocaine dependence in addition to morphine dependence.

The proponents of “drug policy reform” – their own words – argue for allowing the use of narcotic drugs for any purpose, including for pleasure. They do recognize that it would be necessary to have some kind of regulation of the market. For example, “specialist pharmacists” would be trained and licensed to vend drugs for recreational users, with certain restrictions such as age. They would be trained to recognize problematic use, give safety instructions and health advice.

A parenthesis here: “Transform Drug Policy Foundation”, a UK–based foundation active in the debate for the abolishment of the drug control conventions extends its thanks to past funders such as the European Commission.

Now, let us return to the underlying notions and the arguments for abolishing the present drug control regime.

The argument that people have always used drugs and always will and that most drug use is non-problematic leads to the conclusion that investing in prevention is not worthwhile. They argue that prevention does not work – and that it is definitely not worth putting any effort into information campaigns. There is some truth to the limitation of stand-alone information. It is not sufficient to bring about behavioural change, but information combined with community-based, school-based or family-based interventions can make a huge difference. If we did not believe so, why would we spend money on health promotion, advising children and their families on healthy eating, the importance of exercise, etc.? Or educating the public about HIV/AIDS?

This is one demarcation line: investment in prevention by those who argue for the conventions vs. skepticism among those who see drug use as inevitable.

Another demarcation line: the argument by the defenders of the conventions-based policies is that drugs themselves cause harm and therefore must be controlled, including law enforcement measures to limit the availability vs. the opponents of the conventions who argue that the control measures cause more harm than the drugs do. One example they give is that addicts are forced to commit crimes to pay for a habit that would be easily affordable if it were legal.

Another of their examples is street gang violence. Because drugs are illegal, participants in the drug trade cannot go to court to settle disputes. When black-market contracts are breached, the result is often some form of violent sanction, which usually leads to retaliation and then to open warfare in the streets.

The US Centres for Disease Control and Prevention looked at 556 gang-related homicides and 2,077 non-gang killings in 17 states. They found, for example, that in Los Angeles less than 5 % of the killings were related to known drug trafficking or use. Oklahoma City came out as the city with the highest percentage of killings related to drugs: 25 %. The conclusion was that there is little connection between gang homicides and drug trade/use and crime.

If we legalize drugs, will we take the market away from criminals? Let us look at the role that legal substances plays in organized crime. Alcohol smuggling has become big business for organized crime in the UK, with tax losses in unpaid duties as high as 1.2 billion pounds (USD 1.9 billion) per year- unpaid duty on wine and beer not included. The UK supply chain for alcohol is supposed to be tightly regulated, but the BBC found armed gangs and even paramilitaries have muscled into the duty fraud market, which according to UK tax and customs authorities is now run by organized crime. Gang members made a fortune buying luxury properties across Europe, and high performance cars.

The illicit trafficking in tobacco is a multibillion-dollar business, fueling organized crime and corruption; robbing governments of needed tax money and spurring addiction to a deadly product. So profitable is the trade that tobacco is the world’s most widely smuggled legal

substance. This booming business stretches from counterfeiters in China to warlords in Pakistan and North Africa.

According to CNN, more than 60% of all cigarettes sold in New York were smuggled in from another state. Big differences in taxes make it an attractive business for criminals. The perpetrators range from small family businesses all the way up to international terrorists.

I think I have given you enough examples of arguments. Now, let us look at who they are, the groups that argue against a drug policy based on the UN conventions. Some are libertarians, who believe in the primacy of individual liberty. Some are liberal think tanks. Lately, representatives of governments and international organizations have joined the debate. The latter are generally more nuanced.

They share the opinion that the dominant drug policy has failed to reduce drug abuse and illegal trade. They argue that the present focus on what they call repressive law enforcement must be replaced by policies that are more evidence-based and more respectful of human rights. They tend to put more focus on assisting problematic drug users than on preventing the use of drugs in the first place. Thus, they emphasize social services, needle exchange, substitution treatment and other measures to facilitate a decent life for drug addicts. Generally, they combine the focus on drug addicts with the view that supply reduction measures are inefficient and futile.

In 2010, a number of prominent Latin American politicians and famous cultural figures established the Latin American Commission on Drugs and Democracy - under the leadership of three former presidents: Cardoso from Brazil, Gaviria from Colombia and Zedillo from Mexico. They turned against what they call prohibitionist policies. According to them, these policies have not yielded the expected results. They do not deny “the priority to strengthen the struggle against cartels and drug traffickers” but they propose a new paradigm based on three directives:

- Treating drug users as a matter of public health.
- Reducing drug consumption through information, education and prevention.
- Focusing repression on organized crime.

They propose to change the status of addicts from drug buyers in the illegal market to that of patients cared for in the public health system. In addition, they want to evaluate, from a public health standpoint, “the convenience of decriminalizing the possession of cannabis for personal use”.

Last year the tone of the debate was changed when The Global Commission on Drug Policy was formed by former President Cardoso, former Greek Prime Minister Papandreou, former High Commissioner for Human Rights Louise Arbour and former UN Secretary General Kofi Annan, among others. The Commission approached Secretary General Ban Ki Moon, presenting a report that is critical of the international drug control conventions and call for “fundamental reforms of the global prohibition regime”.

The report describes what the Commission sees as the failure of drug law enforcement policies in reducing global drug supply. The Commissioners are of the opinion that war on drugs has contributed to the growth of organized crime and violence. Furthermore, they stress that repressive drug law enforcement practices force drug users away from public health services and into hidden environments where HIV risk becomes markedly elevated.

The Global Commission positions itself quite close to the arguments put forwards by the

most liberal think tanks as described earlier. For example, they argue that the success of drug policy should be measured by reduced rates of transmission of HIV and other infectious diseases, fewer overdose deaths, reduced drug market violence, fewer individuals incarcerated and lowered rates of problematic substance use, but not by low prevalence of drug use.

Kofi Annan has left The Global Commission - but it is still the most distinguished group of high-level leaders to ever call for far-reaching drug policy changes – including decriminalization, and experiments in legal regulation. Being who they are, they cannot be easily dismissed. I have read the background documents that they base their conclusions on and they are written by individuals known for their opposition to the UN drug policy – and they are well written.

They are generally skilful storytellers. The predominant themes in their narrative on drug policy are failure, incarceration, human rights infringements and the lack of effective means to alleviate pain.

There is also another narrative – about freedom from drug addiction, destitution and misery; about humane substance abuse treatment, education, support and rehabilitation as alternatives to prison; and about access to controlled, scientifically based methods of alleviating pain. It is about a balanced approach to the drug problem, including efficient disruption of drug markets at all levels, not only close to the source but also close to the end users. This narrative is not coming through as clearly in the public conversation. It is essential that it find a voice.

The drug problem has become an increasingly global phenomenon. The illegal drug trade feeds a hundred-billion-dollar global criminal industry that poses a growing threat to stability and security. No country can combat drug trafficking on its own. We are affected by everything that happens in the surrounding world. International social and cultural currents influence our attitudes and behaviour. Other countries' laws also affect us. As do their arguments.

Although those who advocate a weakening of the conventions may have failed to make a major impact on UN and EU policymaking, they are seen and heard not only in the public debate but also by international officials in multilateral organizations. If you want to influence drug policy you must take part in the debate.