



# COUNT THE COSTS

50 YEARS OF THE WAR ON DRUGS

## The War on Drugs: Undermining Human Rights

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 “*unintended negative consequences*” of the drug war – including widespread human rights abuses.<sup>(1)</sup> These human rights costs result not from drug use itself, but from choosing a punitive enforcement-led approach that, by its nature, criminalises many users, often the most vulnerable in society, and places organised criminals in control of the trade.

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

### Introduction

In every region of the world the war on drugs is severely undermining human rights. It has led to a litany of abuse, neglect and political scapegoating through the erosion of civil liberties and fair trial standards; the denial of economic and social rights; the demonising of individuals and groups; and the imposition of abusive and inhuman punishments.

Too often these human rights violations are considered in isolation – a drug user beaten by police to extract

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“*Respect the human rights of people who use drugs. Abolish abusive practices carried out in the name of treatment – such as forced detention, forced labor, and physical or psychological abuse – that contravene human rights standards and norms or that remove the right to self-determination.*”

Global Commission on Drug Policy  
2011

Commissioners include:

- **Kofi Annan**  
former Secretary-General of the United Nations
- **Asma Jahangir**  
former UN Special Rapporteur on Arbitrary, Extrajudicial and Summary Executions
- **Michel Kazatchkine**  
Executive Director of the Global Fund to Fight AIDS, Tuberculosis and Malaria
- **Thorvald Stoltenberg**  
former Minister of Foreign Affairs and UN High Commissioner for Refugees
- **César Gaviria**  
former President of Colombia;
- **Ernesto Zedillo**  
former President of Mexico
- **Fernando Henrique Cardoso**  
former President of Brazil
- **George Papandreou**  
Prime Minister of Greece

information; a drug courier executed by firing squad; a family killed at a military checkpoint; an HIV worker imprisoned for distributing harm reduction information; a family displaced by aerial fumigation of their crops; a drug user detained for years of forced labour and beatings on the recommendation of a police officer; a cancer sufferer denied pain-killing medicine. But they are not isolated. They are all a direct consequence of the war on drugs.

Like the war on terror, the war on drugs is framed as a response to an exceptional, existential threat to our health, our security, and indeed the very fabric of society. The “*Addiction to narcotic drugs*” is portrayed as an “*evil*” the international community has a moral duty to “*combat*” because it is a “*danger of incalculable gravity*” that warrants a series of (otherwise publicly unacceptable) extraordinary measures. This is not an exaggeration of the political rhetoric. These words are enshrined in international law, including the 1961, 1971 and 1988 UN drug conventions.<sup>(2)</sup>

This crusading language has created a political climate in which drug war policy and enforcement are not required to meet human rights norms.<sup>(3)</sup> In fact, despite being one of the three pillars of the UN’s work (along with development and security), these international agreements lack any obligation to ensure compliance with human rights. In over one hundred articles, human rights appear specifically only once (in relation to crop eradication)<sup>(4)</sup> – a staggering omission in treaties negotiated and adopted post-World War II, in the era of the modern human rights movement. This omission is now reflected in national law and policy worldwide. Through production, transit, sales and use, the responses to every stage in the supply chain of illicit drugs are characterised by extensive human rights violations, committed in the name of supply and demand reduction.

In order to meaningfully count these human rights costs, it is necessary to not only see the connections between law and policy, and the effects on the ground, but also to make comparisons with what happens under alternative approaches, including the decriminalisation of the possession of drugs, and models of legal regulation. For example, most of the abuses resulting from a punitive, enforcement-led approach to illegal drugs do not occur in relation to the



Punishments for drug possession and use are often grossly disproportionate and contribute to spiralling prison populations  
(Photo credit: California Department of Corrections and Rehabilitation)

production, sale and use of tobacco, alcohol and prescription medicines.

Ultimately, just as UN member states refer to “shared responsibility” for drug control, so too must they bear shared responsibility for human rights abuses perpetrated in its name. That is what Count the Costs is about – taking responsibility and openly evaluating all policy impacts, and all other options.

## The human rights costs of the war on drugs

### 1. Drug use and criminalisation

Global drug usage has risen dramatically since the war on drugs started. The UNODC estimates, probably conservatively, that between 155 and 250 million people worldwide, or 3.5% to 5.7% of the population aged 15-64, used illicit substances at least once in the last year. Global lifetime usage figures are much higher, probably approaching one billion. Yet a punitive response to drug use remains at the core of the war on drugs philosophy.

There is no specific right to use drugs, nor is an argument

for one being made. However, debates around the rights and wrongs of individuals’ drug use should not obscure the fact that enforcing the criminalisation of consenting activities of hundreds of millions of people impacts on a range of human rights, including the right to health, privacy, and freedom of belief and practice, and involves substantial human costs. The centrality of criminalising users means that in reality a war on drugs is to a significant degree, a war on drug users; a war on people.

The impact of criminalisation and enforcement varies, with sanctions against users ranging from formal or informal warnings, fines and treatment referrals (often mandatory), to lengthy prison sentences and punishment beatings. Within populations impacts also vary, but are concentrated on young people, certain ethnic and other minorities, socially and economically deprived communities, and problematic users.

Punishments for possession/use are frequently grossly disproportionate, violating another key tenet of international law:

- In Ukraine, the possession of minimal amounts of drugs (from 0.005g) can lead to three years in prison<sup>(5)</sup>

- In Russia, a person can be imprisoned for one and a half years for solution traces in a used needle
- In Georgia urine tests for drugs can serve as a basis for imprisonment<sup>(6)</sup>

The UN Special Rapporteur on the right to health (*see box*) has called on UN member states to “*decriminalize*”<sup>(7)</sup> or “*de-penalize possession and use of drugs*”. It is a call that has been echoed by the UN Secretary-General,<sup>(8)</sup> and the heads of UNAIDS<sup>(9)</sup> and the Global Fund to Fight AIDS, Tuberculosis and Malaria in the context of HIV/AIDS,<sup>(10)</sup> and by high profile politicians including many serving and former heads of state in the context of human rights, security and development.

## 2. The right to a fair trial and due process standards

The marginalisation of human rights in drug law enforcement can be witnessed in the widespread erosion of due process in dealing with drug offenders:

### Alternative justice systems

In many countries drug offenders are subject to parallel systems of justice that do not meet internationally recognised fair trial standards. For example, in Iran, drug trafficking defendants are tried before revolutionary courts<sup>(11)</sup> where defence counsels may be excluded from the hearing and appeals are not allowed on points of law. Similarly in Yemen, drug defendants are subject to trial before Specialized Courts where “*trials are generally reported to fall short of international standards of fair trial*”, according to Amnesty International.<sup>(12)</sup> Many of the trials that are held before these courts are death penalty cases. In Egypt,<sup>(13)</sup> drug defendants have been included in decades-old emergency laws that allow certain drug cases to be tried in emergency or military courts which lack the due process protections of civilian courts. These courts have also been empowered to rule on death penalty cases.

### Presumption of guilt

Elements of drugs enforcement in many countries have seen a reversal of the burden of proof, with the presumption of

“*The current international system of drug control has focused on creating a drug free world, almost exclusively through use of law enforcement policies and criminal sanctions. Mounting evidence, however, suggests this approach has failed ... While drugs may have a pernicious effect on individual lives and society, this excessively punitive regime has not achieved its stated public health goals, and has resulted in countless human rights violations.*”

Anand Grover

UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health,  
2010

innocence effectively replaced with a presumption of guilt. It is the erosion of one of the most basic of due process guarantees reflected in international human rights law.<sup>(14)</sup> The phenomenon is most commonly associated with threshold quantities for drug possession<sup>(15)</sup>; if the threshold is crossed there is a presumption of a supply/trafficking offence, invariably associated with a dramatic ramping up in punitive responses. The death penalty is a mandatory sentence in some countries for possession above a certain threshold.

In Singapore, the presumption of guilt extends to anyone who has keys in their possession to “*anything containing a controlled drug*” or to “*any place or premises or any part thereof in which a controlled drug is found*”. Such people “*shall, until the contrary is proved, be presumed to have had that drug in his possession*”. It even specifies that “*The presumptions provided for in this section shall not be rebutted by proof that the accused never had physical possession of the*



*controlled drug.*” These presumptions have been criticised by UN human rights monitors.<sup>(16)</sup>

Even when penalties are not as severe, the effects on the presumption of innocence are clear. In the UK, for example, since 2005 arrest for certain trigger offences (even before charge for any crime), leads to a mandatory drug test, the refusal of which is an imprisonable offence. If the test is positive, even if no charge is brought, the individual is then mandated to attend a medical assessment, refusal of which is similarly criminal/imprisonable.

#### **Detention without trial**

Malaysia’s Dangerous Drugs Act empowers authorities to detain drug trafficking suspects for up to 60 days without a warrant and without a court appearance. The detention orders may be extended, which then requires a court appearance. However, unless the court grants the suspect release, the detainee can be held for successive two-year intervals. As of the end of 2008, more than 1,600 people were detained under this Act.<sup>(17)</sup>

#### **Drug detention centres**

In some countries, notably in India, East and Central Asia, drug users are routinely sent to drug detention facilities, without trial or due process – for example, on the word of a family member or police officer – for months, or even years. Whilst sometimes termed “treatment” or “rehabilitation” facilities, they are no more than detention centres, often indistinguishable from prisons (except that those in prison have at least often seen a lawyer and a courtroom). Often run by military or public security forces and staffed by people with no medical training, these centres rarely provide treatment based on scientific evidence. Instead, military drills and forced labour are often the mainstays, and detainees are denied access to essential medicines and effective drug treatment, and subjected to HIV testing without consent.

- In China there were approximately 700 mandatory drug detoxification centres and 165 “re-education through labour” centres, housing a total of more than 350,000 drug users in 2005<sup>(18)</sup>

- In Indonesia injecting drug users can be legally detained for up to nine months before sentencing. A 2007-8 survey found that more than 60% reported some form of physical abuse by police<sup>(19)</sup>

“*With respect to drug treatment, in line with the right to informed consent to medical treatment (and its “logical corollary”, the right to refuse treatment), drug dependence treatment should not be forced on patients.*”

**Antonio Maria Costa**  
Executive Director, UN Office on Drugs and Crime

### **3. Torture and cruel, inhuman or degrading treatment or punishment**

People who use drugs, or who are arrested or suspected of drug offences, are frequently subject to various forms of 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 use; and various forms of cruel, inhuman and degrading treatment in the name of “rehabilitation”, including denial of meals, beatings, sexual abuse and threats of rape, isolation, and forced labour.

- Ukrainian police have used physical and psychological abuse against drug users, including: severe beatings, electroshock, partial suffocation with gas masks and threats of rape, often to extort money or information<sup>(20)(21)</sup>

- In Cambodia, abuses have included: detainees being hung by the ankle on flagpoles in midday sun<sup>(22)</sup>; shocking by electric batons; whipping by cords, electrical wires, tree branches and water hoses; and rape – including gang rape and forcing women into sex work. Abuses are not only carried out by the staff, but delegated to trusted detainees to carry out against fellow detainees. Such abuses are also perpetrated against children, who comprise around 25% of those in compulsory drug detention centres<sup>(23)</sup>
- In China, detainees have been forced to participate in unpaid labour, day and night, whilst suffering the effects of withdrawal. Access to methadone is denied and payment demanded for other medications that help with withdrawal. Beatings (some causing death) are commonplace, with “chosen” detainees also carrying out physical violence against fellow detainees<sup>(24)</sup>
- Denial of healthcare in places of detention (see above)

Over 40 countries maintain corporal punishment as a sentence of the courts or as an official disciplinary punishment<sup>(25)</sup>; at least twelve in relation to drug and alcohol offences, including for their consumption and for relapse (Singapore, Malaysia, Iran, Yemen, Saudi Arabia, Qatar, Brunei Darussalam, Maldives, Indonesia [Aceh], Nigeria [northern states], Libya and UAE).

Judicial corporal punishment is absolutely prohibited in international law because it is a form of torture or cruel, inhuman and degrading punishment. This is reflected both in international human rights treaty law, and is a recognised rule of customary international law. Its application to people who use drugs or alcohol is, simply put, illegal. Corporal punishment is used in some countries as a main punishment or in addition to imprisonment. Whipping, flogging or caning is often carried out in public to intentionally escalate feelings of shame and humiliation – and can lead to profound psychological damage as well as physical injury.<sup>(26)</sup> Related harms can be particularly acute for vulnerable populations of drug users, a disproportionate number of whom suffer from mental health problems, or are living with HIV.

“*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.*

*Legislation can also stand in the way scaling up towards universal access – in cases where vulnerable groups are criminalized for their lifestyles. We have to find ways to reach out to sex workers, men who have sex with men and drug users – ensuring that they have what they need to protect themselves.”*

**Ban Ki-moon**  
UN Secretary-General,  
2008

## 4. The death penalty and extrajudicial killings

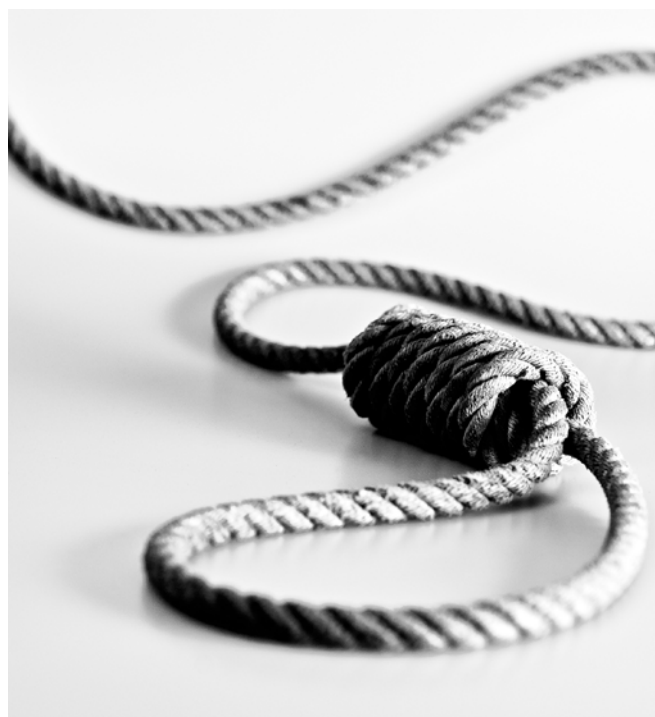
32 jurisdictions currently retain the death penalty for drug offences, with thirteen having a mandatory death penalty for certain categories of drug offences.<sup>(27)</sup> Most executions occur in China, Iran, Saudi Arabia and Vietnam. Methods of execution include hanging, firing squads, beheading and use of lethal injections. These killings have been clearly identified as a violation of international law by the UN.

Deaths in relation to drug offences also include both extrajudicial killings and targeted killings. Police drugs “crackdowns” have often included extrajudicial violence.

Despite being blatantly illegal under international law, the US has a policy of openly targeting alleged drug traffickers for assassination.<sup>(28)</sup> The Pentagon announced in 2009 that 50 Afghan drug traffickers had been placed on a list of people to be “killed or captured”,<sup>(29)</sup> a list that included both combatants and non-combatants. The UN Special Rapporteur on extrajudicial, summary or arbitrary executions has made it clear that:

*“To expand the notion of non-international armed conflict to groups that are essentially drug cartels, criminal gangs or other groups that should be dealt with under the law enforcement framework would be to do deep damage to the IHL [International Humanitarian Law] and human rights framework.”<sup>(30)</sup>*

- As many as 1,000 executions occur worldwide for drug offences each year,<sup>(31)</sup> but precise numbers are unknown due to the secrecy of some states. Statistics for China, the most enthusiastic executioner, are most uncertain, with estimates of executions for all offences in 2007 varying from 2,000 to 15,000<sup>(32)</sup>
- In recent years Iran has seen an explosion in reported executions. The UK Foreign and Commonwealth Office estimated there were 650 executions in 2010, 590 of which were for drug-related offences
- In Malaysia, between July 2004 and July 2005, 36 of 52 executions carried out were for drug-trafficking<sup>(33)</sup>
- In 2003 the Thai government launched a “war on drugs” crackdown, the first three months of which saw 2,800 extrajudicial killings. These were not investigated and the perpetrators were not prosecuted or punished
- The Thai Office of the Narcotics Control Board admitted in November 2007 that 1,400 of the people killed in fact had no link to drugs<sup>(34)</sup>



Each year approximately 1,000 people are executed for drug offences

## 5. Over-incarceration and arbitrary detention

Punitive drug enforcement has fuelled a dramatic expansion of prison populations over the past 50 years.

While significant numbers are incarcerated for possession/use alone, a far larger proportion are imprisoned for “drug-related” offending. These are mainly low-level players in the illicit trade and low income dependent users offending to support their use – the “low-hanging fruit” often picked up by target-driven enforcement efforts. There has also been growing use of arbitrary detention under the banner of “drug treatment” (see “*drug detention centres*”, p. 5), and the use of extended pre-trial detention for drug offenders.

- In a survey of ten cities in nine European countries, over half of a sample of heroin and cocaine users had been imprisoned<sup>(35)</sup>
- The prevalence of HIV is usually several times higher in prisons than other communities due to the overrepresentation of injecting drug users in prison<sup>(36)</sup>

## Mexico's "war on drugs"

- Complaints relating to military and police abuses made to national human rights commissions have increased by 900% since the beginning of the militarised "war on drugs" in 2006
- Attacks on journalists, human rights defenders and migrants by criminal groups and security forces have gone uninvestigated. For example, 35 journalists were killed with eight more missing, feared dead, between 2007-10; and in Veracruz police officers kidnapped, robbed and beat a journalist who had earlier witnessed police attacking a reporter<sup>(37)</sup>
- Children and entire families have been killed at drug war military checkpoints. These include Bryan and Martin Almanza, aged five and nine, killed when soldiers opened fire on their vehicle in April 2010. In June 2007, two women and three children, aged two, four, and seven, were shot and killed when they failed to stop at a military checkpoint involved in "the permanent campaign against drug trafficking". More recently, a child of fifteen and his father were killed by soldiers in Monterrey, with relatives saying they were shot without any indication to stop<sup>(38)</sup>

*"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

## The US – the "great incarcerator"

- In 2008, over half of federal inmates in the US were in prison due to a drug charge<sup>(39)</sup>
- The US imprisons more people for drug offences than the EU does for all offences, even though the EU's population is 40% higher than that of the US<sup>(40)</sup>
- Despite having similar levels of drug use, of US state prisoners serving sentences for drug offences in 2005 45% were Black, 20% Hispanic and 28% White.<sup>(41)</sup> Yet just 13% of the US population is Black, 15% Hispanic and 80% White<sup>(42)(43)</sup>

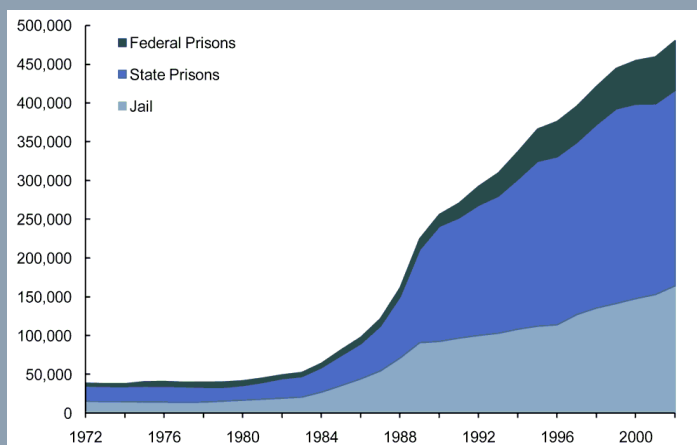


Figure 1: Estimated number of adults incarcerated for drug law violations in the United States, 1972-2002





In many areas, access to proven harm reduction measures is extremely limited

## 6. The right to health

The “right to the enjoyment of the highest attainable standard of physical and mental health” is a fundamental right first articulated in the 1946 Constitution of the World Health Organization (WHO), and included in many subsequent international human rights treaties, including the International Covenant on Economic Social and Cultural Rights and the UN Convention on the Rights of the Child.

The right to health includes access to health-related education and information; the right to be free from non-consensual medical treatment; the right to prevention, treatment and control of diseases; access to essential medicines, including those controlled under drug control systems; and participation in health-related decision making at the national, community and individual levels. Good quality health provision should be available, accessible, and acceptable without discrimination – specifically including on the grounds of physical or mental disability, or health status.<sup>(44)</sup> In country after country around the world, however, the right to health is denied to people who use illegal drugs.

Punitive drug enforcement often runs contrary to the right to health when dealing with drug using populations, most prominently by denying access to treatment and harm reduction services, and creating practical and political obstacles to getting essential medicines. This creates serious health costs, particularly for vulnerable populations of problematic drug users, including those who inject drugs – an estimated 15.9 million people<sup>(45)</sup> in at least 158 countries and territories around the world.

Injecting drug use causes one in ten new HIV infections globally, and up to 90 per cent of infections in regions such as Eastern Europe and Central Asia.<sup>(46)</sup>

Despite this, in many of these areas, access to proven harm reduction measures – including needle and syringe exchanges programmes (NSP) and opiate substitution therapy (OST) – is extremely limited or entirely unavailable. Yet these interventions are recognised by UN human rights monitors as a requirement of the right to health for people who inject drugs,<sup>(47)</sup> while methadone and buprenorphine for OST are on the World Health Organization’s essential medicines list.<sup>(48)</sup>

“*The enjoyment of the right to health of all people who use drugs – and are dependent on drugs – is applicable irrespective of the fact of their drug use ... drug use is not a medical condition and does not necessarily imply dependence. Indeed the majority of people who use drugs do not become dependent and do not require any treatment.*”

Anand Grover

UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health,  
2010

- In Russia, although 37% of the 1.8 million people who inject drugs are infected with HIV, NSP is severely limited and OST is illegal. By comparison, HIV rates amongst people who inject drugs in countries with long-established harm reduction programs, such as the UK, Australia and Germany, are below 5%
- Of countries/territories where injecting drug use is reported, 76 have no NSP, and 88 have no OST
- Prison needle and syringe programmes are currently available in only 10 countries, and OST is available (in at least one prison) in fewer than 40 countries<sup>(49)</sup>
- In Central Asia, Latin America and Sub-Saharan Africa, OST coverage equates to less than one person for every 100 people who inject drugs
- Despite vast need, very few people who inject drugs have access to hepatitis B/C and tuberculosis treatment (particularly in low- and middle-income countries), access to the overdose prevention drug Naloxone, or harm reduction services for stimulant users<sup>(50)</sup>
- In the Eurasian region, very few injecting drug users with HIV get antiretroviral therapy, ranging from less than 2% in Ukraine to just 0.2% in Russia.<sup>(51)</sup> This is disproportionately low compared with others living with HIV<sup>(52)</sup>

Enforcement activities themselves can create direct health harms, for example during aerial drug crop fumigation (including damage to eyes and skin, and miscarriages<sup>(53)</sup>), as well as interfering with access to health services.

Criminalisation of use, and the stigma and discrimination that often accompany it, contribute to the reluctance of people who inject drugs to utilise treatment and harm reduction services. This is especially the case when laws against the carrying of injecting paraphernalia are in place (running contrary to the UN's International Guidelines on HIV/AIDS and Human Rights<sup>(54)</sup>) or when police have a high presence near service providers.<sup>(55)</sup>

Global drug control efforts aimed at non-medical use of opiates have had a chilling effect on medical uses for pain control and palliative care.

Unduly restrictive regulations and policies, such as those limiting doses and prescribing, or banning particular preparations, have been imposed in the name of controlling illicit diversion of narcotic drugs.<sup>(56)</sup>

Instead, according to the World Health Organization, these measures simply result in 5.5 billion people – including 5.5 million with terminal cancer – having low to nonexistent access to opiate medicines.<sup>(57)</sup> More powerful opiate preparations, such as morphine, are unattainable in over 150 countries in the world.

## 7. The right to social security and an adequate standard of living

The war on drugs has created far wider human rights costs through a series of disastrous negative impacts on development, security and conflict in many of the world's most fragile states (*explored in more detail in the Count the Costs Development and Security briefing*).

Some drug war enforcement efforts have far more direct impacts, notably militarised crop eradication programmes – particularly those involving extensive use of aerial fumigation. These have led to human displacement, food insecurity, and denial of welfare and livelihoods to those displaced.

- On average, 10,000-20,000 indigenous people have been displaced each year in Colombia due to crop eradication<sup>(58)</sup>
- In Nangarhar, Afghanistan, forced eradication, bans on cultivation, threats of NATO bombing campaigns, and imprisonment of farmers led to a decrease in opium production; another consequence of this was a 90% drop in incomes for many, and internal displacement and migration to Pakistan<sup>(59)</sup>
- Due to crop eradication, some farmers in the region have resorted to selling their underage daughters for marriage, underlining the centrality of poverty as a driver of involvement in drug production<sup>(60)</sup>

Conviction for drug offences can also result in the removal of social welfare, including public housing (e.g. in many US States<sup>(61)</sup>), and denial of federal funding for students – an extra punishment in addition to potential incarceration and lifelong criminal records. The result is a worsening cycle of poverty, marginalisation and criminality for individuals and families.

Recently, in the UK, the coalition government proposed the removal of benefits for those who use drugs or refuse treatment. The move showed no understanding of the realities of drug dependence, and raised concerns about the impact on dependent children.<sup>(62)</sup>

*“For many years, global consumption of narcotic drugs and psychotropic substances has been below the levels required for the most basic treatments ... As long as these drugs remain inaccessible to the large majority of people around the world, patients will not be able to derive the health benefits to which they are entitled under the Universal Declaration of Human Rights.”*

International Narcotics Control Board (INCB)  
2010

## 8. The rights of the child

Children are at the forefront of political justifications for drug control. Indeed, there are few more politically potent justifications for any policy than child protection. But the reality is that children's rights have been increasingly violated through drug control measures while drug use and drug-related harms among children have continued to rise.

The UN Convention on the Rights of the Child is the core international treaty setting out a comprehensive set of rights protections for children. All but two States have agreed to be bound by its terms. It includes protection from drugs (article 33), with States being required to, *“take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties and to prevent the use of children in the illicit production and trafficking of such substances.”*

“*The spray planes often targeted our community. People would get very sad when they saw the fumigation planes. You see the planes coming – four or five of them – from far away with a black cloud of spray behind them. They say they are trying to kill the coca, but they kill everything. I wish the people flying those fumigation planes would realise all the damage they do ... Once the fumigation spray hit my little brother and me. We were outside and didn’t make it into the house before the planes flew by. I got sick and had to be taken to the hospital. I got a terrible rash that itched a lot and burned in the sun. The doctor told us the chemical spray was toxic and was very dangerous. I was sick for a long time and my brother was sick even longer. We were fumigated a total of five times.*”

Javier\*, age 11

(on the counterdrug aerial fumigation programme that has targeted his farming community in Guaviare province, Colombia)

\*For security reasons, Javier’s name has been changed

The key question, when counting the costs to child rights of the war on drugs is this: Are these “appropriate measures”, particularly given the outcomes?<sup>(63)</sup>

- As many as 1,000 children have been killed to date in the Mexican war on drugs, and up to 50,000 have lost at least one parent<sup>(64)</sup>
- Children are used to fight against the drug cartels in Mexico<sup>(65)</sup>
- Children grow up in prison, when their parents are convicted of minor drug offences<sup>(66)</sup>
- Children are subjected to invasive searches for drugs<sup>(67)</sup>
- Random school drug testing takes place, in violation of the child’s right to privacy<sup>(68)</sup>
- Children who inject drugs are denied access to harm reduction, based on their age<sup>(69)</sup>
- Children are beaten and sexually abused in drug detention centres<sup>(70)</sup>
- Street children are subjected to police violence due to suspected involvement in drug dealing<sup>(71)</sup>

- Children are tortured to extract evidence<sup>(72)</sup>
- Aerial fumigation in Colombia damages children’s physical and mental health<sup>(73)</sup>

It is a tragic irony that the good intentions of many who defend the status quo, with the aim of protecting and defending the rights of young people, have in practice exposed them to dramatically increased levels of risk and actual harm.



Children’s rights have been increasingly violated through drug control measures



## 9. Cultural and indigenous rights

The war on drugs has effectively criminalised entire cultures with long standing histories of growing and using certain drug crops. The traditional use of coca for cultural and medicinal purposes in the Andean region is well known and well established among indigenous groups. The 1961 Single Convention on Narcotic Drugs provided a 25-year grace period for coca chewing to continue, which has now long expired. As a result, traditional uses of coca are not permitted in international law, based on treaty negotiations that entirely excluded indigenous people.

Compare this with the view of the UN Special Rapporteur on the rights of indigenous people that:

*“[I]t has become a generally accepted principle in international law that indigenous peoples should be consulted as to any decision affecting them.”<sup>(74)</sup>*

The now universally adopted Declaration on the Rights of Indigenous Peoples recognises this right too, as well as the right of indigenous peoples to:

*“[P]ractise and revitalize their cultural traditions and customs”, and to “the use and control of their ceremonial heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora.”*

The UN Permanent Forum on Indigenous Issues (UN PFII) has recently supported the call for the removal of traditional uses of coca from the scope of international drug control.<sup>(75)</sup> In 2009 the UN PFII requested that:

*“Those portions of the [1961] Convention regarding cocaleaf chewing that are inconsistent with the rights of indigenous peoples to maintain their traditional health and cultural practices, be amended and/or repealed.”<sup>(76)</sup>*

The blanket ban on traditional uses of such plants is an area of considerable conflict.<sup>(77)</sup> This was illustrated in June 2011, by the Bolivian government’s withdrawal from the 1961 UN

Single Convention on Narcotic Drugs, as a result of its failed attempt to amend the Convention to allow for the practice of coca leaf chewing. Bolivia has since signalled its intention to re-accede to the convention with a reservation that permits this traditional use of coca.



The centuries-old indigenous practice of coca leaf chewing is under threat

## Are there benefits?

The main claim for health-related human rights benefits of 50 years of prohibition-based international drug control is that while it has not prevented overall drug use from rising, it has kept levels of use lower than they would otherwise have been, so contributing to the right to health.

However, the deterrent effect of punitive user-level enforcement is highly questionable. Comparative analyses show no significant link between punitiveness or intensity of enforcement and levels of use. The limited evidence available suggests such effects are at best marginal, relative to socio-economic and cultural factors.<sup>(78)</sup> The benefits of localised enforcement successes – a violent drug trafficker captured or a drug gang dismantled for example – can be held up as examples of contributing to the security and protection of the rights of others from the actions of

criminals. But such impacts are usually temporary and marginal, normally just displacing any illegal activity to new areas – the so called “balloon effect”. It is clear that in most places drug supply has more than kept pace with rising demand – often with prices falling and availability increasing.

Many claim that having an international consensus on how to deal with drugs is both an indicator of success and of support for the status quo. However, as this briefing demonstrates, the human rights outcomes of this consensus are overwhelmingly negative, and the process by which the international consensus is maintained is one that actively precludes debate on alternatives that could achieve better outcomes. There is every reason to believe that a new international consensus could be achieved and maintained around a system of drug control that is genuinely based upon the three principles of the UN – security, development and human rights.

## How to count the costs?

International human rights law provides a wide range of broad, legally binding indicators against which to measure the harms or benefits of drug policies. Detailed indicators relating to specific areas of policy should be developed from these, and existing indicators structured to better understand a human rights-based approach to drug control.

A range of evaluative and comparative tools exist, including a well-established body of research on Human Rights Impact Assessments. There is potential, and an urgent need, to model current approaches alongside a range of alternative models – including decriminalisation of personal possession of drugs and models of legal regulation – to provide guidance on the best ways forward.

At national level, human rights must be incorporated into planning, implementation and evaluation of programmes and policies. Similarly, international funding must pass through human rights scrutiny.

At the UN level, the drug control system must begin to operate as a set of mechanisms to deliver, not undermine,

human rights. The UN Office on Drugs and Crime is making progress in this area through the adoption of new human rights guidelines for country teams.

The UN Commission on Narcotic Drugs must play a role in discussing at a political level human rights concerns relating to drug policies, and the International Narcotics Control Board must incorporate human rights into its scrutiny of state practices.

In order to achieve this, civil society engagement is essential. Otherwise, the true human rights picture will never become clear.

## Conclusions

Some human rights are absolute and many of the abuses documented in this briefing are inexcusable, regardless of the context in which they take place, or the aims pursued. These include freedom from torture, execution and arbitrary detention, and there are many clear-cut examples of drug policies or practices violating these rights.

Some other rights, such as the exercise of indigenous and cultural rights, may be lawfully restricted. But this poses a crucial question for the current drug control system.<sup>(79)</sup> The test for when restrictions on human rights are permissible does not and should not lie in drug control legislation or policies. It lies in human rights law. Broadly, any restriction on human rights must be prescribed by law, in pursuit of a legitimate aim, and be proportionate to the aim pursued.

The question is rather simple: If a law or policy cannot achieve its aim, or has proven incapable of doing so over a considerable length of time (in this case 50 years), then can the restrictions on human rights that stem from it ever be proportionate and therefore permissible?

In considering this question, the seriousness of the restriction (which varies depending on the right and individual circumstances), its breadth (in this case global and applicable to everyone), and its duration (in this case perpetual) will be key, but must be balanced against other concerns. Drug use, and the policies and laws devised to address it, impact on a wide range of policy arenas (see

*www.countthecosts.org*), but like all areas of domestic and international policy, the driving consideration should be the promotion of the UN's three pillars – human rights, human development and human security. In drug policy, however, these goals have been marginalised by the threat-based rhetoric of the drug war, and the failed and counterproductive interventions that have flowed from it.

What is abundantly clear is that human rights will always suffer in a war zone. But it is also clear that the war on drugs is a policy choice. There are other options, including decriminalisation and models of legal regulation, that, at the very least, should be debated and explored using the best possible evidence and analysis.

We all share the same goals – a safer, healthier and more just world. It is time for all sectors affected by our approach to drugs, and particularly those concerned with human rights, to call on governments and the UN to properly *Count the Costs of the War on Drugs, and explore the alternatives.*

“*In the context of overwhelming evidence that drug law enforcement has failed to achieve its stated objectives, it is important that its harmful consequences be acknowledged and addressed. These consequences include ... severe human rights violations, including torture, forced labour, inhuman and degrading treatment, and execution of drug offenders in a number of countries.*”

**The Vienna Declaration**  
(of the 2010 International Aids Conference)  
[www.viennadeclaration.com](http://www.viennadeclaration.com)



The war on drugs has led to widespread human rights abuses and mass criminalisation of vulnerable populations



## References

### Quotes:

#### Global Commission on Drug Policy

'Report of the Global Commission on Drug Policy', 2011.

#### Anand Grover

'Report of the Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health', UN Doc No A/65/255, 2010.

#### Ban Ki-moon

'Remarks on the handover of the report of the Commission on AIDS in Asia', 2008.

#### Antonio Maria Costa

'Drug Control, Crime Prevention, and Criminal Justice: A Human Rights Perspective', 2010.

#### Navanethem Pillay

'UN High Commissioner calls for focus on human rights and harm reduction in international drug policy', 2009. <http://www.ohchr.org/en/newsevents/pages/DisplayNews.aspx?NewsID=8554&LangID=E>

#### International Narcotics Control Board

'Report of the International Narcotics Control Board on the Availability of Internationally Controlled Drugs: Ensuring Adequate Access for Medical and Scientific Purposes', 2010.

#### Anand Grover

'Report of the Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health', UN Doc No A/65/255, 2010.

#### Javier

Hunter-Bowman, J., 'Real life on the frontlines of Colombia's drug war' in Barrett, D. (ed), *Children of the Drug War: Perspectives on the impact of drug policies on young people*, IDebate Press: New York, London & Amsterdam, 2011, p. 18.

#### Declaration of the 2010 International Aids Conference

<http://www.viennadeclaration.com/the-declaration/>

### In-text references:

**Figure 1:** Graph taken from 'Science and Drug Policy: The Problem' (online article), International Centre for Science in Drug Policy, 2010. [http://www.icsdp.org/aboutus/science\\_drugpolicy.aspx#fig\\_2](http://www.icsdp.org/aboutus/science_drugpolicy.aspx#fig_2)

<sup>(1)</sup> Costa, A., 'Making drug control "fit for purpose": Building on the UNGASS decade', UNODC, 2008.

<sup>(2)</sup> See preamble to the 1961 UN Single Convention on Drugs. For discussion see: Lines, R., 'Deliver us from evil?' – The Single Convention on Narcotic Drugs, 50 years on, *International Journal on Human Rights and Drug Policy*, vol. 1, 2010.

<sup>(3)</sup> Kushlick, D., 'International security and the global War on Drugs; the tragic irony of drug securitisation', Transform Drug Policy Foundation, 2011.

<sup>(4)</sup> Article 14, Convention Against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988.

<sup>(5)</sup> Golichenko, M., and Merkinaite, S., 'In breach of international law: Ukrainian drug legislation and the European Convention for the Protection of Human Rights and Fundamental Freedoms, Discussion Paper', EHRN/Possession, and HIV Transmission' International AIDS

Conference, Canadian HIV/AIDS Legal Network, 2011.

<sup>(6)</sup> Otiaashvili, D., Kirtadze, I. and Tsertsvadze, V., 'How efficient is street drug testing?', 2011.

<sup>(7)</sup> The term 'decriminalisation' does not have an official accepted legal definition but in reference to drug possession personal use or use itself – it is generally understood to mean removing criminal sanctions for such offences, rather than removing all sanctions; commonly administrative or civil sanctions, such as fines, remain although significant variations exist between countries in terms of quantity thresholds (possession/dealing), severity of sanctions, and intensity of enforcement.

<sup>(8)</sup> Ki-moon, B., 'Remarks on the handover of the report of the Commission on AIDS in Asia', 2008.

<sup>(9)</sup> 'Leaders against Criminalization of Sex Work, Sodomy, Drug Use or Possession, and HIV Transmission' International AIDS Conference, Vienna, July 2010. During the session Michel Sidibe, Executive Director of UNAIDS, joined other leaders in agreeing the following: "*We Resolve: that harmful laws that criminalize sex work, drug use and drug possession, homosexuality and same-sex relationships, and HIV transmission must be repealed and must not be replaced by a regulatory system that is equally prejudicial. Not only do these laws lead to serious human rights abuses, but they grievously hamper access to HIV services.*"

<sup>(10)</sup> Kazatchkine, M., 'Harm Reduction: From Evidence to Action', keynote address at the 20th International Harm Reduction Conference, Bangkok, 20-23 April 2009.

<sup>(11)</sup> A Guide to the Legal System of the Islamic Republic of Iran, <http://www.nyulawglobal.org/globalex/iran1.htm>

<sup>(12)</sup> Amnesty International, 'Yemen: Cracking down under pressure', 2010, p. 18.

<sup>(13)</sup> The status of the law at time of writing (June 2011) is unclear.

<sup>(14)</sup> Article 14(2), International Covenant on Civil and Political Rights.

<sup>(15)</sup> Harris, G., 'Conviction by Numbers: Threshold Quantities for Drug Policy', Transnational Institute, 2010.

<sup>(16)</sup> 'Report of the Special Rapporteur, Mr. Bacre Waly Ndiaye, submitted pursuant to Commission on Human Rights resolution 1996/74, E/CN.4/1997/60/Add.1, para. 438'.

<sup>(17)</sup> US Department of State 2008 country reports on human rights practices. <http://www.state.gov/g/drl/rls/hrrpt/2008/eap/119046.htm>

<sup>(18)</sup> 'China Registers 740,000 Drug Addicts', Xinhua News Agency, June 21, 2004. <http://www.china.org.cn/english/China/98945.htm>; He, Y. and Swanstrom, N., 'China's War on Narcotics'. See also 'Where Darkness Knows No Limits: Incarceration, Ill-Treatment and Forced Labor as Drug Rehabilitation in China', Human Rights Watch, 2010.

<sup>(19)</sup> Davis, S.L.M., Catalyst, A. and Triwahyuono, A., 'Police Abuse of Injection Drug Users in Indonesia', in International Harm Reduction Development Program, At What Cost? HIV and Human Rights Consequences of the global "War on Drugs", March 2009.

<sup>(20)</sup> Stuijkyte, R., Otiaashvili, D., Merkinaite, S., Sarang, A. and Tolopilo, A., 'The Impact of Drug Policy on Health and Human Rights in Eastern Europe: 10 years after the UN General Assembly Special Session on Drugs', Eurasian Harm Reduction Network, 2009.



- <sup>(21)</sup> Human Rights Watch, 'Rhetoric and Risk: Human Rights Abuses Impeding Ukraine's Fight Against HIV/AIDS', 2008.
- <sup>(22)</sup> Human Rights Watch interview with Trach, Siem Reap, June 2009.
- <sup>(23)</sup> Human Rights Watch, 'Skin on the Cable: The Illegal Arrest, Arbitrary Detention and Torture of People of Use Drugs in Cambodia', 2010.
- <sup>(24)</sup> Human Rights Watch, 'Where Darkness Knows No Limits: Incarceration, Ill- Treatment and Forced Labor as Drug Rehabilitation in China', 2010.
- <sup>(25)</sup> 42 states according to: <http://www.endcorporalpunishment.org/pages/frame.html>; and 40 states according to: [www.crin.org/violence/campaigns/sentencing/#countries](http://www.crin.org/violence/campaigns/sentencing/#countries)
- <sup>(26)</sup> Iakobishvili, E., 'Inflicting Harm: Judicial corporal punishment for drugs and alcohol offences in selected countries', Harm Reduction International (forthcoming 2011).
- <sup>(27)</sup> Gallahue, P. and Lines, R., 'The Death Penalty for Drug Offences: Global Overview', IHRA, 2010. The full list of countries is: Bahrain, Bangladesh, Brunei- Darussalam, China, Cuba, Egypt, Gaza (Occupied Palestinian Territories), India, Indonesia, Iran, Iraq, Kuwait, Lao PDR, Libya, Malaysia, Myanmar, North Korea, Oman, Pakistan, Qatar, Saudi Arabia, Singapore, South Korea, Sri Lanka, Sudan, Syria, Taiwan, Thailand, United Arab Emirates, United States of America, Viet Nam and Yemen.
- <sup>(28)</sup> Gallahue, P., 'Targeted Killing of Drug Lords: Traffickers as Members of Armed Opposition Groups and/or Direct Participants in Hostilities', International Journal on Human Rights and Drug Policy, Vol. I, 2010, pp. 15-33.
- <sup>(29)</sup> A Report to the Committee on Foreign Relations United States Senate. 11th Congress 1st session, 'Afghanistan's Narco War: Breaking the Link Between Drug Traffickers and Insurgents', p1, 2009.
- <sup>(30)</sup> UN, 'Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston', 2010.
- <sup>(31)</sup> Gallahue, P. and Lines, R., 'The Death Penalty for Drug Offences: Global Overview', International Harm Reduction Association, 2010.
- <sup>(32)</sup> Johnson, D. and Zimring, F., *The Next Frontier: National Development, Political Change and the Death Penalty in Asia*, Oxford: Oxford University Press, 2009, p237; Yardley, J., 'With new law, China reports drop in executions', New York Times, 9 June 2007. [www.nytimes.com/2007/06/09/world/asia/09china.html?scp=2&sq=china+death+penalty+yardley&st=nyt](http://www.nytimes.com/2007/06/09/world/asia/09china.html?scp=2&sq=china+death+penalty+yardley&st=nyt) (accessed 19 April 2010)
- <sup>(33)</sup> Ling, C.S., 'Debate over the death penalty heating up', New Straits Times, 26 March 2006.
- <sup>(34)</sup> International Harm Reduction Association and Human Rights Watch Briefing paper: 'Thailand's "war on drugs"', 2008.
- <sup>(35)</sup> March, J.C., Oviedo-Joekes, E. and Romero, M., 'Drugs and social exclusion in ten European cities', *European Addiction Research*, 12(1), 33-41, 2006.
- <sup>(36)</sup> Gaughwin, M., Douglas, R. and Wodak, A., 'Behind bars: Risk behaviours for HIV transmission in prisons, a review', in Norberry, J., Gerull, S. and Gaughwin, M. (eds), *HIV/AIDS and Prisons*, Canberra: Australian Institute of Criminology, 1991, pp. 89-108.
- <sup>(37)</sup> Human Rights Watch, 'World Report Chapter: Mexico', 2011.
- <sup>(38)</sup> Barra, A. and Joloy, D., 'Children: The forgotten victims in Mexico's drug war' in Barrett, D., (ed), *Children of the Drug War: Perspectives on the impact of drug policies on young people*, New York and Amsterdam, International Debate Education Association, iDebate Press, 2011.
- <sup>(39)</sup> West, H.C. and Sabol, W.J., 'Prisoners in 2007', Bureau of Justice Statistics Bulletin NCJ 224280, 2008.
- <sup>(40)</sup> Schiraldi, V., Holman, B. and Beatty, P., 'Poor Prescription: The Cost of Imprisoning Drug Offenders in the United States', Justice Policy Institute, 2000.
- <sup>(41)</sup> Ibid.
- <sup>(42)</sup> Central Intelligence Agency World Fact Book, 2009. <https://www.cia.gov/library/publications/the-world-factbook/geos/us.html> (accessed 26 February 2009)
- <sup>(43)</sup> Human Rights Watch, 'Decades of Disparity: Drug Arrests and Race in the United States', 2009.
- <sup>(44)</sup> Committee on Economic Social and Cultural Rights, 'General Comment No. 14: The right to the highest attainable standard of health', (UN Doc No. E/C.12/2000/4, 2000).
- <sup>(45)</sup> Mathers, B.M. et al, for the 2007 Reference Group to the UN on HIV and Injecting Drug Use, 'Global epidemiology of injecting drug use and HIV among people who inject drugs: A systematic review', *Lancet* 372(9651), pp. 1733-45, 2008.
- <sup>(46)</sup> WHO Regional Office for Europe Copenhagen, 'World Health Organization Europe Status Paper of Prison, Drugs and Harm Reduction', Doc No EUR/05/5049062, 2005, p. 3.
- <sup>(47)</sup> See for example: International Harm Reduction Association and Human Rights Watch, 'Building consensus: A reference guide to human rights and drug policy', 2009 and 'Russia, human rights and the building understanding of harm reduction and the right to health', Harm Reduction International Blog, 24 May 2011. <http://www.ihra.net/contents/1010>
- <sup>(48)</sup> The list can be found here: <http://www.who.int/medicines/publications/essentialmedicines/en/index.html>
- <sup>(49)</sup> International Harm Reduction Association, *Global State of Harm Reduction*, 2010, p. 105.
- <sup>(50)</sup> Ibid.
- <sup>(51)</sup> Mathers, B.M. et al, for the 2007 Reference Group to the UN on HIV and Injecting Drug Use, 'Global epidemiology of injecting drug use and HIV among people who inject drugs: A systematic review', *Lancet* 372(9651), pp. 1733-45, 2008.
- <sup>(52)</sup> See Donoghoe et al, 'Access to HAART for injecting drug users in the WHO Europe Region 2002-2004', *International Journal of Drug Policy*, 18, 2007, pp. 271-280.
- <sup>(53)</sup> Transnational Institute, 'Ecuador: "Collateral Damage" From Aerial Spraying on the Northern Border', 2003.
- <sup>(54)</sup> United Nations publication, Sales No. E.06.XIV.4, p. 30.
- <sup>(55)</sup> For example in Thailand, Russia, Ukraine, US, Bangladesh, Kazakhstan and Canada. See: Human Rights Watch, 'Drug Policy and Human Rights'. <http://www.hrw.org/en/node/82339>
- <sup>(56)</sup> Report of the International Narcotics Control Board on the Availability of Internationally Controlled Drugs: Ensuring Adequate Access for Medical and Scientific Purposes. [http://www.incb.org/pdf/annual-report/2010/en/supp/AR10\\_Supp\\_E.pdf](http://www.incb.org/pdf/annual-report/2010/en/supp/AR10_Supp_E.pdf)
- <sup>(57)</sup> World Health Organization, 'A First Comparison Between the

Consumption of and the Need for Opioid Analgesics at Country, Regional, and Global Levels', 2011. <http://apps.who.int/medicinedocs/documents/s17976en/s17976en.pdf>

<sup>(58)</sup> Washington Office on Latin America. [http://www.wola.org/news/deteriorating\\_situation\\_of\\_indigenous\\_communities\\_in\\_colombia](http://www.wola.org/news/deteriorating_situation_of_indigenous_communities_in_colombia)

<sup>(59)</sup> Felbab-Brown, V., 'U.S. Counternarcotics Strategy in Afghanistan', Testimony before the U.S. Senate Caucus on International Narcotics Control, October 2009.

<sup>(60)</sup> Ahmadzai and C. Kuonqui 'In the Shadows of the Insurgency in Afghanistan: Child Bartering, Opium Debt, and the War on Drugs' in Barrett, D. (ed), *Children of the Drug War: Perspectives on the impact of drug policies on young people*, New York and Amsterdam, International Debate Education Association, iDebate Press, 2011.

<sup>(61)</sup> Human Rights Watch, 'No Second chance: People with Criminal Records Denied Access to Public Housing', 2004.

<sup>(62)</sup> The Children's Society, 'The Children's Society's response to the publication of the White Paper Reducing Demand, Restricting Supply, Building Recovery', London, 9 December 2010.

<sup>(63)</sup> Barrett, D. and Veerman, P., 'A Commentary on the UN Convention on the Rights of the Child: Article 33 – Protection from Narcotic Drugs and Psychotropic Substances', Brill/Martinus Nijhoff (forthcoming, 2011).

<sup>(64)</sup> Barra, A. and Joloy, D., 'Children: the forgotten victims in Mexico's drug war' in Barrett, D. (ed), *Children of the Drug War: Perspectives on the impact of drug policies on young people*, New York and Amsterdam, International Debate Education Association, iDebate Press, 2011.

<sup>(65)</sup> Committee on the Rights of the Child, Concluding Observations: Mexico (OPAC), (UN Doc No CRC/C/OPAC/MEX/CO/1, 2011) para 29.

<sup>(66)</sup> E.g. Fleetwood, J. and Torres, A., 'Mothers and children of the drug war: a view from a women's prison in Quito, Ecuador' in Barrett, D (ed), *Children of the Drug War: Perspectives on the impact of drug policies on young people*, New York and Amsterdam, International Debate Education Association, iDebate Press, 2011.

<sup>(67)</sup> Supreme Court of the United States, Stafford Unified School District#1, et al., Petitioners v. April Redding, Respondent (2009) 557 US. No.08-479.

<sup>(68)</sup> Fletcher, A., 'Random school drug testing: A case study in doing more harm than good' in Barrett, D. (ed), *Children of the Drug War: Perspectives on the impact of drug policies on young people*, New York and Amsterdam, International Debate Education Association, iDebate Press, 2011.

<sup>(69)</sup> Eurasian Harm Reduction Network, 'Young people and injecting drug use in selected countries of Central and Eastern Europe', 2009.

<sup>(70)</sup> Human Rights Watch, 'Skin on the cable: The Illegal Arrest, Arbitrary Detention and Torture of People Who Use Drugs in Cambodia', New York, 2010.

<sup>(71)</sup> E.g. Werb, D. et al 'Risks Surrounding Drug Trade Involvement Among Street-Involved Youth', *The American Journal of Drug and Alcohol Abuse*, 34: 810–820, 2008.

<sup>(72)</sup> E.g. 'Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak: Mission to Indonesia', (UN Doc No A/HRC/7/3/Add.7, 2008) para 141 (on a 17-year-old handcuffed to a chair being beaten to extract

information).

<sup>(73)</sup> Special Rapporteur on the right of everyone to the highest attainable standard of physical and mental health, Paul Hunt, Oral Remarks, 21 September 2007, Bogota, Colombia. J. Hunter Bowman 'Real Life on the Frontlines of Colombia's Drug War', in Barrett, D., *Children of the Drug War: Perspectives on the impact of drug policies on young people*, New York and Amsterdam, International Debate Education Association, iDebate Press, 2011.

<sup>(74)</sup> 'Indigenous Peoples' Participatory Rights in Relation to Decisions about Natural Resource Extraction: The More Fundamental Issue of What Rights Indigenous Peoples Have in Land and Resources', *Arizona Journal of International and Comparative Law*, 1, 2005 (22), 7.

<sup>(75)</sup> Report of the Ninth Session of the UN Permanent Forum on Indigenous Issues 19-30 April 2010, (UN Doc No E/2010/43-E/C.19/2010/15), para 35.

<sup>(76)</sup> Report of the Eighth Session of the UN Permanent Forum on Indigenous Issues 18-29 May 2009, (UN Doc No E/2009/43 - E/C.19/2009/14), para 89.

<sup>(77)</sup> Barrett, D. and Veerman, P., 'A Commentary on the UN Convention on the Rights of the Child: Article 33 – Protection from Narcotic Drugs and Psychotropic Substances', Brill/Martinus Nijhoff (forthcoming, 2011).

<sup>(78)</sup> Degenhardt, L. et al., 'Toward a Global View of Alcohol, Tobacco, Cannabis, and Cocaine Use: Findings from the WHO World Mental Health Surveys', *PLOS medicine*, July 2008. <http://www.plosmedicine.org/article/info:doi/10.1371/journal.pmed.0050141>

<sup>(79)</sup> Barrett, D., 'Security, development and human rights: Normative, legal and policy challenges for the international drug control system', *International Journal of Drug Policy*, Vol 21, Issue 2, March 2010, pp. 140-144.

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