

**Drug policies and the International Drug Control System (IDCS):
The implementation challenges of a simplistic drug policy in an increasingly complex world
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I. Introduction

Establishing the international drug control system (IDCS) started at the Shanghai Opium Commission on February 26, 1909. This was an international political process promoted by people and countries concerned about the drug problem. The process was long due to the lack of consensus among the parties at the Commission on whether the absolute prohibition was the best policy to cope with the problem. While most of the parties believed that any non-medical human drug consumption was harmful and should be prohibited, dissenting parties sought a system that allowed for some strictly controlled non-medical use of some drugs.

This process lasted 52 years, during which four Drug Conventions and several Protocols were implemented. The consensus was finally achieved after some of the principal dissenting countries had lost the Second World War. The result was the U. N. 1961 Single Convention on Narcotic Drugs. It prohibited any non-medical or non-scientific human consumption of controlled psychoactive drugs.

Today, over sixty years later, a growing number of governments are questioning the absolute prohibition of the non-medical and scientific uses of some drugs, mainly marijuana, and they have begun experimenting with various regulatory systems.¹ Some developing countries with high levels of violence and corruption associated to illegal drugs black markets, are clamoring for different “drug policy approaches or strategies”.

¹ The process to legalize non-medical uses of marijuana started in 1976 with the tolerated (although not legal) marijuana sales in the Netherlands coffee shops. It moved very slowly, but in recent years, it gained momentum. In December 2013, Uruguay was the first country to legalize non-medical marijuana. The government has proceeded with caution establishing a system of strict controls. It argued that it complied with the conventions that stated that its primary purpose was protecting the health and welfare of humankind. On June 21, 2018, Canada enacted the Cannabis Act that legalizes non-medical marijuana uses. This Act is a complex law that seeks to regulate all aspects of the marijuana market. It disregards the IDCS, but the government of Canada has not openly stated that it does not comply with the international norms (Thoumi, 2021: 13). In the United States, nonmedical marijuana has been prohibited by the federal government, but its constitution restricts and limits what the federal government can do. The 50 States are sovereign, and the federal government cannot force them to use the States’ judicial and law enforcement systems to comply with the federal marijuana restrictions (see Thoumi, 2014, and 2021, Ch. 13, section 5).

These facts and the growing acceptance of legal recreational marijuana use, the significant growth in illegal drug consumption, and the increased non-medical uses of medicinal opiates challenge the IDCS. The United States and Canada are powerful countries whose domestic policies have disregarded the IDCS policy constraints.

This short essay presents a critical analysis of the IDCS. It is not comprehensive, but it illustrates some of the logical and policy weaknesses of the system. Its main message is that the IDCS is an example of a commitment to applying a simple policy to solve a complex problem. This might have been appropriate to cope with a simple drug problem at the beginning of the XX century, but it is ineffective in responding to today's increasingly complex illegal psychoactive drugs world industry. However, as argued below, this may not be interpreted as embracing a simple "legalization" solution. This essay does not give specific policy options but suggests a methodological approach to cope with the current problem.

II. The origins and the nature of the IDCS' drug policy

The UN 1961 Single Convention resulted from a consensus among diplomats, politicians, international law experts, criminal lawyers, and health sector experts. The policy point of the convention was simple: "drug addiction is bad, and the best way to deal with it is to prohibit drug production, trafficking, and consumption; please do the best you can do, it does not matter what." Indeed, Article 4, paragraph 'c' of the convention instructs the Parties: "to take such legislative and administrative measures as may be necessary: [...] Subject to the provisions of this Convention, to limit exclusively to medical and scientific purposes the production, manufacture, export, import, distribution of, trade-in, use and possession of drugs" (UNODC, 2013, 30). And article 39 on the "application of stricter national control measures than those required by this Convention Notwithstanding anything contained in this Convention" goes further: "a Party shall not be, or be deemed to be, precluded from adopting measures of control more strict or severe than those provided by this Convention and in particular from requiring that preparations in Schedule III or drugs in Schedule II be subject to all or such of the measures of control applicable to drugs in Schedule I as in its opinion is necessary or desirable for the protection of the public health or welfare".

Even though the process was a consensual political negotiation, governments had different positions, and some were unsatisfied. For example, some countries like the URSS and the United States wanted all addicts to be interned for treatment in closed centers. This was not agreed on. The Single Convention was quickly ratified by 61 countries and entered into force on December 13, 1964. The United States, frustrated with the outcome, did not ratify it until three and a half years later, on May 25, 1967 (Thoumi, 2021, 88).

In 1909, very few psychoactive drugs were trafficked internationally; most were plant-based and produced in a few countries. Today that number is vast, and most drugs are synthetic products of the chemical and pharmaceutical industrial sector that is continuously innovating. Every year 50 to 80 new psychoactive drugs (NPS) appear in the illegal markets. Today the illegal drug industry is very complex and has expanded worldwide.

When the IDCS was proposed, there were about 40 to 50 recognized countries, and European empires controlled a very large part of the world. Transportation and communication were very slow and difficult in most of the world; the average education level of the people and their knowledge of the world beyond the surroundings in which they were born were minimal compared with today. The number of independent countries today exceeds 190. Urbanization changed a mostly rural world into an increasingly urban one. The world's population exploded from 1.6 billion in 1900 to 7.9 billion in 2022. In modern societies, family structures and gender roles have changed drastically.

These and other factors have resulted in dramatic social changes worldwide. Today's illegal industries are present in all countries. In many parts of the world, a large proportion of the population makes their living in the informal economy, and their work does not meet the labor or business laws of the country. Their products don't have to be illegal, but their income is generated outside the state's legal framework. The growth of the informal economy facilitates the growth of a criminal economic sector that includes a growing variety of activities: illegal drugs, human trafficking, corruption, money laundering, hired guns, extortions, and trafficking in arms, human organs, rare animals, illegally produced minerals, and many chemical products. The technological revolution has allowed for a broad and expanding cybercrime. Drug trafficking is only one branch of the criminal economy.

The IDCS policies were formulated following standard criminal policy practices of the time. They were supported by moral arguments and were not evidence-based. They did not consider each government's capacity to implement and enforce policies. Social science experts (sociologists, psychologists, historians, political scientists, anthropologists, and others) did not influence this process. Moreover, for a long time, the UN drug agencies believed that social sciences would not have anything to contribute to drug policy issues.

The drafters of the 1961 Single Convention apparently turned a blind eye to the first article of the Constitution of the World Health Organization (WHO), which advises and supports the UN drug agencies. WHO defines health as "a state of complete physical, mental and **social well-being** and not merely the absence of disease or infirmity."² WHO does not define "social health," but identifies the "*social determinants of health*" (SDH) as "the conditions in which people are born, grow, live, work and age. These circumstances are shaped by the global, national, and local distribution of money, power, and resources. The SDH are mostly responsible for health inequities - the unfair and avoidable differences in health status seen within and

² Bolds were added. The WHO's constitution is available at <https://www.who.int/about/governance/constitution#:~:text=Constitution%20of%20the%20World%20Health%20Organization&text=Health%20is%20a%20state%20of,absence%20of%20disease%20or%20infirmity>.

between countries.” The WHO’s definition of health applies to the drug conventions. Therefore, social determinants of health and social sciences should play a role in formulating and implementing drug policies.

The 1961 Single Convention established a fundamental policy that was considered a suitable solution believing that outright prohibition was not just a good policy but the only possible one to solve all drug problems under all circumstances. However, since the 1961 Single Convention was ratified, many changes in the world have weakened the IDCS’s capacity to respond to the “world drug problem.” However, the IDCS agencies have frequently stated that their goal is to eliminate all non-medical or scientific drug uses, even though they also acknowledge that their goal is unachievable. These results in a perennial policy struggle.

III. The struggle of the IDCS policy to achieve results against a complex drug problem: “we know policies are not perfect, but we know they are right. Ask us in ten years, and we will show better results.”

In its 1994 report, the INCB reiterated its ideal goal of a “drug-free world” (INCB, 1995, 3), which was repeated in the 1997 report (INCB, 1998, 1) issued a few weeks before the 1998 United Nations General Assembly Special Session (UNGASS) on the World Drug Problem. The 1998 UNGASS Political Declaration (United Nations, 1998) supported the commitment to past IDCS policy positions and highlighted the adverse consequences of drug use. It developed action-oriented strategies to assist in the implementation of the Declaration and established “the year 2003, as a target date for new or enhanced drug demand reduction strategies and programs set up in close collaboration with public health, social welfare, law enforcement authorities, and also commit ourselves to achieve significant and measurable results in the field of demand reduction by the year 2008” (United Nations, 1998, ¶17).

In 2008 the Commission on Narcotic Drugs (CND) supported the established drug policies. It postponed a more rigorous evaluation of UNGASS 1998 results for one more year to allow a deep reflection period. In the 2009 CND meeting, an Action Plan (UNODC, 2009) established 2019 as a target date for States Parties “to eliminate or reduce significantly and measurably: (a) The illicit cultivation of opium poppy, coca bush, and cannabis plant; (b) The illicit demand for narcotic drugs and psychotropic substances; and drug-related health and social risks; (c) The illicit production, manufacture, marketing, and distribution of, and trafficking in, psychotropic substances, including synthetic drugs; (d) The diversion of and illicit trafficking in precursors; (e) Money-laundering related to illicit drugs” (ibid).

In 2016 a new UNGASS reaffirmed “our determination to tackle the world drug problem and **to actively promote a society free of drug abuse** in order to help to ensure that all people

can live in health, dignity, and peace, with security and prosperity, and reaffirm our determination to address public health, safety and social problems resulting from drug abuse” (UNODC, 2016, 1).³

The March 2019 CND meeting was required to evaluate the results of implementing the 2009 Action Plan. The UN created the “UN system coordination Task Team on the Implementation of the UN System Common Position on drug-related matters” to comply with that requirement. The task team included members from sixteen U.N. organizations that produced a document detailing the lessons “learned over the last ten years: a summary of knowledge acquired and produced by the UN system on drug-related matters” (United Nations, 2019).

Finally, the document concludes by repeating the formula of the 2009 evaluation of the IDCS: “Following up to this Ministerial Declaration, we resolve to review in the Commission on Narcotic Drugs in 2029 our progress in implementing all our international drug policy commitments, with a mid-term review in the Commission on Narcotic Drugs in 2024” (ibid, 6).

The narrative of the IDCS recognizes the complexity of the world’s psychoactive drug issues. Still, it insists on continuing the simple policy focused on limiting drug uses to “medical and scientific purposes,” disregarding the complexity encountered in the real world.

IV. The challenge of an effective policy for a complex problem

Policy challenges include understanding the map of drug production, trafficking, and consumption and the world distribution of drug-associated violence and corruption and avoiding falling into the sequentiality trap.

a) Corruption and its negative consequences

All branches of the criminal economic sector tend to be related. Today’s criminal economy industries are becoming multi-product businesses. They use corruption and the threat of violence as instruments to promote their business. These organizations aim to make money, accumulate wealth, and protect their assets. They seek political power or the protection afforded by those in power.

The growth of the illegal drug economy requires social support networks that either condone or directly support illegal drug activities. This support includes lawyers, financial experts, pilots, customs officials, members of the judicial system, politicians, jail personnel, chemists, pharmacists, etc. Drug monies corrupt many State and civic institutions. Drug-driven corruption

³ Bolds were added.

has become accepted as a standard in many countries or regions. In some places, illegal drug monies have funded subversive organizations that want to overthrow the state and paramilitary groups that act against reformist movements. In other countries, drug monies are used to purchase votes and undermine their political system. Today it is possible to talk about narco-states or narco-regions controlled by drug trafficking organizations.

In many countries, some groups have benefited from the revenues, profits, and wealth generated illegally, and others have suffered increases in drug addiction that, at times, have been epidemic.

b) The map of drug production, trafficking, and consumption and its effects

The world map of drug production, trafficking, and consumption and the map of the effects of the illegal drug industry vary dramatically across the world. Some countries concentrate production of some drugs. Others suffer violence associated with illegal drug production and trafficking; others do not. Illegal drug consumption also varies substantially across the world.

The IDCS drug agencies accept that cultural, social, political, and economic factors either protect society against or encourage the development of illegal drug consumption trafficking and production. In other words, following the WHO concept of “social health,” the immunological system of each society is different, and some are more vulnerable than others.

However, current drug policy analyses frequently fail to accept the complexity of drug phenomena and attribute causality to sequentiality. For example, in Afghanistan, people “know” that they grow poppy and produce heroin because there is a large demand abroad for those products. The same is true in Colombia regarding coca and cocaine. However, most countries that could grow poppy or coca and refine heroin and cocaine did not develop those industries. Thus, while it may be argued that heroin production in Afghanistan and cocaine production in Colombia were responses to growing international demand, this does not explain the concentration of world heroin production in Afghanistan and cocaine production in Colombia. These phenomena result from historical, political, economic, and social issues that must be solved to lower the production of those two drugs.

The global maps of drug violence and corruption also vary substantially globally. Identifying the protective factors against crime and those that encourage it in each society is necessary. Each society’s cultural, political, economic, and social structures determine its vulnerability or risk of developing illegal drug structures.

V. How to cope with these complex issues

There is no good unique policy solution to the “world drug problem” that could be successful globally at any time and place. Relying only on “hard hand” or “war on drugs” policies

has allowed governments to misuse drug policies and use them to achieve other political goals. For example, in parts of the United States, the “war on drugs” was used to increase the incarceration levels of minority citizens and maintain the segregation of those social groups. In Colombia, the “war on drugs” foreign aid programs were very closely linked to the war against left-wing guerrillas that controlled coca planting areas. After more than three decades of diverse coca eradication efforts: forced manual eradication, negotiated eradication as part of alternative development and crop substitution programs, and widespread aerial spraying, the 2021 estimates show record cocaine production in the country.

Drug policies should be part of comprehensive and integrated anti-criminal profitable activities. These policies should also respond to each society’s cultural, social, political, and economic vulnerabilities. Effective policies require understanding the world’s drug phenomena and their relationship with “social health.” The diversity of the world drug maps shows that drug phenomena are strongly related to “sick social health.” That is the unresolved domestic social problems and tensions of each country. For example, this has been the case in Afghanistan, Colombia, and the United States. The challenge is to design a system that will control the social costs of drug problems, including “social health” issues.

A first step would be to define and understand the complex “drug problem” faced. Is it an addiction, international trade issues, lack of territorial control by the government, low education levels, economic crisis, etc.?

The second step would be to identify what the government and the society would consider a solution or solutions for the problem. These solutions should be clearly understood and defined. In other words, we need policies spelled out in small print. Large print generalities are not enough.

Once the desired solutions are clear, it would be necessary to identify the policy instruments required to reach those solutions. To be effective, these should be evidence-based. When the tools available are not evidence-based, it is necessary to establish a process to obtain such evidence. To get this requires experimentation and a learning process. Otherwise, countries fall into the trap of the current IDCS policies that periodically repeat the recipe expecting better results.

I do not pretend to give solutions to the “world drug problem,” but the following suggestions are made to illustrate some policy changes.

- a) Policymakers should learn from nicotine, the drug that generates the largest share of human deaths. In the United States and other countries, knowing the effects of cigarette smoking on the user and “secondhand” smoke produced powerful social sanctions on smokers. It has led to a vast decline in tobacco use. This shows that effective social health programs require solid social support. Top-down prohibition leads to contraband and illegal trade but does not solve the real problem.

- b) Social health also requires more knowledge about the individual decision-making to use drugs. Strictly controlled experiments that tolerate some non-medical drug uses, like the marijuana experiment in Uruguay, are valuable for learning about the consequences of a regulated form of “legalization.”
- c) Other experiments, like adding a small tax to some legal drugs like alcohol and tobacco to establish an “addiction insurance fund” to cover the costs of the social harms caused by the addicts, could protect their victims, fund drug addiction treatments, and other drug control programs. After learning about these two drugs, it might be feasible to experiment with other drugs.
- d) Many contemporary capitalist entrepreneurs seek to exploit their markets without much regard for the consequences of their actions. The case of the legal opioid crisis in the United States shows that the pharmaceutical firms and many doctors created de facto a vast drug cartel. In today’s capitalist environment, the best customer is an addict to the product. In the legal economy, the goal is to generate extreme loyalty and trust among customers. This phenomenon is opening a new policy field that requires research.

VI. Conclusions

None of the previous suggestions means that the markets for psychoactive drugs should become free markets. It only means that governments should continue using law enforcement, but their response must also be based on the complexity of the drug problem. That requires that the United Nations drug agencies recognize that the current system has produced an unequal distribution of the costs of drug prohibition across the world, and the current policies of those governments and the IDCS are not adequate to solve the “world drug problem” because we do not know how to do it.

Besides, the IDCS should also focus on specific problems that may not be avoided. The international trade of illegal drugs and their chemical precursors present control problems. Countries that export illegal drugs or their chemical precursors must not avoid their responsibility toward the rest of the world and strengthen their controls.

Technological changes have created new money and asset laundering problems. UNODC started an anti-money laundering program 23 years ago in which I worked. Today I am not qualified to work there. I do not have the required skills to be a hacker. New technologies have created challenges and opportunities. However, today’s money laundering problem is mainly caused by diverse criminal industries, political corruption, and tax evasion. Illegal drug money is likely to be a small share of the problem.

The IDCS has become obsolete. Its policies are simplistic and should evolve to make the system effective. If not, many countries will legalize recreational marijuana, and the IDCS will not be able to do much about it. This will weaken the IDCS, and some countries may try to legalize other drugs. Ecstasy could be a possible candidate. Governments will find that the IDCS policies of pointing and shaming without any powerful sanction will not have any results.

The complexity of the illegal psychoactive drug issues and the weakness of the IDCS forces it to confront a dilemma: it changes drastically or fades away in obscurity.

The UN is a unique experiment in human history. It is not a global government but provides a forum and ways to solve traditional human problems like national borders, foreign trade and investment, rules for conflict resolution, and the like. The UN must respond to the interests of its members regarding social harms like international crime, protecting the world environment, world health issues, illegal drugs, migrations, etc. I am afraid it is time to accept that the emphasis on a simplistic drug policy formulated in 1909 and ratified in the 1961 Single Convention on Narcotic Drugs is not producing satisfactory results. It is time for significant systemic reforms.

Warning: none of the above means that “drug legalization” (whatever that means) is the policy solution. Indeed, any simple “legalization” would encounter problems similar to the present simple “prohibitionist policies.”

If there are no significant systemic policy changes, I am afraid that if I lived long enough to be alive to write another essay at the time of the 2029 CND meeting, I would not be able to point to better results then.

BIBLIOGRAPHY

INCB, 1995. *Report of the International Narcotics Control Board for 1994.*

https://www.incb.org/documents/Publications/AnnualReports/AR1994/AR_1994_E.pdf

_____. 1998. *Report of the International Narcotics Control Board for 1997.*

https://www.incb.org/documents/Publications/AnnualReports/AR1997/AR_1997_E.pdf

_____. 2015. *Report of the International Narcotics Control Board for 2014.*

<https://www.incb.org/incb/en/publications/annual-reports/annual-report-2014.html>

_____. 2016. *Report of the International Narcotics Control Board for 2015.*

<https://www.incb.org/incb/en/publications/annual-reports/annual-report-2015.html>

Thoumi, Francisco E., 2021, *A path to (re)interpreting the International Drug Conventions*, Amazon Books.

_____. 2014, “Marijuana in the United States and the international drug control regime: Why what is promoted abroad is not applied at home,” *Crime, Law and Social Change*, 61, 3: 273-285,

February.

United Nations, 1998. *Resolution Adopted by the General Assembly. Political Declaration*, document A/RES/S-20/2, October 21.

[https://www.unodc.org/documents/commissions/CND/Political Declaration/Political Declaration 1998/1998-Political-Declaration A-RES-S-20-2.pdf](https://www.unodc.org/documents/commissions/CND/Political%20Declaration/Political%20Declaration%201998/1998-Political-Declaration%20A-RES-S-20-2.pdf)

_____. 2019. *What we have learned over the last ten years: a summary of knowledge acquired and produced by the UN system on drug-related matters*, UN system coordination Task Team on the implementation of the UN System Common Position on drug-related matters.

[https://www.unodc.org/documents/commissions/CND/2019/Contributions/UN Entities/What we have learned over the last ten years - 14 March 2019 - w signature.pdf](https://www.unodc.org/documents/commissions/CND/2019/Contributions/UN%20Entities/What%20we%20have%20learned%20over%20the%20last%20ten%20years%20-%2014%20March%202019%20-%20w%20signature.pdf)

UNODC (United Nations Office of Drugs and Crime), 2009, *Political Declaration and Plan of Action on International Cooperation towards an Integrated and Balanced Strategy to Counter the World Drug Problem*, https://www.unodc.org/documents/drug-prevention-and-treatment/High-level_segment_Commission_on_Narcotic_Drugs_11-12_March_2209.pdf

_____, 2013, *The International Drug Conventions*, (Available in six languages as a free Ebook at <https://www.unodc.org/unodc/en/commissions/CND/conventions.html>)