The US-Mexico War on Drugs

Editors: Arthur Bessis and Beatrice Wong

Writers: Manon Allen, Beatrice Codd, Atiya Kanji, Lucia Linares

The Wilberforce Society
Cambridge, UK

www.thewilberforcesociety.co.uk
March 2021

Abstract

The policies associated with the 'War on Drugs', first coined by Nixon, have achieved little in both the United States and in Mexico. Attempts to reduce or eliminate illegal markets for drugs have not had the desired effect of protecting Americans from the consequences of drug misuse. At the same time, attempts to curb drug trafficking in Mexico have resulted in much violence. Policymakers of both countries have recognised these failures, and have attempted to re-orient the way in which the War on Drugs is fought. However, given that drug-related violence has become endemic in Mexico and that a large proportion of the American population continues to misuse drugs without even the adequate support, it is clear that existing policy changes have not achieved their desired effects and that a more effective reform is necessary. This paper assesses the current state of US and Mexican policies with regard to the War on Drugs, and suggests that a holistic overhaul in drug policy is required. Drug policy has to be reoriented on a national, bilateral and international level, to reduce the human costs of drug misuse and to remedy the unintended consequences of previous regimes, while allowing for the reduction of illegal markets and illegal drug trafficking.

Executive Summary

It is currently an opportune moment for a reconsideration of how the War on Drugs should be fought in Mexico and the United States. Indeed, the pandemic has challenged the resilience of global health systems and has not spared the two countries, which have among the highest casualty rates. These human and financial costs can reinforce the underlying drug problems in both countries, which is why we believe that national drug policies should stay a preeminent public policy concern even now. This paper draws on the large existing literature on Mexico and US drug policies and their effects to propose a new model for policymakers seeking to mitigate the effects of drugs.

The structure of this paper is as follows. In the first section, we deconstruct US drug policy and underlying challenges before addressing our specific recommendations for reorienting US demand. In the second section, we address the Mexican perspective of a global drug supply chain hub facing violence and institutional instability as a result of trafficking and we propose recommendations to reduce drug-related violence Then we focus on cross-border policy measures and suggest improvements at the US/Mexico level as well as at the international treaty level. In this last part, we highlight underlying inefficiencies that slow down regional and domestic progress and set out our recommendations to align international cooperation law with national drug policy concerns to empower individual countries.

US drug policy and effects to reduce domestic demand
Whereas US domestic policy has in the last years re-affirmed its focus on reducing domestic demand rather than supply chain disruption, it remains the country with the largest global drug consumption and misuse, a majority of which can be traced back to the opioid crisis. Successive policies in the past decades have focused broadly on reducing domestic supply and improving prevention and treatment programmes. These actions have nonetheless been limited by reduced public support for decriminalization and legalization, dissonant federal and state approaches to punishment and rehabilitation, and inconsistent government policy.

Our recommendations for re-orienting US demand include:

1. More comprehensive programs supporting those suffering from drug misuse disorder, by:
   - *Expanding of needle and syringe programmes (NSPs):* these are proven effective measures and among the easiest to implement through the expansion of programme coverage, removal of NSP bans and through the decriminalization of needle possession.
   - *Increasing accessibility of naloxone in US health-care system*: along with public training on the misuse of opioids, this helps reversing the effects of overdoses for several drugs and is in itself a cost-effective measure.
   - *Expanding the use of telemedicine services*: by investing in relevant technology and introducing a clearly defined reimbursement mechanism, streamlining state licensure and medical laws.
   - *Supporting regular evaluations of educational programmes on drugs*: informing students on their vulnerability to social influence and more generally focusing on harm reduction as an objective rather abstinence.

2. The reduction in size of the illegal market through:

- *Legalizing recreational marijuana*: as there is overwhelming public support for it and because of the number of users who substitute marijuana for other, more dangerous substances. Although there are some clear associated dangers with this reform, we support decriminalizing and rescheduling to make it easier to conduct studies on benefits and harms.
- *Promoting a solid and functioning market framework:* this is necessary to reduce the size of the black market. This framework should incentivize legal business over illicit trade and address inter-state smuggling through the federal lens of legalization rather than individual states.

3. Preventing the enlargement of the US opioid epidemic and another crisis by:
    - *Strengthening transparency in research sponsorship by the pharmaceutical industry:* to increase the robustness of academic journals, a significant source of information for practitioners, and incentivize independent publishing by academic journals.
    - *Forbidding the commercial promotion of any and all addictive pharmaceuticals:* this includes direct-to-doctor and direct-to-consumer advertising as well as more subtle forms of promotion, such as in Continuing Medical Education (CME) and Medical School programmes and in the form of free drug coupons and hospital grants.
    - *Expanding public education campaigns:* to normalize the possibility of misuse of opioids and pain management and to introduce alternative pain management mechanisms.
    - *Ensuring physicians are adequately trained on pain management and how to prescribe/de-prescribe opioids*: through training and the prescription drug monitoring programme (PDMP)

Mexican drug policy and effects

Mexico's status as a hub for drug production and trafficking has greatly evolved since the 1980s, with the effect of embedding drug-related violence in society. The combination of cross-cartel turf wars in the early 2000s and the policy of direct armed confrontation led to a major spike in violence. The subsequent shift in government policy did not reduce the frequency of attacks on public officials however, and endemic corruption has risen as a major obstacle to efficiently combatting drug trafficking.

To reduce violence in Mexico, the paper recommends the following:

- *Extensive police reform*: while there is no 'one size fits all' for each state, a focus should be set globally to reduce the incentive to accept bribes or to leave the force and increase the sense of pride within the institution.
- *The introduction of tailored judicial reform and a monitoring system across Mexico:* this includes judicial reform according to each state's political economy and the introduction of a reliable monitoring system. In addition, we support the creation of a federal task force overseeing reform in a feedback process and with a cross-mandate role for accountability and durability in action.
- *Improved media security and strengthen media independence:* funding transparency for media outlets should be improved and ethical training in the newsroom should be promoted to encourage independent investigative journalism without the fear for life.

- *Strengthening civil society*: This paper recommends that the funds from the Mérida Initiative are redirected to supporting civil society and increased to support the current deficit.
- *Alternative development*: through rural development efforts to promote alternative routes to cannabis crop-growing and in parallel to state security reinforcement and intensive social change.

Mexican and US drug-related challenges are deeply interconnected and drug policies necessarily require cooperation at the cross-border level. Yet the complexity of their respective issues also supposes flexibility and adaptability within any effective treaty. However, a major criticism of existing bilateral and international agreements relates to a lack of consideration of the interests of all countries involved. This is reflected in the inability of existing agreements to keep up with shifts in public opinion, economic and social changes, including the growing public support for rehabilitation rather than punishment and the appearance of synthetic drugs. Our recommendations firstly focus on the bilateral perspective, with measures to reduce corruption and increase border security between the USA and Mexico. We then approach international treaties, arguing in favour of an intensive reform of the existing conventions toward improved flexibility, the drafting of a new UN Convention for the Regulation of Drugs would further allow to account for current issues and evolving mindsets. Finally, we support the concurrent development of national alternative forms of regulation, allowing for discretion and adaptation at the country level.

ACKNOWLEDGMENTS

We are incredibly grateful to Professor Laura H Atuesta Becerra, Professor and Research Fellow in the Drug Policy Program at the Centro de Investigación y Docencia Económica (CIDE), Professor David Bewley-Taylor, Founding Director of the Global Drug Policy Observatory, and Dr Anna Lembke, Chief of the Addiction Medicine Dual Diagnosis Clinic at Stanford University. Although this paper does not necessarily reflect their views on all points, their feedback was invaluable and improved our understanding of the situation. Any errors are, of course, our own.

TABLE OF CONTENTS

I. INTRODUCTION ... 1

II. US DOMESTIC POLICY ... 2

II.I. US DEMAND ... 2
II.II. THE OPIOID CRISIS AND ITS HUMAN COST ... 2
II.III. THE BENZODIAZEPINE CRISIS ... 6
II.IV. OTHER BARRIERS TO THE SUCCESS OF DOMESTIC POLICY ... 6
II.V. RECOMMENDATIONS TO REORIENT US DEMAND ... 8

III. MEXICAN DOMESTIC POLICY ... 21

III.I. DYNAMICS OF THE SUPPLY CHAIN ... 21
III.II. ENDEMIC VIOLENCE AS A DEEPLY DISRUPTIVE FORCE ... 23
III.III. POLICE AND JUDICIAL CORRUPTION ... 25
II. BREAKDOWN OF TRUST IN THE AUTHORITY OF LAW AS A RESULT OF EXTENDED CORRUPTION ... 25
III.IV. THE INTENSIFICATION OF EXISTING PROBLEMS AS A RESULT OF COVID-19 ... 26
III.V. RECOMMENDATIONS TO REDUCE VIOLENCE IN MEXICO ... 27

IV. US-MEXICO COOPERATION ... 35

IV.I. THE LIMITED SUCCESS OF MÉRIDA AND BEYOND MÉRIDA ... 35
IV.II. RECOMMENDATIONS TO DEVISE A MODEL OF BILATERAL COOPERATION THAT MEETS THE NEEDS OF BOTH NATIONS, AND CAPITALISES ON THEIR RESPECTIVE STREGNTHS ... 36

V. INTERNATIONAL DRUG TREATIES ... 38

V.I. AIMS OF INTERNATIONAL DRUG TREATIES ... 38
V.II. CONFLICTING ORGANISATIONS ... 40
V.III. THE RIGIDITY OF EXISTING CONVENTIONS ... 42
V.IV. THE FAILURE OF EXISTING CONVENTIONS TO KEEP UP WITH CHANGES ... 43
V.V. THE CONTENTIOUS NATURE OF REFORM IN THE UNITED STATES AND IN MEXICO ... 44
V.VI. MULTIPLE TREATY REFORM PATHS ... 44
V.VII. RECOMMENDATIONS TO ENSURE DRUG TREATIES EMPOWER NATIONS TO MEET THEIR DRUG POLICY CONCERNS ... 47

VI. CONCLUDING REMARKS ... 56

VII. BIBLIOGRAPHY ... 58

I. INTRODUCTION

Drug trafficking and drug use carry significant human and economic costs, as shown by the Mexican and US experiences. However, the past two decades have provided us with new knowledge on the effects of past drug control policies, evolving drug use patterns and the changing public opinion. This new information offers a pivotal opportunity to re-examine national and international approaches to drug policies, to durably reduce the human costs of those activities.

This paper deconstructs the policies linked to drug trafficking and consumption in both the USA and Mexico and at the cross-border level. We summarise what we conceive as the main gaps and inefficiency drivers of those policies. This enables us to re-evaluate drug-related issues as they have evolved and to build a set of recommendations which we believe will allow to reduce the human costs of drug trafficking and consumption while addressing national and bilateral needs. A key finding from this research relates to the importance of constructing policies at the national and international levels that take into consideration the more vulnerable parties at each level of governance, in order to nurture public confidence and to provide durable alternatives.

We firstly examine US domestic policy, looking into the pertinent issue of the opioid crisis and successive efforts to curb domestic demand, before setting out our recommendations to re-reorient US demand by stemming the human costs of drug misuse, limiting the size of the illegal market, and preventing the enlargement or apparition of a new “opioid crisis”. Then we explore Mexican drug control policies and how they have exacerbated violence in Mexico, and then proceed by establishing our recommendations to curb systemic violence by reforming the police force, the judiciary and the media. Finally, the paper takes a cross-border perspective, discussing how existing attempts at bilateral cooperation and international drug control conventions pose challenges to national drug control policies. The paper then suggests ways in which bilateral cooperation and international treaties can be reformed to take into account of national needs while aligning with international engagements. Ultimately, this paper aims to devise a more general model of national policy and cross-border cooperation that highlights the key lessons and considerations we have grasped from our case studies on the United States and Mexico.

II. US DOMESTIC POLICY

II.I. US DEMAND

Several US government administrations have recognised that tackling national demand for illicit drugs is a central component to reducing the supply of drugs. This shift has occurred in response to the mounting evidence that the supply-side approach to the drug war has either been enormously cost ineffective or an outright failure given the persistent demand.[1] During a visit to Mexico in 2017, US Secretary of State Rex Tillerson went to great lengths to emphasise that US demand for drugs lies at the heart of Mexico's violence problems. He embraced the Bush and Obama administration's language of shared responsibility and committed to reducing demand for drugs in the USA.

Although the demand for drugs is steadily increasing in Europe and the developed world, the USA is still the country with the largest consumption of drugs, consuming around 25% of the global supply. In 2018, 11.7% of the US population over the age of twelve had reportedly used drugs within the previous month and were thereby classified as drug users.[2] Despite half a century long's efforts to combat the War on Drugs amounting to an approximate cost of $1 trillion, neither the US demand for nor the Mexican supply of drugs has decreased substantially.

II.II. THE OPIOID CRISIS AND ITS HUMAN COST

It is impossible to understand the American demand for drugs without an understanding of the prescription opioid crisis, which has fundamentally reoriented the demand for drugs in the USA. The opioid crisis changed the patterns of drug addiction, minimising regional, urbanicity, age, gender, ethnicity variation. In 2018, the majority (75%) of overdose deaths from opioids were non-Hispanic white Americans. Black Americans accounted for 13% of deaths while the figure was 9% for Hispanics.[3] Based on the assumption that rural, white American, sub-urban communities would be less susceptible to addiction, Purdue Pharma targeted the Midwest, with West Virginia, Ohio, Kentucky and New Hampshire becoming the hardest hit communities.[4]

The high human cost of the War on Drugs in the US stems from drug-related overdose deaths, of which 70% are linked to opioid misuse. Since 2000, opioid deaths have increased eight-fold from 5,800 to 46,300.[5] In 2017, the National Institute for Health Care Management (NIHCM) calculated that one person in the USA died of an opioid overdose every 11.4 minutes.[6] In 2015, US life expectancy entered a period of sustained decline not seen in a century because of an increase in suicide and drug overdoses from opioids.[7]

---

[1] Gregory J Madden, 'Ammunition for Fighting a Demand-Side War on Drugs: A Review of Contingency Management in Substance Abuse Treatment', *Journal of Applied Behavior Analysis* 41, no. 4 (2008): 645–51, https://doi.org/10.1901/jaba.2008.41-645.
[2] 'War on Drugs Cost Statistics'.
[3] Felter, 'The U.S. Opioid Epidemic'.
[4] DeWeerdt, 'Tracing the US Opioid Crisis to Its Roots'.
[5] National Institute for Health Care Management (NIHCM), 'The Evolution of the Opioid Crisis: 2000-2017', August 2019, https://www.nihcm.org/categories/the-evolution-of-the-opioid-crisis-2000-2017.
[6] National Institute for Health Care Management (NIHCM).
[7] Sarah DeWeerdt, 'Tracing the US Opioid Crisis to Its Roots', *Nature* 573, no. 7773 (11 September 2019): 10–12, https://doi.org/10.1038/d41586-019-02686-2.

The opioid crisis also comes at a high economic cost. Both the dependence on and fatal overdoses of illicit (heroin) and prescription opioids amounted to a total cost of approximately $78.5 billion.[8] Private insurance medical charges for patients with opioid use disorder are more than 550% higher than the average annual per-patient charge.[9] Around one third of US patients are covered by Medicaid. In 2013, the costs related to the opioid epidemic totalled more than $8.4 billion for Medicaid.[10] Opioid misuse reduced state tax revenues by more than $11 billion, including approximately $10 billion in lost income tax revenue and $2 billion in lost sales tax revenue.[11]

Policies targeting the opioid crisis are difficult to formulate owing to its complexity. The opioid crisis emerged in three waves. It began around the 1990s, when pharmaceutical companies began marketing new, highly addictive, opioid-based products for the treatment of mild to severe pain. By 2011, the crisis had entered its second wave with an increase in overdose deaths related to heroin usage. As regulations were implemented on prescription opioids, those suffering from opioid use disorder began searching for cheaper drugs, many turning to the street drug heroin, which was approximately three times cheaper than prescription opioids. Individuals with history of prescription abuse are thirteen times more likely to start using heroin than those with no history of misuse.[12] Heroin became the most commonly used illegal opioid in the US and by the mid-2010s, its retail price had dropped to roughly one-third of its price in the 1980s.[13] Since 2014, the third wave began, marked by a growing number of deaths linked to the use of synthetic opioids.[14] Fentanyl, the most popular of these synthetic opioids and what the DEA referred to as the "primary driver" behind the crisis, is not only cheaper but fifty times more potent than heroin.[15] In more recent years, the emerging trend is that a growing share of opioid deaths are ruled accidental and linked to the combined use of two or three substances.[16]

The causes of the opioid crisis can be determined by a combination of various factors: the shift in attitudes towards effective pain management, aggressive marketing by pharmaceutical companies, as well as system vulnerability in the health-care sector and socio-economic factors.[17]

The introduction of intractable pain treatment acts, which removed the threat of prosecution for physicians using controlled substances to aggressively treat their patients' pain, supported a shift in attitude amongst physicians towards pain management in the 1970s/80s.[18] Alongside this shift, two seminal and widely publicized papers, both discredited later on, alleged that only 1% of patients could become addicted to these opioids. The National Institute on Drug Abuse later found that at least 8-12% of patients prescribed opioids for pain will go on to develop opioid

[8] Cook and Worcman, 'Confronting the Opioid Epidemic: Public Opinion toward the Expansion of Treatment Services in Virginia'.
[9] Marcelina Jasmine Silva and Zarkary Kelly, 'The Escalation of the Opioid Epidemic Due to COVID-19 and Resulting Lessons About Treatment Alternatives', *The American Journal of Managed Care*, 1 June 2020.
[10] Silva and Kelly.
[11] Silva and Kelly.
[12] DeWeerdt.
[13] Felter, 'The U.S. Opioid Epidemic'.
[14] National Institute for Health Care Management (NIHCM), 'The Evolution of the Opioid Crisis'.
[15] Felter, 'The U.S. Opioid Epidemic'.
[16] National Institute for Health Care Management (NIHCM), 'The Evolution of the Opioid Crisis'.
[17] See Anna Lembke on the "toyotaization" of medicine in the opioid crisis, Anna Lembke "Drug Dealer, MD" (JHU Press, 2016)
[18] DeWeerdt, 'Tracing the US Opioid Crisis to Its Roots'.

addiction.[19] A systematic data review in 2015 similarly calculated that the rates of addiction ranged from 8-12% with the rate of misuse as high as 21-29%.[20] In 1996, Purdue Pharma introduced a new opioid called OxyContin, a sustained release of oxycodone, which they marketed as more effective and less addictive than it really is. In 2007, Purdue was sued and admitted to marketing misrepresentations, paying a fine of $634 million. But by then the damage had already been done. Between 1997 and 2002, OxyContin prescriptions for non-cancer related pain increased from 670,000 to 6.2 million.[21] Other companies continued the aggressive and misleading marketing of opioids that Purdue had begun, and the number of pills made from oxycodone rose by 80% between 2006 to 2012.[22] As the number of prescriptions and pills rose, so did the number of treatment admissions for opioid misuse and opioid overdose deaths.

Vulnerabilities in the US healthcare system exacerbated the opioid crisis. For many patients, their healthcare plans did not cover long-term pain management approaches such as physiotherapy but did cover pain medication. Moreover, the vast majority of physicians are salaried employees of large integrated healthcare systems. As a result, they are often forced to see large volumes of patients in order to retain their jobs. At the same time, the institutions they work for are caught in a frantic race against other institutions competing for ever-diminishing health care dollars, mostly fronted by third-party payers like Medicare and private insurers.[23]

Cultural factors also contributed to the rise in the rate of prescriptions. Because Americans have come to expect that their doctors should be able to eliminate all pain, physicians are held morally and legally accountable for relieving a patient's pain. In part because of direct-to-consumer advertising, American patients often request medication from physicians and expect to receive a prescription in an appointment.[24] On average, US doctors write eight times more prescriptions for opioids than Italian physicians and five times more than French physicians.[25] Patient-privacy laws and a lack of coordination between individual US states also meant that users could amass opioid prescriptions and sell their excess pills. Users helped these drugs enter the illegal market, which led the epidemic to spread rapidly to non-patients.[26]

Various administrations have introduced measures to combat the epidemic. The most successful efforts to restrict the domestic supply of opioids have included limits on opioid prescribing, which effectively reduced the availability of opioids. New guidelines for pain management, such as those issued by the CDC in 2016, cautioned prescribers to avoid opioids as first-line therapy in the treatment of pain, and advised using the lowest dose for the lowest duration when necessary. The development of prescription opioids with abuse-deterrent formulations (ADFs) has been another strategy. For example, Purdue Pharma reformulated OxyContin, making it more difficult to crush and inhale.[27] It is not clear, however, whether ADFs decrease the risk of addiction and overdose, as one of the most common way that people misuse and become addicted to opioids is through oral ingestion instead of crushing or inhaling them. The DEA also reduced production

[19] Jenna Johnson and John Wagner, 'Trump Declares the Opioid Crisis a Public Health Emergency', The Washington Post, 26 October 2017, https://www.washingtonpost.com/news/post-politics/wp/2017/10/26/trump-plans-to-declare-the-opioid-crisis-a-public-health-emergency/.
[20] Vowles KE, McEntee ML, Julnes PS, Frohe T, Ney JP, van der Goes DN. Rates of opioid misuse, abuse, and addiction in chronic pain: a systematic review and data synthesis. Pain. 2015 Apr;156(4):569-76. doi: 10.1097/01.j.pain.0000460357.01998.f1. PMID: 25785523.
[21] Johnson and Wagner.
[22] Johnson and Wagner.
[23] See Anna Lembke's book Drug Deeler MD.
[24] Felter, 'The U.S. Opioid Epidemic'.
[25] DeWeerdt, 'Tracing the US Opioid Crisis to Its Roots'.
[26] DeWeerdt.
[27] DeWeerdt, 'Tracing the US Opioid Crisis to Its Roots'.

quotas for pharmaceutical manufacturers by 25% for opioids that carried a high risk of misuse including oxycodone, fentanyl and morphine.[28] Despite these changes, many are still suffering from opioid use disorder.

The COVID-19 pandemic has likely worsened the opioid epidemic. Over 35 states have reported an increase in opioid-related overdoses since the pandemic, mainly from illicitly manufactured fentanyl and fentanyl analogues.[29] As supply chains have been disrupted, drug users have turned to drugs they are less familiar with. "Shelter-in" orders have come into conflict with harm reduction programmes including helping addicts not to consume drugs alone. Drug testing has also been reduced and many patients are not going to residential treatment due to fear of the virus spreading, while residential treatment facilities are not accepting patients during quarantine.[30] Experts are concerned that the pandemic might be concealing a surge in opioid use and by association morbidity and mortality.[31]

However, on the upside, at the federal level, the DEA waived federal requirements to allow DEA-registered practitioners to prescribe controlled substances without having to interact in-person with their patients.[32] In a targeted response, the DEA has issued detailed guidance on how to prescribe drugs given the circumstances. The U.S. Substance Abuse and Mental Health Services Administration and DEA have also provided increased flexibility for providing morphine and methadone to patients with an opioid use disorder.[33] Loosened restrictions on telehealth and opioid agonist treatment have made it easier for patients seeking treatment for opioid use disorder to receive this treatment. Since the pandemic, many patients have moved to telemedicine, and some states have begun to order insurance providers to cover costs of virtual visits.[34] Moreover, even if residential treatment is more restricted, there has been an uptick in the number of people seeking treatment. Finally, the operation of 12-step groups like Narcotics Anonymous have shifted online, making these groups more accessible and more anonymous.[35]

COVID-19 has brought to light the resources that can be made available during a public health crisis, which experts hope will encourage a more resolute future response to the opioid epidemic.[36] The full impacts of the pandemic on the opioid epidemic remain indeterminate. What can already be observed for now, however, is that the pandemic has laid bare the conditions that contributed to the rise of the opioid epidemic: unemployment, low income and isolation.[37]

---

[28] Felter, 'The U.S. Opioid Epidemic'.
[29] Amazing source listing all news articles on opioids and COVID-19 by US state. https://www.ama-assn.org/system/files/2020-07/issue-brief-increases-in-opioid-related-overdose.pdf
[30] Deborah Becker, 'The Pandemic Has Changed Addiction Treatment, Some Hope For Good', *WBUR*, 21 May 2020, https://www.wbur.org/commonhealth/2020/05/21/coronavirus-addiction-treatment-changes.
[31] Silva and Kelly, 'The Escalation of the Opioid Epidemic Due to COVID-19 and Resulting Lessons About Treatment Alternatives'.
[32] Colourful and clear infographic on prescriptions. https://www.deadiversion.usdoj.gov/GDP/(DEA-DC-023)(DEA075)Decision_Tree_(Final)_33120_2007.pdf
[33] Amazing source listing all news articles on opioids and COVID-19 by US state. https://www.ama-assn.org/system/files/2020-07/issue-brief-increases-in-opioid-related-overdose.pdf
[34] Becker, 'The Pandemic Has Changed Addiction Treatment, Some Hope For Good'.
[35] https://www.recovery.org/support-groups/narcotics-anonymous/ [accessed 5 Dec 2020]
[36] Chris McGreal, '"Opioid Overdoses Are Skyrocketing": As Covid-19 Sweeps across US an Old Epidemic Returns', *The Guardian*, 9 July 2020, sec. US news, https://www.theguardian.com/us-news/2020/jul/09/coronavirus-pandemic-us-opioids-crisis.
[37] McGreal.

II.III. THE BENZODIAZEPINE CRISIS

Some researchers are concerned that the US is facing another prescription opioid epidemic with the widespread usage of benzodiazepines, a class of sedative. Similar to the 1990s crisis, excess pills are shared with family members and friends, and being consumed without oversight from a physician. In 2015, 23% of US overdose deaths resulted from the consumption of benzodiazepines.[38] How the Biden administration will address the current opioid crisis is also seminal to containing the onset of another opioid prescription epidemic, which as a result of the pandemic could become even more acute.

II.IV. OTHER BARRIERS TO THE SUCCESS OF DOMESTIC POLICY

The success of domestic drug policy in the United States has also been limited by public attitudes towards illicit drugs, the federal system of government and the inconsistency in approach from one administration to another.

i. Public opinion

Over the years US public opinion towards drugs, drug users and "drug addicts" has changed. Today "opioid abuse" is considered stigmatizing. "Opioid dependence" refers to only the physical adaptation aspect and is not the same as addiction/opioid use disorder (OUD).

Following the Second World War, in the 1940s and 50s, the American public was supportive of the use of drugs such as morphine to treat both the physical and mental pain of veterans. While the public was against legislation, it endorsed the pharmaceutical industry. The 1960s and 1970s saw increasing access to drugs and a reduction in regulation, which was supported by the public. However, as cannabis, LSD and heroin were moved to the most restrictive classification following the Controlled Substances Act of 1971, the national mood shifted as there was a mounting concern about the widespread use of drugs.

Yet, since the start of the War on Drugs and in particular following the opioid epidemic, the public mood has shifted against "hard" tactics such as the incarceration of drugs users and instead in favour of prevention and addiction treatment programmes. Almost 70% of Americans say that the government should focus on providing treatment for those who use illegal drugs such as heroin and cocaine. Only 26% think the government's focus should be on prosecuting users of such hard drugs.[39] Moreover, support for this treatment approach spans nearly all demographic groups. While Republicans are less supportive than Democrats or Independents, just over half of Republicans (51%) concede that the government should focus on treatment rather than prosecution when dealing with illegal drug users.[40] The stigma around addiction has lessened, thereby providing the appropriate treatment for former prescription opioid users who were once not recognised as requiring support for addiction.

Nevertheless, the majority of the American public, while supportive of prevention and treatment programmes, does not support decriminalisation which would remove the threat of arrest, jail time and a criminal record for drug users that are caught with possessing a small amount of drugs. The same attitude applies to the legalisation of drugs for either medical or recreational purposes.

---

[38] DeWeerdt, 'Tracing the US Opioid Crisis to Its Roots'.
[39] 'Perceptions of Drug Abuse, Views of Drug Policies', Pew Research Center, 2 April 2014, https://www.pewresearch.org/politics/2014/04/02/section-1-perceptions-of-drug-abuse-views-of-drug-policies/.
[40] 'Perceptions of Drug Abuse, Views of Drug Policies'.

The majority of the public does not support legalisation, with the exception of cannabis. Cannabis is the only drug that is an outlier in this general national mood. Since the 1970s, there has been a steady increase in the percentage of Americans that think cannabis should be legalised, with Gallup reporting in 2019 that 66% of Americans favoured the legalisation of cannabis.[41] In general, however, the American public is still concerned about the problem of drug misuse and addiction - both nationally and locally. A large majority report that drug misuse across the country is either a crisis (32%) or a serious problem (55%), and these views have not changed since the mid-1990s.[42] Yet with the introduction of legislation in Oregon to decriminalise the possession of all drugs this public opinion may start to shift quite significantly. [Refer to p.18 for an in-depth discussion on Oregon]

ii. Federalism dynamic

One of the challenges with War on Drugs policy in a country such as the United States relates to the federal structure. While at the federal level there is a longstanding strategy to combat the abuse and distribution of controlled substances, each state also has its own set of drug laws.

A key difference is that at the federal level the majority of federal drug convictions are for drug trafficking. In contrast, at the local and state level, the majority of arrests are made on charges of possession. In addition, the severity of conviction is typically harsher at the federal level, where charges carry harsher punishments and longer sentences. The US has, in fact, the highest rate of incarceration worldwide.

These differences can also be seen in the federal versus state approach towards decriminalisation. States have tended to prefer decriminalisation and rehabilitation to the federal approach of incarceration. So far around twenty-six states have decriminalised the possession of small amounts of cannabis. Other states are trailing de facto decriminalisation through Law Enforcement Against Drugs (LEAD) programmes, which target communities and youth, working on educating the public.

iii. Inconsistent government approaches

The opioid crisis requires a clear response framework and sustained action; however, as successive US administrations have taken different approaches to the crisis, the response has been inconsistent and it has been difficult to channel funds into policies that have a long-term durable impact. Where the Obama administration focussed on treatment and rehabilitation, the Trump administration reversed these policies and returned to a hard-line approach.

Under the Obama administration, the approach towards the epidemic shifted from incarceration towards prevention and treatment. Prison sentences for nonviolent drug offenders were reduced, an end to mandatory minimum sentences was introduced and hundreds of new drug courts that focus on rehabilitation programs rather than direct sentencing were opened. A less aggressive stance on enforcing cannabis laws was also adopted. In 2016, the administration signed legislation to expand opioid treatment and prevention programmes, authorising $1 billion in the form of state grants. Harm-reduction programmes were launched in cities and by local governments, which aimed at promoting safer drug use.[43]

[41] 'Illegal Drugs', Gallup, 2020, https://news.gallup.com/poll/1657/Illegal-Drugs.aspx.
[42] 'Perceptions of Drug Abuse, Views of Drug Policies'.
[43] Felter, 'The U.S. Opioid Epidemic'.

In contrast to the Obama administration, the current Trump administration has once again adopted a hard-line approach to the War on Drugs. Anti-drug policies have been re-escalated, reversing the actions taken by the Obama administration.[44] The administration has decided to focus on combatting the opioid crisis while taking a harsher stance on substance abuse by returning to incarceration tactics. In October 2017, the administration declared the epidemic a public health emergency, thereby freeing up federal grant funds for states and loosening restrictions on access to treatment by expanding the use of telemedicine.[45] Some experts suggest the administration did not go far enough and should have declared it a national state of emergency, which would have given states access to funding from the federal Disaster Relief Fund.[46] The following year, the Trump administration signed into law the Support for Patients and Communities Act, which seeks to expand access to opioid addiction treatment and increase research into alternative pain medications.[47] While targeting the opioid epidemic, the administration is taking a harsh stance on substance abuse, meaning that people struggling with dependencies could serve more time than violent offenders.[48] The administration's targeting of prescription drug supply means that resources are not being allocated to the multiple sources of addiction including America's other major drug crisis, methamphetamines.[49]

The current president, Joe Biden, has outlined a comprehensive plan to end the opioid crisis by taking a determined public health-care approach. He intends to build on Obamacare, increase access to prevention and treatment services, hold big pharmaceutical companies accountable, reform the criminal justice system to reduce incarcerations for only drug use, and stem the flow of illicit drugs into the USA.[50] His approach resonates with that of the Obama administration, in which he served as Vice President.

II.V. RECOMMENDATIONS TO REORIENT US DEMAND

The following recommendations outline policies that would reduce the human cost of the War on Drugs, stem the size of the illegal market in the United States, and prevent the enlargement of the opioid crisis and another similar crisis.

i. Reducing the human cost of drug misuse in the USA

Scale up and reduce barriers to needle and syringe programmes (NSP)

---

[44] German Lopez, 'Trump and Sessions's Quiet Success: Reinvigorating the Federal War on Drugs', Vox, 5 January 2018, https://www.vox.com/policy-and-politics/2018/1/5/16851120/trump-sessions-war-on-drugs; Michelle Chen, 'Trump Wants to Restart the Failed War on Drugs | The Nation', The Nation, 26 October 2018, https://www.thenation.com/article/archive/trump-wants-to-restart-the-failed-war-on-drugs/.
[45] Johnson and Wagner, 'Trump Declares the Opioid Crisis a Public Health Emergency'.
[46] Johnson and Wagner.
[47] Felter, 'The U.S. Opioid Epidemic'.
[48] American Addiction Centers Editorial Staff, 'Is the Trump Administration Revamping the War on Drugs?', Drug Abuse: An American Addition Centers Resource, 10 May 2017, https://drugabuse.com/is-the-trump-administration-revamping-the-war-on-drugs/.
[49] Brianna Ehley, 'Meth and Cocaine Complicate Trump's War on Drugs', POLITICO, 23 October 2018, https://www.politico.com/story/2018/10/23/trump-war-on-drugs-876633.
[50] 'The Biden Plan to End the Opioid Crisis', Joe Biden for President: Official Campaign Website, 2020, https://joebiden.com/opioidcrisis/.

The human cost of the War on Drugs relates not only to the high number of deaths from drug overdoses but also to the widespread transmission of HIV, Hepatitis B virus (HBV) and Hepatitis C virus (HCV) from the sharing of needles among intravenous drug users. Between 2010 and 2015, cases of acute HCV infection in the USA increased by 98%.[51] Just under 20% of the global population of people who inject drugs live in North America.[52] Safe syringe services and needle exchange programmes have proved successful in reducing the risk of HIV and HCV infections among intravenous drug users and their partners. In the USA these programmes are associated with a 50% reduction in HIV or HCV incidence.[53]

Needle and syringe programmes (NSP), also known as needle exchange programmes (NEP), is an effective harm reduction initiative that allows injecting drug users (IDUs) to obtain hypodermic needles at little or no cost. These programmes currently operate in the USA; however, there are still barriers to the widespread access of NSPs. As most NSPs are located in cities, IDUs living in remote areas are often excluded. Other neglected groups include women who are often fearful of accessing NSPs due to increased stigma and under-18s who are often denied services.[54]

Currently, continuing to scale up and improve access to NSPs/NEPs is a less contentious policy than ever before in US history. For decades NSPs have been a controversial public health strategy in the USA, on the basis that NSPs undermine the credibility of the message that drug use is illegal and morally wrong.[55] Despite attempts to lift the federal ban on NSPs under the Clinton administration and a short-lived period of two years where NSPs were allowed to receive federal funds under the Obama administration, owing to pressure from the Republican party, the NSP ban was reinstated.

As the opioid crisis drastically accelerated the increase in infectious diseases (HIV/HCV) associated with intravenous drug use, a major shift in attitudes occurred. In December 2015, the federal government partially repealed the ban on federal funding for NSPs in response to a HIV outbreak in Indiana resulting from needle sharing by IDUs abusing the prescription painkiller Opana.[56] The partial repeal led to more progressive programmes and the scale up of NSPs across the country. In 2017, Las Vegas established the US's first ever syringe vending machine. Between 2016 and2018, the number of NSPs increased by 91, reaching a total of 335.[57]

Despite the loosening of federal funding restrictions, barriers still remain. The use of federal funds to pay for sterile syringes is still prohibited and the coverage of NSPs is still inadequate as not all states have programmes.

---

[51] Stephen M. Davis et al., 'Barriers to Using New Needles Encountered by Rural Appalachian People Who Inject Drugs: Implications for Needle Exchange', *Harm Reduction Journal* 16, no. 1 (2 April 2019): 23, https://doi.org/10.1186/s12954-019-0295-5.

[52] 'Needle and Syringe Programmes (NSPs) for HIV Prevention', Avert, 10 October 2019, https://www.avert.org/professionals/hiv-programming/prevention/needle-syringe-programmes.

[53] https://www.cdc.gov/ssp/syringe-services-programs-factsheet.html

[54] 'Needle and Syringe Programmes (NSPs) for HIV Prevention'.

[55] Arguments against NEPs include: (1) the federal funding of NEPs would contradict law enforcement efforts in the US's "war on drugs" by signalling tacit governmental approval of illegal drug use; (2) federal funding of NEPs and availability of sterile syringes could cause a rise in drug abuse and diminish public health; (3) federal approval of NEPs and removal of an obstacle to unsafe drug use could have a corrupting influence on children. Richard Weinmeyer, 'Needle Exchange Programs' Status in US Politics', *AMA Journal of Ethics* 18, no. 3 (1 March 2016): 252–57, https://doi.org/10.1001/journalofethics.2016.18.3.hlaw1-1603.

[56] Weinmeyer.

[57] 'Needle and Syringe Programmes (NSPs) for HIV Prevention'.

In order to extend the benefits of NSPs, this paper urges the federal government to fully repeal the ban on NSPs. While the partial repeal of the ban removed a huge financial burden and enabled NSPs to keep operating, fully repealing the law would enable NSPs to become more effective in supporting IDUs and in promoting disease prevention.

A full repeal of the federal ban would demonstrate federal support for the states that have already legalised sterile syringe exchange and would encourage other states to follow suit (only around thirty-five states have programmes).

Repealing the ban would also authorise the use of federal money to pay for sterile syringes and needle exchange. While the cost per syringe distributed in the USA is relatively low, ranging from $3 in small urban NSPs to $1 in large rural NSPs, these costs accumulate as the World Health Organisation recommends distributing over 200 syringes per IDU per year. Each year one IDU can cost a small urban NSP $2000, and a large rural NSP $700, placing a financial strain on the medical and public health systems that run NSPs.[58] The estimated costs for a small rural syringe service programme serving 250 clients can cost around $0.4 million, while the cost is approximately $1.9 million for larger urban NSPs with a capacity of 2, 500 clients.[59] As such, increased funding would also allow programmes to be offered to a larger number of both urban as well as rural communities, and would help increase coverage and encourage progressive programmes such as syringe vending machines that are already widespread in other Western European countries.[60]

In addition, needle possession should be decriminalised. A major obstacle to successful NSPs is the fear of arrest for needle possession. IDUs are fearful of acquiring sterile needles as many states criminalise needle possession without a prescription. In the US users have been arrested upon leaving private needle exchange facilities or pharmacies. This has contributed to an unwillingness by IDUs to exchange used needles. If the US were to decriminalise needle possession it would give IDUs the confidence to exchange used needles. This policy would be in line with the majority of Western and Central European countries that allow syringes to be bought in pharmacies without prescription.[61]

An argument against the decriminalisation of needle possession is that it might encourage a policy of legalising drug use or possession. However, many countries with effective NSPs continue to enforce drug laws that prohibit the use and possession of banned substances. Therefore, it is possible for countries to simultaneously disapprove of drug use and reduce the incidence of infectious disease outbreak by removing the social stigma that can prevent IDUs from sourcing sterile needles, by operating effective NSPs.[62]

Increase accessibility of naloxone in US health-care system

In 2018, opioids accounted for 70% of the total number of overdose deaths in the USA. Naloxone is a medicine which can temporarily reverse the effects of an overdose caused by opioids such as heroin, methadone or morphine. It can be easily administered to anyone who is

[58] Eyasu Teshale et al., 'Estimated Cost of Comprehensive Syringe Service Program in the United States', *PLoS ONE* 14, no. 4 (2019), https://doi.org/10.1371/journal.pone.0216205.
[59] Eyasu Teshale et al., 'Estimated Cost of Comprehensive Syringe Service Program in the United States', *PLoS ONE* 14, no. 4 (2019), https://doi.org/10.1371/journal.pone.0216205.
[60] 'Needle and Syringe Programmes (NSPs) for HIV Prevention'.
[61] 'Needle and Syringe Programmes (NSPs) for HIV Prevention'.
[62] Sean Cahill and Nathan Schaefer, 'Syringe Exchange Programs around the World: The Global Context' (Gay Men's Health Crisis (GMHC), October 2009).

experiencing an opioid overdose. Naloxone can either be administered in a simple auto injector format (similar in function to an Epi pen), as a nasal spray, or intravenously.

Several studies have shown the success of naloxone distribution programmes in reducing opioid overdose deaths. A naloxone distribution program in Massachusetts reduced opioid overdose deaths, without increasing opioid use, by an estimated 11% in the 19 communities that implemented the programme. Another larger-scale study revealed that in states that had enacted naloxone access laws, opioid overdose deaths decreased by 14%. Statistical modelling suggests that high rates of naloxone distribution among opioid users and emergency personnel could avert 21% of opioid overdose deaths. Project Lazarus in Wilkes County and western North Carolina is an example of an effective naloxone programme. The community-based overdose prevention programme focused on increasing access to naloxone for prescription opioid users.

Naloxone distribution programmes are also a cost-effective way of curtailing overdose deaths from opioids. Research conducted in the United Kingdom on the cost-effectiveness of the distribution of intramuscular naloxone found that it would decrease overdose deaths by around 6.6%. In a population of 200,000 heroin users, this would prevent 2,500 premature deaths at an incremental cost per quality-adjusted life year gained of £899.[63] In turn, a US study on intranasal naloxone distribution in high-risk prescription opioid users found that, both one-time and biannual follow-up naloxone distribution in community pharmacies reduced opioid overdose deaths and was cost-effective at a willingness-to-pay of $100,000 per quality-adjusted-life-years.[64]

Many US states have passed laws to help expand access to and use of naloxone. In California, prescribers are now required by law to prescribe naloxone and educate patients about its use.[65] Take-home naloxone programs have been established in approximately 200 communities throughout the US. These vital programs expand naloxone access to drug users and their loved ones by providing comprehensive training on overdose prevention, recognition, and response (including calling 911 and rescue breathing) in addition to prescribing and dispensing naloxone.

Following this existing trend, this paper recommends encouraging naloxone distribution programmes across US states and introducing earlier training programmes on the misuse of opioids and naloxone use. We urge close collaboration with physicians and pharmacists to ensure individuals who are prescribed opioids for pain, and those who may be abusing prescription pain medications, are given access to naloxone and informed of how it can prevent overdose deaths. An issue in naloxone distribution is the lack of willingness by patients to use it. This is partly due to patients not wanting to stay at the Opioid Treatment Programme (OTP) long enough to listen to the required training on opioid overdose and naloxone use. While the prescribing pharmacist informs patients of the opioid safety and naloxone administration, we recommend providing this information to patients upon receiving a prescription of opioids rather than at the OTP stage.

Naloxone should be made available through the regular prescription process in traditional medical settings where opioids are prescribed. Some patients are reluctant to reveal a problem

---

[63] Sue Langham et al., 'Cost-Effectiveness of Take-Home Naloxone for the Prevention of Overdose Fatalities among Heroin Users in the United Kingdom', *Value in Health: The Journal of the International Society for Pharmacoeconomics and Outcomes Research* 21, no. 4 (2018): 407–15, https://doi.org/10.1016/j.jval.2017.07.014.

[64] Mahip Acharya et al., 'Cost-Effectiveness of Intranasal Naloxone Distribution to High-Risk Prescription Opioid Users', *Value in Health: The Journal of the International Society for Pharmacoeconomics and Outcomes Research* 23, no. 4 (2020): 451–60, https://doi.org/10.1016/j.jval.2019.12.002.

[65] https://www.mbc.ca.gov/Licensees/Prescribing/OverdosePrevention/Naloxone.aspx

with addiction and/or cannot pay for opioids through Medicaid.[66] By making naloxone readily available through Medicaid and the regular prescription process this would also help reduce the stigma surrounding opioid addiction.

Another important aspect of naloxone distribution is the burn-out that many first responders are facing. Many of them report rescuing the same people repeatedly, with no improved access to care. Along with increasing accessibility of naloxone this paper also recommends developing the resources that would enable first-responders to refer the people they rescue to treatment.

Expand the use of telemedicine services

Telemedicine is an emerging health-care service that enables healthcare professionals to evaluate, diagnose, and treat patients at a distance. Telemedicine is delivered via videoconferencing, audio, or text-messaging using smartphones, tablets, and desktop computers. During the global COVID-19 pandemic, telemedicine services expanded and saw more patients showing up for appointments and feeling less anxious about not being able to reach their doctors. Some states even introduced 24/7 phone lines and ordered insurance providers to cover the costs of virtual visits.[67]

The expansion of telemedicine services can be facilitated by ensuring the use of the latest technology. Telemedicine has the potential to reduce opioid overdose deaths as it allows providers to monitor patients in real-time and adjust treatment plans accordingly, thereby making it possible to monitor patients who are prescribed highly addictive opioids. It also allows for better access to treatments for opioid use disorder. One concern surrounding the expansion of telemedicine services is that it could lead to data privacy breaches, or security law violations. As patients are not physically present there is a risk that information is disclosed to the wrong person or patient, which under the HIPAA (Health Insurance Portability and Accountability Act) Privacy Rule would likely be an unauthorised disclosure.[68] Per HIPAA, there have been 2,546 healthcare data breaches between 2009 and 2018. Those breaches resulted in the theft of 189,945,874 healthcare records. That equates to more than 60% of the US population. To overcome this barrier to the greater expansion of telemedicine services, this paper recommends ensuring the use of the latest technology to strengthen data privacy resilience.

In addition, telemedicine services can be made more accessible by introducing a clearly defined reimbursement criteria and streamlining state licensure and medical laws. Telemedicine appointments are more cost-effective than a doctor's visit, but the expansion of these services is obstructed by unclear reimbursement criteria for public and private payers. A clearly defined reimbursement criteria would encourage both public and private payers to use these services. Moreover, strict state licensure and state medical laws prevent physicians from offering these services despite the fact that more providers are using telemedicine with their traditional Medicare Fee-for-Service beneficiaries.[69] In 2015, Medicare paid $22.45 million for virtual care spread across 300,000 claims, which demonstrates that there is both an interest in using telemedicine services and evidence that it is covered within the US health-care system by certain providers.[70] For health care insurance providers there is an incentive to cover telemedicine

[66] Davis et al., 'Barriers to Using New Needles Encountered by Rural Appalachian People Who Inject Drugs'.
[67] Deborah Becker, 'The Pandemic Has Changed Addiction Treatment, Some Hope For Good', *WBUR*, 21 May 2020, https://www.wbur.org/commonhealth/2020/05/21/coronavirus-addiction-treatment-changes.
[68] Kansal.
[69] Kansal.
[70] Kansal.

services, as they are more cost-effective. On average, a telemedicine appointment costs $79 as compared to an in-person doctor's office visit which costs an average of $146 and $1,734 for an emergency room visit.[71]

Support regular evaluations of educational programmes on drugs

Since the 1980s, the USA has run numerous drug education programmes across the country with mixed success. The largest US drug education programme, which is funded by private and federal government sources, is Drug Abuse Resistance Education (D.A.R.E).[72] The programme, which has been running since 1983, was introduced as an education programme to prevent use of controlled drugs, membership in gangs and violent behaviour. It pushed for zero-tolerance, which is in line with the stances of policy makers and politicians. However, studies have shown that it was largely ineffective.[73]

Studies revealed that successful education programmes recognise that young people are susceptible to social influences to use drugs, so prevention should make students aware of such influences and equip them with the skills to resist.[74] Programmes based on social-learning theory were shown to change drug-using behaviour. In 2009, DARE shifted its approach, adopting a new curriculum developed by Penn State researchers which used socio-emotional learning theory and adopted a life skills approach. While the initial studies on DARE's new programme have not revealed substantial effectiveness, more studies need to be conducted before a definitive conclusion can be reached.[75]

Therefore, this paper recommends monitoring drug education programmes and focusing on harm reduction rather than abstinence. The US Department of Education prohibits any funding of drug prevention programmes that have not been able to demonstrate effectiveness; however, the number of studies evaluating the effectiveness of drug education programmes is limited.[76]Approximately $1-1.3 billion per year is committed to the nationwide implementation of DARE despite the lack of evidence proving the success of DARE in reducing drug usage and addiction. This paper suggests directing part of the federal funds for DARE toward the regular evaluation and supervision of drug education programmes. Studies should also adopt consistent and robust criteria for evaluating the effectiveness of drug education programmes. While programmes are often measured by the rate of abstinence, it could be more effective to measure the amount of harm reduction.

ii. Stemming the illegal market

There is a common misconception that prohibiting a good will eliminate the market for that good. In reality, this is not the case. Prohibition may shrink the market by raising the costs of supplying the product, and thus increase the price, but a substantial illegal market will always

---

[71] Himanshu Kansal, 'Telemedicine: The Cost-Effective Future of Healthcare', HighPoint, 14 June 2019, https://www.highpointsolutions.com/telemedicine-cost-effective-future-healthcare/.
[72] 'D.A.R.E. America', accessed 25 July 2020, https://dare.org/about/.
[73] Extensive Wikipedia article about the programme: https://en.wikipedia.org/wiki/Drug_Abuse_Resistance_Education#2008_%E2%80%93_Harvard
[74] Richard Midford, 'Drug Prevention Programmes for Young People: Where Have We Been and Where Should We Be Going?' (2010) 105 Addiction 1688.
[75] Extensive Wikipedia article about the programme: https://en.wikipedia.org/wiki/Drug_Abuse_Resistance_Education#2008_%E2%80%93_Harvard
[76] Renee Moilanen, 'Just Say No Again: The Old Failures of New and Improved Anti-Drug Education', *Reason.Com* (blog), January 2004, https://reason.com/2004/01/01/just-say-no-again-2/.

emerge. However, legalisation will not erase the illegal market either. A 2019 study, by Sen and Wyonch on the legalisation and regulation of cannabis in Canada, found that not all users in states where cannabis is legalised purchase the substance from government-authorised sellers, for a variety of reasons: firstly, legal products are sometimes more expensive than their illegal counterparts; secondly, the range of legal products on offer is usually more limited (in particular, consumers turn to street sellers for the most potent products); and thirdly, legal sellers are not always able to keep up with demand.[77]
Despite the inevitability of the illegal market, we believe that we should still try to reduce its size as much as possible. Illegal markets have been found to increase violence, because their participants have no recourse to official dispute resolvers. Furthermore, they contribute to the issue of corruption in Mexico as there is a strong incentive to bribe officials to look the other way, and they prevent quality control, which increases the likelihood of accidental poisonings and overdoses.

Legalisation of recreational cannabis on a state-by-state basis

An overwhelming majority of US adults say that cannabis should be legalised either for medical *and* recreational use (59%), or just for medical use (32%).[78] Furthermore, there is already policy momentum in this direction: in the US, 11 states and the district of Columbia have now legalised cannabis for recreational purposes, accounting for over 21% of the US population. Other countries such as the Netherlands and the Ukraine have also legalised the use of cannabis in various forms.

The benefits of legalising recreational cannabis include a decrease in the number of deaths caused by other drugs, as patients substitute cannabis for other substances. A 2017 study on the effects of legalisation in Colorado found that legalisation was associated with a significant reduction in the number of deaths from opioids, reversing what had been an upward trend in deaths in the state.[79] Furthermore, legalisation reduces the burden of enforcing criminalisation on courts, law enforcement authorities and prisons. Another Colorado study found that the number of cases brought against people for the cultivation, distribution and possession of cannabis fell by 85% in the first full year of legal sales. Legalisation also makes sense financially, as it enables the government to tax the substance, instead of allowing drug rings to reap all the profits. Some estimates suggest that the US government could improve its budget by $85bn annually by legalising and taxing all drugs.[80]

The legalisation of cannabis in the US would also make life difficult for the cartels by removing their monopoly over the market and reducing the profitability of trafficking the drug. The reduction in cartel power would lead to decreased levels of corruption in Mexico, and evidence

---

[77] Marco Leyton, 'Cannabis Legalization: Did We Make a Mistake? Update 2019' (2019) 44 Journal of Psychiatry & Neuroscience : JPN 291.
[78] 1615 L. St NW, Suite 800Washington and DC 20036USA202-419-4300 | Main202-857-8562 | Fax202-419-4372 | Media Inquiries, 'Two-Thirds of Americans Support Marijuana Legalization' (*Pew Research Center*) <https://www.pewresearch.org/fact-tank/2019/11/14/americans-support-marijuana-legalization/> accessed 22 August 2020.
[79] Julian Morris and Reason Foundation, 'Does Legalizing Marijuana Reduce Crime?' 15.
[80] 'An Economic and Moral Case for Legalizing Cocaine and Heroin' (*Cato Institute*, 28 July 2014) <https://www.cato.org/publications/commentary/economic-moral-case-legalizing-cocaine-heroin> accessed 2 August 2020.

has shown that a decrease in the profitability in the cannabis market results in a drop in drug-related crime and violence in the producer countries.[81]

While state-level legalisation of cannabis is feasible, legalising the substance on a federal level is unrealistic. In fact, legalisation on a federal level is very unlikely to happen for any drug, due to the significant lack of public support. The US opioid epidemic in particular has contributed towards this opinion, as it has highlighted the dangers of allowing companies to market addictive products freely and lobby the government for lax tax laws. This has reinforced the public perception that drugs should be regulated by the government and has erased any incentive for policymakers and legislators to push for nation-wide legalisation. The evidence shows that the only drug Americans want to legalise is cannabis[82].

However, since the main obstacle to legalisation of harder drugs is the lack of public support, the legalisation of recreational cannabis is a good first step. This will allow further, more extensive and longer-term research on the effects of legalisation and could pave the way for the legalisation of other drugs in the future. Such a development could be supported further by the federal government's reassignment of cannabis from Schedule I to Schedule II or III of the 1961 Single Convention on Narcotic Drugs to permit research for medicinal purposes.

However, there are a number of potential side effects when it comes to legalising cannabis. Firstly, legalisation has been shown to decrease the price of the drug: data indicates that cannabis prices in states that have legalised cannabis are 10% below the national average.[83] There are two main reasons for the fall in price: first, the price of legal cannabis need not include a black-market premium to compensate producers for the risks of arrest or drug market violence. And secondly, since it eliminates the need for clandestine operations, legal production is more efficient, with growers producing larger volumes and thus benefiting from economies of scale (particularly if vertical integration (i.e. the combination of multiple stages of production within one firm) is permitted, as in Colorado).[84] The problem with this fall in prices is that it leads to an increase in demand. The evidence as to who is consuming this additional cannabis is inconclusive: while Leyton[85] finds that the rise in consumption appears to be limited to adults, others have argued that legalising cannabis increases its perception as a "safe" and "medicinal" drug and should thus be regarded as a contributing factor to the rising consumption rates among young people.[86]

---

[81] 'How Medical Marijuana Hurts Mexican Drug Cartels' (*OUPblog*, 22 July 2019) <https://blog.oup.com/2019/07/how-medical-marijuana-hurts-mexican-drug-cartels/> accessed 14 October 2020.
[82] German Lopez, 'Poll: The Only Drug Americans Want to Legalize Is Marijuana' (*Vox*, 15 March 2016) <https://www.vox.com/2016/3/15/11224500/marijuana-legalization-war-on-drugs-poll> accessed 22 August 2020.
[83] Wayne Hall and Michael Lynskey, 'Evaluating the Public Health Impacts of Legalizing Recreational Cannabis Use in the United States' (2016) 111 Addiction (Abingdon, England) 1764.
[84] ibid.
[85] Marco Leyton, 'Cannabis Legalization: Did We Make a Mistake? Update 2019' (2019) 44 Journal of Psychiatry & Neuroscience : JPN 291.
[86] Leyton (n 1).

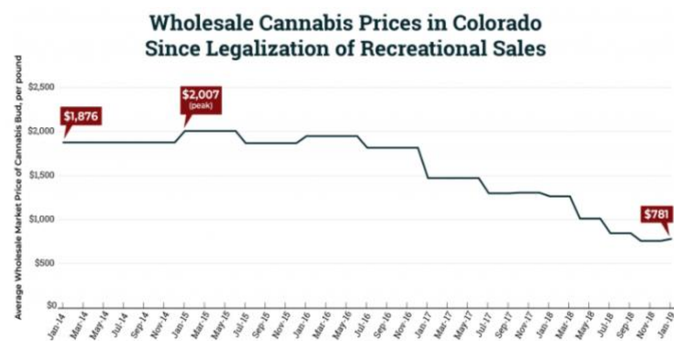

*Figure SEQ Figure * ARABIC 1: Wholesale Cannabis Prices in Colorado Since Legalization of Recreational Sales. Reprinted from Colorado Department of Revenue, by C. Davis & M. Hill & R. Phillips, 2019, Institute on Taxation and Economic Policy.*

Data from states that have legalised recreational cannabis shows that legalisation is correlated with more presentations to emergency departments for acute outcomes of cannabis use (e.g., psychiatric, gastrointestinal, and cardiovascular effects).[87] This increase is likely due to inexperienced users underestimating the potency of the drug, resulting in overdoses. States that have legalised cannabis have also seen a rise in the number of cases of poisoning in children due to accidental ingestion (usually due to ingestible cannabis products being packaged like candy). However, this can be prevented through strict laws on packaging and labelling.[88]

Reducing the illegal market in states where cannabis has been legalised

In some states, cannabis legalisation has fuelled the illegal market, while in others, it has significantly weakened it. Therefore, it is important to envisage measures to ensure that legalisation produces the desired effects.

The best example of a state which has failed to reap the benefits of legalisation is California, where the strong illegal cannabis market is cannibalising the revenue of licensed businesses. The strength of this illegal market can be attributed to a number of factors. Firstly, the high taxes the state imposes on cannabis products drive up the price of the legal drug, incentivising consumers to turn to the illegal market. Additionally, barriers to market entry for start-up marijuana businesses in California are high: licensing fees and a labyrinthine regulation process make it difficult and unattractive for cannabis businesses to compete with unlicensed dispensaries.[89] Furthermore, the state only imposes minor penalties on businesses that remain unlicensed.

California has a long history of cannabis production: medical cannabis has been legal there for over twenty years, allowing many businesses to flourish with minimal oversight. These businesses are now reluctant to undergo the costly and tiresome licensing process.[90] Furthermore, California gives its municipalities wide latitude in the regulation of cannabis, resulting in piecemeal legalisation. Most larger cities permit the sale of cannabis, but many

[87] 'An Economic and Moral Case for Legalizing Cocaine and Heroin' (n 5).
[88] ibid.
[89] ibid.
[90] Thomas Fuller, '"Getting Worse, Not Better": Illegal Pot Market Booming in California Despite Legalization' *The New York Times* (27 April 2019) <https://www.nytimes.com/2019/04/27/us/marijuana-california-legalization.html> accessed 24 August 2020.

smaller towns do not. In fact, 80% of California's municipalities do not allow retail cannabis businesses.[91]

By contrast, when Oregon legalised cannabis in 2014, the state focused on quelling its illegal market by creating simple regulations to provide easy access to the legal market. It did not limit the number of available licenses and simplified regulations. The strategy worked: it is now very easy to find high-quality, cheap, legal cannabis in Oregon. There is no reason to shop illegally.[92]

Based on this evidence, we recommend that states which have legalised cannabis without a satisfactory reduction in the size of their illegal market, or states considering legalising it in the future, should relax legal market regulations, strengthen penalties on unlicensed businesses, and restrict the regulation authority of municipalities.

Finally, it is important to note the presence of inter-state smuggling. Much of the cannabis produced in states where it is legal seeps into states where it is illegal, through venues such as mail, express delivery services, private vehicles, and small aircraft. Idaho, which borders Oregon, has reported a 665% increase in seizures of illicit cannabis.[93] This is often incentivised by the differences in price for cannabis products between states, or by the differences in regulations (i.e. individuals might produce cannabis that follows the regulations for one state, but sell it in a different state where it goes against the regulations). Such inter-state smuggling is inevitable as long as cannabis has not been legalised at a federal level. Therefore, states concerned about an influx of legal cannabis from their neighbours should consider legalisation themselves.

iii. Preventing the enlargement of the US opioid epidemic and another crisis

Since the 1990s, the US has been embroiled in an opioid crisis which continues to have devastating human, social and economic costs. While several US administrations have implemented policies to tackle the epidemic, prescription opioids are still misused. The following recommendations outline policies that would stem the misuse of prescription opioids and help prevent another opioid crisis.

While national governments make significant contributions to drug production, pharmaceutical companies are invaluable for drug development, research and efficacy testing. The cost of getting a new drug on the market can cost upwards of $350 million. Pharmaceutical companies invest billions of dollars in developing and trialling multiple potential drugs, thereby developing a wider range of drugs for the market. The financial support from pharmaceuticals is vital for healthcare. However, over the years a lack of regulation in direct-to-consumer advertising (DTCA) and transparency of publications have led to false-advertising and misleading information being supplied to physicians and patients, contributing to a prescription opioid crisis.

Strengthen transparency in research sponsorship by the pharmaceutical industry, by incentivizing independent publishing by academic journals

This paper recommends promoting transparency in the clinical trial research and publication process. As journals are one of the main sources for medical practitioners to obtain the most

[91] ibid.
[92] Fertig (n 11).
[93] ibid.

recent and relevant results in medical research, it is important to not entirely exclude drug companies from publishing research, however much this research should be regulated and transparent. Articles should have to disclose investigator contributions and funding. Pharmaceutical companies should be required to give raw anonymised patient data upon request so that medical practitioners can evaluate and assess the reliability of the pharmaceutical-funded studies. It would also be advisable to have additional publicly funded institutions to monitor these types of trials to reduce the bias prevalent in these studies. Journals should also continue to develop policies that disallow ghost-writing in pharmaceutical industry-sponsored studies to ensure the research can be traced and that the industry remains accountable. The American Medical Writers Association and the European Medical Writers Association already have policies in place that ban ghost-authorship.[94] Further, CME funding, research funding, and any other funding from companies on behalf of manufacturers of opioids and other scheduled drugs should have more oversight and potentially be mediated by a third non-Pharma body.

Forbid the commercial promotion of any and all addictive pharmaceuticals in direct-to-doctor and direct-to-consumer advertising as well as in more subtle forms of promotion, such as in Continuing Medical Education (CME) and Medical School programmes and in the form of free drug coupons and hospital grants

It would also be advisable for the FDA to strengthen and enforce regulations on pharmaceutical DTCA such that the commercial promotion of any and all addictive pharmaceuticals in direct-to-doctor and direct-to-consumer advertising, as well as in more subtle forms of promotion, such as in Continuing Medical Education (CME) and Medical School programmes, and in the form of free drug coupons and hospital grants is forbidden. In most countries, direct-to-consumer advertising (DTCA) is prohibited as a health protection measure, because prescription-only medicines generally treat more serious conditions and are generally more high-risk than non-prescription medicines. However, the US is the only country apart from New Zealand where DTCA of prescription medicines is legal. While research studies have revealed that DTCA can yield both negative and positive results in the health-care industry, it is important that adverts are transparent, and that the regulations which are already in place are correctly enforced and the commercial promotion of any and all addictive pharmaceuticals is forbidden entirely.

In spite of congressional hearings, new industry self-regulatory guidelines, and legislative proposals to restrict DTCA, over the years, the practice has remained largely unchanged. In late 1997, the FDA introduced an administrative policy which allowed companies to list only major and frequent risks in broadcast advertising as long as sources of more complete information were provided. This policy was further relaxed in 2004, when pharmaceutical companies only had to list the major risks on adverts and these could be written in simplified language.[95] In 2000, the advertising spending on drugs had surpassed brands such as Pepsi Cola, Budweiser beer and Nike shoes.[96] DTCA has become a multibillion-dollar industry. After revised guidelines were issued in 1997, budgets for DTCA tripled to $1.2bn in 1998 and topped $5bn in 2006 and 2007. Due to the financial crisis, spending decreased for the first time since the 1990s and in 2009 came down to $4.5bn.[97] Given the revenue from DTCA this meant that there has been a lack of political will to enforce stricter regulations on DTCA.

---

[94] Richard Smith, Peter Gøtzsche, and Trish Groves, 'Should Journals Stop Publishing Research Funded by the Drug Industry?', *BMJ* 348, no. 171 (14 January 2014), https://doi.org/10.1136/bmj.g171.
[95] Ventola, 'Direct-to-Consumer Pharmaceutical Advertising, Therapeutic or Toxic?'
[96] Teresa Leonardo Alves, Joel Lexchin and Barbara Mintzes, 'Medicines Information and the Regulation of the Promotion of Pharmaceuticals' (2019) 25 Science and Engineering Ethics 1167.
[97] Ventola.

Alongside a lack of political will from the federal government, the FDA also lacks resources and a legal mandate to enforce stricter DTCA regulations. The FDA directly regulates advertising content for prescription drugs and regularly finds advertisements to be illegal, generally because of inadequate risk information or exaggeration of benefits.[98] However, over time, as the FDA's capacity to enforce drug adverts has weakened substantially due to a lack of resources, there has been a general decline in oversight.[99] This enabled pharmaceutical companies to advertise drugs that had either not been tested fully (e.g. thalidomide), or to hide information on all the drug's side effects (e.g. Paxil, OxyContin).[100]

This paper recommends that the FDA enforce stricter regulations within its mandate. When the FDA determines that an advert violates the law, it sends a letter to the drug company asking for the advert to be removed. Only in some letters does the FDA ask the drug company to fix the misimpression and publish a corrective ad. This action should be encouraged more often as it would incentivise companies to verify adverts before publishing them.[101] As it stands, federal law does not allow the FDA to require that pharmaceutical companies submit ads for approval prior to release. The FDA sees ads at the same time as the public. Despite this, many drug companies will voluntarily seek advice before releasing TV adverts. As no formal guidelines exist for online DTCA, this practice would be included in advertising guidelines. Moreover, adverts that have been voluntarily sent to the FDA should include a disclaimer stating that it has received FDA print, broadcasting or online advertising approval. This would incentivise "good behaviour" and might encourage other companies and the advertising agencies they work with to follow suit.

When it comes to scheduled pharmaceuticals (i.e. addictive drugs) as opposed to non-scheduled drugs, DTCA should be forbidden. The risk of diversion with addictive drugs poses a public health risk that non-addictive drugs do not, therefore it is imperative that different rules are followed. Further, drug representatives, free coupons, free samples, and any other direct-to prescribed promotional activity should be banned.

Public education campaigns on misuse of opioids and pain management

A major barrier to effective opioid reduction programmes is the stigma surrounding opioid misuse.[102] Increasing education campaigns on the possibility and frequency of misuse of prescription opioids will help normalise the problem of opioid addiction, thereby enabling patients to seek help rather than acquire cheaper opioids to fuel their addiction. Supporting approaches by health insurers and educating providers and patients on the risks associated with chronic pain medications can help minimise the risk of prescription opioid misuse and addiction, reduce the amount of health services resources dedicated to opioid-use problems, improve patient outcomes, and reduce overall costs.[103]

---

[98] Teresa Leonardo Alves, Joel Lexchin and Barbara Mintzes, 'Medicines Information and the Regulation of the Promotion of Pharmaceuticals' (2019) 25 Science and Engineering Ethics 1167
[99] Ventola.
[100] 'Big Pharma: Are They Advertising Addiction?' (n 2).
[101] Center for Drug Evaluation and Research, 'Prescription Drug Advertising | Questions and Answers', FDA (FDA, 2 March 2020), https://www.fda.gov/drugs/prescription-drug-advertising/prescription-drug-advertising-questions-and-answers.
[102] Erin Winstanley et al., 'Barriers to Implementation of Opioid Overdose Prevention Programs in Ohio', *Substance Abuse* 37 (2015): 42–46.
[103] Kathryn L. Hahn, 'Strategies to Prevent Opioid Misuse, Abuse, and Diversion That May Also Reduce the Associated Costs', *American Health & Drug Benefits* 4, no. 2 (2011): 107–14.

An effective public health campaign on prescription drug misuse was launched in 2001 by the National Institute on Drug Abuse (NIDA). NIDA used evidence-based strategies to enhance understanding of pain management, prevent overdose deaths and effectively treat opioid use disorders.[104] Public education campaigns should build on this framework, but should also educate consumers on DTCA, train consumers on how to critically scrutinise adverts, and provide information on alternatives to pain medication. The BRAVO Protocol that teaches doctors how to taper patients off of chronic opioid therapy is another effective campaign to re-educate prescribers from the very beginning of their training.[105] These initiatives, many involving non-pharma funding academic detailing, are pivotal to mitigating the epidemic.

This policy would not target the strong pharmaceutical lobby but rather it would give patients the opportunity to make informed choices on their pain medication. The case study of Purdue Pharma and its OxyContin pill illustrates that targeting both the prescriber and the consumer is vital to stemming the opioid crisis. Even after Purdue Pharma was sued and admitted that the pill was highly addictive in 2007, the manufacture of its active ingredient (oxycodone) increased from 2.5 billion pills in 2006 to 4.5 billion in 2012.

Public education campaigns on the misuse of opioids must also include information on pain management and alternatives to pain medication. Research into less-addictive pain medication is already being conducted in the US; however, it had to be put on hold due to the pandemic. Funding this research is the first step towards a greater understanding of how to move beyond the dependency on opioids for chronic pain.

Ensure physicians are adequately trained in pain management and how to prescribe opioids

One outcome of the opioid crisis was the realisation that many US physicians were not trained to manage pain and reduce addiction and over-prescribed opioids to patients suffering from moderate pain. Overprescription helped accelerate the crisis as patients sold their excessive pills on the illegal market or distributed them amongst friends and family. Guidelines have since been put in place by the DEA to ensure opioid prescription is regulated. Nonetheless, to ensure an effective long-term response to the epidemic, it is vital that physicians are trained to not only inform their patients of the dangers of prescription drugs but also offer alternative ways of managing pain, in particular for patients with moderate chronic pain. This will hopefully in the long term contribute towards shifting cultural attitudes with regard to pain. As compared to their Western and Central European counterparts, Americans have been shown to report higher pain intensity scores and US physicians have much higher painkiller prescription rates.[106] One reason why US physicians tend to prescribe opioids as a first response to pain management is because many US insurance companies will cover drugs but not alternative pain therapy such as physiotherapy. However, if more physicians were educated on the risk of overprescribing, this might lead to a cultural shift that increases the availability of pain practitioners and Medicare

[104] Nora D. Volkow, 'What Is the Federal Government Doing to Combat the Opioid Abuse Epidemic?', 1 May 2015, https://archives.drugabuse.gov/testimonies/2015/what-federal-government-doing-to-combat-opioid-abuse-epidemic.

[105] https://www.oregonpainguidance.org/wp-content/uploads/2019/02/BRAVO-updated-2019.pdf?x91687 [accessed 5 Dec 2020]

[106] 'Differences in Patient-Reported Pain between U.S. and European Orthopedic Patients', 21 February 2018, https://medicalxpress.com/news/2018-02-differences-patient-reported-pain-european-orthopedic.html. More information on this study: R. Zaslansky et al. Pain after orthopaedic surgery: differences in patient reported outcomes in the United States vs internationally. An observational study from the PAIN OUT dataset, British Journal of Anaesthesia (2018). DOI: 10.1016/j.bja.2017.11.109

support for alternative therapies, which are covered in several European public health-care systems.

Another state-level intervention that is recognised as one of the most promising ways to reduce opioid overprescribing and that should be scaled up is the prescription drug monitoring programme (PDMP). The PDMP is an electronic database where pharmacists input patient prescriptions, in order to track controlled substance prescriptions across a state. PDMPs can provide prescribers and health authorities timely information about the rate of prescriptions and patient behaviours.[107] This evidence-based data helps facilitate an effective and targeted response. Both Washington state and Florida run successful PDMPs.[108] While many states rely on qualified physicians who are using PDMPs to better understand the opioid epidemic, screening tools for prescription drug abuse should also be incorporated into routine medical visits. Many states have now passed legislation requiring prescribers to check the PDMP before prescribing a controlled substance.

III. MEXICAN DOMESTIC POLICY

Successive Mexican administrations have focused on reducing the supply of illicit drugs. To that end, they have attempted to destroy opium poppy crops (eradication) and to disrupt routes and methods used to smuggle drugs and precursor agents, by arresting drug traffickers (interdiction). They aim to reduce the availability of narcotics or increase their prices in a lasting or meaningful way. They hope that this will minimise the profits of drug traffickers enough to disincentivise the cultivation illicit drug crops and drug trafficking, and will raise the cost of illicit drugs so that it becomes too expensive for Americans to afford.

III.I. DYNAMICS OF THE SUPPLY CHAIN

However, the dynamics of the drug supply chain in Mexico are quite unique, and thus Mexican policies of eradication and interdiction have had minimal impact.

It can be difficult to map out the influence of Mexico's cartels across space and time. Enforcement operations and shifting patterns of allegiance and bribery mean the Mexican criminal landscape is in a state of constant flux. New gangs emerge and old gangs splinter, while the internal organisational structure of cartels varies considerably. Stratfor, a geopolitical intelligence company, has broken down rival crime networks in Mexico into three regional groupings: the Tamaulipas State, Sinaloa State, and Tierra Caliente regional group. This regional framework also shows several states and regions of Mexico where the activities of these three regional groups mix or are contested. (See Figure 2).

[107] 'Prescription Drug Monitoring Programs (PDMPs) | Drug Overdose |', Center for Disease Control and Prevention, 10 June 2020, https://www.cdc.gov/drugoverdose/pdmp/states.html.
[108] See: Franklin, G. et al. A Comprehensive Approach to Address the Prescription Opioid Epidemic in Washington State: Milestones and Lessons Learned. Am. J. Public Health 105, 463–469 (2015). In: Volkow. See: Johnson, H. et al. Decline in drug overdose deaths after state policy changes - Florida, 2010-2012. MMWR Morb. Mortal. Wkly. Rep. 63, 569–574 (2014). In: Volkow.

Figure 2. Stratfor Cartel Map by Region of Influence
Published in January 2020

Source: Stratfor Global Intelligence, "Tracking Mexico's Cartels in 2020," https://worldview.stratfor.com/article/stratfor-mexico-cartel-forecast-2020#/entry/jsconnect/error.
Notes: The map indicates region of influence and origin of Mexico's TCOs, DTOs, or cartels.

Nevertheless, it is still possible to identify key features of the supply chain. The farmers who produce illicit drug crops which are then processed into drugs face a monopsony: the drug cartel in their area is their only buyer, so the farmers have no choice but to sell to them. Therefore, cartels set the buying price for narcotic crops.[109] Instead of increasing the costs of cartels and forcing them to raise the retail price of drugs, thus reducing demand, eradication strategies have simply lowered the farmers' margins.

Moreover, the farmers who choose to grow illicit drug crops do so simply because it is the most profitable use of their resources. For example, a farmer might opt to grow poppies because he can manage more harvests, or because poppies will grow in less fertile areas than legal crops. Other crops or products often have high investment costs, making it difficult for peasants to find the capital to get started and create an opportunity cost compared to poppy production.

A drug's price also evolves substantially across the supply chain. A quantifiable example is the cocaine supply chain (although it is important note that this supply chain is only partly located within Mexico's borders, as coca plants are not typically cultivated in Mexico): the 300kg of coca leaves required to make 1kg of cocaine cost just $385, but the same 1kg of cocaine sold in tiny quantities on the streets of US cities is worth $78,000 (assuming it has not been diluted with other substances). Therefore, even if the cartels' costs are increasing due to a crackdown by the authorities, they are unlikely to raise the retail price of the drugs they sell.[110] Furthermore, the major Mexican DTOs are highly diversified, which makes them resilient to drops in demand for particular drugs. According to the U.S. State Department's 2020

---

[109] Tom Wainwright, *Narconomics - How To Run A Drug Cartel.*
[110] ibid.

International Narcotics Control Strategy Report (INCSR), Mexico is a significant source and transit country for heroin, cannabis, and synthetic drugs (such as methamphetamine and fentanyl) destined for the United States. Mexico remains the main trafficking route for U.S.-bound cocaine from the major supply countries of Colombia and (to a lesser extent) Peru and Bolivia. The Drug Enforcement Administration (DEA) notes that traffickers and retail sellers of fentanyl and heroin combine them in various ways, such as pressing the combined powder drugs into highly addictive and extremely powerful counterfeit pills. Cartels are not merely in the business of trafficking drugs. They are also involved in kidnapping, human trafficking, and money laundering.

III.II. ENDEMIC VIOLENCE AS A DEEPLY DISRUPTIVE FORCE

Violence is a central and omnipresent feature in Mexico. According to one Mexican think tank, the top five cities in the world for violence in 2019 were in Mexico. Although homicide rates declined early on in President Enrique Peña Nieto's term (2012-2018), total homicides rose by 22% in 2016 and 23% in 2017, reaching an unprecedented level. In 2018, homicides in Mexico rose above 33,000, far beyond the national rate of 27 per 100,000. Despite the COVID-19 health emergency, the violence has not subsided. Even the current president Andrés Manuel López Obrador, who embraced a strategy nicknamed 'Hugs, not bullets' during his presidential campaign, has admitted that violence was "out of control". In response, Obrador's administration created the National Guard in 2019, an organisation merging officers from the federal police and army, and militarised public security further in May 2020 to curb the increasing rate of violence. If anything, this suggests that the country's public security is more militarized than ever. In the most recent episode of violence in Irapuato, armed men burst into a drug rehabilitation centre in broad daylight on July 1, 2020 and gunned down 28 people.[111]

Most of this violence stems from Mexican drug trafficking organisations (DTO). Since casualties are reported differently by the Mexican government and Mexican media outlets, there is some debate surrounding the data on DTO-related homicides. This is compounded by the fact that up to 73,000 individuals have been reported missing since 2007, making it difficult to generate accurate estimates of deaths linked to cartel violence. What is clear, however, is that there are few indications that the violence is abating. In 2019, Mexico City, which has one of the highest police-per-population ratios in the country and was historically considered off limits to overt cartel violence, recorded its highest homicide level in 25 years, exceeding 1,500 murders.

Indeed, violence is an intrinsic feature of the drugs trade; it underpins the relationships between suppliers, creditors and buyers in the absence of formal legal authority. However, it is clear that government policy has affected the two broad dimensions of DTO-linked violence in Mexico. The first is violence between cartels, which government interdiction policies have indirectly impacted, while the second is violence resulting from tensions between cartels and government officials, which interdiction policies have exacerbated directly.

i. Violence between cartels

The main driver of violence in Mexico is the competition between cartels for territory and resources. Traffickers use violence to settle disputes with rivals, guarantee employee discipline

[111] Jude Webber, 'Explosion of violence dooms Mexican leader's bid to calm cartels', Financial Times, 18 July 2020, https://www.ft.com/content/1b250165-c6c8-4f1e-904e-d7be979026f0

and threaten those who may be thinking of defecting. This inter-cartel violence also has a long history. The balance of power between the various Mexican DTOs continues to evolve as new organizations emerge and older ones weaken and fragment. A disruption in the system, such as the arrests or deaths of cartel leaders, generates bloodshed as rivals move in to exploit the power vacuum.

While many factors have contributed to the escalating violence, security analysts trace the origins of present-day violence to the unravelling of the implicit arrangement between narcotics traffickers and governments controlled by the Institutional Revolutionary Party (PRI), which began to lose its grip on political power towards the late 1980s. According to Sylvia Longmire, the former Senior Intelligence Analyst for the State of California on Drug Trafficking and Border Violence, "the real turning point in Mexico was the start of true democracy in 2000 when the PRI was kicked out of power and Vicente Fox was elected and the PAN came into power". The breakdown in the relationship between the government and cartels contributed to a reorganisation of the Mexican cartel landscape, not least the emergence of Los Zetas, a DTO notorious for its brutality and intimidation tactics.

Since 2000, inter-cartel violence has often been concentrated around areas of strategic significance, such as drug trafficking points around the border, or drug train shipment points where precursor chemicals or drugs are brought into Mexico for further shipment. This explains the emergence of hotspots of violence near the US-Mexico border, like Ciudad Juarez, which was engulfed in a turf war between the Sinaloa and Juarez cartels between 2007 and 2010. The battle for turf between the once predominant Sinaloa Cartel and its aggressive competitor—the CJNG— has also spawned chaotic violence from the border city of Tijuana all the way to Mexico's east coast. Furthermore, a battle over the illicit gasoline market between two major rivals, CJNG and the oil tappers of Cártel Santa Rosa de Lima (CSRL), boosted crime-related fatalities in Guanajuato. Inter-cartel battles over the lucrative synthetic opioid fentanyl market in several states in central Mexico have also expanded over the past few years.

ii. Violence between government officials and cartels

Given the limited effectiveness of local police forces, successive Mexican administrations have relied heavily on the military and the Federal Police to combat cartels. During the presidential term of Felipe Calderón (2006-2012), the army and the federal police engaged in a series of violent confrontations with cartel gunmen. This approach to the War on Drugs caused cartels to fragmentise and diversify, as well as seek new smuggling routes in rival territories. This led to a sharp increase in violent crimes beyond direct confrontation with government officials and crimes such as kidnapping and extortion. From the total of 1600 murders linked to organised crime in 2005, deaths rose to 2200 in 2006, and to a total of 47,515 in 2012. Despite the *'Abrazos, no balazos'* (Hugs, not bullets) campaign mantra of the current Mexican president López Obrador, the murder rate has increased since his inauguration. The number of murders nationwide in 2019 was over 34,000.

There is growing concern among security analysts towards the cartel-linked attacks on government and judicial officials. On June 16, 2020, cartels killed a federal judge in Colima who had supervised a case involving the son of the CJNG (Jalisco New Generation Cartel) leader, Rubén "El Menchito" Oseguera, as well as Sinaloa Cartel cases. Less than two weeks later, on June 26, 2020, armed men ambushed Mexico City's police chief and secretary of public security Omar García Harfuch, seriously wounding him and killing two bodyguards as well as a bystander. These incidents are the latest cases in a long line of overt attacks on government officials. In the

run-up to the 2018 local and national elections, for example, some 37 mayors, former mayors, or mayoral candidates were killed, and murders of non-elected public officials rose above 500. The use of strategic violence and displays of firepower by cartels to intimidate top public officials is concerning because it may deter some officials from performing their functions. This seems to be already happening. Judges have reportedly declined to take organized crime cases out of concern for their personal safety, citing the Mexico City incident.

III.III. POLICE AND JUDICIAL CORRUPTION

Corruption blurs the boundaries between law enforcement officials and cartels. This makes it difficult to assess why violence is perpetrated, and at whose instruction, thus complicating efforts to reduce violence.

i Corruption

On May 14 2020, Mexico's public security secretary, Alfonso Durazo, told graduating officers that "A fundamental problem for all the bodies of security in the country is corruption... You arrive with clean hands. I hope you will never be tempted"[112]. Transparency International ranked Mexico in 130th place out of 180 countries in its 2019 Corruption Perceptions Index. This corruption assumes a number of forms, and permeates different layers of society in different ways. The criminal involvement of state governors with the DTOs and other criminals is one window into the extent of corruption in the layers of government and across parties in Mexico. Twenty former state governors, many from the long-dominant Institutional Revolutionary Party (PRI), were under investigation or in jail in 2018. Former governors of the states of Coahuila, Tamaulipas, and Quintana Roo have been charged with money laundering and conspiracy. Most recently, U.S. Secretary of State Mike Pompeo denounced former Nayarit Governor Roberto Sandoval Castañeda (2011-2017, PRI Party) and his immediate family for misappropriating state assets and accepting bribes from the CJNG and the Beltran Leyva Organization. Corruption also occurs near the bottom of the administrative structure, where low-ranking officials accept bribes to ignore crimes or actively participate in criminal activity such as extortion, drug-trafficking, and assassination. The consequence of this corruption at multiple societal levels has been a loss in trust in the authority of law. According to the Mexican Institute of Statistics and Geography, 90% of Mexicans see the state and federal government as deeply corrupt.[113]

In response to the corruption problem, Calderón's administration sent over 50,000 troops onto Mexico's streets and attempted to vastly reform the police and judicial systems. However, the police are easily bought off because in many cities, police earn very little, have limited resources and suffer from dangerous working conditions. An underpaid officer can double or triple his salary by agreeing to look the other way.

ii. Breakdown of trust in the Authority of Law as a Result of Extended Corruption

[112] https://www.nytimes.com/2020/07/07/opinion/sunday/mexico-drug-cartels-coronavirus.html
[113] Gómez-Romero, Luis, 'Mexico Battles Corruption as Trust in Public Officials Plummets', The Wire, 18 August 2017, https://thewire.in/external-affairs/mexico-battles-corruption-trust-plummets

The scale of corruption means that few Mexicans have faith in the legal or political system. For instance, only nine percent of Mexicans believe obeying the law is necessary for a citizen and 30 percent believe breaking the law is required to be successful. Close to 50 percent believe people are not equal before the law.[114] In addition, Mexicans deeply distrust their government and institutions. In fact, most Mexicans believe whoever gets into politics will become corrupt; only one-fifth trust the police, one-fourth trust the judiciary system, and half trust the military. [115] These statistics show that corruption, and the persistence of cartel influence, have generated a profound pessimism towards the capacity of law enforcement and government officials to put an end to the War on Drugs.

An important dimension of this loss in trust is the curtailment of freedom of speech and the Mexican media. From 2017 through 2019, a journalist was murdered nearly once a month on average, giving Mexico the status of being one of the world's most dangerous countries to practice journalism. Consequently, many news organizations simply stopped publishing stories about the crimes. Freedom of expression and speech were increasingly limited as the media became the target of violence. The state apparatus has also been effective at keeping negative stories under wraps. Guadalupe Correa-Cabrera and José Nava explain, from the Derpa:

"Violence affecting Mexico's border cities…has silenced the media, in a clear demonstration of the power that criminal enterprises exert over border society in drug war time. […] Due to the corruptive and coercive nature of organized crime – coupled with the weak and…corruptible state security and political institutions…, media organizations are left with no room for bias-free decision-making processes regarding the reporting of any news/notes about organized crime."

III.IV. THE INTENSIFICATION OF EXISTING PROBLEMS AS A RESULT OF COVID-19

An important dimension of Mexican DTOs is their infiltration into many aspects of life in villages, colonias and entire cities. For instance, the leaders of the Sinaloa Cartel have historically provided money for churches and soccer stadiums. This has continued to be a challenge for President López Obrador, especially amid the pandemic and recession, complicating his promise for 'national regeneration'.

At the time of writing, the COVID-19 pandemic has killed 100,000 people in Mexico. There has been a shortage of health supplies, and the poor have been particularly squeezed by the economic shock. President López Obrador promised to uplift the poor with generous social programs, handing out fertilisers to farmers and scholarships to students, but official aid has been hampered by a policy of avoiding debt despite the severity of the looming recession. In many parts of Mexico, cartels have filled the vacuum left by the reluctance of the state to provide a safety net. A number of Mexican DTOs - including the Cartel Jalisco Nueva Generación (CJNG), the Sinaloa Cartel, Los Viagras, the Gulf Cartel, and some of the Zeta splinter groups – are using the COVID-19 economic downturn and lockdowns to build up political capital by distributing handouts. The Gulf cartel of north-east Mexico, for example, has been handing out boxes of food and hand sanitiser sealed with a sticker bearing its name and logo. The media in Mexico has labelled donations from the Sinaloa Cartel "Chapo food parcels". This represents a significant threat to the continued legitimacy of the central government.

[114] Viridiana Ríos, 'The Missing Reform: Strengthening The Rule of Law in Mexico' thttps://scholar.harvard.edu/files/vrios/files/themissingreform_intro.pdf

[115] http://www.vanderbilt.edu/lapop/mexico/AB2014_Mexico_Country_ Report_V3_W_082115.pdf

Cartels have also seized on the opportunity presented by the pandemic to settle scores. In the first six months of 2020, Mexico's homicide rate rose by an estimated 2% over the record set in the same period of 2019. Armed battles between crime groups and Mexican security forces continued. In sum, the pandemic has become an opportunity for the DTOs to exert greater power within their areas of influence, as well as garner political capital in others, according to some analysts. [116]

III.V. RECOMMENDATIONS TO REDUCE VIOLENCE IN MEXICO

i. Police Reform

The Mexican police forces are a vital agent in halting the violence surrounding the War on Drugs. However, over the years, many Mexicans have viewed the police forces as complicit in this violence. Moreover, as a result of the militarization of public security, local police forces have largely been neglected. A well-funded, well-resourced, highly trained and accountable police force is pivotal to restoring trust in Mexico's public security institutions. An incorruptible police force will ensure that Mexicans no longer rely on either citizen's justice or cartels for security. Moreover, a well-financed police force that instils national honour will also incentivise Mexicans to build public service careers rather than enter the often more financially secure environment of the cartels.

Mexicans lack trust in police forces where corruption is rife. Only a fifth of Mexicans trust the police and 30% believe breaking the law is necessary to be successful. Approximately 30% of the adult population are victims of crime every year but only 93% of these crimes are reported because of a lack of trust in the authorities. Around 12% of Mexicans who had contact with authorities were victims of corruption. In Sinaloa 50% of the police force fail integrity tests and the nationwide figure is 10%. In the Global Competitiveness Index, Mexico ranks in the bottom 10% of 138 countries in terms of the reliability of its police services, business costs required for combating crime and violence, and ethics and corruption. [117] Police officers themselves also experience corruption within the force where they are expected to pay a 'quota' to their superiors for better equipment and promotions, which can amount to between $1000-5000.[118] For more than twenty successive years Mexican administrations have taken steps to reform the police with little success.[119]

Nevertheless, while corruption is still an issue in the Mexican police forces, there have been measurable improvements in police professionalisation.[120] Nuevo León, one of the front lines of the WOD, developed a new police force that is seen as one of Mexico's greatest police reform success stories. The Fuerza Civil (FC) was able to substantially reduce crime rates back to pre-drug lords war levels. FC was created from scratch in 2011. The state raised taxes and worked

[116] Falko Ernst, "Mexican Criminal Groups See Covid-19 Crisis as Opportunity to Gain More Power," The Guardian, April 20, 2020; José de Córdoba, "Mexico's Cartels Distribute Aid to Win Support," Wall Street Journal, May 15, 2020; Ioan Grillo, "How Mexico's Drug Cartels Are Profiting from the Pandemic," New York Times, July 7, 2020.
[117] Viridiana Ríos and W. Duncan Wood, *The Missing Reform: Strengthening the Rule of Law in Mexico* (Woodrow Wilson International Center for Scholars, 2018), 3.
[118] https://www.aljazeera.com/news/2018/07/mexico-police-officers-underpaid-equipped-180729120903772.html
[119] Maureen Meyer, 'Many Reforms, Little Progress', *Washington Office on Latin America (WOLA)*, May 2014, 36.
[120] Daniel M. Sabet, *Police Reform in Mexico: Informal Politics and the Challenge of Institutional Change* (Stanford University Press, 2012), 10, https://www.sup.org/books/extra/?id=21512&isbn=0804782067&gvp=1.

closely with some of Mexico's largest companies on design and implementation. The force offered better pay and living conditions to foster pride. Former police officers were ineligible to apply.[121]

Other examples of successful police professionalisation include cases regarding the police forces in the cities of Netzahualcoyotl and Morelia. In the city of Netzahualcoyotl, the well-regarded police force works with the latest technology, conducts regular community policing by talking to the public and organises a regular book club and chess evening for officers.[122] In Morelia the force was recruited from a diversity of backgrounds (lawyers, social workers, psychologists), holds regular community meetings, opened victim centres where half of the staff are women, introduced new civil courts, and offered citizens the chance to file criminal complaints on the spot rather than having to go to the prosecutor. The force also used a federal fund to increase the size of the force and offer more benefits including retirement funds, scholarships for children, and food stamps. The funds were also used to modernise the uniforms to instil a sense of pride in the force.[123]

While Mexico's police forces need to be tailored to the needs and capacity of each state as there is no "one size fits all" reform policy, successful reforms do have some things in common. There has been political and financial support from the state, police training and qualification opportunities, the creation of a sense of pride and community, the supply of necessary facilities/resources and oversight. Police forces should implement tools to guarantee the integrity of officers (citizen attention offices, internal affairs agencies, state and national human rights commissions, intensive vetting programmes) and offer conditions that make it difficult to leave the force without suffering a huge professional loss.

ii. Judicial Reform

Although the 2019-2020 judicial reforms are an inevitable backtrack, a few normative and functional changes could still be attempted or implemented. Despite challenges such as rampant corruption and contextual factors specific to the Mexican paradigm (i.e. strong organised crime), anti-corruption measures can still be attempted through a mix of a top-down and bottom-up approaches.

Measuring Change

The impact of anti-corruption and judicial reform is often difficult to measure, due to lack of data and measurable variables. Indicators most often take the form of high-level monitoring mediums such as national surveys, whereas effective assessment relies on specific sup-population evaluation such as the judiciary or the civil service, which do not have reliable or accessible data.[124]

In this context, the initial recommendation would be to begin tracing and measuring these sub-populations and focus on the relevant indices. Without access to data and the means of

[121] Jude Webber, 'Mexico Tackles Police Reform as Outrage at Drug Violence Grows', *Financial Times*, 21 December 2014, https://www.ft.com/content/7e40f05c-8907-11e4-ad5b-00144feabdc0.
[122] Will Grant, 'Patrolling Mexico's Most Densely Populated Suburb', *BBC News*, 9 March 2018, sec. Latin America & Caribbean, https://www.bbc.com/news/world-latin-america-43302244.
[123] Paulina Villegas, 'As Violence Soared in Mexico, This Town Bucked the Trend', *The New York Times*, 1 September 2018, sec. World, https://www.nytimes.com/2018/09/01/world/americas/mexico-violence-police.html.
[124] Chene, Marie. "Successful Anti-Corruption Reforms." Transparency International Organisation. April 30, 2015. https://www.transparency.org/files/content/corruptionqas/Successful_anti-corruption_reforms.pdf.

measuring new data, it is difficult to accurately gauge how the existing system and potential changes are perceived and have been implemented on the ground.

Tracing and measuring sub-populations will provide the transparency that is necessary for citizens to regain trust in their judiciary and other institutions. It is only when a modicum of trust is restored that further institutional or societal change can be implemented.

This transparency can also draw public awareness towards issues. This will in turn create a social accountability mechanism, as the Mexican public can pressure the government to fix the issues they are aware of. A 2015 DFID (UK Department for International Development) study found that freedom of press and political constitutionalism (emphasis on social/media accountability of the executive) can also push governments to fight corruption. [125]

Task Force

Kenya, a country where the separation of powers is weak and corruption remains a deterrence to judicial reform, has tried to implement institutional reforms like Mexico. Since 2010, they have taken steps to improve accountability and oversight by creating a task force to oversee the necessary reforms spanning from strengthening the role of their judicial service commission, to digitising court documents to address backlogs, accessibility, and transparency.[126] The task force was effective in making new recommendations based on an abundance of previous evidence, information and prior recommendations that had not been implemented due to a lack of political will. The work of the task force contributed towards Kenya's 2012-2016 strategy, the Judiciary Transformation Framework. While the four pillars[127] of judicial reform outlined in the framework took several years to be implemented, they helped make Kenya's judiciary more efficient, transparent and accountable.[128]

Mexico would benefit from such a taskforce that would oversee reforms, operating alongside established monitoring principles in relation to clear objectives. These two recommendations can work in tandem because they complement one another. The task force could operate on a non-partisan, strategic level to ensure the most effective policies are enforced across different presidential mandates to guarantee they have a durable, longer-term effect. The task force would help improve transparency in policy evaluation by remaining accountable and operating on an independent basis, not on behalf of the current serving government.

Tailored approach

There is no universal way to fix corruption and enable judicial reform. This is because "anti-corruption is a political [process]," not a technical fix. As a result, an approach taken will have to consider the political economy of the state in question. Anti-corruption interventions should also take a bottom-up approach; they are more successful when they are "locally-owned, country-led,

[125] Chene, Marie. "Successful Anti-Corruption Reforms." Transparency International Organisation. April 30, 2015. https://www.transparency.org/files/content/corruptionqas/Successful_anti-corruption_reforms.pdf.
[126] Chene, Marie. "Successful Anti-Corruption Reforms." Transparency International Organisation. April 30, 2015. https://www.transparency.org/files/content/corruptionqas/Successful_anti-corruption_reforms.pdf
[127] The four pillars included, "people-centred delivery of justice, organisational culture and professionalism of staff, adequate infrastructure and resources, and information technology as an enabler for justice". See Maya Gainer, 'Transforming the Courts: Judicial Sector Reforms in Kenya, 2011-2015' [2015] Princeton University 1, 5.
[128] Gainer (n 279).

and supported by collective action from local stakeholder," alongside international and external reinforcement.[129]

iii. Media Reform

Reforming the Mexican media landscape is a longer-term recommendation that would help ensure that the government is held accountable, thereby building public trust over the long term. A critical media is crucial for democratic legitimacy. Mexico's media landscape suffers from two key issues, a lack of independence and a lack of security. While Mexico has a large and vibrant media landscape, most media outlets lack a critical view.[130] Serious journalistic work is discouraged, as evidenced by low wages.[131] A reporter starting his or her career is paid around €250 per month without medical or life insurance, as they often are not employed full-time. In Oaxaca a freelance journalist can get as little as €2-3 per published article.[132] As a result, journalists have engaged in unethical practices in order to continue their career. This is called "chayote, embute or peine" (traditionally cash was handed over in a brown envelope) and implies "turning a blind eye to negative reports" often relating to the government or powerful businesses.[133] Moreover, a large number of media organisations are owned by businessmen, and information is often seen as a commodity to be traded.[134]

Not only do low wages discourage investigative work, but also the risks attached to the profession. It is not uncommon for journalists to be assassinated as a result of their work. As of 2020, Mexico ranks 6th on the Global Impunity Index of the Committee to Protect Journalists, a rank just below open war zones.[135] Any media reform would therefore need to take into account the lack of security provided to journalists by both media organisations or the government.[136]

In addition, Mexico lacks proper legislation and regulations that would force media outlets to be more transparent. Almost all media outlets in Mexico receive and require government support. While public funding is not uncommon, media companies are often opaque about how much funding they receive. While at a federal level there is an official website about this funding, millions of pesos are still unaccounted for.[137] To address this lack of independence and transparency, this paper urges the federal government to ensure greater oversight over the distribution of funds to media companies. This paper also recommends that the federal government enforces pre-existing laws that regulate private businesses that own media outlets from using these outlets to sell information for favours.[138]

Alongside more transparency in the funding of media outlets, the federal government should encourage and promote the professionalisation of the media. Self-regulation should be promoted

---

[129] Mungiu-Pippidi, A. et al. 2011. Contextual Choices in Fighting Corruption: Lessons Learned, NORAD. http://www.againstcorruption.eu/reports/contextual-choicesin-fighting-corruption-lessons-learned/
[130] Elva Narcia, 'Mexico: Journalism in the Crosshairs of Politics and Corruption', in *Untold Stories: How Corruption and Conflicts of Interest Stalk the Newsroom*, ed. Adam White (London, UK: Ethical Journalism Network, 2016), 41.
[131] Ríos and Wood, 3.
[132] Narcia, 43.
[133] Narcia, 43.
[134] Narcia, 42.
[135] https://rsf.org/en/news/mexico-setbacks-freedom-expression-2020 [accessed 29 November 2020]
[136] Narcia, 42.
[137] Narcia, 42.
[138] Narcia, 46.

in the newsroom, as well as ethical values amongst media managers and media owners who often receive millions in bribes.[139] Journalists should be equipped with knowledge on ethical guidelines and receive training on how to act as watchdogs to expose rather than perpetuate illegal practices.[140] Moreover, journalistic integrity should be promoted, in particular investigative journalism without fearing for life.

iv. Strengthening Civil Society

Alongside a critical media, a strong civil society is vital for democratic legitimacy. Civil society organisations can act as whistle-blowers, holding governments to account and giving citizens a voice to express discontent. While previous government administrations financially supported civil society organisations, current President López Obrador has announced the decision to cancel all funding for civil society organisations and to reduce tax incentives for private companies to make donations. This paper recommends that the funds from the Merída Initiative that are directed to supporting civil society should be revised and increased to support the current deficit.

v. Alternative Development

The UNODC defines alternative development as an "approach aimed at reducing the vulnerabilities that lead to involvement in illicit crop cultivation," with the ultimate objective being the elimination of such cultivation.[141] As figure one shows, alternative development acts as a catalyst, a means of taking the vicious cycle associated with illicit production and breaking it in favour of a virtuous cycle, which deals with poverty, addresses the rule of law, and increases investment in legitimate economic sectors. This ties to the importance of effective policy-making and judicial resilience in the face of organised crime, illicit drug production, and violence.

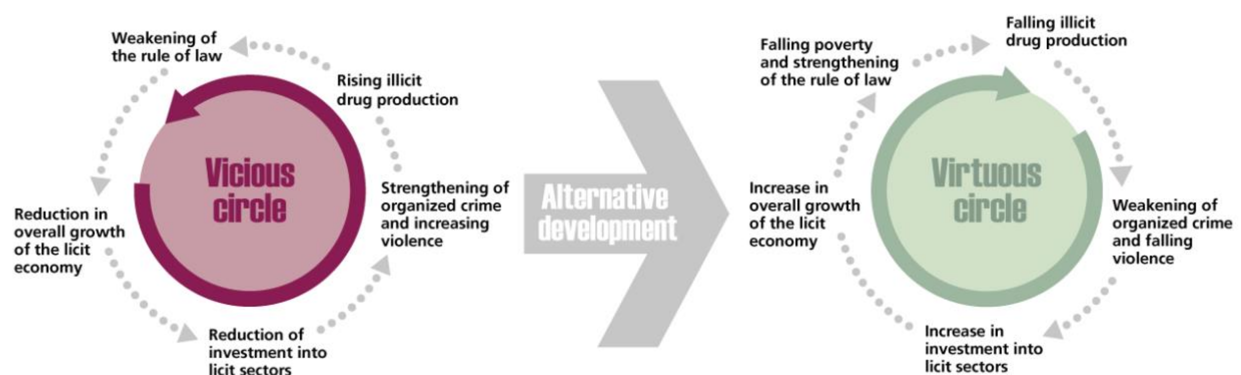

Figure one
Image Source: UNODC, 2015

Mexican administrations have only focused on adopting alternative livelihoods and promoting alternative development schemes at a superficial level.[142] As a result, rural development efforts

[139] Narcia, 44.
[140] Narcia, 46.
[141] UNODC, 2015 https://www.unodc.org/wdr2015/en/alternative-development.html
[142] Felbab-Brown, Vanda. "Poppy, eradication, and alternative livelihoods in Mexico." Brookings, August 18, 2020. https://www.brookings.edu/blog/order-from-chaos/2020/08/18/poppy-eradication-and-alternative-livelihoods-in-mexico/

have been sporadic and ineffective in truly gauging the realities people face and the factors that push them towards illicit drug crop cultivation. Even alternative development initiatives and incentives by the Mexican government have ended up being top-down and ineffective.[143] Attempts at crop substitution, investment in licit sectors (ie. logging, fishing), and tourism incentives have failed in marginalised regions like Nayarit and Guerrero.[144]

Without truly addressing the structural drivers of illicit crop cultivation (including poverty, weak statehood, armed conflict, lack of infrastructure or access to productive means, as defined by the German Federal Ministry for Economic Cooperation and Development), alternative livelihoods cannot become the basis for systemic change.[145] Therefore, recommendations should both provide an intensive, consolidative long-term plan.

Case study: Thailand

Thailand is a rare success story of alternative development, and by looking at Thailand solutions can be provided for Mexico. Since the 1970s, the Thai state has managed a comprehensive and well-funded rural development scheme, one that bolstered economic growth and industrialisation.[146] Consequently, this pushed more people to seek employment outside of drug-centric regions and actually enjoy the long-term economic benefits of social change. Cultivation of opium poppy fell from 17,920 hectares in 1966 to just 209 hectares in 2012.[147]

This case shows that for alternative development to work in the long-term, the factors driving illicit economies must be addressed. Mexico, therefore, must embrace and prepare for a lengthy process of alternative development. Alternative livelihoods cannot simply be understood as crop substitution, but a holistic process that involves ending conflict, providing socioeconomic resources, shifting populations towards legal and licit employment, and implementing effective reforms. Mexico can also turn to interdiction as a primary means of suppressing the flow of illicit crops and substances, but even this, in the Mexican case, needs to be refined and reformed.

Pursuing crop substitution alongside other alternative livelihood pathways

Crop substitution is a popular strategy among countries seeking to introduce alternative livelihoods. However, even in countries where crop substitution was implemented, success was

---

[143]"The US Fentanyl Boom and the Mexica Opium Crisis: Finding Opportunities Amidst Violence?" Building Resilient Communities in Mexico: Civic Responses to Crime and Violence, The Wilson Centre. February 2019, p. 27.
https://www.wilsoncenter.org/sites/default/files/media/documents/publication/the_u.s._fentanyl_boom_and_the_mexican_opium_crisis.pdf

[144] The US Fentanyl Boom and the Mexica Opium Crisis: Finding Opportunities Amidst Violence?" Building Resilient Communities in Mexico: Civic Responses to Crime and Violence, The Wilson Centre. February 2019, p. 27.
https://www.wilsoncenter.org/sites/default/files/media/documents/publication/the_u.s._fentanyl_boom_and_the_mexican_opium_crisis.pdf

[145] BMZ. 2012. Orientierungsrahmen zur nationalen und internationalen Drogenpolitik, Herausgeber Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH, Bonn. (Drug Policy Commissioner of the Federal Government, 2012).

[146] Felbab-Brown, Vanda. "Improving Supply-Side Policies: Smarter Eradication, Interdiction and Alternative Livelihoods- and the Possibility of Licensing." Brookings. May 6, 2014.
https://www.brookings.edu/research/improving-supply-side-policies-smarter-eradication-interdiction-and-alternative-livelihoods-and-the-possibility-of-licensing/#_edn12

[147] UNODC, *Southeast Asia: Opium Survey 2012*, December 2008, 5.

deterred due to the greater value of illicit drug crops (which became even more valuable with crop substitution).[148] In 2016, the Colombian government similarly tried to bring in coca-substitution measures, but this caused coca production to skyrocket because farmers still earned far more from coca than other crops.[149] Given the limited success, this paper recommends combining alternative development pathways within a holistic process with legalising cannabis and regulating the market around it, suggestions which will be discussed in more detail below.

Alongside legalising illicit drugs, the prices of seeds should be subsidised (which has been done unsuccessfully in Mexico), and the economic viability of licit crops should be raised. This could be achieved by state investment in agriculture, tools, machinery, and marketing, which would give farmers a plausible and consistent means to achieve livelihood. As a result of these combined measures, farmers would be able to access a more equal set of income opportunities between legalized drug production and alternative crops.

Crop substitution as well as combined legalization and regulation of drug production should not be the only options for alternative livelihoods in Mexico. The viability of crop substitution should be considered in the context of the geographical and ecological conditions of the region in question.[150] This would ideally be one of many measures to provide Mexicans with alternative livelihoods, since employment in licit and legitimate industries need to be plentiful and stable in order to incentivise people to make a clean break from illicit crop cultivation. Apart from cultivating the agricultural industry via crop substitution and regulation, growth in other industries should also be encouraged.

While private business and corporations are the key to the expansion of industries and the creation of jobs, regional governments and officials have an important role to play in the process too. To avoid encroachment by transnationals in these regions (as has happened in other mineral or crop-rich areas such as Peru and Canada), there needs to be an accountable regional administration and a local population that's engaged. Corporations may choose to expand sectors that are profitable but not productivity-intensive, so it is important for the state to take leadership if it would like private businesses to play a role in serving its policy agenda. The state should incentivise businesses industries that generate durable jobs and encourage human capital development. This should not be seen as a corporate handout, but rather state-facilitated job creation that has a positive impact on the future arrangements of local populations.

---

[148] The US Fentanyl Boom and the Mexica Opium Crisis: Finding Opportunities Amidst Violence?" Building Resilient Communities in Mexico: Civic Responses to Crime and Violence, The Wilson Centre. February 2019, p. 27. https://www.wilsoncenter.org/sites/default/files/media/documents/publication/the_u.s._fentanyl_boom_and_the_mexican_opium_crisis.pdf

[149] The US Fentanyl Boom and the Mexica Opium Crisis: Finding Opportunities Amidst Violence?" Building Resilient Communities in Mexico: Civic Responses to Crime and Violence, The Wilson Centre. February 2019, p. 28. https://www.wilsoncenter.org/sites/default/files/media/documents/publication/the_u.s._fentanyl_boom_and_the_mexican_opium_crisis.pdf

[150] Felbab-Brown, Vanda. "Improving Supply-Side Policies: Smarter Eradication, Interdiction and Alternative Livelihoods- and the Possibility of Licensing." Brookings. May 6, 2014. https://www.brookings.edu/research/improving-supply-side-policies-smarter-eradication-interdiction-and-alternative-livelihoods-and-the-possibility-of-licensing/#_edn12

Increased state presence

The previous section has already alluded to the centrality of an integrated state presence, but its importance goes beyond its role in determining the policy. The success of state presence determines the success of the policy.

Many of the communities in question face the realities of poverty, violence, and a lack of access to necessary social support. These marginalised communities are indicative of the uneven distribution of political and economic power in Mexico. The most recent administration, that of López Obrador, has sought to improve agricultural support measures, including introducing a food security programme and providing price support for licit crops (ie. setting the corn price at $300 USD/tonne).[151] Critics argue that this is nowhere near what Mexican farmers need to escape the vicious cycle, and as mentioned profit alone does not inform the decisions of farming communities in rural Mexico. For any measure of alternative livelihood to succeed, state and federal governments therefore have to enable access to land, infrastructure, social support, and microcredit/microfinancing opportunities,.[152]

State and federal governments also need to ensure there is adequate local public security, and that law enforcement is trustworthy so that farmers can benefit from any new programmes.

Intensive social change

For any attempt to create alternative livelihoods to succeed, social change and judicial reform must have occurred, or at least be under way. Social change through a combined approach of judicial and media reform and the strengthening of civil society would provide the necessary conditions for a viable alternative livelihood: it would allow civilians to trust the government's leadership and therefore encourage them to take up state-led alternative livelihood initiatives, and would also enable effective policy enforcement. As a result of these requisites, alternative livelihood is an inherently long-term project.

Alternative livelihoods have often attracted criticism because it is often seen as a policy which acts counter to eradication policies. In fact, alternative livelihood efforts should be seen as the enabling condition for eradication to take place successfully. Eradication is only useful if it is "well-crafted, used judiciously, and crucially, properly sequenced with other measures."[153] Repressive measures taken by the state will not convince the population to move away from illicit crop cultivation. Premature eradication, especially when no alternative has been presented and accepted, will be counterproductive and lead to deteriorating relations with the farmers that rely on the state.[154] Eradication, if used, seems to work best when alternative

---

[151] Felbab-Brown, Vanda. "Poppy, eradication, and alternative livelihoods in Mexico." Brookings, August 18, 2020. https://www.brookings.edu/blog/order-from-chaos/2020/08/18/poppy-eradication-and-alternative-livelihoods-in-mexico/

[152] Felbab-Brown, Vanda. "Poppy, eradication, and alternative livelihoods in Mexico." Brookings, August 18, 2020. https://www.brookings.edu/blog/order-from-chaos/2020/08/18/poppy-eradication-and-alternative-livelihoods-in-mexico/

[153] Felbab-Brown, Vanda. "Improving Supply-Side Policies: Smarter Eradication, Interdiction and Alternative Livelihoods- and the Possibility of Licensing." Brookings. May 6, 2014. https://www.brookings.edu/research/improving-supply-side-policies-smarter-eradication-interdiction-and-alternative-livelihoods-and-the-possibility-of-licensing/#_edn12

[154] Felbab-Brown, Vanda. "Improving Supply-Side Policies: Smarter Eradication, Interdiction and Alternative Livelihoods- and the Possibility of Licensing." Brookings. May 6, 2014. https://www.brookings.edu/research/improving-supply-side-policies-smarter-eradication-interdiction-and-alternative-livelihoods-and-the-possibility-of-licensing/#_edn12

livelihood efforts have become viable and sufficient for illicit crop farmers to depend upon. In this case, interdiction, which does not affect the population, could be used to target drug-related organised crime instead of marginalised communities.

Illicit drugs regulation

As long as illicit crops exist, they will always be more profitable to farmers than legal crop substitutes, even if seeds are subsidised. Therefore, any alternative development plan needs to be combined with drug regulation, more specifically the legalisation of cannabis. The Mexican government is currently in the process of drafting a law that would legalise the recreational use of cannabis and allow regulated private companies to sell the drug.[155] Legalising the cultivation of cannabis would be a huge milestone in the fight to address Mexican farmers' reliance on the crop and would provide farmers with a more stable livelihood by eliminating their dependence on organised crime groups to purchase their crops.

IV. US-MEXICO COOPERATION

There is significant and extensive cooperation between the US and Mexico in the War on Drugs. The most significant framework for US-Mexico security and intelligence cooperation is the Mérida Initiative (2008), which has since transformed into Beyond Mérida (2011). These initiatives aim to increase bilateral and regional cooperation between the two countries in the fields of security and counter-narcotic operations, namely through intelligence sharing, training and technical assistance. Since 2008, Mexico has received approximately $1.6 billion in assistance from these initiatives.[156] The US claims that at least 20 high-profile cartel leaders have been captured or killed as a result of this intelligence sharing.[157]

IV.I. THE LIMITED SUCCESS OF MÉRIDA AND BEYOND MÉRIDA

However, it remains uncertain whether these cooperation initiatives have been effective.
As this paper has detailed, the number of DTO-linked homicides is going up, not down. Since the strategic focus of existing cooperation initiatives is on 'cartel kingpins', the Mérida Initiative and subsequent iterations have contributed to the disruption and fragmentation of cartels, leading to further rivalry and violence.[158] In response, Mexican administrations have mounted heavily militarised operations that contribute to further violence, not less.[159] In all, it is clear that

---

155

https://www.bbc.com/news/world-latin-america-55015508
https://www.economist.com/the-americas/2020/11/21/mexico-may-become-the-third-country-to-legalise-cannabis
https://www.washingtonpost.com/gdpr-consent/?next_url=https%3a%2f%2fwww.washingtonpost.com%2fworld%2fthe_americas%2fmexico-marijuana-legalize%2f2020%2f11%2f07%2f27a5fa6c-1925-11eb-82db-60b15c874105_story.html
https://mexiconewsdaily.com/news/senate-leader-expects-marijuana-law-to-be-passed-in-december/
[accessed 29 Nov 2020]

156 Congressional Research Service, 'U.S.-Mexican Security Cooperation: The Mérida Initative and Beyond', *June 2017*, p. 1. Available at https://fas.org/sgp/crs/row/R41349.pdf.
157 Sebag, C. 'The War on Drugs: U.S.-Mexico Intelligence Cooperation', (*Leidensecurityandglobalaffairsblog*, 2018). Available at https://leidensecurityandglobalaffairs.nl/articles/the-war-on-drugs-u-s-mexico-intelligence-cooperation. [Accessed 11 October 2020]
158 Ibid.
159 Flannery, N. P. 'Calderòn's war', *Journal of International Affairs,* 2013, Vol. 66., No. 2, p. 186

existing cooperation arrangements have not contributed to a decline in violence, or a drop in the volume of drugs trafficked across the border.

This ever-increasing violence has also resulted in increasing resistance from the Mexican administration to bilateral cooperation. Peña Nieto's Administration was determined to solve Mexico's internal, domestic criminality as opposed to looking to solve international drug-related trafficking. This was a transition away from appeasing US Congress or American enforcement agencies like the DEA, towards focusing on Mexico's internal security and vulnerable public.[160] This resolute position taken by the Peña Nieto Administration early in its governing timeframe indicated its belief that Mexican lives should not be paid at the expense of American mandates, and that US agencies should stick to managing their own border instead of interfering in Mexico.[161] Peña Nieto also insisted that no armed American agents would be able to operate in Mexico, and that American surveillance drones and technology were only acceptable so far as they were controlled and received consent from Mexican agencies.[162] US agencies were welcome to train their Mexican police and military counterparts. This strategy was supported by 75 percent of Mexicans.[163]

Peña Nieto's successor, Andrés Manuel López Obrador, has since called for an end to the Mérida Initiative, stating that the arrangement should reorient itself towards development in Mexico and Central America instead of security. This would essentially be a Central American "Marshall Plan" to provide development aid instead of continuing the War on Drugs south of the US border.[164] The current arrangement faces a multitude of jurisdictional issues, including accusations that it infringes upon Mexican sovereignty and autonomy.

IV.II. RECOMMENDATIONS TO DEVISE A MODEL OF BILATERAL COOPERATION THAT MEETS THE NEEDS OF BOTH NATIONS, AND CAPITALISES ON THEIR RESPECTIVE STREGNTHS

The specific recommendations put forward below are intended to complement the broader argument we have laid out in this paper. This is that drug trafficking and DTO-linked criminal landscape are shaped by an intricate and interconnected set of dynamics, and so the War on Drugs cannot be reduced to a 'supply' or 'demand'-side policy issue. The US and Mexico must recognise that their security and economic interests are interdependent, and that it is in both their interests to reduce DTO-linked violence on one side of the border, and the demand for drugs on the other.

i. Reducing corruption in joint task forces

[160] Boullosa C, and Wallace M, *A Narco History: How The United States And Mexico Jointly Created The "Mexican Drug War"* (OR Books 2015) p.151

[161] Boullosa C, and Wallace M, *A Narco History: How The United States And Mexico Jointly Created The "Mexican Drug War"* (OR Books 2015) p. 151

[162] Boullosa C, and Wallace M, *A Narco History: How The United States And Mexico Jointly Created The "Mexican Drug War"* (OR Books 2015) p. 152

[163] Boullosa C, and Wallace M, *A Narco History: How The United States And Mexico Jointly Created The "Mexican Drug War"* (OR Books 2015) p. 152

[164] Krauze L, "Mexico wants to scrap the Mérida Initiative. That would be a terrible mistake." (The Washington Post, May 17, 2019) <https://www.washingtonpost.com/opinions/2019/05/17/mexico-wants-scrap-mrida-initiative-that-would-be-terrible-mistake> accessed July 17, 2020

The corruption of Mexican law enforcement represents a barrier to effective joint operations in Mexico. The most revelatory example of this was the outcome of a recent investigation carried out by ProPublica and National Geographic.[165] This revealed that an attack against a small Mexican town carried out by the Zetas cartel in 2017 was the result of leaked intelligence.[166] The DEA had shared intelligence with corrupt Mexican federal police officers, who later shared it with members of the Zetas.

To forestall future incidences like this, all officials involved in joint US-Mexico task forces should be subject to thorough vetting, with a view to generating a database of law enforcement officials and their background, connections and relationships. Mexico should, with US support, develop stringent procedures requiring that all of its law enforcement, intelligence, justice, and military officials be vetted at least once in their careers, at the time of recruitment or recertification, and ideally be subject to the possibility of random background checks at any point.[167]

The United States should insist that any Mexican official involved in a joint operation should have recently passed a background check. A failure to do so should lead to the suspension of funding and support. Any overriding of such operating procedures should only take place through a special top-level commission involving senior officials of the US Departments of Justice, including the DEA and FBI, Homeland Security, and State. US members of the task forces should be equally willing to subject themselves to checks by their Mexican counterparts, to ensure that bilateral cooperation efforts between the two countries remain cordial.

ii. Disrupting the supply of fentanyl

Disrupting the supply of heroin and fentanyl ought to be a key strategic priority in combating the opioid crisis. Mexico is the principal producer of heroin in the Americas. However, in 2016, the amount of heroin seized in North America decreased by about 25 percent, amid the growth of synthetic opioids like fentanyl and its synthetic analogs.[168] Fentanyl, as has been pointed out, is highly dangerous.[169] It caused 36,500 of the 71,000 overdose deaths in the United States in 2019.[170]

Mexico should prioritize disrupting fentanyl flows that enter the United States through Mexican territory by land, air, and sea. Mexico can achieve this by improving port security at the border, as well as maritime ports that handle substantial volumes of commerce with Asia such as

---

[165] Thompson, G. 'How the U.S. Triggered a Massacre in Mexico'(*ProPublica & National Geographic, 2017*). Available at https://www.propublica.org/article/allende-zetas-cartel-massacre-and-the-us-dea. [Accessed 11 October 2020]
[166] Sebag, C. 'The War on Drugs: U.S.-Mexico Intelligence Cooperation', (*Leidensecurityandglobalaffairsblog*, 2018). Available at https://leidensecurityandglobalaffairs.nl/articles/the-war-on-drugs-u-s-mexico-intelligence-cooperation. [Accessed 11 October 2020]
[167] U.S.-Mexico Security Cooperation Task Force, *US-Mexico Security Cooperation 2018-2024* [White paper], (*UC San Diego,* 2018), p. 18. Available at https://usmex.ucsd.edu/_files/Whitepaper_Security_Taskforce_March_26_Covers.pdf
[168] Ibid. p. 7
[169] United Department of State, *International Narcotics Control Strategy Report*, Vol. 1, March 2019, p. 48. Retrieved from https://www.state.gov/wp-content/uploads/2019/04/INCSR-Vol-INCSR-Vol.-I-1.pdf
[170] 'Bleak new record as 71,000 Americans died from drug overdoses last year', *The Guardian, July 2020.* Available at https://www.theguardian.com/us-news/2020/jul/15/drugs-opioids-americans-overdoses. [Accessed 11 October 2020]

Lázaro Cárdenas and Manzanillo.[171] This is because the majority of fentanyl production still takes place in China and India.[172] The Mérida Initiative could also aid Mexico by funding new sensors and scanning technologies for Mexican authorities to use at its land borders and seaports.

V. INTERNATIONAL DRUG TREATIES

The success of American and Mexico drug policy is also affected, to a large extent, by the international drug treaties they are party to. This section of the paper attempts to provide an overview of the limitations international drug conventions have placed on the United States and on Mexico, and suggests a pathway to reform.

V.I. AIMS OF INTERNATIONAL DRUG TREATIES

The general objective of international drug treaties is to establish and consolidate applicable control mechanisms with the aim of making psychoactive substances available for scientific and medical purposes, but preventing them from being diverted into illegal channels.
The three primary UN drug control conventions are the Single Convention on Narcotic Drugs 1961, the Convention on Psychotropic Substances 1971, and the Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988.

i. The Single Convention on Narcotic Drugs 1961

The Single Convention on Narcotic Drugs 1961, amended by the 1972 Protocol, aims to fulfil the United States' intention for a single convention to govern the global stance on drugs, i.e. to replace the existing, unsystematic patchwork of agreements and commissions. Accordingly, despite being a multilateral endeavour, the 1961 Convention is largely reflective of the American prohibitionist approach.[173]

The Single Convention on Narcotic Drugs classifies controlled substances in Schedules, according to their therapeutic value and their risk of abuse:[174]

Schedule	Content	Examples
Schedule I	Highly addictive substances that are liable to abuse, and precursors that can be converted into highly addictive substances.	Cannabis, cocaine, oxycodone
Schedule II	Substances that are less addictive and subject to abuse.	Codeine

[171] U.S.-Mexico Security Cooperation Task Force, *US-Mexico Security Cooperation 2018-2024* [White paper], (*UC San Diego,* 2018), p. 16. Available at https://usmex.ucsd.edu/_files/Whitepaper_Security_Taskforce_March_26_Covers.pdf
[172] Felbab-Brown, V. 'Fentanyl and geopolitics: controlling opioid supply from China', (*Brookings, 2020*), p. 7
[173] Martin Jelsma and David Bewley-Taylor, 'Drugs and Crime' (*The Oxford Handbook of United Nations Treaties*, 26 June 2019) <https://www.oxfordhandbooks.com/view/10.1093/law/9780190947842.001.0001/law-9780190947842-chapter-16> accessed 11 January 2021.
[174] 'The UN Drug Control Conventions' (*Transnational Institute*, 8 October 2015) <https://www.tni.org/en/publication/the-un-drug-control-conventions> accessed 24 August 2020.

Schedule III	Preparations with low amounts of narcotic drugs that are unlikely to be abused and are exempted from the restrictive measures.	A mixture with less than 0.1% cocaine
Schedule IV	Drugs in Schedule I with little or no therapeutic value.	Heroin, (until recently: cannabis)

Furthermore, the 1961 Convention provides for measures to control the cultivation of plants from which narcotics can be produced. Articles 23, 26, and 28 require states to create a governmental agency to monitor and control the cultivation of opium poppies, coca leaves, and cannabis (respectively) for medication.[175]

ii. The Convention on Psychotropic Substances 1971

The Convention on Psychotropic Substances responds to the diversification of drug use and to the creation of new psychoactive drugs, including amphetamines and psychedelic drugs. With the exception of Schedule I, this convention is much less rigid than that of 1961.[176]
The 1971 Convention also classifies substances into Schedules:[177]

Schedule	Content	Examples
Schedule I	Drugs with a high risk of abuse which pose a particularly serious threat to public health with little or no therapeutic value.	LSD, MDMA
Schedule II	Drugs with a high risk of abuse which pose a particularly serious threat to public health with moderate therapeutic value.	Amphetamines
Schedule III	Drugs with a risk of abuse which pose a serious threat to public health but have a high therapeutic value.	Barbiturates, buprenorphine
Schedule IV	Drugs with a risk of abuse which pose a minor threat to public health with a high therapeutic value.	Tranquilizers, diazepam

iii. The Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988

The 1988 Convention implemented more repressive measures in response to the increase in global drug use. It focused on the multi-billion-dollar drug trafficking networks controlled by criminal organisations. In 1971, the US had initiated its War on Drugs and attempted to quell the supply of drugs from abroad, targeting countries like Mexico and Colombia with eradication measures implemented by US Special Forces. Thus, this Convention primarily focused on achieving the United States' aim: to reduce its domestic drug-related deaths. Other

[175] ibid.
[176] Jelsma and Bewley-Taylor (n 162).
[177] ibid.

targets, such as decreasing drug-related violence in producer and trafficker countries, took a back seat.[178]

The 1988 Convention listed "precursor chemicals, reagents, and solvents" that are often used in the manufacturing of illegal substances. These chemicals are organised into two tables: Table I contains the precursors of psychotropic substances and some key reagents, while Table II deals with a wide range of reagents and solvents that can be used in the manufacturing of illegal substances, but that can also be used for licit industrial purposes. Furthermore, the Convention reinforces the obligations of states to establish criminal offences to counter all facets of illegal production, possession, and trafficking.[179]

V.II. CONFLICTING ORGANISATIONS

The lack of coherence between the various drug and health organisations impacts the effectiveness of treaty implementation. There are three key UN bodies which have been assigned roles per the conventions: the Commission on Narcotic Drugs (CND), the International Narcotics Control Board (INCB), and the World Health Organisation (WHO).

CND

The CND is a multilateral forum created in 1946 by the Economic and Social Council, which has a legislative and policy-making body including 53 States. The CND assists the Council and advises on matters pertaining to the control of narcotic drugs, psychotropic substances, and precursor agents. The international conventions assign the CND important normative functions which include the authority to deal with the objective and enforcement of the conventions.[180] The CND is the treaty enforcement body per the 1961 SC and the 1971 Convention. It works with WHO recommendations to add or remove drugs from the controlled substances. Per the 1988 Convention, the CND also follows INCB to decide upon precursor chemicals and agents.[181]

The CND is a largely political commission and lacks the expertise to determine the practicality and effectiveness of the practices to be adopted by countries. State governments are represented in negotiations but do not always have the necessary experience or knowledge on drug policy issues.[182] Additionally, CND decisions are taken and adopted by consensus, which makes the decision-making process slow and unalterable (to cater to the needs of various States), and leads to decisions being the product of the "lowest common denominator."[183]

---

[178] ibid.
[179] ibid.
[180] Armenta, A. and Jelsma, M., 2015. *The UN Drug Control Conventions - A Primer*. [online] Idpc.net. Available at: <https://idpc.net/publications/2015/10/the-un-drug-control-conventions-a-primer> [Accessed 1 September 2020].
[181] Armenta, A. and Jelsma, M., 2015. *The UN Drug Control Conventions - A Primer*. [online] Idpc.net. Available at: <https://idpc.net/publications/2015/10/the-un-drug-control-conventions-a-primer> [Accessed 1 September 2020].
[182] Armenta, A. and Jelsma, M., 2015. *The UN Drug Control Conventions - A Primer*. [online] Idpc.net. Available at: <https://idpc.net/publications/2015/10/the-un-drug-control-conventions-a-primer> [Accessed 1 September 2020].
[183] Armenta, A. and Jelsma, M., 2015. *The UN Drug Control Conventions - A Primer*. [online] Idpc.net. Available at: <https://idpc.net/publications/2015/10/the-un-drug-control-conventions-a-primer> [Accessed 1 September 2020].

Another criticism of the CND is that its work is political (and politicised) and heavily bureaucratic. Debates are often pre-prepared statements instead of being useful, forward minded, and novel. The CND is also criticised for its lack of involvement with other related agencies and entities (ie. WHO, UN Development Programme, the Human Rights Council, etc). The civil society and community engagement aspect is still insufficient according to critics.[184]

INCB

The INCB is an independent and quasi-judicial monitoring body which was established per the 1961 SC. It ensures that the international drug control conventions are implemented. The INCB deals with the control and regulation of licit manufacturing of, trade in, and use of drugs.[185] It works with governments to ensure that drugs are used for licit purposes and monitors their control over chemicals that can be used in illicit manufacturing of drugs. The INCB also tries to improve the controls over illicit manufacturing of, trafficking of, and use of drugs. It identifies weaknesses in national and international mechanisms and helps with providing solutions. The INCB determines whether chemicals used for illicit manufacturing should be placed under international control.[186]

Critics argue that the INCB has taken a more political role since its inception. This is especially manifested in its strict interpretation of drug control conventions and the passing of judgements on sovereign states who do not comply to the Convention. Critics argue that the INCB has exceeded its role as a monitoring body by making comments on national government matters and purviews on UN conventions.[187]

A major indication of this is the INCB's treatment of a 1992 report done by Bolivia and Peru for the purpose of re-evaluating the coca leaf. The INCB has since remained against this idea and has stated outright that such an objective is fundamentally against the spirit of the Conventions, even if a denunciation is technically permitted by the conventions.[188] A similar example is exemplified in the INCB's response to Uruguay's proposal to regulate cannabis. Essentially, the INCB has been criticised for its rigid and strict reinforcement of the UN conventions, and while it has no authority to do so, has even questioned WHO recommendations on the reclassification of drugs such as khat. Again in 2010, the INCB overstepped its authority by recommending governments to consider controlling specific plants,

[184] Armenta, A. and Jelsma, M., 2015. *The UN Drug Control Conventions - A Primer*. [online] Idpc.net. Available at: <https://idpc.net/publications/2015/10/the-un-drug-control-conventions-a-primer> [Accessed 1 September 2020].
[185] Armenta, A. and Jelsma, M., 2015. *The UN Drug Control Conventions - A Primer*. [online] Idpc.net. Available at: <https://idpc.net/publications/2015/10/the-un-drug-control-conventions-a-primer> [Accessed 1 September 2020].
[186] Armenta, A. and Jelsma, M., 2015. *The UN Drug Control Conventions - A Primer*. [online] Idpc.net. Available at: <https://idpc.net/publications/2015/10/the-un-drug-control-conventions-a-primer> [Accessed 1 September 2020].
[187] Armenta, A. and Jelsma, M., 2015. *The UN Drug Control Conventions - A Primer*. [online] Idpc.net. Available at: <https://idpc.net/publications/2015/10/the-un-drug-control-conventions-a-primer> [Accessed 1 September 2020].
[188] Armenta, A. and Jelsma, M., 2015. *The UN Drug Control Conventions - A Primer*. [online] Idpc.net. Available at: <https://idpc.net/publications/2015/10/the-un-drug-control-conventions-a-primer> [Accessed 1 September 2020].

even without the WHO's approval (the WHO has been entrusted this mandate by the UN, not the INCB).[189]

Another major concern with the INCB is its propensity to go beyond its mandate in treaty reformation.[190] The INCB is a product of the conventions. If it is neither a guardian nor removed from the functionality and purpose of the treaties, how can it truly exercise impartiality in debates where the conventions are questioned?

WHO

The WHO assesses the medicinal properties of a substance from a public health perspective and determines if a substance should be controlled and how, based on evidence and research. The WHO takes into consideration the medical use and benefits of particular substances in correlation to the potentially illicit and detrimental effects. [191] Per the 1961 and 1971 Conventions, the WHO assists the CND in classifying substances.
Critics argue that the international system meant to classify drugs within the scope of the drug conventions needs in-depth critical review[192]. Given the WHO's fundamental role in the scientific classification of drugs, this is of great importance. Some argue that the WHO needs to take a more interdisciplinary scientific approach to developing evidence-based scheduling criteria[193]. The recommendations given by the WHO to entities like the CND are ultimately voted on, which subjects these recommendations to political influences instead of rational and practical considerations.[194] Others have cited reclassification based on a less Western-centric approach, especially given the cultural importance or herbal values of drug cultivation and use across the world[195].

V.III. THE RIGIDITY OF EXISTING CONVENTIONS

[189] Armenta, A. and Jelsma, M., 2015. *The UN Drug Control Conventions - A Primer*. [online] Idpc.net. Available at: <https://idpc.net/publications/2015/10/the-un-drug-control-conventions-a-primer> [Accessed 1 September 2020].
[190] Armenta, A. and Jelsma, M., 2015. *The UN Drug Control Conventions - A Primer*. [online] Idpc.net. Available at: <https://idpc.net/publications/2015/10/the-un-drug-control-conventions-a-primer> [Accessed 1 September 2020].
[191] Armenta, A. and Jelsma, M., 2015. *The UN Drug Control Conventions - A Primer*. [online] Idpc.net. Available at: <https://idpc.net/publications/2015/10/the-un-drug-control-conventions-a-primer> [Accessed 1 September 2020].
[192] McVeigh K, 'Illegal Drug Classifications Are Based On Politics Not Science – Report' (*The Guardian*, 2019) <https://www.theguardian.com/global-development/2019/jun/26/illegal-drugs-classifications-based-on-politics-not-science-cannabis-report-says> accessed 1 September 2020
[193] 'Classification Of Psychoactive Substances- When Science Was Left Behind' (*Global Commission on Drug Policy*, 2019) <https://www.globalcommissionondrugs.org/wp-content/uploads/2019/06/2019-Report-Press-Kit-ENG.pdf> accessed 1 September 2020
[194] McVeigh K, 'Illegal Drug Classifications Are Based On Politics Not Science – Report' (*The Guardian*, 2019) <https://www.theguardian.com/global-development/2019/jun/26/illegal-drugs-classifications-based-on-politics-not-science-cannabis-report-says> accessed 1 September 2020
[195] McVeigh K, 'Illegal Drug Classifications Are Based On Politics Not Science – Report' (*The Guardian*, 2019) <https://www.theguardian.com/global-development/2019/jun/26/illegal-drugs-classifications-based-on-politics-not-science-cannabis-report-says> accessed 1 September 2020

One of the main issues with these conventions is that they outline a very universal arrangement that seeks conformity, essentially a 'one size fits all' plan.[196] This arrangement is ill-suited to current dynamics of drug policy. In the first place, it obscures the complex history of prohibitionist policies, which emerged in East and Southeast Asian States before being advocated by the United States. In this sense, the US did not introduce prohibition but it did globalise its prohibitionist policies and counter-narcotic measures.[197] Moreover, the rigid prohibitionist approach which originated from the United States in the post-war period may not reflect the changing patterns of drug cultivation and use across the world.

V.IV. THE FAILURE OF EXISTING CONVENTIONS TO KEEP UP WITH CHANGES

Many aspects of the conventions could be seen as outdated and in need of serious reform. With the last major convention taking place in 1988, it is plausible to suggest that the world has continued to globalise and geopolitics have shifted the international arena. New research and evidence have appeared, and there is increasing recognition of the need to consider human rights. New drugs have also appeared on the scene since the last convention, posing new challenges which the existing conventions cannot account for.

The conventions have extended and expanded over the course of several decades, in keeping with the international situation of drug cultivation, consumption, and later trafficking. The text of the original 1961 Convention has been amended (most significantly with the 1972 Protocol). Other international treaty regimes have monitoring bodies and evaluation mechanisms to review problems and revise their conventions as necessary. While hypothetical talks of revising the drug control conventions used to be considered political suicide, since 2005, the established consensus has broken down.[198] This was triggered by the regulation of cannabis in some member States like Uruguay as well as the domestic regulation of cannabis in some American states like Washington or Alaska. This has acted as a sort of icebreaker and indicates a potential shift away from the prohibitionist regulations of the conventions and monitoring bodies.[199]

The inflexibility of conventions has been a source of inefficiency, both in its inability to successfully limit the use of controlled substances to licit medical purposes and because the result of unequal experimentation and development of internal policies at the national level. This leads to significant discrepancies in drug policies both within and between different countries. The rigidity of the conventions is so inconsistent with the priorities of some States, that some have chosen to introduce their own reforms on a national level to deal with domestic drug issues, even though doing so flouts the terms of the conventions and has attracted the ire of supporters of the treaty system. Some countries have opted for 'soft defection' from prohibitive norms; parts of Europe, Canada, and Australia have adopted either harm-reduction

---

[196] Armenta, A. and Jelsma, M., 2015. *The UN Drug Control Conventions - A Primer*. [online] Idpc.net. Available at: <https://idpc.net/publications/2015/10/the-un-drug-control-conventions-a-primer> [Accessed 1 September 2020].
[197] James Windle, 2013, 'How the East Influenced Drug Prohibition', The International History Review, 35:5, 1185-1199, p. 1194
[198] Armenta, A. and Jelsma, M., 2015. *The UN Drug Control Conventions - A Primer*. [online] Idpc.net. Available at: <https://idpc.net/publications/2015/10/the-un-drug-control-conventions-a-primer> [Accessed 1 September 2020].
[199] Armenta, A. and Jelsma, M., 2015. *The UN Drug Control Conventions - A Primer*. [online] Idpc.net. Available at: <https://idpc.net/publications/2015/10/the-un-drug-control-conventions-a-primer> [Accessed 1 September 2020].

policies (i.e. safe consumption rooms) and decriminalisation, or sometimes both.[200] Some countries have even seen a shift in the criminal justice system towards "social and health care measures for non-violent offenders whose problem use of psychoactive substances drove them to commit minor crimes."[201]

Moreover, though many governments might be unhappy with the inconsistency of the conventions in private, they do publicly support them to avoid the political ramifications of their open dissent as well as the impact it could have on a global scale.[202] The rigid state of existing conventions as the awkward 'hanging fruit' has been a setback to many states' need for alternative drug policies as they try to move forward nationally and internationally.[203] The unsatisfactory structure does not match other countries' needs for tailored reform and might even clash with it.

V.V. THE CONTENTIOUS NATURE OF REFORM IN THE UNITED STATES AND IN MEXICO

Today, alternative drug control measures reflecting contemporary norms and values have appeared. Many of these are in direct conflict with the mindset and position of existing treaties, and they all the more raise the stakes of a comprehensive treaty reform discussion.

International treaty reform could play an important role in defining not only US-Mexican relations, but also the objectives of stakeholders involved. This includes domestic governments, citizens, drug cartels and traffickers as well as regional stakeholders. International treaty reform gives states an opportunity to explore a tailored and viable approach in accordance with their own circumstances. Indeed, it does not appear that the US or Mexico would jump into discourses about circumventing the treaties that Canada or Uruguay have, simply because of the nature of challenges they face as part of the War on Drugs. The United States has been the benefactor of the strict Single Conventions governing UN member states. Mexico, on the other hand, has not been able to consolidate the necessary alternative development measures to implement a plan like Uruguay or Bolivia have. There is also the case of the unpredictable stakeholders here, namely the cartels. Nonetheless, international treaty reform is not far from the purview of Mexican-American relations, and it impacts both stakeholders regardless of whether an alternative path is adopted. The United States has already seen many of its states implement plans to act outside of the UN treaties. It is certainly possible that more US states would consider legalising drugs like cannabis, which will be reconsidered by the UN for rescheduling for medical use.

V.VI. MULTIPLE TREATY REFORM PATHS

---

[200] Martin Jelsma and David Bewley-Taylor, 2019, 'Drugs and Crime', *The Oxford Handbook of United Nations Treaties*, (Ed.) Simon Chesterman, David M. Malone, and Santiago Villalpando, p. 273.

[201] Armenta, A. and Jelsma, M., 2015. *The UN Drug Control Conventions - A Primer*. [online] Idpc.net. Available at: <https://idpc.net/publications/2015/10/the-un-drug-control-conventions-a-primer> [Accessed 1 September 2020].

[202] Armenta, A. and Jelsma, M., 2015. *The UN Drug Control Conventions - A Primer*. [online] Idpc.net. Available at: <https://idpc.net/publications/2015/10/the-un-drug-control-conventions-a-primer> [Accessed 1 September 2020].

[203] Armenta, A. and Jelsma, M., 2015. *The UN Drug Control Conventions - A Primer*. [online] Idpc.net. Available at: <https://idpc.net/publications/2015/10/the-un-drug-control-conventions-a-primer> [Accessed 1 September 2020].

i. Ways to modifying conventions

There are several ways to modify the conventions, the substances they control, or State obligations in relation to the treaties. There is no 'easy fix' that deviates from the existing demands of the conventions; however, the progressive mindsets of some member States indicates that it is possible to reconcile the treaty system and the realities of the member States in question. The issues between law and practice need to be reconciled before political conditions allow actual legislative reforms at both national and international levels[204].
As is required in international law, signatory States will have to ratify international changes (or a new convention) through their legislative bodies for the agreement to come into force. The table below highlights the different treaty reform paths, and the difficulties associated to them:

Action	Process and Outcome
Amendments	Any member State can propose an amendment to the conventions and if it has not been rejected within 18 months (24 months for the 1988 Conventions), it automatically enters into force. If objected to, the ECOSOC determines if a conference to negotiate the amendment is needed. If there are only minor or few objections to an amendment, the Council can accept the amendment provided that States that explicitly disagreed do not need to apply it. If there is substantial objection to the amendment, the Council can simply reject it. If the proposing State is not willing to accept this objection, they can denounce the treaty or take the issue to the International Court of Justice (ICJ) per Article 48 of the 1961 Convention.
Reservations	While signing, acceding or ratifying a treaty, member States can make reservations regarding particular provisions in the convention. Many States did so in all three of the conventions. Reservations (or other unilateral 'interpretative declarations') are "meant to exclude or modify the legal effect of certain provisions of a treaty for the reserving State."
Rescheduling	The 1961 and 1971 conventions enable the WHO to review substances and recommend how they are scheduled, taking into consideration health risk versus medical usefulness on the basis of research and scientific evidence. The treaties require the CND to vote on WHO recommendations. Per the 1961 Convention: a majority vote of the CND's member States is required to adopt a WHO rescheduling recommendation.

[204] Armenta, A. and Jelsma, M., 2015. *The UN Drug Control Conventions - A Primer*. [online] Idpc.net. Available at: <https://idpc.net/publications/2015/10/the-un-drug-control-conventions-a-primer> [Accessed 1 September 2020].

	Per the 1971 Convention: two-thirds majority needed. Any member States can request the review of a substance by the WHO, meaning that changes in the UN drug control treaty system could be ascertained and adopted without full consensus amongst all member States. Some substances like cannabis, cocaine, coca leaf, opium, and morphine have never been reviewed by the WHO, and this raises questions on the legitimacy of their current classification on the "evidence-based point of view" and the "procedural grounds" as there has been a general notion that they should be scheduled but were never really assessed. The process of scheduling under the current treaty system has become a "political battleground" due to the "inconsistencies in the treaties themselves and the infringements on the WHO mandate" by the INCB.
Denunciation	Per the 1969 Vienna Convention on the Law of Treaties, a historical 'error' and "fundamental change of circumstances" are feasible reasons for a member State to revoke its adherence to a treaty. Member States could simply opt out of treaties due to the obstacles they present and their seemingly primordial nature, but States choose to remain in treaties for a number of important reasons. One of these include the UN regulation (via these treaties) of the licit trade of drugs for medical purposes and the substances listed as essential medicines by the WHO. In States where accessing controlled medication is already difficult, a withdrawal from the INCB-administered international system would exacerbate their situation. Being party to the UN drug control system is also a condition for many preferential trade agreements or for EU accession. Denouncing this treaty system could have strong political, economic, and societal consequences beyond the realm of drug control, and this is not a risk many less influential or developing States would want to take.
Modifications *inter se*	Article 41 of the 1969 Vienna Convention also contains a less known legal option where "two or more parties to a multilateral treaty may conclude an agreement to modify the treaty as between themselves alone" if the modification they propose "does not affect the enjoyment by the other parties of their rights under the treaty or the performance of their obligations" and is not wholly "incompatible with the effective execution of the object and purpose of the treaty." This provision could provide a legal ground for allowing and justifying "international trade between national jurisdictions that permit or tolerate the existence of a licit market for a particular substance" even if the international trade of that substance is impermissible under UN treaty

	obligations. An agreement between States to modify the specific convention and allow trade amongst the jurisdictions in question would be difficult to oversee but it would also be difficult to challenge as the agreement would only affect the relationship of those jurisdictions, and not other member States.

V.VII. RECOMMENDATIONS TO ENSURE DRUG TREATIES EMPOWER NATIONS TO MEET THEIR DRUG POLICY CONCERNS

This section seeks to recommend three viable options regarding the future of drug policy and drug treaties. Essentially, the three main recommendations are:

1. Reforming the Existing Conventions
2. Alternative Forms of Drug Regulation
3. Drafting a New UN Convention for the Regulation of Drugs

i. Reforming the Existing Conventions

As many countries around the world have come to realize that international drug conventions might come into conflict with their national drug policy objectives, the prevalence of treaty tensions has increased. Initially, countries have sought to oppose the stances of the conventions through 'soft defections', whereby countries can veer away from punitive prohibitions on certain drugs such as cannabis, this has instead paved way for direct breaches of the conventions.[205] For example, countries such as Uruguay and Canada have contravened the conventions' ban on cannabis for non-medical or non-scientific purposes by legalising the use of cannabis for non-medical purposes,. Since there are no signs that these treaty breaches will stop, it is important to manage these policy shifts. The ~~first and~~ most immediately practicable recommendation is to reform the existing UN Conventions.

Some Concerns

However, there will be resistance to such changes. Any reform to the conventions threatens to break down the perceived consensus embodied by the conventions, and there seems to be no alternative consensus on drug policy.[206] While it is true that these conventions are some of the mostly widely adhered to UN Conventions, the many violations of these conventions, whether direct or indirect, highlight the idea that a consensus is really a façade.

Attempts to reform the existing conventions so that they can be flexible enough to meet the individual needs and priorities of member states is also contentious because the definition of 'flexibility' is subject to dispute. During the March 2016 negotiations in Vienna over the UNGASSS Outcome Document, there was widespread support for language declaring that new challenges 'should be addressed in conformity with the three international drug control conventions, which allow sufficient flexibility for parties to their priorities and needs'. However, 'sufficient flexibility' were interpreted differently by different governments and entities. The

[205] 'Cannabis Regulation and the UN Drug Treaties: Strategies for Reform', June 2016, <https://www.swansea.ac.uk/media/Cannabis-Regulation-and-the-UN-Drug-Treaties.pdf >
[206] 'Cannabis Regulation and the UN Drug Treaties: Strategies for Reform', June 2016, <https://www.swansea.ac.uk/media/Cannabis-Regulation-and-the-UN-Drug-Treaties.pdf >

INCB and countries that favour strong prohibitionist drug regimes consider 'flexibility' to mean that they are allowed to adopt measures that are stricter or more severe 'than those provided by' the conventions. On the other end of the spectrum, countries such as those in the EU have interpreted this 'flexibility' to mean that the conventions' scope enables them to be more accommodating to drug use.[207]

Viable Paths for Treaty Reform:

The authors of this paper propose that countries wishing to create a legally regulated market for a certain drug and simultaneously adhere to the existing conventions should first pursue treaty reforms which only apply to individual states (denunciation followed by re-accessions with reservations), or to a group of states ('*inter se'* treaty modification). These two paths to reform are the least contentious, and will pave the way for more far-reaching reforms in the future. Only then, should reforms applying to all signatory states (treaty amendments) be attempted.

Denunciation followed by re-accession with reservations

This is the clearest way forward for States already party to the conventions to implement their own domestic arrangements (i.e to operate a small, restricted legal market) for drugs covered by the Schedules.[208] The process involves a withdrawal from one or more of the conventions and is followed by a declaration that the state will re-accede with new reservations. The procedure of treaty denunciation followed by re-accession with reservations is unlikely to be obstructed. Other countries often do not have an incentive to object to policy changes that pertain to a single country, unless they believe that this will have repercussions on their own country. Moreover, even if another country raises objections to this procedure, it is improbable that the country pursuing this procedure would be blocked from re-acceding, as a significant number of countries would have to object to it. In the case of the 1961 Convention, a country would only be blocked from reacceding if one third or more State parties object.

There are precedents for this procedure in the arena of drug policy. Bolivia struggled to reconcile the tensions between its obligation under the 1961 Single Convention to abolish its indigenous coca culture, and its legal obligations under the 2007 UN Declaration on the Rights of Indigenous Peoples and its national constitution to protect it, after its attempt to negotiate an exemption for coca leaf was blocked. Therefore, in January 2012, Bolivia announced it would withdraw from the Single Convention of 1961 and reaccede with reservations regarding coca.[209] Although 15 countries submitted formal objections to this move, Bolivia's re-accession was not blocked as this effort fell far short of the requirement of 62 objections. This allowed Bolivia to continue the practice of traditional coca leaf-chewing, the use of the coca leaf in its natural state, and the cultivation, trade, and possession of the coca leaf to the extent necessary for these licit purposes within its territory.

---

[207] 'Cannabis Regulation and the UN Drug Treaties: Strategies for Reform', June 2016, <https://www.swansea.ac.uk/media/Cannabis-Regulation-and-the-UN-Drug-Treaties.pdf >

[208] Room R, and MacKay S, 'Roadmaps To Reforming The UN Drug Conventions' (*The Beckley Foundation*, 2012) <https://www.unodc.org/documents/ungass2016/Contributions/Civil/Beckley_Foundation/Roadmaps_to_Reform_Report_w_Foreword_110915.pdf.pdf> accessed 1 September 2020

[209] Armenta, A. and Jelsma, M., 2015. *The UN Drug Control Conventions - A Primer*. [online] Idpc.net. Available at: <https://idpc.net/publications/2015/10/the-un-drug-control-conventions-a-primer> [Accessed 1 September 2020].

'Inter se' treaty modification

The Conventions can also be modified *inter* se. According to Article 41 of the 1969 Vienna Convention on the Law of Treaties (VCLT), two or more countries belonging to a treaty are able to conclude an agreement to 'modify the treaty between themselves alone', as long as it 'does not affect the enjoyment by the other parties of their rights under the treaty or the performance of their obligations" and it is not "incompatible with the effective execution of the object and purpose of the treaty as a whole.'[210] This method of reform would be particularly well suited to resolving an issue of treaty non-compliance among a group of countries who have all introduced national measures to legally regulate the same drug market.[211] Additionally, *inter se* treaty modification can be used to provide 'a legal basis for international trade between national jurisdictions that allow or tolerate the existence of a legal market of a substance under domestic legal provisions.'[212] These reforms would amount to what Neil Boister has coined as a 'multi-speed drug control system,' a drug regime which allows for different models of regulation while operating within the boundaries of international law.[213]

Indeed, there are no precedents for modifications of treaties *inter se* in the arena of drug policy, and its use has been rare overall. However, using it is still worthy of consideration because it will demonstrate, when used in tandem with denunciation followed by re-accession with reservations, the ability of existing treaty regimes to modernise even when a complete overhaul is not possible due to a lack of consensus.

Amending the Conventions

Finally, when the political environment is more amenable to reform arising from the entire global community rather than individual states, as described above, the conventions can be amended. As part of this, the international community could adhere to several scenarios. This section highlights two potential 'extremes.'

Option 1: Alter the wording in the treaties to lift the prohibition on the production of small doses of drugs for non-commercial purposes.[214] This would allow States to choose not to prohibit personal use or possession of drugs. It would allow recreational use of drugs and the acquisition of small quantities of drugs.

Right now, the conventions would limit international and domestic markets for narcotic and psychotropic substances, and completely disallow the use of these drugs and substances aside from medical and scientific uses.

Provisions to alter for Option 1 to take effect:

---

[210] Article 41. *Vienna Convention on the Law of Treaties*, 1969, http://legal.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf.
[211] 'Cannabis Regulation and the UN Drug Treaties: Strategies for Reform', June 2016, <https://www.swansea.ac.uk/media/Cannabis-Regulation-and-the-UN-Drug-Treaties.pdf >
[212] 'Cannabis Regulation and the UN Drug Treaties: Strategies for Reform', June 2016, <https://www.swansea.ac.uk/media/Cannabis-Regulation-and-the-UN-Drug-Treaties.pdf >
[213] Martin Jelsma, Neil Boister, David Bewley-Taylor, Malgosia Fitzmaurice and John Walsh, 'Balancing Treaty Stability and Change: *Inter se* modification of the UN drug control conventions to facilitate cannabis regulation', < https://www.tni.org/files/publication-downloads/balancing_treaty_stability_and_change.pdf >.
[214] Room R, and MacKay S, 'Roadmaps To Reforming The UN Drug Conventions' (*The Beckley Foundation*, 2012) <https://www.unodc.org/documents/ungass2016/Contributions/Civil/Beckley_Foundation/Roadmaps_to_Reform_Report_w_Foreword_110915.pdf.pdf> accessed 1 September 2020

for the 1961 Convention: Articles 4(c), 9(4), 23, 26, 28, 29, 30, 31, 33 and 36
for the 1971 Convention: Articles 5, 7, 8, 9 and 22
for the 1988 Convention: Articles 3(1) and 3(2).[215]

Option 2: This would allow parties of the treaties to legalise domestic and international trade in controlled substances that will be used beyond medical or scientific purposes. There would be no limit on a State's ability to cultivate, produce, manufacture, and trade these substances. It would still disallow the illicit trade and trafficking of such drugs, but monitoring this could be difficult, especially in States where drug-related crime is already an issue (ie. Mexico, Colombia).

Provisions to alter for Option 2 to take effect:

for the 1961 Convention: Preamble and Articles 1, 4(c), 9(4), 12(5), 19, 20, 21, 21 bis, 30(2)(b), 33 and 36
for the 1971 Convention: Articles 5, 7, 9, 16(4) and 22
for the 1988 Convention: Articles 3(1) and 3(2).[216]

ii. Alternative Forms of Drug Regulation

New regulation at a national level can be developed complementarily to the unilateral and potentially consensual modification of treaties (Recommendation 1). Countries can attempt to 'fix' fundamental issues with the conventions while acting within the scope of their own regulations accordingly:

A) States to test and implement solutions tailored to the challenges they face;
B) States to create a user-oriented criminal justice system instead of a punishment-oriented system;
C) States to implement policies that are in line with drug policy debates within their own countries.

These regulations would potentially work alongside UN conventions or even substitute them if the latter were denounced.

A major conceptual issue, as mentioned, is that the rules of the game are outdated. On the international level, knowledge about alternatives to the current situation is limited.[217] Each convention has a focal point with little room for deviation. This clashes with the fast-changing

[215] Room R, and MacKay S, 'Roadmaps To Reforming The UN Drug Conventions' (*The Beckley Foundation*, 2012) <https://www.unodc.org/documents/ungass2016/Contributions/Civil/Beckley_Foundation/Roadmaps_to_Reform_Report_w_Foreword_110915.pdf.pdf> accessed 1 September 2020
[216] Room R, and MacKay S, 'Roadmaps To Reforming The UN Drug Conventions' (*The Beckley Foundation*, 2012) <https://www.unodc.org/documents/ungass2016/Contributions/Civil/Beckley_Foundation/Roadmaps_to_Reform_Report_w_Foreword_110915.pdf.pdf> accessed 1 September 2020
[217] Room R, and MacKay S, 'Roadmaps To Reforming The UN Drug Conventions' (*The Beckley Foundation*, 2012) <https://www.unodc.org/documents/ungass2016/Contributions/Civil/Beckley_Foundation/Roadmaps_to_Reform_Report_w_Foreword_110915.pdf.pdf> accessed 1 September 2020

environment that impacts how drugs are created (ie. synthetic drugs like molly, MDMA) and trafficked (ie. anonymous transfers of money online, encrypted drug networks). The clash has been a point of concern for international policing entities like Interpol. This was highlighted by past research concerning the 1961 Treaty, which does not recognize personal use decriminalisation. Leaving room for policy experimentation at a national level without decriminalisation could enlighten successful paths and future convention reform.[218]

A couple of countries have attempted to develop regulation at a national level, in hopes of 'fixing' fundamental issues conventions pose to their national policy priorities. By examining the different approaches countries have taken, it is possible to see how tailored policies can be to the needs and domestic contexts of the country.

Canada

The Canadian government's plan to legalise the use of cannabis, which has been a subject of long-lasting domestic debate, clashes with its international legal obligations as it goes against Article 36 of the 1961 Single Convention, which obliges Canada to make cannabis possession a punishable offence. [219]

Before legalisation was put in place, it was suggested that Canada had three legal options[220]:

1- Changing its constitution
2- Convincing enough countries to allow a Canadian reservation or to revise the conventions
3- Formally withdrawing from the treaties

It was highlighted that using the exemption for scientific purposes gave Canada the "strongest grounds to legalise non-medical cannabis," since it was recommended by the International Court of Justice's *Whaling* case as a way in which the Government of Canada could comply with the Single Convention while legalising and creating a regulatory non-medical cannabis regime. [221]

In October 2018, Bill C-45 or the *Cannabis Act*, became effective across the country, leading to the legalisation of cannabis. Although the Bill was not passed on the basis of exemption for scientific purposes, sections in the legislation referred to medical and scientific exemption.

---

[218] Room R, and MacKay S, 'Roadmaps To Reforming The UN Drug Conventions' (*The Beckley Foundation*, 2012) <https://www.unodc.org/documents/ungass2016/Contributions/Civil/Beckley_Foundation/Roadmaps_to_Reform_Report_w_Foreword_110915.pdf.pdf> accessed 1 September 2020

[219] Hoffman S, and Habibi R, 'Canadian Medical Association Journal' (*CMAJ*, 2016) <https://www.ourcommons.ca/Content/Committee/421/HESA/Brief/BR9074770/br-external/HoffmanSteven-e.pdf> accessed 1 September 2020.

[220] Hoffman S, and Habibi R, 'Canadian Medical Association Journal' (*CMAJ*, 2016) <https://www.ourcommons.ca/Content/Committee/421/HESA/Brief/BR9074770/br-external/HoffmanSteven-e.pdf> accessed 1 September 2020

[221] Fultz M, Page L, Pannu A, Quick M. Reconciling Canada's Legalization of Non-Medical Cannabis with the UN Drug Control Treaties. In: Hoffman SJ (eds.) Global Health Law Clinic Publication Series. Ottawa, Canada: Global Strategy Lab, University of Ottawa; 2017. Available from: www.globalstrategylab.org/clinic/reports/reconciling-legalization-of-cannabis-with-UN-treaties-2017.pdf.
Kestler-D'Amours, J., 2017. *Canada Set To Legalize Recreational Marijuana | DW | 12.04.2017*. [online] DW. Available at: <https://www.dw.com/en/canada-set-to-legalize-recreational-marijuana/a-38399494> [Accessed 1 September 2020].

While Canada clearly violated the conventions, there were no real "immediate material consequences".[222] In the most recent UN Commission on Narcotic Drugs (March 2020), Canada reiterated its stances in favour of legalisation and reaffirmed its commitment to strict regulation. Canada, nonetheless, committed to otherwise working to achieve the aims of the treaties.

In 2019, the WHO recommended the removal of cannabis from its current scheduling to a more lenient category. This suggests a wider normative shift to allow reform and alternative paths. While countries like Canada and Bolivia faced criticism for their actions, they bring the debate forward. In that sense it is helpful to look at Canada's own policy models.

Uruguay – Legalisation

In 2013, Uruguay became the first State to violate UN drug control conventions by enabling the production, sale, and use of cannabis for commercial and recreational purposes[223]. Uruguayan citizens can grow up to six plants in their home, purchase cannabis from cannabis clubs (can grow up to 99 plants), or purchase up to 40 grams of cannabis from state-controlled dispensaries.[224] Additionally, those who purchase cannabis are registered and identified to prevent overbuying and the pharmaceutical price is regulated by the Institute for the Regulation and Control of Cannabis, as reported by the Canadian Library of Parliament.[225]

Portugal – Decriminalisation

Portugal adopted an offender-oriented approach with the goal of helping drug offenders rehabilitate. This was addressed as early as 1983, in response to a growing concern about the effect of drugs on peoples' health. Decree-law 15/93 was adopted in 1993 with the objective of "adapting the legal instruments to serve the purpose of contributing to the utmost of its capacities to liberate the drug addicts and the habitual consumers". The government set out several action plans like *Horizon 2004* and decriminalised personal drug use in 2001. This law shifts the offence from a criminal one to an administrative one.[226] The main point here is to provide free and accessible treatment to those suffering from drug addiction and are not involved in drug trafficking (which is still an offence).

The Netherlands- De Facto Decriminalisation

---

[222] Dyer, E., 2019. *Canada's Cannabis Policy Makes It An International Rebel On Drug Treaties | CBC News*. [online] CBC. Available at: <https://www.cbc.ca/news/politics/un-united-nations-canada-marijuana-cannabis-drugs-1.5400112> [Accessed 1 September 2020].

[223] Hoffman S, and Habibi R, 'Canadian Medical Association Journal' (*CMAJ*, 2016) <https://www.ourcommons.ca/Content/Committee/421/HESA/Brief/BR9074770/br-external/HoffmanSteven-e.pdf> accessed 1 September 2020

[224] MacKay, R. and Phillips, K., 2016. *The Legal Regulation Of Marijuana In Canada And Selected Other Countries*. [online] Lop.parl.ca. Available at: <https://lop.parl.ca/sites/PublicWebsite/default/en_CA/ResearchPublications/201694E> [Accessed 1 September 2020].

[225] MacKay, R. and Phillips, K., 2016. *The Legal Regulation Of Marijuana In Canada And Selected Other Countries*. [online] Lop.parl.ca. Available at: <https://lop.parl.ca/sites/PublicWebsite/default/en_CA/ResearchPublications/201694E> [Accessed 1 September 2020].

[226] MacKay, R. and Phillips, K., 2016. *The Legal Regulation Of Marijuana In Canada And Selected Other Countries*. [online] Lop.parl.ca. Available at: <https://lop.parl.ca/sites/PublicWebsite/default/en_CA/ResearchPublications/201694E> [Accessed 1 September 2020].

Under the *Opium Act 1976*, Dutch law made a distinction between soft drugs (Schedule II) and hard drugs (Schedule I) and accounted for diverging attitudes within the nation. The Act "prohibits the possession, commercial distribution, production, import and export of all illicit drugs", but removes punishment for possessing small quantities of cannabis. [227] In consequence, while coffee shops are permitted to sell small amounts of cannabis, trafficking remains a serious offence.

Even though states are well aware of the potential effects of confronting UN conventions, the clauses of these conventions are not self-executing and their boundaries are not immediately enforceable. This is why States like Canada have opted to change domestic law, and in doing so, have contradicted the objectives of the Single Conventions. [228]

iii. Drafting a New UN Convention for the Regulation of Drugs

For a new Single Convention to become a reality, the new treaty will be negotiated by a Conference of Parties, organised for the purpose of the prospective treaty and in line with common practice, under the auspices of an intergovernmental agency[229]. Despite a perceived need to develop a new Single Convention, critics argue that "it would be unrealistic to assume that it [the current regime] will dramatically change or disappear overnight."[230] This is considered a "far-reaching step" because discussions and consensus on what could be included and what should be included are only just beginning to happen.[231] As more States opt to push the boundaries of the existing mechanism for drug control and regulation, mainly by pursuing unilateral modification (Recommendation 1) and alternative policy regimes (Recommendation 2), ideas and guidelines with ~~tangible~~ international support may develop.
This would gradually lead to a new consensus that would not only allow the formation of a new single convention that is more reflective of today's global reality, but also replace or complement the three previous conventions. This section considers the stakes and implications of a new convention.

The modernisation of the terminology used and introspection into successful policies would appear as essential features of this new Convention. First, the new convention should adopt a less rigid approach compared with previous Conventions, to allow for the pursuit of alternative policies (rescheduling for States with particular needs like Peru) or the examination of

---

[227] MacKay, R. and Phillips, K., 2016. *The Legal Regulation Of Marijuana In Canada And Selected Other Countries*. [online] Lop.parl.ca. Available at: <https://lop.parl.ca/sites/PublicWebsite/default/en_CA/ResearchPublications/201694E> [Accessed 1 September 2020].

[228] Bewley-Taylor D, 'Challenging The UN Drug Control Conventions: Problems And Possibilities' (*International Journal of Drug Policy 14 (2003)*, 2002) <https://www.tni.org/files/publication-downloads/challenging_the_un_drug_control_conventions.pdf> accessed 1 September 2020

[229] Room R, and MacKay S, 'Roadmaps To Reforming The UN Drug Conventions' (*The Beckley Foundation*, 2012) <https://www.unodc.org/documents/ungass2016/Contributions/Civil/Beckley_Foundation/Roadmaps_to_Reform_Report_w_Foreword_110915.pdf.pdf> accessed 1 September 2020

[230] Bewley-Taylor D, 'Challenging The UN Drug Control Conventions: Problems And Possibilities' (*International Journal of Drug Policy 14 (2003)*, 2002) <https://www.tni.org/files/publication-downloads/challenging_the_un_drug_control_conventions.pdf> accessed 1 September 2020

[231] Room R, and MacKay S, 'Roadmaps To Reforming The UN Drug Conventions' (*The Beckley Foundation*, 2012) <https://www.unodc.org/documents/ungass2016/Contributions/Civil/Beckley_Foundation/Roadmaps_to_Reform_Report_w_Foreword_110915.pdf.pdf> accessed 1 September 2020

substances that have not been tested or properly vetted. It should also include a 'multi-speed' approach to sovereign regulations to allow States like the Philippines that favour a prohibitionist approach to keep existing regulations and objectives.

Secondly, it would have to ensure that psychopharmaceutical drugs and substances for medical use are sufficient. Finally, it would outline aspects of the international drug trade which restrain comity amongst States or feed into previous pitfalls of illegal markets such as cartel violence and illicit trafficking.[232] For example, in States like Uruguay, where the move to legalise cannabis has already been implemented and is not based on traditional grounds, a new Single Convention could set out a "variety of soft-law recommendations concerning the regulation of domestic markets in psychoactive substances."[233] This could include guidelines on prescribing medication, quality control, licensing and the monopolisation of a specific substance. It may also be useful and relevant to set parameters of substance availability (ie. dispensaries versus 'coffee shops') and thresholds for individual possession and cultivation (ie. a specific number of plants per household in the case of cannabis).

A cornerstone of the Convention would be to encourage national control of regulation for production and sale in a looser manner than previously allowed. [234] As previously discussed, shifting policy to a health-centred and preventative approach, as per Portugal, could bring significant societal change under the right conditions. If the new conventions accord nations more control over the regulation of production and sale of drugs, states would feel more at ease making decisions at a national or regional level for specific substances. They could easily opt to impose heavy control on the production and sale of drugs, through government dispensaries and substance limits.

What we suggest as a further point of clarification is to converge the methods of oversight described in the 1971 and 1961 Conventions for the international production of controlled substances for medical and scientific uses.[235] A new treaty would have to account for previous neoliberal perceptions of development and place all countries on a single level. While this is accepted as axiomatic of international law, it confronts strong political pressure-ground backed by reliance on parallel international or bilateral aid or assistance. This was certainly indicative of the way NAFTA was decided upon (between Mexico and the United States) and the underlying pressures of the Mérida Initiative's strong US orientation.

Consensus is deeply important for the viability of such a radical new Single Convention. International law requires States to respect the decisions of others and not infringe on their

---

[232] Room R, and MacKay S, 'Roadmaps To Reforming The UN Drug Conventions' (*The Beckley Foundation*, 2012) <https://www.unodc.org/documents/ungass2016/Contributions/Civil/Beckley_Foundation/Roadmaps_to_Reform_Report_w_Foreword_110915.pdf.pdf> accessed 1 September 2020

[233] Room R, and MacKay S, 'Roadmaps To Reforming The UN Drug Conventions' (*The Beckley Foundation*, 2012) <https://www.unodc.org/documents/ungass2016/Contributions/Civil/Beckley_Foundation/Roadmaps_to_Reform_Report_w_Foreword_110915.pdf.pdf> accessed 1 September 2020

[234] Room R, and MacKay S, 'Roadmaps To Reforming The UN Drug Conventions' (*The Beckley Foundation*, 2012) <https://www.unodc.org/documents/ungass2016/Contributions/Civil/Beckley_Foundation/Roadmaps_to_Reform_Report_w_Foreword_110915.pdf.pdf> accessed 1 September 2020

[235] Room R, and MacKay S, 'Roadmaps To Reforming The UN Drug Conventions' (*The Beckley Foundation*, 2012) <https://www.unodc.org/documents/ungass2016/Contributions/Civil/Beckley_Foundation/Roadmaps_to_Reform_Report_w_Foreword_110915.pdf.pdf> accessed 1 September 2020

sovereignty. For instance, this would include forbidding commercial export or advertising from a country that legalized cannabis to a country that has not. [236] Consensus will be difficult to attain given the suggested evolutions of a new Single Convention (e.g. decriminalisation or rescheduling). As such, the treaty could also entail national decisions on subjects that cannot be challenged by trade agreements or dispute settlements.[237]

The creation of an international oversight agency would be crucial to monitoring production and trafficking transparently and accurately.[238] This new agency would have to avoid the pitfalls of CND and the INCB (jurisdictional overlap, lack of communication, and heavy politicisation). It would also have to coordinate State action in relation to health and social harm minimization.

[236] Room R, and MacKay S, 'Roadmaps To Reforming The UN Drug Conventions' (*The Beckley Foundation*, 2012) <https://www.unodc.org/documents/ungass2016/Contributions/Civil/Beckley_Foundation/Roadmaps_to_Reform_Report_w_Foreword_110915.pdf.pdf> accessed 1 September 2020

[237] The treaty should provide that national decisions on regulation of psychoactive substances in domestic markets cannot be overturned by trade agreements or trade dispute settlements – that #

[238] Room R, and MacKay S, 'Roadmaps To Reforming The UN Drug Conventions' (*The Beckley Foundation*, 2012) <https://www.unodc.org/documents/ungass2016/Contributions/Civil/Beckley_Foundation/Roadmaps_to_Reform_Report_w_Foreword_110915.pdf.pdf> accessed 1 September 2020

VI. CONCLUDING REMARKS

It is worth reiterating that it is impossible to completely eradicate illicit drug use and production. Nonetheless, it is possible to reduce the size of illicit drug markets and minimise the human costs of physical and economic dependence on illicit drugs. With this in mind, this paper has identified the following recommendations.

Firstly, the US federal government should aim to minimize the number of deaths and medical conditions associated with drug use in the United States. It should fully repeal the ban on needle and syringe programs (NSPs) and decriminalise needle possession. In addition, naloxone should be made readily accessible by ensuring its availability in the regular prescription process and by ensuring that information on naloxone administration is provided to patients upon receiving a prescription of opioids. The recent accelerated expansion of telemedicine should be further facilitated by ensuring the use of the latest technology to guarantee data privacy resilience, introducing clearly defined reimbursement criteria and streamlining state licensure and medical laws. Finally, successful drug education programs that focus on harm reduction rather than abstinence should be designed, and be regularly monitored for success.

The second aim we identify is preventing the enlargement of the US opioid epidemic and future crises. The FDA should enforce stricter regulations within its mandate, and medical journals should require full disclosure of research sponsorship so that pharmaceutical advertising and research sponsorship are more transparent. In parallel, public education campaigns should train consumers on DTCA and provide alternatives to pain medication for pain management. Essentially, physicians should receive adequate training in pain management and opioid prescription.

Two systematic policies would enable the reduction of the size of the illegal market in the United States. Cannabis should be legalised across the country on a state-by-state basis. In addition, in states where cannabis has been legalised, the state government should relax legal market regulations while strengthening penalties on unlicensed businesses, and restrict the regulation authority of municipalities. The legalisation of the US market for cannabis could significantly re-shape the Mexican social and economic landscape, pushing the country towards peace and economic development.

In order to reduce violence caused by narco-trafficking in Mexico, we have identified the following recommendations. Firstly, public trust in the public security institutions and the authority of the rule of law should be re-established. This can be achieved with the professionalisation of the police force through increased financial and political support from the state. Judicial and media reform should be undertaken in tandem with police reform to provide the transparency and accountability needed for a restoration of trust in state authority. Funding for civil society organisations should also be increased, to reinforce these developments.

When a modicum of public trust has been restored through the above reforms, the Mexican government should attempt to introduce plentiful and durable alternative livelihoods in order to dis-incentivise illicit crop production. State actors should recognise that alternative development is not a 'quick fix' but a process that will only reap results over an extended period of time. To that end, alternative development policies should aim to address the structural drivers of illicit crop cultivation. While an adoption of alternative development

policies does necessitate an abandonment of the policy of forced eradication, this does not mean that this policy does not suggest a renunciation of eradication per se. Instead, this policy simply recognizes that attempts at premature eradication have not been successful historically, and that the suppression of the flow of illicit crops and substances can be achieved alternatively through targeting drug trafficking routes. The writers of the paper believe that improvements to the way in which Mexico and the US collaborate with regard to border policy, such as the reduction of corruption in join task forces and a decisive effort to disrupt the supply of fentanyl, would mitigate any disadvantages brought about by the adoption of an extended policy of alternative livelihoods.

To reform international law, countries should reform existing treaties to better fit their priorities through unilateral denunciation, *inter se* modification and common amendment. In addition, countries should pursue alternative forms of drug regulation. After a paradigmatic shift in international drug policy has occurred as a result of the above recommendations, a new UN Convention for the Regulation of Drugs should be drawn up.

While the recommendations in this paper bear little resemblance to the Mérida Initiative, this does not mean that bilateral cooperation has been abandoned in the War on Drugs. In fact, the recommendations in this paper propose a new model of bilateral cooperation. The recommendations outlined above are very much interlinked. The success of these recommendations depends on the changes operating in tandem with one another, and the effects of these changes extend beyond the country where the change is implemented. In short, the recommendations cannot be enacted in isolation or in a piecemeal way, if they are to have their desired effects.

Finally, although the paper is primarily concerned with the War on Drugs in the United States and in Mexico, the recommendations provided in this paper can be considered as a framework that other countries hoping to reorientate their War on Drugs can follow.

VII. BIBLIOGRAPHY

Althaus D and de Cordoba J, “Men Detained Over Missing Mexican Students,” (The Wall Street Journal, 24 October 2014) < https://www.wsj.com/articles/men-detained-over-missing-mexican-students-1414459271> accessed July 17, 2020

Alves L, Lexchin TJ, and Mintzes B, ‘Medicines Information and the Regulation of the Promotion of Pharmaceuticals’ [2019] Science and Engineering Ethics 1167. DOI: 10.1007/s11948-018-0041-5

Amazing source listing all news articles on opioids and COVID-19 by US state. <https://www.ama-assn.org/system/files/2020-07/issue-brief-increases-in-opioid-related overdose.pdf >

American Addiction Centers, ‘What Are the Barriers to Accessing Addiction Treatment?’ (American Addiction Centers, 6 January 2021) < https://americanaddictioncenters.org/rehab-guide/treatment-barriers >

American Addiction Centers Editorial Staff, ‘Big Pharma: Are They Advertising Addiction?’ (n 2) <https://drugabuse.com/blog/big-pharma-are-they-advertising-addiction/> accessed January, 1, 2021

American Addiction Centers Editorial Staff, ‘Is the Trump Administration Revamping the War on Drugs?’ (Drug Abuse: An American Addition Centers Resource, 10 May 2017) < https://drugabuse.com/is-the-trump-administration-revamping-the-war-on-drugs/.>

American Psychiatric Association (APA), ‘APA Public Opinion Poll – Annual Meeting 2018’, American Psychiatric Association (APA), March 2018, <https://www.psychiatry.org/newsroom/apa-public-opinion-poll-annual-meeting-2018.>

Animal Politico, ‘SOLVING A MURDER IN MEXICO IS THE EXCEPTION, NOT THE RULE: it would take 124 years to solve all the murder cases’, < https://www.animalpolitico.com/kill-murder-mexico/homicides-unpunished-mexico.php>

Armenta A. and Jelsma M, ’The UN Drug Control Conventions - A Primer.’ (Transnational Institute, October 2015) <https://idpc.net/publications/2015/10/the-un-drug-control-conventions-a-primer>

Associated Press, ‘Mexico Unveils New Strategy In War On Drugs And For Preventing Crime' (The Guardian, 2013) <https://www.theguardian.com/world/2013/feb/13/mexico-strategy-drug-war> accessed 17 July 2020

Avert, ‘Needle and Syringe Programmes (NSPs) for HIV Prevention’, 10 October 2019, <https://www.avert.org/professionals/hiv-programming/prevention/needle-syringe-programmes>

BBC News, ‘A Guide to Mexico’s Most Powerful Drug Cartels’ (BBC News, 24 October 2019)

<https://www.bbc.com/news/world-latin-america-40480405> accessed 23 August 2020.

Becker D, 'The Pandemic Has Changed Addiction Treatment, Some Hope For Good' (WBUR, 21 May 2020) <https://www.wbur.org/commonhealth/2020/05/21/coronavirus-addiction-treatment-changes.>

Bernard SA et al., 'Management of Pain in the United States—A Brief History and Implications for the Opioid Epidemic', [2019] Health Services Insights 11 2

Bewley-Taylor D, 'Challenging The UN Drug Control Conventions: Problems And Possibilities' (International Journal of Drug Policy 14 (2003), 2002) <https://www.tni.org/files/publication-downloads/challenging_the_un_drug_control_conventions.pdf> accessed 1 September 2020

Biden for President Campaign Website, 'The Biden Plan to End the Opioid Crisis' (Joe Biden for President: Official Campaign Website, 2020) < https://joebiden.com/opioidcrisis/>

'Bleak new record as 71,000 Americans died from drug overdoses last year' (The Guardian, July 2020) <https://www.theguardian.com/us-news/2020/jul/15/drugs-opioids-americans-overdoses.> Accessed 11 October 2020

BMZ. 2012. Orientierungsrahmen zur nationalen und internationalen Drogenpolitik, Herausgeber Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH, Bonn. (Drug Policy Commissioner of the Federal Government, 2012) <https://www.giz.de/en/worldwide/39973.html>

Boullosa C and Wallace M, *A Narco History: How the United States and Mexico Jointly Created the "Mexican Drug War"* (OR Books New York; London, 2015)

Cahill S and Schaefer N, 'Syringe Exchange Programs around the World: The Global Context' (Gay Men's Health Crisis (GMHC), October 2009)

Center for Disease Control and Prevention, 'Prescription Drug Monitoring Programs (PDMPs) | Drug Overdose |' (CDC, 10 June 2020) <https://www.cdc.gov/drugoverdose/pdmp/states.html >

Center for Disease Control and Prevention 'Syringe Services Programs (SSPs)' < https://www.cdc.gov/ssp/syringe-services-programs-factsheet.html > accessed 1 Setpember 2020

Center for Drug Evaluation and Research, 'Abuse-Deterrent Opioid Analgesics' (US Food and Drug Administration, 6 November 2019, < https://www.fda.gov/drugs/postmarket-drug-safety-information-patients-and-providers/abuse-deterrent-opioid-analgesics >

Center for Drug Evaluation and Research, 'Prescription Drug Advertising | Questions and Answers', FDA (FDA, 2 March 2020) <https://www.fda.gov/drugs/prescription-drug-advertising/prescription-drug-advertising-questions-and-answers >

Chabat J, 'Combatting Drugs in Mexico under Calderón: The Inevitable War' <http://repositorio-digital.cide.edu/handle/11651/826> accessed 19 July 2020.

Chen M, 'Trump Wants to Restart the Failed War on Drugs | The Nation' (The Nation, 26 October 2018) < https://www.thenation.com/article/archive/trump-wants-to-restart-the-failed-war-on-drugs/>

Chene M, "Successful Anti-Corruption Reforms." (Transparency International Organisation, April 30, 2015) < https://www.transparency.org/files/content/corruptionqas/Successful_anti-corruption_reforms.pdf >

Congressional Research Service, "Mexico: Evolution of the Merida initiative, 2007-2020" (Congressional Research Service, July 2020) <https://fas.org/sgp/crs/row/IF10578.pdf > accessed July 17, 2020

Congressional Research Service, 'U.S.-Mexican Security Cooperation: The Mérida Initative and Beyond', (Congressional Research Service, June 2017), p. 1. <https://fas.org/sgp/crs/row/R41349.pdf >

Cook AK and Worcman N, 'Confronting the Opioid Epidemic: Public Opinion toward the Expansion of Treatment Services in Virginia', [2019] Health Justice 7 https://doi.org/10.1186/s40352-019-0095-8.

Corcoran P, 'What Mexico's Elections Mean for Crime Policy: Part I' (InSight Crime, 2012) <https://www.insightcrime.org/news/analysis/what-mexicos-elections-mean-for-crime-policy-part-i/>accessed 17 July 2020

Corder M, "Mexican groups seek ICC probe of drug war crimes by military." (Associated Press, June 11, 2018), < https://apnews.com/article/6e443169a27a4792b69b80a57196dd54> , accessed July 17, 2020

Correa-Cabrera G, 'Mexican Security Diagnosis and a Proposal to Eradicate Violence' (The Wilson Center) < https://www.wilsoncenter.org/publication/mexican-security-diagnosis-and-proposal-to-eradicate-violence >

Council of Foreign Relations, 'Criminal Violence in Mexico' (Global Conflict Tracker) <https://cfr.org/global-conflict-tracker/conflict/criminal-violence-mexico> accessed 23 August 2020.

Davis K, 'A Short History of Mexican Drug Cartels' (San Diego Union-Tribune, 21 October 2016) <https://www.sandiegouniontribune.com/news/border-baja-california/sd-me-prop64-sidebar-20161017-story.html> accessed 23 August 2020.

Davis SM et al., 'Barriers to Using New Needles Encountered by Rural Appalachian People Who Inject Drugs' [2019] Harm Reduction Journal 23
https://doi.org/10.1186/s12954-019-0295-5

'D.A.R.E. America', accessed 25 July 2020,
https://dare.org/about/

de Córdoba J, "Mexico's Cartels Distribute Aid to Win Support," (Wall Street Journal, May 15, 2000)

Desilver D, 'Feds may be rethinking the drug war, but states have been leading the way' (Pew Research Center, 2 April 2014)
< https://www.pewresearch.org/fact-tank/2014/04/02/feds-may-be-rethinking-the-drug-war-but-states- have-been-leading-the-way/ >

DeWeerdt S, 'Tracing the US Opioid Crisis to Its Roots', [2019] Nature 10
< https://doi.org/10.1038/d41586-019-02686-2.>

Drug Enforcement Administration, '2019 Drug Enforcement Administration National Drug Threat Assessment', (Drug Enforcement Administration, December 2019)
<https://www.dea.gov/sites/default/files/2020-01/2019-NDTA-final-01-14-2020_Low_Web-DIR-007-20_2019.pdf>

Drug Policy Alliance, 'A Brief History of the Drug War'
< https://www.drugpolicy.org/issues/brief-history-drug-war >

Drug Policy Alliance, 'The Federal Drug Control Budget, New Rhetoric, Same Failed Drug War', (Drug Policy Alliance, February 2015),
<https://www.drugpolicy.org/sites/default/files/DPA_Fact_sheet_Drug_War_Budget_Feb2015.pdf >

Dyer E., 'Canada's Cannabis Policy Makes It An International Rebel On Drug Treaties' (CBC News, 2019)
<https://www.cbc.ca/news/politics/un-united-nations-canada-marijuana-cannabis-drugs-1.5400112> Accessed 1 September 2020

Ernst F, "Mexican Criminal Groups See Covid-19 Crisis as Opportunity to Gain More Power" (The Guardian, 20 April 2020)

Ehley B, 'Meth and Cocaine Complicate Trump's War on Drugs' (Politico, 23 October 2018)
< https://www.politico.com/story/2018/10/23/trump-war-on-drugs-876633.>

Espinosa E, 'Mexico: setbacks to freedom of expression in 2020', (Reporters Without Borders, 12 November 2020)
< https://rsf.org/en/news/mexico-setbacks-freedom-expression-2020 >

European Monitoring Centre for Drugs and Drug Abuse, 'Our Activities — Ongoing Projects, Services and Tools' | Www.Emcdda.Europa.Eu'
<https://www.emcdda.europa.eu/activities_en> accessed 24 August 2020.

'Excerpts From President's Message on Drug Abuse Control - The New York Times' <https://www.nytimes.com/1971/06/18/archives/excerpts-from-presidents-message-on-drug-abuse- control.html> accessed 11 September 2020.

Felbab-Brown V, 'Counternarcotics Policy Overview: Global Trends & Strategies' (Brookings, 24 November 2008) < https://www.brookings.edu/research/counternarcotics-policy-overview-global-trends-strategies/ >

Felbab-Brown V, 'Fentanyl and geopolitics: controlling opioid supply from China' (Brookings, 2020) <https://www.brookings.edu/research/fentanyl-and-geopolitics-controlling-opioid-supply-from-china/ >

Felbab-Brown V, "Improving Supply-Side Policies: Smarter Eradication, Interdiction and Alternative Livelihoods- and the Possibility of Licensing." (Brookings, 6 May 2014) < https://www.brookings.edu/research/improving-supply-side-policies-smarter-eradication-interdiction-and-alternative-livelihoods-and-the-possibility-of-licensing/#_edn12 > accessed January 1, 2021

Felbab-Brown V, "Poppy, eradication, and alternative livelihoods in Mexico." (Brookings, August 18, 2020) <https://www.brookings.edu/blog/order-from-chaos/2020/08/18/poppy-eradication-and-alternative-livelihoods-in-mexico/ >, accessed January 1, 2021

Felter C, 'The U.S. Opioid Epidemic' (Council on Foreign Relations, 16 July 2020) <https://www.cfr.org/backgrounder/us-opioid-epidemic >

Felter C and Laub Z, 'Who Secures the U.S. Border?' (Council on Foreign Relations, 15 February 2019) < https://www.cfr.org/backgrounder/us-mexico-border-woes >

Flannery, NP, 'Calderòn's war' [2013] Journal of International Affairs 186

Franklin G. et al. A Comprehensive Approach to Address the Prescription Opioid Epidemic in Washington State: Milestones and Lessons Learned. Am. J. [2015] Public Health 463

Fuentes JR and Kelly RJ, 'Drug Supply and Demand: The Dynamics of the American Drug Market and Some Aspects of Colombian and Mexican Drug Trafficking', [1999] Journal of Contemporary Criminal Justice 328 https://doi.org/10.1177/1043986299015004002.

Fuller T, '"Getting Worse, Not Better": Illegal Pot Market Booming in California Despite Legalization' (The New York Times, 27 April 2019) <https://www.nytimes.com/2019/04/27/us/marijuana-california-legalization.html> accessed 24 August 2020.

Fultz M, Page L, Pannu A, Quick M. Reconciling Canada's Legalization of Non-Medical Cannabis with the UN Drug Control Treaties. In: Hoffman SJ (eds.) Global Health Law Clinic Publication Series. Ottawa, Canada: Global Strategy Lab, University of Ottawa; 2017. www.globalstrategylab.org/clinic/reports/reconciling-legalization-of-cannabis-with-UN-treaties-2017.pdf.

Gainer, M, 'Transforming the Courts: Judicial Sector Reforms in Kenya, 2011-2015' [2015] Princeton University 1, 5. https://successfulsocieties.princeton.edu/sites/successfulsocieties/files/MG_OGP_Kenya.pdf

Garcia-Navarro L, "What Happened To Mexico's Missing 43 Students In 'A Massacre In Mexico'," (NPR, 2018) <https://www.npr.org/2018/10/21/658900014/what-happened-to-mexicos-missing-43-students-in-a- massacre-in-mexico> accessed July 17, 2020.

Gavrilova E, Kamada T and Zoutman F, 'How Medical Marijuana Hurts Mexican Drug Cartels' (OUPblog, 22 July 2019) <https://blog.oup.com/2019/07/how-medical-marijuana-hurts-mexican-drug-cartels/> accessed 14 October 2020.

Grant W, 'Patrolling Mexico's Most Densely Populated Suburb' (BBC News, 9 March 2018) <https://www.bbc.com/news/world-latin-america-43302244 >

Grillo I, "How Mexico's Drug Cartels Are Profiting from the Pandemic" (New York Times, 7 July 2020)

The Global Commission on Drug Policy, 'Mission and History' (The Global Commission on Drug Policy, 17 July 2015) <https://www.globalcommissionondrugs.org/about-usmission-and-history> accessed 24 August 2020.

Gootenberg P, 'Between Coca and Cocaine: A Century or More of U.S.-Peruvian Drug Paradoxes, 1860-1980' [2003] Hispanic American Historical Review <https://www.researchgate.net/publication/31132574_Between_Coca_and_Cocaine_A_Century_or_More_of_US-Peruvian_Drug_Paradoxes_1860-1980> accessed 23 August 2020.

Gómez-Romero L, 'Mexico Battles Corruption as Trust in Public Officials Plummets', (The Wire, 18 August 2017) < https://thewire.in/external-affairs/mexico-battles-corruption-trust-plummets >

Gramlich J, 'Nearly Half of Americans Have a Family Member or Close Friend Who's Been Addicted to Drugs' (Pew Research Center, 26 October 2017) < https://www.pewresearch.org/fact-tank/2017/10/26/nearly-half-of-americans-have-a-family-member-or-close-friend-whos-been-addicted-to-drugs/>

Gramlich J and Noe-Bustamante L, ‘What’s Happening at the U.S.-Mexico Border in 5 Charts’ (Pew Research Center, 1 November 2019) < https://www.pewresearch.org/fact-tank/2019/11/01/whats-happening-at-the-u-s-mexico-border-in-5-charts >

Hall W and Lynskey M, ‘Evaluating the Public Health Impacts of Legalizing Recreational Cannabis Use in the United States’ [2016] Addiction 764 DOI: 10.1111/add.13428

Hahn KL, ‘Strategies to Prevent Opioid Misuse, Abuse, and Diversion That May Also Reduce the Associated Costs’ [2011] American Health & Drug Benefits 107 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4106581/ >

History.com, ‘War on Drugs’ (History.com, 17 December 2019) <https://www.history.com/topics/crime/the-war-on drugs#:~:text=The%20War%20on%20Drugs%20is,and%20is%20still%20evolving%20today. >

Hoffman S and Habibi R, 'Canadian Medical Association Journal' (CMAJ, 2016) <https://www.ourcommons.ca/Content/Committee/421/HESA/Brief/BR9074770/br-external/HoffmanSteven-e.pdf> accessed 1 September 2020.

Holman J, ‘Mexico police officers ‘underpaid, under-equipped’ (Aljazeera News, 2 August 2018) < https://www.aljazeera.com/news/2018/07/mexico-police-officers-underpaid-equipped-180729120903772.html> accessed January 1, 2021

Interpol, ‘What Is INTERPOL?’ <https://www.interpol.int/en/Who-we-are/What-is-INTERPOL> accessed 24 August 2020.

Jakubiec D, Kilcer A, and Sager W, ‘The War on Drugs’, http://scholarworks.rit.edu/student/3

Jelsma M et.al, ‘Balancing Treaty Stability and Change: Inter se modification of the UN drug control conventions to facilitate cannabis regulation’, < https://www.tni.org/files/publication-downloads/balancing_treaty_stability_and_change.pdf >. Accessed January 1, 2021

Jelsma M and Bewley-Taylor D, ‘Drugs and Crime’ (The Oxford Handbook of United Nations Treaties, 26 June 2019) <https://www.oxfordhandbooks.com/view/10.1093/law/9780190947842.001.0001/law-9780190947842-chapter-16> .

Johnson J, and Wagner J, ‘Trump Declares the Opioid Crisis a Public Health Emergency’ (The Washington Post, 26 October 2017) < https://www.washingtonpost.com/news/post-politics/wp/2017/10/26/trump-plans-to-declare-the-opioid-crisis-a-public-health-emergency/ >

Krauze L, "Mexico wants to scrap the Mérida Initiative. That would be a terrible mistake." (The Washington Post, May 17, 2019) <https://www.washingtonpost.com/opinions/2019/05/17/mexico-wants-scrap-mrida-initiative-that-would-be-terrible-mistake> accessed July 17, 2020

Kandall SR, 'Illicit Drugs in America: History, Impact on Women and Infants, and Treatment Strategies for Women', [1992] Hastings Law Journal 615 <https://repository.uchastings.edu/cgi/viewcontent.cgi?article=3062&context=hastings_law_journal >

Kansal H, 'Telemedicine: The Cost-Effective Future of Healthcare' (HighPoint, 14 June 2019) < https://www.highpointsolutions.com/telemedicine-cost-effective-future-healthcare/ >

Kestler-D'Amours J., 2017. Canada Set To Legalize Recreational Marijuana | DW | 12.04.2017. [online] DW. <https://www.dw.com/en/canada-set-to-legalize-recreational-marijuana/a-38399494> [Accessed 1 September 2020]

Lakhani N and Tirado E , 'Mexico's War on Drugs: What Has It Achieved and How Is the US Involved?' (The Guardian, 8 December 2016) <http://www.theguardian.com/news/2016/dec/08/mexico-war-on-drugs-cost achievements-us-billions> accessed 18 July 2020.

Land MJ, 'Mexico is poised to legalize marijuana, but advocates don't like the details', (The Washington Post, 8 November 2020) <https://www.washingtonpost.com/world/the_americas/mexico-marijuana-legalize/2020/11/07/27a5fa6c-1925-11eb-82db-60b15c874105_story.html >accessed 29 November 2020

Langham S et al., 'Cost-Effectiveness of Take-Home Naloxone for the Prevention of Overdose Fatalities among Heroin Users in the United Kingdom' [2018] The Journal of the International Society for Pharmacoeconomics and Outcomes Research 407 https://doi.org/10.1016/j.jval.2017.07.014.

Lembke A, *Drug Dealer, MD: How Doctors Were Duped, Patients Got Hooked, and Why It's So Hard to Stop* (JHU Press, 2016)

Lembke A, 'Opioid Taper/Discontinuation (The BRAVO Protocol)', <https://www.oregonpainguidance.org/wp-content/uploads/2019/02/BRAVO-updated-2019.pdf?x91687 >[accessed 5 Dec 2020]

Le Cour Grandmaison R, Morris N l & Smith BT, 'The U.S. Fentanyl Boom and the Mexican Opium Crisis: Finding Opportunities Amidst Violence? Building Resilient Communities in Mexico: Civic Responses to Crime and Violence' (The Wilson Centre, February 2019) <https://www.wilsoncenter.org/sites/default/files/media/documents/publication/the_u.s._fentanyl_boom_and_the_mexican_opium_crisis.pdf > accessed January 1, 2021

Leyton M, 'Cannabis Legalization: Did We Make a Mistake? Update 2019' [2019] 4 Journal of Psychiatry & Neuroscience 291

Lopez G, 'The war on drugs, explained' (Vox, 8 May 2016) , <https://www.vox.com/2016/5/8/18089368/war-on-drugs-marijuana-cocaine-heroin-meth >

Lopez G, 'How Obama quietly reshaped America's war on drugs' (Vox, 19 January 2017), < https://www.vox.com/identities/2016/12/19/13903532/obama-war-on-drugs-legacy >

Lopez G, 'Trump and Sessions's Quiet Success: Reinvigorating the Federal War on Drugs' (Vox, 5 January 2018) < https://www.vox.com/policy-and-politics/2018/1/5/16851120/trump-sessions-war-on-drugs >

MacKay R, and Phillips K, 2016. The Legal Regulation Of Marijuana In Canada And Selected Other Countries. [online] Lop.parl.ca. <https://lop.parl.ca/sites/PublicWebsite/default/en_CA/ResearchPublications/201694E> [Accessed 1 September 2020].

Madden GJ, 'Ammunition for Fighting a Demand-Side War on Drugs: A Review of Contingency Management in Substance Abuse Treatment' [2008] Journal of Applied Behavior Analysis 645 https://doi.org/10.1901/jaba.2008.41-645.

McGreal C, '"Opioid Overdoses Are Skyrocketing": As Covid-19 Sweeps across US an Old Epidemic Returns' (The Guardian, 9 July 2020) < https://www.theguardian.com/us-news/2020/jul/09/coronavirus-pandemic-us-opioids-crisis >

McVeigh K, 'Illegal Drug Classifications Are Based On Politics Not Science – Report' (The Guardian, 2019) <https://www.theguardian.com/global development/2019/jun/26/illegal-drugs-classifications-based-on-politics-not-science-cannabis-report-says> accessed 1 September 2020

Media Inquiries, 'Two-Thirds of Americans Support Marijuana Legalization' (Pew Research Center, 14 November 2019) < https://www.pewresearch.org/fact-tank/2019/11/14/americans-support-marijuana-legalization/ > accessed 22 August 2020

Medical Board of California 'Naxolone', < https://www.mbc.ca.gov/Licensees/Prescribing/OverdosePrevention/Naloxone.aspx > Accessed January 1, 2021

'Mexico cannabis bill: Senate vote paves way for legalisation', (BBC, 20 November 2020) <https://www.bbc.com/news/world-latin-america-55015508> accessed 1 December 2020

'Mexico may become the third country to legalise cannabis' (The Economist, 21 November

2020) < https://www.economist.com/the-americas/2020/11/21/mexico-may-become-the-third-country-to-legalise-cannabis> accessed 1 December 2020

"Mexican National Human Rights Commission Likely to Take Legal Action Against Security Law." (The Wire, 18 December 2017) <https://thewire.in/external-affairs/mexican-national-human-rights-commission-likely-take-legal-action-security-law> accessed July 17, 2020.

Midford R, 'Drug Prevention Programmes for Young People: Where Have We Been and Where Should We Be Going?' [2010] Addiction 1688. DOI: 10.1111/j.1360-0443.2009.02790.x

Miron J, 'An Economic and Moral Case for Legalizing Cocaine and Heroin' (Cato Institute, 28 July 2014) <https://www.cato.org/publications/commentary/economic-moral-case-legalizing-cocaine-heroin> accessed 2 August 2020.

Moilanen R, 'Just Say No Again: The Old Failures of New and Improved Anti-Drug Education' (Reason.Com (blog), January 2004) <https://reason.com/2004/01/01/just-say-no-again-2/>

Monitoring the Future, 'Monitoring the Future: A Continuing Study of American Youth', (Monitoring the Future University of Michigan, 2000) < http://www.monitoringthefuture.org/.>

Morris J and Reason Foundation, 'Does Legalizing Marijuana Reduce Crime?' 15. <https://reason.org/policy-brief/does-legalizing-marijuana-reduce-crime/>

Morton AD, 'The War on Drugs in Mexico: A Failed State?' [2012] Third World Quarterly 1631.

Mungiu-Pippidi A. et al, 'Contextual Choices in Fighting Corruption: Lessons Learned' (NORAD, 2011) < http://www.againstcorruption.eu/reports/contextual-choicesin-fighting-corruption-lessons-learned/ >

Narcia E, 'Mexico: Journalism in the Crosshairs of Politics and Corruption', in Untold Stories: How Corruption and Conflicts of Interest Stalk the Newsroom, ed. *Adam White* (London, UK: Ethical Journalism Network, 2016), 41.

National Center for Drug Abuse Statistics (NCDAS), 'War on Drugs Cost Statistics', (National Center for Drug Abuse Statistics, 2019) <https://drugabusestatistics.org/drug-war-cost/>

National Drug Early Warning System (NDEWS), 'Most Frequently Identified Drugs in the USA, 2018' (Center for Substance Abuse Research, National Institute on Drug Abuse, 2018) <https://data.ndews.org/nflis/national- regional/national-estimates-top-25/.>

National Institute on Drug Abuse, 'Overdose Death Rates' (National Institute on Drug Abuse, 10 March 2020) < https://www.drugabuse.gov/drug-topics/trends-statistics/overdose-death-rates.>

National Institute for Health Care Management (NIHCM), 'The Evolution of the Opioid Crisis: 2000-2017' (National Institute for Health Care Management, August 2019) < https://www.nihcm.org/categories/the-evolution-of-the-opioid-crisis-2000-2017>

Neuman, William, Randal C., Archibold, and Ahmed, Azam, "Mexico Prison Break by 'El Chapo' Is a Blow to President Peña Nieto" (The New York Times, 13 July 2015) <https://www.nytimes.com/2015/07/14/world/americas/mexico-joaquin-guzman-loera-el-chapo-prison escape.html> accessed July 16, 2020

Neuwirth R, 'Rio Drug Gangs Forge A Fragile Security' (2002) 36 NACLA Report on the Americas 32

O'Neil S, 'Demand Side Policies in the U.S. War on Drugs' (Council on Foreign Relations, 6 September 2011) <https://www.cfr.org/blog/demand-side-policies-us-war-drugs.>

Payan T, Staudt K, and Kruszewski ZA, eds., *War That Can't Be Won* (Tucson, Arizona: University of Arizona Press, 2013), < https://uapress.arizona.edu/book/a-war-that-cant-be-won.>

PBS Frontline, The Business - Colombian Traffickers | Drug Wars | FRONTLINE | PBS' <https://www.pbs.org/wgbh/pages/frontline/shows/drugs/business/inside/colombian.html> accessed 25 September 2020.

Pearl B, 'Ending the War on Drugs: By the Numbers' (Center for American Progress, 27 June 2018) <https://www.americanprogress.org/issues/criminal-justice/reports/2018/06/27/452819/ending-war-drugs-numbers/ >

Pew Research Center, 'Perceptions of Drug Abuse, Views of Drug Policies' (Pew Research Center, 2 April 2014) < https://www.pewresearch.org/politics/2014/04/02/section-1-perceptions-of-drug-abuse-views-of-drug-policies/ >

Piaggo A and Vidwans P, 'The cost and consequences of the war on drugs' < http://fileserver.idpc.net/library/the-cost-and-consequence.pdf >

Pierson B, "'El Chapo' paid former Mexican president $100 million bribe: trial witness" (Reuters, 16 January 2019) <https://www.reuters.com/article/us-usa-mexico-el-chapo/el-chapo-paid-former-mexican-president-100-million-bribe-trial-witness-idUSKCN1P92OS> accessed July 17, 2020

Recovery.org, 'What to know about the Narcotics Anonymous 12 Step Program' < https://www.recovery.org/support-groups/narcotics-anonymous/ > accessed 5 December 2020

Ríos V and Wood DW, 'The Missing Reform: Strengthening the Rule of Law in Mexico' (Woodrow Wilson International Center for Scholars, 2018) <https://www.wilsoncenter.org/publication/the-missing-reform-strengthening-the-rule-law-mexico >

Robison J, 'Decades of Drug Use: Data From the '60s and '70s' (Gallup, 2 July 2002) <https://news.gallup.com/poll/6331/decades-drug-use-data-from-60s-70s.aspx >

Romero V et al., 'Cultura política de la democracia en México y en las Américas, 2014: Gobernabilidad democrática a través de 10 años del Barómetro de las Américas' (Vanderbilt University, May 2015) <https://www.vanderbilt.edu/lapop/mexico/AB2014_Mexico_Country_Report_V3_W_082115.pdf >

Room R and MacKay S, 'Roadmaps To Reforming The UN Drug Conventions' (The Beckley Foundation, 2012) <https://www.unodc.org/documents/ungass2016/Contributions/Civil/Beckley_Foundation/Roadmaps_to_Reform_Report_w_Foreword_110915.pdf.pdf> accessed 1 September 2020

Saffer H and Chaloupka F, 'Demographic Differentials in the Demand for Alcohol and Illicit Drugs', Working Paper, Working Paper Series (National Bureau of Economic Research, February 1998), https://doi.org/10.3386/w6432.

Sebag C. 'The War on Drugs: U.S.-Mexico Intelligence Cooperation', (Leidensecurityandglobalaffairsblog, 2018). <https://leidensecurityandglobalaffairs.nl/articles/the-war-on-drugs-u-s-mexico-intelligence-cooperation. > Accessed 11 October 2020

'Senate leader expects marijuana law to be passed in December' (Mexico News Daily, October 2, 2020) <https://mexiconewsdaily.com/news/senate-leader-expects-marijuana-law-to-be-passed-in-december/ > accessed 29 November, 2020

Shirk D and Wallman J, 'Understanding Mexico's Drug Violence' [2015] The Journal of Conflict Resolution 1348.

Silva MJ and Kelly Z, 'The Escalation of the Opioid Epidemic Due to COVID-19 and Resulting Lessons About Treatment Alternatives' [2020] The American Journal of Managed Care

Smith R, Gøtzsche P and Groves T, 'Should Journals Stop Publishing Research Funded by the Drug Industry?' [2014] BMJ 348 https://doi.org/10.1136/bmj.g171.

Teshale E et al., 'Estimated Cost of Comprehensive Syringe Service Program in the United States' [2019] PLoS ONE https://doi.org/10.1371/journal.pone.0216205

The Economist, "Mexico's new government: Coming out swinging." (The Economist, 22 December 2012) < https://www.economist.com/the-americas/2012/12/22/coming-out-swinging> accessed July 17, 2020

The Global Commission on Drug Policy, 'Classification Of Psychoactive Substances- When Science Was Left Behind' (The Global Commission on Drug Policy, 2019)

<https://www.globalcommissionondrugs.org/wp-content/uploads/2019/06/2019-Report-Press-Kit-ENG.pdf> accessed 1 September 2020

'The UN Drug Control Conventions' (Transnational Institute, 8 October 2015) <https://www.tni.org/en/publication/the-un-drug-control-conventions> accessed 24 August 2020.

Thompson G. 'How the U.S. Triggered a Massacre in Mexico'(ProPublica & National Geographic, 2017) <https://www.propublica.org/article/allende-zetas-cartel-massacre-and-the-us-dea. > Accessed 11 October 2020]

Transnational Institute 'Cannabis Regulation and the UN Drug Treaties: Strategies for Reform' (Transnational Institute, June 2016) <https://www.swansea.ac.uk/media/Cannabis-Regulation-and-the-UN-Drug-Treaties.pdf > , accessed January 1, 2021

United Department of State, International Narcotics Control Strategy Report, Vol. 1, March 2019, <https://www.state.gov/wp-content/uploads/2019/04/INCSR-Vol-INCSR-Vol.-I-1.pdf >

UNODC, 'Southeast Asia: Opium Survey' (UNODC, December 2008) < https://www.unodc.org/documents/crop-monitoring/East_Asia_Opium_report_2008.pdf > accessed January 1, 2021

UNODC, 'World Drug Report' (UNODC, 2015) < https://www.unodc.org/wdr2015/en/alternative-development.html >

U.S.-Mexico Security Cooperation Task Force, 'US-Mexico Security Cooperation 2018-2024 [White paper]' (UC San Diego, 2018) <https://usmex.ucsd.edu/_files/Whitepaper_Security_Taskforce_March_26_Covers.pdf >

Ventola CL, 'Direct-to-Consumer Pharmaceutical Advertising, Therapeutic or Toxic?' [2011] Pharmacy and Therapeutics 669

Vienna Convention on the Law of Treaties 1969 (adopted 23 May 1969, entered into force 27 January 1980) Article 41. <http://legal.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf >

Villegas P, 'As Violence Soared in Mexico, This Town Bucked the Trend' (The New York Times, 1 September 2018) <https://www.nytimes.com/2018/09/01/world/americas/mexico-violence-police.html. >Accessed 1 January 2021

Volkow N.D., 'What Is the Federal Government Doing to Combat the Opioid Abuse Epidemic?' (National Institute of Drug Abuse, 1 May 2015) < https://archives.drugabuse.gov/testimonies/2015/what-federal-government-doing-to-combat-opioid-abuse-epidemic > accessed 1 January 2021

Valero MJ, "Mexico's Pena Nieto, Calderon Slam El Chapo's Bribe Allegations." (Bloomberg, 14 November 2018)

< https://www.bloomberg.com/news/articles/2018-11-14/mexico-s-pena-nieto-calderon-slam-el-chapo-s-bribe-allegations>, accessed July 17, 2020

Vowles KE, McEntee ML, Julnes PS, Frohe T, Ney JP, van der Goes DN, 'Rates of opioid misuse, abuse, and addiction in chronic pain: a systematic review and data synthesis' [2015] Pain 569-76. doi: 10.1097/01.j.pain.0000460357.01998.f1.

Wayne EA, 'Border Security and Counter-Narcotics' (Wilson Center, 23 August 2019) <https://www.wilsoncenter.org/article/border-security-and-counter-narcotics >

Wainright T, *Narconomics: How to Run a Drug Cartel* (New York: Public Affairs, 2016)

Webber J, 'Explosion of violence dooms Mexican leader's bid to calm cartels' (Financial Times, 18 July 2020) < https://www.ft.com/content/1b250165-c6c8-4f1e-904e-d7be979026f0 >

Webber J, 'Mexico Tackles Police Reform as Outrage at Drug Violence Grows' (Financial Times, 21 December 2014) <https://www.ft.com/content/7e40f05c-8907-11e4-ad5b-00144feabdc0. >

Weinmeyer, Richard 'Needle Exchange Programs' Status in US Politics' [2016] AMA Journal of Ethics 18 252
https://doi.org/10.1001/journalofethics.2016.18.3.hlaw1-1603.

Wikipedia, 'Drug Abuse Resistance Education'
<https://en.wikipedia.org/wiki/Drug_Abuse_Resistance_Education#2008_%E2%80%93_Harvard > accessed 1 January 2021

Winstanley E et al., 'Barriers to Implementation of Opioid Overdose Prevention Programs in Ohio' [2015] Substance Abuse 42
DOI: 10.1080/08897077.2015.1132294

Zaslansky R et al. 'Pain after orthopaedic surgery: differences in patient reported outcomes in the United States vs internationally. An observational study from the PAIN OUT dataset' [2018] British Journal of Anaesthesia 790 DOI: 10.1016/j.bja.2017.11.109