

International Responses to Drug Abuse among Young People: Assessing the Integration of Human Rights Obligations

Allison Smith Estelle

Allison Smith Estelle is a Sc.D. candidate at the Harvard School of Public Health in the department of Population and International Health. This essay was the winner of the 2000 François-Xavier Bagnoud Health and Human Rights Essay Award. Please address correspondence to the author at the Department of Population and International Health, Harvard School of Public Health, 677 Huntington Avenue, Boston, MA 02115 USA or to smitha@hsph.harvard.edu.

I. Introduction

Drug use and abuse among young people is increasing worldwide. Young people are starting to take drugs at younger ages and report use of a wide variety of drugs including heroin, cocaine and amphetamines. It is estimated that the entire illicit drug industry is worth US\$500 billion per year, dwarfing the US\$62 billion spent on development assistance per year.¹ The health impacts of drug abuse are evident: dependency, addiction, overdose and sometimes death. The goal of this paper is to highlight the intersection of health and human rights with respect to drug abuse among young people. The paper argues two points. The first is that the failure of governments to respect, protect and fulfill human rights leads to less effective prevention of drug abuse as well as to less effective treatment of drug abusers. The second point, which comprises the bulk of this paper, is that the international community, and international drug control bodies in particular, because of their focus on drug supply reduction, are in large part responsible for States' human rights violations against young people who use and abuse drugs, as well those who are vulnerable to drug abuse.

The paper is divided into four sections. The first will discuss why drug abuse is a human rights issue. The second will provide readers with some definitions that are central to this topic. The paper will then explore international responses to drug prevention and abuse among young people and suggest how governmental responses are shaped by international responses. The last section will provide the reader with recommendations for how the international response to drug abuse could be more effective in terms of the integration of human rights principles and obligations.

II. Drug Abuse among Young People as a Human Rights Issue

Human rights include civil and political rights such as the right to be free from torture and from arbitrary execution, as well as the right to vote. Human rights also include social, economic and cultural rights such as the right to health, the right to an adequate standard of living, the right to education and the right to just and favorable conditions of work. Human rights law requires that governments respect, protect and fulfill human rights. To *respect* human rights means that governments cannot directly violate the rights of individuals. To *protect* means that governments must have both adequate means to prevent rights violations of individuals by other actors and, in the case that violations do occur, adequate legal means of redress that are well known and accessible. Finally, to *fulfill* human rights, governments must take budgetary, legislative, administrative and judicial measures to ensure the full realization of the rights of individuals.² All rights contained in major human rights documents, including the International Covenant on Economic, Social and

¹ United Nations Drug Control Program, *Drugs and development*, UNDCP Technical Series 1994/06/01.

² Gruskin, S et al., "A Human Rights Framework for Preventing Psychoactive Substance Use By Youth in the Context of Urbanization" paper prepared for WHO conference on Youth and Substance Abuse in the Context of Urbanization, Kobe, Japan, 2000.

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Cultural Rights, the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination Against Women and the International Convention on the Elimination of All Forms of Racial Discrimination, imply all three levels of obligations. Furthermore, all of these documents contain rights obligations directly applicable to young people.

The Convention on the Rights of the Child (CRC), which came into force in 1990, is the first to explicitly address the rights of the child. Defining children as those under the age of 18, the CRC is one of the most powerful human rights documents in existence. Adopted in 1989 by the UN General Assembly and opened for signature that same year, the Convention entered into force less than a year later, and currently all but two governments in the world have ratified the Convention.

Language exists throughout human rights documents that both explicitly and implicitly state governmental obligations to respect, protect and fulfill human rights as they relate to young people and drug abuse prevention and treatment. Some of these include:

- right to health (ICESCR Article 12)
- right to enjoyment of highest attainable standard of health *and to facilities for the treatment of illness and rehabilitation of health* (CRC Article 24, italics added)
- right to an adequate standard of living for child's physical, mental, spiritual, moral and social development (CRC Article 27)
- right to education (CRC Article 28, ICESCR Article 13)
- right to rest and leisure (CRC Article 31)
- right to freedom of expression, including the right to seek, receive and impart information and ideas (CRC Article 13)
- right to just and favorable conditions of work which ensure, in particular, a decent living for individuals and their families (ICESCR Article 7)
- right to freedom of association (CRC Article 15)
- right to no arbitrary or unlawful interference with privacy (CRC Article 16, ICCPR Article 17)
- right to information from diversity of national and international sources, especially those aimed at the promotion of young person's social, spiritual and moral well-being and physical and mental health (CRC Article 17)

Other rights relevant to young people and substance abuse are found in the continuation of CRC Article 17, which emphasizes the State's responsibility to encourage the mass media to disseminate material that is socially and culturally beneficial. Article 10 of the ICESCR requires that States take special measures to protect and assist children and young people. Article 39 of the CRC requires States to

take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and re-integration shall take place in an environment which fosters the health, peer-respect and dignity of the child.

Article 33 of the CRC is the most explicit in addressing States' responsibilities with respect to drug abuse among young people. It reads:

States parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.

Some rights, including the right to life, the right to be protected from torture, cruel, inhuman or degrading treatment and the right to freedom of thought, conscience and religion can never be violated, while others, including all the rights listed above, can be derogated from for reasons of public health, public order

or national emergency, among others. However, these derogations must be strictly necessary, in the interest of a legitimate objective, the least restrictive alternative, not inconsistent with other obligations under international law, and not discriminatory in any way.

Clearly, then, drug use and abuse are human rights issues and government obligations to respect, protect and fulfill these human rights are profoundly important both to prevent and to treat drug abuse. Using a human rights framework, we can predict that the violation or neglect of young people's human rights can increase the use and abuse of substances, as well as decrease the chance of appropriate treatment for youth already abusing substances.³ According to one UNICEF official, the use of drugs "undermines children's rights, and drugs flourish in settings where those rights are not adequately protected." This official goes on to say that the impact of drugs on the lives of children and young people is not only a question of their basic needs going unmet, but a "gross violation of their rights."⁴

III. Drug Abuse among Young People: Some Definitions

Before proceeding further, discussion of some of the key terms being used in the literature and in this paper is necessary. Unfortunately, these definitions are too often missing in the existing literature. Especially important to define and discuss are the terms "young people," "psychoactive" and "psychotropic" substances, and "substance use" and "substance abuse."

Defining Young People in the Context of Drug Abuse

In talking about drug abuse and human rights, it is important to acknowledge that "young people" are not a homogenous group. "Young people" range from age 10 to 24 (as defined by UNICEF),⁵ live in industrialized and developing countries, and reside in urban and rural areas. Some attend school while others do not; some are literate while others are not. Young people can live with their parents or extended families, or, often because of migration, live without their families. Young people can be parents themselves, be employed, unemployed or underemployed. Other considerations include a young person's gender, race, ethnicity, class and status as a refugee or displaced person.

It is also important to acknowledge the heterogeneity of young people's status within cultural contexts. If a society places young people in a marginal status until some distant adulthood, the risks they face, including unemployment or underemployment, gender discrimination, separation from family, the lack of educational opportunities, or the exposure to drugs, may be of little interest to decision makers.⁶

It is also important to remember that young people may use or abuse drugs for very different reasons. While some youth, primarily in more developed countries but increasingly in less developed countries, use or abuse drugs for social or entertainment reasons (often referred to in literature as "socially integrated" youth⁷) other young people may use or abuse substances as a strategy to be able to work longer hours (since in many countries, workers are paid according to how much they produce), enhance their work or school performance, to fend off or help them to sleep, to alleviate hunger or to reduce physical or emotional pain.^{8 9} Some others may use or abuse drugs as a strategy to cope with unemployment, neglect, violence and sexual abuse.

Finally, a young person could be a drug user/abuser herself, or be affected or vulnerable to drug use and/or abuse. The concepts of *affected* and *vulnerable*, used extensively in the analysis of HIV/AIDS and

³ *Ibid.*

⁴ United Nations. "Ad Hoc Committee Approves Draft Decision on Strengthening UN Machinery For International Drug Control", Press Release GA/9417, 1998.

⁵ UNICEF, Youth Health—For a Change: A UNICEF Notebook on Programming for Young People's Health and Development (1997)

⁶ United Nations Drug Control Program, *The Social Impact of Drug Abuse*, 1995.

⁷ United Nations Economic and Social Council, *Youth and Drugs: a global overview* Report of the Secretariat, 1999.

⁸ *Ibid.*

⁹ Boonmongkon, P et al., "Urbanization, Youth and Substance Abuse in Thailand: Lessons Learned and New Directions" paper prepared for WHO conference on Youth and Substance Abuse in the Context of Urbanization, Kobe, Japan, 2000.

human rights, are appropriate to this discussion as well. Gruskin et al. describe young people affected by substance abuse as those who “live in households and communities or attend institutions where psychoactive substance use by others is prevalent,” whereas young people vulnerable to drug abuse are those who “are born and grow into adulthood in a world where this risk of psychoactive substance use is one more obstacle which must be navigated.”¹⁰

The impact of drugs on young people and the elaboration of the concepts of *user/abuser*, *affected* and *vulnerable*, is perhaps nowhere better illustrated than through the example of street children. “Fuelled by demographic pressure, many cities in the developing world have makeshift warrens full of destitute children trapped in a vicious circle of poverty . . . [and] illicit drugs can seem to offer a means of economic survival, a source of peer respectability, and a convenient albeit temporary escape from reality.”¹¹ While some of these children will become users and abusers of drugs, all of them are affected and vulnerable to drugs, by being exposed to drug use and abuse in their “community” and by living and growing up in an environment where drugs are available. The rise in the numbers of street children is dramatic. In the Indian cities of Bombay, Delhi and Calcutta alone, there are over 300,000 street children, and many African and Latin American capitals have experienced dramatic rises in the number of children living on the streets in recent years.¹²

Defining Psychotropic and Psychoactive Substances

The 1971 Convention Annex includes a long list of chemicals considered to be Schedule I, II, III and IV drugs. Article 2 of the same Convention gives more of a layperson’s description of drugs as substances found to “have the capacity to produce a state of dependence and/or central nervous system stimulation or depression, resulting in hallucinations or disturbance of motor function or thinking or behavior or perception or mood. . . .” Drugs most often discussed in the international literature include cannabis, cocaine, opium, heroin, amphetamine-type stimulants, ecstasy and inhalants, including glue.

Defining Substance Use and Abuse

Finally, the challenge of defining substance “use” and “abuse” has not been taken up by many policymakers, researchers or advocates of drug control. The task is difficult, political and culturally specific, and this paper will not contribute to solving this definitional problem in any way. Instead, it will discuss some of the problems that arise because of the lack of clear definitions. Perhaps the most detrimental is that drug use and abuse may be overexaggerated by politicians and advocates of drug control, and underestimated by users and abusers themselves, creating a wider divide between those groups who need to join together to solve the problem of drug abuse. Tomaševski suggests that defining drug abuse is and will continue to be difficult, in part because of the absence of health criteria to define drug use, abuse, addiction and dependence. She notes that in its guidelines for the implementation of international drug control treaties, the World Health Organization concluded that “drug abuse cannot be separated from drug use in any general way because of different cultural and legal attitude to drugs in different countries.”¹³

In the literature reviewed for this paper, the overwhelming trend was to use the words “use” and “abuse” interchangeably, with little to no distinction made in the vast continuum of behaviors, states and outcomes related to drug intake.¹⁴ Review of the literature also revealed interesting patterns in the way drugs are combined in discussion. Cannabis, although known to have low acute toxicity, require less drug treatment and cause fewer deaths than other drugs, was continually clumped together with more powerful, toxic, physically addictive and deadly drugs such as cocaine, heroin and ecstasy. Alcohol, on the other hand, was

¹⁰ Gruskin, S et al., “A Human Rights Framework for Preventing Psychoactive Substance Use By Youth in the Context of Urbanization” paper prepared for WHO conference on Youth and Substance Abuse in the Context of Urbanization, Kobe, Japan, 2000.

¹¹ United Nations. “Economic and Social Council Begins Three-Day High-Level Discussion on International Cooperation to Combat Illicit Drugs” Press Release ECOSOC/5644, 1996.

¹² United Nations Drug Control Program, *Drugs and development*, UNDCP Technical Series 1994/06/01.

¹³ Tomaševski, K, “Health,” in Schachter and Joyner, *United Nations Legal Order*, pp.859-906.

¹⁴ Ozaki, S, “Current Status of Drug Abuse among Youth in Japan” paper prepared for WHO conference on Youth and Substance Abuse in the Context of Urbanization, Kobe, Japan, 2000.

often completely ignored, although it is often a drug of choice among young people, has been reported to cause work-related problems and injuries more often than drugs,¹⁵ and in some countries causes more death and injury among young people than any other drug.

IV. International Responses to Substance Abuse

Whether illicit drug use should be considered a crime, a disease, a social disorder or some mixture of these is debated in many countries. Often, public policy is ambivalent about the nature of addiction, with social attitudes towards drug abuse reflecting uncertainty about what causes abuse and who is ultimately responsible.¹⁶

This quotation reveals many of the challenges of dealing with drug abuse. Despite the obvious connections between drug abuse, young people and human rights, the international community has not consistently integrated human rights as a central and fundamental part of its responses to drug prevention and drug abuse among youth. By not doing so, it is not surprising that national responses have also remained fragmented, country- and culturally specific and, in many cases, have violated the human rights of young people. The section will be divided to look at treaties, declarations of the United Nations and current international activities, all related to drugs. Each of these will be assessed for its integration of human rights principles and obligations in its response to drug abuse among young people.

Treaties and Their Content

The international drug control system is governed by a series of treaties adopted by the United Nations. These treaties require that governments exercise control over production and distribution of narcotic and psychotropic substances, and combat drug abuse and illicit trafficking. Existing treaties include: the 1961 Single Convention on Narcotic Drugs, that Convention as amended by the 1972 Protocol, the 1971 Convention on Psychotropic Substances, and the 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. The UN Commission on Narcotic Drugs (CND), a treaty body, is the main policymaking body for all matters of international drug control. All UN drug control activities are coordinated by the United Nations Drug Control Programme (UNDCP), which was established in 1990. The UNDCP is financed both through the regular budget of the UN and a voluntary funded budget, supported mainly by contributions from governments. The specific activities of the UNDCP will be discussed further below.

Tomaševski writes that before the 1961 Convention, drug control was largely seen as a health issue globally. With the 1961 and 1971 Conventions, health issues lost prominence. Legal norms on drug consumption and addiction were “added only as a tail to the thrust of these conventions”; instead they dealt primarily with the supply of drugs and trafficking.¹⁷ The system of administrative controls and penal sanctions outlined in these Conventions was seen largely to constitute prevention of drug abuse.¹⁸

Despite evidence that years of expensive supply reduction efforts have been limited in their effectiveness, there seems to be almost “universal focus” on reducing the availability of illicit drugs through law enforcement measures, while demand and harm reduction approaches have been relatively neglected.¹⁹ Wodak writes:

Over the last half century, drug policy has increasingly depended on efforts to restrict illicit drug supplies. Yet global drug production has grown steadily, accompanied by a global increase in consumption (most marked recently in developing countries). These trends have occurred while illicit drug law enforcement has progressively intensified in almost all countries with enlarged customs bureaus and police drug squads, more

¹⁵ United Nations Drug Control Program, *The Social Impact of Drug Abuse*, 1995.

¹⁶ *Ibid.*

¹⁷ Tomaševski, K, “Health,” in Schachter and Joyner, *United Nations Legal Order*, pp.859-906.

¹⁸ Commentary on the Convention of Psychotropic Substance, UN Sales No. E.76.XI.5, at 330 (1976) (From Tomaševski)

¹⁹ Wodak, A, “Health, HIV Infection, Human Rights, and Injecting Drug Use” *Health and Human Rights* 2(4):25-41.

severe penalties for drug offense, and substantially increased funding for all components focusing on reducing supply.²⁰

The reality of support for drug supply reduction as compared to drug demand or harm reduction approaches can further be seen in the breakdown of Articles in the 1961, 1971 and 1988 Conventions. Of the 51 Articles in the 1961 Convention, only one addresses measures to be taken for the prevention and abuse of drugs. The allocation of spending for supply and control activities versus demand reduction activities also indicates current global priorities. For 1996–1997, UNDCP budgeted 49% of its funds for supply and control activities globally, while demand reduction activities only received 31% of the overall budget.²¹

Such a focus implicates international drug agencies in the neglect of human rights. Most funding for drug efforts comes from international sources, which help establish the priorities for countries supported by these funds. By focusing on the punishment instead of the treatment of drug abusers, and by focusing on finding those who make and traffic drugs instead of finding people, especially young people, who are vulnerable to drug abuse, UNDCP and other drug agencies enable countries to ignore their human rights obligations.

With respect to drug abuse, the 1961 and 1971 Conventions state that States Parties “may provide, either as an alternative to conviction or punishment or in addition to punishment, that such abusers shall undergo measures of treatment, education, after-care, rehabilitation and social reintegration.”²² The language and thrust of the 1988 Convention with respect to abuse is similar.²³ What is important to note, as does Tomaševski, is that penal sanctions remain the primary mechanism for dealing with people who use and abuse drugs, while all of these services—treatment, education, rehabilitation, after-care and social reintegration—are *optional*, despite the fact that every citizen has the right to health and education. For young people, the rights are even more explicit, including, as mentioned earlier, the right to facilities for the treatment of illness and rehabilitation of health (CRC Article 24), the right to be protected and assisted (ICESCR Article 10) and the right to be protected from the illicit use of narcotic drugs (CRC Article 33). In addition, the CRC outlines States’ obligations to take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of any form of neglect, exploitation or abuse, all of which are applicable to young people who use or abuse drugs (CRC Article 39).

In terms of prevention, the 1961 and 1971 Conventions address measures to be taken against the abuse of psychotropic substances. The language in the two Conventions is once again parallel and reads: “The Parties shall take all practicable measures for the prevention of abuse of psychotropic substances and for the early identification, treatment, education, after-care, rehabilitation and social reintegration of the persons involved and shall coordinate their efforts to these ends.”²⁴ While it could be argued that language relating to prevention of drug abuse is stronger with respect to human rights than that dealing with punishment for drug abuse, States are left without any concrete requirements for preventing drug abuse among youth, instead being told to take “all practicable measures” to do so. In creating treaty language as such, States have the obligation to put mechanisms into place to *progressively* achieve full realization of these rights, but little more guidance is given. As a result, young people who use, abuse or are affected or vulnerable to drug abuse are at the mercy of their governments to provide them with treatment and help instead of punishing or imprisoning them. Those governments who choose to punish or imprison instead of providing education, services or treatment can refer to treaty language that implicitly allows them to do so.

Declarations and Their Content

In a resolution adopted by the United Nations General Assembly during the Twentieth Special Session in 1998, the following Political Declaration was made:

²⁰ *Ibid.*

²¹ United Nations Drug Control Program. “World Drug Report: Fact Sheet” 1997.

²² 1961 Convention- Article 36, paragraph 1(b); 1971 Convention- Article 22 paragraph 1(a)

²³ See Article 3, paragraph 4 (b, c, d) of 1988 Convention

²⁴ 1961 Convention, Article 38; 1971 Convention, Article 20

Drugs destroy lives and communities, undermine sustainable human development and generate crime. Drugs affect all sectors of society in all countries: in particular, drug abuse affects the freedom and development of young people, the world's most valuable asset. Drugs are a grave threat to the health and well being of all mankind, the independence of State, democracy, the stability of nations, the structure of all societies and the dignity and hope of millions of people and their families.²⁵

In this same Declaration, Member States recognized the importance of demand reduction as an “indispensable pillar” to counter the world drug problem and committed themselves to having new or enhanced demand reduction strategies and programs, in close collaboration with public health, social welfare and law enforcement authorities, in place by 2003 and to achieving significant and measurable results in demand reduction by 2008.²⁶

The General Assembly also adopted a Declaration on the Guiding Principles of Drug Demand Reduction (resolution 54/132), pledging a “sustained political, social, health and educational commitment to investing in demand-reduction programs that will contribute towards reducing public health problems, improving individual health and well-being, promoting social and economic integration, reinforcing family systems and making communities safer.”²⁷ This Declaration on the Guiding Principles called for a balanced approach between demand reduction and supply reduction, and an approach to demand reduction that included both preventing the use of drugs and reducing the adverse consequences of drug abuse. Active and coordinated participation of individuals was encouraged, and acknowledgment of gender, cultural, educational, geographical and economic issues that might put some individuals and communities at greater risk for drug abuse than others was made. There was a call for demand reduction strategies to be built on knowledge acquired from research and from lessons derived from past programs, as well as for information to be clear, to avoid sensationalism, to be scientifically accurate and reliable, culturally valid and timely. Demand reduction programs were to embrace education, information, public awareness, early intervention, counseling, treatment, rehabilitation, relapse prevention, aftercare and social reintegration and all reduction strategies should be evaluated to assess and improve effectiveness. Finally, there was a call for reduction programs to be designed to meet the needs of specific population groups, paying special attention to youth. Both the Political Declaration and Declaration of Guiding Principles explicitly discussed the importance of investing in and working with youth.²⁸

These Declarations explicitly refer to human rights only once, when in the Guiding Principles it is claimed that the United Nations’ approach to drug abuse is in full conformity with the purposes and principles of the Charter of the United Nations: respect for the full sovereignty of States, the principle of non-intervention in internal affairs and respect for all human rights and fundamental freedoms. While human rights issues are alluded to throughout the Declarations in terms of approaches, inclusion, nondiscrimination and provision of services, the lack of explicit reference to human rights throughout the document weakens the necessity of addressing human rights issues among implementing agencies. Furthermore, using a human rights framework would help identify issues that may otherwise go unacknowledged. As an example, the literature often discusses the need for or implementation of drug educational programs for young people. Almost always, these educational programs take place within the school system, which completely ignores the educational needs of out-of-school children. In addition, more and more outreach programs seem to focus on urban youth, which ignores the educational and informational needs of young people living in rural areas.

²⁵ United Nations General Assembly, Political Declaration S-20/2 (1998).

²⁶ *Ibid.*

²⁷ United Nations General Assembly, Declaration on the Guiding Principles of Drug Demand Reduction, Resolution 54/132, (1998)

²⁸ United Nations Economic and Social Council, *Follow-up to the Action Plan for the Implementation of the Declaration on the Guiding Principles of Drug Demand Reduction, Report of the Executive Director* December, 1999.

International Activities

This section will focus primarily on the activities of the UNDCP but will also briefly profile the work of other UN agencies with respect to their collaboration with UNDCP to prevent and address drug abuse among young people. While human rights are not necessarily the focus of all of these organizations, it is important to remember that all have the responsibility to work within the mandate of the Universal Declaration of Human Rights.

The United Nations Drug Control Program is the coordinating agency for all UN drug control activities. Its activities fall under four major divisions, which include policy support, legislation and advocacy; demand reduction; law enforcement; and alternative development. Since starting its Program of support to Member States, 34 states have become party to the 1961 Convention, 38 states to the 1971 Convention and 56 states to the 1988 Convention. In addition, 59 states have adopted modern drug control legislation. Among its activities, UNDCP's mandate includes providing guidance and assistance to Member States at their request. UNDCP has a Legal Assistance Program to promote legislative development and to strengthen the skills of criminal justice professionals, has established a program to help countries establish national systems for monitoring drug abuse and helps governments to develop programs and strategies for drug demand reduction, so-called National Master Plans.²⁹ UNDCP also has an advocacy role with regard to research, especially in promoting the development of methodologies to assess the costs and consequences of drug abuse.³⁰ UNDCP has started work on best strategies for providing prevention, education, treatment or rehabilitation services to offenders who misuse drugs.³¹

UNDCP has joined with WHO for a Global Initiative on Primary Prevention of Substance Abuse and has launched activities in Eastern Europe, Southeast Asia and Southern Africa to mobilize important actors in community life to prevent substance abuse among young people. UNDCP works with other UN agencies as well, including UNAIDS, UNICEF, UNESCO, ILO, UNFPA, UNDP and the World Bank, to design and implement projects on the national, regional and global levels, several of which target young people.³²

What is missing from the discussion of UNDCP activities as well as from the long list of UN agencies working in collaboration with UNDCP is the mention of human rights, and the inclusion of UNHCHR among project partners. In the UNDCP/UNAIDS Programme Review, it is repeatedly mentioned that in certain countries, "none of the UNDCP projects . . . has involved UNAIDS, and no HIV/AIDS component can be found in these projects."³³ The same is true for UNHCHR and human rights, except in this case, the lack of integration between UNDCP and UNHCHR appears global. It is also interesting to note that in the development of a position paper prepared by UNDCP for the 1995 World Summit for Social Development, many other UN agencies, including UNDP, UNEP, UNICEF and the World Bank, provided information used in the preparation of the paper, yet nothing came from the UNHCHR.³⁴

The lack of efforts focused on demand and harm reduction (which suggests a lack of integration of human rights concerns) is highlighted repeatedly within UNDCP, in terms of its structure, funding and publicity. While the examples which follow might be considered anecdotal or arbitrary, I would argue that they set a tone that is not favorable to the inclusion of human rights concerns. A review of UNDCP documents revealed that the Director of UNDCP works from the Office for Drug Control and Crime Prevention in Vienna. The name of the office itself suggests that the work of UNDCP may be more focused on supply reduction and the criminal aspects of drug abuse than on the preventive and health aspects of the problem. In addition, a report prepared by the UNDCP for the World Summit for Social Development in 1995 admits that "whereas obligations of parties to the Conventions on drug control concerning reduction in illicit supply are clearly defined, implementation of demand-side obligations of States Parties are not specific in the Conventions and depend on the ability of States parties to carry out education, information, treatment

²⁹ United Nations Drug Control Program/UNAIDS, "Programme Review Overall Summary" 1999.

³⁰ United Nations Economic and Social Council, *Follow-up to the Action Plan for the Implementation of the Declaration on the Guiding Principles of Drug Demand Reduction*, Report of the Executive Director December, 1999.

³¹ *Ibid.*

³² United Nations Drug Control Program/UNAIDS, "Programme Review Overall Summary" 1999.

³³ *Ibid.*

³⁴ United Nations Drug Control Program, *The Social Impact of Drug Abuse*, 1995.

and rehabilitation activities. To some observers, this emphasis in the treaty system gives it the appearance of favoring supply-side mechanisms.”³⁵ The publication does not go on to make any statements that would lead readers to think that UNDCP believes otherwise.

In reviewing recent articles about UNDCP, both from the international press as well as from the office itself, major accomplishments appear on the side of supply reduction. As an example, in a recent *New York Times* interview, Pino Arlacchi, the director of UNDCP, highlighted progress made in eradicating 84,000 acres of coca plants from Peru and Bolivia, claiming that this action had kept 108 tons of cocaine from ever hitting the market. What he did not mention is that during the same period of coca plant destruction in Peru and Bolivia, cultivation increased in neighboring Colombia. Furthermore, the director is quoted as saying that his recipe for eradication includes money from international donation, cooperation from local governments and “a modest degree of coercion” (italics added) to make farmers switch to legal crops³⁶ leaving open the possibility of human rights violations with respect to an individual’s right to an adequate standard of living as well as just and favorable conditions of work.

One of the most controversial actions of the UNDCP has been its alliance with the Taliban in Afghanistan. Afghanistan, the world’s second largest producer of poppy, was taken over by the extremist Islamic militia in 1996. The Taliban government, whose human rights record, especially against women, is egregious, is not recognized by any international body and is only recognized by the governments of Pakistan, Saudi Arabia and the United Arab Emirates, yet in 1997, the UNDCP made a deal with the Taliban to give them US\$25 million each year for the next five to ten years for crop eradication and substitution purposes, police training and economic development. In exchange, the Taliban agreed to enforce the ban on opium poppy production and smuggling.

When asked about the human rights violations of the Taliban in an interview with the *New York Times*, the director of UNDCP said that for his agency, this was a “political question beyond its competence.” He also said he was prepared to discuss human rights with the Taliban, but that he was also bearing in mind “the human rights of eight million drug addicts in the world.”³⁷ While one of the conditions of the eradication plan is that the Taliban relax its restrictions on women’s education and employment, some experts warn that expecting the Taliban to comply with such conditions may be asking too much. In addition, eradicating poppy, which is the mainstay of the Afghanistan economy (accounting for as much as US\$100 million in annual revenues) may be more difficult than the UNDCP anticipates. With the severance of diplomatic and trading ties, poppy is one of the only sources of income and trade in the country. Despite the obvious human rights concerns, Kofi Annan, the Secretary General of the United Nations praised UNDCP’s effort with the Taliban and Clinton has supported the plan of support for Afghanistan “in principle.”³⁸

V. Present Challenges, Policy and Programmatic Recommendations

There is no doubt that the intention of 1961, 1971 and 1988 drug treaties, the Declarations made by the UN General Assembly, the Special Session held by the UN, UNDCP and all other actors addressing drug issues in the world, is to decrease drug use and abuse in the world. Yet the priorities put into place and the methods currently used to solve drug abuse issues must be called into question. Until human rights are a central and integrated element of the international response to drug abuse, violations of these rights will continue to occur. The final section of the paper will first present some general challenges for those working in the field of drug abuse today. It will end with policy and programmatic recommendations, which will be organized by the human rights to health, education and the right to a decent living, for international institutions to better address problems of drug abuse among young people.

³⁵ *Ibid.*

³⁶ Wren, C, “U.N. Says It Is Getting Farmers to Replace Their Drug Crops” *New York Times*, 11 July, 1999.

³⁷ Crossette, B, “Taliban Agree to Enforce World Ban on Opium Trade” *New York Times*, 25 October 1997.

³⁸ Wren, C, “U.N. Says It Is Getting Farmers to Replace Their Drug Crops” *New York Times*, 11 July, 1999; Crossette, B, “Taliban Agree to Enforce World Ban on Opium Trade” *New York Times*, 25 October 1997.; Fish, Karynn. “The United Nations and the Taliban: An Unholy Alliance in the Name of Drug Control” *The Drug Policy Letter* 1998 (35):15-26.

A. Present Challenges

Data

A tremendous problem in the formulation of sound policies and programs is the lack of research and data that exists about the causes of drug abuse, the prevalence of use of different drugs among different populations of young people, and the effectiveness of different prevention and treatment strategies for young people. In addition, sensationalistic or poor use of data also leads to potential problems, including the targeting of prevention efforts, where researchers go to collect data, and what kinds of questions they and of whom.

The World Drug Report, published by UNDCP, reports that “links are sometimes made between drug use and children who have grown up in homes affected by divorce, separation or bereavement. On the whole, research does not substantiate a causal effect,”³⁹ yet many policy documents still point to these young people as the likely abusers of drugs. In many countries, there is little capacity to systematically collect and analyze drug-related data and information in general, let alone produce data specifically focused on abuse among young people. Data on drug abuse for the entire population often comes only from treatment centers and from police seizures of illicit drugs, which disregards individuals who do not seek or receive treatment, and all drugs that are not confiscated in police seizures. As a result, authorities in many countries still have only a vague conception of the extent of local drug abuse and few, if any, quantitative estimates exist.⁴⁰ In countries where there is drug abuse data for young people, it is often only for schoolgoing youth, which excludes a large population of young people in the developing world, including primary school children who are often considered “too young” to be included in such surveys, as well as out-of-school children. In addition, significant discrepancies have been found in drug use among young people reported in household surveys versus surveys conducted in schools, suggesting that household surveys may not be appropriate for this type of research.⁴¹

There are also examples of sensationalism or misuse of data. Two examples come from a recent report from Thailand. In the report, the authors write that 330,000 people in that country are addicted to cannabis, yet there is never any discussion of how cannabis addiction is defined, or of the fact that there is tremendous debate as to whether cannabis is even a physically addictive substance. The same authors fell into a trap that appears quite common in the current literature, that of stereotyping young people either as deviant or as “socially integrated,” one group being seen as “typical” abusers and the other being seen as an anomaly. They wrote that “it has also been recently learned that substance abusers are not only the ones from broken families with abusive parents, but now parents from good homes and warm families are increasingly turning to substance abuse”⁴² A report written by the UN Social and Economic Council also used such terminology, suggesting that abuse of ecstasy is concentrated among “*socially integrated* young people who often do not consider themselves abusers or addicts and do not seek help or assistance. There is therefore a relative invisibility of the abuse of ecstasy to traditional assessment methods (emphasis added).”⁴³ This kind of stereotyping is harmful to everyone involved in preventing and treating drug abuse, but most directly to young people—those with family support and without such support, those who use drugs and those who do not.

Need for Collaboration and Coordination

On paper at least, drug control and development agencies share many of the same goals. According to a UNDCP report, “sustainable development, health and education for all, economic growth, environmental protection, population management, respect for human rights, good governance—these are but a few of the

³⁹ United Nations Drug Control Program. “World Drug Report: Highlights” 1997.

⁴⁰ *Ibid.*

⁴¹ United Nations Economic and Social Council, *Youth and Drugs: A Global Overview*, Report of the Secretariat, 1999.

⁴² Boonmongkon, P et al., “Urbanization, Youth and Substance Abuse in Thailand: Lessons Learned and New Directions” paper prepared for WHO conference on Youth and Substance Abuse in the Context of Urbanization, Kobe, Japan, 2000.

⁴³ United Nations Economic and Social Council, *Youth and Drugs: A Global Overview*, Report of the Secretariat, 1999.

goals shared by both drug control and development organizations.”⁴⁴ This collaboration needs to be extended to include human rights agencies as well as international and national organizations working to promote and protect human rights.

Need for Functioning Legal Systems

It is clear that for drug control efforts to be successful and for human rights to be protected and promoted, functioning legal systems must be in place in all countries. The lack of a legal framework in many countries undermines domestic and international efforts to control drugs and to provide prevention and treatment services to its citizens.

If laws are in place but not enforced, or are enforced selectively, individuals may not respect them, especially when they address what many see as private behavior. Governments, with the help of international agencies must not only define what is legal and illegal, but put into place clear mechanisms to safeguard and exercise these laws. This assistance may include building and strengthening institutional capabilities to ensure due process and effective remedies. In cases where legal authorities ignore human rights in order to satisfy questionable political agendas, assistance should be aimed at “better entrenching law enforcement mandates and capabilities in democratic foundation shaped by the collective will of the people.”⁴⁵

Need for Adequate Funding

Currently, voluntary funds from governments represent approximately 90% of all resources available to UNDCP. In 1998, UNDCP saw a decrease in absolute funding from the United Nations budget. If the international community is serious about reducing drug abuse, adequate funding is required. In addition, activities undertaken by UNDCP must show results. In the case of supply reduction, these activities are often extremely expensive and show little return for investment. Objective cost-benefit analyses should be undertaken and funding priority should be given to projects that show a marked ability to reduce drug abuse or vulnerability to drug abuse. This requires creating analytical methods that allow for the comparison of short-term supply reduction strategies versus longer-term prevention and treatment activities.

Media Messages

Finally, in line with Article 17 of the CRC, the international community must address the powerful influence of the media on young people and require the media to disseminate material that is beneficial and not harmful to the health and development and rights of young people.

B. Policy and Programmatic Recommendations

Prominent world figures recently called on the United Nations to shift drug control policies from a focus on punishment to a focus on public health, saying in a letter to Kofi Annan that “we believe that the global war on drugs is now causing more harm than drug abuse itself.” They went on to say that scarce resources are being diverted on “ever more expensive interdiction efforts” while “realistic proposals to reduce drug-related crime, disease and death are abandoned in favor of rhetorical proposals to create drug-free societies.” Finally, they noted that both human rights and the environment are violated by current drug control policies and priorities.⁴⁶ There is ample evidence, some of which has been presented here, in support of such a shift, and I argue that the shift must include a greater and more explicit emphasis on human rights. Such a shift requires courage and a longer-term approach, but there is ample evidence that well designed and implemented prevention, treatment and social reintegration programs work to reduce the number of young people who start using drugs and to assist young people who are drug abusers to get off drugs and reintegrate

⁴⁴ United Nations Drug Control Program, *Drugs and development*, UNDCP Technical Series 1994/06/01.

⁴⁵ United Nations Drug Control Program, *Drugs and development*, UNDCP Technical Series 1994/06/01.

⁴⁶ Reid, R, “Leaders Ask UN for New Drug Policy” Associated Press, 5 June 1998.

into society.⁴⁷ Below are recommendations for policy and programmatic changes which relate to specific human rights of young people.

Right to Health

- The inherent contradiction between health and law enforcement must be reconciled. Young people who abuse drugs, regardless of the laws they may break in a specific country, have the right to health treatment and rehabilitation. In many countries, access to treatment comes second to punishment, and in other countries, drug treatment is not recognized as a right, even when the right to treatment is recognized for other health needs.⁴⁸ As the World Health Organization has argued, avoidance of severe criminal penalties for clearly dependent, sick persons can help to encourage such persons to seek early treatment and rehabilitation. Access to and delivery of treatment must be seen as equally, if not more, important than punishment.
- Development agencies working for the health and development of young people must commit themselves to the integration of human rights into all of their activities, and especially those to combat drug abuse. UNICEF's health strategy contains elements on substance abuse and demand reduction, and efforts are currently under way to ensure that drug abuse is incorporated into country-level programs focusing on the health and development of children and young people.⁴⁹ UNICEF must follow the lead of UNDP and UNAIDS, both of which have made explicit efforts to make linkages between health and human rights, and address human rights explicitly in their work.
- In countries without well-developed drug treatment facilities, existing primary health facilities need to adapt to better identify cases of drug abuse and provide medical assistance. This adaptation includes providing health center staff with training in counseling, rapid assessment, crisis management and adolescent health and psychology.⁵⁰
- Needle exchange programs, while controversial, must be considered as a mechanism to reduce the harm of drug injection. While there is fierce opposition to such programs, there is also growing support among IDU advocates for such programs. The International Narcotics Control Board recently recognized that "measures that may decrease the sharing of hypodermic needles among intravenous drug abusers are necessary to reduce the spread of AIDS" and has announced that "the legal aspects related to the controlled distribution of hypodermic needles and syringes" were being studied by the Board.⁵¹

Right to a Decent Standard of Living

- It is important to acknowledge that drug abuse is not simply a medical problem, but a problem with deeper roots. There is evidence that substance abuse is highest among disenfranchised populations as well as evidence that arrests for drug-related crimes directly correlates with unemployment.⁵² As such, treatment of drug abuse must go beyond the provision of a medical remedy and drug abusers may need other kinds of help to live without drugs.⁵³ Perhaps most obvious is the opportunity to earn a decent livelihood. This opportunity, also a human right, applies both to young people themselves, who are often disproportionately unemployed or underemployed, and to adults, whose children may be vulnerable to drug abuse if their parents are unable to earn a livelihood.

⁴⁷ Wodak, A, "Health, HIV Infection, Human Rights, and Injecting Drug Use" *Health and Human Rights* 2(4):25-41.; Peak, A et al., "Declining Risk of HIV Among Injecting Drug Users in Kathmandu, Nepal: The Impact of a Harm Reduction Programme," *AIDS* 9(9) (1995)

⁴⁸ Tomaševski, K, "Health," in Schachter and Joyner, *United Nations Legal Order*, pp.859-906.

⁴⁹ United Nations, "Vulnerable Situation of Developing Countries in Fight Against Drugs Stressed In Economic and Social Council", Press Release ECOSOC/5647, 1996.

⁵⁰ United Nations Drug Control Program, *The Social Impact of Drug Abuse*, 1995.

⁵¹ Tomaševski, K, "Health," in Schachter and Joyner, *United Nations Legal Order*, pp.859-906.

⁵² Ozaki, S. "Current Status of Drug Abuse among Youth in Japan" paper prepared for WHO conference on Youth and Substance Abuse in the Context of Urbanization, Kobe, Japan, 2000.

⁵³ United Nations Drug Control Program, "World Drug Report: Highlights" 1997.

- Related to this is the right of those who grow or sell illegal drugs to have economic alternatives that provide them with a decent standard of living. Efforts to get farmers to participate in crop substitution have grown into more holistic alternative development programs, whereby farmers are assisted to find alternative economic strategies to production of drug-producing crops. The concept of alternative development is meant to extend to the broader community and promote a non-narcotics based development strategy. This strategy is new and those involved admit that there is no single approach suitable for all countries.⁵⁴ As a result, these strategies must be carefully assessed, documented and shared in the coming years.
- Finally, for children who have been separated from their families and are living on the streets, human rights obligations must be fulfilled. Although this is a population most governments would like to ignore or hide, States must make efforts to get street children back to their families or into alternative home situations and provide them with formal or non-formal education opportunities, adequate health care and enough economic security to keep from returning to the streets. As the number of street children rises exponentially, this may be one of the most challenging tasks for the governments of developing countries today.

Right to Education

- In line with the CRC mandate for participation, young people must be involved in the conceptualization, implementation and assessment of programs to address substance abuse prevention and care.
- Educational programs must address the heterogeneity of young people and create programs as such. This means not only providing methodologically appropriate education, but also equal access to programs to both in-school and out-of-school youth, to those living in both urban and rural areas, and to young people who can read as well as to those who cannot. This also means providing education that is culture- and gender-sensitive. These programs must be systematically evaluated and shared with other countries.
- It is well documented that young people learn much of their information from their peers. As such, education must be objective; exaggerating the dangerous qualities of drugs undermines the credibility of both the message and the messenger,⁵⁵ reduces the chance that information will be passed on to other young people, and discredits others who may want to give objective information in the future.

VI. Conclusion

In the world of drug abuse, short term approaches, including the control of drug supply and the punishment of offenders, and long term approaches such as prevention education and treatment for drug abusers are often seen as independent, and just as often are placed in opposition to each other. The two approaches compete for resources, attention and credibility. In reality, however, elements of both approaches are necessary parts of a comprehensive approach to the prevention of drug abuse for present and future generations and, as such, should be seen as interdependent.⁵⁶ But these approaches—both supply reduction, which may appear the most obvious potential violator of human rights, and prevention and treatment initiatives—require the explicit integration of human rights. Without the recognition, respect, protection and fulfillment of human rights, drug abuse strategies will inevitably violate the rights of drug abusers, but especially the rights of young people, who are accorded special protection by international human rights law.

⁵⁴ United Nations Drug Control Program, *The Social Impact of Drug Abuse*, 1995.

⁵⁵ United Nations Drug Control Program, "World Drug Report: Highlights" 1997.

⁵⁶ United Nations Drug Control Program, *The Social Impact of Drug Abuse*, 1995.

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