

A new front in a losing war? Drug policy and human rights in Africa

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**Open Society Foundation – London
Global Drug Policy Program**

PARALLEL UNIVERSES: RIGHTS AND DRUG LAW



“[It is an] inexcusable situation that the UN Commission on Narcotic Drugs focuses almost exclusively on the international drug conventions with scant regard for the international code of human rights that [is] one of the principal objectives of the UN Charter.”

--Paul Hunt, University of Essex

<http://www.ihra.net/files/2010/06/16/HumanRightsHealthAndHarmReduction.pdf>

"Despite an increase in seizures in many parts of the world, over the past twenty years, the prices of illegal drugs have mostly declined, and purity has increased. In short, the illegal drug supply appears to be growing."

Drug policy reform is gaining momentum.
This is why.



INTERNATIONAL CENTRE
FOR SCIENCE IN DRUG POLICY

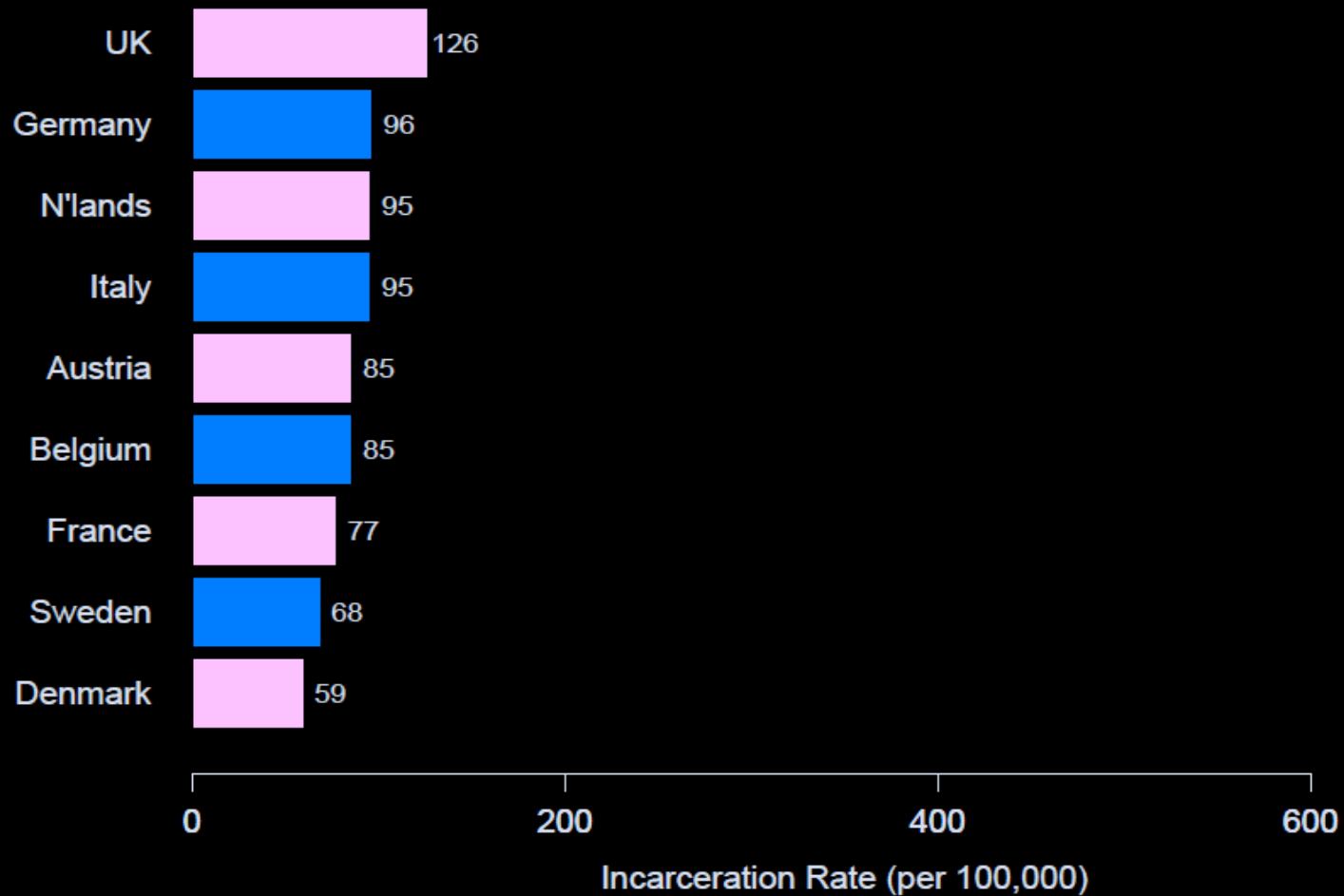
Werb D, Kerr T, Nosyk B, et al.
The temporal relationship between drug supply indicators: an audit of international government surveillance systems.
BMJ Open 2013;3:e003077. doi:10.1136/bmjopen-2013-003077



info

OVER-INCARCERATION AS DRUG WAR LEGACY

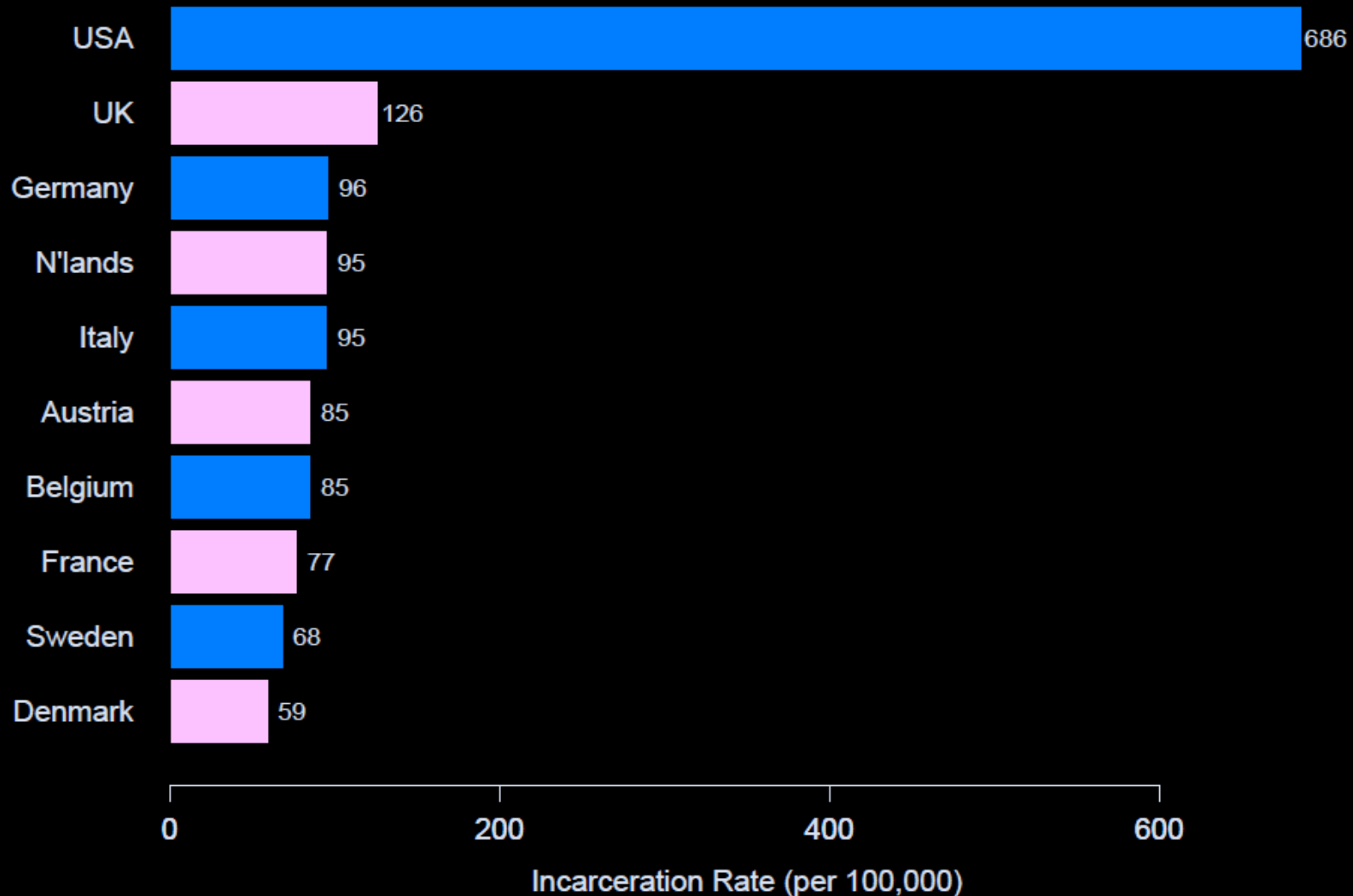
Incarceration in Western Europe, 2001



OVER-INCARCERATION AS DRUG WAR LEGACY

(SOURCE:

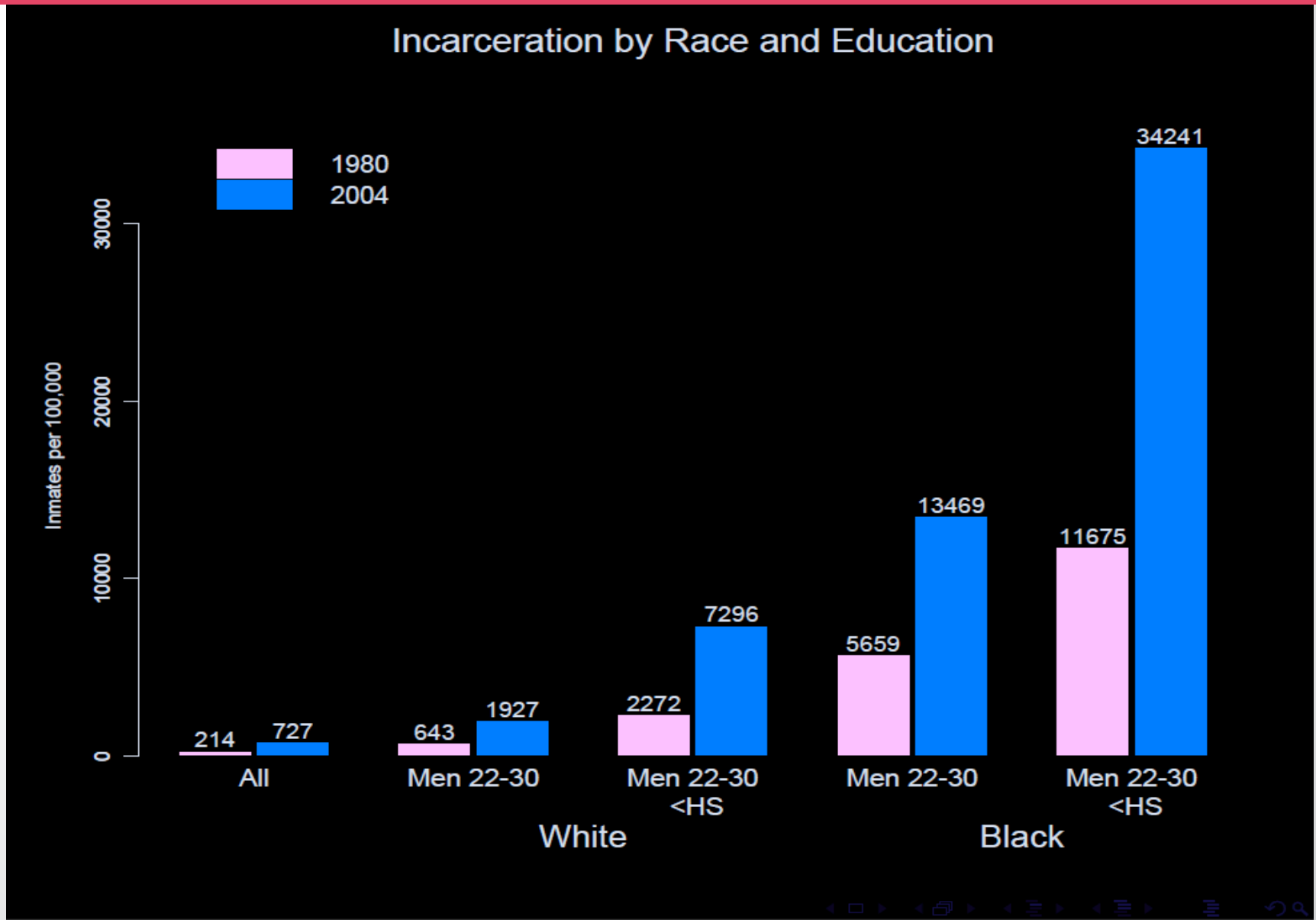
Incarceration in Western Europe and the US, 2001



DRUG WAR OR RACE WAR?



DRUG WAR OR RACE WAR?



AERIAL ERADICATION IN THE ANDES: HUMAN RIGHTS IMPACT?



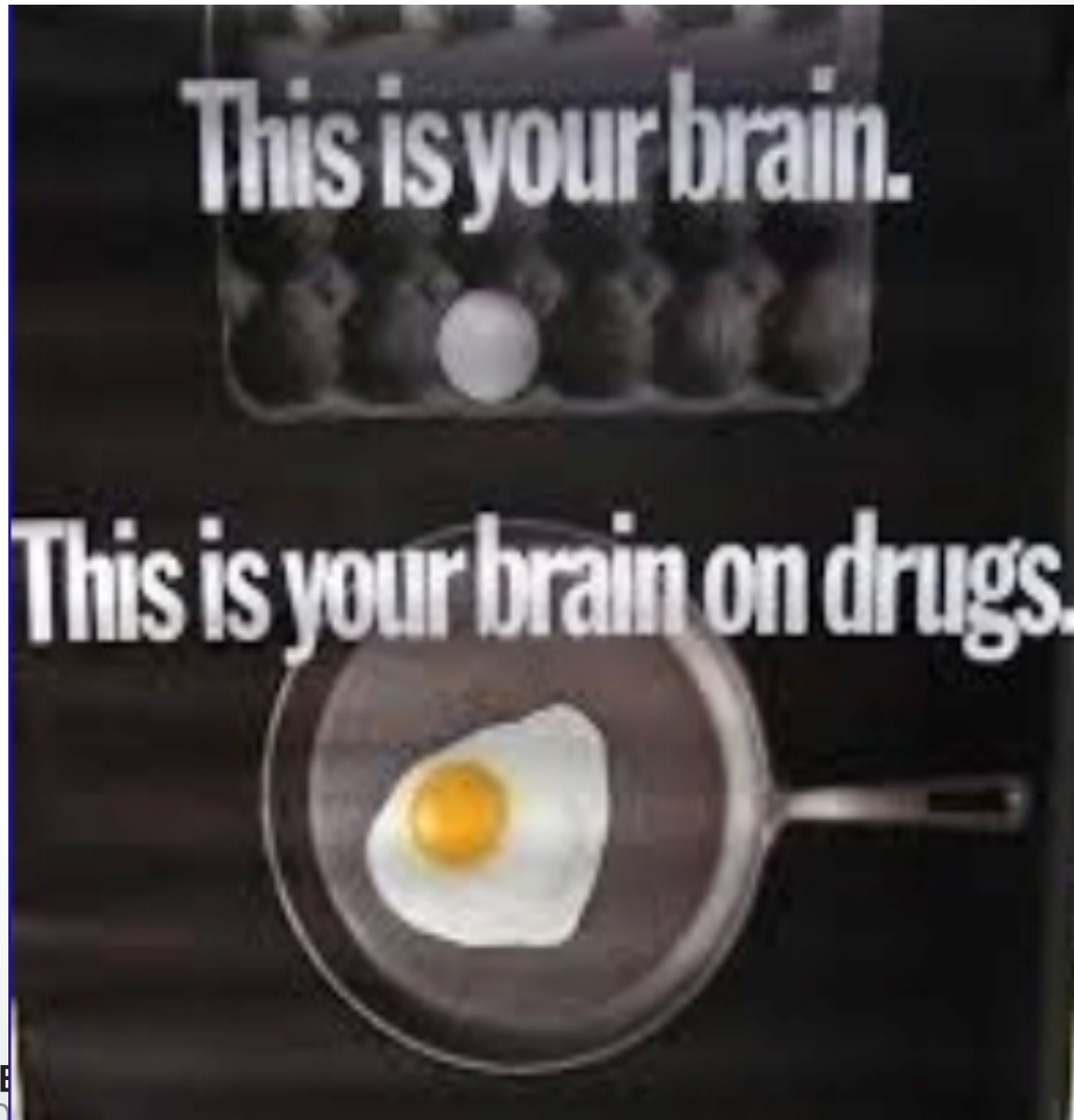
DRUG-RELATED VIOLENCE IN THE AMERICAS: CATALYST FOR DRUG POLICY REFORM



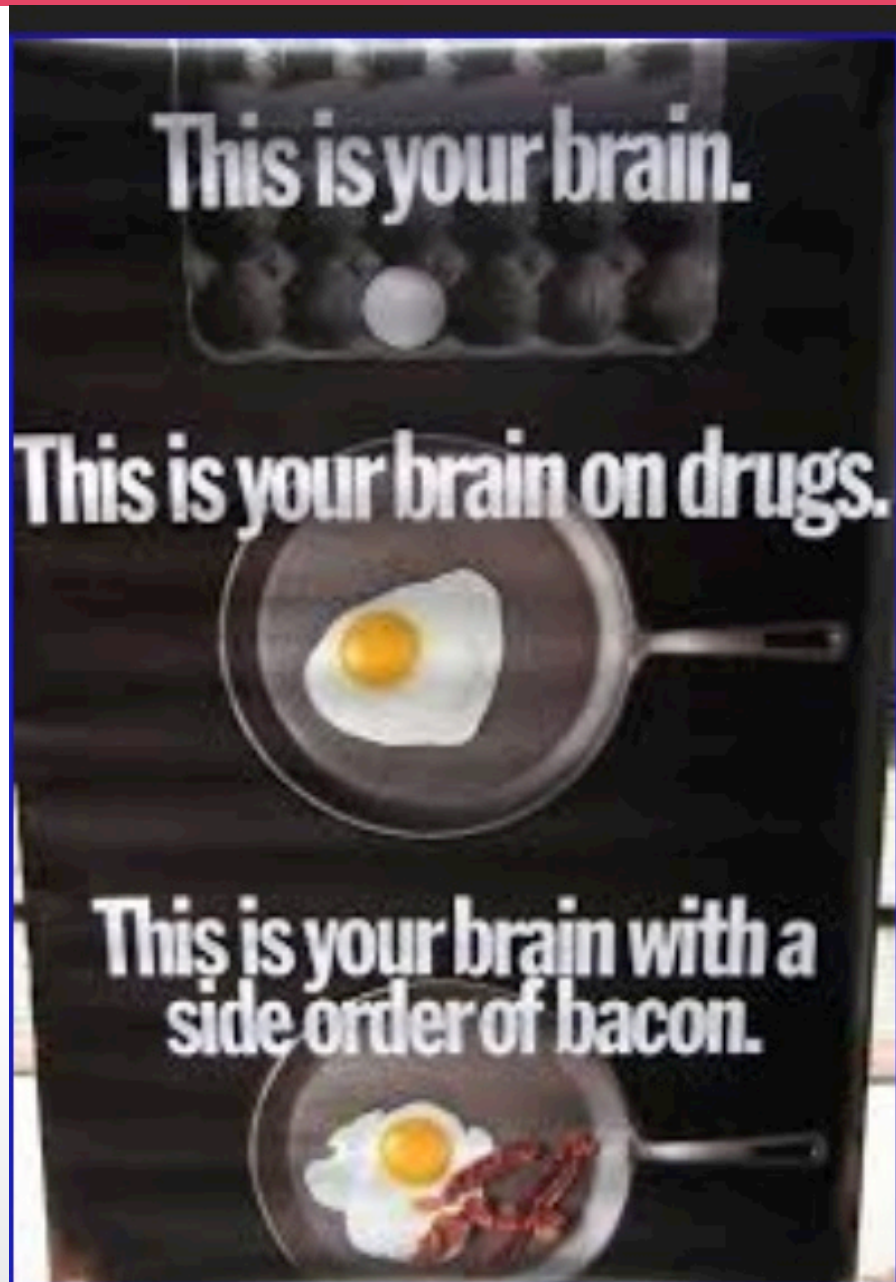
CELEBRATING WORLD DAY AGAINST DRUGS?



HYPED LANGUAGE ON DANGERS OF ALL DRUGS



(SNEDING UP THE HYPE)



THE HYPE CAN SERVE RACIST ENDS TOO

THE WASHINGTON POST: FRONT-PAGE STORY, AUG. 10, 1989

Crack Babies: The Worst Threat Is Mom Herself

By Douglas J. Besharov

LAST WEEK in this city, Greater Southeast Community Hospital released a 7-week-old baby to her homeless, drug-addicted mother even though the child was at severe risk of pulmonary arrest. The hospital's explanation: "Because [the mother] demanded that the baby be released."

The hospital provided the mother with an apnea monitor to warn her if the baby stopped breathing while asleep, and trained her in CPR. But on the very first night, the mother went out drinking and left the child at a friend's house—without the monitor. Within seven hours, the baby was dead. Like Dooney Waters, the 6-year-old living in his mother's drug den, whose shocking story was reported in The Washington Post last week, this child was all but abandoned by the authorities.

New York Times, 1914

By Edward Hestington Williams,
M. D.

The drug produces an excitation which is usually simply a mild tachycardia, although it may produce the critical form of tissue excitation, accompanied by the fantastic hallucinations and delusions that characterize acute mania. But this condition is followed by a state of torpid depression.

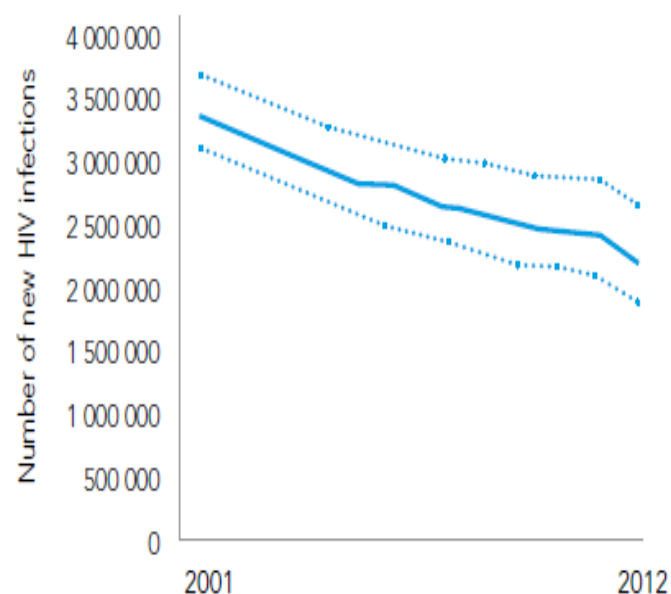
Moreover, in cities where prohibition is strictly enforced, (relatively speaking) the drug trade is increasing with

AIDS THROWS A SPOTLIGHT ON DRUGS

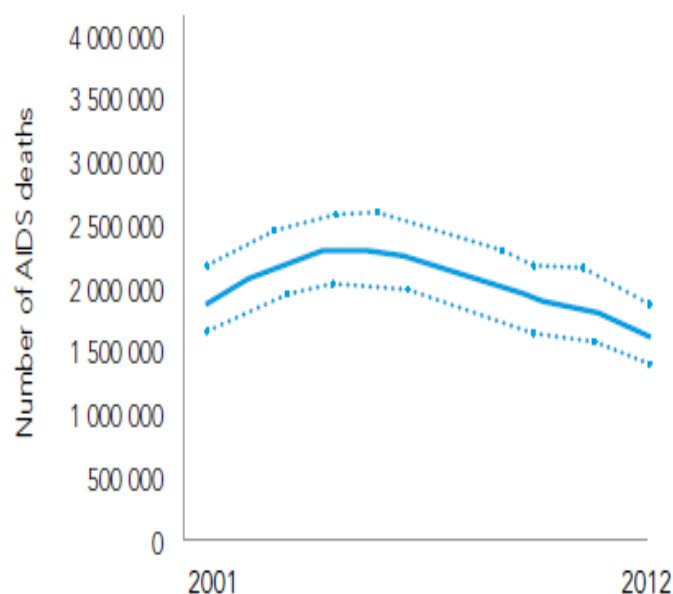
FIGURE A

Numbers of people living with HIV, new HIV infections, and AIDS deaths, 2001-2012, globally

NEW HIV INFECTIONS, GLOBAL, 2001-2012



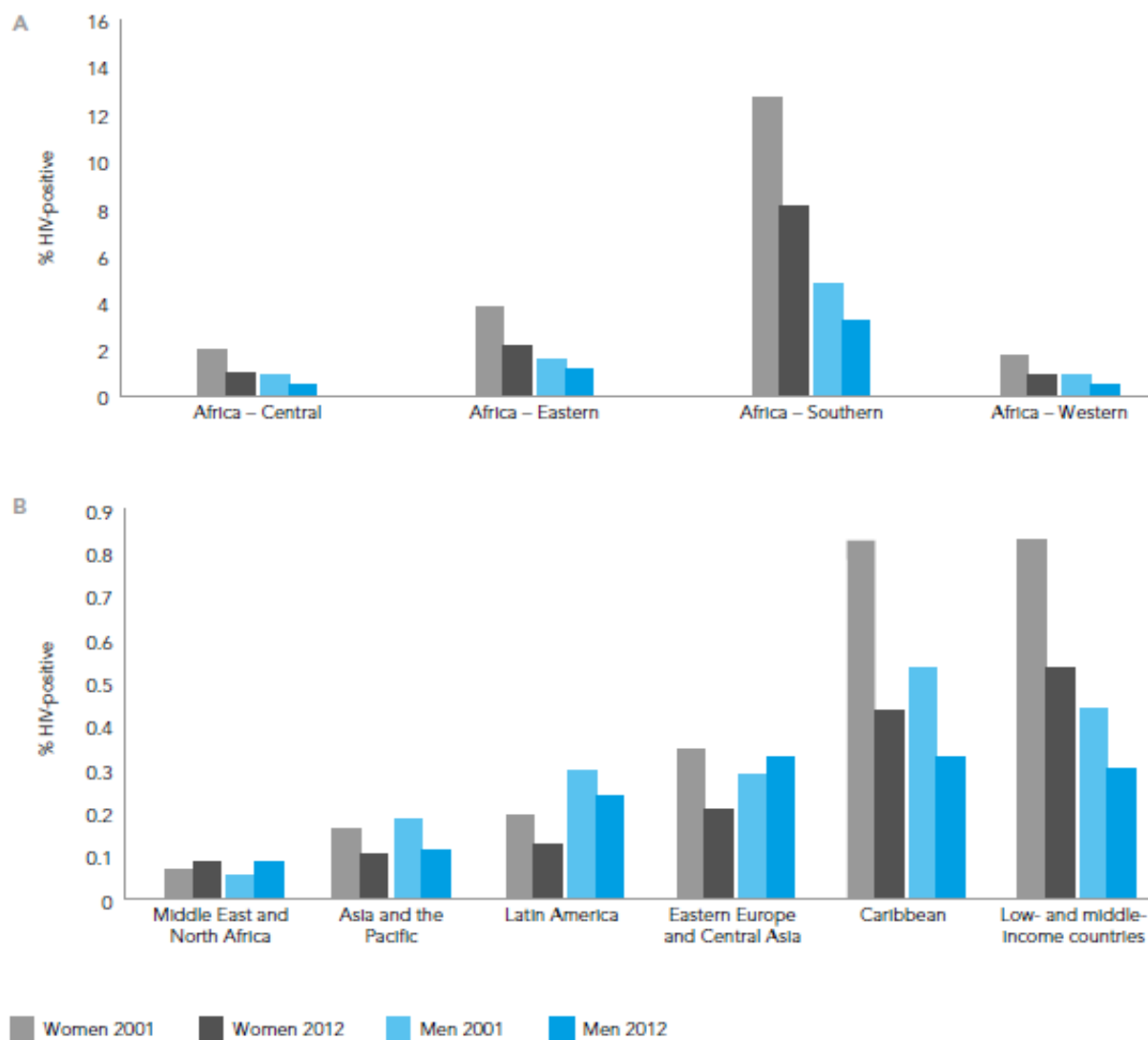
AIDS DEATHS, GLOBAL, 2001-2012



DRUGS AND HIV: LACK OF PROGRESS

FIGURE 1.2

Prevalence of HIV among young women and men (15–24 years), by region, 2001 and 2012



NEEDLES DISTRIBUTED/YR/PERSON, 12 MOS., 2009

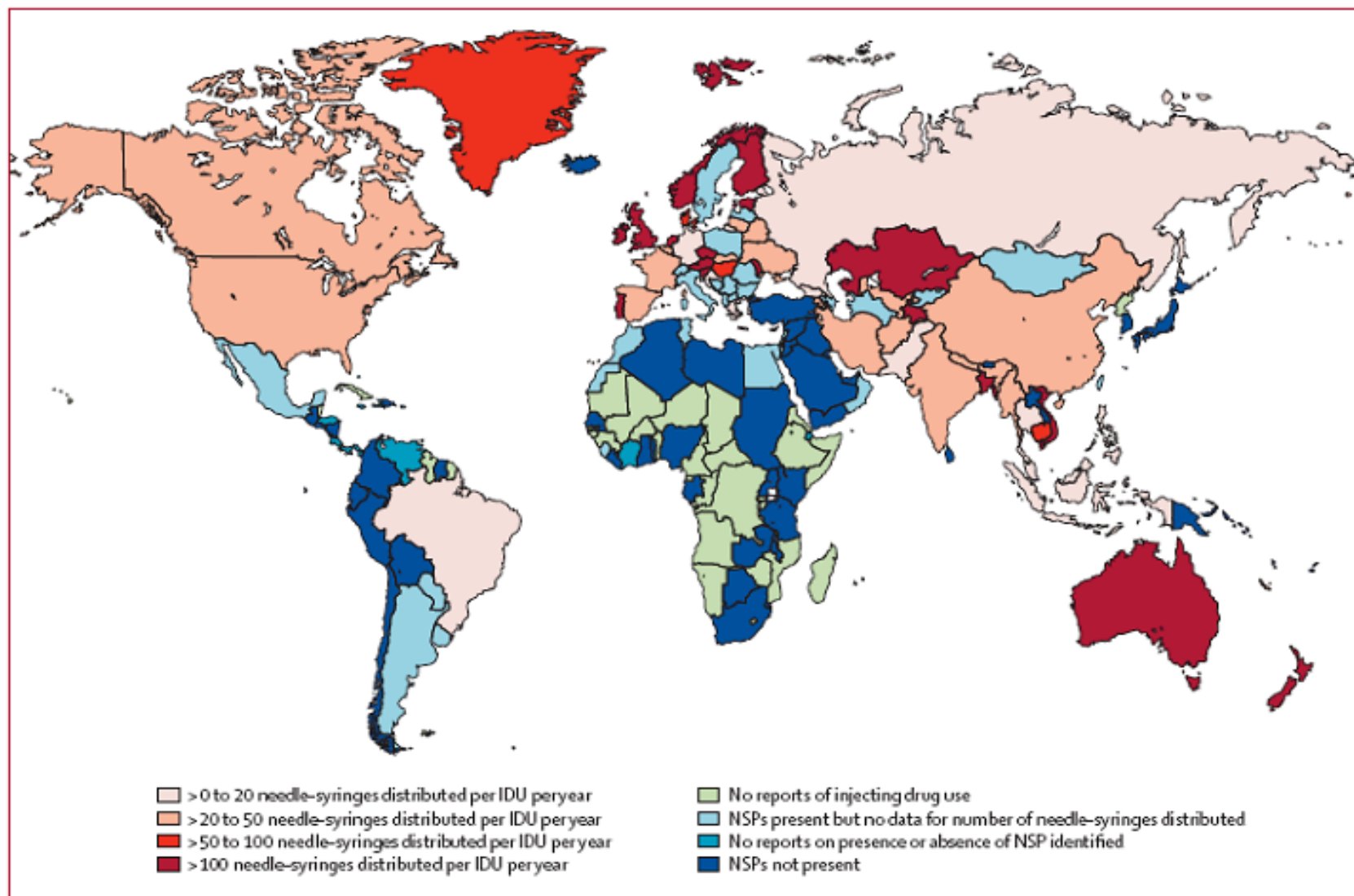
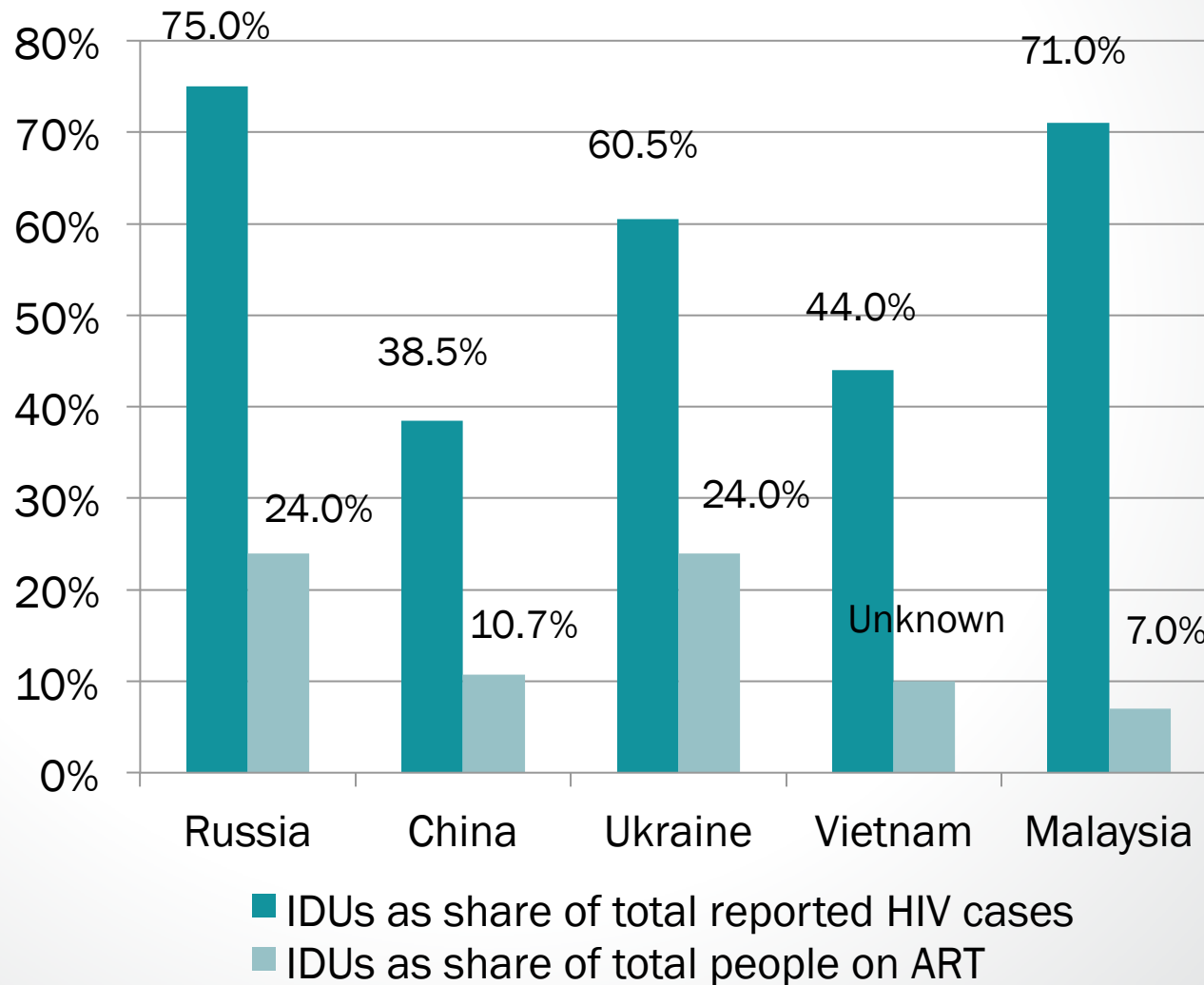


Figure 2: Number of needle-syringes distributed in a 12-month period per injecting drug user
NSPs=needle and syringe programmes.

Source: Mathers et al., Lancet, 1 Mar 2010

INEQUITIES IN HIV TREATMENT FOR PEOPLE WHO USE DRUGS

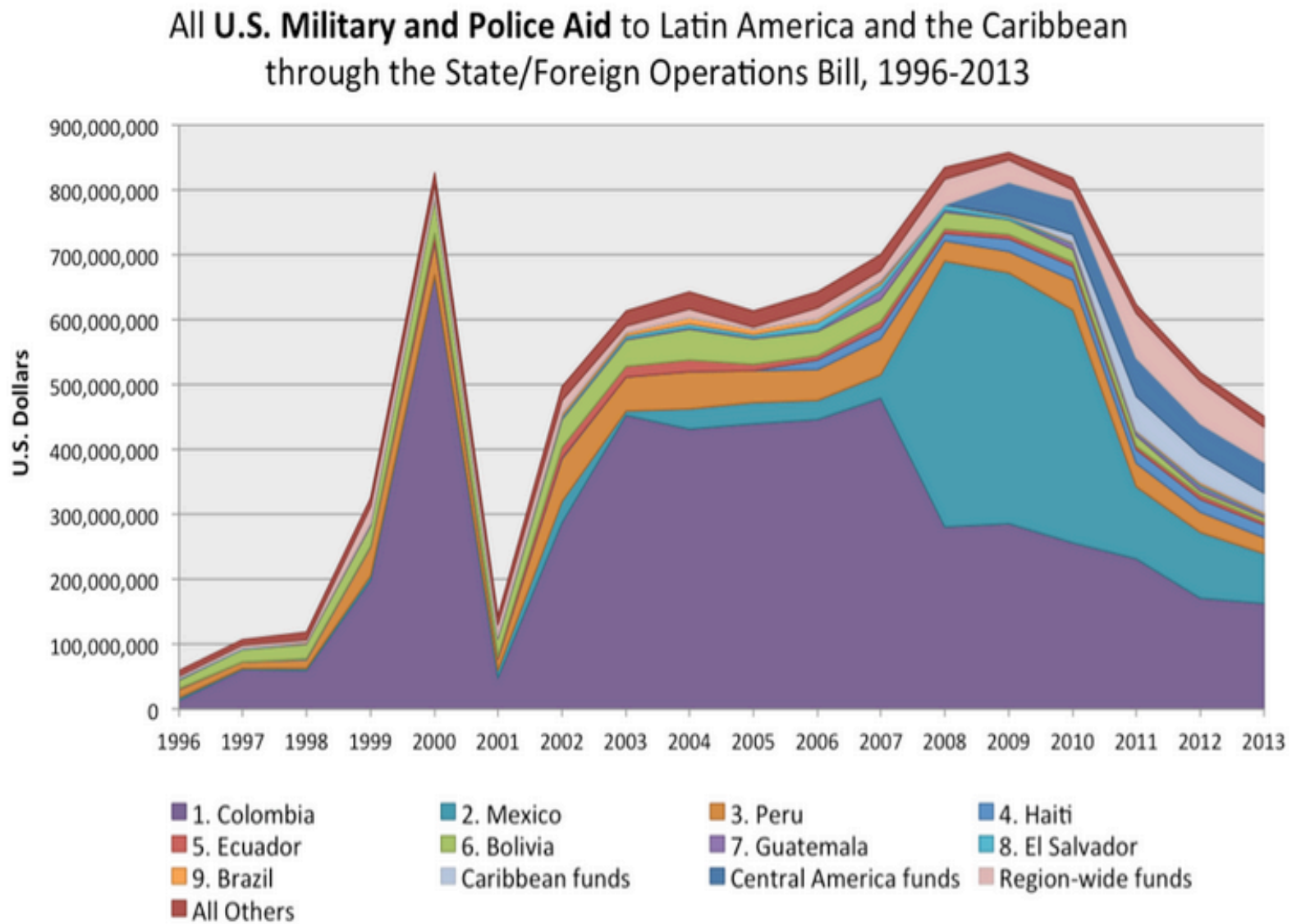


*2006 data for Malaysia

PAIN MEDICINES CAUGHT IN 'DRUG WAR' NET

- 8 mil cancer deaths (2007), 12 mil by 2030. >60% with advanced cancer need pain management.
- **Generic oral morphine costs \$0.01/mg**
- **80% of people worldwide have no or insufficient access to treatment for pain**
- **Low- and middle-income countries: 50% of cancer patients, 95% of HIV but 6% of morphine use**
- **32 of Africa's 54 countries have no morphine for pain.**

PLAN COLOMBIA: \$8 BIL TO FIGHT “NARCO-TERRORISM”

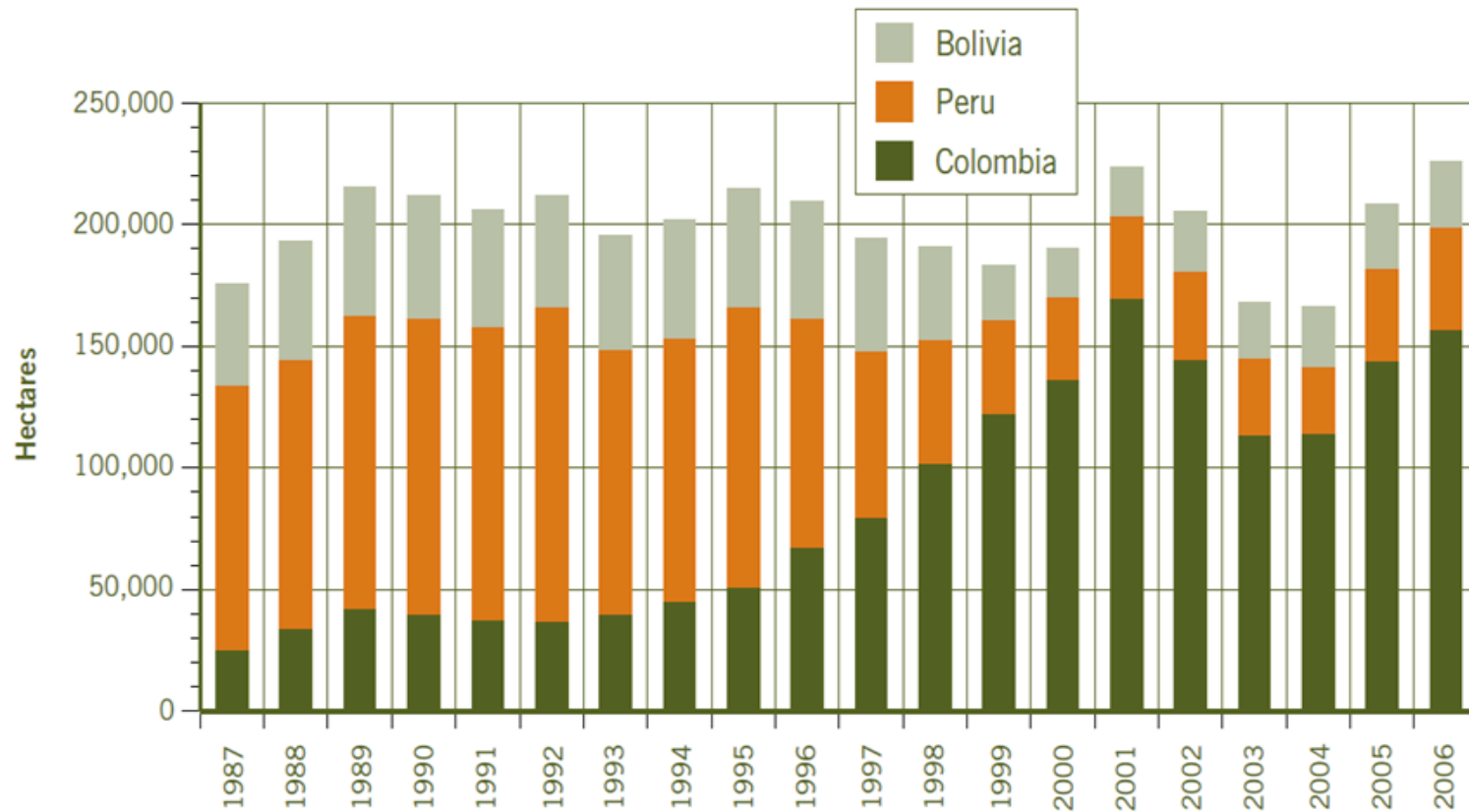


**SEPT 11, 2001 A TURNING POINT:
MARRIAGE OF DRUG WAR AND 'WAR ON TERROR'**



PURSuing INEFFECTIVE STRATEGIES

Coca Cultivation in the Andes – U.S. Government Estimate



Source: State Department International Narcotics Control Strategy Reports.

PLAN COLOMBIA AS SEEN BY COLOMBIANS



HUMAN RIGHTS FEARS (EVEN IN THE U.S. CONGRESS)

Amendment to the Plan Colombia enabling legislation by Sen. P Leahy (D-VT):

*–“None of the funds made available by this Act may be provided to any unit of the security forces of a foreign country if the Secretary of State has credible evidence to believe such unit has committed **gross violations of human rights**, unless the Secretary determines...that the government of such country is taking effective measures to bring the responsible members of the security forces unit to justice.”*

HUMAN RIGHTS MONITORING IN PLAN COLOMBIA

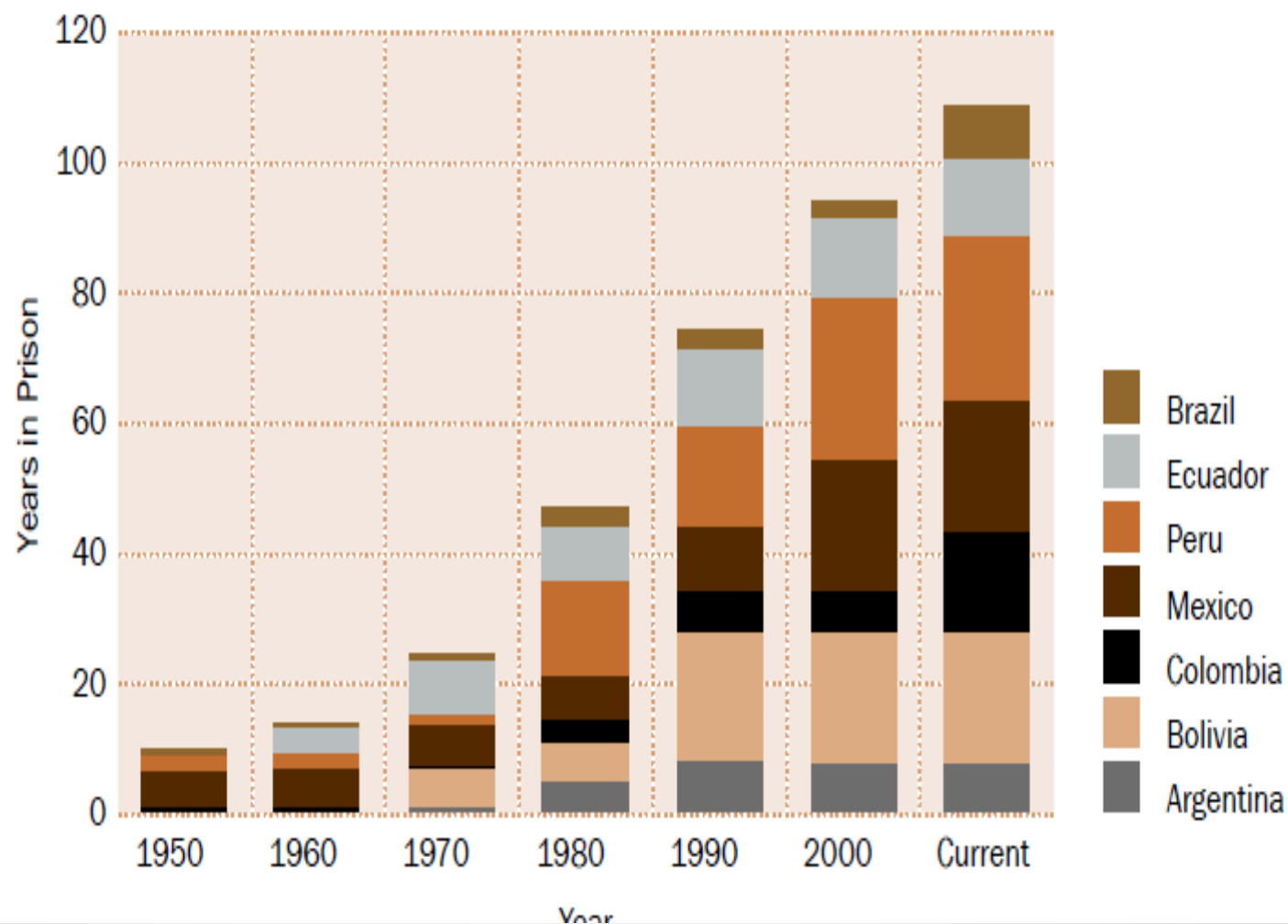
Congressional Research Service (independent non-partisan government monitor), Leahy Amendment review, 2014

- U.S. cites Colombia as Leahy “best practice”: 2 full-time staff conduct more vettings annually than in any other country, about 1400 security force units/yr**
- Human rights organizations, UN Special Rapporteurs, others continue to report violations not detected in the U.S. vetting.**

At: <http://www.hsdl.org/?view&did=749254>

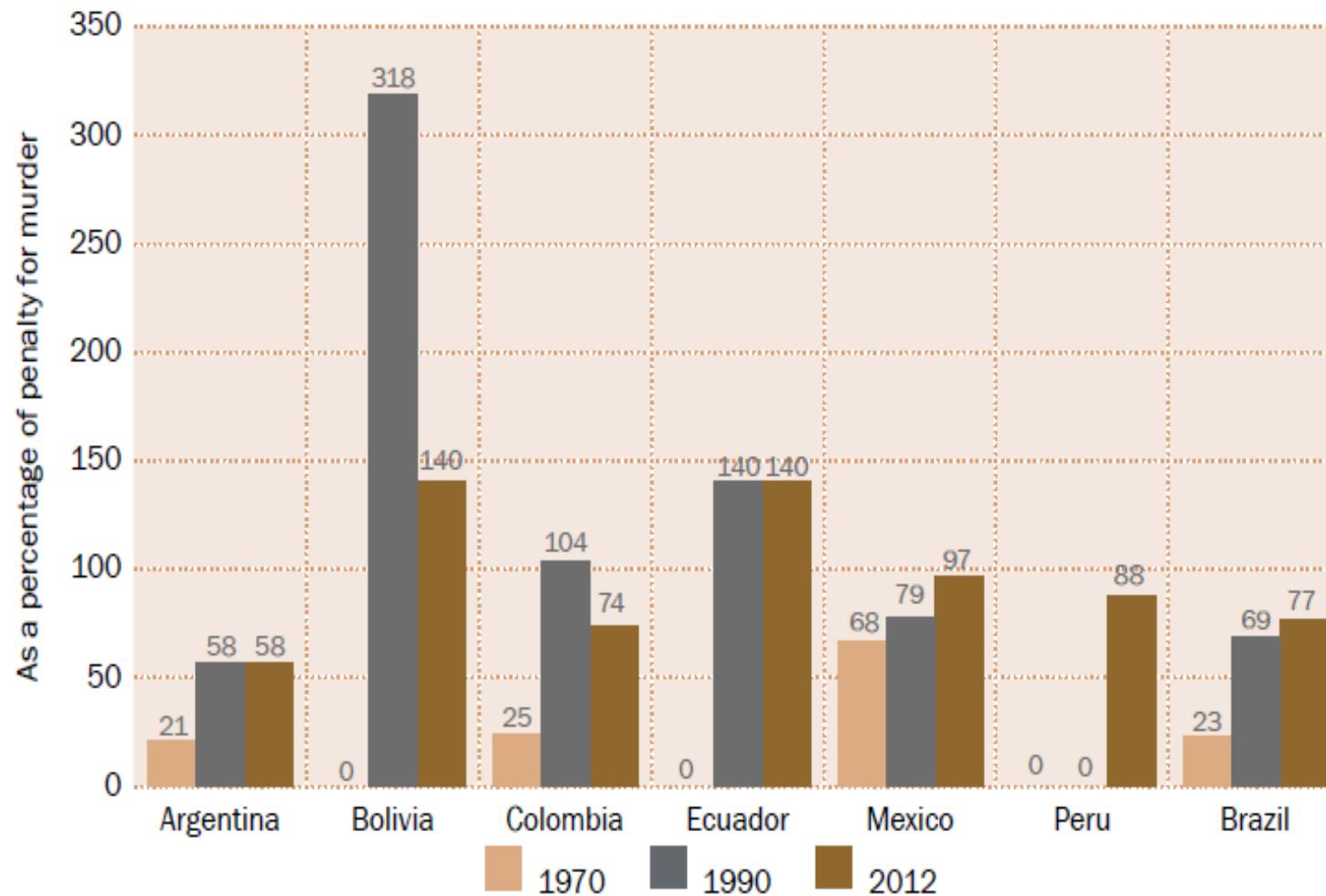
DRUG LAWS IN LATIN AMERICA: PROPORTIONATE?

**Aggregate trend in highest minimum penalties
for drug-related crime**



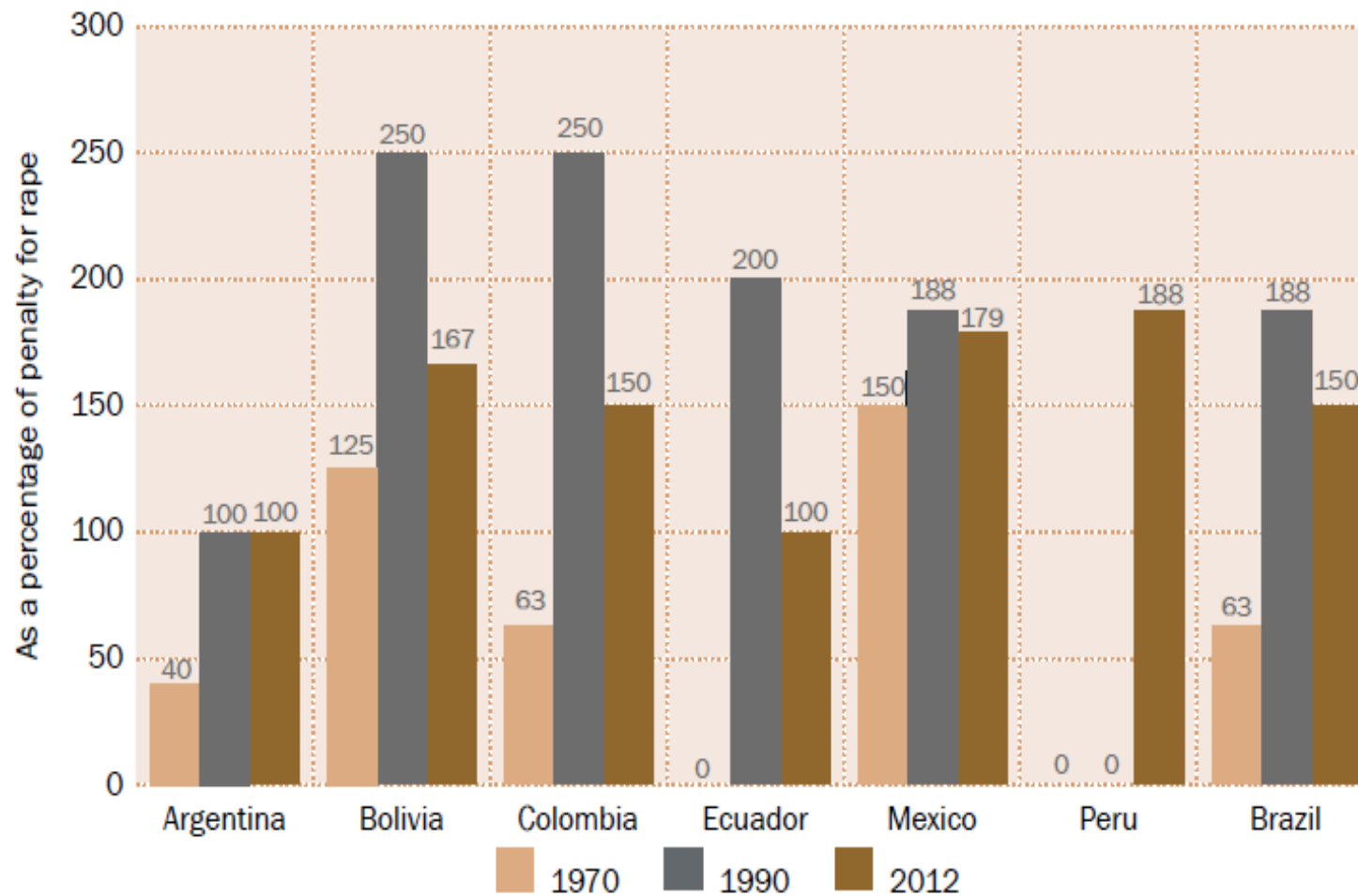
DRUG LAW PENALTIES IN LATIN AMERICA VS. MURDER

Average penalty for trafficking as percentage of average penalty for murder (1970-2012)



PORPORTIONALITY OF DRUG PENALTIES

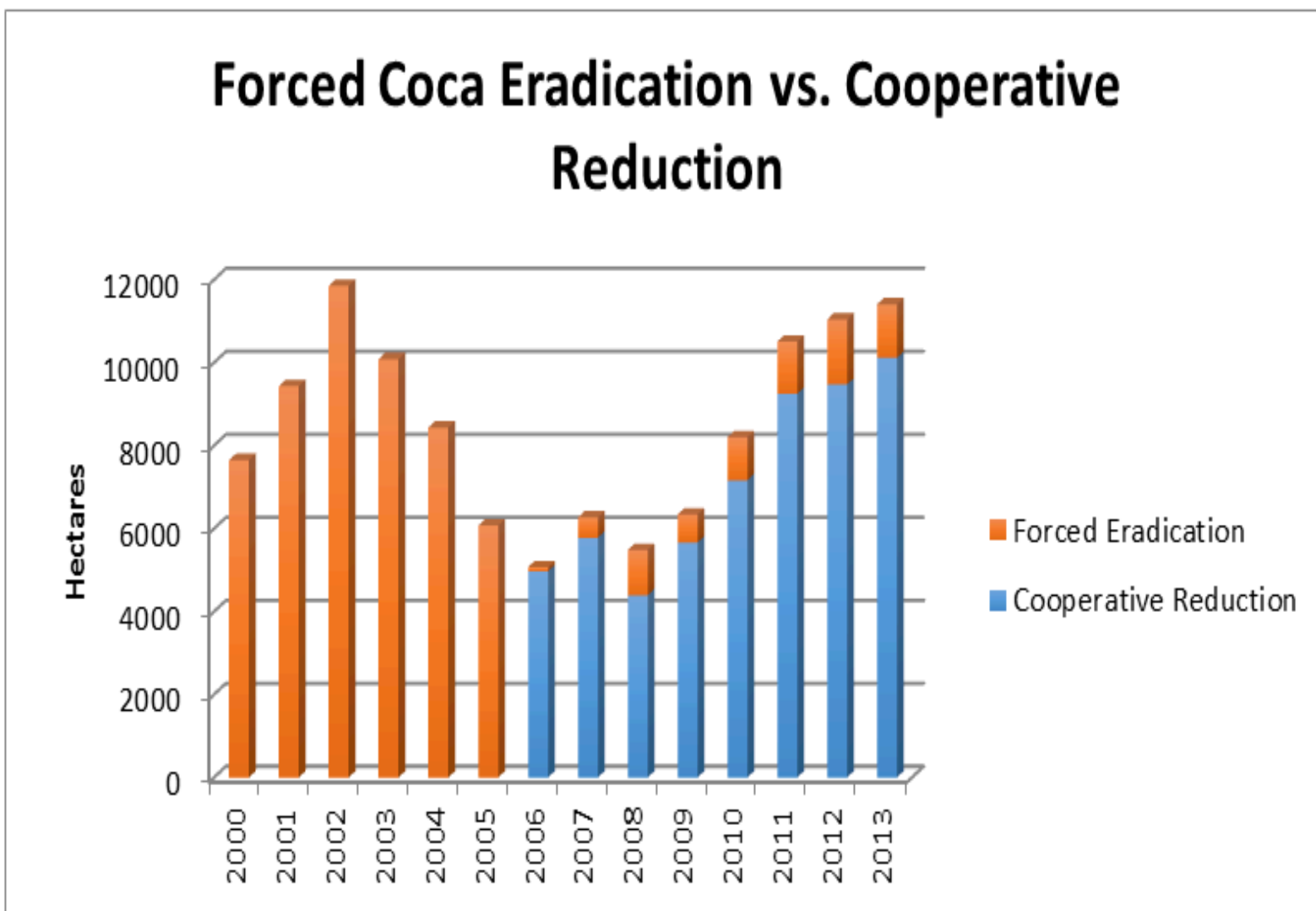
**Maximum penalty for trafficking as percentage
of maximum penalty for rape (1970-2012)**



A RIGHTS-BASED BETTER WAY: BOLIVIA'S CATO

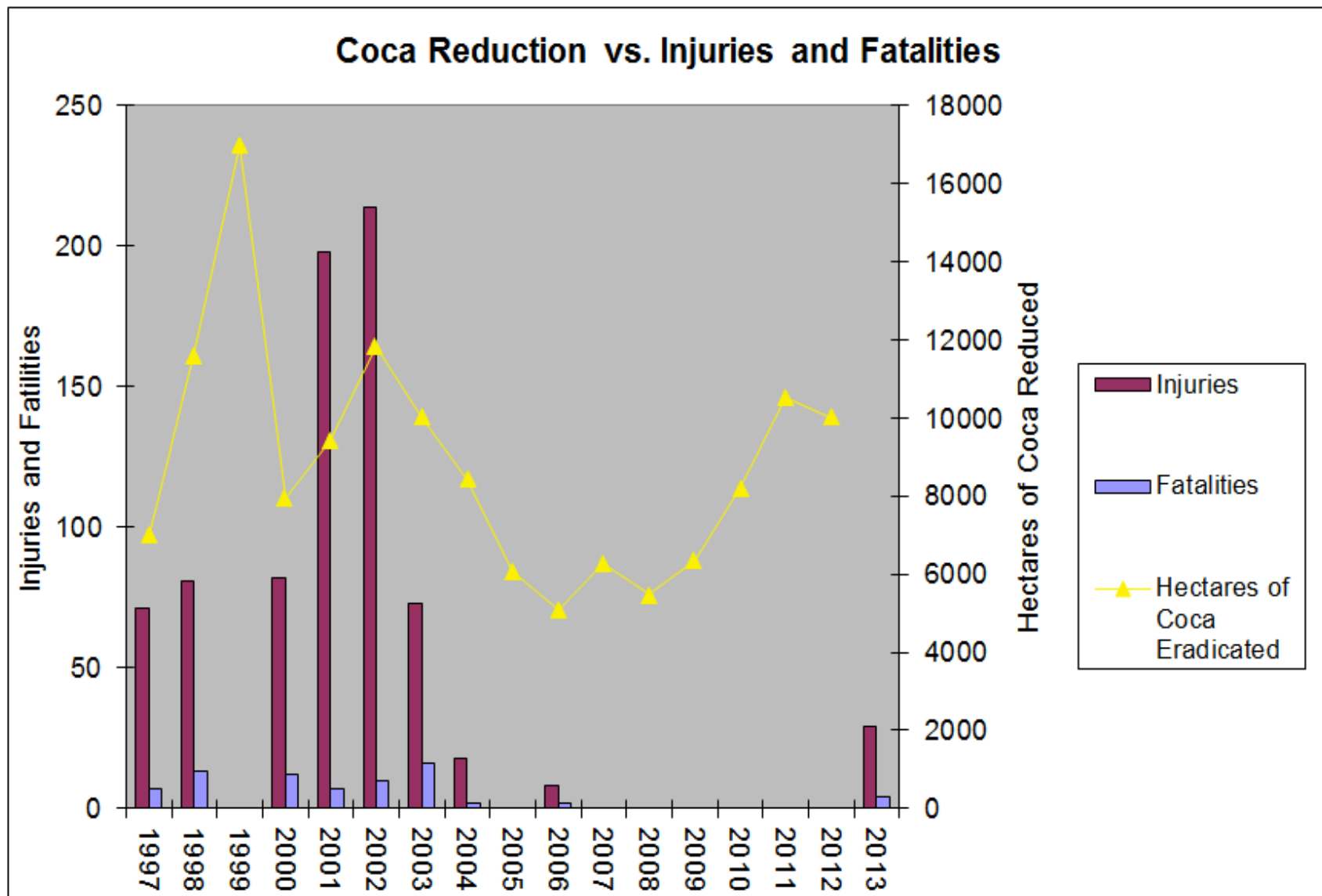
- Harm reduction in production: cultivation of 1 *cato* (= 0.1 hectare) coca allowed to ensure livelihood, with support for other crops, infrastructure, social services development (Morales government priority)
- Relies on strong farmer unions – meaningful participation of most affected people

CATO SCHEME YIELDS RESULTS



Source: *Vice-Ministerio de Defensa Social y Sustancias Controladas*

MILITARIZED VS. PRODUCER-LED CONTROL



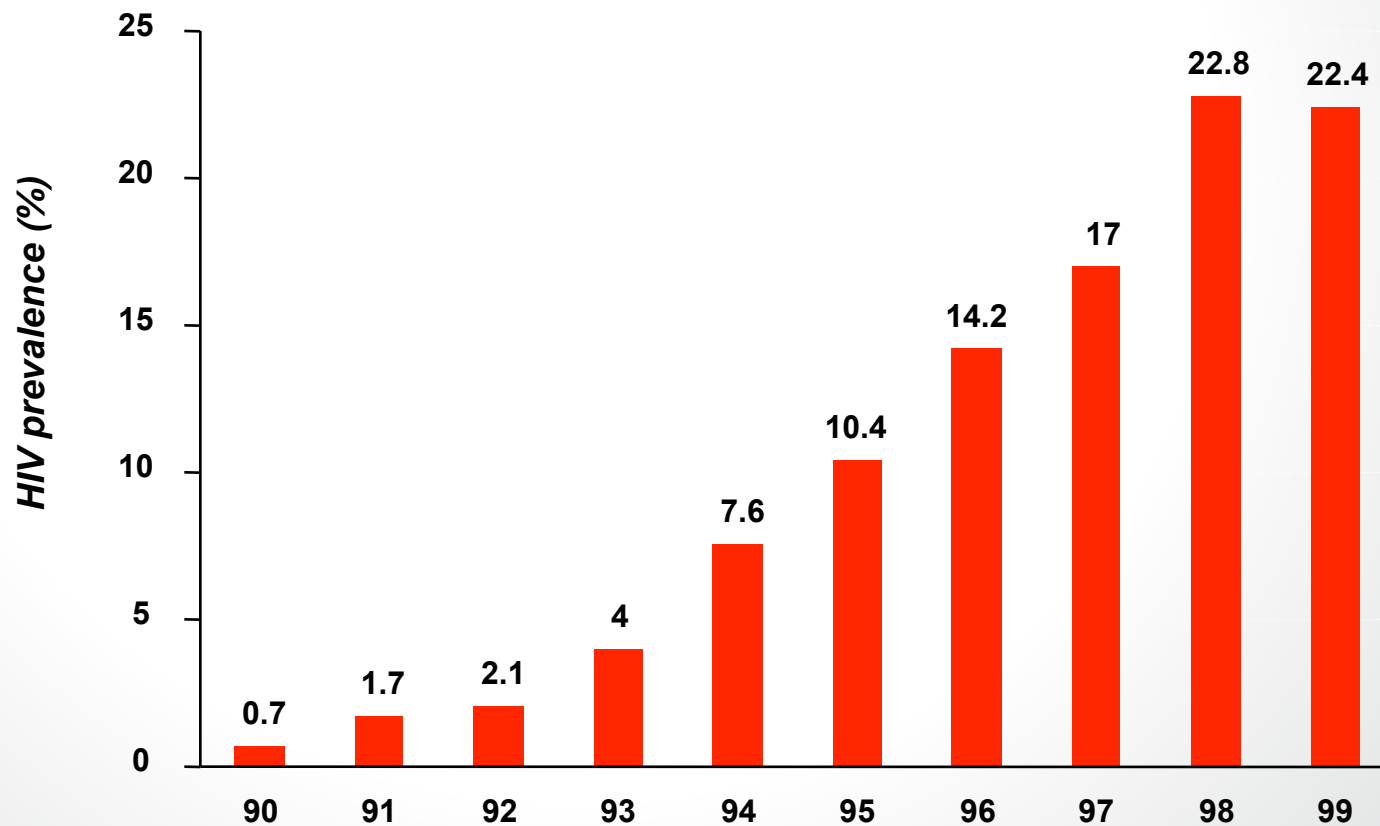
Source: Jessica Robinson, AIN

ALTERNATIVE DEVELOPMENT PRINCIPLES?

Int'l Guiding Principles on Alternative Development, drafted in Lima, 2012, adopted by UN CND, 2013

- Progressive draft from govt/NGO consultation in Thailand changed at UN-Vienna
- Proper sequencing – alternative development BEFORE crop eradication
- Eliminated language on “taking due account of traditional licit uses”
- Deletes statement that “dev’t assistance should not be conditional on reductions in illicit cultivation”

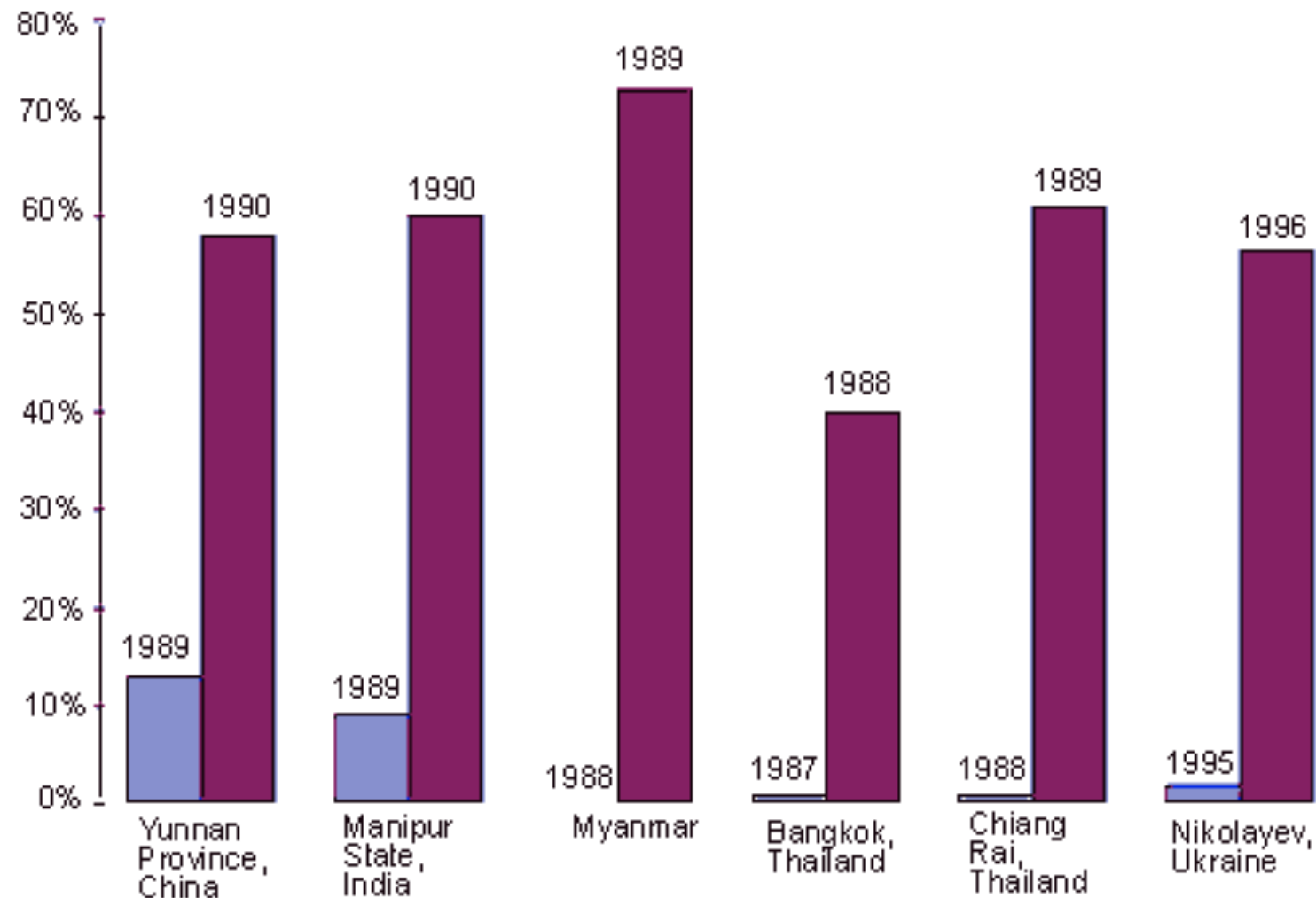
HIV PREVALENCE AMONG PREGNANT WOMEN IN SOUTH AFRICA, 1990 TO 1999



Source: *Department of Health, South Africa*

Rapid Increase of HIV among Injecting Drug Users

HIV prevalence



INJECTION IS SIGNIFICANT BUT NEGLECTED (OR NOT MEASURED)

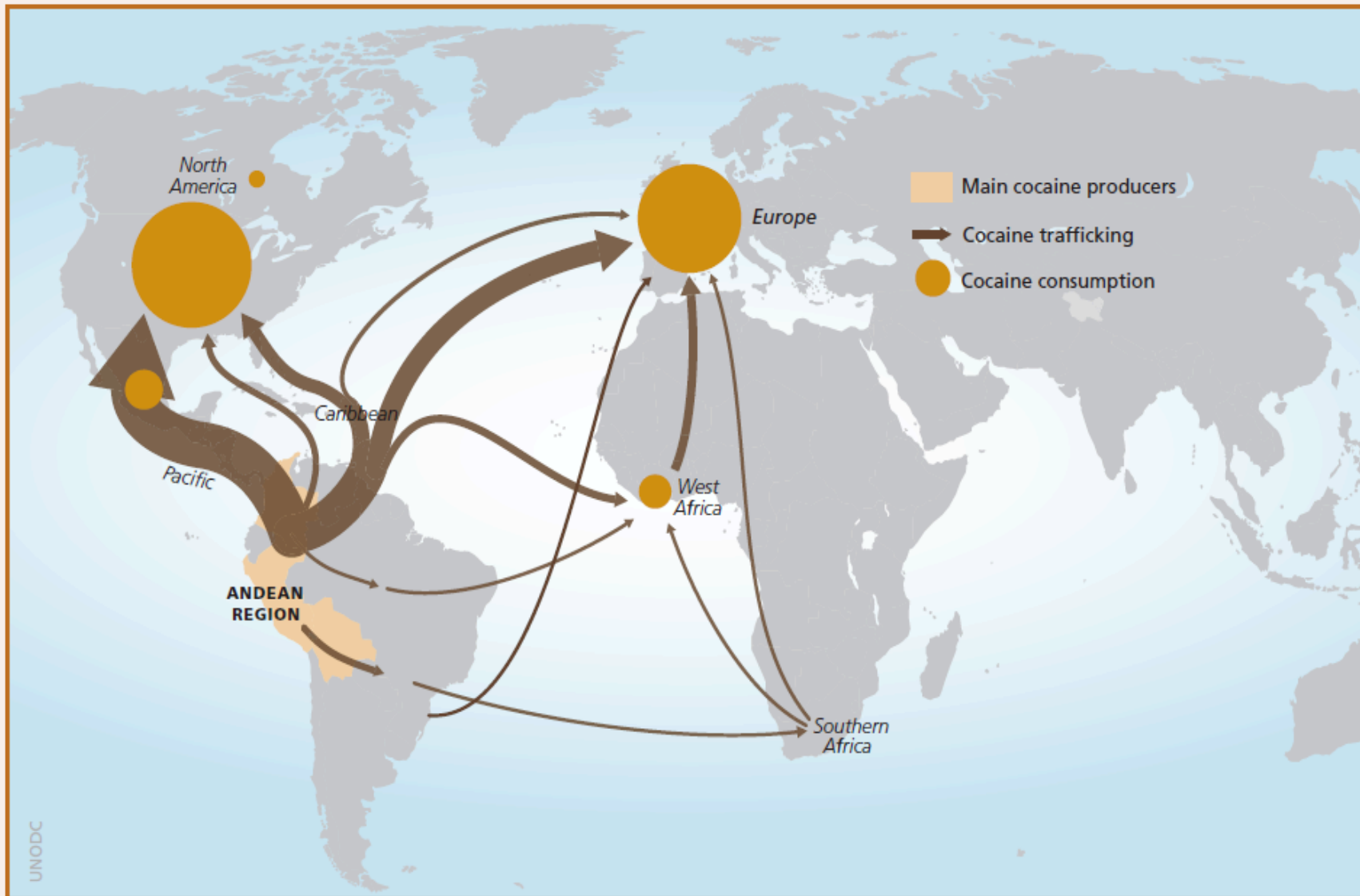
Table 1: Estimated numbers of people who inject drugs and HIV prevalence, selected countries³

Country	Estimated number of people who inject drugs	Estimated HIV prevalence among people who inject drugs
Egypt	85,000	6.5 – 6.8%
Kenya	49,167	18.3%
Mauritius	9,253	47.4%
Morocco	18,500	11.4%
South Africa	67,000	19.4%
Tanzania	25,000 – 50,000	42%

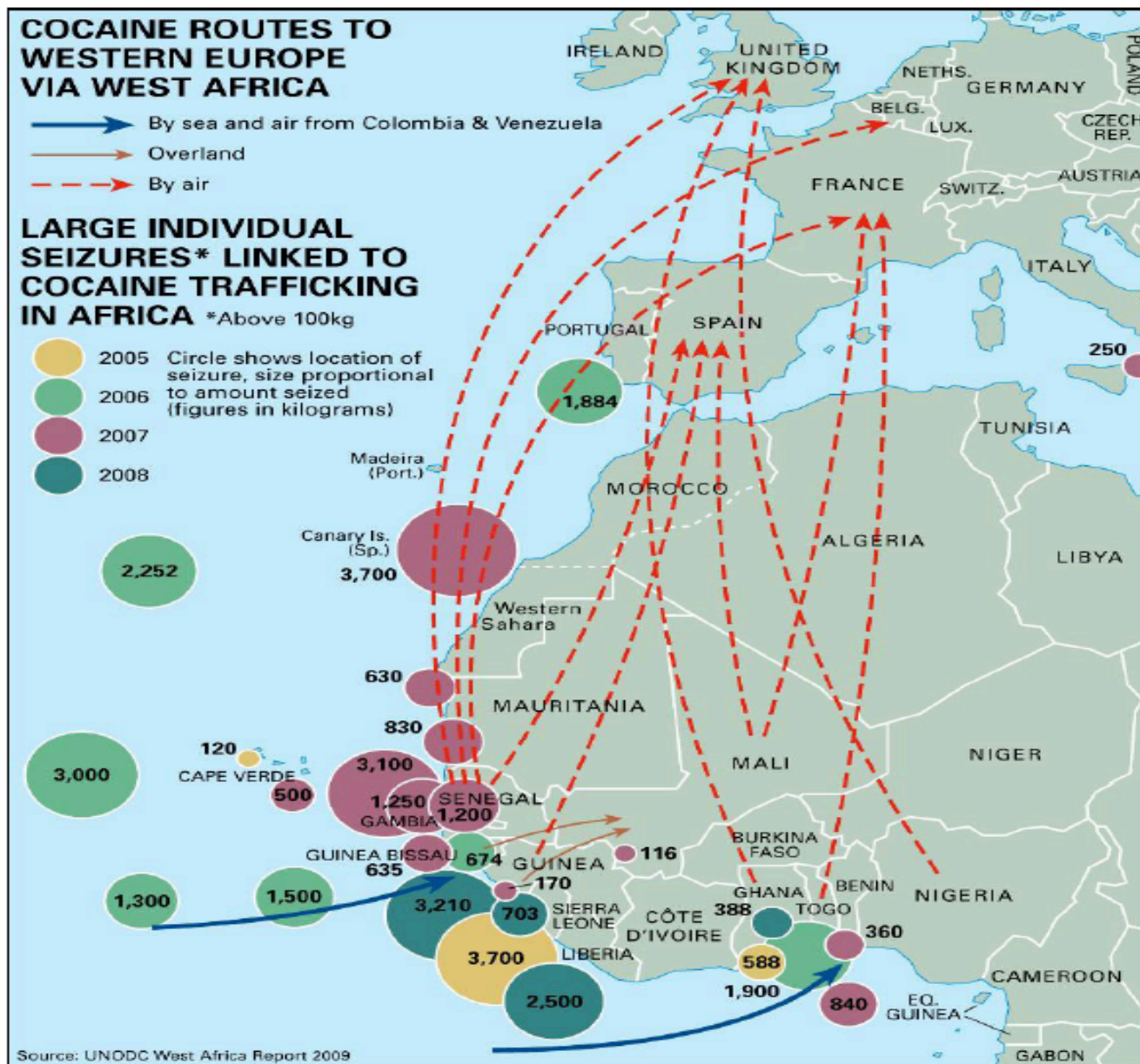


UNODC: COCAINE FLOWS (2013 REPORT)

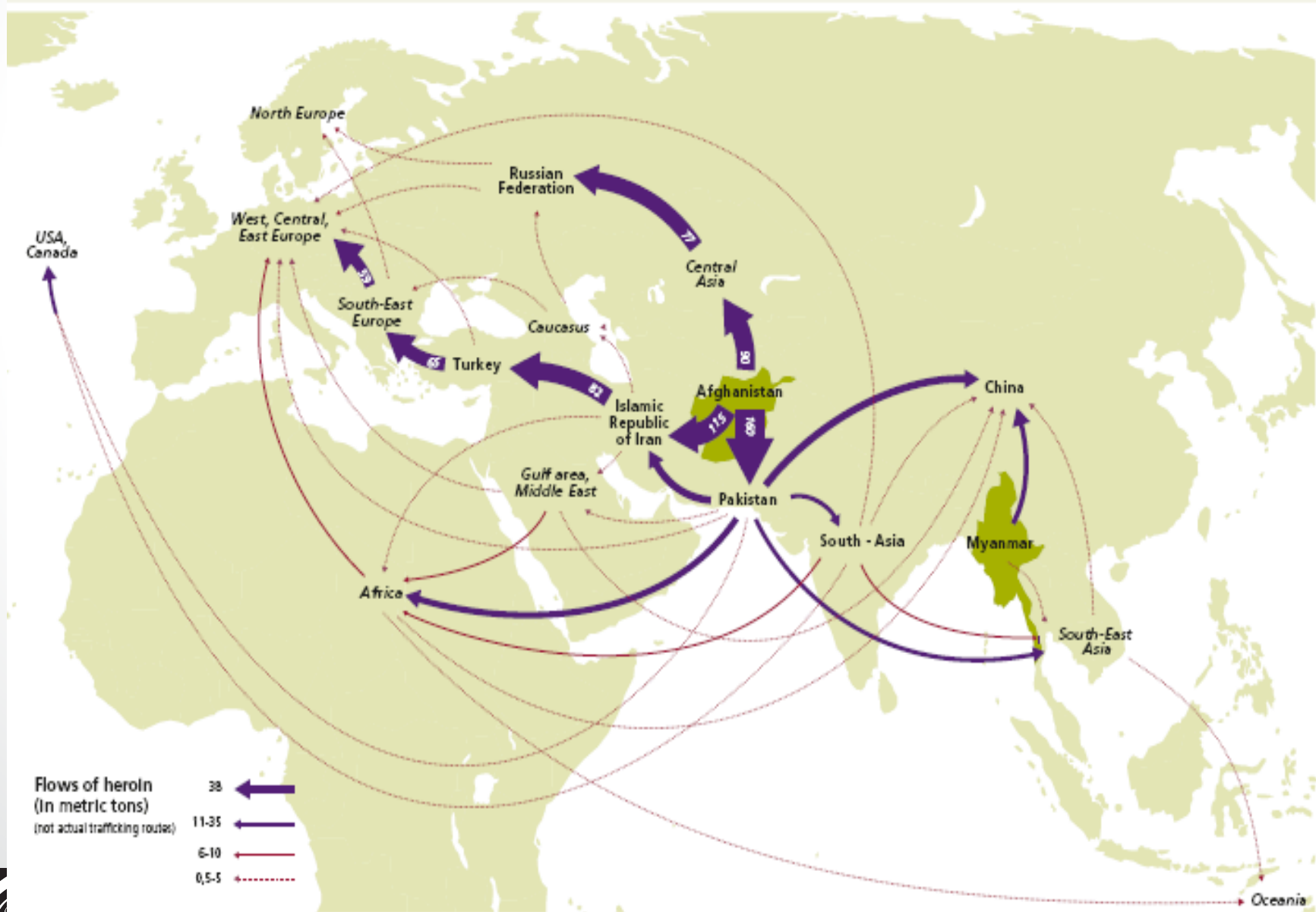
Map 2: Main global cocaine flows 2010



COCAINE ROUTES, AFRICA TO EUROPE (ADAPTED FROM WORLD DRUG REPORT 2011)

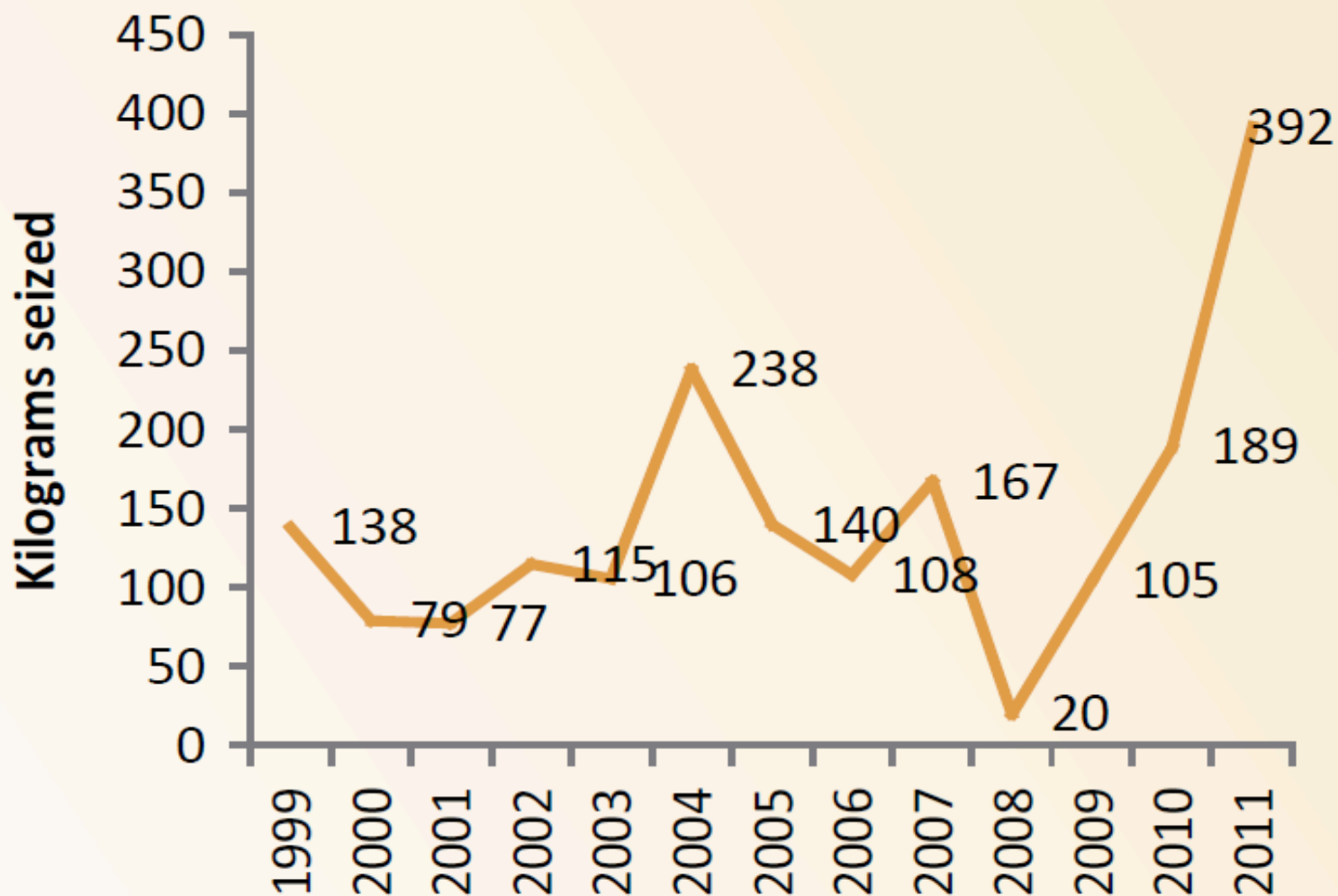


HEROIN FLOWS IN AFRICA (UNODC WORLD DRUG REPORT 2011)

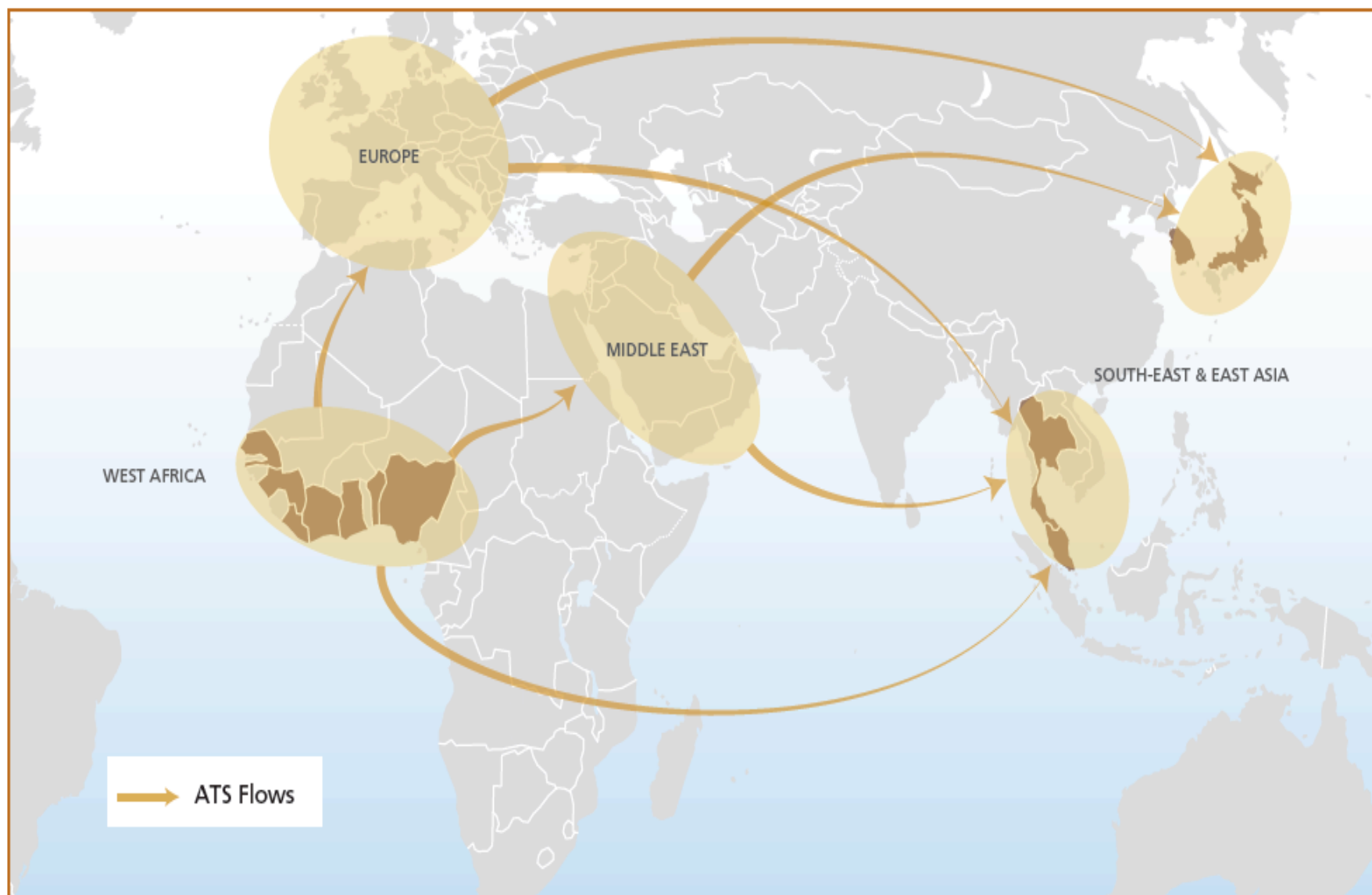


UNODC, 2013: TRANSNATIONAL CRIME IN W AFRICA

Figure 13: Heroin seizures in West Africa

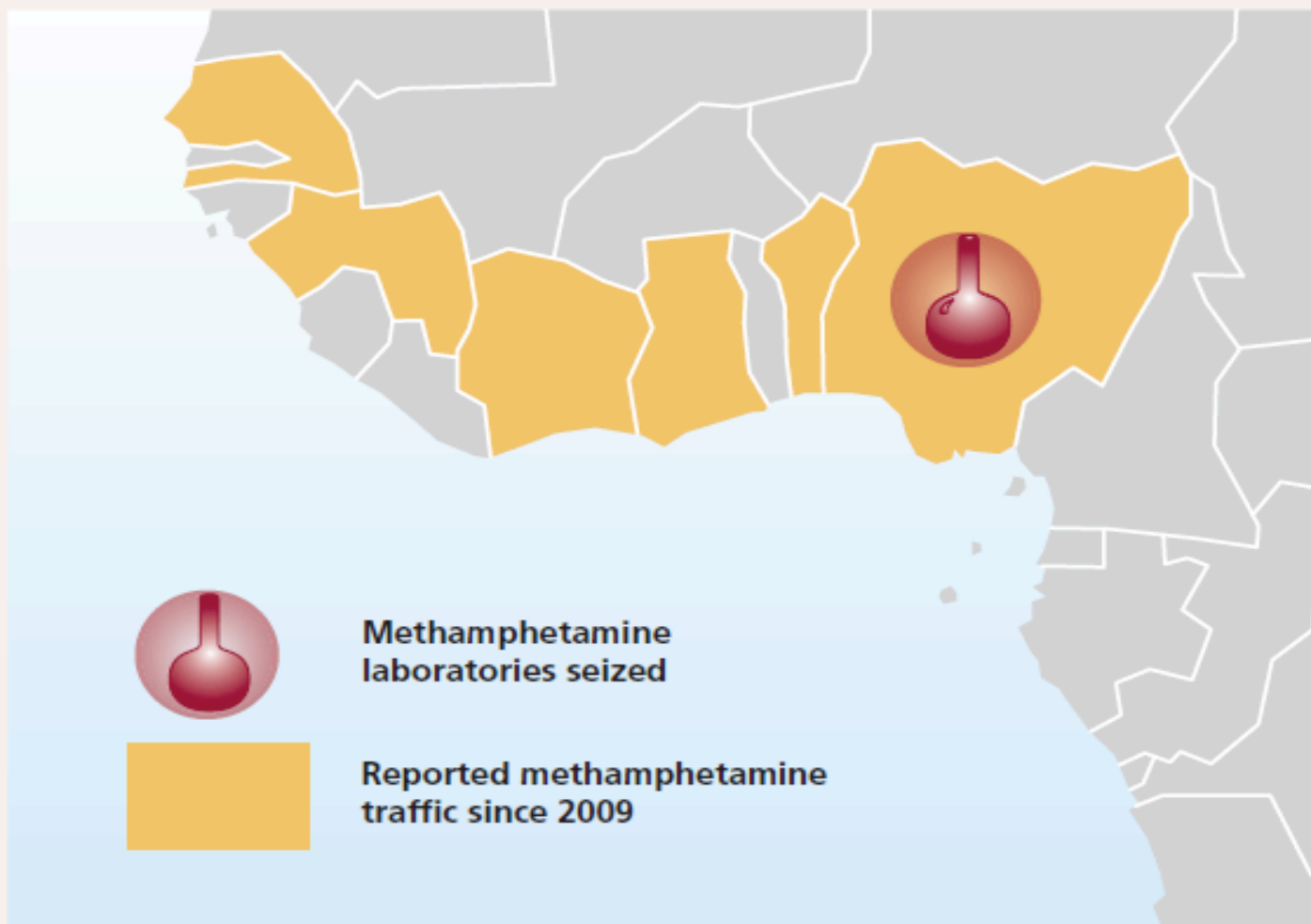


FLOW OF AMPHETAMINE-TYPE STIMULANTS (UNODC, 2013)



UNODC (2013): ATS IN W. AFRICA

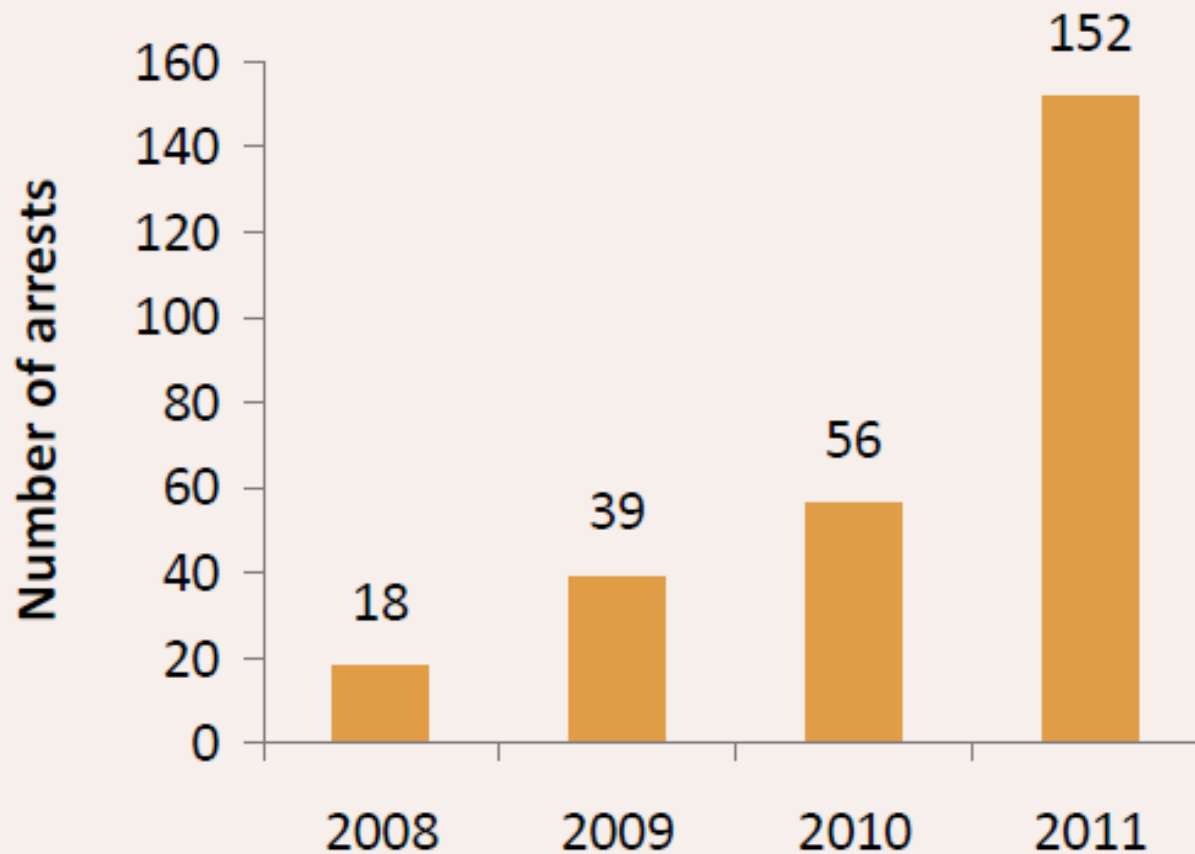
Map 3: Methamphetamine in West Africa



Source: Global SMART programme

FROM UNODC: TRANSNATIONAL ORG'D CRIME IN W AFRICA

Nigerian couriers arrested for methamphetamine trafficking in Malaysia, 2008-2011



Source: Royal Malaysian Police

AL QAEDA-DRUG CONNECTION IN W. AFRICA?

News > World news > Mali

Cocaine flows through Sahara as al-Qaida cashes in on lawlessness

Young Malians risk their lives to earn big money transporting drugs across desert

Afua Hirsch in Timbuktu
The Guardian, Thursday 2 May 2013 16.35 BST

[Jump to comments \(145\)](#)



The wreckage of a Boeing 727, which was believed to have been carrying up to 10 tonnes of cocaine when it crashed in the Malian desert. Photograph: Serge Daniel/AFP/Getty Images

As the daily power cut struck Timbuktu, the town and surrounding desert were plunged into a sandy, grey darkness. Mohamed – a 31-year-old native of the town dressed in rich, deep blue cloth that engulfed his head in the traditional Tuareg style – seemed to shrink further into the shadows. He tipped ash into a saucer as he talked and smoked, telling his story for

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US RAISES 'NARCO-TERROR' FEARS IN AFRICA

- **“For the foreseeable future, drug trafficking will continue to be the most lucrative criminal enterprise and therefore the one with the greatest ability to fund terrorist, insurgents and other threats to our national security.”**
 - Pentagon official at 2012 Congressional hearing on drugs in West Africa**
- **US penal code (Title 18 US C. §960a) authorizes US agencies to prosecute drug offenses outside the US if linked to terrorism; US DEA increasingly present in W Africa.**

REALITY OF NARCO-TERRORISM IN W. AFRICA?

- **Dr Wolfram Lacher, SWP-Berlin: (1) AQIM's main revenue from kidnappings; (2) funding of AQIM and others like it tiny compared to drug-related corruption of elected officials.**
- **Virginia Comolli, IISS-London: invoking al-Queda attracts US counter-narcotics funds so local leaders do not refute it; not a FARC-like situation**

U.S. WRITING DRUG LAW IN AFRICA

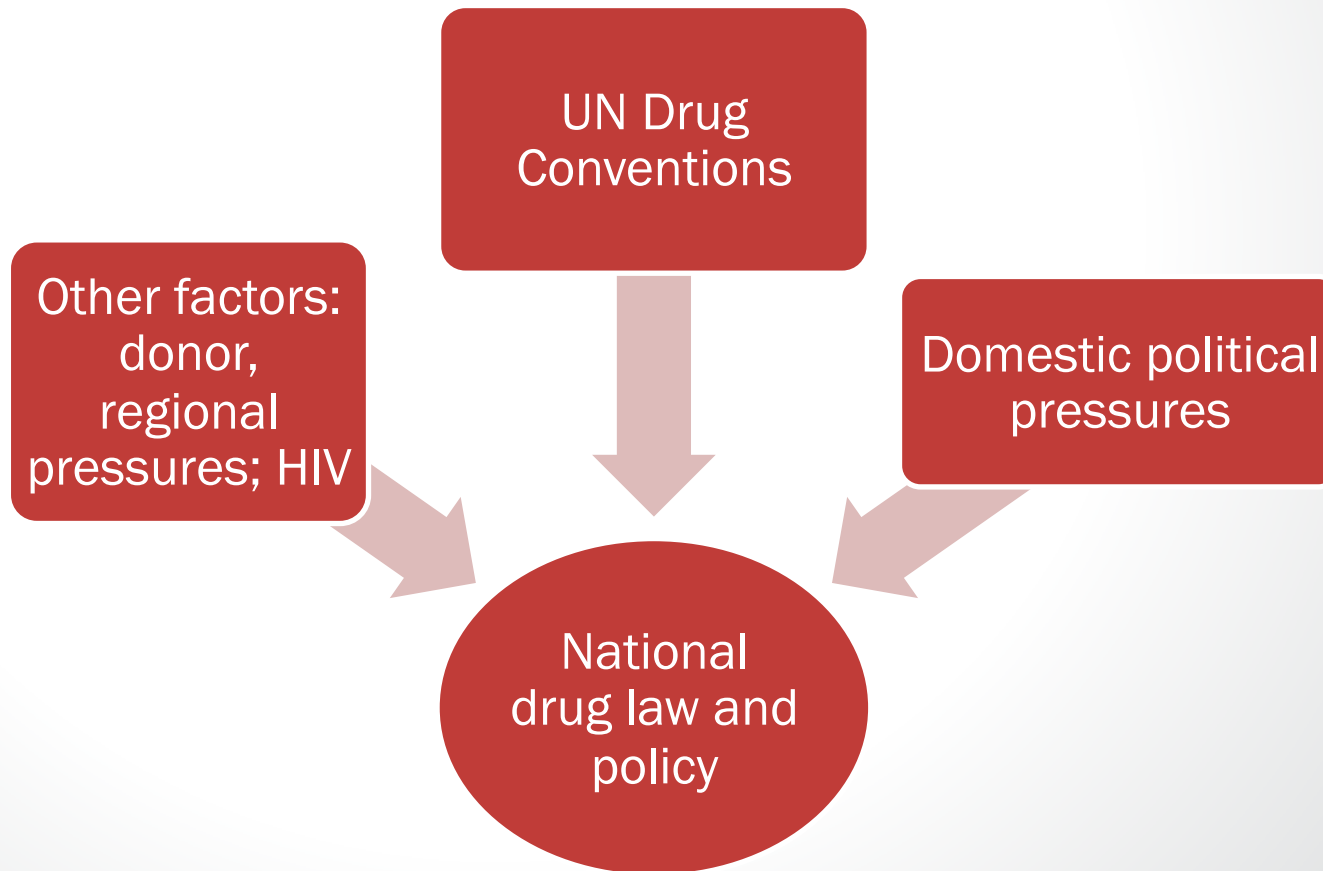
Draft drug law in Liberia, apparently heavily influenced by U.S. DEA (Drug Enforcement Administration):

- **Cannabis, heroin, cocaine, methadone, morphine all included in most prohibited category, severe penalties without regard to medical value, severity of effects**
- **Harsh criminal penalties for a range of minor offenses**
- **Insufficient protections against forced treatment.**

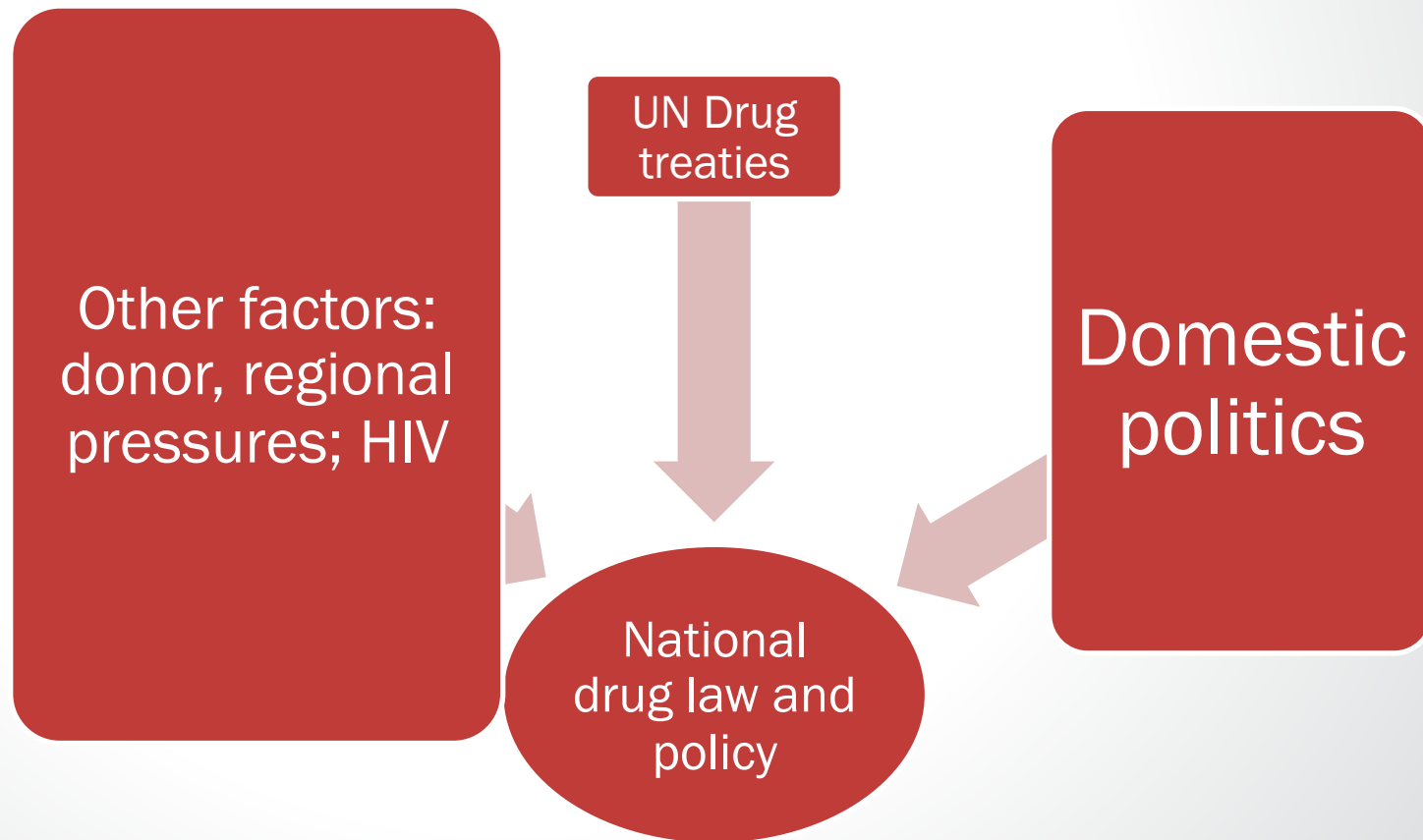
UN CONVENTIONS AS AN EXCUSE FOR BAD POLICY?



MANY INFLUENCES ON DRUG POLICY (WHERE ARE SCIENCE AND HUMAN RIGHTS?)



IN AFRICA, DONOR VIEWS MATTER



U.S. 'DECERTIFICATION': CASE OF NIGERIA

- Nigeria decertified by U.S. 1994-99
- Responds eventually with scaling up of seizures and arrests and “Operation Burn the Weed”; reportedly destroyed over 5 mil tons of cannabis
- Resulted in loss of aid, private investment, international events, etc.; humiliation of Nigerians at airports worldwide
- Led to drug policy based on seizures and arrests long after decertification ended

Source: I. Obot, *Int'l Journal of Drug Policy*, 15:17-26, 2004.

ERADICATING CANNABIS LIVELIHOODS IN AFRICA WITHOUT OFFERING AN ALTERNATIVE

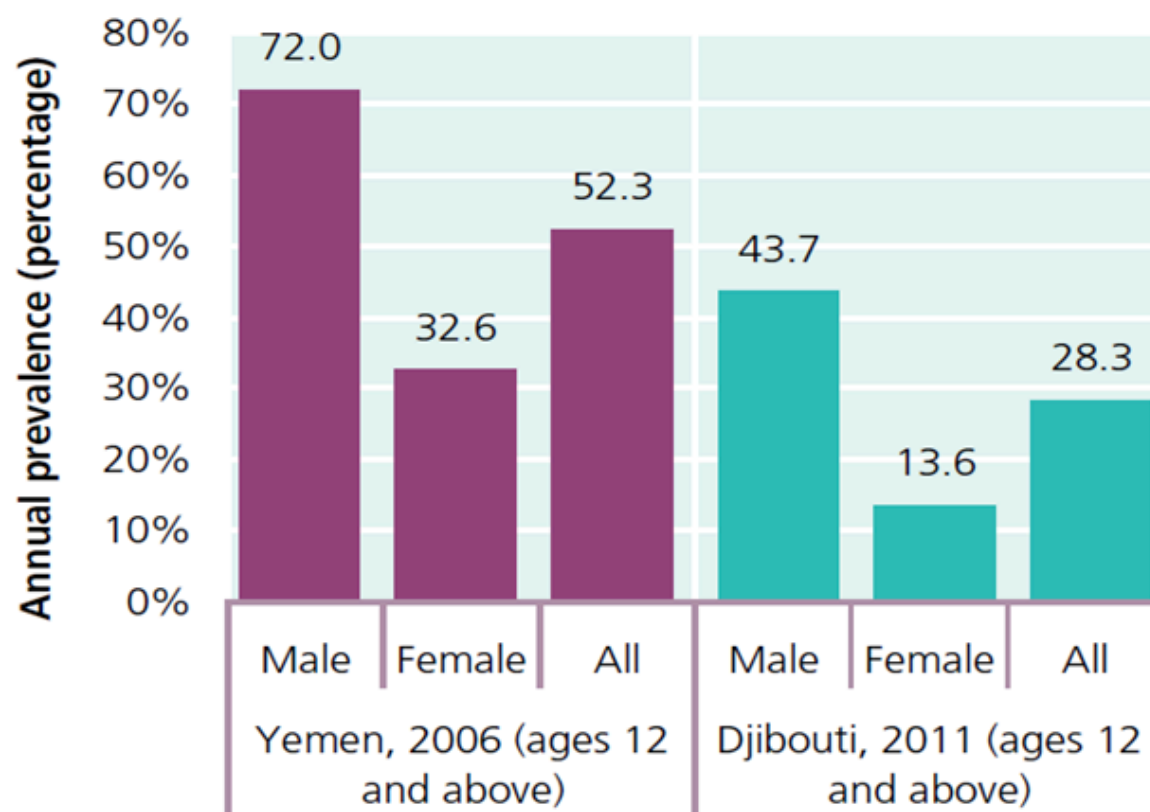


KHAT: PLANT-BASED STIMULANT FROM HORN OF AFRICA



EXTENSIVE USE IN A FEW COUNTRIES

Annual prevalence of khat use in Djibouti and Yemen



Source: UNODC, *2013 World Drug Report*, p 97.

WHO: “LOW ADDICTIVE POTENTIAL”





- Traditional, cultural use
- In Europe use almost exclusively in Somali, Ethiopian, Yemeni communities
- **WHO Expert Committee on Drug Addiction, 2006: no major health or social harms; echoed by Dutch and UK studies**
- Exportation is livelihood for many in Kenya, Ethiopia
- UK collected US \$5 million in tax revenue, 2011
- No criminal networks involved in khat distribution in countries where it is legal

RANKING DRUGS BY RISK: EXPERT ASSESSMENT

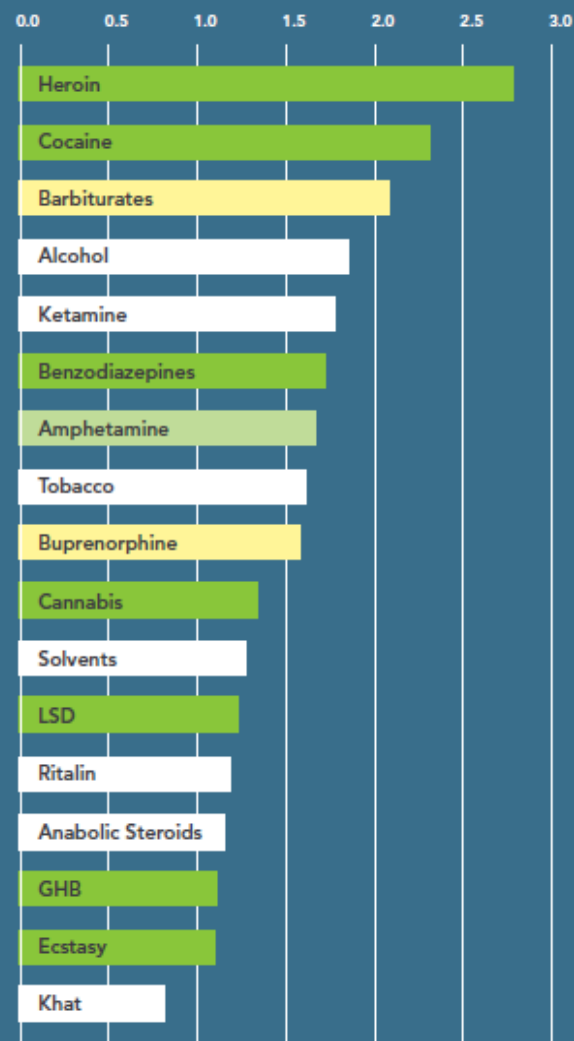
In a report published by *The Lancet* in 2007, a team of scientists³³ attempted to rank a range of psychoactive drugs according to the actual and potential harms they could cause to society. The graph at right summarizes their findings and contrasts them with the seriousness with which the drugs are treated within the global drug control system.

While these are crude assessments, they clearly show that the categories of seriousness ascribed to various substances in international treaties need to be reviewed in the light of current scientific knowledge.

UN CLASSIFICATION

-  Most Dangerous
-  Moderate Risk
-  Low Risk
-  Not Subject to International Control

INDEPENDENT EXPERT ASSESSMENTS OF RISK



BANS DISMISSIVE OF EVIDENCE

- **2012: Dutch ban**: “Khat causes problems in Somali community” (contrary to government-commissioned study)
- **2013 UK ban proposed**: T. May: “We are the centre of distribution for Europe; we may have underestimated the harms.”

➔ **Criminal networks marketing khat in Netherlands; will certainly appear in the UK**

➔ **Will fuel discriminatory practices in stop and search, exacerbate marginalization?**

ACTION ALERT FOR UK VOTERS

- **House of Lords to consider a “motion of regret” on khat, May 6**
- **Khat ban will take full effect on May 24 unless there is a public outcry or the Lords motion passes and is taken seriously**

Interested persons might contact their MP with a copy to Julian Huppert, chairman of the House of Commons Technical Committee on Home Affairs, julianhuppertmp@gmail.com

TORTURE AS TREATMENT IN AFRICA



legislation. Despite these legal provisions, it has done little to ensure that protections are in place and enforced.

A woman sitting on her bed made out of bamboo was chained to a tree, with a deep wound on her leg at Jesus Divine Temple (Nyakumasi) Prayer Camp.

HIGH-LEVEL ADVOCACY: GLOBAL COMMISSION ON DRUG POLICY





Annan helps establish **West African Commission on Drugs**, former heads of state and ministers, NGO reps



CONVINCING THE WEST AFRICAN COMMISSION...

Misuse of criminal law one of the most persuasive arguments, i.e. wrongness of:

- **Criminal law for acts where there is no demonstrable criminal intent**
- **Harsh criminal sanctions for minor offenses**
- **Criminal law applied where there is no evidence of deterrent effect.**
- **Penal sanctions that do not incapacitate the activity (i.e. drug use in prison)**
- **Sanctions that have disproportionate effect on the poor.**

PERSUADING THE WEST AFRICA COMMISSION BY CITING:

- **Harmful impact of evaluating police performance based on number of arrests**
- **Paraphernalia laws make having a sterile syringe a crime; having a syringe with trace amounts may violate possession laws**
- **Health workers may be required to register drug users with the police.**
- **Use and possession offenses in some countries may draw same penalties as rape or murder.**

HUMAN RIGHTS WATCH STATEMENT (2013) – CONT.

- Reduce criminal regulation of **drug production** and distribution.

Criminalization of the drug trade...dramatically enhances the profitability of illicit drug markets and fuels the growth of groups responsible for large-scale violence and corruption. Finding alternative ways to regulate production and distribution and cutting into illicit drug profits would allow governments to weaken the influence of such groups and reduce the various abuses—killings, disproportionate sentencing, torture, and barriers to access to health care—that governments often commit in the name of fighting drugs.

HUMAN RIGHTS WATCH STATEMENT (2013)

- Decriminalize personal use and possession of drugs for personal use:

Laws criminalizing drug use are inconsistent with respect for human autonomy and privacy rights. Governments may limit these rights if necessary for a legitimate purpose, such as preventing harm to others. But as with other private behavior that some may view as immoral..., there is no legitimate basis for criminalization. Nor is criminalization necessary to protect people who use drugs....Governments can also criminalize negligent or dangerous behavior (such as driving under the influence)...without criminalizing drug use itself.

HUMAN RIGHTS WATCH STATEMENT (2013) – CONT.

- Ground approaches to treatment and care in human rights, avoiding abusive administrative sanctions and ensuring patients have access to needed medications. Governments should close drug detention centers where people are held in violation of international law and expand access to voluntary, community-based drug treatment... They should also ensure that anyone with a legitimate medical need for controlled medications like morphine or methadone has adequate access to them.



LES VOIX
DU MONDE



▶ A L'ÉCOUTE
Journal

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12:10 TU Sessions d'info ...
> Toutes les émissions

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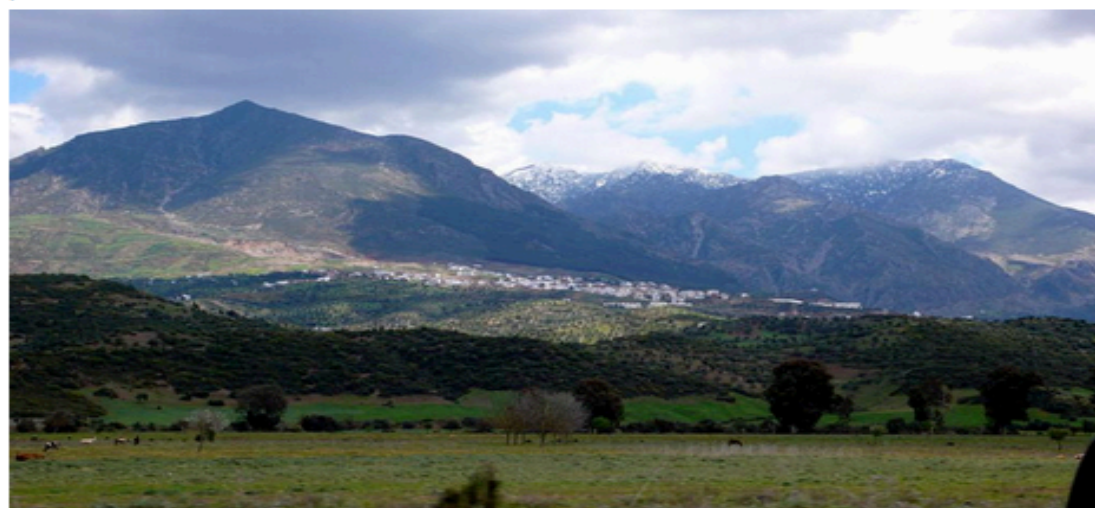
in Partager 3

MAROC | SANTÉ ET MÉDECINE

Publié le 09-12-2013 • Modifié le 10-12-2013 à 00:46

Le Maroc envisage la légalisation du cannabis

par RFI



Vue des montagnes du Rif près de Chefchaouen.

wikipedia



Maroc

Un débat original a eu lieu la semaine dernière au Parlement marocain : les députés ont étudié la question de la légalisation du cannabis dans un but thérapeutique ou industriel. Il faut dire que le Maroc est, après l'Afghanistan, le deuxième producteur mondial de « kif ». La précieuse

AFRICA REG'L STRATEGIES FOCUSED ON POLICING UNTIL...



AFRICAN UNION MOVES TOWARD REFORM

- **African Union 5-year strategy (approved Jan. 2013) recognizes importance of health/social services as part of drug control, calls for respect of human rights of people who use drugs**
- **Encourages countries to find alternatives to incarceration for minor offenses**
- **Follow-up and donor support?**

US RAISES 'NARCO-TERROR' FEARS IN AFRICA

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- **Dr Virginia Comolli, IISS-London: invoking al-Qaeda attracts US counter-narcotics funds so local leaders do not refute it; not a FARC-like situation**

RIGHTS-BASED POLICY = DIFFERENT BENCHMARKS

Instead of counting arrests and seizures, we might ask:

- ➔ Are **health/social sectors** active in policy-making **on a par with police/security**?
- ➔ Are there non-criminal law responses to **individual use and possession**? What percentage of people convicted for drug offenses are major traffickers?
- ➔ Do the rights of people who use drugs and people who grow drug crops figure in policy?
- ➔ Are human rights violations by drug police documented, and is there redress for abuses?
- ➔ Does the state ensure access to **humane treatment for drug dependence and harm reduction, including in prison**?

UNGASS 2016 on drugs

To "review the current policies and strategies to confront the global drug problem"



OPEN SOCIETY
FOUNDATION

GETTY IMAGES

SIGNS OF HOPE (MAYBE?)

- **Bolivia withdrawal and re-accession to UN drug conventions not blocked**
- **More social science and policy research on costs of drug war from respected scholars (but more funding needed)**
- **Bilateral, multilateral support for drug-related health services may be wedge to police reform (as in Tanzania)**
- **UN multi-agency statement against abuses in drug detention centres leading to some national policy change**

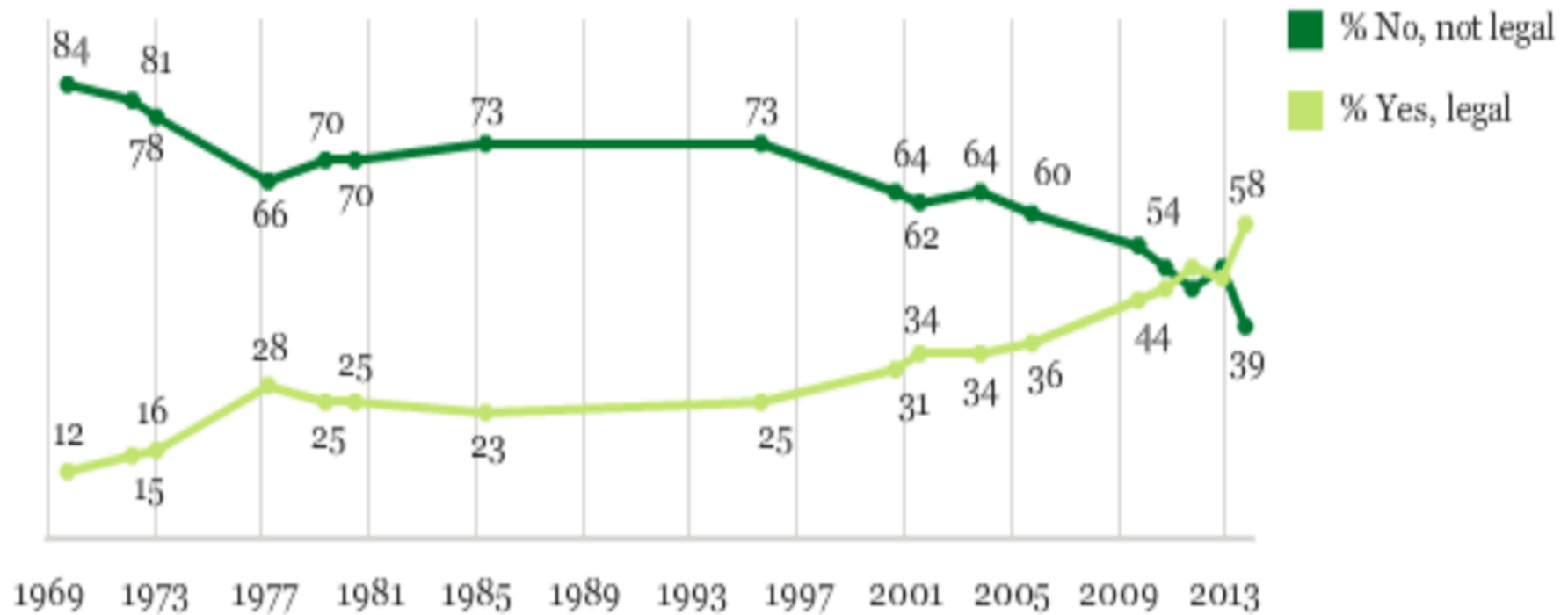
SUSTAINING HUMANE POLICIES IN W. EUROPE?



MAJOR SHIFT IN U.S. PUBLIC OPINION

Americans' Views on Legalizing Marijuana

Do you think the use of marijuana should be made legal, or not?



HOW FAR WILL OBAMA GO IN THE U.N. (2016)?

