

Testimony
Of
Mark A.R. Kleiman
Professor of Public Policy, UCLA

Domestic Policy Subcommittee
Oversight and Government Reform Committee
Wednesday, July 21, 2010
2247 Rayburn HOB
10:00 a.m.

**INTERNATIONAL SUPPLY REDUCTION AND
INTERDICTION**

Mr. Chairman:

Thank you for the invitation to testify.

This hearing comes at a moment when thinking about drug policy is undergoing rapid change, after many years of repeating the same old slogans and the same old mistakes. This process of rethinking has not been dramatic, but it has been radical. Even the idea – dominant for decades – that drug problems and policies could be neatly divided into “demand” and “supply,” and that enforcement constituted the “supply side” of a drug control strategy, has come under convincing criticism. Of course illicit drugs are traded in markets, and markets are best analyzed using the categories of supply and demand. But those are not the best categories with which to structure our consideration of what to do about drug abuse, drug trafficking, and the related crime, corruption, and violence.

What are the evils attributable to drugs, their distribution, and the effort to control them? Here’s a partial list:

1. Substance abuse disorder, imposing suffering on those who have the disorder and on their families, friends, and neighbors.
2. Risky or criminal behavior by those under the influence, not all of them with diagnosable drug abuse or dependency.
3. Acquisitive crime by those seeking money to buy drugs.
4. Somatic and psychiatric disease caused by the drugs or the means of consuming them.
5. Violence and disorder around retail drug markets.
6. Intrusive enforcement methods necessitated by the conspiratorial nature of drug dealing, and, on occasion, misconduct by police and prosecutors who cut corners to convict the guilty or fabricate evidence against the innocent.
7. Half a million drug dealers behind bars.
8. Crime, violence, and corruption in source and transit countries.
9. Support for transnational multi-crime organizations, for insurgency, and for terrorism.

The “supply control” effort has been based on the idea that enforcement can make drugs so much more expensive or hard to get as to substantially reduce consumption. We’ve been there, done that, and have the T-shirt. But the T-shirt is all we have. There are about fifteen times as many drug dealers behind bars today as there were in 1980, and the prices of cocaine and heroin, adjusted for inflation, have dropped more than 80%. Law enforcement can, sometimes, prevent a drug from establishing a mass market in a new community – heroin is effectively unavailable in most of the United States, but as the Oxycontin disaster showed the appetite for opiates is universal – but once a mass market is established the volume is fairly insensitive to law enforcement. If law enforcement can’t shrink volumes, it can’t much influence the level of drug abuse, and we should stop asking our police and prosecutors to continue to shovel sand against the tide by engaging in supply control efforts.

That does not mean that domestic drug law enforcement has no role to play in reducing the size of the drug problem, because the size of the problem is not well-measured by the volume of drugs or the number of users. What domestic law enforcement can and should do is to *regulate the illicit markets* by creating effective disincentives for flagrant and disorderly dealing and for the use of violence and corruption and the employment of juveniles as apprentice dealers. The low-arrest drug crackdowns – pioneered by David Kennedy, and also known as drug market interventions – in High Point, East Hempstead, and Seattle have demonstrated that the damage done to neighborhoods by drug dealing can be hugely reduced by driving the markets off the streets. The tactic is to identify all the dealers in an area of flagrant dealing, make cases against all of them without prosecuting those cases, and then, at some point, tell all of them at once that they must stop dealing immediately or go directly to prison.

Simultaneity is the key: when all the dealers in an area stop selling at the same time, the market tends to disappear quickly as buyers discover that drugs are no longer available.

“Supply control” in source and transit countries, and at the border, has an even tougher row to hoe; the conditions of availability are determined almost entirely locally rather than globally – true supply interruptions are rare – and between 80% and 90% of the retail price reflects domestic mark-ups rather than import prices. Opium poppies grow just about anywhere, and the coca plant, while its range is more restricted, still grows in enough places so that America’s cocaine users will eventually get as much as they can pay for.

As former DEA Administrator and Customs Commissioner Rob Bonner explains in the current issue of *Foreign Affairs*, the logical conclusion is that source- and transit-country enforcement, and interdiction, ought to aim at foreign-policy goals rather than drug-abuse-control goals. Reducing the flow of drugs is not, in general, possible. What is possible is to help protect source and transit countries from the side-effects of drug trafficking, by concentrating enforcement on those trafficking groups that create the most violence and accumulate the most political power. (That’s the opposite of the tendency of undifferentiated drug law enforcement to help cartelize markets in the worst hands by driving out the smaller and more innocuous players.)

What is also possible, as Bonner hints but doesn’t say, is to redirect the traffic from the places where it does the most harm to U.S. interests to places where it would do less harm. Mexico’s current nightmare is, as Bonner points out, the side-effect of the successful effort in the 1980s to crack down on the Colombia-to-South Florida smuggling route by putting Coast Guard and Navy resources into the Caribbean. Was it really in our national interest to put Mexico at risk in place of the Bahamas? Is there any reason for us to maintain that effort now, thus protecting the oligopoly of the major Mexican drug trafficking organizations?

Both at the organizational level and at the geographic level, it is not necessary to make trafficking by the target organization or route completely infeasible; all that is necessary is to make it uncompetitive. By putting selective pressure on the group or area whose drug dealing is doing the most harm, you encourage competing groups and areas.

When the targets are organizations and there are several of them with competing claims to be the “worst,” as is the case in Mexico, then the strategy is subject to an additional layer of refinement. If you can measure obnoxious behavior and attribute each action convincingly – to a common-sense standard, rather than a criminal-justice standard of proof beyond reasonable doubt – to one group or another, perhaps the best approach would be to publish a “scoring system,” and announce a measurement period after which one group will be picked for concentrated attention. If the tactic works, it pays instant dividends as each group reduces its use of violence, intimidation, and corruption in hopes of not being singled out from its rivals for all-out enforcement. Insofar as U.S. drug intelligence is good enough to know which domestic dealing groups get their material from which overseas suppliers, DEA can put pressure on particular Mexican trafficking groups by threatening their U.S. correspondents with being singled out. That’s how the FBI mostly kept the Mafia out of the cocaine business: everyone else knew they were too risky to deal with.

So the situation in Mexico, as grave as it is, is by no means beyond the combined capacity of the Mexican and U.S. governments. If we use the principle of selective concentration, and abandon the fantasy of reducing the flow through Mexico other than by increasing the flow into South Florida or the Gulf Coast or by reducing consumption within the U.S., it should be possible to smash the worst of the big Mexican groups and force the rest into less violent business practices.

Nor is it necessary to accept the current level of U.S. drug consumption. More aggressive drug treatment, and in particular the enlistment of the rest of the health care system via screening, brief intervention, and referral to treatment rather than leaving the entire burden on the small and under-funded specialty drug-treatment machinery, is unambiguously helpful both with respect to domestic crime and drug dealing and with respect to the burden U.S. drug consumption puts on Mexico. Fortunately, the Affordable Care Act will provide very substantial funding to community clinics for precisely that purpose, while the combination of the new parity rules and the decreasing number of the uninsured will make drug treatment more available to those who want it.

Alas, a very large share of cocaine, heroin, and methamphetamine is consumed by those who do not want treatment, and will not accept it even when it is mandated by the criminal justice system in the form of drug-diversion programs. California's Proposition 36, with a net completion rate of below 25%, shows the weakness of the mandated-treatment approach. The problem is that the probation agencies and the courts are not capable of enforcing that treatment mandate. In effect, mandatory treatment remains voluntary.

That's what makes the success of Project HOPE so exciting. HOPE cuts out the middleman. Instead of mandating treatment, it mandates desistance from drug use, and backs that mandate with frequent testing and quick, reliable (but not severe) sanctions for continued drug use. The HOPE evaluation results – which Prof. Hawken will discuss tomorrow – show a level of efficacy far greater than demonstrated for any drug-treatment program. Or perhaps I should say, “for any *other* drug-treatment program.” If drug treatment is a process that creates and sustains remission from substance abuse disorder, then HOPE is the greatest treatment success ever. By giving formal treatment only to those who need it, HOPE vastly increases the value we can derive from scarce drug-treatment slots and dollars. If implemented nationally and extended to the parole and pretrial-release populations, HOPE could reduce U.S. drug imports from Mexico by 40%. In that context, the very cautious approach to expanding HOPE is hard to justify.

Afghanistan poses a much harder problem. There the ideology of supply reduction continues to dominate. As a result, we continue to pursue policies that give material support to the Taliban by driving up the prices of the drugs on which the Taliban collects its taxes. Russia and Iran could help Afghanistan, as we could help Mexico, by reducing the demand for drugs within their borders, but they prefer to rebuke NATO and the Afghans, as we long preferred to rebuke the Mexicans, as if drug consumption were the sole responsibility of supplier countries. It is possible to conceive of policies of focused drug enforcement within Afghanistan, but conceiving of them is much easier than carrying them out with the limited capacities of the Afghan government and of the allied military forces operating there.

As a result, the best advice my colleagues and I can give about drug-fighting in Afghanistan is “Do less of it.” We're beating our heads against a brick wall; it's time to stop. With your permission, Mr. Chairman, I'd like to offer for the record an essay that appeared under my name in the *Financial Times* – although in truth it was joint work with Jonathan Caulkins and Jonathan Kulick – and the executive summary of a report on Afghanistan produced for the Center on International Cooperation at New York University by Caulkins, Kulick, and me; the full report is available on the CIC website.

Fighting the drug trade helps the Taliban

By Mark Kleiman

Financial Times. Published: July 8 2010 20:30 | Last updated: July 8 2010 20:30

Command in Afghanistan is changing, but strategy is not. After nearly a decade of war, the goal of breaking the Taliban's momentum seems no closer. Yet on one point there remains near-consensus among policymakers. Since Afghanistan's drug trade contributes to the strength of the Taliban and the weakness of the government, fighting the drug traffic is agreed to be integral to fighting the insurgency.

Alas, this intuitively appealing idea is almost precisely the opposite of the truth. Yes, the drug trade helps the Taliban and harms the Afghan government. But efforts to fight drugs strengthen the insurgency rather than weaken it. Counter narcotics policies reward those who remain successful drug-dealers, concentrating those rewards in the hands of the Taliban, warlords and corrupt officials.

Anti-drug policies run into the law of unintended consequences and, more brutally, the laws of supply and demand. Afghanistan has a virtual lock on world opium production: it is both the incumbent and by far the lowest-cost supplier. Extensive inventories, estimated at two years' worldwide consumption, preclude shortages. Retail demand for the heroin produced from Afghan opium is only slightly sensitive to export prices, because most of its retail price consists of distributors' mark-ups rather than the raw material price.

Therefore, even large price increases in Afghanistan will lead to only small decreases in exports. Counter drug efforts, meanwhile, only push poppy production from one region to another. Due to the efforts of the Afghan government and its allies, including the US, 27 of the 34 provinces of Afghanistan are now virtually poppy-free. But total production and exports have not decreased. The seven remaining poppy-growing provinces are all in the Pashto-speaking south, where the Taliban's writ runs. Our policies have given the insurgency the ability to tax virtually the entire world supply of illicit opium.

The Obama administration has largely ceased the eradication of opium crops – a practice that angers local farmers. However, the alternatives – developing other crops and attacking high-level traffickers – also drive up opium prices, increasing funds to the Taliban. Completely eliminating the Afghan opium trade would eliminate Afghan opium revenues. But the relationship is not linear: smaller reductions in production drive drug revenues up rather than down, through large price increases and small decreases in volume.

To some extent, enforcement can target those dealers most closely aligned with the insurgency, and the US military and other agencies are doing their best to concentrate on traffickers with direct links to military targets. But all the main Afghan heroin traffickers – including some of the Northern Alliance warlords who helped force the Taliban from power in 2002 – still happily export drugs produced in Taliban areas.

The development of alternative crops seems like a civilian-friendly substitute for eradication. Yet insurgents and warlords can also exact an extortion “tax” for all economic activity in their zones of control, not just poppy cultivation. Money that leaks from efforts to promote alternative crops buys the same guns as money extracted from drug dealers.

Not all counter drug policies are futile or perverse in their outcomes. Officials corrupted by the drug trade should be swiftly removed from seats of power, to bolster confidence in the government. Drug treatment to address Afghanistan’s horrendous heroin abuse problem can help to reduce demand. Encouraging consumer countries (including Iran and Russia) to step up domestic drug enforcement and drug treatment could act to shrink the revenues of Afghan traffickers.

Yet it would be foolish to expect much in the way of improvements from any of these approaches. There simply are not many feasible drug-control activities in Afghanistan that do more good than harm. This is a case where less really is more: since the natural tendency of counter drug efforts is to help our enemies, we should pursue those efforts as little as possible. As a first step in breaking the Taliban’s momentum, we might stop filling its coffers.

http://www.cic.nyu.edu/Lead%20Page%20PDF/sherman_drug_trafficking.pdf

DRUG PRODUCTION, TRAFFICKING, COUNTERDRUG POLICIES AND SECURITY AND GOVERNANCE IN AFGHANISTAN

Jonathan P. Caulkins, Mark A.R. Kleiman and Jonathan D. Kulick

Executive Summary

Drug production and drug trafficking are effects as well as causes of political instability. They flourish under weak states and sustain that weakness by financing insurgency and warlordism and by intimidating or corrupting the officials of enforcement agencies and security forces. Afghanistan is a primary instance of this complex of social and political pathologies.

Since drugs problems are linked to deficiencies in security and governance, it might seem that “counter-narcotics” (CN) policies—efforts to shrink the drug traffic— necessarily contribute to improvements in political stability. But this need not be, and generally is not, true. In particular, it is not true in Afghanistan today.

One reason for pessimism about outcomes is pessimism about effectiveness. Suppressing drug trafficking is difficult in the best of circumstances, and circumstances are far from ideal in Afghanistan. But even if counter-drug operations in Afghanistan overcome these implementation challenges, a more fundamental obstacle remains.

Global demand for illegal opiates has been growing, and, even if initiation ceased today, significant demand would persist for many years because the minority of users who are chronically dependent consume the bulk of all drugs. Since poppies are easy to grow and heroin is easy to refine, the question is where—not whether—illegal opiates will be produced to meet this demand. In the short and even medium term Afghanistan is likely to be the primary locus of production. Afghanistan currently has a severalfold price advantage over its nearest rivals as a producer of illicit opium. It

supplies about 90 percent of the world market, and an even larger share of the Eastern Hemisphere market. In the long run, if Afghanistan develops into a middle-income country and corruption ceases to be systemic, it might be possible for enforcement and rising standards of living to displace illegal opiate production to other countries that would then have competitive advantage; opiates could be and have been produced in many other places. But Afghanistan is currently dominant, and illicit production displays considerable “path dependence”: established ways of doing business tend to persist.

Hence, the most that can be expected of even nominally successful counter-narcotics efforts in Afghanistan over the next few years is that they will (1) move the loci of production within the country, and (2) increase the prices of opium and opiates. Since the export price from Afghanistan constitutes only a tiny share of the retail price at which heroin is sold in consumer countries from Iran to Britain, price changes in Afghanistan have only modest impacts on prices faced by heroin consumers elsewhere, and therefore only a slight effect on the amount of heroin traffickers in those countries buy from Afghanistan. Thus even if counter-narcotics efforts in Afghanistan succeed in increasing the prices of opium and refined opiates, the result will not be a decrease in trafficking revenues: on the contrary, higher prices and only slightly lower volumes will result in increased revenues.

At present, insurgents appear to be capturing only a small share of those trafficking revenues. If new policies cause a redistribution of gains among the various market participants—farmers, ordinary criminals, corrupt officials, warlords, and insurgents—that redistribution could well increase rather than reduce insurgents’ share. More effective enforcement, by increasing the risks traffickers face, also increases the value of buying protection against enforcement, in the form of either violence or corruption. So successful CN efforts, unless strategically designed, would have the natural effect of further enriching insurgents, warlords, and corrupt officials.

These pessimistic conclusions apply not just to crop eradication but also to enforcement aimed at collection, refining, and exporting activities, and even to development efforts insofar as they make it more expensive to produce opium and refine heroin in Afghanistan.

To be sure, the *complete* or virtually complete elimination of drug trafficking in Afghanistan would perforce eliminate the flow of funds to traffickers and their protectors and thus improve the security and governance situation. But a *partial* reduction in drug trafficking will not produce a proportional improvement in security and governance if it is—as it generally will be—accompanied by price increases or by a shift in revenue shares toward the most problematic purveyors of unlawful violence.

Insofar as some drug-trafficking organizations, and drug production in some areas, are more closely linked to insurgents, warlords, and corrupt officials than others, it might in principle be possible to craft counter-narcotics efforts to contribute to security and governance objectives by focusing them on the most noxious traffickers, as ISAF is now endeavoring to do. Whether such strategies can be successfully deployed under Afghan conditions is an open question. A particular challenge is to prevent the process of selectivity from itself being corrupted.

A potential exception to this caution is continuing to suppress poppy cultivation in areas that are already essentially poppy-free; once production has been largely eliminated, preserving that desirable

situation takes much less effort, and incurs much less hostility from local residents, than does achieving it in the first place.

Of course, drug production and trafficking create harms other than their contributions to political instability. Drug abuse and dependency is a rising problem within the Afghan population, and Afghanistan is the major supplier of opiates to many places with serious drug problems: Iran, Pakistan, Central Asia, Russia, and Europe. Insofar as less vigorous counter-narcotics efforts would lead to greater production and lower prices, those drug-use problems would tend to worsen. However, due to the nature of the price chain already described – the price of raw opium, and even refined heroin ready for export from Afghanistan, contributes only modestly to the retail prices facing heroin users in drug-importing countries – the effect of falling opium prices in Afghanistan would be tiny in remote markets such as western Europe, larger but still quite modest in nearer markets, and substantial only within Afghanistan itself. Effects in the United States, if any, would be even smaller than those in western Europe, since the U.S. heroin market is currently supplied primarily from Colombia and Mexico.

Demand-reduction efforts, in Afghanistan and the countries Afghanistan supplies, have the potential to reduce both drug problems and political instability, but the promise of such efforts should not be overstated. Efforts at harm mitigation (e.g., HIV prevention) can reduce the damage incident to any given level of drug abuse, but again only to a limited extent.

Consequently, the objectives of suppressing drug supply and suppressing insurgency may conflict. Neither is identical to the goal of improving the economic well-being of Afghans, and particularly of the rural poor. Successful policies are more likely to result from confronting those tensions than from ignoring or denying them. Since counter-narcotics efforts in Afghanistan currently have so little prospect of achieving traditional CN objectives, it may make sense to pursue CN strategies that most help (or least harm) other objectives: development, security, and good governance.

This analysis yields several policy implications:

1. Plan and evaluate CN efforts largely in terms of their impacts on security, governance, and the well-being of the population, not in terms of their capacity to reduce the volume of drugs produced and exported. Reduced CN effort poses minimal risks of increased drug abuse in the United States, and only modest risks for the countries that currently consume Afghan-produced heroin.
2. Plan and evaluate rural development in terms of its benefits to individuals and families and its contribution to security and governance, not as the “alternative livelihood” component of a drug-control program.
3. Insofar as feasible – an open question – deploy CN efforts to comparatively disadvantage insurgents and the traffickers they tax and protect warlords, and unaffiliated traffickers vis-à-vis insurgents and warlords. Try to create incentives for exporters to shun opium and opiates protected or taxed by insurgents

4. Emphasize anti-corruption measures, even at the expense of generating fewer arrests and seizures. Diversifying rather than concentrating drug-enforcement efforts may help to minimize corruption.
5. Expand demand-reduction efforts and retail-level enforcement in consumer countries; de-emphasize drug seizures as a goal and a measure.
6. Expand efforts to prevent and treat drug abuse, and to reduce the damage it causes, within Afghanistan itself.