

WFAD 2012 WORLD FORUM AGAINST DRUGS
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Protecting human rights is the reason we are involved with drug prevention and treatment. We do that by protecting people from illicit drugs. The World Federation Against Drugs provides global leadership to the world's NGOs as they develop better drug policies for the future. Our first priority is a real commitment to the rule of law, as all existent and ratified international conventions – including those related to human rights and drug control – are conducive to this goal: protect people from illicit drugs. Therefore, we need a determined focus on protecting children from illicit drugs and their many adverse effects. Drug use most commonly starts in childhood. The adolescent brain is uniquely vulnerable to drugs and when drug use starts early, it is most difficult to overcome. Protecting children from illicit drugs is not an option; it is a moral and legal obligation.

This is a critical moment for policy actions to protect children from illicit drugs because so many people have been bewildered in recent years by individuals and organizations whom we broadly can label as the anti-prohibitionist movement. They identify their strategy as "harm reduction." They reject the more than 100 year-old global consensus to protect people from illicit drugs; in particular, they reject the drug-free goal in both prevention and treatment. Shockingly, they do this under the banner of human rights. The human right they seek to protect is the "right" of people, including children, to use drugs. In this misguided view, illegal drug users are seen as "victims" of efforts to protect people, including children, from drug use.

I will address the following primary arguments that the anti-prohibitionist movement uses to promote their agenda:

- Illicit drug users are the **most vulnerable** group in society.
- Drug use is a matter of **privacy** and the criminalization of illicit drugs is an invasion of the right to privacy.

- The UN Drug Conventions violate human rights, countering the **right to health** for drug users because they may obtain “bad” drugs on the black market or they might hesitate to seek care if they get sick knowing that they have done something illegal.
- Drug users are stigmatized and should be seen as a **discriminated group**.
- The Drug Conventions are violating the drug users’ **right to harm reduction**.
- Some countries apply the **death penalty** to drugs offenses; therefore the entire drug control international regime is compromised.
- **“The war on drugs”** is causing gross violations of human rights
- Children who use drugs are **victimized by the justice system**.

Background

With this background, I was extremely pleased to read the book that is being launched at this World Forum authored by Roxana Stere, a Romanian doctoral student, and Stephan Dahlgren, a former UNICEF Head of Child Protection and a human rights expert for the United Nations Development Group Office and the European Union Fundamental Rights Agency.

Their book is based on the Convention on the Rights of the Child, or the CRC. The authors take an unprecedented in-depth look at drugs in relation to the United Nations human rights system and carefully examine the legal statements from 20 NGOs and five United Nations agencies. This work is a landmark in human rights in drug policy. It is unparalleled by any other document ever written.

The key legal finding of these legal scholars is that the CRC, in its Article 33, is the only core UN human rights instrument that mentions drugs. Article 33 must therefore be the starting point for any examination of drugs and human rights.

They reject the assertion that the starting point for these issues is found in the realm of harm reduction. Security does not trump the prohibition against torture. Similarly, harm

reduction does not trump the minimum standard clearly outlined in CRC Article 33. There can be no mistaking the meaning and intention of CRC Article 33. It is unequivocal. Article 33 of the CRC reads: “State 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.” This means that the world's children have an affirmative and essential right to a drug-free childhood. Further, it means that all of the nations of the world have a strict obligation to protect and defend that right.

Some have reproached me because the United States is one of only two countries that has not ratified the Convention on the Rights of the Child (the other country is Somalia); however, both countries signed the CRC. Article 33 of the CRC is fully compatible with the U.S. views on children and drugs across the entire political spectrum. The fact that the U.S. did not ratify the CRC has nothing whatsoever to do with Article 33. The U.S. shares the CRC’s vision on child protection matters and especially on the issue of protecting children from illicit drugs, as demonstrated by the following facts:

- The U.S. ratified the **Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography** which aims to further achieve the implementation of CRC provisions, especially including, among others, Article 33.
- The U.S. ratified **the ILO Convention 182 on the Worst Forms of Child Labour of 1999**, which defines “the use, procuring or offering of a child for illicit activities, in particular for the **production and trafficking of drugs**” as ***the worst forms of child labor***, requesting that Each Member which ratifies this Convention to take immediate and effective measures to secure **the prohibition and elimination of the worst forms of child labor as a matter of urgency**.

- And finally, the U.S. ratified all three **Drug Conventions**, among which the 1988 Convention specifically affirms the international community's particular concern over "the fact that **children** are used in many parts of the world as an **illicit drug consumers market** and for purposes of **illicit production, distribution and trade in narcotic drugs** and psychotropic substances, which entails a **danger of incalculable gravity**." This concern for children finds substantive expression in two articles of the 1988 Convention.

The U.S. has been true throughout the years to its obligations stemming from these international instruments.

However, the subject of our present discussion is not the U.S. and the treaties it has ratified, but **the message** that permeates the CRC and all of these other highly ratified instruments: that **children are the most vulnerable group in relation with illicit drugs** and therefore, **all children have the right to be protected from illicit drugs and involvement in the production and trafficking of such substances**.

The CRC is the most ratified treaty within international law and human rights instruments and it is the only UN convention which reached near universal ratification with 140 signatories and 193 State Parties.

Therefore, in any discussion of drug policy, the first question to ask, based on CRC Article 33 – looking to the best interest of children – is, "How can we ensure that we are protecting all our children from any illicit drug use, production, and trafficking?" This is the minimum human rights standard issued by the CRC.

And now a human rights assessment...

"How do the anti-prohibitionist arguments previously listed conform to actual human rights law, and especially CRC Article 33?"

Over the last five to ten years, anti-prohibitionist NGOs have broadened their scope from talking about “people who cannot stop using drugs” (addicts), to include “people who do not want to stop using drugs” (any person who is using illicit drugs, addict or not, from a rich film star to someone in deprived circumstances). According to these NGOs, recreational illicit drug users must be seen as the most vulnerable group in society. These advocates seek to award any drug user the victim status – while their drug use continues – a status that human rights instruments today only award to very select groups such as trafficked women and children, political refugees, etc. These NGOs argue that drug users must be protected from the harmful physical and mental health effects of the illicit drugs they use and also be protected from the harms arising from drug control laws and policies without stopping their drug use.

This egregious hijacking of the human rights agenda to protect the “rights” of illegal drug users is one of the great travesties of our era. To consider breaking the laws of countries and of the international community as expressed in nine human rights treaties and three defining Drug Conventions (Single Convention on Narcotic Drugs of 1961, the Convention on Psychotropic Drugs of 1971, and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988) as a human right is a perversion of the concept of human rights with catastrophic consequences for public health, for public safety, and for the lives and futures of children in all parts of the world today. Moreover, it is an affront to real victims (e.g. mutilated women, people who were on the wrong side of the color barrier in apartheid South Africa, people living with HIV/AIDS, people with disabilities and nonetheless children victims of maltreatment, abuse and/or exploitative labor due to their own and their parents’ drug use).

So let us look at the human rights arguments by the anti-prohibitionist NGOs. When their arguments are applied to anything other than drug policy, we see how obviously wrong – and even bizarre – they are:

The drug user’s right to privacy: Would anyone faithful to human rights conclude that adult child pornography readers’ right to privacy trumps children's right to protection

from sexual exploitation as contained in CRC Article 34? Of course not. Why should it be different for drug policy? Some NGOs suggest that children have a right to privacy to “protect” their drug use, as if drug use were an inherent right to health, as evidence-based, and as an obligation for every country to protect. Far from a human right, drug use is modern chemical slavery – a slavery that is all-too-often begun in childhood and a slavery that often lasts a lifetime.

The drug user’s right to health: While we try to ensure health and rehabilitation to people who break the law, as related Drug Convention stipulate, would anyone seriously suggest that policymakers give *primary* consideration to adults who buy sex and treat their child victims as an afterthought? Of course not. Why should it be different for drug policy?

The drug user’s right to harm reduction: One can look long and hard but no such right is stipulated in any UN human rights instrument. Would anyone faithful to human rights suggest that we meet exploitative child labor or any form of child maltreatment with harm reduction? Of course not. Again, why should it be different for drug policy?

The drug user’s right to be protected from the death penalty: The Drug Conventions implore states to criminalize illicit production, trafficking, and possession of drugs for personal use. They certainly do *not* ask states to use the death penalty as punishment for any of these acts. On the contrary, the Commentary to the 1988 Convention clearly states that, “it is important to stress that the Convention seeks to establish a common minimum standard for implementation, there is nothing to prevent parties from adopting stricter measures than those mandated by the text should they think fit to do so, subject always to the requirement that such initiatives are **consistent with applicable norms of public international law, in particular norms protecting human rights.**” The death penalty is no more an argument against the Drug Conventions than it is against the Trafficking Conventions or the Corruption Convention. Would anyone suggest that we should abolish the instruments regarding human

trafficking because a UN member state decided to apply the death penalty to such crimes? Of course not. Why should it be different for drug policy?

The “war on drugs” is not called for by the Drug Conventions; it is a term only used by those who oppose prohibition, though to run a “war” on drugs is not prohibited by any human rights convention any more than is a war against poverty/racism/cancer or any other social or health cause. None of the NGOs examined in the forthcoming publication on the CRC Article 33 have defined what constitutes “the war on drugs” which they seek to stop. There is no definable legal meaning of this inflammatory term in the context of human rights.

The victimization of drug-using children by the criminal justice system: The CRC compels all states to protect children from entering the justice system no matter what crime they are accused of having committed. States have an obligation to divert children from going to court and going to jail. Children must be protected and rehabilitated. Children must be treated as children. This applies to drug crimes as well as to sexual crimes or any other type of crime. Would anyone faithful to human rights suggest that we shall abolish sanctions for all crimes because there could be cases where a child is the perpetrator? Of course not. No child should go to prison for drug crimes; rather, these children should receive support and rehabilitation.

In summary, there is not a coherent and intelligible human rights argument against the current UN Drug Conventions. On the contrary, the 1988 Drug Convention, which criminalizes possession of illicit drugs for personal use, which amounts to penalization of personal use, in its preamble sets out to protect children from drugs in essentially exactly the same words as CRC Article 33. That makes this and the other Drug Conventions complementary instruments to the CRC and an obligatory reference for policymakers’ adherence to human rights. The human rights discourse pursued by the anti-prohibitionist NGOs uses random existing – and some invented – human rights as a justification for the decriminalization and/or legalization of drugs in the interest of adult drug users. These NGOs studiously avoid CRC Article 33 – the only human rights

instrument that deals with drugs. The fact that these NGOs want a drug policy that is user-centered instead of one that is child-centered, means that they are not seriously promoting human rights, but instead they are promoting dangerous political goals. Would they accept others masquerading their political goals as protecting human rights?

I urge everyone here at this WFAD Forum to read the excellent publication by Roxana Stere and Stephan Dahlgren. They identify the many misguided NGOs and policymakers at the UN who now are seeking to put the “rights” of illegal drug users above those of children's or any other legally established vulnerable groups' rights to drug-free lives in drug policy. While the full impact of these NGOs cannot be measured, it is easy to see their influence throughout their many individual and joint publication and reports.

It is obvious that the global march towards drug decriminalization and ultimate legalization is being done under the flag of human rights. As harm reduction policies have progressively become more of a focus of contemporary drug policy, drug use has been presented as a protected human right in itself, even drug use by children.

The central focus on children in drug policy is essential because childhood is the most vulnerable age to drugs for well-understood biological reasons. Childhood is where drug use, or conversely, a drug-free lifestyle, often is established for the duration of a person's lifetime. The drug dependence die is cast for the majority of people in childhood. Thus, the focus of all prevention must be protecting children from drugs, including their own use of drugs as well as from any involvement in the production and sale of drugs, and from drug use by the individuals responsible for their care. This right to a drug-free childhood under Article 33 is the responsibility not only of governments, but also of society as a whole.

The spectacular failure seen in the world today with very high rates of drug use by children in many countries is less a failure of children than it is a failure of adult

stewardship for them – our world's most precious resource. At this 2012 Forum we learn much about the importance of mentorship towards young people. We must lead in mentorship both at home directly with children and through policy affecting them.

By focusing on Article 33 of the Convention on the Rights of the Child, the global community – with leadership from WFAD – has a powerful legal and intellectual basis for drug prevention in the 21st century. I encourage everyone at WFAD to read the CRC and its Article 33 and to refer to it as a chief basis for our prevention and policy efforts. This is not a matter of legalisms or of the close reading of arcane and obscure international document. The language of the CRC Article 33 is clear, convincing, and quite literally, lifesaving.

By putting into action the ringing language of CRC Article 33 we will prevent drug use and save lives. I urge everyone at WFAD and our colleagues abroad to do what we can to promote a balanced and restrictive drug policy for public health and for the protection of children. Citing Article 33 of the CRC we must build a drug policy to protect children. This must be the #1 priority for WFAD in the years to come.

Nowhere is the mantra “You alone can do it, but you cannot do it alone” more true than in drug abuse prevention. Article 33 of the CRC is our guide and our inspiration. We must leave this meeting united in our determination to recruit NGOs from all over the world in this campaign to save our children from the slavery of drug use. Alone we are helpless; together we are unstoppable.

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