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Peacebuilding Tool or Putting the Cart Before the Horse? Licensing of Opium Poppy Cultivation in Afghanistan

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PEACEBUILDING TOOL OR PUTTING THE CART BEFORE THE HORSE? LICENSING OF OPIUM POPPY CULTIVATION IN AFGHANISTAN

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TABLE OF CONTENTS

| | |
|--|----|
| 1. INTRODUCTION | 2 |
| 2. THE SENLIS COUNCIL AND THE LICENSING OF OPIUM POPPY CULTIVATION | 4 |
| 3. SECURITY | 7 |
| 4. GLOBAL PAIN RELIEF SHORTAGE? | 12 |
| CONCLUSION | 15 |

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1. INTRODUCTION

Over three decades of conflict have completely ravaged Afghanistan. After successive coups in the 1970s, the country was invaded by Soviet forces in 1979, and endured civil conflict after the Soviet Union withdrew in 1989. The Taliban regime, one of the factions in the civil war, occupied the capital city of Kabul in 1996, and had seized control of most of the country by 1998. Though the Taliban government brought a semblance of peace to most of the country, its fundamentalist religious philosophy led to systemic human rights violations, in particular against women.

In October 2001, the United States invaded Afghanistan. The collapse of the Taliban government came swiftly, and an interim government was established pending national elections that took place in December 2004. Nevertheless, conflict has continued in the fragmented country; Taliban forces still occupy some areas, and most of the rest of the country is ruled by local warlords, with the central government unable to assert authority outside of Kabul. The international community currently faces the daunting challenge of rebuilding Afghanistan, both economically and socially, into a sustainable, viable, and peaceful state.

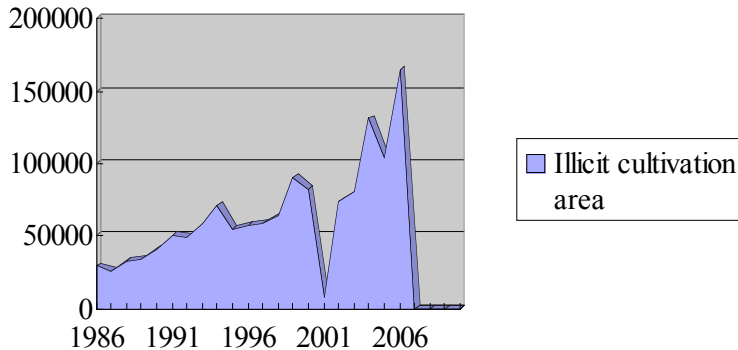
Without a doubt one of the key factors in building peace in Afghanistan is dealing effectively with the drug trade. Afghanistan has always been a major opium producing country, and, in particular since the withdrawal of Soviet forces from the country, has played a prominent role in supplying heroin to illicit markets worldwide. Though for many years opium poppy cultivation in Afghanistan and Pakistan were dwarfed by what was widely known as the "Golden Triangle", a region of opium poppy cultivation straggling Thailand, Burma, and Laos, those three countries have made great progress in eradicating this illicit trade, and in switching the farming communities concerned to other crops. Pakistan has also been successful in these endeavours. As a result, Afghanistan is now singularly the supplier of the majority of the world's illicit opium.

In fact, one positive accomplishment of the Taliban government was a ban on opium poppy cultivation that it

imposed in July 2000, in response to international pressure. The toppling of the Taliban government resulted in a resumption of opium poppy cultivation, soon to expand to a scale never seen before. In October 2006, the United Nations Office on Drugs and Crime (UNODC) published its annual survey on illicit cultivation in the country, showing that the area of opium poppy cultivation in 2006 had increased 59 percent compared with 2005, from 104,000 to 165,000 hectares.² Potential opium production had increased 49 percent, to 6,100 metric tonnes.³

Both of these figures are records for Afghanistan. As can be seen from the table and graph below, the area of illicit cultivation has exhibited an increasing trend at least since 1986, with particularly large increases from 2002, the year after the American invasion. The only exception was the year 2001, after the ban on cultivation by the Taliban government.

| Year | 86 | 87 | 88 | 89 | 90 | 91 | 92 | 93 | 94 | 95 | 96 | 97 | 98 | 99 | 00 | 01 | 02 | 03 | 04 | 05 | 06 |
|--------------------------|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|-----|-----|-----|
| Cultivation ⁴ | 29 | 25 | 32 | 34 | 41 | 51 | 49 | 58 | 71 | 54 | 57 | 58 | 64 | 91 | 82 | 8 | 74 | 80 | 131 | 104 | 165 |



In practical terms, the drug trade is currently Afghanistan's primary industry, accounting for 46 percent of the country's GDP.⁵ The entrenchment of the drug trade has empowered criminal elements across Afghan society, with local warlords opposed to the central government obtaining most of their funds from the drug trade, and has exacerbated problems such as corruption amongst officials and a lack of credibility of governmental structures. The

² *Afghanistan Opium Survey* at 1.

³ *Afghanistan Opium Survey* at 6.

⁴ In thousands of hectares. Data from *Afghanistan Opium Survey* at 1.

⁵ *Afghanistan Opium Survey* at 9.

booming drug trade is therefore not only a result of the lack of peace and stability in Afghanistan, but also a major cause.⁶

2. THE SENLIS COUNCIL AND THE LICENSING OF OPIUM POPPY CULTIVATION

It is in the above context that the Senlis Council (SC) announced in March 2005 that it would conduct a feasibility study into the licensing of opium poppy in Afghanistan.⁷ In its statement, SC stated that the "purpose of such a framework in Afghanistan would be to shift Afghanistan's massive levels of opium production through poppy farming away from drug lords and the illegal heroin trade and towards the urgent and legal global need for essential medicines such as morphine and codeine."⁸

The Feasibility Study on Opium Licensing in Afghanistan for the Production of Morphine and Other Essential Medicines (Feasibility Study), which was published in

⁶ See e.g. International Crisis Group, *Countering Afghanistan's Insurgency; No Quick Fixes*, November 2006 at 2: "The exploding drugs trade is both a symptom and a source of instability and corruption. This state of affairs has particular implications in the south, where many of the worst provincial and district leaders have close links to the central administration. As a result, the disillusioned, the disenfranchised and the economically desperate are responding again to the call of extremists in a region radicalised through decades of conflict. Self-interested spoilers, particularly those in the narcotics trade, which has exploded in the last five years, further fuel the violence. The traffickers and facilitators – often corrupt government officials – have no desire to see their trade threatened and hence forge alliances of convenience with anti-government elements."

⁷ SC carefully avoids the use of the word "legalisation", preferring instead to stress that opium poppy cultivation would be subject to a licensing system with strict controls. This reluctance to use "legalisation" is not surprising, given the extremely charged nature of the term in international and national drug policy circles. See e.g. the Foreword of the President of the INCB in INCB's *Annual Report 2002*, where the President states "distractions ... come from groups that advocate legalisation or decriminalisation of drug offences... Supporters of such legalisation pursue their goals through aggressive, well-funded campaigns and with missionary zeal." The Transnational Institute, an NGO based in the Netherlands, responded with a report titled *The Erratic Crusade of the INCB*, in which the organisation stated that the President's "attack reflects how out of touch the president of the INCB is with current developments in international drug control. If anyone is involved in a 'crusade' with 'missionary zeal', it is [the President] himself, trying to turn back accepted best practices in countering the adverse effects of problematic drug use." For more sane treatment of the issues, see e.g. *The Economist*, "The Case for Legalisation", 26 July 2001; Paul Stares, "Drug Legalisation? Time for a Real Debate", *The Brookings Review*, Spring 1996 at 18-21.

⁸ Senlis Council, "Think Tank Announces Opium Licensing Feasibility Study for Afghanistan", 09 March 2005.

September 2005, states that as the current drug trade is illegal, it is built on "informal, untaxed opium revenues and thrives on the weak security environment and the lack of a well developed system of rule of law. This deprives the public sector of income that could be used to build much needed infrastructure."⁹ Far better, argues SC, to implement a licensing system allowing licensed opium poppy farmers to engage in licit cultivation. Building on the social structures for opium poppy cultivation that have existed in Afghanistan for centuries, the central government could extend its control to the provinces, exclude the criminal elements currently involved in the drug trade, and ensure a lasting source of revenue for the government.

It should be noted that the arguments of SC are similar to those of the proponents of drug legalisation in general, most of whom argue that regulating what are now illicit drugs (such as heroin or cocaine) much in the same way as alcohol would ensure that criminal elements are excluded from the industry, and would also benefit governments through an increased "sin tax" base.¹⁰ While a detailed examination of this policy debate is out of the scope of this paper, this similarity in argumentation is hardly surprising, given that SC is itself an organisation dedicated to the legalisation of drugs in general.

SC's website states that the organisation is an "international policy thinktank" based in London and that it focuses on "foreign policy, security, development and counter-narcotics policies."¹¹ In fact, however, a review of SC's website shows that it has focused solely on critiques of international drug policy since its inception in 2002. Besides its numerous publications on Afghanistan, it has published several reports calling for international drug control policy to be reformed away from what it argues to be a focus only on law enforcement and the eradication of drugs.¹²

⁹ *Feasibility Study* at 1.

¹⁰ The papers putting forward arguments on this issue are too numerous for this author to possibly cite merely a few. For a representative organisation calling for drug legalisation, see e.g. the Drug Policy Alliance, <http://www.dpf.org/homepage.cfm>.

¹¹ http://www.senliscouncil.net/modules/about_us.

¹² See e.g. *A Fourth International Convention for Drug Policy; Promoting Public Health Policies*, March 2004.

An additional twist making the Afghan situation unique is what the SC calls the "global shortage of opium based medicine".¹³ Heroin is, of course, only one of the substances that can be produced from opium poppy, with substances such as morphine and codeine used medically for the relief of chronic pain of, for example, sufferers of cancer.

Data collected by international organisations show that the consumption of such pain relief medications is heavily slanted towards the developed world. SC cites data from 2002 that indicates that 77 percent of the world's morphine was consumed by seven of the world's most developed countries, and that even in these countries only 24 percent of the true pain relief needs were met, and states that "a system of licensed opium in Afghanistan for the production of essential medicines such as morphine and codeine could provide an effective response to this unmet global need."¹⁴ Therefore, SC contends, implementing a licensing system for opium poppy production in Afghanistan would kill two birds with one stone; it would facilitate greatly the development of the country, and would contribute to solving the global pain relief crisis.

Since the publishing of the Feasibility Study, SC has engaged in widespread advocacy work, in particular towards sympathetic politicians in European countries. In January 2006, the European Parliament adopted a resolution recommending that the international community "take into consideration the proposal of licensed production of opium for medical purposes, as already granted to a number of countries".

The stated position of the Afghan government towards this proposal, on the other hand, has been one of strong opposition. On 14 March 2005, only five days after the initial statement by SC, the government ruled out the possibility of licensing opium poppy cultivation, stressing that the people of Afghanistan were engaged in a "holy war" against opium.¹⁵ In January 2006, the Minister of Counter Narcotics of the country sent a letter to SC, stating that "eradication is and will remain an essential

¹³ *Feasibility Study* at 2.

¹⁴ *Feasibility Study* at 2.

¹⁵ Radio Free Europe, "Afghan Official says No to Medicinal Opium Cultivation", 15 March 2006. Also *Note Verbale* from Afghan Mission to the United Nations in Vienna, 20 February 2006.

element of the Counter Narcotic Strategy of the Government of Afghanistan. Organisations and individuals who advocate activities or policies opposed to eradication may find that they are in breach of the law of Afghanistan and of the constitution.”¹⁶ In late May 2006, the upper house of the Afghan Parliament adopted a resolution demanding that SC halt its activities in Afghanistan, and leave the country immediately, and in October 2006, the Government announced that it had instructed SC to leave the country.¹⁷

The above notwithstanding, however, there is no indication that the government has taken any concrete steps towards actually forcing the SC to leave the country, or to prevent it from continuing its advocacy work. Indeed, even after the above mentioned resolution of the upper house, the SC has continued its activities in Afghanistan and elsewhere, and continues to publish reports calling for the legalisation of opium poppy cultivation.

The true picture within the government appears to be more mixed, as can be noted by the process currently underway to adopt a new drug control law in the country. Members of the Afghan parliament who support the SC’s proposal were successful in inserting provisions on the licensing of opium poppy into the bill that was being prepared by government, and the ensuing debate in the lower house in September 2006 shows that there are considerable factions in the parliament who are in favour of a licensing system.¹⁸ Though this law was eventually reverted to the government for redrafting, this debate shows that the Afghan parliament – and the government in general – contains many elements supporting the SC’s proposal, and the continuation of opium poppy cultivation.

3. SECURITY

The security situation in Afghanistan can only be described as dire, with increasingly fierce battles between the central government and Taliban backed insurgents in both the south and the east of the country,

¹⁶ Letter from Minister of Counter Narcotics to Executive Director of Senlis Council, dated 26 January 2006.

¹⁷ Pajhwok Afghan News, “Afghanistan Bans Senlis Council”, 15 October 2006.

¹⁸ Unofficial transcript of debate of Afghan Parliament of 11 September 2006, provided by UNAMA.

as well as a rising campaign of urban violence and terrorism in the cities, including Kabul. A mission of the United Nations Security Council in November 2006 noted that there had been a "rise in violence in Afghanistan, especially in the south, south-east and east of the country. ... limited factional tensions were emerging in the north and trends towards rearmament had been detected. The security situation in general remained precarious throughout the country, with the threat of suicide attacks and other forms of terrorism by the Taliban, Al-Qaida and other extremist groups posing a serious threat to the nation-building process."¹⁹

Nevertheless, the mission tried its best to remain cautiously optimistic, stating that "After a worrying upsurge in the number of security-related incidents in the country throughout the spring and summer of 2006, there were signs that insurgent and terrorist-related violence, which had plagued the country for much of the year, might be subsiding. The mission was told by ISAF and President Karzai's National Security Council that armed clashes between insurgents and Afghan and international military forces had decreased in October and November. ... however, more cautious views were expressed by [the United Nations Assistance Mission in Afghanistan (UNAMA)], the United Nations country team and civil society members. In any case, if there are medium-term gains, they would be dependent on the swift delivery of reconstruction, development and improved governance in insurgent-affected areas."²⁰

Other observers are even less optimistic, noting that nearly 4,000 people, approximately 25 percent of whom were not military personnel, were killed in fighting or terrorist attacks in 2006, a marked increase from previous years.²¹ The International Crisis Group notes that "The southern districts of Ghazni, just two hours drive from Kabul, are now considered off-limits to outsiders, with Taliban and government authorities vying for control of the roads. International humanitarian workers are not to

¹⁹ United Nations, Report of the Security Council mission to Afghanistan, 11 to 16 November 2006, 4 December 2006 at 3.

²⁰ United Nations, Report of the Security Council mission to Afghanistan, 11 to 16 November 2006, 4 December 2006 at 3.

²¹ Reuters, "Afghanistan: Violence fuels disillusionment and threatens reconstruction - UN", 07 December 2006.

be seen in even the provincial centre, Ghazni city, and local staff of aid agencies have taken down their signs."²²

Whether headed slowly for improvement or not, what is clear is that the situation in Afghanistan is extremely unstable, and shall remain so for some years to come. In this climate, it is extremely difficult to see how any licensing system could possibly function. The international drug control conventions, as well as common sense, dictates that strict and effective controls must be imposed at all stages of licit opium poppy cultivation, to ensure that there is no diversion of the plant to the illicit market. And yet, SC's arguments appear to put the cart before the horse, by arguing that implementing a licensing system would actually contribute to establishing the rule of law and the authority of government throughout the country, through recognising and building on existing social structures for community control.

The only section of the Feasibility Study to even touch on the security issue is a chapter titled "Contribution of Law Enforcement to the Implementation of an Opium Licensing System in Afghanistan; Licensed Opium Control and the Rule of Law in Afghanistan".²³ Though this chapter starts by stating that "The establishment of effective and respected rule of law and building a strong, respected and effective states with adequate enforcement capacity and control in all of its provinces are prerequisites for Afghanistan's future", it continues on in the same vein as the above, arguing that law enforcement institutions could be built on existing structures for social control. There is no realistic examination of the security situation – indeed, there is no serious effort to conduct any kind of examination of the security situation whatsoever -- and the chapter concludes simply that "it is evident that the creation of an opium control system will also contribute to strengthening the law and order efforts in Afghanistan."²⁴

In a separate report, SC actually cites the example of Turkey in the late 1960s as a helpful example for how the current situation could be solved. In May 2006, SC issued

²² International Crisis Group, *Countering Afghanistan's Insurgency; No Quick Fixes*, November 2006 at 5.

²³ *Feasibility Study* at 627 – 662.

²⁴ *Feasibility Study* at 642.

a report titled *The Political History of Turkey's Opium Licensing System for the Production of Medicines: Lessons for Afghanistan*. In this paper, SC argues that the situation in Turkey in the late 1960s is "analogous to the current situation in Afghanistan",²⁵ in that it was one of the world's main opium producing countries, and, as such, came under strong pressure from the United States to eradicate opium cultivation. SC states that the Turkish government refused to bow to American pressure, citing the importance of the opium economy to the farming community of 70,000, and that, after years of negotiations, "the US and the Turkish Governments worked together to implement a poppy licensing system for the production of opium based medicines as an alternative means of bringing poppy cultivation under control. Turkey was then able to resume poppy cultivation, under a strict licensing system supported by the United Nations and a preferential trade agreement with the US."²⁶

SC concludes that "Turkey's transition ... was possible because all parties understood that the total eradication was impracticable and only pragmatic solutions would resolve Turkey's opium crisis. Ultimately, the solution came about with the help of the international community ... In a similar fashion, Afghanistan could be helped to solve its opium problem through targeted development aid, technical support and the implementation of licensed poppy cultivation in some of its rural areas."²⁷

Though this portrayal of the Turkish solution in the 1970s is by and large accurate, it is extremely difficult to see how the current situation in Afghanistan is in any way "analogous" with that of Turkey during that period. Turkey in the 1960s was already a strong centralised state, with a solid administrative structure, a reasonably effective government, and relative respect for the rule of law. Afghanistan, on the other hand, is utterly incapable of enforcing the will of the central government outside of the capitol city, even with extensive assistance from the many thousands of NATO troops in the country.²⁸

²⁵ *The Political History of Turkey's Opium Licensing System for the Production of Medicines: Lessons for Afghanistan* at 1.

²⁶ *The Political History of Turkey's Opium Licensing System for the Production of Medicines: Lessons for Afghanistan* at 1.

²⁷ *The Political History of Turkey's Opium Licensing System for the Production of Medicines: Lessons for Afghanistan* at 10.

²⁸ In addition, one should not forget the geopolitical situation in the 1960s, and the importance of Turkey to the United States as an

Perhaps in response to concerns regarding the feasibility of SC's proposals in light of the security situation in Afghanistan, SC has published several reports in 2006 that focus on the security issue, and how opium poppy cultivation could be managed. However, as above, the main thrust of the arguments remains that having a licit, opium based economy would contribute towards development in Afghanistan, and would also ensure greater control by the central government of the provinces. While this may be true in theory, SC's proposals continue to fail utterly to address the real situation on the ground of Afghanistan, and fail to present a workable solution.

In May 2006, SC published *Integrated Social Control in Afghanistan: Implications for the Licensed Cultivation of Poppy for the Production of Medicines*. In this paper, SC outlines in great detail an elaborate system for the issuing of licenses on an annual basis, with applications requiring such details as "water needs of the poppy crop and available water sources, to ensure the crop is grown in prime agricultural land with sufficient irrigation" and "the applicant's relevant skills and experience with the cultivation of poppies".²⁹

SC argues in the paper that "Thus far, the rhetoric against the proposal to implement a system of licensed poppy cultivation in Afghanistan has largely failed to recognise the capacity of Afghan communities to take charge of and influence their futures. The inclusion of community level social structures in the control of such a system would effectively acknowledge these competencies and in doing so, empower rural communities. Further, the linking of formal and informal social structures for the licensing of poppy cultivation will have important consequences for the long term stability of the country, and will generate the control necessary for wider economic development."³⁰ Again, while this is true in theory, it is submitted that much more needs to be done to ensure

ally in the Cold War. Turkey was a member of the North Atlantic Treaty Organisation, and a vital player in ensuring the protection of American interests in the Near East and Central Asia. This being the case, there were arguably strong incentives for the United States to seek a mutually agreeable compromise on the opium issue.

²⁹ *Integrated Social Control in Afghanistan: Implications for the Licensed Cultivation of Poppy for the Production of Medicines* at 25.

³⁰ *Integrated Social Control in Afghanistan: Implications for the Licensed Cultivation of Poppy for the Production of Medicines* at 31.

security in Afghanistan before any serious discussion can be held regarding the terms of licensing opium poppy cultivation.

One serious issue that SC fails to address is that, should opium poppy cultivation be licensed without adequate centralised control over the entire country, the warlords that control the activity in its current, illicit form, would simply step in to become the "recognised" supplier of the drug. Indeed, SC's proposal appears to foresee exactly that. One chapter in the Feasibility Study is titled "The need for an amnesty scheme to support the shift from illegal to licensed opium",³¹ and argues for a wide ranging amnesty covering all persons engaged in the illicit opium trade, including the large number of corrupt provincial officials that are involved.³²

Though a discussion regarding the desirability of large scale amnesty schemes in general, and their utility in peace building exercises, is out of the scope of this paper, it is submitted that this argument of SC overlooks completely the significant involvement of criminal organisations in the opium trade in Afghanistan. While prosecuting all opium farmers is obviously not practicable, efforts should be made to separate poverty stricken farmers, whose role in the opium trade is arguably more passive, from the more "professional" actors that play an organisational role in drug trafficking.

4. GLOBAL PAIN RELIEF SHORTAGE?

Even supposing that the licensing of opium poppy cultivation in Afghanistan would be feasible, that does not mean it would be desirable.

The current international drug control regime is based on three international conventions; the 1961 Single Convention on Narcotic Drugs as amended by the 1972 Protocol, the 1971 Convention on Psychotropic Substances, and the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. All three of these conventions have achieved near universal adherence, and Afghanistan too is party to all three

³¹ *Feasibility Study* at 663 -692.

³² *Feasibility Study* at 679-680.

conventions. The treaty body established to monitor application of the three conventions is the International Narcotics Control Board (INCB), a committee of 13 independent experts operating with the secretariat services of the United Nations.³³

The objective of the international drug regime is to ensure that there is an adequate supply of drugs for medical and scientific purposes, while at the same time ensuring that there is no diversion of drugs from licit sources to the illicit market.³⁴ To achieve this aim, state parties to the conventions are obligated to submit regularly to INCB detailed statistical information regarding the import and export of controlled substances, their estimated requirements for the next year, and their actual consumption, with detailed breakdowns by substance. INCB tallies these figures, and, where there is a discrepancy between importing and exporting countries, queries governments and requests them to investigate any possible diversion. As opium based pain relief medicines such as morphine and codeine are substances controlled under the 1961 Convention, INCB compiles detailed statistics regarding countries' requirements for these substances, and their actual consumption.

As noted above, SC refers to the "global pain relief crisis",³⁵ pointing to the fact that the vast majority of opium based pain relieving medications are consumed by only a handful of developed countries. While SC is correct in this statement, this does not necessarily mean that there is a lack of supply to meet demand. In fact, INCB notes that "from 2002 until 2004, global production of opiate raw materials rich in morphine exceeded global demand",³⁶ and it was only after there was a worldwide decline in production in 2005 that supply and demand became roughly equal. It is true that production of opium rich in morphine has continued at a low level in 2006 and 2007, resulting in production of morphine below demand. However, INCB notes that the large amount of opium stocked

³³ See <http://www.incb.org>.

³⁴ See e.g. <http://www.incb.org/incb/mandate.html>. Article 4 of the 1961 Convention, titled "General Obligations", states that state parties shall "limit exclusively to medical and scientific purposes the production, manufacture, export, import, distribution of, trade in, use and possession of drugs."

³⁵ See e.g. *Feasibility Study* at 2.

³⁶ Technical publication 2006 at...

by governments "will continue to be more than sufficient"³⁷ to cover the shortfall.

In fact, what SC describes as "demand" is little more than a forecast of need, assessed by international agencies such as the World Health Organisation (WHO) and INCB on the basis of a multitude of factors, including national population and a variety of health related indices. Countries are deemed to "need" a certain amount of opium based medicines to relieve pain, on the basis of the number of sufferers of cancer and other factors. However, this is not the amount that countries report to INCB that they require, or the amount that they actually consume – both of which are, in the case of the vast majority of countries, far lower.

In other words, according to the assessments of relevant international organisations, there is significant under prescribing of opium based medications in the vast majority of countries – not a lack of supply. These organisations have made numerous statements in this area, pointing to the situation and recommending that governments make opium based medicines for pain relief more widely available. The Economic and Social Council as well has adopted resolutions on this issue. In resolution 2005/25 of 22 July 2005, titled "Treatment of Pain using opioid analgesics", the Council "Recognizes the importance of improving the treatment of pain, including by the use of opioid analgesics, as advocated by the World Health Organization, especially in developing countries, and calls upon Member States to remove barriers to the medical use of such analgesics".³⁸

It is elementary that countries must have a functioning health care system to ensure opium based medicines (or any medicines) are prescribed to the population in accordance with true need. As this is unfortunately often not the case in many developing countries, it stands to reason that much of the developing world has not been able to ensure the wide ranging availability of these medicines that the richest countries have.

³⁷ Technical publication 2006 at...

³⁸ Economic and Social Council resolution 2005/25 of 22 July 2005, op. para. 1.

Nevertheless, as has been pointed out by INCB, economics alone cannot explain the disparity in consumption of opium based medicines, as countries with similar levels of economic development can have wildly differing levels of consumption.³⁹ Other factors identified as obstacles to the ensuring of adequate availability include "over restrictive regulations, difficult administrative procedures, concerns about diversion and the consequences of unintentional errors; concerns about unintended addiction and inadequate or insufficient training of health personnel".⁴⁰

In any case, it is clear that, contrary to the picture SC aims to paint, it is not the case that there is a lack of supply of opium. It is true that using Afghan opium poppy to create medicines for export would, through an increase in supply, presumably bring down the price of such medicines, making them more affordable for developing countries. However, there is no evidence to suggest that morphine and codeine are priced so high that the health systems of developing countries cannot afford them, while there is copious evidence that having a glut in the supply of opium would create a greater potential for diversion.

CONCLUSION

The proposal of the SC to legalise opium poppy cultivation under a licensing system looks good on paper. However, it is wholly unworkable given the current security situation in Afghanistan, and it is also based on the false premise that there is an urgent need for more opium based medication in the global market.

It is feasible, and desirable, that, in long term, all governments remove overly restrictive regulations on the medical use of opium based medicines. As this would result in an increase in demand for licitly produced opium, it can be foreseen that Afghanistan may be able to fill the gap that presently exists in the production of this crop. This being the case, the idea of legalising and controlling opium poppy cultivation in Afghanistan is, in the long term, not altogether an undesirable solution.

³⁹ See INCB *Annual Report 1999* at 5.

⁴⁰ INCB press release, "UN Drug Control Body Concerned over Inadequate Medical Supply of Narcotic Drugs to Relieve Pain and Suffering", 23 February 2006.

However, it is difficult to see how this could become feasible in the short to mid term. Any sort of discussion regarding the licensing of opium poppy cultivation in Afghanistan can only take place after the government is able to assert control over the country, to enforce the necessary laws and controls that would need to be in place. Before this happens, SC's proposals are not only unrealistic, but even unconstructive.