Amending the Global Discourse on Narcotic Drugs

An inquiry of the transnational drug policy reform movement

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In memory of Rami Nasr

Summary

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This thesis examines how the transnational drug policy reform movement attempts to change the global discourse on narcotic drugs, as well as how domestic drug policy reform movements try to change national discourses on narcotic drugs – exemplified through the cases of Germany and Mexico. It elaborates on the development of the drug policy movement and of the global discourse on narcotic drugs over time, as well as presenting a snapshot of the current situation and the emerging trends in contemporary drug policies.

More precisely, this thesis is an account of how the global discourse on narcotic drugs is changing as states and non-state actors are increasingly contesting the zero-tolerance approach to drugs. It examines shifts in drug policies towards harm reduction and drug law reform, implying decriminalization of drug-related actions, as well as the emerging debate on alternative forms of drug control. It elaborates on how the movement argues and works both at a national and at an international level to bring forth such changes as well as examining one particular and recently evolving strategy undertaken by the movement, namely human rights advocacy in relation to drug policy.

Furthermore, this thesis investigates, in a governmentality perspective, what principles, objectives, values, problem constructions, knowledge, 'truth discourses', logics, rationalities

and forms of power that are implicated in the policy proposals advocated by the drug policy reform movement, how they differ from and are in opposition to those involved in prevailing global drug policies, and also how they differ from – and are similar to – those implicated in policies at large. It also examines global drug policies in relation to a broader shift in governmental rationalities in global politics implying a tendency of governing through non-state actors such as civil society organizations, to which governmental tasks and responsibilities are being outsourced.

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1 Introduction

> "*The thing about drug policy is that it seems that it was created in Mars or I don't know where. Every policy within the UN system is based upon human rights. Most policies in most countries around the world are based on their cost-effectiveness. Why isn't drug policy one of them? Why isn't drug policy based upon human rights and why isn't drug policy based on its cost-effectiveness?"* - Aram Barra, interview

The last century has witnessed an increased export of Western crime definitions as well as a globalization of certain crimes with a strong transnational dimension and their institutionalization into 'global prohibition regimes' (Nadelmann & Andreas 2006). 'Global prohibition regimes' are

> "… intended to minimize and even eliminate the potential havens from which certain crimes can be committed and to which criminals can flee to escape prosecution and punishment. They provide an element of standardization to cooperation among governments with few law enforcement concerns in common. And they create an expectation of cooperation that governments challenge only at the cost of some international embarrassment" (Nadelmann & Andreas 2006: 19)

The failure of a prohibition regime to diminish the crimes persecuted is not crucial for its maintenance, but rather "[r]egardless of its effectiveness, part of the appeal of a global prohibition regime is its symbolic allure and usefulness as a mechanism to express disapproval" (Nadelmann & Andreas 2006: 229). It serves to maintain moral boundaries by suppressing undesirable activities (Ibid.).

Through 'global prohibition regimes' 'global moral norms' and 'transnational moral consensus' is created, leading to a homogenization of domestic criminal laws and internationalization of crime control.

However, there are not many crime definitions which evolve into global prohibition regimes. Important factors in their creation are moral and emotional factors and "…religious beliefs, humanitarian sentiments, faith in universalism, compassion, conscience, paternalism, fear, prejudice and the compulsion to proselytize" (Nadelmann & Andreas 2006: 18). In addition

their creation is often instigated by certain governments and nongovernmental organizations linked through transnational advocacy networks acting like 'transnational moral entrepreneurs', which

> "…mobilize popular opinion and political support both within their host country and abroad, they stimulate and assist in the creation of like-minded organizations in other countries, and they play a significant role in elevating their objective beyond its identification with the national interests of their government; indeed, their transnational efforts are often directed toward persuading foreign audiences (especially foreign elites) that a particular prohibition regime reflects not merely the peculiar moral code of one society but a more widely shared, even universal moral sense" (Nadelmann & Andreas 2006: 19).

This thesis is concerned with one particular prohibition regime, namely *the global drug prohibition regime*. According to Nadelmann & Andreas (2006) the successful globalization of moral condemnation and prohibition of narcotic drugs owe much to US based nongovernmental organizations and the US government acting like 'transnational moral entrepreneurs'. The control of drugs was already institutionalized in the Hague Opium Convention of 1912, but globalization and expansion of the international control came to increase through numerous treaties and agreements following, and culminated in the three UN drug conventions (1961, 1971 and 1988), thus creating transnational moral consensus on drug prohibition.

The last decades have, however, witnessed cracks in the transnational moral consensus as 'moderate reforms' are on the way, and as the criminalization of cannabis as well as of the coca leaf is being increasingly disputed in the international society (Nadelmann & Andreas 2006: 229 f.). Most notably

> "…the global AIDS pandemic is undermining the U.S. efforts to enforce its zero tolerance view of global drug prohibition. Whereas until recently the United Stated could count on governments in Asia, Africa and Scandinavia to bolster its claim that 'harm reduction' principles and practices where inconsistent with international antidrug conventions, that is no longer the case. Latin America and much of Asia and Africa increasingly endorse the European Union's view that needle exchange and other harm reduction measures are essential to stem the spread of HIV/AIDS and that the antidrug conventions must be interpreted accordingly. *A new generation of transnational moral entrepreneurs has played an important role in these developments, grounding their advocacy in science, compassion, health and human rights*" (Nadelmann & Andreas 2006: 230, my highlighting).

This thesis examines the cracks in the transnational moral consensus on drug prohibition and particularly the role of the new generation of 'transnational moral entrepreneurs' in contributing to these cracks. It is an account of the role of collective human agency in the processes of deconstructing (international) crime.

1.1 Research questions

In this thesis I seek to answer the questions: *How does the drug policy reform movement attempt to change the global discourse on narcotic drugs?* And: *How is the drug policy reform movement in opposition to dominant power structures – and how is it not?*

Firstly, this thesis examines the transnational drug policy reform movement as two overlapping and intertwined movements, namely the movement for harm reduction and the movement for drug law reform. It inquires their philosophical, ethical and political underpinnings and elaborates on *how they argue* to change the prevailing discourse on narcotic drugs. Furthermore, how domestic drug policy reform movements, which are part of the transnational movement, attempt to change domestic discourses is exemplified through the cases of two nongovernmental organizations from Mexico and two from Germany.

The global discourse on narcotic drugs is understood as the dominating ways to think and talk about so called 'narcotic drugs'[1] globally. Neumann defines discourse as "a system for obtainment of a set of propositions and practices that through institutionalization appear more or less normal, make up the reality for its carriers, and have a certain degree of regularity in social relations" (Neumann 2001: 18, my translation). The *global* discourse (meaning world-wide) encompasses both the *international* discourse (referring to the discourses of international organizations and governments) as well as the domestic discourses of the general public, experts, judicial systems, bureaucrats etc. in countries around the globe. More notably, my focus will be on the *changes* taking place within the global discourse on narcotic drugs, as well as the attempts of the drug policy reform movement to instigate such changes. I do not, however, systematically inquire the causal relation between the efforts of the movement and the changes occurring, as such an approach would require a very advanced and different (and

[1] The term 'narcotic drugs' is a generic term on multiple psychoactive substances which do not have much in common except for being prohibited. On a more extensive discussion of the term 'narcotic drugs', see Christie & Bruun 2003.

maybe even impossible) methodology which would need to correct for all other impacts and variables at play.

Secondly, this thesis investigates, through a governmentality perspective, what logics, rationalities, knowledge, problem constructions, 'truth discourses' and forms of power that are implicated in prevailing drug policies, but more particularly in the alternative policy approaches advocated by the movement. Such a perspective also serves to compare the alternative policies on the basis of their logics – not only in relation to policies in the drugs field but also in relation to policies at large – and serves to distinguish elements of opposition to prevailing drug policies, but also elements of coherence and consistency with policies at large. This perspective will be further explained in chapter 3 on theoretical perspectives.

This thesis provides both a historical account of the drug policy reform movement and of the global discourse on narcotic drugs and, more particularly, a snapshot of the current situation.

1.2 Thesis outline

In chapter 4 I examine the movement for harm reduction, in accounting for how harm reduction can be understood as a *philosophy* with a particular set of values, and as *policies* with specific objectives, solutions and principles. I investigate how the harm reduction movement has developed and how this development has affected its advocacy. Lastly, I examine how harm reduction could be understood as forms of bio-politics and how a broader shift in governmental rationalities implicates a trend towards governing through harm reduction NGOs.

In chapter 5 I examine the movement for drug law reform. First, I account for the current legal framework of drug prohibition, reform possibilities and trends within the current framework, as well as the alternative scenario of abolition of the prohibition regime – of de jure legalization with models of government regulation. I investigate how the movement argues for drug law reform and how it tries to instigate changes in the global drug control discourse. Lastly, I examine the alternative and the current drug control policies, as well as the amendment of the international drug control discourse, in a governmentality perspective.

In chapter 6 I examine one particular and recently evolving advocacy strategy adopted by the drug policy reform movement, namely human rights advocacy. I elaborate on the rights-based argumentation of the movement as well as examine how the grounding of advocacy within the

human rights discourse can have, and has, consequences for drug policy and for the global discourse on narcotic drugs.

The subsequent chapters account for my methodological and theoretical approaches.

2 Methodology

2.1 My positioning in the field of inquiry

Since 2008 I have been a board member of the Norwegian Association for Humane Drug Policies[2], a NGO working domestically to change Norwegian drug policy. The main aim of my organization is to create drug policies which are based on principles of public health, social equality, harm reduction, non-discrimination and acceptance - rather than punishment, deterrence and zero tolerance. We believe that the prohibition of drugs worsens the situation for both drug users and society, that the prohibition paradigm should be abolished, and that drugs should rather be legally *regulated* by the government[3].

The closeness to Norwegian drug policies and the Norwegian debate is the reason why I have chosen to investigate *international* drug policies and drug policies in *other countries*, as well as the *transnational* drug policy reform movement[4] - to which I have more distance. For this reason, the Norwegian context will hardly be mentioned at all in this thesis[5].

When I started my research, I knew very little of the transnational drug policy reform movement. I knew they were working with similar objectives as my own organization, but not how they were working, how they were cooperating, who they were or how large they were. Through the international conferences, which I attended with the double role as a member of the movement and as a researcher, I also started a slight cooperation between my organization and some other NGOs and networks within the transnational movement[6].

This account makes it clear that my drug political position is biased. However, I believe most researchers inevitably develop opinions about their field (or objects) of research, especially if they do thorough field work – and, thus, that the positivistic claim about objectivity is flawed.

[2] Foreningen for human narkotikapolitikk (FHN).
[3] On a detailed account of this position, see section 5.1.3.
[4] My organization has always been working quite isolated within the Norwegian context. We have had very little cooperation with NGOs in other countries except for sporadic contact with other Scandinavian NGOs. We are organizational members of some international NGOs, however, this membership is not very active but rather supportive and symbolic.
[5] I draw very few parallels to Norway in the thesis as there are so many parallels on every topic discussed in this thesis that drawing parallels would leave me with very little space for discussing the themes which I do discuss.
[6] More specifically, I worked with the European Drug Policy Initiative (EDPI), led by the Hungarian Civil Liberties Union, in arranging an event in Oslo on the World Drug Day the 26th of June 2011. I have also become the official focal point for Norway in the European Harm Reduction Network. I have, however, not yet done any practical work in this regard.

The researcher also has ethical obligations in presenting those who are studied in a way that does not harm them (Fangen 2004). In the drug policy field the positions between research and political positioning is specifically blurred[7] and, as is a theme of this thesis, the drug policy reform movement does to a large part consist of researchers, academics and professionals who have done extensive research on drugs and drug political issues. As I show throughout this thesis, this constellation of actors is also reflected in the movement's argumentation.

A strong positioning might make some critique difficult to pose. It might also affect on my selectivity of themes and the ways in which I present my empirical findings. As I see it, there are two ways in which this problem can be partly neutralized; 1) through total openness about my views and my standing in the field, and 2) through analyzing the interviews and the literature *on their own premises*, without making any normative claims. My task is precisely that: To present the drug policy reform movement on its own premises, *not* for instance to compare its argumentation with that of the temperance movement, which I believe would have posed more problems. The topics of closeness and distance, and the balance between them, are central issues in qualitative research. Fangen states that

> "[t]he task of the interpreter is to say the same as those who are to be interpreted, but in different words, something that in itself implies distance" (Fangen 2004: 206, my translation).

The interpretative approach I apply, the governmentality perspective (see subsequent chapter), has been particularly useful in creating such a distance – and through conducting the analyses, as well as reading previous governmentality analyses on alternative drug policies[8], I also came to understand my own political position in a new light.

A more pressing problem about the closeness, I believe, has been that certain aspects for me have seemed self-evident, whereas they are not necessarily so if you are on the outside looking in. For instance in my German interviews I refrained from asking the question "how would you define harm reduction?"- which I later regretted in the process of writing. Nevertheless, I have tried to counteract the felt self-evidence trough presenting my material in a way that is (hopefully) also understandable for readers with little previous knowledge of the

[7] For instance Svanaug Fjær (2000) criticizes Norwegian drug research to have had prohibition as its basic premise.

[8] This is particularly the case for the critiques of harm reduction (Rhodes 2002 & 2009, Moore 2004, Bunton 2001 and Bourgois 2000) presented and discussed in section 4.4.

field. The felt self-evidence is also counteracted through my choice of analytical approach – an approach which is particularly aiming to uncover the self-evident.

On the other hand the closeness can also be advantageous, in that I have had access to spheres (and background knowledge) which would not have been accessible if I was not myself a part of the movement. The same can probably be said for my communication and possibilities for contact with the other activists and the information obtained, which might have been of a different character if I had been an outsider. Still, however, ethical considerations make me very selective in regard to what information I present in this thesis. I do for instance not present any internal information that was given to me in private conversations with other activists, or in closed meetings, through my own role as an activist - or any other role for that matter.

2.2 Choice of countries for exemplification of national drug policy reform movements

Originally, I wanted to make a case study of two or three countries where drug law reforms and policy changes had occurred, examining the role of domestic drug policy reform movements in creating these changes as well as the social consequences of the changes.

The reasons why my choice fell on Germany and Mexico are the many interesting differences and similarities between them. In Germany drug law changes happened several decades ago (1981 and 1994), while in Mexico the change of law is very recent (2009). Germany had very large problems with open drug scenes, which have diminished due to their change towards harm reduction policies, while Mexico is one of the countries in the world most obviously experiencing tremendous problems due to violence accelerated by drug cartels. Furthermore, both countries are important transit routes for drugs. It would also be particularly interesting to see how similar law changes had occurred in two very different geographic, social, legal, and political contexts. Germany and Mexico would also serve as examples of countries in the two continents, Europe and Latin America, which are the cradles of innovative drug political approaches.

Moreover, Germany was the birthplace and epicenter of the harm reduction movement European Cities on Drug Policy (ECDP) in the 1990s. Was this a civil society movement and did it instigate national policy and law changes? In Mexico I knew civil society groups were

working actively to change drug policy, and 2011 witnessed large mass demonstrations by the Movement for Peace with Justice and Dignity against the government's drug war. Had these groupings affected changes in law and policies?

Through my interviews with drug political activists from Germany and Mexico it became clear that such a comparative approach would be nearly impossible – particularly the task of examining a causal link between civil society movements and drug law and policy changes[9]. The language barriers would also make a systematic examination of the law and policy changes very hard.

After attending the International Harm Reduction Conference (see under), I decided my main focus would be on the transnational drug policy reform movement. Still, the drug policy reform NGOs in Germany and Mexico will be a theme – but rather serve as examples of how drug policy reform movements work – not only internationally and globally – but also domestically to instigate national changes. Throughout the writing process it also became more and more evident that the NGOs in Germany and Mexico share some fundamental similarities in ethical underpinnings and political rationalities which could then be regarded to be purported as universal.

2.3 Data collection

2.3.1 Conferences

In a time when I was not yet sure how to angle my thesis I came across a notification for the 22nd International Harm Reduction Conference, finding place in Beirut, 3rd -7th of April 2011, hosted by the international NGO Harm Reduction International (HRI). I understood that if I was to study the drug policy reform movement, this conference would be crucial as it could be regarded as one of the main platforms for networking and exchange of information, gathering activists from all across the world. Prior to the attendance of the International Conference, I also attended a pre-conference hosted by the transnational NGO Youth RISE, in

[9] It turned out the ECDP was not a civil society movement, but rather a top-down movement of local officials, which does not exist anymore. How it affected national changes (beyond the cities in which it emerged) is very hard to say. In Mexico the drug law changes were proposed by the president alone, not by civil society. The large grass-root movement for Peace with Justice and Dignity is also not a drug political movement, but rather a movement of victims crying out for the violence to stop.

Jounieh, Lebanon, 31st of March – 2nd of April 2011, gathering young harm reduction activists from all regions of the world[10].

These two conferences were my first meeting with the transnational drug policy movement. I was surprised to find a very large, well funded and well organized transnational movement with dense transnational networking and cooperation between a myriad of national and international NGOs, research communities, professional networks and therapeutic institutions. Many of the people attending the conferences knew each other from previous conferences and from collaboration, and I got the impression that the drug policy reform movement is a truly global civil society.

Later I also attended the 3rd Latin American and 1st Mexican Drug Policy Conference in Mexico City, 13th - 14th of September 2011, hosted by the Mexican NGO CUPIHD and Argentinean Intercambios, and the (first) European Harm Reduction Meeting in Marseille, 6th – 7th of October 2011, hosted by the European Harm Reduction Network (EuroHRN).

I attended these conferences with a double role of researcher and activist. My attendance could thus be characterized as *participatory observation* (Fangen 2004). Still, as a researcher I did not know what to look for, particularly not at the first conferences, which was not facilitated by the massive overload of information[11]. I have decided not to focus on the conferences themselves in this thesis, although such an angle could be interesting for an own project – particularly for a political science study[12]. Rather, the conferences helped me get an overview and an understanding of the movement, and also gave the myriad of interconnected NGOs and activists faces and made me comprehend who did what and how (although I am still not even close of having a complete overview). Thus, the experience from the conferences constitute my own background information about and picture of the drug policy

[10] The trip to Lebanon and to the International Conference was funded partly by the Department of Criminology and partly by my organization (FHN). The pre-conference attendance was funded by Youth RISE, and the rest of the trips I made (to Germany, Mexico and France) were funded by myself.

[11] I have two or three notebooks full with notes from different panels, seminars, presentations and workshops; up to fifty pictures of power points as well as books, booklets, leaflets, movies, magazines etc. left for people to take at the conferences (in Lebanon, I even had to buy an extra bag only for the conference materials, which the airport scale determined to be around ten kilos).

[12] Conferences are important networking points for social movements and they are also used as advocacy tactics. For instance the International Harm Reduction Conference was located at a Beirut five star hotel, attended by important Lebanese politicians and even Miss Lebanon, broadcasted at national television. The Middle East and North Africa region has recently started harm reduction projects such as substitution treatment, and the conference venue was particularly strategic in bringing attention to the importance of these projects as well as to mobilize support for their up-scaling.

reform movement, on which I draw when outlining its argumentation - which I also believe is more interesting in criminological terms.

The conferences, particularly the first two, could thus be seen as door-openers to my field of research. They were also arenas for making interviews as well as for recruiting and making appointments with interviewees. At the same time they gave me an overview of different potential angles for my study and made it more clear what are the main aims, focus and argumentation of the movement.

2.3.2 Expert interviews

This thesis is mainly a literature study, drawing on publications by members of the movement, often scientific articles from international journals. The literature on drug policy and the literature, documentation and publications produced by either drug policy reform NGOs or individual activists is very extensive.

I have, however, not yet found any scientific study systematically examining the transnational drug policy reform movement itself[13]. My focus is not merely on what prevailing and alternative drug policies *are* and how the movement *argues*, but also how the movement and drug political discourses have *developed and changed over time*.

To obtain information about such changes, and particularly about the development of the drug policy movement itself, I interviewed eight drug policy experts, holding central positions within the drug policy reform movement and their respective NGOs. Although all my interviewees have written and published more or less extensively on the topic of drugs and drug policy, the advantage of interviewing them was that I could ask questions which would provide me with information of direct relevance for my research questions.

My interviewees are[14]:

- Mike Trace, chair of the International Drug Policy Consortium (IDPC)[15] (interview conducted 06.04.11, Beirut). *IDPC* is a global network of 88 NGOs and professional

[13] Except for the political science study of Kübler (2001), who examines the emergence of the Swiss harm reduction movement.

[14] The NGOs of my interviewees are also interconnected – often in ways over which I do not have the overview. For example CUPIHD is a Partner Member of IDPC, Akzept is a member of ENCOD etc.

networks; consisting of global members, Partner members and Network members, working towards implementation of drug policies that are effective in reducing drug-related harm. IDPC produces briefing papers, disseminate the reports of its member organizations, and offer expert consultancy services to policy makers and officials around the world[16].

- Heino Stöver, director of Akzept and professor at the University of Applied Sciences of Frankfurt am Main (interview conducted 12.07.11, Frankfurt am Main). *Akzept* is a German-wide network promoting harm reduction and acceptance-oriented drug work and drug policies based on integration[17].

- Dirk Schäffer, Senior officer for Drugs & Prison Issues in Deutsche AIDS-Hilfe and officer and of the JES Network (interview conducted 14.07.11, Berlin). *Deutsche AIDS-Hilfe* is a German-wide network that promotes prevention and health in the area of HIV/AIDS for groups at risk[18]. *JES Network* is a German-wide network for 'Junkies, Ex users and people in Substitution treatment' and they initiate and run self-help groups all around Germany, and demand 'a right to a life of human dignity with drugs'[19].

- Martin Jelsma, coordinator of the Drugs & Democracy Program of the Transnational Institute (TNI) (interview conducted 14.09.11, Mexico City). *The Drugs & Democracy Program of the TNI* is one of the world's leading international drug policy research institutes as well as providing expert consultancy services to policy makers and officials around the world[20]. The Program initially defended human rights of farmers in Latin America being caught up in the illegal drug industry, but expanded in 1995 to be concerned with global drug policies in general.

- Aram Barra, director of the Drugs Program of Espolea and board member of Youth RISE (interview conducted 20.09.11, Mexico City). *Espolea* is a Mexican NGO promoting the participation of young people in political debates and in decision-

[15] Trace has previously been head of demand reduction in the United Nations Office on Drugs and Crime (UNODC) as well as Chairman of the European Monitoring Centre on Drugs and Drug Addiction (EMCDDA).
[16] http://idpc.net/about
[17] http://www.akzept.org/en_ziele.html
[18] http://www.aidshilfe.de/en/about-us/self-image
[19] http://www.jes-bundesverband.de/en/about-jes.html
[20] http://www.tni.org/page/about-drugs-and-democracy-project

making in areas such as drugs and drug policy, equality in gender and sexual health[21]. *Youth RISE* is a youth-led global network with the aim of rising-up the voices of young people affected by drugs and drug policy.[22]

- Luís Astorga, member of Colectivo por Una Política Integral Hacia las Drogas (CUPIHD), doctor in sociology, researcher at the Autonomous University of Mexico City and coordinator of the UNESCO Chair "Economic and social transformations related to the international drug problem"[23] (interview conducted 21.09.11, Mexico City). *CUPIHD* is a Mexican NGO dedicated to research, education, and promotion of drug policies based on science, harm reduction and human rights[24].

- Jorge Hernández Tinajero, director of CUPIHD and professor in political and social sciences at the Autonomous University of Mexico City (interview conducted 21-22.09.11, Mexico City).

- Frederik Polak, president of the European Coalition for Just and Effective Drug Policies (ENCOD) (interview conducted 7.10.11, Marseille). *ENCOD* is a pan-European network of 140 NGOs and individual experts, with the aim of bringing drug regulation and policies effectively diminishing drug-related harm on the political agenda[25].

Four of the interviews were planned in advance, either through appointments made at the conferences or through email. This was the case for the country-specific interviews of Stöver and Schäffer (Germany), Barra and Astorga (Mexico). For these interviews I also made interview guides (see appendix), although the guides were only used on three occasions. The interview guides were customized to each interviewee, based on literature they had written and my background research on the drug political situation of their country[26]. Four of the interviews were entirely spontaneous. These experts I knew from having read their literature or from knowing that they held key positions in crucial NGOs within the drug policy reform

[21] http://www.espolea.org/index.html
[22] http://www.youthrise.org/about
[23] I owe thanks to Benedicte Bull, Associate Professor at the Centre for Development and Environment (SUM) at the University of Oslo for suggesting that I take contact with Astorga.
[24] http://www.cupihd.org/index.php?sec=1
[25] http://www.encod.org/info/-English-en-.html
[26] I perceived making the interview guides to be the probably hardest phase of the whole project, as I did not yet know exactly how the focus of the thesis would be, especially in regard to the two earliest interviews.

movement. Being surprisingly lucky to get an interview with them, these interviews became improvised non-structured interviews, or rather conversations, evolving around my research questions, or being an extension and follow-up on topics of which they had talked in their conference presentations.

The interviews lasted between twenty minutes and two and a half hours, of which one was conducted in Spanish[27]. My interviewees agreed orally on my use of their interviews and names in my thesis. However, in the end of March the three main chapters, which then were quite finished, and which is the part of the thesis containing quotes and references to the interviews, were sent to my interviewees so they would have the possibility of giving a second approval which was more informed, with a two week deadline. I preferred to send them the whole text so they could see their quotes in the context in which they were used, in order for them to also be able to correct potential misunderstandings or to object to my interpretation[28]. This would make the research process ethic and democratic, open up possibilities for getting interesting comments, as well as creating what Fangen (2004) calls 'respondent validation'[29].

Those who did not answer within the two week deadline received phone calls and/or messages on email to make sure they had seen my email. Seven of the interviewees answered[30], approving again of my use of their quotes and three of them also suggested some minor adjustments to the wording in their quotes (however, without changing their meaning) as well as commenting on one misunderstanding I had about the ECOSOC-status in relation to civil society participation within the UN drug control organs.

[27] I owe enormous thanks to Javier Rivas for helping me transcribe this interview, which I later translated. I am grateful to Astrid Renland, who borrowed me her interview for the magazine Drugs & Society, with Aram Barra from the International Conference to use in my thesis (of which they both agreed), and which I later used as a basis for my own interview. I also owe great thanks to Dirk Schäffer for giving me a guided tour to different harm reduction cites in Berlin run by a local NGO, and to Aram Barra for inviting me to workshops arranged by his organization Espolea in Mexico and to the Youth RISE pre-conference in Lebanon.

[28] Each interviewee received a version of the thesis where his quotes, references to his interview and interpretation of the interview were marked in red so they could easily be found in the text, and where the other interviewees were anonymized in case they would change their minds regarding having their names in the thesis. The email also stated that if I didn't receive an answer within the two week deadline, I would regard this as an approval.

[29] Unlike the type of sensitive interviews in qualitative research which are theme in most of the methodological literature, my interviewees are not only official heavyweights within the movement but also academically – which means they could also test my theoretical validity. I was for instance relieved of my Mexican interviewees approving of my interpretation, as this was the part I was most unsure about. One of my interviewees, Frederik Polak – who is a psychiatrist, read through my whole text and commented on it, as well as providing me with a very interesting article he had written on medicalization of the drugs issue (Polak 2000).

[30] The one interviewee that did not answer is also the only one who I do not quote directly in the thesis.

As the drug political discourse and the debates on alternative approaches are in constant flux, I set the deadline of data collection to the 31.12.2011.

3 Theoretical Perspectives

First, this chapter draws on social movement theories in international relations (IR) studies and sociology respectively[31], which serves the purpose of conceptually defining the drug policy reform movement, refining the dimensions on which I further focus and outlining some of its crucial features as a social movement (in section 3.1.).

These theories have, however, been criticized for failing to capture the *content* of politics (Neumann & Sending 2010), which in this thesis is imperative as my focus lies upon the *argumentation* of the drug policy reform movement. The analysis of this thesis seeks to extend beyond a mere typologizing of advocacy tactics to also grasp the *principles, objectives* and *consequences* of both the policies advocated by the movement and the currently prevailing policies, to comprehend the different *logics and rationalities* which produce, reproduce and instigate changes in these policies, the *technologies* through which they work and the *knowledge* and *values* underpinning them, as well as the forms of *power* and *opposition* implicated herein. To capture all these aspects, I analyze the material from a twofold governmentality perspective, drawing on Foucauldian notions of power, knowledge and technologies, which have been further developed by other scholars; First, in relation to how *drug policies* could be understood from a governmentality perspective, second, how *the role of the drug policy reform movement* within global drug policies could be understood from a governmentality perspective. The second part of this chapter introduces some key questions, notions and tools for this analysis (section 3.2).

3.1 Social movement theories

Many scholars have noted the increasingly important role of transnational advocacy networks in international and domestic politics the last decades. Some interpret them as the third source of political power besides governments and business or as sources of 'resistance from below', which for many - also for suppressed voices - constitute the only possibility to get heard in national and international politics (Khagram et al. 2002, della Porta et al. 2006). Technological and communicational developments as well as the accelerating process of globalization have given birth to what some call a 'global civil society' (Savelsberg 2010).

[31] Social movements have traditionally been of very little criminological concern, which is why I here draw on knowledge from other scientific fields.

This thesis is concerned with *non-governmental organizations* (NGOs), defined as "private, voluntary, nonprofit groups whose primary aim is to influence publicly some form of social change" (Khagram et al. 2002: 6) and *international non-governmental organizations* (INGOs), which are NGOs that "…have a decision making-making structure with voting members from at least three countries, and their aim is cross-national and/or international in scope" (Ibid.). Moreover, NGOs and INGOs are primary actors in *transnational collective action*[32].

In this thesis I choose to refer to transnational collective action aiming to reform drug policy as a *movement*. Transnational movements differ from transnational advocacy networks[33] and transnational coalitions[34] in that they involve *joint and sustained mobilization* exercised by groups in at least *three countries* (Khagram et al. 2002). The reason for this choice is the *constant* and *dense* cooperation between NGOs and INGOs in the drug policy movement, and their constant and sustained campaigning and coordinated work at many levels. It should be noted that while some of the NGOs and INGOs in the movement are emphasizing international cooperation, campaigning and outcomes, other NGOs are working more domestically and are in this regard rather part of the transnational drug policy reform advocacy network or coalition. For the sake of operationalization, especially as such a differentiation will not serve any purpose in my further analysis, I will call all the NGOs and INGOs collaborating on the aim of drug policy reform 'the drug policy reform movement'.

As I see it, the drug policy reform movement consists of two overlapping movements, namely the *harm reduction movement* and the *drug law reform movement*. Both are seeking to *reform* drug policy. However, the harm reduction movement[35] is primarily promoting the

[32] Besides NGOs and INGOs *foundations* are also important actors although they usually do not themselves initiate projects or create organizations (Sikkink 1993: 421). Rather, they fund and strengthen existing ones. In the drug policy reform movement examples of very important and central foundations are the Open Society Foundations and the Beckley Foundation.

[33] Defined as "…sets of actors linked across country boundaries, bound together by shared values, dense exchange of information and services, and common discourses" (Khagram et al. 2002: 7). Furthermore, *networks* are the most informal configuration of non-state actors, and its main characteristic is exchange and use of information (Ibid.).

[34] Defined as "…sets of actors linked across country boundaries who coordinate shared strategies or sets of tactics to publicly influence social change" (Khagram et al. 2002:7). These tactics and strategies are identified as *transnational campaigns*, which also are the coalitions' main characteristic (Ibid.).

[35] The Global State of Harm Reduction (2010) divide harm reduction networks into 1) *regional networks*, such as the Asian Harm Reduction Network (AHRN), Eurasian Harm Reduction Network (EHRN), Caribbean Harm Reduction Coalition (CHRC), Middle East and North African Harm Reduction Association (MENAHRA), Intercambios Asociación Civil, Sub-Saharan African Harm Reduction Network (SAHRN) and European Harm Reduction Network (EuroHRN), 2) *global networks*, such as Youth RISE, International Network of People who

implementation of harm reduction policies (which will be the theme of chapter 4) and might be indifferent to the question of the legality of drugs, which is the reason why I will examine them as two separate, albeit interconnected, movements. The drug law reform movement is also promoting harm reduction policies, but in addition it explicitly advocates drug law reform either through decriminalization of certain drug related actions or through de jure legalization[36] (this will be the theme of chapter 5). Still, the NGOs which I have specifically studied, and whose representatives I have interviewed, are advocating both harm reduction policies *and* drug law reform of some sort. They are thus both part of the harm reduction movement and the drug law reform movement.

3.1.1 Dimensions of transnational collective action

My emphasis will be on the *macro dimensions* of the drug policy reform movement, that is, the relation between the movement and its environment (della Porta et al. 2006). This means that the micro dimensions (meaning the characteristics of the activists involved) and the meso dimensions (meaning the different NGOs' and networks' organizational structure and their interconnectedness) (Ibid.) will only be briefly touched upon, and then in relation to how the micro and meso dimensions affect on the macro dimension. For instance the characteristics of the actors involved will only be examined in relation to how they affect on the movement's efficiency and success in terms of advocacy[37].

Furthermore, the transnational dimensions of transnational collective action can differ on "…whether they involve transnational *sources* of problems, transnational *processes* of collective action and/or transnational *outcomes*" (Khagram et al. 2002: 10). The *sources* of problems which the drug policy reform movement is concerned with are transnational, as drug-related harms and problems transgress national boundaries. So is the global prohibition regime, which is particularly seen as a source of problems by the drug law reform movement. The *processes* through which the movement works are both national, international (cross-border cooperation between national NGOs) and transnational (NGOs and configurations of NGOs with members from many different countries). The *outcomes* which the movement

Use Drugs (INPUD), International Drug Policy Consortium (IDPC), and 3) *'networks of networks'*, such as the Canadian Harm Reduction Network (CHRN) and CUPIHD.

[36] It might be possible that some activists in the drug law reform movement are advocating drug law reform while being indifferent to harm reduction. I have, however, not yet met any such activists *in the movement*, but that does not necessarily mean that they do not exist.

[37] This rules out topics such as for example the movement's collective identity, which could have been interesting for an own study given the very different actors involved.

tries to produce are also both national (domestic NGOs advocating domestic changes or INGOs putting international, external pressure on single countries to make domestic changes), international (through influencing a change in the discourses and actions of international organizations and governments) and transnational (through mobilizing 'global public opinion' – for example through social media campaigns – to change the global discourse on narcotic drugs).

3.1.2 Crucial features of social movements: Values, ideas and norms

The most central feature of social movements is that their formation and action is motivated by *values* and *principled ideas*[38], which also differentiates them from other non-state actors. Keck & Sikkink note that advocacy networks are often formed around issue areas with a *high value content* and *informational uncertainty* (1998: 2). They go on to note that the *new* about advocacy networks is "…the ability of nontraditional international actors to mobilize information strategically to help create new issues and categories and to persuade, pressure and gain leverage over much more powerful organizations and governments" (Ibid.). They do not only bring new ideas, norms, discourses, information and narratives to the political debates, but they also try to change the terms and nature of these debates (Keck & Sikkink 1998). Through influencing a transformation in their discursive positions, they seek to *change the behavior* of states, international organizations (IOs) and other non-state actors. Thus, as advocacy networks, coalitions and movements are relatively weak international actors, their power (as ability to influence) lies in information, persuasion and moral pressure, namely in the *arguments* and *justifications* which they advocate (Khagram et al. 2002).

One particular feature of argumentation strategies is to construct 'cognitive frames' (Keck & Sikkink 1998: 17). This thesis will examine how the drug policy reform movement *frames* its (at times controversial) arguments in terms of well-known and accepted discourses, using the specific terminology of these discourses. For instance the movement often draws on the language of prevention in public health discourse. The concepts of 'frame bridging' or 'frame amplification' (Khagram et al. 2002: 15 f.) refer to how already existing powerful norms are drawn upon, conceptually expanding these norms to apply to a respective field. Such a

[38] The IR literature distinguish between two types of ideas (defined as beliefs held by individuals), namely causal and principled ideas. Whereas *causal ideas* are ideas about cause and effect, often ideas supported by scientific evidence, *principled ideas* are about right and wrong. The latter ideas "…may be related to causal ideas but cannot be easily resolved by appeals to evidence" (Khagram et al. 2002: 14).

framing strategy will be examined in chapter 6, in relation to how the movement draws on human rights norms in their argumentation.

Furthermore, Keck & Sikkink (1998) differentiate advocacy networks and social movements from other types of non-state actors such as economic networks and private enterprises, or from 'epistemic communities' and 'knowledge-based networks'[39]. I argue, however, that in the case of the drug policy reform movement a distinction to epistemic communities cannot be easily made. As I argue in chapter 4, one of the main arguments of the movement is the *scientific evidence-base* – and thus the causal ideas – for the effectiveness of the harm reduction policies which they advocate as well as for the failure of current policies to diminish drug-related problems. As we will see, different epistemic communities play an important role within the movement precisely because their scientific findings imply that alternative drug policies are more effective in diminishing problems which arise from drugs[40].

3.1.3 Advocacy tactics

Keck and Sikkink (1998) divide advocacy tactics undertaken by advocacy networks and movements into four: 1) *information politics*, referring to the movements and networks as providers of alternative sources of information that otherwise might not be obtained, uncovering, documenting and investigating problems and 'reporting facts' as well as 'monitoring', which refers to the use of "information strategically to ensure accountability with public statements, existing legislation and international standards" (1998: 17); 2) *symbolic politics*, referring to symbolic interpretation of certain events to use them for creating awareness around an issue as well as to reshape understandings (1998: 20); 3) *leverage politics*, meaning how to bring forth changes in target actors (governments, IOs etc.) through gaining influence over them through material or moral leverage[41] (1998: 23f.); and 4) *accountability politics*, implying bringing attention to the discrepancy between discourse (e.g.

[39] Referring to "…networks of scientists and experts whose professional ties and shared causal ideas underpin their efforts to influence policy" (Keck & Sikkink 1998: 1).

[40] Researchers from different universities are engaged in the movement, as well as whole research institutes and networks, such as for example the International Centre for Science in Drug Policy and the International Centre on Human Rights and Drug Policy. The INGO Harm Reduction International also publishes a critical scientific journal, The International Journal of Drug Policy.

[41] *Material leverage* refers to linking an issue to money, goods, prestige or other benefits, whereas *moral leverage* involves 'mobilization of shame' in showing how target actors for instance are violating international standards or not living up to its own claims (Keck & Sikkink 1998: 23f.).

devotion to human rights and democracy) and practice, in order to persuade target actors to publicly change their positions on certain issues (1998: 24f.).

How the drug policy movement uses information politics, leverage politics and accountability politics will be accounted for in this thesis. The movement does also draw on symbolic politics; arranging events, demonstrations, conferences and press conferences around international declarations and petitions. However, such advocacy tactics will not be focused upon in this thesis. I do also not systematically analyze advocacy tactics and their efficiency in relation to different political opportunity structures (although this will partly be a theme), as could have been a methodological approach in a political science study.

Rather, the politics and argumentation advocated by the movement will be analyzed in relation to the values, knowledge, principles and rationalities which underpin them, which elements within these that do or do not appeal to, or translate into, official policy discourse as well as discussing reasons for how it could be so. In this manner my analysis could be said to be more discursive – although I do not do a discourse analysis.

My task is also not to make an exhaustive presentation of the movement's argumentation, but rather to focus upon the arguments which I perceive to be the ones most frequently drawn upon – the main arguments. However, my aim extends beyond presenting the arguments to also make the reader understand the many dimensions of the alternative policies advocated.

3.2 A governmentality perspective

One of the aims of this thesis is to identify the 'political rationalizations' of alternative drug policies and to compare them with those of prevailing drug policies and with those of policies in other fields. Rose writes about political rationalizations that:

> "Foucault's own work on governmentality implied that one could identify specific political rationalizations emerging in precise sites and at specific historical moments, and underpinned by coherent systems of thought, and that one could also show how different kinds of calculations, strategies and tactics were linked to each" (Rose 1999: 24).

In this thesis I argue that the alternative drug policies advocated by the drug policy reform movement emerge from a coherent system of thought, or from particular *rationalities*, which could be defined as "…styles of thinking, ways of rendering reality thinkable in such a way

that it [is] amenable to calculation and programming" (Rose & Miller 2008: 16). I also argue that the coherent system of thought and the rationalities from which the alternative drug political approaches emerge, are different from, and sometimes in opposition to, the system of thought and rationalities implicated in prevailing drug policies. However, although it might be in opposition to prevailing *drug* policies, I also argue that the movement's system of thought is not necessarily that 'alternative' if looking at the systems of thought implicated in other policy fields. Rather, they are in consistency with broader ways of thinking and acting in society.

Thus, this thesis examines drug policies in a governmentality perspective through asking questions like: What 'problem constructions' or 'truth' about drugs and drug political issues give rise to the techniques and practices through which these problems are to be managed? What kind of rationalities, logics and knowledge are employed in the forms of governing (or the potential forms of governing) in the field of drug policy? How do 'thought', or these rationalities, logics and knowledge seek to render particular issues, domains and problems governable (Dean 1999: 31)?

These questions are asked in relation to drug policies in general, but more particularly my focus will be on the *alternative* drug policies advocated by the *drug policy reform movement* – asking questions like: How do the thoughts of the drug policy reform movement seek to transform the current practices? What alternative 'truth' or 'problem constructions' are they advocating and how do they argue that these 'problems' can be made governable? What rationalities and logics are implicated in their alternative policy proposals and how do they differ from (and how are they similar to) the rationalities and logics implicated in prevailing policies? The latter question calls for seeing the policies advocated by the drug policy reform movement not only in relation to prevailing *drug* policies, but also in relation to *policies at large* - in relation to politics as ('advanced liberal') governmentalities and bio-politics. These notions will be presented under.

A second 'layer' of governmentality analysis focuses on the role of the drug policy reform movement in global politics, and put forward questions like: Could the development of the drug policy reform movement and the partial adoption of their discourses into official politics be seen in relation to a broader shift in governmental rationalities implying a *governing through* civil society organizations and other non-state actors?

3.2.1 Governmentality

Foucault develops three conceptualizations of power throughout his writings, whose constellations are historically specific, namely 'sovereignty', 'discipline' and 'governmentality'. As *sovereignty* refers to 'strategy' as a 'play between sovereign wills' and is characterized by mechanisms such as the constitution, the rule of law and parliaments whose power is exercised through its juridical and executive arms, *discipline* is a power form of 'domination', concerned with the bureaucratic apparatuses of the state and exercises its power through organizing and ordering people as well as disciplining their bodies and souls to make them productive (Dean 1999: 19-20, Neumann 2003). Governmentality emerges in the seventeenth century to supplement and complement the two other forms of power and develops to play its main role in late modernity. Crucial to its emergence and concern is the discovery of 'the population', 'the society' and 'the economy' as 'new' aspects or entities of reality to be governed (in opposition to *territory* as before), following their own laws and mechanisms, discovered through new kinds of knowledge such as statistics, demography and epidemiology[42]. Governmentality is thus a new form of power, or 'mentality of government' (thereof governmentality) which seeks to improve the welfare of the population, its conditions, wealth etc. (Foucault in Neumann & Sending 2010: 9). It does not, however, do so by imposing law on men, as in sovereignty, or to dominate as in discipline, but rather through 'disposing things' and 'employing tactics' (Ibid.). Moreover, it also *reconfigures*, rather than replaces, the two other forms of power. For example the law (and its obedience) is no longer a goal in itself, but is rather employed as a 'tactic' to regulate and order things and people (Ibid).

Governmentality is interconnected with the principle or method of rationalization of *liberalism*, which aims to maximize the effectiveness of government at the same time as it reduces its (political, economic etc.) costs and constantly aims to govern less (Foucault 2008: 318-9). It implies extending the economic model into ways of thinking and acting in society[43] (Foucault 2008: 242), or implying what Garland calls '*economic rationality*' with an economic-rational analytical language, objectives and technologies (Garland 1999: 17-18). In keeping with the tenets of governing less, governmental rationalities seek to render

[42] This also highlights the essential link between *power* and *knowledge*, in that certain forms of knowledge renders subjects or objects governable in particular manners, which is essential in Foucault's works.
[43] Like for instance in terms of supply and demand which is particularly evident in the field of drug policy (Foucault 2008).

individuals autonomous subjects, capable of governing themselves in a responsible manner. Governmentality as a form of power could be said to work through *mediating* the dominant view (or norm), with reference to which people would assess themselves, and 'choose freely' to act in accordance with it (Manokha 2009). In this manner power *produces* behavior which is in conformity with the norm. External coercion is no longer necessary (meaning people are now 'free subjects'), except for cases where people are unwilling or unable to act in accordance with the norm - or to act and govern themselves 'responsibly'. In these cases more direct disciplinary or sovereign techniques may be applied, however, reconfigured by governmentality to what Dean (1999) calls forms of 'authoritarian governmentality' or what Neumann & Sending (2010) call 'police forms of governmentality'[44].

Following Garland, governmentality can be divided into two; '*the government of others*', which are forms of power through which authorities govern populations – or conduct the conduct of men (Foucault 2008: 186) -, and '*the government of one's self*' referring to 'self-technologies' - technologies through which individuals work on themselves to create their own subjectivities (Garland 1999). Individuals are thus 'governed at a distance', *indirectly*, through 'technologies of freedom'. The historical situation of 'liberal' democracies presupposes free subjects who are individualized – which means that governmentality is a response to a historically specific situation where the individual needs to be 'free', but at the same time increasingly 'responsibilized', in order to fulfill his or her function in the 'liberal' democratic society (Neumann 2003).

Many scholars have argued that there has occurred a shift away from the governmental rationalities implicated in the welfare or 'social' state, which sought to enframe the whole population within 'apparatuses of security' – from cradle to grave, towards what Rose calls 'advanced liberal' forms of governmentality (Rose 2000, Dean 1999). In these forms of governmentality the role of the state is changed from being a 'guarantor and ultimate provider of security' to be a partner and facilitator for multiple autonomous actors (Rose 2000: 323),

[44] Through his genealogical account, Foucault describes governmentality as a hybrid between *'public spirit'* or *'citizenship mindedness'*, characteristic of the republican tradition where the (free) citizens had internalized the interests of the 'polis' as their own, taking upon them duties and responsibilities, and *'pastoral power'*, peculiar to the Judeo- Christian tradition, characterized by the shepherd's guidance of his flock from cradle to grave, the flock's obedience to the shepherd and their dependence upon him, and respectively the pastor's duty to know every aspect of the flock members' lives and to protect them from dangers (Neumann 2003, Neumann & Sending 2010). While liberalism's indirect techniques of government stems from the republican tradition, the techniques of more detailed control extend from pastoral power (Neumann & Sending 2010: 41).

where its role is to 'steer and regulate rather than to row and provide' (Rose 2000: 324). Governing thus implies 'action at a distance', depending upon alliances with a myriad of independent non-state actors and powers who are then *responsibilized*. Privatization, marketization and consumerism is followed by an increase in 'techniques of accountability' and new 'technologies of freedom'. The strategies of welfare have been replaced by a dichotomy of inclusion and exclusion – or rather circuits of inclusion- , through which people are regulated by shared norms and values about appropriate conduct – or what Rose calls 'ethopolitics' (Ibid.). Those who cannot or will not govern themselves in a responsible manner are excluded, criminalized and 'governed through crime' (Rose: 336). However, exclusion is framed in terms of subjective immorality, namely what Rose calls the 'new morality' (Ibid.).

One important point made by Neumann & Sending is that the politics of global governance are "…increasingly organized around debates and struggles over what should be governed through liberal forms of government and what should be governed through police forms of government" (2010: 11). As we shall see, in the field of drug policy this struggle is particularly evident.

3.2.2 Bio-politics

Bio-power or bio-politics are specific power constellations concerned with the management of the life, health and welfare of the population or, rather, ways of rationalizing and dealing with "…problems posed to governmental practice by phenomena characteristic of a set of living beings forming a population: health, hygiene, birthrate, life expectancy, race…" (Foucault 2008: 317). Bio-politics operate through specific kinds of knowledge as they emerged inseparably from the 'life sciences', human sciences and clinical medicine, which gave birth to "techniques, technologies, experts and apparatuses for the care and administration of life of each and all, from town planning to health services" (Rose 2001: 1). According to Rose (2001), the 'social' states in the first half of the 20th century were concerned with the health and fitness of the population as a *whole*, protecting them from internal or external threats, such as for example epidemics.

Similarly as the shift towards 'advanced liberal' governmentalities, Rose (2001) argues that a shift in biopolitical rationalities occurred in the second half of the 20th century due to a crisis in national political government and a fragmentation of 'the society', 'the culture' and 'the

community' into a range of 'cultures' and 'communities'. The problem of health is no longer framed in terms of health of the population, but rather in "economic terms – the cost of ill-health in terms of days lost from work or rising insurance contributions – or moral terms – the imperative to reduce inequalities in health" (Rose 2001: 5). The state tries to free itself from the comprehensive responsibility for the health and welfare of the population (as in the 'social' state), and favors to secure general conditions for health and abstain from direct interference. Epidemiology produces knowledge about at-risk groups (with a focus on risky practices rather than individuals), which are either advised to change their behavior or put on a drug regime aimed at reducing risk (Rose 2001: 8). 'Advanced liberal' bio-politics are *risk politics* (Rose 2001: 1). Neo-liberal health discourses thus seek to responsibilize the individual to take care of his or her own health through health promotion. The 'patient' is reconfigured to be a health 'consumer' capable of making free and healthy choices (Rose 2000, Moore 2004, Rhodes 2009). Every citizen and community must take the responsibility for their own health and the health of the community; they must become active partners in promoting their own health. In this manner they are governed 'at a distance'.

3.2.3 Concluding remarks

A governmentality perspective is not only valuable in identifying the many (at times obscured) aspects constituting policies but it is also useful for viewing particular policies in relation to broader ways of thinking and acting in society which extend beyond that particular policy area. I will argue that such an approach can also allow for a different way of understanding why some elements within alternative policies are more easily adopted into official policy discourses than others.

In this thesis I argue that the policies, philosophy and values advocated by the drug policy reform movement are in line with the logics and rationalities of 'advanced liberal' governmentalities and bio-politics. I also claim that this might be a way to understand the partial adoption of the movements' discourses and practices into official policies – as well as the increasing tendency of governing through the movement. Although the logics and rationalities of the drug policy reform movement resemble those increasingly employed in other policy areas – and particularly in the human rights paradigm –, I argue that this kind of thinking is 'new' in the field of *drug* policy, which operates through different sets of logics and rationalities, and which accordingly makes the alternative policies, and more notably

some specific elements within them, to be in opposition to the dominating power structures and discourses in that particular field.

4 Harm Reduction

In Europe, harm reduction is best known as a generic term for a set of interventions aiming to reduce harms of drug use, most often injection heroin use, such as needle exchange, substitution treatment with methadone and buprenorphine, safe injection rooms, heroin assisted treatment and street-based outreach. Often, harm reduction interventions have led to heated media debates and critiques that the interventions keep addicts 'stuck' in their addiction, which equals 'giving them up', that they encourage drug use, or that they constitute a 'backdoor' for legalizing drugs (Hunt 2003). Harm reduction interventions seem to always be controversial when first proposed and initiated as they break with what can be seen as a hegemonic discourse of 'zero tolerance'; only to be gradually accepted (or at least tolerated) into official political discourse, although harm reduction for a long time has been part of official EU policy. This chapter, however, aims to take a step beyond the European discussions to examine harm reduction in a global context.

This chapter seeks to examine the processes of how harm reduction sometimes becomes part of official discourse (or rather part of *some* official discourses) - at the national and international level - whereas it sometimes does not. It will examine the role of *human agency* in these processes, but also the political, social and cultural *contexts* in which these processes occur or do not occur. The underlying question of this chapter is *if* - and in that matter *how* - harm reduction might be in opposition to dominant power structures.

The two first sections of this chapter seek to define harm reduction in a global context. The disconnection from the European context makes it clearer that there are certain principles and rationalities that underpin harm reduction as a global movement[45].

First, I examine the underlying ethics and philosophy of harm reduction. Through drawing on interviews with harm reduction advocates in Germany and Mexico respectively, I argue that harm reduction is underpinned by a *philosophy* and a set of *values* purported as universal.

Second, I investigate harm reduction as a *policy*, or rather polic*ies*, based on specific problem articulations and offering specific solutions to these problems. Harm reduction will in this section be discussed in relation to its (European) origins, its interventions and its scientific evidence-base. Furthermore, I discuss how the harm reduction principles have been proposed

[45] These principles and rationalities might, however, be 'Northern' exports into the global realm.

as a basis for creating interventions in contexts that are very different from the European. The section shows how harm reduction as a policy is context (and history) dependant and, thus, not that easily definable and generalisable, although its underlying principles could also be regarded to have universal applicability.

Third, I elaborate on how the harm reduction movement goes forth in advocating harm reduction policies and interventions as well as discussing challenges and obstacles to harm reduction advocacy in Germany, Mexico and internationally. In this section I also examine the professionalization of the harm reduction movement and the significance of this development in terms of advocacy.

Lastly, I argue that harm reduction is in coherence with neo-liberal discourses on health and can be seen as forms of 'advanced liberal' bio-politics. I also assert that the value-base and philosophy of harm reduction are part of such logics and bolsters them, but also that the values of harm reduction are the most hardly advocated elements as they are in opposition to the set of values employed in the zero-tolerance discourse. Still, I claim that the logics of harm reduction as a kind of 'risk thinking' and its principles of pragmatism, cost-efficiency, priority of immediate goals and local community participation, as well as the scientific evidence-base for its effectiveness, might help contribute to explaining the political support for harm reduction and its adoption into official public health discourse. Moreover, I go on to assert that there is a tendency for states and international organizations (IOs) to outsource the responsibility for the health and welfare of drug users to harm reduction NGOs, through which they govern as active and autonomous non-state 'partners'.

4.1 Harm reduction as a philosophy

Due to the perceived inextricability of European harm reduction policies to its interventions (primarily for injection drug users), I was interested in hearing how the concept of harm reduction would be defined in a Mexican and Latin American context, where the pattern of drug use is different both regarding injection culture and the drugs being used[46]. However, my Mexican interviewees talked about harm reduction primarily as an underlying philosophy and a basic view of the human being. This underlying philosophy was also something I identified

[46] The most used drugs in Mexico are marihuana and cocaine, while heroin use is low except for the states bordering to the U.S. However, drug use in general seems to be increasing in Mexico, particularly for women (*Encuesta Nacional de Addicciónes 2008*).

in the responses of my German interviewees, although defining harm reduction was not a question I posed in the German interviews. This section will therefore deal with the underlying philosophy, ethics and values of harm reduction.

My German interviewees are talking about a basic respect for the drug user or the patient as a basis for harm reduction:

"*Our position is: It's a patient, like any other patient with tumor or diabetes, they do their own decisions. Drug use is not inflicting on their perspective and, so, we should let them decide what's best for them. And we don't have to take that decision – we have to support them, we have to make their decision an informed one, but not more. Give all a good frame, but not decide for the people, but let the people decide themselves. And all the time we collaborate with them*" (Heino Stöver, Akzept, interview).

Stöver is thus underlining that the core of harm reduction is to support people who use drugs in *their own decisions* instead of forcing them into something they do not want. They should be treated with the same respect as any other person, regardless of their drug use.

Although the Mexican reality is very different from the German in most ways, Aram Barra is describing the core of harm reduction in a very similar manner as Heino Stöver:

"*I think the core of the philosophy [in Latin America] is the same core as the practice in Europe and in North America, which is: You create policy and programs that reach a community at their own level. So I am not asking to make a drug prevention policy by having drug users or people who have had addiction before to come up and raise to my debate and we'll talk there. It's more like: I'll come to whatever level and level up as to reach them there. We can not part from being idealistic, we need to work with what the reality is and attempt to be very pragmatic. I think that's what the core is [...] It comes down to being very humane and attempting to reach the community where they're at*" (Aram Barra, Espolea, interview)

With this harm reduction can be understood as community-based programs emphasizing the users' perspectives and a philosophy where the very basis is acceptance of the human being which also implies an acceptance of the individual using drugs.

In this way the underlying philosophy of harm reduction contrasts the zero tolerance philosophy where the aim is to force the individual to be drug free either through treatment, through criminal sanctions or through deterrence. On the contrary both the theorists and the

practitioners of harm reduction are committed to bringing up the drug users' own voice; be it in policies concerning them or in the creation of harm reduction measures. Heino Stöver is telling about how the German movement the last twenty years created professional standards in harm reduction that emphasize the users' own views:

"*So it became more of a form of a dialogue between the users' views, the patient's views and the professional views. So we tried to bring them all together into a dialogue which makes treatment or services more shaped to the needs of those who have problems with the drugs*" (Heino Stöver, Akzept, interview).

With this, Stöver is also touching upon the important point that not every drug user has a problem with drug use:

"*I think within the European countries the last twenty years the social movements were responsible for a different view on drug addiction. They said: It's not only a disease, it is a disease if you take opiate addiction, and the WHO classify it and assess it as a disease, but on the other hand it's also life style [...] I think this, the users' views in these specific countries in Europe, they changed the form of discussion, saying it's more differentiated now than it was twenty years ago. Then all was thrown in the same pot, as we would say, and nobody would make a differentiation. But now I think we have that, saying: party drugs, people take it only, mostly in weekends, and then stop it, cannabis: 95 or 90 percent [who] use it recreationally don't have any problems with it, 5-10 percent take it on a regular, very regular basis to several times a day, this might also be without problem, but might cause problems taken by very young people in the wrong period of their biography; juridical, school problems, anyway. I think, in total this process of differentiation has led to differentiated politics in Europe*" (Heino Stöver, Akzept, interview).

Bringing the users' own voices into the political debate through collective action has, according to Stöver, led to increasingly differentiated drug policies in Europe. The process of differentiation between types of drug use is also brought up by Aram Barra. He is talking about this process in terms of understanding, accepting and meeting different realities:

"*And I think that in that debate the very first step that we need to take is to attempt to further understand why people use drugs. In particular young people, but in general: why do people use drugs? And understand that people use drugs for many reasons. There's traditional use, there's recreational use, but there's also a whole different area of drug users that use because*

they are trying to hide away trauma or because they are trying to hide away hunger or because of mental health. And so we need to tackle all those realities with different approaches" (Aram Barra, Espolea, interview).

With this, Heino Stöver and Aram Barra are highlighting the importance of acknowledging drug use as a complex phenomenon, where differentiation between different *drugs*, different *modes of use*, different *contexts of use* as well as different *reasons for use* is crucial. They are thus outlining a different *problem perception* of drugs than the problem construction which is the basis for the global prohibition regime (the latter will be discussed in the next chapter). In Frederik Polak's words[47], they articulate a need to differentiate between the *phenomenon* of drug use and the *problem* of drug use. They claim that the majority of drug use is not problematic (especially regarding use of soft drugs), and for those that do develop problematic use, it is not necessarily the drug use per se that is the problem but it can be individual, social, cultural, economic, political or structural factors. People use drugs for very different reasons, and those reasons need to be understood and respected in order to work with people who use drugs or in order to create drug policies.

As noted in the theoretical chapter, the core feature of a social movement is their formation around core *values* and *principled ideas*. Through what I've shown above harm reduction can be understood as a philosophy or as a basic *ethical* view which articulates the core values of the movement, where: 1) All people are treated humanely with a basic respect, regardless of drug use, 2) acceptance of all individuals implies tolerance of their drug use, 3) when helping people with problematic drug use this means respecting their own choices and decisions and helping them on their own premises, 4) try to understand why people use drugs and realize that there are a lot of different drug user realities – some of them not implying a problematic use at all, 5) creating different pragmatic approaches to meet the different realities of drug users which encourage safer behavior, which means attempting to reduce whatever harms the drug user would meet in their specific context and reality, and 6) bringing the drug users' own voices into the discourses concerning them; whether being their own treatment, development of initiatives concerning them or the political debate.

[47] "Proposal of a model for the debate about new drug policies" by Fredrik Polak, an unpublished document to a meeting in the EU Civil Society Forum in Brussels, October 2011, which he provided me with.

These values are regarded as universal by the movement, and seem to be a fundamental similarity between the German and the Mexican NGOs within the movement although these NGOs are working in very different social, political and cultural contexts.

4.2 Harm reduction as public health policies

While the previous section examined harm reduction as a *philosophy*, based on specific *values*, this section will deal with harm reduction as *policies* based on specific *problem articulations*, and offering specific *solutions* to these problems. First, I draw on definitions of the objectives and scope of harm reduction measures and policies in section 4.2.1. before I go on to briefly account for harm reduction interventions, focusing on their underlying principles, in section 4.2.2., presenting what I perceive to be the strongest argument for harm reduction, namely its scientific evidence-base in section 4.2.3., examining its history and development, especially in relation to HIV-prevention in section 4.2.4., and, lastly, accounting for how harm reduction principles can apply to interventions and policies outside the European context, specifically in the Latin American reality in section 4.2.5.

4.2.1 The objectives and scope of harm reduction policies and interventions

Harm reduction policy is best known as *injection* drug-related harm reduction, which is "...concerned with harmful effects or consequences of illicit (non-medical) injection drug use" (Rumbold and Hamilton 1998 in Ezard 2001: 208). Ezard goes on to emphasize that it is the *harmful outcomes as a result of drug use* that is important, which might for instance make harm reduction unconcerned with initiation into drug use.

"A review of the evidence-base for harm reduction" presents these drug-related harms as the main task for harm reduction to reduce: 1) HIV/AIDS, 2) viral hepatitis, 3) local and systemic bacterial infections, 4) overdose, 5) dependence, 6) other physical and mental problems, 7) accidents and aggression, 8) public nuisance, 9) crime and 10) harms caused by criminalization (Hunt 2003: 5-7). This presentation reflects the emphasis of harm reduction on harms to health, primarily making it a *health policy* and a *social policy*, as well as having consequences also for criminal policy.

However, Hunt (2003) offers a wider definition of drug-related harms than what does Ezard (2001) as he takes harms caused by *criminalization* into account, whereas Ezard only takes

into account those harms which rise from *drug use per se*. The harms caused by criminalization will be a theme in the next chapter. In this chapter I will rather focus on harm reduction in relation to health harms and social harms caused by drug use per se, as reducing these harms is the *main objective* of harm reduction policies and interventions.

Ezard is concerned with the over-all social, structural and political context of drug-related harms, and she argues for a conceptual framework for harm reduction following three levels (individual level, community level and society level) as well as expanding the harm reduction paradigm to incorporate not only harms and risks, but also vulnerability. She argues that the levels are interconnected and at times hardly separable, feeding back to one another. Yet, that it is a useful framework for analysis and especially for identifying gaps of research and intervention (Ezard 2001).

First, drug-related *harm* is defined broadly as "…a negative consequence of drug use to the individual, the immediate community or larger society" (Ezard 2001: 208). Harm reduction interventions can thus target all these three levels. Examples of harms could be infection as a result of injection at *the individual level* (where the intervention should be accessible health services), lack of responsibility for child-care at the *community level* (intervention: child-care services), and increased level of homelessness at the *social level* (intervention: emergency accommodation services) (Ezard 2001: 209).

Second, Ezard notes that harm reduction to a large degree is targeting *risk*, namely through *risk reduction*. She draws on a practical, operational understanding of 'real risk' defined as "…the likelihood of harmful consequences as a result of drug use" (Ezard 2001: 211), which she separates from the concept of risk discussed in social theory and especially in governmentality literature. Risks are also found on all three levels, for example; at *the individual level* shearing paraphernalia will lead to the risk of transmission of blood-borne diseases (intervention: needle exchange programs), at a *community-level* a high prevalence of blood-borne diseases will increase the risk of transmission (intervention: peer education in safer behavior and injection techniques), and at the *social level* prohibition or restriction of needle exchange programs will increase the risk of needle shearing (intervention: legislative change).

Third, Ezard argues that what she calls a '*vulnerability* paradigm' should be included into harm reduction. She defines vulnerability as "…predisposition to the risk of drug related harm" (Ezard 2001: 213). Furthermore, she writes that:

> The notion of vulnerability incorporates the complex of underlying factors that promotes harmful outcomes as a result of drug use, and limits attempts to modify drug use to make harmful outcomes less likely. Vulnerability factors constrain choices and limit agency. Vulnerability factors arise out of and are reinforced by past and present social context and experience" (Ezard 2001: 213).

Examples of vulnerability factors at the three levels could be personal features, history of sexual abuse or violence, low self-esteem at the *individual level* (intervention: treatment of depression, individual therapy), at the *community level* Ezard introduces the notion of 'collective vulnerability', which refers to marginalized communities with high levels of unemployment and low levels of education (intervention: educational programs, employment programs), which is closely connected with the *societal level* and 'structural vulnerability factors' or 'macro-level vulnerability factors', referring to economic inequalities, racism and structural violence (intervention: improved immigration programs, reconciliation programs, programs that target (racial) discrimination).

Ezard's conceptual framework is valuable for understanding the larger social and political context of drug use as well as for outlining the broad scope for harm reduction interventions and advocacy. Her notion of vulnerability is specifically developed in order to raise awareness to how structural inequality can contribute to higher prevalence of drug use as well as more risky patterns of drug use. However, Ezard herself notes that the focus of harm reduction policies and interventions have been the individual and community level, as "…the practice of harm reduction interventions for illicit (non-medical) injection drug use has tended to focus on risk reduction through behavioral modification" (2001: 207). This internal critique of harm reduction will be discussed more thoroughly in section four of this chapter.

In this section I have outlined the objective for harm reduction policies, namely reducing drug-related harm, risk and vulnerability at the individual level, the community level and the structural level. A harm reduction perspective thus differs notably from 'hegemonic' drug policy discourse which frames 'the problem of drugs' in terms of supply and demand where the goal is for these to be eliminated. Rather, it seeks to reduce the harms and risks stemming from, and the vulnerability factors contributing to, drug use. In the following section some of the interventions meant to respond to these objectives will be presented.

4.2.2 Harm reduction interventions

This section will briefly account for different harm reduction interventions aiming at reducing drug-related harm and risk. The aim of this section is not to exhaustively present harm reduction interventions, but rather to make the reader understand their differential forms as result of the principle of pragmatism[48].

Harm reduction interventions, most notably exchange of needles and other sterile injection equipment, was initiated in the Netherlands in the 1970s to stem up for the spread of HIV and hepatitis C among injecting drug users – which spread through shearing paraphernalia. Needle exchange programs (NSP) are, together with opioid substitution treatment (OST) with methadone and buprenorphine[49], the most known harm reduction interventions towards injecting drug use. Although contested when initiated, these measures are now largely accepted and recommended by among other WHO, UNAIDS, EU and UNODC. In addition *community-based outreach* have always been at heart of harm reduction, involving face-to-face contact with drug users; implying provision of information, referral to services, counseling, motivational interviewing, risk assessment and HIV testing, community organizing support (Hunt 2003) or sometimes just conversations. Measures to make injecting users switch to less risky modes of consumption through distribution of heroine smoking foil are also initiated in many countries. More recent, and often regarded as more controversial, are interventions such as drug consumption rooms (DCR), NSPs in prison facilities as well as heroine-assisted therapy (HAT).

Although traditionally developed to target harms stemming from injection drug use, harm reduction interventions are increasingly developing in relation to recreational use as well as stimulant use in many countries. Through outreach work on party scenes harm reduction workers, and often peers, provide safer use information, 'safer use-kits' (with sterile snorting equipment), free water[50] and fruit, condoms, developing warning systems on pills reported to

[48] Hunt describes pragmatism in harm reduction like this: "**Harm reduction** accepts that some use of mind-altering substances is a common feature of human experience. It acknowledges that, while carrying risks, drug use also provides the user with benefits that must be taken into account if drug using behaviour is to be understood. From a community perspective, containment and amelioration of drug-related **harms** may be a more pragmatic or feasible option than efforts to eliminate drug use entirely" (CCSA 1996 in Hunt 2003: 3-4).

[49] In many countries opioid substitution treatment is also extended with other opioids such as morphine and slow release morphine, and combination products such as the combination of buprenorphine and naltrexone, known in Europe under the brand name of Suboxone.

[50] Many deaths related to party drugs occur due to dehydration.

have unknown or specifically dangerous contents, and in some countries providing pill testing where users can test content of the pill/powder they possess.

Often, harm reduction interventions are directed at sub-groups and communities most at risk of drug-related harm, for instance specifically targeting sex workers or open drug scenes. A crucial feature is that measures are customized to that specific target group, involving peers from that group in initiation and implementation of measures.

Here I have merely provided some examples of harm reduction interventions with the purpose of giving the reader an idea of the nature and purpose of such measures. Their aim is to make drug consumers aware of risks as well as change their behavior towards less risky patterns and their initiation and implementation is highly *pragmatic*. However, most often these measures are closely monitored and evaluated by researchers, partly because some of them would be illegal if not conducted as medical or scientific projects. The extensive evidence-base that has been accumulated through these measures will be presented subsequently.

4.2.3 The evidence-base for harm reduction interventions

This section will elaborate on what I perceive to be the strongest argument for harm reduction interventions, namely that they are *scientifically proved to be effective in reducing drug-related harm*.

Since the 1980s a substantial body of research and evaluation has been made about the effects of harm reduction measures. For instance research shows that substitution treatment and needle exchange programs have a significant effect in reducing HIV-infection, hepatitis C and tuberculosis in the population of (injecting) drug users (Hunt 2003, Rhodes & Hedrich 2010) as well as numbers of overdose deaths (Hunt 2003, Papendorf 2011). Substitution treatment as well as heroin prescription and community-based outreach also have an effect on the over all physical and psychic health and life quality of the users (Hunt 2003). In addition substitution treatment has proven effective in reducing use of illegal drugs as well as drug related crime (see among other Stevens, Trace & Bewley-Taylor 2005).

Rhodes & Hedrich (2010) note that harm reduction interventions have enhanced efficiency if multiple interventions are delivered in combination, in so called ‘combination interventions’. Furthermore, a crucial determinant for success is the *coverage* of interventions, *access* to interventions – through avoiding high thresholds or obstructing factors such as the presence of

law enforcement agents near interventions[51] - , as well as their customization to the *social environment* in which they are delivered.

Another related and crucial argument is that harm reduction interventions are not merely effective but also *cost-effective*. They are much less expensive than abstinence-based (in-patient) treatment and antiretroviral therapy (ART), at the same time as they save costs in the general health system due to reduced morbidity among users as well as costs of drug-related crime.

Above I have solely outlined some of the most notable findings of the efficiency and cost-efficiency of harm reduction measures from an otherwise very extensive body of research. The purpose of this (very brief) account was to present what I see as the strongest *argument* for harm reduction in political terms. As I will show in the subsequent sections, and especially in section 4.3., the evidence-base is crucial for the (type of) advocacy in which the movement engages and also for its possibilities for successful advocacy.

4.2.4 Harm reduction and HIV/AIDS

The argumentation of the harm reduction movement is to a very large degree concerned with prevention of HIV, and increasingly also with hepatitis C and tuberculosis, among injecting drug users. As I showed in the last section, a large part of the (particularly medical) scientific evidence-base concerns around the measures' effectiveness in reducing the prevalence of these diseases as well as drug-related mortality in general. This has to be seen in terms of historical continuation of the naissance and growth of harm reduction policies and interventions.

Kübler identifies the HIV/AIDS epidemic to be the crucial 'non-cognitive event' that changed the terms of the drug policy debate in Switzerland in the middle of the 1980s (2001: 631). Needle shearing among drug users exposed them to a large risk of contamination and drug prostitution was a major factor for *spreading HIV to the general population*. This, he asserts, together with the involvement of *medical professionals* specialized in infectious diseases and in public health, which had not previously been engaged in the drugs field, made harm reduction measures important *public health interventions*.

[51] Some NGOs also provide harm reduction training for law enforcement officials, such as for instance 'drug action teams' in the U.K. and Australia which provide health-focused training to police in order for the police to give out health and social service referral cards to drug users in stead of arresting them (Jürgens et al. 2010: 6).

In many European countries harm reduction measures such as methadone treatment was available already in the 1970s and in the early 1980s. However, what fuelled the development of harm reduction responses was that the HIV/AIDS epidemic was put on the political agenda in the 1980s (Grieg & Kershnar 2002, Nadelmann & Andreas 2006, Kübler 2001). Harm reduction thus developed as a public health strategy to stem up the spread of HIV/AIDS among drug users, sex workers and the general population. Despite the critique that harm reduction measures would lead to keeping addicts stuck in their addiction as well as encouraging drug use (Hunt 2003: 7-8), parts of Western Europe, Canada and Australia acknowledged that HIV/AIDS constituted a larger immediate *threat to public health* than drug use itself (Grieg & Kershnar 2002, Kübler 2001, MacCoun & Reuter 2001). Methadone programs and needle exchange programs were either initiated or scale up.

In other words, the *threat of HIV*, its particular prevalence among drug users and the risk of its spread to the general population constituted a kind of political break through for the harm reduction movement. Its pragmatic measures and interventions now became essential in stemming up the spread of HIV in the population – which in most countries became a public health priority[52]. Keck & Sikkink argue that the stage of issue creation and agenda setting often requires a modification of the 'value context' in which policy debates take place as the value positions of movements are very strong (1998: 25). As I later argue, the pragmatic harm reduction policies that got adopted by official public health policies in many countries did to a large degree get separated from their original value context or from their philosophical underpinnings.

Another transformation that took place was the *medicalization* of the issue 'injecting drug users and HIV'. Stöver (interview) depicts how the drug field in Germany until the early 1980s was dominated by psychosocial professions such as social workers and psychologists, who defined drug addiction as a social problem[53]. With the HIV epidemic, however, medical

[52]My experience from the conferences is that harm reduction activists call for attention to other diseases such as hepatitis C and tuberculosis, which constitute a risk and harm just as grave to drug users, but which they claim has been neglected in favor of the attention for HIV. I think that the reason for this emphasis on harm reduction as HIV-prevention is a specifically strategic one due to the *panic* which occurred around HIV in the early 1980s onwards.

[53] Boekhout von Solinge (1999) argues that national definitions of the 'drug problem' as well as the political responses to it have to do with the social and cultural traditions as well as dominating national paradigms of knowledge. He shows three examples of definitions of the 'drug problem' from Sweden, where the *epidemiologist* Nils Bejerot defined drug use as an *epidemic*, as well as basing drug policy on the total consumption model, Netherlands, where *sociologists* were dominant in forming drug policy based on strategies of social inclusion and normalization, and France, where *psychiatrists* were the dominant profession, placing drug use as a problem within the individual, viewing drug taking as transgression and expression of an inner

doctors started playing a large role through the introduction of pharmaceutical therapy. Today there are 80 000 patients in substitution treatment in Germany, which makes this the main type of treatment, and which correspondingly makes the medical doctors the main profession in the drugs/health field. Stöver tells how the social workers and psychologists are put in a more defensive position and are now fighting to get a better stand in the drugs field:

"They now start to really ask for money, for attention, and they contribute to high percentage of course to the success of a treatment. They do counseling, they do treatment. And it's not the doctor alone who is, let's say, only providing a medication. This is not the solution for the problem. But it's also not neglectable. The medication is giving people time not to go on the black market, not to prostitute themselves, not to steal, not to do anything for the drug... but it's more something that gives people time to get some distance to the drug scene and to do then their own dealings" (Heino Stöver, Akzept, interview).

The HIV-epidemic thus led the medical profession to get an important role in the drugs field, especially through substitution treatment, at the same time as it partly defined harm reduction interventions in terms of *HIV- prevention*. The problem of *drug addiction* was also increasingly defined in medical terms, leading to what could be called a 'medicalization' of drug addiction[54]. The EuroHRN survey identifies a Northern European phenomenon of a "…visible shift from harm reduction services as a human rights-based set of interventions toward a highly integrated, medicalised and streamlined approach more appropriately deemed 'harm management'" (Stoicescu & Cook 2011: 39). In the Netherlands a comprehensive and integrated Social Support Strategy (SSS) was implemented in 2006/2007 to meet all the needs of the most vulnerable groups such as problematic drug users, homeless people and psychiatric patients (Schatz et al. 2011). Although this 'intervention package', which also includes punitive interventions, has contributed to reduction in homelessness and an increase in social support to this group, it is criticized for being too focused on aims of public order and crime reduction (which has been most effectively reduced by the Strategy) and security as well as a related trend towards medicalization as a main means of treatment (Ibid.).

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desire to break law and norms (Ibid.). In addition, he claims cultural traditions had impacts on the drug political approaches, such as the temperance movement in Sweden, the emphasis on individual freedom in the Netherlands and a strong, influential police force in France.

[54] Both the psychiatric diagnostic systems DSM and ICD include drug addiction as a psychiatric diagnosis, hence a disease. According to Polak the DSM system uses two criteria which as very context-dependant, thus including many drug users due to the illegal status of the drug (2000: 6).

The scientifically proven success of harm reduction measures in reducing HIV-prevalence among drug users, as well as numbers of overdose deaths (it could be added: reduction in drug-related crime), has made it be adopted as official policy by the EU and the WHO, UNAIDS, the Global Fund and eventually also UNODC. According to Rhodes & Hedrich studies have shown that there is a growing emphasis on harm reduction in EU countries, where harm reduction has been described as a 'common position' (2010: 21). The EU Action Plan on drugs 2009-2012 explicitly includes harm reduction as one of the main means in its demand reduction strategy. Rhodes & Hendrich thus call harm reduction a 'mainstream' drug policy in Europe.

The emphasis of harm reduction on HIV-prevention has also allowed the harm reduction movement to form strategic alliances with the very large international HIV movement, which has not traditionally been concerned about HIV among drug users. As such, the harm reduction movement tries to influence the HIV movement to put the issue of drug users on their agenda[55].

Although harm reduction could be perceived as 'mainstream' policy in Europe, as argued by Rhodes & Hedrich (2010), my interviews indicate that it is still contested and that the existence of harm reduction interventions is not self-evident. The European Harm Reduction Network survey states that the over-all coverage of harm reduction interventions in Europe is highly insufficient, especially outside larger cities as well as in certain regions. Some places the insufficiency prevents measures to have any effect on HIV, hepatitis or tuberculosis prevalence (Stoicescu & Cook 2011). Furthermore, the report identifies multiple barriers to harm reduction interventions in Europe despite harm reduction being part of official policy in nearly all countries in the region[56]. This shows that there is still a large discrepancy between official policy aims and practice.

[55] Through subscribing to newsletters and mailing-lists from different drug policy NGOs, I very frequently receive news on different projects and conferences made in collaboration with the HIV movement, which makes me draw the conclusion that the cooperation between the harm reduction movement and the HIV movement is quite extensive.

[56] Harm reduction NGOs across Europe reported these obstacles and barriers to harm reduction interventions at national and local levels: 1) insufficient funding for measures, aggravated by the economic crisis (in Eastern Europe a reliance upon international funds due to domestic political reluctance to fund measures), 2) political opposition or lack of political will, 3) public opposition, 4) stigma, 5) discrimination (especially against migrants, women and young people), 6) users of interventions experience fear of arrest and criminal sanctions by law enforcement officials, 7) restricted access to services such as limited opening hours, age restrictions and other criteria, 8) lack or absence of drug use data that is needed for effectively targeting harm reduction measures as well as existing data focusing on prevalence of use in the population rather than mapping specifically harmful patterns of use (Stoicescu & Cook 2011).

On a global basis the coverage of harm reduction measures is highly insufficient despite the WHO, UNAIDS, Global Fund, EU and high income countries support for and funding of harm reduction interventions world wide[57] (The Global State of Harm Reduction 2010). In some regions, hostility towards harm reduction, leading to no or insufficient coverage, causes large numbers of new cases of HIV, hepatitis C and tuberculosis infections as well as high levels of drug user mortality (see among other Hunt 2003, The Global State of Harm Reduction 2010).

This section has shown that the initiation, development and increase in harm reduction policies and interventions need to be seen in relation to its scientifically proven effectiveness in preventing the HIV epidemic. The *medicalization* of drug addiction as well as the *securitization* of HIV has enabled harm reduction to be put on the political agenda as a 'mainstream' public health issue in Europe as well as in many UN institutions[58]. However, it has also shown that despite the rhetoric there is still a large discrepancy between the official public health goals and the reality – even in Europe.

The next section will examine harm reduction *outside* of the context of (opiate) injection drug use with a strong correlation to the HIV-epidemic, which I will later argue might have significance for the possibilities for advocating harm reduction at a political level.

4.2.5 Harm Reduction outside the context of opiate injection drug use

This section examines how harm reduction policies and interventions can be understood outside of the context of (opiate) injection drug use. More notably, it will deal with harm reduction in Latin American contexts, both in relation to non-injection drug use (often of stimulants), in relation to social harm such as violence, and in relation to drug crop producing farmers.

The Mexican NGO Espolea also has HIV, sexual health and inequality in gender on their political agenda besides drug policy. Aram Barra (interview) is convinced that there is a strong correlation between HIV and drug use also in cases of non-injection use, particularly

[57] Many predict that this situation might be aggravated by the economic crisis which leads to cuts in interventional funds to harm reduction interventions.
[58] Albeit not all. Some UN institutions are still hostile towards harm reduction, which will be a theme in the subsequent chapters.

due to risky sexual activity. The problem, however, he asserts, is that there is no strong scientific evidence-base to prove this correlation.

Nevertheless, harm reduction measures can also be understood as promoting a less risky behavior also in cases of non-injecting drug use or in cases of non-opiate use and in case of non-problematic, albeit potentially risky, behavior;

"*Many times for instance to Mexicans and in Latin America I explain harm reduction as 'if you drink, don't drive policy'. The campaign 'don't drink and drive', it's* not *telling you 'don't drink' which is prevention, it's* not *telling you 'go to treatment for alcohol', which is treatment, it's telling you the middle point, which is: if you're going to use the drug don't go out and encourage behavior that will put you and your community in danger. Don't drive, right? [...] And then I say: Now apply the same philosophy to every other drug, and people are: ok, that has a rationale to it, it's quite pragmatic, but it has a rationale"* (Aram Barra, Espolea, interview).

Harm reduction as public health policies could thus also be understood in terms of encouraging and promoting the healthiest and safest behavior possibly in the population given (and accepting) the societal circumstances. Harm reduction policies have long existed in relation to different other health risks, including legal psychoactive drugs such as alcohol and tobacco. Aram Barra suggests harm reduction in the drugs field means expanding this strategy to also apply to illegal drugs. Luís Astorga (interview) talks about harm reduction in terms of creating policies that are basically preventive in stead of punitive.

Martin Jelsma argues that the harm reduction model cannot simply be transported to Latin America, "where injecting drug use is a major concern only in Mexico (heroin) and in Brazil and Argentina (cocaine)" (2009: 17). Rather, he suggests that harm reduction interventions in Latin America should focus on smoking/inhaling stimulants (crack/paco and coca base paste) and draw experience from such experimental interventions done in the U.S., Canada and Brazil, where 'safer crack use kits' have been distributed. Most notably, he argues that harm reduction in Latin America should not only target health harms, but also *social harms*, as *drug-related violence* is one of the major concerns in the region (Ibid.).

Furthermore, Martin Jelsma (2004a) argues for an application of the principles of pragmatism and user and community participation of harm reduction to alternative development projects and crop eradication programs in drug crop producing countries:

> "- Shifting away from the current obsession with counting and reducing the numbers of hectares [of drug crops eradicated] toward prioritizing the policy goal of reducing the harm associated with the existence of illicit crops, including measures to reduce the harm done to the environment and attempts to reduce their importance in fueling armed conflict. - Opening up spaces for dialogue with involved communities – free of deadline and 'zero-option' thinking – about their own problems with drug-linked crops, allowing flexible, gradual reduction processes. - Defining small growers more as economic victims that have become 'addicted' to illicit crops for survival. Similarly to the harm reduction approach to drug addicts, this means trying to provide considerations that allow them to leave their situations; if that doesn't work, assisting them in a way that reduces the harm to themselves and to society at large rather than spraying, incarcerating, or killing them. - Supporting the option of de-penalization or law enforcement leniency toward small illicit cultivation similar to the tolerance trend in several European countries toward individual consumption of soft drugs or the possession of small quantities for personal use. - Exploring options for direct linkages between harm reduction interventions on the supply side and the demand side in order to stimulate the global debate on alternative measures of counter-narcotics action. – 'De-demonizing' certain aspects of illicit drugs by differentiating more between specific substances and their potential harms and benefits on the basis of scientific studies" (Jelsma 2004: 221).

This section has shown how harm reduction principles and rationalities of promoting less risky behavior as well as pragmatic community-based programs with participation of those affected can be applied to realities that do not resemble the European context of (opiate) injection drug use with a strong correlation to the HIV-epidemic. In the next section I will examine how these different contexts and realities can have significance for the political advocacy of harm reduction principles, policies and interventions.

4.3 Harm reduction advocacy

In the two previous sections I attempted to define harm reduction as a philosophy, with specific values, and as policies, with specific objectives and principles. At the same time, I outlined the main arguments for harm reduction policies and interventions, namely their scientifically proved efficiency and cost-efficiency in reducing drug related harm and risk – most notably in relation to HIV prevention.

This section will deal with how the harm reduction movement goes forth in advocating for harm reduction policies and interventions as well as discussing challenges and obstacles to harm reduction advocacy in certain political, social, economic and cultural contexts. First, I examine how the harm reduction NGOs go forth to advocate the scientific evidence-base through information politics, and outline the problems and obstacles they encounter in this regard, in section 4.3.1. Second, I explore the professionalization of the harm reduction movement and how it has affected on its advocacy efforts and opportunities at different levels in section 4.3.2.

4.3.1 How do the NGOs use the evidence-base for harm reduction in their argumentation?

My interviewees claim the drug service systems and policies in their countries is often driven by morals and beliefs. In contrast, their argumentation for the implementation of harm reduction measures it based on the scientific evidence for their effectiveness:

"*Still we have a system, especially in the health field, of health belief which is the basis for policy. And it's not driven by evidence-based research – to a very little extent. I'll give you an example: We had extended research on this heroine treatment trial. And it turned out that heroine was for a certain target group a much better medication than methadone or Subutex. And then politicians came and said: No, I don't believe it. And maybe it's too expensive, heroine [...] The consequence was that the introduction of heroine as a medication was prolonged by five to seven years, I would say. The research data are already from 2002. But only 2010, heroine is now a prescribable drug*" (Heino Stöver, Akzept, interview).

Although the evidence-base is there, the movement still has a job to do by advocating it to make it known and accepted by the health system and by the policy makers. In their strategy paper, Espolea is pointing out the clear and urgent need for Mexico to "…generate, publish and disseminate more comprehensive scientific information, free from dogmas, regarding drugs, their use and the impact of policies implemented to control them, in order to put an end to the taboo surrounding them and be able to reduce their negative impacts on individuals and society" (Barra & Sánchez 2010: 27). Luís Astorga (interview) tells me that CUPIHD has a large focus on conducting research, in disciplines such as sociology, politics, medicine and international relations, in order to propose policy changes on a scientific basis. This means that while in countries where a lot of research is made the task of the movement is to advocate it as to become basis for policies, while in countries with little research the movement will first need to advocate for scientific research to be conducted and engage in the time-consuming and expensive activity of conducting it, in order to be able to propose practical policy on its basis.

Aram Barra is telling about a research project Espolea did together with CUPIHD on documenting the consequences of the new Mexican drug law, the so called Narcomenudeo. If a person is caught three times with small quantities of drugs, he will be sent to court where he can decide whether he wants to go to prison or to treatment. They contacted both the courts and the health system to get information on how many people the court had sent to treatment.

Both places, however, they were denied the information as both agencies claimed these statistics were nonexistent. Espolea and CUPIHD thus appealed to the Transparency Institute (The Mexican institute for access to information) where they won the case. Still, the information could not be provided.

"*It also really tells you that in the particular case of Mexico the capacity of the law making process is really slow, it's really corrupt, it's really secluded, it's really difficult to access information that in this case is sensible information. We understand that the president doesn't want us to have that information because it means that his whole war, his whole law, are all wrong, or that they're not doing it right. [...] And within that context I think it's really hard to attempt to change reality, to attempt to propose any sort of policy anywhere, at whatever level. Because if you're not allowed to have access to information, if you're not allowed to review what the current status is or the state of the subject is, then you cannot propose anything*" (Aram Barra, Espolea, interview).

A lack of research, or restrains from access to information that can provide that research or even monitoring of the current system, thus limits the possibilities of the movement from policy proposals at a national level. This might especially be the case in countries where the results from Northern scientific research is not easily transferable.

Mike Trace (interview) tells how the EU internally has helped its member states to agree on basic harm reduction principles. However, he claims the EU's impact on the area of harm reduction probably has been greater *externally* rather than internally by promoting progressive, health based, human rights based policies. In the area of drug policy the EU has recognized the harm reduction movement as professionals in the field and even directly drawn on their expertise in external negotiations:

"*There have been situations where representatives from the NGO movement have directly supported the policy work of the EU. [...] I think it was about three or four years ago there was a big summit meeting between the European Union and the U.S. on harm reduction. The U.S. were seriously trying to say that needle exchange was not backed by evidence and it should be stopped everywhere and that sort of thing. And the European Union disagreed. And it was IHRA*[59] *and IDPC that prepared the briefing for the European negotiators and that was the meeting at which, sounds like the battle at Waterloo, it's where the Americans backed off.*

[59] The International Harm Reduction Association, now Harm Reduction International (HRI).

Because they knew they couldn't win the argument. Well, it didn't stop them from being politically difficult, but they never tried again to argue that needle exchange was not evidence-based. And if you would have sent a couple of diplomats or civil servants into that room, they wouldn't have known how to win that argument. But we as the transnational networks gave them all the briefing" (Mike Trace, IDPC, interview).

As the quote from Mike Trace shows, the harm reduction movement does have status as professionals and experts in some forums through what he calls a bureaucratic type of advocacy. This is not, however, necessarily a common example in drug policy forums internationally or nationally, and the task for the movement is still to claim their place as experts in seats earlier exclusively occupied by the temperance movement. They do this primarily through claiming that "…drug policies must be based on solid empirical and scientific evidence" (The Global Commission on Drug Policy 2011: 5).

The role of the scientific evidence-base in policy proposals and advocacy is reflected in the constellation of actors within the movement, which to a large degree consists of professionals and academics from different fields. Still, one of the core aims of the harm reduction movement is to bring the users' own voices into the debate as well as promoting the acknowledgement of their voices as expert voices. The next section will examine these themes as well as how an incremental professionalization of the movement has affected on its advocacy outcomes and efficiency.

4.3.2 How has the professionalization of the movement affected advocacy at different levels?

Mike Trace claims that the drug policy reform movement has changed a lot the last twenty years, which has enhanced its possibilities of resonance within politics:

"*The big difference over the last twenty years is… there's still those good grass-root movements, drug reform movements, but they are now mixed in and intertwined with professional networks, funded networks, policy networks, like ours. So it's all like a much more vibrant and varied community. They don't all share the same policy approaches or tactical approaches, but it's grown, it's broadened out, there's lots of connections into other areas of policy*" (Mike Trace, IDPC, interview).

At a national level Heino Stöver tells how the German movement has gone through a process of professionalization by first initiating harm reduction measures and later developing professional standards for harm reduction work through evaluations and research:

"And of course in the development of the last twenty years the discourse of what is professional harm reduction work came into force and we developed some standards how to run a drug consumption room, how to do acceptance oriented work, how to do housing projects, how to do substitution treatment with integrating the patient's views but at the same time the doctor's views" (Heino Stöver, Akzept, interview).

Another way the movement has professionalized is to bring in expertise from different fields. Dirk Schäffer is telling that one of the ways to reach the goals of comprehensive, evidence-based harm reduction policies is involving researchers and experts in the movement:

"And we have a network with the doctors which are in methadone treatment, they have an own organization, and to work with them together, and it's an organization of lawyers who are interested in harm reduction and to cooperate with them and to build up a network of different professions that are all interested in harm reduction. And it's one way to reach our goals. To build up a network with different professions with different people in different places. And that works very well in Germany, we have a network like this with Akzept and the German AIDS organization and many other organizations" (Dirk Schäffer, Deutsche AIDS-Hilfe, JES, interview).

The Mexican organizations are also highly professional and consist of well-educated people, professors and researchers which draw on their professional knowledge and professional connections and networks in their advocacy. CUPIHD started as a kind of think tank of experts and professionals on drug issues around three law propositions (about allowing for recreational personal use and medical use of marihuana and of industrial hemp) that were to be presented by the now ex-deputy of the Social Democratic Alternative, Elsa Conde[60]. They have managed to become regarded as an expert organization and a point of reference that is consulted by government officials and agencies as well as other civil society groups, and brought into different government and local commissions. The law propositions also led progressive debates to take place in the Mexican Congress (Astorga, interview).

[60] These law propositions have either been discarded or frozen (Barra 2010).

Still, the movement in Germany, Mexico and internationally involve drug users, ex drug users and people in substitution therapy, who hold expert roles within the movement. The International Network of People who Use Drugs (INPUD) has an important role within the transnational drug policy reform movement, as well as in facilitating the organization of drug users in networks in different regions of the world. The European Harm Reduction Network survey identified one of the main goals of the harm reduction movement to be meaningful involvement of people who use drugs in service design, implementation, monitoring and evaluation across three levels; individual-level (involvement in the work of NGOs), organizational-level (participation in consultations, decision-making and policy-making bodies) and in autonomous groups working towards self-determined agendas (Stoicescu & Cook 2011: 16).

Still, Heino Stöver (interview) asserts that the German movement has by far had most impact at a professional level, among other through arranging professional conferences on health and harm reduction topics. They were much less successful, if successful at all, in confronting politicians directly or through general public media campaigns. It is rather through a strong standing at a professional level that they have been able to influence the political level *indirectly*, namely through becoming the expertise, through a bureaucratic type of advocacy. Both Stöver and Schäffer tell about being invited to expert hearings at different levels where they are taken seriously.

In Mexico, CUPIHD hosted the 1st Mexican and 3rd Latin American Conference on Drug Policy, a professional conference with participation of civil society activists, researchers, drug policy experts, drug users, and policy makers.

However, Aram Barra claims that it's not necessarily strategic to bring harm reduction to a political level at all:

"*I think that there are risks about politicizing harm reduction. I think Latin America is at a quite very early stage around harm reduction, around particularly the debate [...] It's a little worrying where the discussion could go, which is a question. On the one hand you have a lot of arguments that say: As soon as you say harm reduction, people that read a little bit more about addiction and drug use they'll immediately say: They're talking about harm reduction, which means; you understand the reality of Europe, which means: you're pro legalization. So it's a very quick snap that takes you from harm reduction to legalization. And many times it's*

not so in Europe and in many countries that have applied harm reduction. And so I think there is a danger of that, of that the response and the reception will be that you're pro-Yankee or pro-European in your policy. Second worry that could exist, it's the second troubling thing, is that it's hard….. Because it's hard to define the problem. I should go one step back, because the thing is: Because it's hard to define what harm reduction is in Latin America, it's hard to define it as a concept, right? And so the troubles with bringing it into a political debate is that sometimes you'll talk about harm reduction and some people will think about you as a pro-Yankee, pro-European, some people will think about you as pro OST[61]*, pro needle exchange, and they'll all say: This doesn't make sense in this reality. Some people will understand the philosophy and they'll say: Ok, let's think about it*" (Aram Barra, interview).

Barra is thus pointing out four arguments against politicizing the concept of harm reduction in Mexico: 1) People would think harm reduction equals legalization, 2) harm reduction is a pro-Yankee and pro-European policy, 3) harm reduction measures, as we know them from Europe and North America, do not fit the reality of Mexico and 4) this is because it is hard to define what harm reduction is in Latin America.

A strategy Barra and Espolea are using for promoting harm reduction at a political level without explicitly using the term is to frame the concept within other, already accepted, discourses. One example is the 'don't drink and drive' policy as earlier described. Other discourses are those of prevention, HIV-prevention, health and sexual reproductive health. Luís Astorga (interview) describes harm reduction as policies that are preventive rather than punitive.

Harm reduction interventions do exist in Mexico, albeit on a small scale and specifically in the north where injection opiate use is prevalent. These measures are run by NGOs and supported by the government or through private clinics (Philbin et al. 2009). They are not, however, very well known, and according to Barra it might be better that they stay that way due to the above mentioned reasons as well as to a hostile public opinion.

The harm reduction movement promotes values that to a large degree are controversial. Conventional norms define drug use as an unwanted activity which is most often criminalized. In most countries propaganda against drugs defines the drug user as a criminal who should be rejected and punished.

[61] Abbreviation for opioid substitution therapy.

The professionalization of the movement and the increased evidence-base of harm reduction interventions have led to the acknowledgement and implementation of harm reduction measures world wide despite an at times hostile public opinion. However, the humanistic values which lies at the heart of the philosophy of harm reduction are not that easily accepted. Heino Stöver tells how the evidence-base for harm reduction forced the dominating institutions in the drugs field in Germany to change their opinion about harm reduction measures, although they did not embrace the humanistic respect for the drug user and patient:

"The main institutions who are the dominating actors in the field, they of course changed, and they couldn't do anything else but change. Otherwise they would have lost credibility of course, and professionalism. The Deutsche Hauptstelle für Suchtfragen [...] they are the biggest actors in the field. And they changed the views, I would say, not completely, but they had to acknowledge that harm reduction, acceptance oriented drug work, substitution treatment, is a major, major thing. And now, when you look at for instance the opiate addiction treatment, it is clear to say that substitution treatment is the means of the choice, or the first choice treatment [...] Also these groups, the former prohibitionist oriented big umbrella organizations, like Deutsche Hauptstelle für Suchtfragen, there's another one, Fachverband Drogen und Rauschmittel, in the end they're quite conservative. And they have a patient image that to a large extent Akzept would not go with. Because they still believe, or they put the patient as non-conscious of their decisions and, so, somebody else has to decide for them. Our position is: It's a patient, like any other patient with tumor or diabetes, they do their own decisions" (Heino Stöver, Akzept, interview).

With this it becomes clearer that the evidence-based and cost-effective interventions can often be separated from the philosophy and humanistic values of harm reduction. This will be further discussed in the subsequent section, in relation to the logics and rationalities implicated in harm reduction.

4.4 Discussion

The previous section showed that in Germany and at an international level harm reduction has been accepted into professional discourse due to its scientifically proved effectiveness in reducing drug related harm. This section goes on to examine the logics and rationalities employed in harm reduction to see if these can also have significance for the adoption of harm reduction interventions and discourse.

Firstly, I draw on scholars who have criticized harm reduction for being in consistency with 'advanced liberal' bio-political risk thinking in two different ways (in section 4.4.1.). The first critique targets one particular harm reduction intervention, namely methadone treatment, and highlights its functionality in maintaining social and moral order (Bourgois 2000), whereas the second set of critiques rather could be seen as a harm reduction movement's critique of itself, targeting the particular knowledge and view of the drug user upon which harm reduction interventions are built – with a focus on (rational) individual behavioral change – which these scholars claim are in consistency with neo-liberal health discourses (Rhodes 2002 and 2009, Moore 2004, Bunton 2001). The second set of critiques also propose a way to overcome these problems through taking into account dimensions of reality which have been neglected, thus offering a framework for creating 'enabling environments' for harm reduction.

Secondly, I discuss how the consistency of harm reduction with 'advanced liberal' bio-politics might have had significance for its elevation into official public health politics. Here I also suggest that the rationality of 'risk thinking' implicated in harm reduction interventions - together with their evidence-base - could be what makes these interventions adopted into official policy. Yet, the philosophy and values underpinning the harm reduction movement are not that easily accepted, and could thus be regarded as elements of opposition to the dominating drug political discourse.

Lastly, I examine the harm reduction movement in relation to a broader shift in governmental rationalities in global politics implying a tendency towards governing through civil society organizations. Here I argue that there seems to be a process of outsourcing the responsibility for the health and welfare of drug users to harm reduction NGOs, which then become active and autonomous non-state partners in this particular task of government.

4.4.1 Harm reduction as forms of bio-power

Several scholars have analyzed the emergence of harm reduction policies as being in coherence with a broader shift in power as 'advanced liberal' governmentality, and, more specifically, as 'advanced liberal' bio-politics.

Harm reduction is dependant on a *specific knowledge* which focuses on distribution of harm in the population as an aggregation of individual risk factors (Rhodes 2009), where epidemiology has played an important role in measuring the 'truth' about risk distribution in the population and at-risk sub-groups and categories of individuals (Moore 2004). "Harm reduction discourses act as forms of 'bio-power' in the social regulation of danger emanating from drug use and drug users" (Rhodes 2009: 197). It is also argued that the emergence of harm reduction coincided both conceptually and historically with the 'new' public health movement, claimed to embrace a broader concept of health than the bio-medical perspective, in that it brought in social and environmental influences on health through ecological approaches (Rhodes 2002 and 2009, Bunton 2001, Moore 2004). The five principles of the new public health movement, which were embraced by the WHO, underlines the notion of a shift towards health being the responsibility of the individual and local communities with the role of the state being reduced to a facilitator:

> "The five principles are: developing individual and social skills; re-orienting health services towards improving access, availability and use; facilitating and strengthening community participation and collective action; creating local environments that are conductive to individual and community health; and, lastly, creating public policies supportive of health" (WHO 1986 in Rhodes 2002: 85).

Rhodes goes on to argue that these principles are identical to those of effective harm reduction, which include "...responses which are *rapid* and *pragmatic*, *community-based* and *community-level*, and which develop *user-friendly* and low *threshold services*" (Rhodes 2002: 86, emphasis in original).

Furthermore, these 'harm reduction-governmentality scholars' criticize harm reduction for its different constructions of the drug user as a bio-political object or subject. In his ethnographic study Bourgois (2000) focuses upon the *disciplining* features of methadone treatment, making it an exceptional bio-political project of social control and moral discipline; creating docile, socially conform and self-controlled bodies of patients that are, if not made economically productive, at least pacified, controlled and managed, and no longer engaging in criminal activities and risky injection practices. Rhodes (2002, 2009), Moore (2004) and Bunton

(2001) rather focus upon the wider discourse of harm reduction as 'new' public health, and its individualized focus on behavioral change despite its rhetoric, constructing drug users as rational decision-making individuals capable of calculable risk-avoidance. Harm reduction interventions, such as overdose prevention programs, are in this manner seen as 'technologies of the body' based upon an expert power/knowledge, targeting the behavior of injecting drug users through recommendations of risk-avoidance practices by means of peer-based education and health promotion (Moore 2004). This is specifically evident in the HIV-prevention discourse which views drug users more as 'health consumers' than addicts, implying a shift in discourse that Rhodes (2002) identifies to have found place in England in the 1980s. Harm reduction thus implies a kind of 'risk thinking' which Rose defines as "family of ways of thinking and acting, involving calculations about probable futures in the present followed by interventions into the present in order to control that potential future" (2001: 7). Harm reduction involves identifying risks related to drug use in order to manage and reduce them, with the goal of enhanced present and future health and well-being of drug users and communities. However, those drug users failing to act responsibly, changing their risky injecting practices, will be labeled as 'chaotic' in the individualized risk discourse (Moore 2004: 1554).

Through focusing on 'risk factors'[62] and assuming their individual, rational avoidance, Rhodes (2002, 2009) and Moore (2004) claim that many harm reduction interventions will only be partly successful in reducing harm as they fail to take different social, cultural, economic, legal, policy and political contexts into account. Rhodes thus introduces the notion of *'risk environment'* which he defines as "a space – whether social or physical – in which a variety of factors interact to intersect and increase the chances of drug related harm" (Rhodes 2002: 88). A risk environment consist of both *micro level aspects*, such as social norms, rules, values, social relationships and networks, peer group and social influence, immediate social setting and local neighbourhood context, whereas *macro level aspects* include public and legal context such as economic, gender and ethnic inequalities, cultural organization of risk and harm and the 'political economy' of health (Rhodes 2002: 89). Through taking these aspects into account, it is possible to create *'enabling environments'* for harm reduction

[62] For example Moore identifies these statistically evidence-based risk factors to be focused upon in the overdose prevention program in Melbourne where he did his ethnographic field work, where risk reduction advices focused on avoiding these factors: "i) mixing heroin with nervous system suppressants (…); ii) being out of drug treatment; iii) using the drug under the conditions of changed tolerance (…); iv) using heroin by oneself; v) failing to call for assistance with an overdose of fear of arrest or because of lack of knowledge (2004: 1549).

interventions (Rhodes 2002). This conceptual framework is drawn upon by Ezard (2001) in her notion of the 'vulnerability paradigm' examined in section 4.2. As I will show in chapter 6, this framework is also specifically significant for the relation between drug policy and human rights.

Moore (2004) is very aware that such a conceptual framework can be seen as just another form of governmentality. Nevertheless, he claims that "…this should not prevent those of us working at the intersection of social science and drug policy from developing alternative frameworks that might produce less social suffering" (Moore 2004: 1555). Thus, the notion of 'risk environment' is meant as "…a social science for harm reduction which first acts to reduce social suffering" (Rhodes 2009: 199), and which serves as a bridge-builder between "an anthropology *of* drug use and drug policy, and an anthropology *for* drug policy" (Moore 2001: 1555).

Bourgois' study of methadone treatment has, however, a somehow different focus of critique, although he too draws the conclusion that the omnipresence of bio-power can not lead us to be practically paralyzed. His critique is not a 'harm reduction movement's critique of itself', which is how I perceive Moore's and Rhodes' critiques, but it is rather directed against federally supported, private methadone clinics in the U.S., which explicitly rely on medical expert knowledge and which completely dismiss the drug users' lived experience, social context and *their opinion* about their own treatment (a critique that could just as well be posed *by* the movement). It is a critique of expert discourses and practices which have grown out of one specific harm reduction intervention and its extensive (and particularly medical) evidence-base – a discourse which is disconnected from the principles and philosophy of harm reduction. Methadone treatment is maybe the one harm reduction intervention that has been most broadly accepted, next to needle exchange programs, by government officials around the world. Bourgois' account of its features of social and moral control and its functionality in maintaining and securing social order (Bunton 2001) might just contribute to explaining why.

4.4.2 The rationality and logics of harm reduction

Following the argumentation of Rhodes (2002,2009), Moore (2004) and Bunton (2001) the rationalities and logics implicated in harm reduction policies and practices are just in line with those of 'advanced liberal' bio-politics and the political rationalities of 'risk management' –

rationalities which are already underpinning a range of other policy areas. Still, for the movement the *humanistic values* are at the core of these practices.

The humanistic values cannot, however, be seen as a distinctive rationality next to the rationality of 'risk management'. Rather, values are "…attached to and assembled with various technologies and techniques of government" (Dean 1999: 34). Values form part in 'regimes of practices' and 'mentalities of government' which means that practices could not be merely seen as expressions of values (Ibid.). The values and philosophy (examined in section 4.1.) could, in line with the argumentation above, be seen as individually and liberally centered; with a focus on the rights of the individual drug user, their autonomy and freedom to make their own choices and to participate in decision-making concerning their own lives. Out of principles of solidarity and humanism drug users should be helped – but in a manner which respects their autonomy – they must be helped on their own premises[63]. Neumann & Sending note that the international sphere is being transformed by virtue of liberally oriented norms such as human rights, democracy and market economy (2010: 10). This account might show how such (similar) norms are also promoted by the movement in the field of drug policy.

The field of drug policy has, however, been dominated by a discourse of zero-tolerance, which implies a different set of values. MacCoun & Reuter note that prohibition often has been justified in terms of 'legal moralism' where drugs are regarded as 'mala in se' (evil in themselves) and drug use as an intrinsically immoral activity[64] (2001: 65). Prohibition has also been enforced on *paternalistic* grounds; not only for protecting the population against evil (or external and internal threats), but also to protect the individual from harming himself. This is a kind of thinking which could be seen to be in line with older forms of bio-politics, which sought to enframe the whole population within 'apparatuses of security' from cradle to grave, with a larger proportion of 'pastoral power'.

However, it may also be that although the legal justifications of zero-tolerance are framed in (old) terms of 'protecting the population', the practices serve to create the 'advanced liberal' dichotomy of inclusion and exclusion, where the subjective inability or lack of self-

[63] As we will see in chapter 6, the values implicated in harm reduction practices highly resemble those institutionalized in the human rights paradigm.

[64] One could also say that in Durkheimian terms prohibition would serve the purpose of demarking and maintaining the moral boundaries of society, and thus the 'conscience collective'.

government is framed in terms of immorality. Those who cannot or will not subject to what Rose calls the 'new morality' of appropriate conduct are excluded, criminalized and 'governed through crime' (Rose 2000: 336). Drug users are regarded as individuals who cannot govern themselves in a responsible manner, unable or unwilling to manage their own risk. Following Rose, they are excluded, and thus subject to two kinds of control strategies; 1) strategies of reaffiliation, which seek to responsibilize the individual (or community) through the principle of activity and empowerment, bringing them back to the circuits of inclusion or 2) for those who are deemed impossible to reaffiliate, strategies of management or neutralization are invoked (like for instance incarceration, preventive detention, custodial institutions etc.) (2000: 330). The governing of drug users through crime is also particularly accelerated through the penal populist discourses of being 'tough on crime' as well as the rhetoric of the 'war on drugs' (Rose 2000).

The humanistic values of acceptance and respect for autonomous choices could be said to be elements of opposition to a punitive drug political discourse, although Hunt (2003) notes that harm reduction in itself is neutral to the legality of drugs. The harm reduction movement is also contesting both the boundaries of the circuits of inclusion and the 'new morality' based on ability or will to self-control. Values and morality lies at the heart of the movement, but central to these values is inclusion of any human being regardless of their ability or will to self-government. Still, however, the movement also claims that drug users are capable (and willing) of their own risk-management if assisted or if given the individual, social and structural opportunities for such risk-management. But self-government should not be a condition for being included into society or for having ones rights and autonomy respected.

There are reasons to believe that there are certain aspects of the rationality and logics of harm reduction that more easily appeals to policy-makers and translates into official policy discourse than others. Besides humanistic values, Hunt claims that harm reduction is underpinned by the principles of pragmatism, focus on harms, balancing costs and benefits and the priority of immediate goals (CCSA 1996 in Hunt 2003: 3-4). Such principles could easily appeal to (and as I have argued, it is a part of) an 'economic rationality' of government.

However, whereas the harm reduction movement promotes harm reduction measures because of their humanistic values to help people that are suffering from harms, politicians might accept the initiation of these measures for different reasons.

Dirk Schäffer claims that one successful outcome of the German harm reduction movement is that the politicians accepted the initiation of safe injection rooms. However, their acceptance was rooted in different reasons than of the movement:

"*I don't know if that changed their view really, but they look that the cities are clean. And when it is important to have a safe injection room that the city is clean […] And that is their main goal, it is not from the personal human perspective, it is from a political perspective. They didn't totally change their view, but what happens is that they accept that things work that they don't like. But the things work and that changed in Germany and that is a main thing. It is not that important that something change in their heads, their view. It would be good, but it's not that an important thing. In my view*" (Dirk Schäffer, Deutsche AIDS-Hilfe, JES, interview).

The safe injection room is thus accepted by the politicians because it would make the city 'look clean'; it manages the problem of public nuisance. Another argument that could appeal to the politicians is that safe injection rooms would (cost-effectively) reduce the prevalence of morbidity and mortality among injecting drug users, which saves economic costs for treatment etc. in other parts of the health system.

The bio-political perspective could also help to explain why the harm reduction argument about reducing the prevalence of HIV in the population, more than any other argument for harm reduction, has had such a great resonance within political structures such as European states and international institutions such as the EU, the WHO and the UNAIDS. One could say that the *medicalization* of the drug problem to make it a *public health issue* together with the *securitization* of the HIV epidemic, which has made HIV being regarded as a larger risk to security than drug use per se, has legitimized harm reduction as a bio-political project.

It might also help explaining why the argumentation in Mexico, where drug use is not that directly or obviously connected to the HIV-prevalence in the population, does not have a similar resonance within the government. As Aram Barra says, politicizing the philosophy of harm reduction in Mexico might be a bad strategy. The Mexican government is also primarily concerned with reducing a very different risk, namely the major risk of organized crime, rather than that of health harms to drug users.

Although the humanistic values which the movement advocates might not be that easily translated into official policy discourse as the more 'economic rational' principles of cost-

effective risk management, the movement's devotion to humanistic values might make them particularly responsible partners to which the task of taking care of the health and welfare of drug users can be outsourced.

4.4.3 Governing through harm reduction NGOs

Rose argues that due to the withdrawal of direct state interventions in health, the 'will to health' in contemporary bio-politics is managed by a variety of different actors and "…a whole range of pressure groups, campaigning organizations, self-help groups [that] have come to occupy the space of desires, anxieties, disappointments and ailments between the will to health and the experience of its absence" (2001: 6).

The harm reduction movement consists of groups focusing on political advocacy, groups focusing on doing harm reduction ground work and running interventions, and groups that do both. The German NGOs have developed from harm reduction outreach work, running treatment facilities, and engaging in grass-root advocacy, to be professionalized networks over the course of the last decades, but who also still organize harm reduction interventions (Stöver, interview). The German JES network is engaged in initiating self-help groups for active users, ex users and people in substitution treatment all over Germany, and Fixpunkt is running low threshold interventions in Berlin. Stöver (interview) tells that there have become a lot of self-help groups in Germany from the 1980s onwards, which also have affected health political decisions. The Mexican NGOs seem to go the other way around, developing as political advocacy networks and increasingly engaging in harm reduction ground work. Barra tells me that as the obtainment of information is so hard in Mexico, which makes political work difficult, Espolea is now planning to do recreational and stimulant harm reduction outreach work and HIV-prevention work on the party scene and in the gay communities in Mexico City.

It seems that Scandinavia is exceptional in the sense that local and national authorities are initiating and running harm reduction measures. My experience is that harm reduction interventions outside of Scandinavia to a large degree are initiated and run by NGOs and civil society groups themselves, funded to a varying degree by local or/and national authorities[65].

[65] This is also confirmed by Cook who writes that civil society organizations are the primary providers of HIV prevention, treatment and care in many countries (2010: 7). What funding is concerned, the EuroHRN survey for instance finds that NGOs in many Eastern European countries do not have resources to do political work as they

It might then seem that the responsibility and care for the health and well-being of drug users in many countries is outsourced to private actors, such as different civil society groups. One reason for this might be that the NGOs possess both the local knowledge and the expertise necessary to carry out this task, which the state in turn might lack. Furthermore, making use of the existing expertise could save costs in the state or municipal budget at the same time as the NGOs, which are governing by *virtue*, would see to it that their limited resources are used as efficiently as possible. It might be that the 'social' or 'welfare' states have discovered their limitations in providing for each and all – seeing that this task is impossible as there are constant, endless demands to be met (Neumann & Sending 2010: 38) – and are now seeking to free themselves from the responsibility and to 'steer and regulate' rather than 'row and provide' (Rose 2000: 324); through creating the framework but outsourcing the responsibility to non-state actors. In some countries that have been characterized as having 'progressive' drug policies, such as certain European countries and Australia, harm reduction NGOs are engaged in both forming and implementing official policy, which becomes particularly evident in this quote from the President of the Institute of Drugs in Portugal in his foreword to the European Harm Reduction Network report:

> "The multi-faceted dimension of the issue and the interaction between diverse areas of public health services (Protection Services, Education, Employment, Housing, amongst others) demand holistic approaches – and partnership. When it comes to harm reduction, civil society organizations, with their specific local knowledge and relationships with those most at risk, are often the most appropriate entities to implement these types of interventions (...) This public-social partnership (which also includes the private sector) has enabled positive results not just in relation to drug use and health harms, but across a wide range of important areas; and not just to individuals, but to communities:
>
> - A reduction in drug-related crimes, and a greater sense of security in the community
> - A reduction in discarded drug paraphernalia in the community
> - A reduction in risk behavior and the subsequent reduction in the transmission of infectious diseases – central to our public health priorities
> - Improved data quality and research on the prevalence and incidence of various infectious diseases among people who use drugs, which in turn informed programmes.

prioritize running harm reduction measures – exclusively funded by international funds (Stoicescu & Cook 2011). In Germany, however, most of the funding of the NGO run harm reduction interventions comes from local or national authorities. An exception is opioid substitution therapy that in many countries is administrated through general practitioners or state run clinics. Still, there are also many countries where NGOs are the only providers of substitution medication.

> The constant dynamic interaction between the IDT[66] and civil society organizations clearly translates into added value and gains for both sides. These gains are in turn fostering increased knowledge and understanding of drug use and related harms in Portugal (...)" (Foreword by João Castel-Branco Goulão in Stoicescu & Cook 2011: 6).

Just as Nikolas Rose (2001) argues that 'advanced liberal' bio-politics hold some fundamentally new features, among other through involving a variety of (non-state) actors as responsible 'partners', Neumann and Sending (2010) identify a change in governmental rationalities through examining the character and role of NGOs in international politics. They claim that the role of NGOs have changed from being "passive objects of government to be acted upon and into an active entity that is both and object *and* a subject of government" (Neumann & Sending 2010: 115). They paraphrase Burchell to claim that civil society is *governing by virtue* in a *'contractual implication'* where the latter means;

> "offering individuals and collectivities active involvement in action to resolve the kind of issue hitherto held to be the responsibility of authorized governmental agencies. However, the price of this involvement is that they must assume active responsibility for these activities, both for carrying them out and, of course, for their outcomes, and in doing so they are required to conduct themselves in accordance with the appropriate (or approved) model of action. This might be described as a new form of 'responsibilization' corresponding to the new forms in which the governed are encouraged, freely and rationally, to conduct themselves" (Burchell 1996 in Neumann & Sending 2010: 114-5).

Neumann & Sending argue that NGOs' goals and functions are *integral to late modern practices of governing and thinking*, and also that

> "…the self-association and political will-formation characteristic of civil society organizations do not stand in opposition to the political power of the state but are instead a central feature of its exercise: Civil society organizations are constituted as self-associating units – through 'technologies of agency' – whose political significance resides both in their capacity to convey and mobilize the preferences and concerns of individuals and communities, and in their capacity to carry out regulatory functions" (2010: 115).

The new governmental rationality implies *governing through NGOs*, which is made possible because the NGOs are themselves subjects of government.

Through a case study of international population policy Neumann & Sending (2010) identify a shift in the *character* and *role* of NGOs from the 1980s onwards, which coincides with the emergence of a new governmental rationality.

[66] Institute of Drugs and Drug Addiction (Instituto da Droga e da Toxicodependência, IDT).

Until the two last decades of the twentieth century the main role of NGOs (only *some* types of NGOs were seen as central) was to conduct research and produce and disseminate knowledge. Most notably, whereas individuals in general were seen as free and autonomous individuals, some were rather seen as objects of government whose behavioral pattern needed to be acted upon (which was particularly the case for individuals in developing countries). Through (Western) knowledge and expertise as a prerequisite for governing, NGOs would seek to change behavior of certain groups in the name of assistance to development.

From the 1980s onwards however, other *types* of non-state actors emerged; actors that claimed to *represent* certain societal groups of affected individuals and on their behalf advocate their *rights*. Individuals were no longer merely objects but also *subjects* with autonomy and rights. Central in this regard was the idea of *'implementing the user's perspective'* as "...these actors assumed identities and action-orientations in keeping with the belief that governing is most effectively pursued by enrolling actors who can ground governmental efforts in such a way as to render their content consistent with the self-identity of these individuals as autonomous actors" (Neumann & Sending 2010: 120). Neumann & Sending do note that these 'new' NGOs also came to hold key governing roles in service delivery, advocacy and expertise (2010: 119); they would be welcomed into relations with governmental agencies as partners.

The case which Neumann & Sending (2010) base this analysis on is the new 'reproductive health and rights approach' advocated by the transnational women's health movement. Still, harm reduction, and the issues of drug users' health and rights, are controversial in global policies as they collide with the zero-tolerance discourse. Although the last decades have witnessed an increased support for harm reduction and an increase in governing through harm reduction NGOs, there are still many countries which actively oppose even the *term* harm reduction.

4.5 Conclusion

In this chapter I have shown how harm reduction can be understood both as a *philosophy*, with a set of values purported as universal, and as a set of *policies* and *interventions* which are context dependant, but which nevertheless embody principles which could also be seen to have universal application.

Furthermore, I examined the development of harm reduction policies and of the harm reduction movement, and discussed reasons for the adoption of harm reduction discourse and practices into official public health policies.

Lastly, I argued that harm reduction rationalities and logics are consistent with 'advanced liberal' governmentality and bio-politics - of broader ways of thinking and acting in late modern societies, which can also partly explain the tendency towards governing through harm reduction NGOs. I also claimed that although harm reduction in itself is neutral to the legality of drugs, its values of acceptance, tolerance and respect for drug users' individual autonomy and rights, contrasts to the discourse of zero-tolerance which has dominated global drug policies.

This chapter has shown how the view of drug use as a differentiated phenomenon, and drug addiction as a social and health problem, has gained momentum in global drug policies and has become partly incorporated into official public health discourses. I have also examined the role of collective agency in these processes.

In the subsequent chapter I go on to examine what I call the global 'drug control discourse', which currently is dominated by prohibition, and inquire how the drug law reform movement goes forth to transform this discourse.

5 Drug Law Reform

In the last chapter I addressed one of the drug policy reform movement's main goals, namely the implementation of comprehensive harm reduction policies. I noted that harm reduction policies are in themselves neutral to questions regarding the legality of drugs. However, a large part of the drug policy movement is also in favor of some sort of drug law reform. This chapter will thus deal with what I call the 'drug law reform movement' although I will also, at times, refer to the drug policy reform movement as a whole on issues concerning the movement in total.

In the first section of this chapter I outline the possibilities for drug law reform. First, I present the problem construction upon which the global prohibition regime is built and go on to briefly account for the international legislative framework of the three UN drug conventions. Second, I account for the national room for maneuver under the conventions. Third, I elucidate what could be called a 'trend towards decriminalization', accounting for how drug law reforms have occurred in many countries – however, within the framework of the UN conventions. Fourth, I present propositions for de jure legalization of drugs with models of government regulation posed by one NGO in the movement.

The second section examines the movement's argumentation for drug law reform. First, I briefly present what I perceive to be the main argument of the movement, namely the harms and costs resulting from drug prohibition and its enforcement. Second, I go on to account for how drug law reforms have occurred in the cases of Mexico and Germany, as well as how my interviewees assess and argue that these changes are insufficient. This account serves to outline and clarify two other main goals of the movement, namely the 'complete' decriminalization of drug users and the introduction of the debate about alternative regulation of drugs in general and cannabis in particular.

In the third section I investigate how the drug law reform movement goes forth in influencing a change in the global drug control discourse. First, I account for how the movement tries to influence the discourse of the UN drug control organs. Second, I discuss the role of powerful allies through examining the Latin American Commission on Drugs and Democracy as well as the Global Commission on Drugs, their relation to the movement and their significance in terms of instigating change. Third, I discuss several factors that act like barriers to further

change of the drug control discourse, specifically focusing on public opinion and political benefit.

In the last section I discuss global drug control in a governmentality perspective. First, I argue that the models for de jure legalization with government regulation could be seen as a prospect for how drug control could look like if 'advanced liberal' governmental rationalities were to be at work in this task. Second, I examine the current system of drug control in a governmentality perspective – and claim that it can be seen as an 'authoritarian' form of governmentality, but also that the rationalities of current drug control agencies should be seen not as one, but as a myriad, of system-internal rationalities and logics – which are significant if barriers to change are to be investigated. Lastly, I suggest one way of how the amendment of the drug control discourse can be understood generally, and more specifically by looking at the role of the drug policy reform movement in this process. Moreover, I argue that also in the drug control institutions is there a tendency to govern through the drug policy reform movement, albeit in a different manner than in the health institutions.

5.1 How can drug law reform occur?

This section will deal with different kinds of and possibilities for drug law reform. First, the current international legal framework will be dealt with. Second, the different forms of drug law reform which the movement is advocating will be dealt with, divided into 1) decriminalization of use, possession and production of drugs under the current legal framework and 2) de jure legalization of drugs with models of government regulation.

5.1.1 The international legal framework of drug prohibition

This section shortly deals with the construction of the problem which the prohibition is meant to address as well as give a brief description of the legal framework of international drug prohibition.

The global prohibition regime is necessarily built upon a specific perception of the nature of the 'drug problem'. According to Boister prohibition is built upon the understanding of drug use as medical and social pathology (Boister 2001: 5). The *medical* harms of drug use to the user, to children and to others such as brain damage, injuries and violence as well as the *social* harms, such as welfare expenditures, crime rates, violence, joblessness and child abuse,

justify the prohibition of drugs (Ibid.). Furthermore, drugs are in themselves construed as a *moral* evil to society and mankind to be fought with all means. Said in other words the deontological position of prohibition is a 'legal moral' view (MacCoun & Reuter 2001: 4). Christie & Bruun (1968, 2003) note that whereas for alcohol problems the general view is that certain individuals are predisposed for developing problems, for so called narcotic drugs it is the drug itself that is identified as the danger and the problem.

The 'drug problem' has been defined in terms of supply and demand. However, many note that the 'threat of drugs' has been fought mainly through *supply* reduction (Boister 2001, Sinha 2001, Barrett et al. 2008, Foucault 2008), which is also the reason for the *internationalization* of drug prohibition[67] (Boister 2001: 4). Subsequently the three UN drug conventions which constitute the international legal framework of drug prohibition will be briefly accounted for.

1) *The Single Convention on Narcotic Drugs of 1961* (with *Protocol Amending the Single Convention on Narcotic Drugs of 1972)* gathered and replaced all earlier international agreements regulating drugs[68] . It was created "as a universal system to control cultivation, production, manufacture, export, import, distribution of, trade in, use and possession of illicit substances" (Jelsma 2004b: 6). It specifically prohibits the plant-based substances; opium/heroin, coca/cocaine and cannabis; which it schedules in four schedules according to varying degrees of control (Ibid.). The preamble of the Single Convention outlines the objective of the convention, which is to protect the "health and welfare of mankind". Furthermore, the States Parties must recognize that "addiction to narcotic drugs constitutes a serious evil for the individual and is fraught with social and economic danger to mankind", thus their duty is to "prevent and combat this evil" through "co-ordinated and universal action".

2) *The Convention on Psychotropic Substances of 1971* was created primarily as an answer to the concern about a rise in the use of synthetic drugs, such as amphetamines, ecstasy, LSD

[67] Boister notes that: "Given that supply follows demand, it would seem logical for the international system to address the reasons why people take drugs. The difficulty is that, other than the rather blunt step of criminalizing use and possession, using the criminal law against drugs offers few effective options for dealing with demand" (2001: 4-5)

[68] International drug control started with the recommendations from the Shanghai Conference in 1909 to gradually expand to control more substances and activities related to the drug trade. Numerous agreements, treaties and conventions predate the three UN drug conventions. On a detailed account, see UNODC 2009.

and illegal use of benzodiazepines, which it also distributes into four schedules[69]. Jelsma notes that "[a]n important purpose of the first two treaties is to codify internationally applicable control measures in order to ensure the availability of drugs for medical and scientific purposes, while preventing their diversion into illicit channels" (2004b: 6).

3) *The Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988* is specifically concerned with the trafficking in illegal drugs. It thus creates provisions against money laundering, diversion of precursor chemicals and agreements on mutual legal assistance (Jelsma 2004b: 6). It also goes further than the other treaties in obliging States Parties to impose penal sanctions for production, trafficking and possession (Ibid.).

5.1.2 Decriminalization

In the current legal framework of the three UN conventions a certain room for maneuver is permitted, however, almost exclusively on the demand side. First, this space for national autonomy will be accounted for briefly in relation to 1) production and 2) consumption. Second, I will deal with how countries increasingly have taken advantage of this room for maneuver to change their domestic drug control, especially in relation to drug use. The latter will be framed in the terms of a 'trend towards decriminalization'.

Room for maneuver under the UN Drug Conventions

The 1988 Convention leaves little room for maneuver on the production side other than production for scientific and medical purposes (Jelsma 2004b). There is, however, a reference to the fundamental right of indigenous people to traditional consumption[70], although Jelsma states that "[i]t is doubtful, however, whether the ambiguously defined exception offers any production-side room for maneuver beyond cultivation for personal traditional use" (Jelsma 2004b: 13).

On the consumption-side the conventions leave more space for national interpretation, although this space is limited (Jelsma 2004b: 12). In addition to legality of drug activities for medical and scientific purposes, the signatory states are not obliged to criminalize drug use

[69] Jelsma notes that: "Compared to the tight controls over plant-based drugs, the 1971 treaty imposes a weaker control structure because of the overwhelming influence of European and North American pharmaceutical interests throughout the negotiations" (2004b: 6).
[70] This reference was included after lobbying by Peru and Bolivia (Jelsma 2004b).

per se. Furthermore, the acts under paragraph 2 in Article 3 of the 1988 Convention; possession, purchase, or cultivation of narcotic drugs or psychotropic substances, are subject to constitutional principles, which thus leaves "...a range of legal options with regard to how they [countries] treat preparatory acts for personal consumption" (Jelsma 2004b: 12). Although the conventions oblige the signatory states to impose penal sanctions, they do not require *imprisonment* to be imposed on drug users (Jelsma 2008).

A 'trend towards decriminalization'

This room for maneuver or 'loopholes' under the UN conventions has allowed for certain differentiation in domestic drug control strategies, although the conventions also oblige signatory states to loyal enforcement. How countries have used this space of autonomy will be briefly accounted for in this section.

How the conventions have been implemented into national criminal laws varies widely. As most countries impose serious punishment for drug offences regarded as grave, such as trafficking, there is more variation in relation to personal consumption and preparatory acts for personal consumption. Some countries have never criminalized drug use per se as they have found it to be unconstitutional[71], although they might have punitive reactions for preparatory acts which in reality criminalizes the drug user as the ability to consume a drug necessarily requires the acts of purchase and possession (Böllinger 2001).

Jelsma (2009) identifies five emerging trends in global drug policies (meaning: in *national* drug policies across the world), namely in relation to: 1) *decriminalization of drug users* (which will be examined more thoroughly under); 2) *alternatives to incarceration*, implying increased use of drug courts and 'treatment instead of punishment' as well as focus on innovative resocialization strategies in order to decrease drug-related crime; 3) *proportionality of sentences*, entailing a trend towards harsher penalties and minimum sentences as well as an increase in capital punishment for drug offences on the one hand, albeit a trend towards differentiation between use, micro-trade, transport/courier and mid-level trading and organized trafficking (especially implying differentiation between user/trafficker); in sentencing and jurisprudence on the other hand 4) *harm reduction*, witnessing an expansion in harm reduction strategies and interventions world wide as well as

[71] As is the case of Germany.

an increased acceptance of such measures (in some countries this necessarily has implied a change in national laws to allow for such measures); and 5) *reclassification of substances*, denoting a differentiation between cannabis and other drugs in legislation or/and prosecutorial guidelines, treating the first much less severely.

Decriminalization of drug users through decriminalization of drug consumption and/or absolving drug users from arrest and prosecution for preparatory acts like acquisition, simple possession or cultivation for personal use has occurred in many countries[72]. This has mainly happened in order to lighten the pressure on law enforcement agencies and the penitentiary system, which in most countries have been overcrowded, partly due to harsh enforcement of drug laws (Jelsma 2009). This trend towards softening the criminal control of drug users have primarily taken place in European countries as well as Australia and some states in the United States, and is lately gaining momentum in Latin America. These countries are thus focusing on the distinction between possession for *personal consumption* and possession with *intent to supply*, where the first would lead to either no prosecution or to administrative sanctions, while the latter would lead to prosecution and punishment (Ibid.). The way in which this is determined also varies. While some countries set quantity thresholds, other leaves the determination to the discretion of the judge or the prosecutor in each specific case, following certain guiding principles and criteria (Ibid). For examples of quantity thresholds and national practices, see Appendix 9.3.

Böllinger claims that the trend towards decriminalization in Europe can be divided into three models: 1) formal procedural law decriminalization[73], 2) de facto and informal practices of not enforcing law[74] and 3) substantive law decriminalization[75] (Böllinger 2004: 499).

There is also what might be called a 'trend' in Latin America of Supreme Courts trying the constitutionality of the criminalization of drug possession, which in the case of Argentina was

[72] MacCoun & Reuter (2001) insist that these legal changes should rather be called 'depenalization' as these actions are still illegal, the change being that the penal sanctions are removed. I will, however, use the term decriminalization as this is the term used by the authors I refer to in this section.

[73] Procedural law decriminalization refers to the altering of procedural criminal laws and diminishing punishment for obtaining and possessing small amounts for personal use (Böllinger 2004: 499).

[74] Refers to the informal decriminalization of small amounts of illicit drugs possessed in certain situations, mainly through the police abstaining from proactively or reactively responding to these incidents regardless of their liability to do so (Böllinger 2004: 499).

[75] Refers to abolishment of punishment for obtaining, producing and possessing small amounts of drugs from substantive criminal law, as has happened in Spain, Belgium, Italy and the U.K. (Böllinger 2004: 499). However, abolishment of punishment in such cases from criminal law does not rule out the possibility of administrative, civil sanctions, which often replace criminal sanctions (Dorn 2001).

found unconstitutional. Bolivia has recently withdrawn from the Single Convention due to the unconstitutionality of the coca leaf ban. This theme will be further examined in the next chapter.

States are also increasingly allowing for *medical marijuana*, where the most prominent cases have been thirteen American states allowing for medical marijuana in their jurisdictions despite the Federal U.S. government listing marijuana as a schedule I substance.

Most of the law changes mentioned above have occurred the last decades, which I argue could be called a 'trend towards decriminalization'. However, all these changes have been made within the legal framework of the three UN Drug Conventions, utilizing loopholes and national room for maneuver (except for the case of Bolivia). Thus the global prohibition regime, which the conventions constitute, is still standing firm.

Rolles claim that the UN conventions are taken for granted, but that it does not necessarily have to be so:

> "Yet prohibition has become so entrenched and institutionalized that many in the drugs field, even those from the more critical progressive end of the spectrum, view it as immutable, an assumed reality of the legal and policy landscape to be worked within or around, rather than as a policy choice" (Rolles 2011: 60).

Rolles thus tries to draw attention to the fact that "[l]aws – and even the international Conventions – are not written in stone; they can be changed when the democratic will of the nations so wishes it" (World Drug Report 1997 in Jelsma 2004b: 1).

This section has examined different forms of 'decriminalization' strategies possible within the current juridical framework of the three UN drug Conventions. The next section will examine how drug control could look like in the case of total amendment or abolition of the current prohibition regime and punitive legal framework; through de jure legalization of drugs.

5.1.3 De jure legalization of drugs with models of government regulation

This section deals with legalization of drugs, implying at least total amendment of the three UN Drug Conventions. As I will show, the position taken by 'legalizers' does not imply a totally unregulated drug market, but rather an alternative regulative legal framework *other*

than criminal law[76]. In this regard I will draw on Stephen Rolles "After the War on Drugs: Blueprint for Regulation" (2009)[77], which some of my interviewees from both Mexico and Germany claim that they use as a model and tool for their advocacy.

Although it is impossible to assess how a completely different scenario of drug regulation would look like, I will argue that the publication "Blueprint for Regulation" (Rolles 2009) to a large degree changes the terms of the debate as it offers a tangible and detailed proposal for how different aspects of the drug market – from production to consumption – should be regulated and dealt with.

The book suggests five main models for legal regulation of drugs, which it assesses in detail, in a continuum between the poles of harshly enforced prohibition and unregulated, free markets. These are presented from strong to low degree of state regulation, through exploring all options for…

> "…controls over aspects of production/supply, availability, and use. This includes control over products (dosage, preparation, price, and packaging); vendors (licensing, vetting and training requirements, marketing and promotions); outlets (location, outlet density appearance); where and when the drugs can be consumed and; […] who has access to the legally regulated availability including age controls, along with explorations of licensed buyer and club membership across models" (Rolles 2011: 63).

The models in the book are based on experiences from legal regulation of tobacco and alcohol as well as controls over pharmaceutical drugs. Rolles (2009) suggests that the transition from prohibition to regulation of drugs should be slow and closely monitored and continuously evaluated by researchers, while potential new challenges should be dealt with consecutively. He recommends a first step in the transition process to be the strongest regulated model (an expansion of the pharmaceutical control of today), while a gradual liberalization of controls could occur regarding the less risky products, following a 'risk-availability gradient' (Rolles 2011: 64). This, he claims, would encourage a move towards safer products, behaviors and using environments (Ibid.). Rolles' proposal of regulation models will be examined and discussed more thoroughly in the last section of this chapter.

[76] To date, I have not met any member of the drug law reform movement who advocates a total abolition of any regulative framework of drug markets.
[77] A publication of the British NGO Transform Drug Policy Foundation.

5.1.4 Concluding remarks

In this section I have presented 1) the current legal framework of drug prohibition, 2) decriminalization under the current legal framework, and 3) legalization with alternative regulative frameworks. The two latter are main goals of the drug law reform movement. My experience is that while parts of the drug law reform movement advocate decriminalization, other parts advocate legalization, a large part also advocate both, although with shifting emphasis. Still, I have chosen to unite these positions and goals under the umbrella of 'drug law reform movement'. This is because I perceive the boundaries between the positions to be somehow blurred, as the aspect of primary importance to the movement seems to be that there is a change in discourse and drug law reform *at all*[78]. In the following section, the reasons why the movement advocates drug law reform will be examined.

5.2 Why is the movement advocating drug law reform?

This section first examines what I perceive to be the main argument for drug law reform posed by the drug law reform movement, namely that the global prohibition regime has not only failed in reaching its goals of creating a drug free world, but also that it *creates more harms than it stems*, in section 5.2.1. Second, I examine the cases of Germany and Mexico, where drug law reforms have occurred, and show how my interviewees argue that these changes are insufficient, in section 5.2.2. This account also serves to outline how decriminalization should look like according to the movement, as well as to outline the goal of introducing the debate about alternative drug control.

5.2.1 The harms and costs of drug prohibition

MacCoun & Reuter (2001) call such a position a 'consequentialist' position which emphasizes a utilitarian model of regulation that leads to the best total consequences for both drug users and society as a whole. Another type of argument for drug law reform can emanate from a 'deontological liberal' position emphasizing the inherent freedom of the individual to hurt oneself. The latter position will rather be examined in the subsequent chapter, in relation to the argumentation for civil and human rights.

[78] My experience is that the positions of decriminalization versus legalization do not seem to be an aspect of dispute within the movement, which seems to share a common philosophical platform. The positions could rather be viewed as acceptable differences in opinion and preference. As I will show in the last section of this chapter, the goal advocated can also be part of strategic advocacy rather than personal opinion.

The last chapter examined harms stemming from drug use, or rather drug-related harms and risks as well as vulnerability for such harms and risks, following three levels; individual, community and structural level (Ezard 2001). This chapter will rather deal with the harms created by *prohibition* by the *enforcement* of prohibition[79]. Following Ezard (2011) I will present examples of the harms and risks stemming from prohibition and law enforcement on three levels; individual, community and societal/structural level. The examples will be based on my interviews as well as literature written by my interviewees.

At the *individual level* incarceration and punishment of drug users (mostly cannabis users) leads to *harms* such as bad relationship with parents, teachers and disadvantages in the labor market (Stöver, interview) as well as low self-esteem as result of stigma. Fear of arrest and criminal sanctions (due to law enforcement stressing of drug scenes and police presence near harm reduction interventions) can also lead to *risks*, such as risky individual modes of use, which enhances the chance of infection with life threatening diseases and overdose (Schäffer, interview).

At the *community level* fear of arrest and criminal sanctions creates barriers for access to health services (Barra & Joloy 2011, Schäffer, interview), leading to *risky* patterns of drug user behavior. Fear of arrest and criminal sanctions also lead drug dealers to develop different strategies to omit arrest - that are *harmful* to third parties. For example drug dealers in Berlin send their little brothers under 14 years of age to sell drugs for them, as they cannot be punished (Schäffer, interview). In Mexico the violence resulting from law enforcement efforts to stem up drug cartels leads to breakdown in families and communities (Barra & Joloy 2011).

At the *structural level* prohibition and law enforcement has led to massive incarceration rates, primarily of drug users and small scale dealers as well as blurred the boundaries between drug policy and security policy (Barra, interview). This has created overcrowded prison conditions in many countries – leading prisons to be hotbeds for the spread of HIV and other diseases as prisons often are reluctant to implement harm reduction interventions such as needle exchange or substitution treatment (Stöver, interview). The massive levels of violence experienced in among other Mexico due to powerful criminal organizations as well as militarization and law enforcement efforts to stem drug cartels has *damaged* the social,

[79] For an extensive discussion following a typology of drug-related, prohibition-related or law enforcement-related harms, see MacCoun & Reuter 2001: 102ff.

educational, health and political infrastructure of the country (Barra & Joloy 2011). Stigmatization and marginalization of drug users due to prohibition leads to the *risk* of making drug users easy victims for structural violence and human rights abuses (Barra & Joloy 2011).

The above mentioned harms and risks are merely some examples of the over all harms and risks stemming from prohibition and law enforcement. According to transnational drug law reform campaign 'Count the Costs'[80] the harms and risks stemming from the global prohibition regime constitute seven main areas of global problems, as it 1) undermines development and security and fuels conflict, 2) threatens public health and spreads disease and death, 3) undermines human rights , 4) promotes stigma and discrimination, 5) creates crime and enriches criminals, 6) leads to deforestation and pollution and 7) wastes billions on drug laws and enforcement[81].

Thus, the negative consequences of the global drug prohibition regime affect a number of policy areas, such as development policy, security policy, international relations, public health, international law, social policy, criminal policy, environmental policy and economic policy.

A large part of the advocacy work of the drug law reform movement involves documenting these harms and make them known both to policy-makers and to the general public. As I will show in the subsequent chapter, many of these harms are also increasingly framed in terms of human rights abuses. According to ENCOD[82] president Frederik Polak, the UN has officially acknowledged these harms as what they call 'unintended consequences of prohibition', and he goes on to ask: "How long will they remain unintended?" (2012).

This section has attempted to give a broad and brief overview over the harms and risks resulting from the global prohibition regime and its enforcement. The purpose of this section was not to present an exhaustive list of harms, which would be too extensive for the scope of this thesis, but rather to outline the contours of the main argument for drug law change.

[80] This is a campaign supported by more than 50 national and international NGOs across the globe, some of which are the NGOs of my interviewees.
[81] http://www.countthecosts.org/
[82] The European Coalition for Just and Effective Drug Policies.

The next section could be seen as an example of the drug political complexity through examining two cases of countries that have gone through drug law changes or procedural changes in direction of decriminalization. Through drawing on the critiques of my interviewees, I show how these changes are claimed to be insufficient.

5.2.2 Insufficient drug law change

In the last section I presented some examples of harms and risks stemming from prohibition and law enforcement based on my interviews and literature written by my interviewees. However, both Germany and Mexico are countries that have gone through drug law change and/or procedural change in relation to drugs – which by some has been called 'decriminalization'. In this section I will present these changes and account for how my interviewees argue that these changes are insufficient.

The case of Mexico

Mexico passed a new drug law in 2009, the so called 'Ley de Narcomenudeo', proposed by the president Felipe Calderón. The law distinguishes between drug use, small scale dealing or 'narcomenudeo', and large scale drug trafficking. The law establishes quantity thresholds (see appendix 9.3) which are allowed to possess. However, consumption, purchase and sale remain illegal (Barra 2010: 12). A person carrying the allowed quantity will still be detained and presented before a judge, which will determine whether the detainee has a problematic use, and thus will be directed to treatment, or if he does not have a problematic use, which in case will leave him with a warning (Barra 2010). However, if caught three times the detainee will have a choice between 'voluntary' treatment or a criminal sanction (Ibid.).

Jorge Hernández Tinajero (interview) is positive to the differentiation between use and trafficking and claims that this constitutes an acknowledgement that drug use is a matter of public health, and at least a starting point for a differentiated policy, although CUPIHD criticizes the quantity thresholds for being too low (Luís Astorga, interview). Aram Barra (interview) is, however, more critical when assessing that the differentiation between user and trafficker is either constructing the drug user as a criminal or as an addict in need of treatment, ignoring all other facets of differentiation, such as reason for use, mode of use, context etc. Furthermore, it pushes all drug users into these categories, and thus the same healthcare system, which does also not have the infrastructure or capacity for receiving all the detainees

sentenced to treatment nor a system for securing quality of treatment. Barra (interview) draws on WHO-guidelines based on research and best-practices when claiming that forced treatment is not working and that the relapse probability is very high. This, he says, was taken into account when creating the law that thus creates an artificial 'choice' between treatment and prison. As noted in the previous chapter, Espolea and CUPIHD tried to monitor and evaluate the new system but were denied access to information both by the judicial system and by the healthcare system. Barra (interview) points out that the reason behind the Narcomenudeo was not to create a health oriented drug policy but rather a response to a demand to the president that 'something had to be done' at the same time as it allowed for law enforcement recourses to be relocated towards dealing and trafficking, setting minimum sentences for the latter and facilitating extradition of prisoners to the U.S.

Both Jorge Hérnandez Tinajero and Aram Barra highlight that they are fighting for Mexico to have a (health based) drug policy, which is something that the country has not had. They assess that the president is fighting a rhetorical war on drug, which in reality is not a war on *drugs*, but a war on *organized crime*. Barra claims that there is a need to separate between drug policy and security policy as two distinct policy issues:

"*And this is often at times in the media you see for instance politicians or analysts saying: If we legalized drugs, what sort of impact would that have in organized crime. And there is numbers that I don't know how people gathered, but there is quite a few numbers saying that we would cut this much money going into organized crime...it's not enough. So, I think we need to split that discussion. If we're attacking organized crime, then let's attack organized crime, which is something that Calderón hasn't done [...] If we're going to talk about drugs, then let's talk about drugs. The problem is that Calderón keeps on mixing those two subjects because one has the potential of becoming political, whereas the other is not very sexy. If you talk about money laundering it is really boring. We're talking about monetary policy and we're talking about bank regulations, it's not very interesting, it doesn't sell. If you want to talk about drugs, if you want to talk about the war on drugs, then that's sexy, it sells*" (Aram Barra, Espolea, interview).

The task of CUPIHD and Espolea is to introduce a debate about drug policy in Mexico that also evolves around *drug use*, taking evidence-based policies and best-practices of other countries into regard. They are introducing drug policy for the first time in Mexico as an issue in itself, and not only as a small part of security policy (Tinajero, interview).

The case of Germany

Germany is by many regarded as a lenient country in regard to drug policy, having a large emphasis on public health in relation to demand reduction (Böllinger 2004), and allowing for even controversial harm reduction measures. One major reform in German criminal law was the introduction of 'treatment instead of punishment' in 1981 for drug addicts with a sentence to less than two years of prison (Böllinger 2001, 2004). Criminalization of drug use per se has always been unconstitutional due to the inherent 'right to hurt oneself', although there is a number of *administrative* sanctions available in relation to drug users. In 1994 the German Federal Constitutional Court added a procedural option where amounts of drugs for personal consumption could be decriminalized by the state attorney through the principle of nolle prosequi or depenalized by the criminal court in cases where there is low degree of public interest and of personal guilt (Böllinger 2001: 163, Papendorf 2002). It left to the discretion of the state attorneys to decide the quantity thresholds.

Heino Stöver (interview) strongly criticizes that the discretion of the state attorneys has led to a large differentiation in quantity thresholds allowed in each of the 16 Bundesländer (German states);

"*Taken for instance when you are in Berlin, you might have six grams or ten grams even in your pocket of cannabis. Only one kilometer off, in another Bundesland, another German state, you would get taken to court for only two grams*" (Heino Stöver, Akzept, interview).

The differences in quantity thresholds are especially large between northern and southern states. This is something that Akzept scandalizes as it breaks with the constitutional principle of equality for the law. Akzept has also campaigned for heightening the quantity thresholds so that at least forty grams of cannabis should be legal in addition to allowing for home growing of cannabis (Stöver, interview).

Böllinger[83] criticizes the German 'treatment instead of punishment' approach for in reality to result in traditional punishment *plus* coerced therapy (2004: 492). He claims that a common element in forcing drug users to treatment or prescriptions, as well as the tight control of harm reduction programs (such as for instance the high thresholds for heroin dispensing programs), to constitute a move towards 'soft' control measures which extend to the core of personal

[83] Lorenz Böllinger has written extensive literature criticizing current drug policies and emphasizing the need for change.

privacy, which are legitimized by psychological diagnoses (even in cases where drug use could be defined as non-pathological), and which could "…in turn result in 'net widening' and a further loss of civil liberties"[84] (2004: 497). Elsewhere, he argues that a parallel tendency has occurred in German criminal law towards a 'risk orientation', implying a proactive distinguishing and examination of dangerous classes, sub-groups and lifestyles (Böllinger 1997: 153). A new feature of German criminal policy, the 'endangerment delicts' are "...supposed to serve a purely preventive function by threatening and exerting criminal punishment for risky behavior in defined social problem areas like political violence, weapon and drug trafficking (...)"[85] (Böllinger 1997: 154). Thus, German drug policy could be seen as moving towards a more soft control of drug users on the one hand, as well as an increasing securitization of drug supply and trafficking on the other.

Insufficient drug law changes

The cases of Germany and Mexico show how drug law changes have occurred in two very different legal, political, cultural, geographical and social contexts. It also shows that there are certain similarities in the critiques posed by the movement in the two countries. In neither case the NGOs regard the drug law changes as being sufficient.

In Mexico drug policy has, if existent at all, been merely a small part of the country's security policy. This might be in the process of changing as the NGOs are pushing for drug policy to become a policy of its own, as well as the Narcomenudeo law opening up for a differentiation between drug use and trafficking, regarding the pervious increasingly as a matter of health.

In Germany the division between drug use and trafficking has for a long time been the basis for the country's drug policy and its differentiated strategies in terms of demand and supply. However, whereas the strategies towards drug users and addicts have been criticized for a 'net widening' of soft control, the supply side policy towards drug traffickers seems to have become even more 'securitized'.

[84] Dorn (2001) notes that (so called non-criminal or quasi-criminal) administrative measures or sanctions – such as loss of driver's license, profession, restriction on movement etc. - do not necessarily have a 'softer' impact on people, and may by some even be experienced as a harsher restriction of personal freedom than criminal sanctions.

[85] Thus, Böllinger's account of the trends in German criminal law and policy strongly resembles Stanley Cohen's (1994) claim that the (American) criminal justice system has undergone a 'bifurcation' with a 'soft' and a' hard' end.

Most notably, the NGOs in Germany and Mexico criticize that drug users are not *fully* decriminalized despite a shift towards more 'soft' control. Their explicit goal is that drug use is in no regard a criminal matter neither sanctioned by criminal nor administrative sanctions. Thus, both the NGOs in Germany and Mexico emphasize that the quantity thresholds need be realistically high as to fully exclude drug users from the criminal justice system. Furthermore, 'treatment instead of punishment' constructs drug use as pathology and disease while it ignores the multifaceted dimensions of modes, contexts and reasons for use (Barra, interview), and fails to acknowledge it as also being a lifestyle (Stöver, interview) which sometimes have long historical and traditional roots (Tinajero, interview). Drug users should be offered possibilities of differential modes of treatment or information about risk-reduction, but the utilization of such measures should be left to the user's individual choice, and not be something that is coercively administered by the criminal justice system or for that matter by the health system.

Promoting a debate about alternative regulation of drugs

Apart from completely decriminalizing drug users, the movement claims that there is an urgent need to *debate* alternative modes of drug regulation and control, starting with de jure legalization and government regulation of cannabis – which is scientifically proved to be one of the least harmful drugs, alcohol included (see for example Room et al. 2008). The problem, however, is that the securitization of drugs, the interests involved in keeping it so, as well as the framing of drugs in terms of immorality, has made alternative drug regulation an impossible issue even for debate:

> "ENCOD sees international 'counter-narcotics efforts' as part of an immoral, failed and damaging international drug control apparatus that has succeeded in gaining decisive influence in international politics, by creating a global illicit drug market, and huge financial interests. Subsequently, the violence and death this market inevitably creates and the large amount of untaxed money it generates, are framed as an international threat, to create a supergovernment of a small number of war cabinets. The securitisation status excludes the consideration of other policy options and proven alternatives from being discussed seriously in the relevant drug control international organs, the same institutions and governments responsible for the one-sided, militaristic and failed drug control conventions and for their horrendously tragic consequences" (Polak 2012).

Polak thus specifically highlights the reluctance of the international drug control organs to discuss alternative regulation of drugs as a policy option. Luís Astorga (interview) assesses

that this is an outcome of international relations between states, where the U.S., alongside among other Japan, Russia and Cuba, exerts pressure on other countries as well as international organs to keep drugs as a security issue. The pressure is specifically strong towards countries that produce drugs destined for U.S. markets – countries that the U.S. perceive as a risk or as a potential risk. He goes on to note that even countries which are lenient in their domestic drug political approach, such as the Netherlands, Portugal, New Zealand and Canada, sometimes vote in favor of stricter measures in the UN General Assembly. This is because these countries form parts of political coalitions, having common policy interests with the U.S. on other policy issues. In terms of diplomacy, there is always a 'give and take'. However, Astorga (interview) claims that there has also been a rupture in the UN prohibitive consensus on certain matters, which especially occurred in the debate around the term 'harm reduction'. The U.S., Japan, Cuba and Russia demanded this term to be abolished but a coalition of European states, with among other Germany, the Netherlands and Portugal formed the counter part.

This account shows that drug policy is maybe even more complex in terms of international relations, as diplomatic efforts extend beyond merely one policy issue. The theme of drug political discussions in international relations and international organs cannot be discussed in detail here due to the scope of this thesis[86]. However, this shows that drug policy needs to be seen in relation to a landscape of international policy and power relations that extends far beyond drug policy. This account serves to outline the difficult task of the drug law reform movement in their efforts to push for changes in the global discourse on narcotic drugs.

In this section I first showed, through two case examples, how drug law change has occurred in two very different countries, and how the NGOs in these countries argue that the changes are insufficient. Second, this account served to clarify the goal of the NGOs of how a decriminalization of drug users should look like. Third, I outlined another goal of the NGOs, namely to introduce an informed debate about modes of alternative regulation of drugs domestically and in international organs. I also indicated the difficulties in this task through showing that drug policy is embedded in international power relations extending far beyond the topic of drugs.

[86] For more extensive accounts of drug political discussions and relations within UN agencies, see Jelsma (2004b), and of international relations as well as international police cooperation, see Nadelmann & Andreas (2006).

The next section will go on to examine how the drug law reform movement goes forth in its attempts to become a legitimate party to the global discourse on narcotic drugs in order to move on an informed debate about alternative drug policies in international organs.

5.3 How does the movement go forth to influence a change in the global drug control discourse?

In the previous chapter I showed how the harm reduction movement has increasingly managed to become a legitimate party in the debate about health policy domestically and internationally, especially through their professionalization and scientifically evidence-based advocacy. In international forums on health policy this is reflected among other in the support of harm reduction policies and measures by WHO, UNAIDS and the Global Fund, and by the EU at a regional level. This means that harm reduction has become, although marginal at times, a part of the global health discourse – although it has to be constantly fought for, especially in times of financial crisis. This section will, however, rather deal with the international *drug control discourse*, which also implies *other forums* of policy and law making at an international level[87].

First, I examine how the transnational movement tries to influence the discourse of the drug control organs of the UN, namely the United Nations Office on Drugs and Crime (UNODC), the UN Commission on Narcotic Drugs (CND) and (to a lesser degree) the International Narcotics Control Board (INCB), as well as what problems they encounter in this task (especially in relation to the structures that exist for civil society participation) in section 5.3.1. Secondly, I will discuss more broadly factors that might influence on the drug control discourse and at the debate, such as the emergence of the Latin American Commission on Drugs and Democracy and the Global Commission on Drug Policy as well as their relation to, and implications for, the drug law reform movement in section 5.3.2. Lastly, I discuss several hindering and tasks that the drug law reform movement encounters in their effort to open up

[87] This is partly an oversimplification. The boundaries between health and control discourse in the field of drug policy are not necessarily very clear, as the bio-political perspective also contributes to emphasize. In the EU drug strategy, and in many countries, harm reduction forms part of the control strategy of 'demand reduction'. Still, however, I will argue that the 'drugs-as-health' and 'drug control' discourses are two parallel discourses, which at times are inseparably interwoven, but at times operate quite separately and through different forums. How these discourses get increasingly intertwined is a theme of this chapter. However, it should be noted that there have been tensions between the UN health institutions such as the WHO and the UNAIDS on the one hand and the UN drug control institutions such as the CND and the INCB on the other hand, particularly about harm reduction (Jelsma 2004b).

the drug control debate, among other in relation to public opinion and to the character of political benefit in section 5.3.3.

5.3.1 Influencing the international drug control organs

This section draws heavily on my interviews in accounting for the development in civil society participation around the UN drug control organs as well as the changes in discourse which the drug law reform movement has contributed to instigate within some of these organs. An organizational chart of the UN drug control bodies is presented in appendix 9.2.

Both Mike Trace and Martin Jelsma (interviews) tell about how the UN drug control organs have been unique institutions in the UN system in the sense that they have been reluctant to allow for civil society participation – especially participation of critical NGOs. However, they both claim that there has been a change regarding civil society participation, especially around UNODC and CND, which they identity to have occurred around five years ago:

" *[...] when I left the UN in 2003*[88]*, having been somebody from a NGO background and having seen political structures from inside, I'm being pretty disgusted about how little weight they gave to expert movements, academics, civil society, organizations, NGOs, drug users. Basically the policy making culture right up until the last few years has been absolutely dismissive of that role. Whether it be national, transnational, whatever. So, one of the reasons why I got involved in this after I left the UN was the aim to build up a civil society voice in this void. Because all the expertise exists in civil society, all the power exists in the governments. Now, in that situation you should have a coming together. In the drugs field, you've not had as much of a coming together as you should have. And it's largely because of the political polarity of the issue that's been known for decades. So if you go to any government person, you still get it now, but if you go to any government policy maker, five years ago, and they say: why do we want civil society involved? Because they would ask us difficult questions about legalization and human rights, and we don't want to hear those questions. Whereas the normal response would be; Well, they are the guys with the expertise that knows what's going on out there, so we need to hear more. Well, that culture was just not there at all and it's not been there for decades. It's really changed a lot the last five years*" (Mike Trace, IDPC, interview).

[88] From 2002-2003 Mike Trace was head of demand reduction in the United Nations Office on Drugs and Crime (UNODC).

Martin Jelsma tells how the culture for civil society participation at the annual CND meetings in Vienna has changed, as more and more critical NGOs have gotten ECOSOC status[89]:

*"[…] we were one of the first NGOs from a critical perspective to start working during the Commission meetings. And there were several incidents where I was thrown out of the conference room. And that was the background why the Dutch government included me in the government delegation […] There's the official NGO Committee on narcotic drugs[90] that has also opened up. Because when we became members the Committee was dominated by quite conservative prohibitionist NGOs […] And the last five years it has developed very rapidly so now around the CNDs, there's very active civil society involvement [and] there are parallel sessions organized by NGOs […]"(*Martin Jelsma, TNI, interview).

Jelsma (interview) also tells how the movement in itself has become transnationalized, with an increased networking and cooperation across national boundaries and across regions. Now drug policy reform NGOs from all around the world participate around the annual CND meetings, including both Espolea and CUPIHD.

Mike Trace and Martin Jelsma point to the fact that the civil society participation in the drug policy field of the UN has been extremely weak compared to other fields and that the Vienna environment has been particularly hostile to NGOs questioning the status quo. As earlier noted, this difficulty can be attributed to the securitization of the drugs issue, defining it as a national threat. Such a definition delimits policy making to a restricted supra-national level, which is almost impossible to influence by civil society[91]. Although the possibilities for civil society participation around the UN drug control organs of UNODC and CND have opened up (this is not, however, the case for the INCB, a theme in the subsequent chapter), Trace notes that the structures for civil society participation are still not very strong:

[89] To be present at the meetings of the CND, NGOs have to apply for a formal NGO status to the Economic and Social Counsel of the UN (ECOSOC). However, Cook notes that CND NGO participation is restricted to NGOs with ECOSOC consultative status, which only permits them to participate as observers, and which is an unusual restriction when looking at the other functional commissions under the ECOSOC (2010: 24). Meaningful participation of NGOs at the CND has been achieved through NGO representatives becoming part of some government delegations. She also notes that although UNODC has become committed to bring in civil society in their work, such participation has often become blocked by the CND, which has to approve of this as its governing body (Ibid.).

[90] The Vienna NGO Committee

[91] "Proposal of a model for the debate about new drug policies" by Fredrik Polak, an unpublished document to a meeting in the CSF in Brussels, October 2011, which he provided me with.

"There was a big battle in the UN Commission on Narcotic Drugs two weeks ago about the extent of the role of civil society, and, so there are still a lot of countries who are still nervous about civil society in the drug sphere. In general, what was always seen as radical a few years ago is actually normal now. Civil society plays a role that UNODC, the heads of UNODC, in every speech they make say how important civil society is. They don't always follow up on that, but they say it [...] It's now normal for people in the international discourse to say civil society are crucial partners, [but] the mechanisms for civil society involvement are still not particularly strong in this field. If you look at the UNAIDS for example, civil society has a very strong role within their structures, whereas still, the drug control structures you're on the outside looking in. But, the discourse has improved an awful lot. Whether it's changed policy, I tend to the view that it has an awful lot" (Mike Trace, IDPC, interview).

Although the structures for civil society participation are still not very strong around the UN drug control organs, Trace claims that the drug policy reform movement has had an impact on policy and discourse. He points to the former Executive Director of the UNODC, Antonio Maria Costa, who amended the discourse of criminal repression in a war on drugs to saying that the problem has been *contained*[92], while at the same time recognizing drug users not only as criminals but also as patients with health problems[93]. He attributes this change to the power of ideas rather than direct confrontation:

"*So he [Antonio Maria Costa] started saying lots of things that you'd hear in this conference*[94]*. Human rights, public health principles, these people aren't criminals, that sort of thing. Why did he change? And why did the official documents of all the UN agencies change? I'd like to think, this is why I talk about the power of ideas, these were ideas that... phrases, these are phrases that you first saw coming from IHRA, coming from the drug users union, coming from IDPC. Then they were first produced and we'd send them to people like Costa, they'd be: 'oh no you're all wrong' and that sort of thing. A couple of years later we'd see our own phrases in their documents. So I would say there's a pretty direct correlation there and I do think that, not directly, say someone like me turns up to Fedotov, who now is in charge of UNODC, and say: 'I demand you to change your policy to this', it won't have any immediate impact. But this power of ideas where you just filter all these things in, and then*

[92] Meaning that the problem was at least not getting any worse.
[93] Similarly, MacCoun and Reuter claim there was a shift in the New York Times media debate on drug control in the 1990's , among other with the emergence of the position 'reformed prohibition', which called for a softer kind of prohibition with a larger emphasis on treatment and prevention (MacCoun and Reuter 2001: 45).
[94] The International Harm Reduction Conference in Beirut 3rd – 7th of April 2011.

you convince them there is a political benefit to them to use those ideas, then that's where the big impact is. And in this field, in these last five years, everything that's good that's happening in policy making at the international level, I can track back, you can absolutely track back, that I can say where concepts and ideas that were produced by NGO networks in previous years. And I don't know how they came into government discourse, but somehow they have" (Mike Trace, IDPC, interview).

Through their ideas and argumentation the drug policy reform movement has contributed to an indirect influence on the UN drug control organs, leading to a slight amendment of their discourse. The next section will deal with another kind of contribution to opening up the debate.

5.3.2 The role of powerful alliances in opening up the debate

The recent years two sensational statements has been made by groups consisting of ex-presidents, other former prominent policy-makers and famous authors from a number of different countries that have publicly called for a shift in global drug control strategies and promoted an informed debate on the issue.

In 2009 the Latin American Commission on Drugs and Democracy, consisting of Latin American ex-presidents, policy makers and authors stated that the war on drugs has not only failed in reaching its goals, but has led to enormous human and social costs in Latin America. The growth of drug cartels, guerillas and other organized crime groups has lead to unacceptable levels of violence, resulting in what they call a 'criminalization of politics and politicization of crime' as well as corruption in all levels of state apparatuses (Latin American Commission on Drugs and Democracy 2009). They propose five initiatives which could bring global drug control towards a paradigm shift; 1) *Change the status of addicts from criminals to patients, cared for by the health system*, which is mainly a call to 'demand countries' with the main aim of making patients out of buyers in an illegal market that finances organized crime; 2) *evaluate the possibility for decriminalization of possession of cannabis for personal consumption on the basis of public health and medical science,* where they claim harms are mainly caused by prohibition, leading to massive incarceration rates, and which in Latin America facilitates an extortion of users by police officials; 3) *reduce consumption through*

education, information and prevention campaigns especially targeting young people[95], calling for innovative approaches and emphasizing the individual's responsibility; 4) *redirect repressive strategies at fighting organized crime,* which are especially targeting the harmful consequences of organized crime, and; 5) *reframe the strategies of repression against cultivation of illicit drugs,* stressing the need for alternative development projects adapted to local realities to follow eradication efforts as well as to adjust cultivation to traditional, legal use of the coca leaf. Furthermore, they call for drug policy to be based on science and local participation, and for the need of alternative strategies to the 'war on drugs'.

The Global Commission on Drug Policy is a continuation and expansion of the Latin American Commission – now joint by a number of ex policy makers and ex presidents from the rest of the world including former UN Secretary-General Kofi Annan – , and it also goes much further in its proposals. Its report, "War on Drugs. Report of the Global Commission on Drug Policy" (2011), in addition encourages governments to experiment with *models of legal regulation of drugs*, especially of cannabis. It makes a differentiation between types of 'traffickers' to be repressed, emphasizing that the principles of harm reduction and decriminalization should also be applied to farmers, couriers and petty sellers. It also emphasizes that repression efforts should be directed at *reducing harms* of organized crime, not drug markets *per se*. Furthermore, it calls for a *transformation* of the global prohibition regime and a revision of the conventions – especially the substance scheduling –, emphasizing that the UN drug control system needs to act in coherence with *human rights*.

Both commission reports draw heavily on research, background papers and other literature written by the drug policy reform movement. Martin Jelsma and Mike Trace have provided background papers for the Commissions and also act like advisors for the Global Commission alongside Ethan Nadelmann and Dr. Alex Wodak, other prominent members of the

[95] In this regard the commission poses an important critique of harm reduction, stressing that this approach is emphasizing *reduction in harm*, not in *consumption rates*. It is rather the latter that is important to the Commission, as they claim a reduction in demand is needed in order to curb production and trafficking. Here they continue the same debate about responsibility for the problem which for a long time has been going on in international forums.

movement[96]. Furthermore, both reports are supported by the Open Society Foundations (OSF)[97].

Luís Astorga (interview) asserts that these Commissions form part of the international level plan of the OSF, which is probably one of the most active non-state actors in the field of global drug policy. The aim with these Commissions, he claims, is to create a voice that powerful that it needs to be heard by the U.S. government, a common feature for the Commission members being that they hold a high political *legitimacy* both in their countries and internationally. It was also strategic to start with forming the Latin American Commission, as it is common knowledge that Latin America is one of the regions in the world most affected by the 'drug war' (Astorga, interview). For instance Gaviria faced one of the hardest phases in Colombia with Pablo Escobar in his presidential period. Astorga also assesses that other politicians, such as Mexican ex-president Vicente Fox, who has also called for a shift in global drug control, could *not* form part of the Commissions as he does not hold a high legitimacy among other due to corruption scandals and populist appearances. The Commission members thus hold a high degree of legitimacy generally, but also *specifically* in relation to what they are proposing.

Aram Barra (interview) assesses that the Commissions have not yet had an impact at a political level. They have done a lot in opening up the debate and legitimizing it, but he claims

"[…] *it's not yet enough in terms of sitting down and having an informed debate […] I think the Global Commission has quite a role to play in professionalizing that debate and bringing it up, to have more arguments, to use the correct terms. And attempt to actually debate ideas without causing more harm than good*" (Aram Barra, interview).

However, Barra also claims that the Commissions highlight that it's still illegitimate for *current* politicians to talk about drug law reform - or in Barra's own terms; "*to talk outside of*

[96] Most regrettably, I did not ask about the work with the Commissions in my interview with Martin Jelsma. My interview with Mike Trace found place before the Global Commission report was issued.

[97] Open Society Foundations (OSF) was established in 1984 by 'investor and philanthropist' George Soros, and their aim is to "build vibrant and tolerant democracies whose governments are accountable to their citizens" through "shaping public policies assuring greater fairness in political, legal, and economic systems and safeguard fundamental rights", see: http://www.soros.org/about. The OSF Global Drug Policy Program (which is merely one of many OSF initiatives), established in 2008, form a very important part of the drug policy reform movement – through networking and connecting NGOs in different countries - or in Astroga's words; "gathering the whole critical mass" – but maybe most notably through being one of the *main funders* of the movement.

the box" – as there are too many interests involved, and too many connections into other policy areas on different levels. Most notably, it is not *politically beneficial* for politicians to talk about drug law reform[98].

5.3.3 Political benefit and public opinion

As emphasized by Mike Trace (interview), an important task of the drug law reform movement is to create a context where it is politically beneficial for policy-makers to use their ideas.

Barra is highlighting the problem of political benefit and suggests one strategy of overcoming this barrier:

"*So, if we want our politicians to talk about a change in drug policy, we need to help them in getting there. It need be politically cost-effective to talk about it. [...] If I was a politician today I would probably not talk about drug policy in the way in which I talk because I'm in civil society, because it wouldn't be cost-effective, nobody would vote for me. If public opinion is not there, it doesn't matter what I say. I follow the polls and I follow what people want me to say. And so we need to change that, which is why we need to work on public opinion, why we need to work with the media, why we also need to work with the politicians. [...] We're engaging with young politicians to change that*[99]*. We need to give them the tools to be able to confront the media and talk about drug policy. And so the media say: 'You're being a radical because you're talking about regulating a market'. That the politician is able to say: 'No, you're the radical, because you're denying the fact that we need to talk about it, that's what's being radical and irrational, not what I'm proposing'. And we need to give them the tools to be able to do that*" (Aram Barra, Espolea, interview).

Barra is thus pointing out the need to work with the media and the public opinion in order to make it beneficial for politicians to talk about drug policy change. According to MacCoun & Reuter one obstacle for drug law reformers is the decades-long dissemination and campaigning about the dangers of drugs, which in the case of cannabis in the U.S. takes form of "aggressive promotion of findings of adverse effects in quite limited studies" (2001: 377).

[98] Recently, however, the president of Guatemala, Otto Pérez Molina, has called for a debate about alternative drug political approaches due to the security crisis and violence in the region, which he claims current policies have been completely ineffective in reducing (Jelsma 2012).
[99] Engaging with young politicians and political youth parties is also a strategy used by the German NGOs.

Although the 'stepping stone hypothesis' has been *scientifically* refuted (MacCoun & Reuter 2001), beliefs about cannabis and other drug use as a gateway to hell for individuals and societies, leading to certain death and to an immoral pathway of life, has been internalized and are often deeply rooted in the (conscious or non-conscious) perception of the general public. My interviewees highlight the need to disseminate information about drugs that is based on *scientific evidence*. Barra points to the problem that this is a long term project which is also not personally cost-effective for politicians:

"*It's a shame in the end that there's politicians like Gaviria, like Fox, like Clinton after their power coming up and say: 'Well maybe we should try something different?' […] Well, why didn't you do it while you were in power? […]Because it's not cost-effective for me as a politician to move on a policy proposal if that's going to ruin my political career. […] In order for me to do that as a politician, I need to convince the electorate, convince society, convince people that are in your territory or in your political geographic territory that this is a good policy. And that comes again with education and information. Education and information in the long run changes preconceptions, prejudgements, cultural understanding of an issue. It's the same with gay rights, it's the same with abortion, it's the same with women's rights, it takes time, it takes full generations to change those understandings of what society should do with the problem. The problem again is that education is not cost-effective in the immediate run. You need to put a lot of money into it, and it shows only like twenty years later. And somebody else twenty years later will make the best out of that and will get all the credit and not me right now, putting budgets towards that. Still, it's the right thing to do, it's the moral thing to do. We know politicians are not necessarily moral or ethic, that's the problem, right?*" (Aram Barra, Espolea, Astrid Renland's interview).

As disseminating scientifically evidence-based information about drugs and their use to the general public is not politically cost-effective this task is often left to the movement itself. As noted by Barra, this task requires large economic and human resources, which poses specific problems for NGOs with limited funds.

MacCoun & Reuter assess that the arguments posed by 'decriminalizers' and 'legalizers' have had no effect on public opinion[100] most notably due to the *complexity* of the arguments –

[100] Still, however, the latest U.S. Gallup polls show that 50% of Americans think that marijuana should be made legal, see: http://www.gallup.com/poll/150149/Record-High-Americans-Favor-Legalizing-Marijuana.aspx [Date of last access: 30.04.2012].

which makes them hard to communicate as well as to accept for the general public (2001: 55). These arguments also require what they call 'tradeoffs among competing values' (Ibid.), especially between the very basic moral view that the public have incorporated towards drugs and the pragmatic efficiency principles and more complex consequentialist perspective which the movement is advocating. They illustrate this with an example: "If drugs are evil, how can it possibly be right to allow them to be sold in legal commerce?" (2001: 51). As prohibitionist rhetoric is simple, the rhetoric of the movement will seem counterintuitive and paradoxical from a superficial point of view; "how can permitting a socially problematic behavior lessen the problem to society?" (MacCoun and Reuter 2001: 54).

The book "Children of the Drug War" (2011) documents severe harms and human rights infringements to children across the world resulting from drug prohibition. In the introduction Damon Barrett notes that still, however, the main rhetoric of prohibitionists is to 'protect our children from drugs', which is "…unhelpful if it obscures reality" (Barrett 2011: 4). He goes on to note that: "For policy makers and politicians the simple message is useful. It is more easily understood by the general public than some of the counterintuitive, yet evidence-based responses available, such as harm reduction" (Ibid.). The complexity of the arguments for harm reduction is also pointed out by Aram Barra (interview), who claims it is sometimes problematic to reduce the arguments into a minimum so it could fit the limited space and time given by the media without the content and meaning of the messages getting lost.

MacCoun and Reuter remind us that although policy analysis tends towards consequentialist positions, most people also hold many deontological beliefs, as deontology and consequentialism refer to *arguments*, not to *people* (2001:58). They claim it is useful, then, to focus on the psychological weight that people give to arguments (Ibid.).

A weighing of arguments and evidence, as well as their systematization into general themes, academic fields, and value- and ideological backgrounds, is just what Frederik Polak (interview and briefing note) proposes in order to structure the debate about drug regulation in the Civil Society Forum on Drugs (CSF) of the EU[101]. He claims that only through structuring the debate by clarifying the background, the evidence and the psychological and scientific

[101] The EU Civil Society Forum on Drugs (CSF) was created in 2007 as a platform to exchange views and information between the European Commission and civil society organizations, meeting at least once a year. In 2011 35 organizations became members for a two year period. The aim of the CSF is to monitor the EU Drugs Action Plan and to participate in developing EU drug political frameworks. See: http://ec.europa.eu/justice/anti-drugs/civil-society/index_en.htm

content and weight of the arguments, as well as clarifying the problem perceptions and the policy objectives and goals, is it possible to make the debate *productive*[102]. Structuring the debate would make it possible to rule out specific areas of high and low levels of disagreement (such as for instance moral vs. health), which could lead to bringing opinions closer in some areas, and which subsequently could make it possible to draw conclusions in areas with low levels of disagreement. As for the current debate "[t]heoretical assumptions, moral judgements and statistical data are presented in an unstructured way"[103], which makes it hard to reach any conclusions. This proposition is, however, targeted at the CSF and aims at a professionalization and structuring of the debate among NGOs in the field of drug policy – not for the media debate or the debate in the general public. Nevertheless, it could be argued that if it would be possible to reach an agreement in certain areas in the CSF, these might easier affect the European Commission as well as creating more joint efforts of opposing NGOs in influencing public opinion.

This section has drawn on my interviews to discuss how the drug policy reform movement has managed to instigate changes in the global discourse on narcotic drugs, as well as different obstacles for further change. This discussion will be continued in the next section, where it will be seen in relation to governmental logics, practices and rationalities.

5.4 Discussion

In the previous chapter I argued that harm reduction interventions, being in consistency with neo-liberal discourses on health and the 'new' public health movement, can be seen as advanced liberal' bio-political projects with focus on risk management.

Firstly, I will show how one of the goals of the movement (or rather the goal of a part of the movement), de jure legalization of drugs with government regulation, can be seen as an extension of the logic of 'advanced liberal' bio-power and governmentality to drug control in general in section 5.4.1.

[102] He also proposes a model for how to structure the debate following a division into different phases and areas of discussion, which I unfortunately have to leave out due to the space restrictions of this thesis. However, it should be noted that the general themes of the model which should be discussed separately to reach conclusions in each field are: legal aspects, health, ethics, economics, cultural and social aspects, education and international relations.

[103] "Proposal of a model for the debate about new drug policies" by Fredrik Polak, an unpublished document to a meeting in the CSF in Brussels, October 2011, which he provided me with.

Secondly, I discuss the current drug control regime in a governmentality perspective, as 'authoritarian' forms of governmentality and as a myriad of agencies and institutions with system-internal logics, in section 5.4.2.

Lastly, I examine the role of the drug policy reform movement in amending the drug control discourse of the UN drug control organs, and suggest that also here might there be a tendency of governing through civil society organizations, which accordingly downplay their elements of opposition, in section 5.4.3.

5.4.1 'Advanced liberal' drug control

Following the argumentation in the last chapter of harm reduction as bio-politics, I will argue that the models of government regulation presented by Rolles (2009) can be seen as a prospect of how global drug control could look like if 'advanced liberal' governmental rationalities were to be at work in this task.

One important point in Rolles' ideas is that solely through an abolition of criminalization of drugs and drug activities is it possible to make use of relatively subtle mechanisms which regulate and impact on drug users' behavior. In the following, I will use some examples from Rolles' book to illustrate this, although the space limitations unfortunately force this account to be brief.

A first set of regulatory mechanisms is aimed at influencing a less risky drug user behavior – which can be seen as an extension of the 'risk management' rationality of harm reduction. Rolles notes that the most potent products of the most risky drugs, such as heroine powder, amphetamine powder, crack and powder cocaine[104], should still be object to strict control – preferably (at least initially) through prescription and pharmacy models. However, less potent products of the same drug, as well as less risky drugs, could be more available and less controlled (as for instance light coca beverages, which he compares with legal vodka Red Bull). Rolles argue that many recreational users would favor less risky and less potent products if available – as a healthy consumer choice. Thus, a large part of non-problematic (recreational, experimental and occasional) users would change their use towards less risky products and methods of use, which would also lead to less problematic behavior while

[104] Which he notes were brought about precisely due to the prohibition, which promotes high potent drugs as well as high potency consumption methods such as injecting.

intoxicated due to the potency of the drug. The users which would develop problems would be directed into medical models of drug provision or other types of therapy.

A second set of mechanisms, although also promoting the over all least risky behavior, is rather targeting the user's *accountability and knowledge*. Examples on such mechanisms are the obligation of the *supplier*[105] to provide the user with information of the drug; harm reduction advices, safer use, and treatment services in case of potentially problematic use (Rolles also suggests to make the seller co-accountable for how the drug is used), information on *product labeling* (such as contents, strength/potency, units and health and safety advices) as well as *volume sales*/*rationing controls* which would restrict excessive use. Three additional examples of mechanisms which target the accountability of the user are *licensing of users*, alternatively, or in addition, a *membership* to a specific 'users' club' (such as the Spanish Cannabis Clubs), and *order-pick up delay*. The first imply that the user would need to obtain a license, resembling a driver's license, which makes sure the user is informed about the implications of the use of the drug in order to be able to purchase the drug (Rolles 2009: 58). This, he claims, would give good opportunities for thorough education[106]. The order-pick-up delay is aimed at influencing the individual to plan his or her drug use in advance. These mechanisms all have as a goal to make the user's choice an informed one, thus making the user (and partly the supplier) accountable.

The above mentioned mechanisms can thus be divided in having two main groups of functions: 1) mechanisms which indirectly direct the (non-conscious) behavior of individuals, sub-groups and populations (i.e. patterns of use) and 2) mechanisms which make the individual informed, accountable and conscious of his or her choices.

Rolles do, however, note that there will be need for disciplinary sanctions, for instance in the case of breaking the rules of licensing systems – or a more direct and tight control over those

[105] Rolles is discussing different licensing systems; The licensing of seller as well as licensing of vending location (the pharmacy, shop, bar, which would have to obtain a license in order to sell)

[106] In their examination of legal rationality and deterrence MacCoun & Reuter note that *perceived health risks* might have more influence on the choice to use drugs than legal risks (MacCoun & Reuter 2001: 85). They draw here on the evidence from Schelling (1992), who documented the influence of information on the large drop in cigarette consumption in the United States, as well as Bachman et al. (1988, 1990) who identified that the decline in drug use among high school students was contributed to a rise in health-related concerns (Ibid.). As shown in the last chapter, however, this is partly disputed by Rhodes (2002), who claims this presupposes rational decision making.

who cannot consume responsibly[107]. However, direct sanctions would in such a system be reduced to an absolute minimum.

In Rolles' propositions the role of the state is to create a regulatory framework through laws and regulations as well as to handle the minimum of sanctions which would be needed – it is to 'steer and regulate' rather to 'row and provide' (Rose 2000: 324). The task of carrying out the practical functions would be left to pharmacies, shops and 'clubs', as well as to harm reduction actors[108]. Here it is important to note that Rolles strongly warns against the involvement of commercial actors, emphasizing that any kind of marketing strategies should be strictly forbidden.

One could say that the 'controlling role' of the state would be reduced to monitor the regulatory framework. Rose argues that control in advanced liberal societies is no longer centralized but rather dispersed through "networks of open circuits that are rhizomatic" rather than hierarchic (2000: 325). Central to circuits of control is individualization of the citizen as well as securitization of identity, which means that

> "control is better understood as operating through conditional access to circuits of consumption and civility: constant scrutiny of the right of individuals to access certain kinds of flows of consumption goods; recurrent switch points to be passed in order to access the benefits of liberty " (Rose 2000: 326).

The regulation models which Rolles proposes do not presuppose an abolition of control mechanisms but rather a *decentralization and individuation of control*.

Another dimension is also crucial in Rolles' propositions, namely how a transition to regulated markets would affect the global market. Central in this regard are price mechanisms, which could be placed as one of the main regulatory mechanisms in the first set of mechanisms accounted for above. The drug prices would need to be sufficiently high as to discourage use at the same time as they would need to be sufficiently low as to displace the

[107] He also emphasizes that the use of drugs would still be illegal for minors, and discusses methods for how such use could be prevented. I do unfortunately not have the space for discussing this any further here.

[108] Similarly Ritter (2010) draws on regulatory theory to examine how drug markets could be regulated through strategies of self-regulation or 'micro governance' and strategies of market regulation or 'macro governance' implying economic instruments. In this proposal, she discusses the role of non-state actors, such as pharmaceutical industry, chemical manufacturers, retail pharmacies and property owners as partners in regulation. Most cleverly, she also discusses how the market could be manipulated through strategic law enforcement activities.

illegal market[109]. Viewing crime primarily as a function of opportunity, Rolles claims that regulating the drug market would eliminate, or at least substantially reduce, drug trade as illegal opportunity structure, which specifically would prevent future generations of drug producers, traffickers and dealers from a life in crime (2009: 92). There would, however, be several aspects that would be needed to take into consideration in a post-prohibition scenario: Many marginalized and socially excluded individuals would loose their income and would need to be included into social policy discourse; drug crop production would become part of a wider development discourse (drawing experiences from Alternative Development) and fair trade principles (overseen in a similar fashion as existing medical production by UN agencies); and strategies to prevent engagement of profit-driven multinational corporations in the trade would need to be established. In producer countries "positive impacts from reduced criminal profiteering, conflict and instability would be weighed against the short to medium term reduction in economic opportunity and GDP" (Rolles 2009: 89). Furthermore, Rolles discusses what might become a major problem, namely the reduction in the level of concern and the resources directed towards impoverished drug producers once the eradication priorities of current policies dissolve (2009: 90). He proposes what he calls a 'post-drug war Marshall Plan' to make sure that the economic gains (among other through tax incomes and savings in criminal justice expenditures) in consumer countries would also accrue producer countries, in helping to build alternative livelihoods, develop good governance and state infrastructure (Ibid.).

The economic benefits from a regulated drug market are also noted by many to be what might just move the paradigm:

> "And my hope is that actually the financial crisis may actually be the thing that says: this is not about ideology, this is not about morality, this is about funding. And prohibitionist models are very, very expensive and leads [to] growing costs as you do more damage to the health of people who use drugs. So I hope that we actually may persuade people that of all times that's in the middle of a crisis, that you go for the best value for money model, which is harm reduction"[110].

[109] In his lectures Foucault (2008: 257-59) discusses the (price) elasticity of drug use, noting that the elasticity is very low for drug addicts whereas it is high for non-addicts. He thus suggests the drug prices should be low for addicts and high for non-addicts. However, I would say that although such a strategy might seem plausible in isolation, it is not sufficient if another goal is to undermine the transnational illegal market.

[110] Mat Southwell, International Network of People who Use Drugs (INPUD) , interview in the documentary "The State of Harm Reduction in Europe" (2011) by the Hungarian Civil Liberties Union, see: URL.: http://drogriporter.hu/en/eurohrn_marseille [watching date: 01.05.2012]

In this section I examined how global drug control could look in the case of an expansion of 'advanced liberal' governmental and bio-political rationalities into this field of policy. In the next sections I will examine what kind of rationalities that dominates in the *current* drug control system, and how they might be seen to work both as barriers to and instigators for change.

5.4.2 The current drug control regime

Although the account above indicates how drug policy could look like in an 'advanced liberal' form of governmentality, this does not necessarily imply that the current global drug policy is not governmentalized. The account above has focused on the liberal techniques of control but this does not mean that governmentlity cannot also encompass forms and techniques that are 'illiberal'.

Keeping the objectives of the Single Convention in mind, the global drug prohibition regime aims at maximizing the 'health and welfare of mankind'. Its justification, one might say, is posed in bio-political terms, albeit in a rather traditional and not an 'advanced liberal' form of bio-politics (this becomes particularly evident by looking at the historical time that gave birth to the Single Convention). Its object of protection is the world population as a whole. As noted by Dean, however, "…it is remarkable how much of what is done of an illiberal character is done with the best of bio-political intentions" (1999: 132). He reminds us that liberalism (as the principle of rationalization of governmentality) is made up by specific constellations of "…*pastoral power* that takes the form of a *bio-politics* of the administration of life and a form of *sovereignty* that deploys the law and rights to limit, to offer guarantees, to make safe and, *disciplinary* practices" (Dean 1999: 132, my emphasis). Some of these constellations can give birth to what he calls 'authoritarian governmentality'.

In liberal forms of governmentality there has always been those groups regarded as not able or willing to govern themselves responsibly. In the previous chapter I noted that these groups, seen as impossible to reaffiliate – or in Dean's (1999) words; those without potential for improvement –, are subject to exclusion framed in terms of *immorality* (Rose 2000). These groups are 'governed through crime' and subjected to techniques of management and neutralization through the criminal justice apparatus (Ibid), or through disciplining and sovereign sanctions by 'authoritarian' governmental rationalities (Dean 1999) - which also serves to denote the boundaries of the 'new morality' (Rose 2000). I also showed that the

discourse on the 'non-improvable' drug users might be in the process of changing with the 'advanced liberal' bio-political techniques and discourse of harm reduction gaining ground.

However, this does not explain the reluctance of the general 'drug control discourse' to change towards 'advanced liberal' forms of drug regulation (such as Rolles propositions). As examined in this chapter, a tendency towards a 'soft' control of drug *users* can be observed globally (Jelsma 2009), exemplified in this chapter through the cases of Germany and Mexico. However, this tendency is also accompanied by 'harder' control as well as a 'securitization' of drug trafficking[111] (Jelsma 2009, Böllinger 2004). Moreover, the account above does also not explain the initial eager of the drug prohibition regime to *internationalize* itself, which is something I think we have to examine in order to comprehend the process of securitization.

In the 1960s *drug use* was framed as a 'national threat' to Northern/Western countries where drug addiction was seen as a growing problem. As noted in the introduction chapter, international drug prohibition was created through pressure from the U.S., which has also been the driving force behind its strict enforcement (Nadelmann & Andreas 2006). The reason for the *internationalization* of prohibition was mainly to fight the new 'threat' in terms of *supply* (Boister 2001), and the pressure was mainly put on the drug producing countries defined as a risk to the U.S. (and Europe, it could be added)[112] (Astorga, interview). According to Kushlick (2011) drug policy has undergone a twofold securitization process, with a second securitization being that of *organized crime* due to drug trafficking in the 1980s, resulting from the prohibition regime[113].

The rhetoric of 'war' on drugs which defines drugs as a 'threat' to security has, in many countries, allowed for extensive militarization. It has also allowed for an expansion of coercive measures and techniques available to police and intelligence agencies, as well as an expansion of these agencies themselves. Nadelmann & Andreas (2006) examine international police cooperation and find that it has become increasingly professionalized and depoliticized,

[111] In Stanley Cohen's (1994) terms, one might observe a bifurcation in a 'soft' and 'hard' end in global drug control.
[112] Which has also allowed for the U.S. to exert control over other countries (some more than others) even after the Cold War era.
[113] Many have also noted that the 'threat of drugs' as well as the 'threat of organized crime' to be rhetorically mixed with the 'terrorist threat', the latter particularly after September 11th (see among other Jelsma 2004b). However, I will not discuss this link any further in this thesis.

just as the definition of drug trafficking as a matter of 'national security' has depoliticized this matter at the level of governments.

I think that if we want to understand the barriers to change, it is insufficient to examine change in *general* terms of governmental rationalities as each and one of the agencies, departments and institutions devoted to fighting drug trafficking follow their own *system-internal* logic and rationality with their own system-internal goals, objectives and techniques[114]. These types of barriers might most properly be called *'institutional barriers'*. The logic of these agencies and institutions will most likely primarily aim at self-survival (just as politicians follow a logic of self-survival, which we saw in the last section), which in many cases constitutes significant and powerful barriers to change. Due to the scope of this thesis I cannot examine these plentiful system-internal logics and rationalities in detail. However, in the next section I will show how one such system-internal logic of self-survival might just have been what has allowed for an amendment of the global discourse on narcotic drugs.

5.4.3 Amendment of the drug control discourse and the role of civil society organizations

The prevailing international drug political objective has been to eliminate, or at least substantially reduce, the prevalence of drug consumption. This has mainly been done through efforts aimed at suppressing drug supply. With harm reduction gaining ground, another drug political objective emerges with it, namely to reduce the net sum of *harms* related to drugs rather than consumption prevalence. MacCoun & Reuter (2001) note that these two goals are not necessarily compatible[115]. For instance a regime of de jure legalization might witness an increase in consumption prevalence although it would most probably lead to a substantial reduction in net harms. They claim that the most crucial barrier to change is "the unwillingness to consider tolerating increases in drug use to achieve reductions in drug-related harm" (2001: 371). However, in the last chapter I argued that one of these harms,

[114] For instance Feeley & Simon (1998) claim that the U.S. criminal justice system has adopted an actuarial rationality leading the system to operate with its own, system-internal logic of 'risk management' which does not take any societal consequences into regard. Cohen (1994) rather claim that the 'soft end' of the criminal justice system has given birth to a myriad of different interventions from community service to halfway houses, which all create their own internal logics, professions and objectives. Christie (2000) accounts for how (especially U.S.) crime-control can be seen as a profit-driven industry with a logic of profit maximization. Many have also noted that police agencies operate with the aim of producing statistics (see for example Barrett et al. 2008).

[115] They argue that harm reduction currently seems limited, and that it should incorporate a strategy of quantity reduction – focusing on *consumption levels* rather than prevalence rates – which thus would serve both the ends of use reduction *and* harm reduction (MacCoun & Reuter 2001: 372).

namely the HIV-epidemic, has been framed as a serious threat to security (in bio-political terms), which has elevated the drug political goal of harm reduction into official political discourse. Furthermore, Rolles claims that the two new drug policy trends which have emerged, namely harm reduction and decriminalization, pose an *intellectual threat* to prohibition in that they have demonstrated effectiveness (Rolles 2011: 61). Most notably, the evidence from countries that have decriminalized use and possession for personal use undermines the fatalistic argument of the prohibitionists that an abolition of prohibition will automatically lead to increased use[116], which is one of the key points of contention in the drug control debate (MacCoun & Reuter 2001: 72).

The UN drug control organs seem to have managed this intellectual threat through partly incorporating the ideas and rhetoric of harm reduction and decriminalization; to hold a stance of what MacCoun & Reuter (2001) call 'reformed prohibition'. This is an amendment of the drug control discourse which the drug policy reform movement has helped to produce:

"[...] I think what we've created now is we've civilized an unsustainable system. So, we've given people like Fedotov[117], we've given them a discourse which allows them to stay a friend of health as well as a friend of police. Now, Marxist analysis of that would say; every time you allow a paradigm to civilize itself, you extend its life. So there would be some, for example legalization campaigners, who'd say: Why are you helping them to find this new discourse? What you should do is allow them to break themselves and become irrelevant [...] Or wait until the system absolutely breaks and there's a paradigm shift. What's happening at the moment is incremental moderation of a bad policy. Which for me as a policy maker, that's what should happen. Step by step you make things better. There's another theory that says: Well actually you should allow…because it's fundamentally a wrong paradigm, you should allow it to eat itself, and then you replace it with a different paradigm. I don't see how that works politically in the current world" (Mike Trace, IDPC, interview).

Trace is thus indicating that the UN drug control organs needed to reform themselves and amend their discourse in order for the prohibition paradigm to sustain. This is something that the drug policy reform movement has helped them in doing by giving them arguments and

[116] He points out that the decline in use seen in Portugal and other European countries can not be causally linked to the decriminalization of drug use and possession as there are many other variables at play. However, he does also note that there has not been an increase in use, as predicted by prohibitionists (Rolles 2011: 61).

[117] Yury Fedotov is the current Executive Director of the UN Office on Drugs and Crime (UNODC) and Director-General of the United Nations office in Vienna (UNOV). He replaced Antonio Maria Costa in 2010.

ideas. As previously noted, the amendment of discourse coincided with an opening up of the structures for civil society participation.

In the previous chapter I argued that there is an increasing tendency for states and IOs to outsource the responsibility for the health and welfare of drug users to harm reduction NGOs. In relation to the UN drug control organs there could not be said to be a similar outsourcing. However, I will suggest that these UN organs might have used the drug policy reform movement to "create space for political agency" (Neumann & Sending 2010: 127), or rather harnessed them in order to reform themselves – which was necessary for their self-survival and for a sustainment of the paradigm. It should be noted that this is not necessarily a strategic, conscious action as it may seem here, and it is probably also an outcome of the more *general* anticipation and tendency of UN organs to involve civil society. But it might be argued, then, that this change is in line with a broader change in governmental rationality implying a *governing through* civil society.

Neumann & Sending note that this increase in governing through NGOs has generated a new type of NGOs as well as new action-orientation among existing ones, as these actor "have resumed responsible, effective and diplomatic attitudes" (2010: 129). Furthermore, they claim that "[i]t is their ability to act as responsible vehicles for political will-formation and as sources for expertise that renders them central actors [in important governmental tasks in international settings]" (2010: 130). Della Porta et al. (2006) similarly note that many social movements transformed in the nineties to be more 'civilized' by adopting more inclusive strategies:

> "Especially after the decline of a broad wave of peace protests of the early eighties, scholars of social movements noted a tendency toward institutionalization of the movements' organizational structures with the creation of formalized (and often rich) associations, their specialization on single issues with a certain degree of pragmatism, and a declining emphasis on protests as well as preference for less visible lobbying strategies or voluntary action" (della Porta et al. 2006: 22).

Mike Trace (interview) assesses that one of the changes that has occurred within the drug policy reform movement the last decades, which has contributed to their success in terms of advocacy, is that they got a better understanding of how to work *with* the system.

One example at the international level is the work of the Transnational Institute. Martin Jelsma (interview) tells me that their work involves bringing in their expertise on the UN drug

treaty system to governments which are open to drug law reform. Through making comparisons between reform experiences in different countries, they advise on changes that can be made within the UN treaty framework[118]. They offer direct counseling services, providing governments and parliamentarians with concrete policy recommendations and comment on and draft legislative proposals (also involving local experts on national drug laws), as well as creating spaces for more informal dialogues where they invite government officials from different countries who are looking for reform possibilities.

At the national level of Germany, the change towards working with the system is also brought up by Dirk Schäffer:

"*Ten years ago the JES Network was the fundamental opposition. We are against many things and that is the way we like, but it is not the way to get in contact with the politicians on a national level in Germany. In my view it is important to take seat in the different working groups. We have a working group to change the national law for substitution treatment and the paragraphs for the substitution treatment. And our work and my work is to get in contact with the politicians who are involved there and try to get a chance to take a seat there, or that I'm seen as an expert or that I could make some notes of what's my view and what the view of other people is. And that is more effective than being in fundamental opposition. But this is our role too, to be a fundamental opposition, a radical opposition to many things, but we do not make many efforts with this*" (Dirk Schäffer, Deutsche AIDS-Hilfe, JES, interview).

With this, Schäffer touches upon a point that according to Neumann & Sending (2010) is crucial for the possibility of governing through NGOs. Although the drug policy reform movement has become much better at working with the system, they are still in fundamental opposition. It is the element of opposition which makes them *autonomous subjects* to be governed *through*, rather than objects to be governed upon.

Some elements of opposition can often, however, be downplayed in the process of working with the system. For instance both Schäffer and Stöver (interviews) tell me how their long-term goal is to have government regulation of drugs similar to the models proposed by Rolles

[118] The TNI has advised on drug law reforms in many countries, among others in Ecuador, Thailand, Uruguay and Bolivia.

(2009). However, in their advocacy they primarily emphasize the (short-term) need to decriminalize drug users[119]:

"*Our main goal is decriminalization. Our main goal is that drug use is not a criminal thing and that is our main goal that drug users, if they want to use drugs they could live with drugs if they want, and that they don't go to jail […] We have a model, and only on the paper, for drug shops, it's called drug shops in Germany*[120] *[…] But in my view it is not a success to present the politicians with these things. I think it is more important to go one step after another. Because if we told them: 'Make shops where you can buy drugs', they'd say: 'You're crazy, go away'. It is not the way*" (Dirk Schäffer, Deutsche AIDS-Hilfe, JES, interview).

Akzept is also primarily fighting for the decriminalization of drug users. Simultaneously, however, Stöver (interview) tells me that they are translating Rolles' "Blueprint for Regulation" to German, printing it thousand fold, and are distributing it to the right people who could change things. He claims that with the increase in violence due to drug prohibition, covered by media internationally, it is now a point where they need to have clear strategies and alternatives for the future.

5.5 Conclusion

In this chapter I first presented the 'problem construction' underpinning the prevailing drug policies, the current legal framework of drug prohibition, the increasing tendency or 'trend towards decriminalization' taking place within the room for maneuver under the UN drug conventions, as well as models for de jure legalization and government regulation proposed by one NGO in the movement.

Second, I presented what I perceive to be the movement's main argument for drug law reform, namely to stem the harms and costs of drug prohibition. I also exemplified, through the cases of Germany and Mexico, how drug law reforms having occurred are seen as insufficient by the movement, and how their explicit goals are complete decriminalization of drug users as well as introduction of the debate about alternative regulation of drugs.

[119] This is also particularly interesting in relation to Thomas Mathiesen's (1974) theories on action research and social movements, where he claims movements should never choose between their short term ' reformist' goal or their long term 'revolutionary' in order to neither be co-opted and neutralized nor to be defined out as illegitimate.

[120] Drogenfachgeschäft

Third, I accounted for how the movement tries to influence a change in the global drug control discourse, particularly the discourse of the UN drug control organs, how this discourse has been amended, and how the structures for civil society participation have opened up. I also discussed the roles of the Latin American Commission on Drugs and Democracy and of the Global Commission on Drug Policy in opening up the debate, as well as the particular barriers of political benefit and public opinion in this task.

Lastly, I examined de jure legalization of drugs and the prevailing drug control regime in a governmentality perspective. I argued that whereas legalization could be seen as a prospect for how 'advanced liberal' drug policies could look like, the current policies are dominated by 'authoritarian' governmental rationalities, where a myriad of system-internal logics act as institutional barriers to change. I also argued that the UN drug control institutions are governing through the drug policy movement in order to sustain themselves and the prohibition paradigm, and that the movement accordingly has downplayed its elements of oppositions to work more efficiently with the system. The NGOs are still, however, in fundamental opposition, which makes them autonomous subjects to be governed through.

Despite cracks in the transnational moral consensus, the global prohibition regime still stands firm and constitutes legal and moral boundaries which signalize norms for appropriate behavior – also of states. The moral aspects of drug prohibition and their internalization into public opinion seem to be some of the strongest barriers even to informed debate. The polarization of the positions of the parties in the debate into the dualistic construction of 'prohibitionists' and 'legalizers', as well as a moral stigmatization of the latter position, blurs the drug political complexity and hampers the debate.

In the next chapter I will examine an evolving framing strategy used by the movement which helps to break up the dichotomized debate at the same time as it draws on an internationally recognized normative framework, namely the human rights discourse.

6 Human Rights

The two previous chapters examined how the drug policy reform movement argues that drug political issues should be regarded as matters of public health, social policy and development policy as well as how they argue for the abolishment of the criminalization of drug users – and/or of the entire drug prohibition paradigm.

This chapter is dedicated to examine one specific advocacy strategy used by the movement, which has quite recently emerged, and which might have a very influential potential when looking at the broader development of global, and specifically international, policies at large, namely human rights advocacy.

In section 6.1 I account for how the movement argues that many of the harms and costs created by drug prohibition, which were examined in the last chapter, are also violations of human rights law.

In section 6.2 I elaborate on how the NGOs in Mexico and Germany draw on rights discourses in their argumentation and advocacy. This section outlines once more a fundamental similarity between the NGOs, namely their primacy of advocating *drug users' rights*. However, the section also examines differences in strategies in relation to the legal, cultural, social and political context of their advocacy as well as being a basis for a larger discussion of the 'deontological liberal' argument of the (human) right to use drugs.

In section 6.3 I go on to examine the (political) benefits of arguing within a (human) rights discourse. First, I elucidate the benefits of bringing the debate from the legislative to the judicial power, by looking at a 'trend' of countries in certain regions of trying the constitutionality of drug offences (in section 6.3.1.). Second, I examine the development of the human rights legal framework, its institutions and mechanisms in relation to how this development affects the effectiveness and advocacy possibilities of the drug policy reform movement (in section 6.3.2.). Third, I account for what is called the 'system-wide coherence argument', which seems to be a specifically forceful critique of the UN drug control organs, targeting the incoherence and disparity between the UN drug control organs and the rest of the UN system in relation to human rights (in section 6.3.3.).

In section 6.4 I discuss the broader societal and political significance of the human rights paradigm as a 'normative master discourse' or a 'standard' and 'norm' for measuring the

behavior of states, IOs and non-state actors. I argue that this 'new' norm contests and restructures the boundaries of the circuits of inclusion at an international level in a similar manner as does the harm reduction discourse. I also examine the role of transnational advocacy networks in enforcing this norm. Moreover, I argue that the human rights norms and discourse stand in opposition to several domestic, and international, crimes – specifically what could be called 'criminalization of poverty' – and that it can be a basis for deconstructing these crimes at the same time as it reconstructs perceived criminals as human beings with dignity and inherent rights.

6.1 Drug policy and human rights violations

The previous chapter examined the harms that stem from prohibition as one of the movement's main arguments for drug law change. In this section I will show how the drug policy reform movement draws on international human rights legal framework to state that some of these harms are not merely harmful consequences but also violations of international law[121]. This section is a broad and brief examination of the movement's (juridical) argumentation of how specific human rights are being violated by the enforcement of prohibition.

First, I account for how the movement argues that current global drug policies systematically violate three fundamental human rights principles (in section 6.1.1). Second, I examine how supply reduction measures for a long time have been criticized by the movement in terms of severe human rights violations (in section 6.1.2.). Third, I elucidate how human rights are used in the argumentation for harm reduction policies and interventions, specifically focusing on the right to the highest attainable standard of physical and mental health (in section 6.1.3.), also in prison facilities. Fourth, I account for specifically grave human rights violations in the name of drug control, in relation to arbitrary detention and torture (in section 6.1.4.), extrajudicial executions (in section 6.1.5.) and death penalty (in section 6.1.6.).

[121] This section draws heavily upon literature written by members of the movement specifically dedicated to the human rights issue, some of which founded the International Centre on Human Rights and Drug Policy in 2011, evolving from the Human Rights and Harm Reduction program, or the "HR2" (founded in 2007) of Harm Reduction International (HRI). It also draws on specific projects such as the HRI 'Death Penalty Project' and the transnational campaign 'Stop Torture in Healthcare'.

6.1.1 Violations of fundamental human rights principles

Barrett et al. (2008) emphasize three crucial human rights principles that have their basis in the Charter of the United Nations and the Universal Declaration of Human Rights and run throughout all the human rights treaties, which are systematically violated by drug policy globally, namely the principle of *non-discrimination*, the principle of *protecting the most vulnerable* and the principle of *empowerment*. The principle of non-discrimination places both a negative and a positive obligation on the States Parties. The *negative obligation* is to avoid discrimination against "…certain individuals and groups on a variety of explicitly enumerated grounds (e.g. race, colour, sex, religion, etc.), or on the basis of 'other status', which have been interpreted as including health status (including HIV status)" (Barrett et al. 2008: 20), whereas the *positive obligation* is to "…actively identify those individuals and groups in need of special measures and to take measures in order to diminish or eliminate conditions that cause discrimination" (Ibid.). Barrett et al. (2008) note that in practice drug policy often hampers access to health services (which will be dealt with in more detail under) as well as creating systematic discrimination through law enforcement and criminal justice systems where ethnic-racial minorities, indigenous people and people living in poverty are disproportionately punished[122]. Both local farmers producing drug crops, as well as drug users, are vulnerable groups. In the case of the first these are people living in poverty constantly threatened by reprisals either from drug cartels or supply-side suppression efforts, and in the case of the latter, drug users are one of the most marginalized and stigmatized groups in their countries. Barrett et al. (2008) note that these marginalized groups and communities "… have not, in practice, been a priority, and have instead been overshadowed, and often badly damaged, by the pursuit of a drug-free world" (Barrett et al. 2008: 21). The *principle of empowerment* "…is reflected in such matters as the right to self-determination of peoples, to the right to freedom of expression, religion, privacy and association, the right to political participation, the right of the child to be heard, the right to vote, and the right to engage in cultural activities" (Barrett et al. 2008: 21). This principle, they claim, is systematically violated through the reluctance to engage people who use drugs or communities that are directly affected by drug suppression policies.

[122] Many have for example harshly criticized the overrepresentation of African Americans in U.S. prisons (see for example Polak 2012, MacCoun & Reuter 2001, Christie 2000).

6.1.2 Supply reduction

This section will briefly deal with how different human rights are violated through law enforcement efforts of suppressing supply, an argumentation which for a long time has been invoked by the movement specifically in relation to drug crop producing farmers (Martin Jelsma, interview).

Forced crop eradication efforts have often targeted the crops upon which farmers and local communities depend to earn their living, or these farmers themselves, as they make easier targets than drug traffickers. Barrett et al. note that eradication of coca and poppy crops prior to an establishment of alternative livelihood directly conflicts with objectives of the UN Development Program (UNDP) and the World Bank, as it pushes the farmers into deeper poverty (Barrett et al. 2008: 31). They draw on examples from Myanmar (Burma) and from Peru to show that forced crop eradication was followed by a large drop in school enrolment, a decrease in quality of life of the farmers as well as medical practitioners and pharmacies shutting down (Ibid.). The book "Children of the Drug War" (2011) documents how children of coca growing farmers in Colombia join guerilla groups (Hunter-Bowman 2011) and how young girls in Afghanistan are married away to drug traffickers in order for the farmers to pay back their debts after their crops have been eradicated (Ahmadzai & Kuonqui 2011), which violates these *children's rights*. Martin Jelsma (interview) also notes that opium bans in Southeast Asia, instigated by the UN drug control agencies, have led to humanitarian crises, where other UN agencies had to step in to prevent hunger catastrophes from developing.

In addition to forced eradication efforts by police or military forces, leading to killings, abuse, violence, arbitrary detentions and social and political conflict, aerial fumigation with herbicide have led to documented negative health effects and damage of legal food crops.

The illicit crop spraying have been reported both by the Special Rapporteur on the right to highest attainable standard of physical and mental health for its health implications and by the Working Group on the use of mercenaries for the engagement of private companies in this activity (Barrett et al. 2008: 15). Concerns were also raised by the Committee on the Rights of the Child in their report on Colombia in 2006 (Ibid.).

The next sections will deal with how human rights are being increasingly invoked also in the case of *drug users*, starting with the right to health, which is the most frequent right drawn upon by the drug policy reform movement and especially by the harm reduction movement.

6.1.3 Harm reduction and human rights

In chapter 4 on harm reduction I noted that the harm reduction discourse to a large degree is concerned with the risk for HIV/AIDS and other diseases, primarily for injecting drug users, which is also one of the most important and powerful arguments. What makes the argument even more powerful is the explicit legal obligation to States Parties in Article 12 of International Covenant on Economic, Social and Cultural Rights, 1966 (ICESCR), which requires them to take *active steps* for "(c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases and (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness"[123].

Hence, the obligation of States Parties is not only to provide access to and best possible *treatment* of HIV for drug users (such as antiretroviral therapy) as well as other diseases such as hepatitis and tuberculosis, but also to *actively prevent* these diseases. Put in Ezard's (2001) terms, the obligation of states is not solely that of *harm* reduction, but also that of *risk* reduction. In also complying with human rights in general, through adequate standards of living, non-discrimination etc. as well as *equal* fulfillment of these rights, at all levels and for all groups in society, states will also reduce the *vulnerability* which predisposes for drug-related risk (Ezard 2001).

Barrett et al. (2008) emphasize that the illegal status of drugs does *not* remove the obligation of States Parties to provide measures and to take active steps to ensure that the right to highest attainable standard of health is fulfilled for people who use drugs. However, they claim that "…[d]espite the obligation in international law, the rhetoric of drug control has often been used to undermine the right to health, particularly in the area of the prevention of blood-borne diseases such as HIV and hepatitis C virus (HCV)…" (2008: 32). Harsh criminal laws and zero tolerance policies in many countries even criminalize (or have criminalized) harm reduction measures such as needle exchange and methadone treatment, which are necessary measures for the right to health to be met. Furthermore, the fear of arrest and criminal sanctions, specifically caused by aggressive law enforcement efforts, often leads to the obstruction of harm reduction measures – even in high income countries with comprehensive

[123] Article 12 of the ICESCR is a twofold obligation which first obliges the States Parties to *recognize* "…the right of everyone to the enjoyment of the highest attainable standard of physical and mental health" in paragraph one, whereas paragraph two obliges the *active involvement* of the States Parties to make sure that the right is achieved.

harm reduction measures (as we saw in relation to Germany in the last chapter). Barrett et al. (2008) identify this to be a common problem throughout the world[124]. Jürgens et al. (2010) emphasize that under the obligation of the right to health in Art 12., it is not enough for States Parties to provide comprehensive harm reduction measures, but that they also need to *ensure that these measures are accessible*. Thus, the *active obligation* of states includes active efforts to ensure that the function of harm reduction measures is not obstructed by law enforcement practices.

Barrett et al. (2008) note that the human rights institutions have not been very concerned neither with drug users as a group nor with harm reduction. This is, however, in the process of changing as "[i]ncreasingly, UN human rights monitors have begun to interpret the provision of harm reduction interventions as necessary for states to be compliant with the right to health under Article 12 of the *International Covenant on Economic, Social and Cultural Rights*" (Barrett et al. 2008: 33, emphasis in original). They go on to note that the strongest statement on harm reduction has been made by the UN Special Rapporteur on Health, professor Paul Hunt:

> "In his report on Sweden's compliance with its obligations under Article 12, the Special Rapporteur stated that harm reduction is not only an essential public health intervention, but that it 'enhances the right to health' of people who inject drugs. Stating that the provision of harm reduction programmes was 'an important human rights issue'" (Barrett et al. 2008: 34).

Furthermore, several states have been criticized for *insufficient* harm reduction measures, examples being the WHO, UNODC and UNAIDS criticism of Ukraine in 2005 and the UN Committee on Economic, Social and Cultural Rights' criticism of Tajikistan in 2006 (Barrett et al. 2008: 34).

The jurisprudence and statements of the human rights monitors thus specifically recognize harm reduction measures and their accessibility as a necessity for states to be compliant with the right to highest attainable standard of health. As we shall see subsequently, this necessity also applies to custodial settings.

[124] And they also present similar examples from Thailand, China, Viet Nam, Russia and Ukraine.

Harm reduction in prison facilities

As noted in the previous chapter, harm reduction services and other health services for drug users in prisons are rare or insufficient, even in high-income countries. This, the movement argues, infringes on several human rights.

Barrett et al. (2008) paraphrases the Human Rights Committee, assuring that "…[p]ersons deprived of their liberty enjoy all the rights set forth in the [ICCPR] , subject to the restrictions that are unavoidable in a closed environment" (Human Rights Committee, General Comment No. 21 in Barrett et al. 2008: 35). Restrictions on rights must thus be justified in well-founded security considerations (Ibid.), which means that prisoners are assigned the same rights as non-prisoners (with deprivation of liberty being the exception), including the right to highest attainable standard of health. Furthermore, the negative obligation of tolerance of torture and ill-treatment in the Convention Against Torture and Other Cruel and Degrading Treatment and Punishment (CAT) of 1984, give rise to a *positive duty of care* "…which have been interpreted to include effective methods of prevention, screening and treatment for life-threatening diseases" (Barrett et al. 2008:36). Following from this, prison authorities are obliged to take active steps to prevent HIV transmission in prison facilities. Barrett et al. also note that states have a special responsibility for ensuring prisoners' rights as they by holding people in custody are directly responsible for their lives and well-being. Furthermore, this responsibility might even oblige states to provide prisoners with better health services than what they have access to outside of prison (Barrett et al. 2008: 36). The absence or insufficiency of harm reduction measures in prisons not only infringes on the right to highest attainable standard of health, but according to Barrett et al. it also threatens *the right to life*[125] "…by putting prisoners at risk of premature death by overdose, and HIV/AIDS and other life-threatening illnesses" (2008: 36).

The next section will go on to account for human rights violations experienced by people who use drugs in other custodial settings other than prison.

[125] International Covenant on Civil and Political Rights, Art. 6.

6.1.4 Arbitrary detention, torture and other cruel, inhumane or degrading treatment and punishment

In the previous section I noted the infringement of the Convention Against Torture and Other Cruel and Degrading Treatment and Punishment (CAT) in relation to health services in prisons. This convention is especially relevant in the relation to drug users around the world as they are often targeted by law enforcement officials. They are also often subjected to forced custody either in prison facilities or in 'treatment' facilities, where abuses of drug users are facilitated by their universal stigmatization and discrimination.

Barrett et al. note that drug users are specifically easy targets for police needing to fulfill arrest quotas or achieve convictions (2008: 26). Findings from several countries[126] show that drug users often are physically and mentally ill-treated by police officials, both in the process of arrest, while in custody and in interrogation. For instance they account for how withdrawal is used as a common tool for extracting confessions from drug users in Ukraine, and how medical assistance is denied in such situations (Ibid.). They note that abusive law enforcement practices have been heavily criticized and condemned by the UN human rights institutions, but also that such critique has not been posed by the UN drug control organs (Ibid.).

Detention of drug users without trial has also been documented in many countries, although this violates a basic principle of human rights law and more specifically Art. 9 and 14 of the ICCPR (Barrett et al. 2008: 29). Furthermore, the Human Rights Committee has interpreted 'deprivation of liberty' to also encompass custody other than in criminal cases, such as mental illness, vagrancy, drug addiction, immigration control etc. (Ibid.). The UN body of Principles for the Protection of All Persons Under Any form of Detention has stressed that persons can "not be kept in detention without being given effective opportunity to be heard promptly by a judicial or other authority. A detained person shall have the right to defend himself or to be assisted by counsel as prescribed by law" (Barrett et al. 2008: 29). Thus, these rights also extend to settings of retention in forced treatment facilities.

Through the transnational campaign "Stop Torture in Health Care"[127] awareness is raised by an alliance of drug policy reform NGOs and human rights NGOs, led by the Open Society

[126] Barrett et al. draw on reports from Human Rights Watch and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment and Punishment (CPT) about Russia, Kazakhstan and Ukraine (2008: 26). However, there is reason to believe that the practices they describe are not limited to these three countries.

[127] http://www.stoptortureinhealthcare.org/

Foundation (OSF), about the abuse of drug users in drug detention centers around the world. Particularly in Asia drug users have been coercively detained under the justification of rehabilitation in centers where they have been subjected to systematic torture, sexual assaults and forced labor[128]. A documentary made by the Hungarian Civil Liberties Union[129] reveals that people can be detained in these centers for up to five years, often based upon positive urine tests or allegations by neighbors, without trial, the possibility of appeal or medical evaluation. Some of these centers have been funded by UNICEF, the Global Fund and the United States, but have been closed down after NGOs documenting and raising awareness around them. Still, however, there are many such centers around the world.

These accounts are merely some examples of how the stigmatized and degraded status of people who use drugs facilitate human rights abuses against them, such as arbitrary detention, torture and inhuman treatment and punishment in the name of drug control. The next two sections will show practices which violate drug users' right to life.

6.1.5 Extrajudicial Executions

In the prveious chapter I argued that the rhetoric of 'drug war' and the framing of drug use and trafficking at 'threats' have legitimized military intervention and an expansion in measures and techniques available to police forces. Still, however, international law strictly limits the use of lethal force in police operations through the UN Basic Principles on the Use of Force and Firearms for Law Enforcement Officials and Code of Conduct for Law Enforcement Officials (Barrett et al. 2008: 26). Use of force can only be lawful when

> "…use of force is unavoidable, it should be used in proportion to the seriousness of the offence and the legitimate objective to be achieved, and shall minimize damage and injury. In any event, the international use of lethal force by law enforcement is permissible only when strictly unavoidable to protect life" (Barrett et al. 2008: 26).

Barrett et al. present two examples from the 'drug war' which have been particularly brutal, and where several people have been summary executed. One example is from Thailand, where 2275 extrajudicial killings, in addition to a number of arbitrary detentions, intimidations of human rights defenders and coerced drug treatment, found place in a three-month period in 2003 in an intensive governmental effort to be 'tough on drugs' (Barrett et al.

[128] It's estimated that 400 000 people are detained in such centers in China, Viet Nam and Cambodia alone.
[129] http://www.stoptortureinhealthcare.org/real-voices/detention-treatment/abuse-name-treatment

2008: 25). The other example is from Brazil, where the police engage in a continuous war with drug gangs in the favelas, which are densely populated, leading casualties in shootouts to be large. Extrajudicial executions are rarely investigated and proceedings are seldom instigated against perpetrators within police forces.

The next section will go on to account for executions of drug offenders which are lawful in domestic jurisdictions, but which violate international law.

6.1.6 Death Penalty

The drug policy INGO Harm Reduction International (HRI) launched a global project in 2007 with the aim of bringing attention to practices of death penalty for drug offences world wide.

Although death penalty is not forbidden per se under international law, its use is severely restricted. Most notably, the International Covenant on Economic, Social and Cultural Rights delimits capital punishment to "most serious crimes" in Article 6 (2). This restriction has been interpreted as *not* encompassing drug offences by jurisprudence of independent expert bodies, as well as explicitly stated by the UN Human Rights Committee and several Special Rapporteurs (Gallahue & Lines 2010). Thus, capital punishment for drug offences clearly violates international human rights law.

Still, however, the global overview (Gallahue & Lines 2010) shows that the jurisdiction of 32 countries world wide retain death penalty for drug offences[130]. Although five of these countries are 'abolitionist in practice', at least twelve of them have carried out executions in the last three years (2010: 7). A HRI report on death penalty for drug offences from 2007 showed that although there has been a global trend towards the general abolishment of capital punishment, such punishment for drug offences seemed to be rising, thus implying capital punishment for drug offences to be a growing share of all executions. However, the report from 2010 (Gallahue & Lines 2010) shows that this trend seems to have reversed the following three years. Still, some countries such as China[131], Iran, Saudi Arabia, Viet Nam and Malaysia execute large numbers of drug law offenders. In some countries these numbers

[130] Bahrain, Bangladesh, Burnei-Darussalam, China, Cuba, Egypt, Gaza (Occupied Palestinian Territories), India, Indonesia, Iran, Iraq, Kuwait, Lao PDR, Libya, Malaysia, Myanmar, North Korea, Oman, Pakistan, Qatar, Saudi Arabia, Singapore, South Korea, Sri Lanka, Sudan, Syria, Taiwan, Thailand, United Arab Emirates, United States of America, Viet Nam and Yemen (Gallahue & Lines 2010: 11).

[131] China has even been reported to have large public executions of drug law offenders on the UN International Day Against Drug Abuse, the 26th of June (Gallahue & Lines 2010: 21).

even seem to be increasing, although numbers can be hard to obtain and hold high uncertainty (Ibid.).

6.1.7 Concluding remarks

The accounts in these sections have shown that human rights violations happen on a massive scale in relation to drug control policies. One specific development of the drug policy reform movement is to document these human rights violations, and to bring attention to them at a global level and specifically to the UN. In this regard they increasingly cooperate with international human rights organizations such as Human Rights Watch and Amnesty International.

This development has been made possible also due to the transnationalization of the movement, where the international NGOs, such as IDPC, HRI, Youth RISE and TNI, as well as the OSF, has done a lot to connect domestic and regional NGOs together into a transnational network. Sikkink (1993) and Keck & Sikkink (1998) stress the importance for international NGOs to have dense contact with domestic NGOs, which can provide information about local situations and local human rights violations that the international NGOs do not have the resources, capacity or local knowledge to uncover themselves. The international NGOs, on the other hand, provide their expertise and contacts in lobbying international organizations and governments. For domestic NGOs it is sometimes necessary to bring their issues to international forums and for an external pressure to be put on their countries in order for changes to be made.

In the next section I will account more specifically for how the domestic NGOs of Mexico and Germany draw on rights discourses in their advocacy.

6.2 Arguing within a (human) rights discourse

The previous section accounted for how the movement argues that the negative consequences which are caused by prohibition and law enforcement are (often severe) human rights violations. This section will show examples of how my interviewees from Mexico (section 2.1.) and Germany (section 2.2.) argue within rights discourses in their advocacy.

6.2.1 The case of Mexico

Mexico is one of the countries in the world experiencing the highest levels of violence and abuses in the rhetorical 'war on drugs'[132] between drug cartels and between government military and police and drug cartels. Since the military was set in to combat organized crime in 2006, which escalated violence, nearly 50 000 people has been killed[133].

Apart from horrendous human rights violations on the part of drug cartels, a Human Rights Watch report on Mexico, "Neither Rights Nor Security" (2011) found violations also to be frequent on the part of police, armed forces and the criminal justice system. Their evidence supported the systematic use of torture by security forces as a means of extracting confessions, in addition to engagement in disappearances, extrajudicial executions and other abuses. Complaints about violations systematically failed to be investigated and prosecuted, leading to a state of impunity.

However, the goal of Espolea and CUPIHD is to separate drug policy from security policy to make it a policy of its own - based upon principles of public health and human rights:

"*The first thing is; it's about drugs, and that's very important because otherwise you mess with the interest of organized crime in Mexico. Because I am defending first public health, individual rights, as well as a much better health approach to the problem of drugs in Mexico. And the main objective of that is* that *and not to combat organized crime*" (Jorge Hernández Tinajero, CUPIHD, interview).

Aram Barra (interview) notes that it is wrong to characterize Mexico merely as a transit country as it is also (apart from also being a producer country) home to an increasingly growing number of drug users. As in the rest of the world, drug users in Mexico are subject to systematic stigmatization and discrimination, a situation which is not improved by the government's zero-tolerance approach to drug use (Barra & Joloy 2011). Luís Astorga (interview) notes that drug users are regarded as trash, as criminals, to which anything can be done because they are regarded to be completely without any rights. Barra & Joloy point out that "Article 4 of the Mexican Constitution provides for universal access to health services,

[132] Gallahue (2011) analyses the situation of violence in Mexico to see if it could be classified as an 'armed conflict', hence subjecting it to International Humanitarian Law. However, he finds that it cannot be classified as such among other due to the lack of organization on the part of drug cartels, which rather makes the situation a 'rhetorical war' rather than an armed conflict.

[133] http://www.guardian.co.uk/world/2012/may/01/mexico-law-compensate-crime-victims1?INTCMP=SRCH [Date of last access: 02.05.2012]

but this is far from the case for people who use drugs" (2011: 34). Treatment options and harm reduction services are "…scarce and hampered by a lack of security, criminal laws, and drug-related stigma" (Ibid.). They go on to note that the criminalization and public stigmatization of drug users drives them away and hampers them from accessing the insufficient treatment options that do exist.

Furthermore, they highlight that drug users in Mexico are subject to severe human rights violations, such as violence, kidnappings and killings by drug cartels which can be seen as a form of 'social cleansing' (Barra & Joloy 2011: 35). There have also been several attacks on rehabilitation centers as well as massacres of drug users. The government responses to such killings and abuses, however, is that drug users are part of organized crime and belong to one group or another, as "…widespread stigma and negative public attitudes toward drug users combined with the drug war have made violence against this particular community a valid political statement" (2011: 34). The government rhetoric has been criticized by a local Commission on Human Rights and is also strongly criticized by Espolea[134]. Espolea has also pointed out that many drug users are young people, and abuses against them also specifically violate the Convention on the Rights of the Child.

The Latin American Commission on Drugs and Democracy has stated that the criminalization of drug users in Latin America facilitates the extortion of drug users by law enforcement officials. Tinajero (interview) tells me that CUPIHD give out a little pocket-sized booklet in the streets informing drug users about their legal rights according to the new drug law as well as their procedural rights if arrested[135]. They also try to bring awareness around traditional and cultural drug use, which has long historical roots in Mexico and in the whole of Latin America, and is protected by indigenous rights both in international and in national laws.

[134] It is peculiar for instance that the Human Right Watch Report on Mexico's 'drug war', "Neither Rights Nor Security" (2011) does not mention any human rights violations done to drug users. The only mention of drug users in the report is when alleged killings by law enforcement officials or military personnel of non-drug using civilians have been manipulated through planting drugs on the victim to make the victim look like he was part of organized crime. It is then the manipulation of the crime scene that is criticized by HRW, not the point that it would be regarded legitimate to kill the person if the person was a drug user.

[135] In earlier conversations with Aram Barra (in 2010) I got to know that the new drug law is very badly communicated to people. He thought very few drug users knew about it and to an even lesser degree its substantial content. This corresponded with the experience I had from talking to drug users in Mexico (on a trip in 2010), who told me that 1) they didn't know about the new law and 2) they thought that the police didn't know either, and if they did, they wouldn't change their behavior in accordance with the law as they often arrested drug users for the mere aim of extortion.

The Mexican NGOs also have a large job to do in changing the attitudes of law enforcement officials and government officials. Astorga (interview) talks about using the human rights discourse as advocacy strategy in terms of a pedagogic approach. He says that their task is to make people understand that human rights are international laws that need to be respected and that these rights also apply to people who use drugs.

6.2.2 The case of Germany

In Germany too the main concern of the drug policy reform movement are *drug users' rights*. However, Dirk Schäffer (interview) informs me that they do not draw much on human rights in their advocacy. They have a large focus on the best possible treatment for drug users, but they rather draw on health rights according to *national law* in their argumentation.

Jürgens et al. note that the right to health in international human rights law is interpreted to require all countries to have "…effective, national, comprehensive harm reduction policy and plan, delivering essential services", but also that *high-income countries* are expected to deliver *more* than these essential services (2010: 1 and 6).

This can mean that the national laws of many high income countries are not only presumed to be in accordance with human rights law, but that they also set higher standards than required by international law. National rights in high income countries might have a strong level of institutionalization as well as elaborated domestic mechanisms monitoring their compliance and processing complaints. This, then, makes it more strategic for advocates to draw on rights according to national law. In relation to harm reduction, however, I assume that the content and the interpretation of health rights might vary according to the political climate for harm reduction. In cases where domestic interpretation of health rights does not encompass harm reduction measures, it might be necessary to draw on international human rights law and international jurisprudence. Sweden has for instance been specifically criticized by the Special Rapporteur on the highest attainable standard of physical and mental health for its failure to provide harm reduction measures on human rights grounds (Barrett et al. 2008: 34).

There is, however, also another way that the German movement draws upon human rights. Heino Stöver says human rights are one of the key arguments they are using when it comes to political change:

"*That finally it's a human right to use drugs and from a human rights perspective we have to support the users' views. And that's, I think, the common ground [for the five German drug political organizations working together with Akzept]*" (Heino Stöver, Akzept, interview).

Stöver thus argues from the position which MacCoun & Reuter (2001) call the 'deontological liberal' position, which is, as I will discuss in greater detail in the next section, specifically interesting in relation to Germany as such an argumentation was partly what lead the German Federal Constitutional Court to open for depenalization of drug possession. Stöver's quote is also specifically interesting in that it highlights the close relation of the underlying humanistic principles of harm reduction and human rights.

Neil Hunt (2004) argues that one can identify two philosophies of harm reduction as a rights based movement; one version which emphasizes public health and one version which prioritizes human rights before public health. These two versions of harm reduction, he claims, can lead to different forms of 'right action' (Hunt 2004: 231). He calls the two versions 'weak rights' and 'strong rights' versions based on John Stuart Mills' philosophy on the sovereignty over the body (Hunt 2004: 232). The *strong rights version* recognizes a right to use drugs to the extent that it does not harm others; the right to sovereignty over the body is prioritized, which "…limits the means by which we may promote health to those approaches that are essentially persuasive"[136] (Hunt 2004: 232). *The weak rights version* may put more limitations on sovereignty with the goal of optimizing the health of the population. Liberty is thus subordinated to the aim of optimized public health - which implies supporting the regime which produces least harms[137]. However, Hunt does also notes that these positions are styled for the purpose of analysis and that many individuals would normally hold a position in between these versions.

Van Ree (1999) claims that in countries where drug use and possession is not a punishable offence, there already exists a 'weak' right to use drugs - in the negative sense that it is not punishable. However, he argues that the perception of freedom in the Universal Declaration of Human Rights is closely linked to the inherent *dignity* of a human being. Thus, as many people use drugs, there is a need for a strong right to use drugs which recognizes them and their dignity as long as they do not infringe on the rights of others (in the Millean sense). Hunt

[136] This version especially supports the regulation model presented by Rolles (see last chapter).
[137] When claiming that harm reduction is indifferent to the question of legality of drugs (as I did in the two last chapters), this is necessarily in relation to the weak rights version.

(2004) claims that the inclusion drug use as a human right in the Universal Declaration of Human Rights is highly unlikely. However, he argues that practically this right could most likely arise from legal interpretation of the exiting rights to privacy (Hunt 2004: 234), like for example the Article 12 of the Universal Declaration, which guarantees the 'privacy' of the citizen, or the Article 18, which gives the citizen the right to manifest his 'belief' through a 'practice of choice' (van Ree 1999: 92). As we shall see in the next section, a similar interpretation has been made in many countries where the constitutionality of simple drug possession has been tried.

6.2.3 Concluding remarks

In this section I have shown how the drug policy reform NGOs in Mexico and Germany draw on rights discourses in their argumentation. Again it outlines a fundamental similarity between the NGOs, which are first and foremost concerned with the *rights of people who use drugs* – be it in relation to their rights to health and best possible treatment or their right to freedom from stigma and discrimination. The variation between the NGOs is rather evident in relation to the legal framework of rights upon which they draw as well as the political, social and cultural contexts in which they are situated. The argument about traditional and cultural use might more specifically apply to the Latin American context. Still, however, Böllinger claims that the process of globalization and mobility of peoples "…has fostered the elimination of the traditional delineation of culturally integrated and nonintegrated drugs" (2004: 498), leading patterns of use which before were limited to certain cultures and hemispheres to be exported and generalized (Ibid.).

The next section will continue discussing some of the themes touched upon in this section in relation to the (political) benefits of moving the debate about legality of drugs from the legislative power to the judicial power.

6.3 (Political) benefits of arguing within a (human) rights discourse

This section discusses different benefits of arguing within rights based discourses to change drug policy. First I present the benefits of bringing the debate from the legislative to the judicial power (in section 6.3.1.). This section accounts for a process which could not be said to be influential on the part of the drug policy reform movement, but which nevertheless is important for awareness around and acknowledgement of drug users' civil rights. It might also be significant in relation to a change in the global discourse on drug control. Second, I account for how the development of the human rights legal framework and its institutionalization has enhanced the advocacy possibilities of the drug policy reform movement (in section 6.3.2.). Third, I present what I perceive as a particularly powerful argument posed by the movement, namely in relation the human rights commitments of the UN drug control organs and their disparity to the rest of the UN system (in section 6.3.3.).

6.3.1 Benefits of bringing the discussion from the legislative power to the judicial power

In the previous section I outlined the argumentation from a 'deontological liberal' position which recognizes a person's right to use drugs to the extent that it does not infringe on the rights of others. As will be shown in this section, such a right can currently be derived in many countries whose constitutions guarantee their citizens strong civil rights including the 'freedom to hurt oneself' or the 'freedom to express one's personality'.

As mentioned in the previous chapter, such a constitutional civil right is just the reason why drug use per se is not a criminal action in German law. The process which led the German Federal Constitutional Court to rule out the principle of nolle prosequi in cases of simple cannabis possession was instigated by the Lübeck Court, which, instead of condemning a woman for simple cannabis possession, chose to try the constitutionality of the crime (Papendorf 2002). One of the main arguments of the Lübeck Court was that criminalization of cannabis possession conflicts with Article 2 part 1 of the German Constitution, which guarantees the free expression of the personality (2002: 109). An intervention could thus only be justified through the principle of proportionality. The Court did not consider penal sanctions proportionate to the crime. Although the Federal Constitutional Court disputed this

interpretation[138], it still decided to rule out the principle of nolle prosequi in cases of simple possession with low degree of public interest and of personal guilt (Ibid.).

Aram Barra (interview) talks about a similar process taking place in many Latin American countries. As Latin American countries all got their independence from Spain around the same time, they also have very similar constitutions, inspired strongly by the civil rights bill in France which was passed just prior to the independences.

"*And that is very interesting because that allows for the judicial system, particularly for courts, for judges, for people who practice law, to defend different positions around drugs, which is for instance what we saw in Argentina, the current debate in Colombia, the debate in Mexico as well, which is: It is unconstitutional detaining someone for possessing drugs, they say, even if drugs are an illegal product. And that has to do with that; the recognition of individual rights, of civil rights and thus that an individual can do whatever the individual wants to do if it doesn't affect a third person or a third party. And that is interesting in terms of the debate which doesn't happen in other regions of the world, it doesn't happen in general in Africa, it doesn't happen in general in Asia. Which question a lot of punitive laws [...]*" (Aram Barra, Espolea, interview).

According to Barra constitutional civil rights are thus important tools for defending a change of the punitive paradigm.

In June 2011 Bolivia shocked the world by being the first country ever to withdraw from the Single Convention on Narcotic Drugs precisely due to constitutional civil rights recognizing traditional use of the coca leaf[139]. Due to the unconstitutionality of the coca leaf ban in the Single Convention, Bolivia had asked for a rescheduling of the coca leaf without success. Thus, it had no other choice than withdraw from the convention, into which it will re-accede with a reservation on the coca leaf and traditional uses (*Bolivia Withdraws from the UN Single Convention on Narcotic Drugs 2011*). In the TNI/WOLA press release Martin Jelsma

[138] The Federal Constitutional Court refuted this assessment due to the possibility of uncontrolled distribution to a third party and the stimulation of the demand for drugs (Papendorf 2002: 112)

[139] The new Bolivian constitution from 2009 Article 384 recognizes that "…The State shall protect native and ancestral coca as cultural patrimony, a renewable natural resource of Bolivia's biodiversity, and as a factor of social cohesion; in its natural state it is not a narcotic. It's revaluing, production, commercialization and industrialization shall be regulated by law"(*Bolivia Withdraws from the UN Single Convention on Narcotic Drugs 2011*).

notes that the restrictions which the Single Convention places on the coca leaf and its traditional users are violations of indigenous rights (Ibid.).

This brief section served the purpose of showing that bringing the discussion about the legality of drugs to the judicial power can lead to amendment of drug laws in one way or another, especially in countries with constitutions recognizing strong civil liberties, right to privacy and free expression of the personality. As noted by Barra, this might also question the legitimacy of punitive drug laws in other countries as well as the legitimacy of the UN drug conventions.

The next section will go on to discuss how the recognition of individual rights and their institutionalization in international human rights law and mechanisms has affected the advocacy possibilities of the drug policy reform movement.

6.3.2 The development of human rights and their effectiveness as advocacy tools

The concept of human rights is historically recent, dating back to the era after World War II. However, Sikkink notes that although the human rights norms emerged in the aftermath of the Holocaust, their development was not fuelled before the 1970s due to their subordination to anti-communism during the Cold War[140] (1993: 418). It was first after the Cold War that human rights came to be nearly universally acknowledged (Manokha 2009).

Many human rights scholars have emphasized the crucial role of transnational advocacy networks or 'global civil society' in the task of institutionalizing and globalizing the human rights norms, monitoring state compliance, as well as contributing to the process of the development of the human rights legal framework, institutions and mechanisms (Sikkink 1993, Savelsberg 2010, Bianchi 1997).

Sikkink (1993) notes that what bind the human rights networks together are their shared values and principled ideas, which are embodied in the international human rights law. Barrett

[140] The fundamental human rights were codified in the Universal Declaration of Human Rights (UDHR) in 1948, later to be strengthened in the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), both from 1966. The specific human rights treaties are even more recent, as the one for protection of women's rights from 1979, children's rights from 1990, indigenous peoples' rights from 1991 and also the convention against torture from 1987 (Savelsberg 2010: 28).

& Gallahue (2011) point out that harm reduction (and drug political issues) has been generally unfamiliar to the human rights field. Still, they embody similar principles, such as dignity, universality, transparency, accountability and participation as well as the aim of "challenging policies and practices that maximise harms" (Barrett & Gallahue 2011: 188). Whereas issues of crop producing farmers and eradication efforts for a long time have been framed in terms of human rights violations, it is just recently that the drug policy reform movement has also framed their arguments about drug users' rights within the human rights discourse:

"*It's more recent to try to really enforce the debates more general about the whole drug policy, framing it in human rights terms and using it as very powerful arguments, which also has become more useful because of the developments of the human rights instruments themselves. The right to health has of course become a powerful tool in this context and indigenous rights have also become only recently formally recognized as a human right*" (Martin Jelsma, TNI, interview).

The development of the human rights treaty system, but also of the human rights institutions and mechanisms, have thus allowed the drug policy reform movement to expand their arguments – and making them more powerful as they are grounded in an internationally recognized normative framework. Sikkink notes that for human rights networks "[t]he body of law serves to justify actions and provide a common language to make arguments and procedures to make claims" (1993: 416). Bianchi (1997), too, observes that grounding advocacy in normative frameworks makes NGO activism much more effective.

Furthermore, transnational advocacy networks contribute to creating "…global cognitive scripts (or models) and norms, which, once produced, unfold considerable force" (Savelsberg 2010: 32). Bianchi also notes that transnational networks "…create transnational solidarities and gather consensus on human rights values regardless of whether they are embodied in formal rules" (1997: 190). In this manner they contribute to a 'communicative process' where state behavior is assessed in relation to whether it is consistent with fundamental human values (Ibid.).

The development of the human rights institutions and mechanisms themselves has also allowed the drug policy reform movement to target other arenas in their advocacy than those directly concerned with drug policy, such as drug control or health institutions. Martin Jelsma (interview) emphasizes the important role of the Special Rapporteurs which have brought

attention to the issues of proportionality of sentences, prison conditions, torture and inhumane treatment and health in relation to drug policy. He also stresses the importance of the independency of the Special Rapporteurs, who work directly under the Secretary-General and who report directly to the General Assembly, which allows them to go beyond the level of the CND[141]. It also allows for a new strategy for the movement, of bringing the drug issues out of the narrow Vienna NGO Forum and to arenas such as the Human Rights Council and the World Health Assembly (Jelsma, interview). The Human Rights Council is now issuing drug policy for the first time[142]. Aram Barra (interview) tells me that the movement is also increasingly engaging with the agencies protecting the special human rights treaties, such as the Committee on the Rights of the Child (CRC) and the UNICEF, as there are many children either using drugs or directly affected by current drug policies. The same strategy applies to women and indigenous people. In this manner, they try to bring awareness, to both human rights agencies and other non-state actors working on human rights issues, around an area of human rights violations that has previously been neglected. They seek to expand the global cognitive and normative scripts to encompass the rights of people who use drugs and of people who are negatively affected by drug policy, to create a transnational solidarity on this issue, and, ultimately, to change the behavior of states – and, as we shall see in the next section, the behavior of other UN agencies.

6.3.3 The 'System-wide Coherence Argument'

This section will deal with how the drug policy reform movement draws on international human rights legal framework, institutions and mechanisms to influence the UN drug control organs to act in coherence with human rights norms.

[141] Many have noted that one particular problem with the CND is that it has chosen to pose resolutions solely based upon consensus, which means that the countries have to negotiate the lowest common denominator and that any of the fifty-three member countries can block a resolution – often leading wording to be vague (Jelsma 2004: 5, Barrett et al. 2008). Going beyond the level of the CND thus allows the movement for bringing up issues which could never have made it into a CND resolution.

[142] Barrett et al. (2008) emphasize the enhanced and reinforced position of human rights in the UN system. In 2006 the Human Rights Commission, which was a Functional Commission under the ECOSOC (just as the CND), was replaced by the Human Rights Council, which is a 'standing body' elected by and reporting directly to the General Assembly (2008: 15). The Human Rights Council now sits alongside the Economic and Social Council and the Security Council as the main bodies for the three pillars of the UN (human rights, peace and security) (2008: 22). This change was instigated by the former Secretary-General Kofi Annan to emphasize the authority and primacy of human rights in the UN Charter (Ibid.).

Martin Jelsma (interview) notes that the drug control discourse at the international level has been concentrated within the triangle of the CND, the INCB and the UNODC, where the rest of the UN system simply has been cut out.

"*And the human rights argument is one of the ways to force all the UN agencies to look at the issue and to look at it also from the system-wide coherence argument. System-wide coherence, that's an UN term, that the Secretary-General has to try, that on key issues like the Millennium Development Goals, that the different UN branches act in coherent moves. And the drug policy issue is a clear example where there is incoherence*" (Martin Jelsma, TNI, interview)

This incoherence and disparity between the UN drug control organs and the rest of the UN system is an issue that is increasingly emphasized by the drug policy reform movement.

Barrett et al. (2008) note that although both the drug conventions and the UN institutional framework which they enact are similar in structure to the human rights legal framework and the rest of the UN institutions (albeit smaller), there are some significant differences. Namely, the methods they adopt, and the principles and the ideology which they enshrine are of a very different kind.

First, the UN Drug Conventions are based on very different *ideological* grounds than the human rights treaty system. Rather than promoting and protecting a set of universal rights with the aim to attain higher standard of living and peaceful solutions to problems, which is the purpose of the Charter of the United Nations and the Universal Declaration of Human Rights, the Single Convention establishes the duty to "combat the evil" which drugs represent, through encouragement and sometimes direct obligations to establish criminal sanctions.

Second, Barrett et al. (2008) note that although the preparations for the Single Convention were made in the same time as the Universal Declaration of Human Rights was ratified, it bares no traces of it. The drug conventions hardly mention human rights at all[143].The focus of

[143] Article 14(2) of the 1988 Convention mentions human rights in that measures adopted to prevent illicit cultivation shall respect fundamental human rights and traditional licit use.

the conventions is punitive and there are no but a few provisions about the treatment of addiction in the 1961 and 1971 conventions[144] (Barrett et al. 2008: 19).

Third, there has been a lack of human rights guidance from the CND, which is the central political body on drugs in the UN system (Barrett et al. 2008: 15). This is of special concern as the protection of human rights is the purpose of the UN, an obligation in the Charter of the United Nations, as well as a responsibility of the CND. The INCB (which monitors the implementation of the drug conventions) has even directly stated that it will not discuss human rights (Barrett et al. 2008: 12).

Fourth, the UN drug control organs have been practically closed for civil society participation. In the rest of the UN system NGOs have a crucial role as partners - in revealing human rights abuses as well as ensuring an open dialogue and transparency. Civil society participation has increased in UNODC and slightly for the CND, as we saw in the last chapter, whereas the INCB have publicly stated that it will not engage with civil society[145] (Barrett et al. 2008: 19). The conventions and the attitudes of its governing organs are thus undermining the principle of empowerment mentioned in section 6.1.1.

Lastly, there has been very little concern about human rights abuses in relation to drug policy neither from other UN bodies nor human rights NGOs. As I have shown in this chapter this is, however, also changing as Special Rapporteurs in several fields have noted human rights violations against drug users and farmers and human rights NGOs, such as Human Rights Watch and Amnesty International, have increasingly raised their interests for human rights violations in relation to drug policy.

After a thorough discussion of the hierarchy of human rights and drug control in the UN legal framework and of the UN institutions, Barrett et al. (2008) clearly find human rights to have precedence. Nevertheless, they state that:

[144] These conventions also specifically open for *forced* treatment of drug users. Barrett et al. notes that forced treatment or 'rehabilitation', apart from having a very large relapse probability, "…can and does result in significant human rights violations" (2008: 29).

[145] However, Cook (2010) notes that the CND is mandated to engage with civil society as a functional ECOSOC commission, under Art. 71 of the UN Charter, and that this is also the case for INCB, as the 1972 Protocol of the Single Convention explicitly states that INCB should draw on civil society as a source of information. On a detailed account and critique of the uniqueness of the INCB in the UN system, see "Unique in International Relations?" by Damon Barrett (2008).

> "Instead, notwithstanding the *de jure* precedence of human rights obligations over drug control, *de facto* drug control is prioritised over human rights. This raises a serious concern for UN system coherence and the commitment of the Organisation, and of member states, to the protection and promotion of human rights and the aims of the UN Charter" (Barrett et al. 2008: 23).

Martin Jelsma (interview) tells about a new task force that has been put down by Secretary-General Ban Ki-moon to make sure that the UN agencies act in coherent, coordinated moves in special crisis situations. A special task force is now also put in place jointly coordinated by the UNODC and the UN Department of Political Affairs (DPA) to look at the contradictions between repressive drug policy and the Millennium Development Goals, which has especially been triggered by the situation of violence in Mexico (Jelsma, interview).

Furthermore, on December the 12th 2011, Yury Fedotov, Executive Director of the UNODC, announced the creation of a new senior advisory team within the UNODC on human rights, with the aim to make sure that human rights are integrated into UNODC program design and planning, policies and evaluation. Harm Reduction International (HRI) notes that the creation of this team occurs after Human Rights Watch issued a report on UNODC's involvement in drug detention centers in Viet Nam, and after HRI documented and revealed the involvement of UNODC supported and sponsored programs in the application of death penalty and executions for drug offences[146].

This section has shown how the human rights discourse has allowed the drug policy reform movement to pose a particularly forceful critique of the UN drug control organs through what Keck & Sikkink (1998) call information politics, accountability politics and leverage politics. The critique forces the drug control organs to put human rights on their agendas as well as it forces the UN human rights organs to put drug policy on their agendas.

In the last section the human rights discourse will be examined in a broader theoretical context, as well as in relation to how it can form a 'counter-weight' and an opposition to the criminalization of poverty in general and of drug use and production in particular.

[146] http://www.ihra.net/contents/1151?utm_source=dlvr.it&utm_medium=twitter [Date of last access: 06.05.2012].

6.4 Discussion

In this section I will first account for how scholars have argued that human rights is the new hegemonic discourse in international relations, before I go on to discuss the significance of transnational advocacy networks in enforcing a 'universal citizenship of rights', and, lastly, discuss how human rights can be a basis for the deconstruction of certain national and international crimes.

Human rights have been referred to as a 'normative master discourse' for the post Cold War period (Neumann & Sending 2010), by some claimed to be hegemonic (Evens in Manokha 2009). Drawing on Foucault's conceptions of power, Manokha (2009) states that the global human rights discourse can be seen as having become a global standard or norm with reference to which agents are evaluated and evaluate themselves. Actors conform to this norm even in absence of external coercion. Power is productive in that it produces behavior through mediating the dominant view, but is also exercised more directly on those actors who do not conform to the norm[147]. As critiques of human rights have demised and the concept has got a nearly universal acknowledgement as a self-evident phenomenon, the global human rights discourse has become a 'discourse with a truth function', constituting a set of structures in which "…the subject transforms himself into an object of power and adopts 'willingly' forms of behaviour that are expected by the prevailing discourse and truth configurations" (Manokha 2009: 435). Interestingly, Manokha also notes that within the human rights discourse, which accelerated after the demise of the socialistic states, it is by far the political and civil rights which are prevailing – the individually centered rights[148]. As has been argued several times, the values which the drug policy reform movement advocates – with a focus on individual rights, social equality and liberation of the oppressed – do very much resemble the moral values of the human rights paradigm.

[147] Examples of direct exercise of power are the number for humanitarian interventions set in to prevent massive human rights violations.

[148] Manokha argues that the human rights paradigm should be seen in relation to the development of means of production and especially in relation to the central role of the market from the 17th century onwards and to the shift towards viewing labor as a commodity – the very commodity which makes capitalism possible. The redundancy of political coercion renders civil liberties and equality of individuals possible – which are "increasingly seen as *the* liberty and *the* equality, while the fact that exploitation and inequality exist in the market is taken for granted and objectified" (2009: 447). Global capitalism rendered a particular form of democracy possible, where fundamental elements of the market – individual rights – were codified. It "rendered possible the development of the human rights discourse" (2009: 448).

I will argue that the human rights discourse may be seen as an attempt to create a 'universal rights-based citizenship' which is meant to include groups that are marginalized and excluded, as human rights law stresses the rights of vulnerable groups to be of special concern through imposing positive obligations on signatory states. In this manner the human rights discourse contrasts to the projects which attempted to forge a 'universal citizenship' in the last decades of the nineteenth century and the first half of the twentieth described by Rose, in which he argues not all were seen as includable, such as "…the mad, the criminal, those who refused the bonds of regular labor, but also, in different ways and in different times, the child, the African, the woman and the Jew" (2000: 330). I will argue that the human rights discourse, in the same manner as the harm reduction discourse, seek to break up the boundaries of the circuits of inclusion through obliging states to include and protect the 'underclass', the marginalized, the truly disadvantaged, and, even, the criminals. It thus creates a new boundary or standard by which individuals, states and non-state actors are to be included or excluded, namely the standard of 'universal' humanistic values. Those who do not change their behavior according to the humanistic values of the human rights are pressured, 'blamed and shamed', intervened upon, sanctioned, and sometimes even punished.

However, this process is not necessarily automatic and there are lots of other interests at play in the international community. The novelty of the human rights concept, system, and its globalization is evident in its process of constant change, new institutionalization and reflexive development (specifically in relation to civil society).

Although all human beings and their rights are meant to be protected through the human rights normative framework acknowledged by practically all states, 'global civil society' has a crucial role in enforcing this normative framework through their constant scrutiny and advocacy (Sikkink 1993, Savelsberg 2010, Bianchi 1997). This means that whose rights actually come to be protected may largely depend on the existence of an advocacy group or network or on the effectiveness of such an advocacy group or network.

Keck & Sikkink note that transnational advocacy networks have been most successful on two types of issues; 1) issues involving bodily harm to vulnerable individuals – with a short causal chain assigning responsibility and 2) issues involving legal equality and opportunity (1998: 27). However, they go on to note that their success also depends on *who* is regarded a vulnerable group. As noted by Luís Astorga, drug users have commonly been regarded as criminals and trash, or as 'the others', which makes the task of attracting sympathy and

support in rights advocacy a much more difficult one. This thesis is a documentation of how the drug policy reform movement tries to change this common regard.

In the chapter on harm reduction I showed how the movement is trying to *differentiate* the view on drug use through separating the *phenomenon* of drug use from the *problem* of drug use, while emphasizing that the problematic users are a vulnerable group in need of support on their own premises. The last chapter showed how the movement aims at *deconstructing* drug use and acts related to drugs as crimes. This chapter has shown how the movement tries to *reconstruct* the drug user as an equal human being with inherent rights. Through assessing state and IO behavior to the human rights global standard, the movement tries to bring awareness about neglected vulnerable groups of people who use drugs and people negatively affected by drug policy, to 'blame and shame' actors who violate human rights norms in relation to these specific groups, to hold individuals, states and IOs accountable, and to influence them to change their behavior.

However, the drug policy reform movement does not take on an emotional, punitive rhetoric of punishing the perpetrators of the human rights violations, of reinforcing justice and ending impunity, such as some human rights organizations have been criticized for doing (Lohne 2009). For the movement, the perpetrator is rather the drug prohibition paradigm itself and the structures which it enacts. The drug policy reform movement calls for a structural change and for amendment of a legal framework and a system which produces inequality and discrimination. And the human rights might just to be a specifically forceful basis for such a restructuring.

In a report to the United Nations General Assembly (2011)[149], the Special Rapporteur on Extreme Poverty and Human Rights, Magdalena Sepúlveda Carmona, strongly criticizes a number of laws and regulations world wide which in different ways *criminalize poverty*. The laws in question range from regulation laws which facilitate privatization and gentrification, to laws which directly penalize actions of people living in poverty, such as vagrancy, begging and street vending, as well as laws which restrict access to and behavior in public spaces. None of the examined laws could be justified through legal restrictions on human rights, such as the interests of public security, safety or order, public health or the protection of the rights

[149] United Nations General Assembly A/66/265 (2011): *Extreme poverty and human rights*. Report by the Secretary-General to the sixty-sixth session.

and freedoms of others. Rather, their justifications were cosmetic and highly insufficient. Many of these laws, she states, severely violate principles of human rights, and, thus, conflict with international law.

She does not mention drug use, which is probably because she finds this activity to be legally restricted [150]. Still, many scholars have emphasized that the criminalization of drug related activities is in reality a criminalization of poverty and of marginalized segments of society (see for example Christie & Bruun 2003, Feeley & Simon 1998), which, as I have shown throughout this thesis, is something that is being increasingly disputed in several countries. What her critique shows, however, is how human rights law can be used, as a strong normative counterweight, to question – not only the legitimacy but also the lawfulness – of punitive responses to social problems. Not only can it be used to deconstruct domestic criminalizations of poverty, but it can also, as the efforts of the drug policy reform movement shows, be used to deconstruct international criminal law such as the punitive paradigm of drug prohibition.

6.5 Conclusion

In this chapter I first elaborated on the (juridical) argumentation of the drug policy reform movement in stating that many of the harms and costs stemming from prohibition are also violations of international human rights law.

Second, I showed how the primary task of the NGOs in Mexico and Germany is to advocate drug users' rights, however, drawing on different legal frameworks in their argumentation. The claim for a human right to use drugs was also discussed in relation to different forms of 'right action' which can spring out from harm reduction.

Third, I discussed different (political) benefits of grounding advocacy within a (human) rights-based discourse. First, I elaborated on the tendency in certain regions of Constitutional Courts to deem simple drug-related crimes unconstitutional, which questions punitive laws and which might ultimately undermine the legitimacy of the UN drug conventions. Second, I examined the development of the human rights legal framework and its mechanisms in relation to how it has enhanced the advocacy possibilities of the drug law reform movement.

[150] Why she does not mention drug use at all is still particularly interesting, and might even add up to the critique which the movement poses of the negligence of UN agencies to address this issue. Unfortunately, it would be beyond the scope of this thesis to discuss this matter any further.

Lastly, I accounted for what I perceive to be a particularly powerful argument, namely the 'system-wide coherence argument', which questions the reluctance of the UN drug control organs to evaluate their policy in relation to human rights as well as their disparity to the rest of the UN system.

Fourth, I discussed the broader political and social implications of the human rights paradigm as a 'normative master discourse' and as a norm with reference to which states increasingly are evaluated and evaluate themselves. I also highlighted the similarity of the humanistic values advocated by the drug policy reform movement and the (particularly individualized) moral values institutionalized in the human rights paradigm. Furthermore, I claimed that the human rights, in a similar manner as harm reduction, through enacting a 'global citizenship of rights' questions the boundaries of the circuits of inclusion and creates new boundaries of inclusion where actors are evaluated in relation to their devotion to and compliance with humanistic values. Lastly, I argued that human rights can be seen as a normative counterweight to question the legitimacy and lawfulness of domestic laws criminalizing poverty as well as of the global drug prohibition paradigm.

7 Conclusion

This thesis has sought to answer the questions: How does the drug policy reform movement attempt to change the global discourse on narcotic drugs? And: How is the drug policy reform movement in opposition to dominant power structures – and how is it not?

I examined the drug policy reform movement as two interconnected and overlapping movements; the harm reduction movement and the drug law reform movement, and inquired dominant power structures and elements of opposition through a governmentalty perspective.

In this thesis I have shown that the drug policy reform movement's underlying humanistic *values and philosophy*, center around individually and liberally oriented norms and rights, such as autonomy, dignity, accept and respect for individual choices, participation, freedom from oppression, harm and discrimination, as well as social equality. These values and norms highly resemble the moral values institutionalized in the human rights paradigm – upon which the movement also increasingly draws in its argumentation.

I have also shown that the rationalities and logics implicated in the policies advocated by the movement, with a focus on minimization of drug-related harm, risk and vulnerability to individuals, communities and society; based on the principles of pragmatism, community participation, low thresholds, cost-efficiency and priority of immediate goals, are in line with 'advanced liberal' governmentalities and bio-politics; which are underpinning a range of other policy areas. So are the propositions for regulative forms of drug control that are individualized and decentralized rather than hierarchic, and where the focus is on harm minimization rather than on elimination of drug supply and demand. These rationalities are bolstered, rather than opposed, by the humanistic values.

I argued that for the harm reduction movement it is particularly its inherent values that constitute the element of opposition to the prevailing, albeit increasingly contested, zero-tolerance discourse. Prohibition and the zero-tolerance discourse are also based upon a different set of values and a different kind of rationality and 'system of thought'; namely that of protecting the population against 'evil' and 'immorality' which it regards drugs and drug-related activities to be. Nevertheless, the scientific evidence-base for the effectiveness of harm reduction policies and interventions, particularly in reducing epidemics such as HIV – seen in many countries as a larger immediate threat to society than drug use per se – , has elevated

harm reduction into official public health discourse. Still, however, harm reduction is contested in countries and environments devoted to the zero-tolerance discourse. Furthermore, I have claimed that there is a tendency of states and IOs to outsource the responsibility for the health and welfare of drug users to harm reduction NGOs, through which they govern as autonomous non-state partners.

The movement's propositions for alternative drug control – complete decriminalization of drug users or de jure legalization with government regulation – is primarily in opposition to prevailing drug policies due to their goal; a reduction in harms rather than a reduction in consumption prevalence. However, decriminalization and harm reduction also pose intellectual threats to prohibition in that they have demonstrated effectiveness – without fulfilling the prophecy about higher consumption prevalence. More and more countries have adopted these strategies, leading to cracks in the transnational consensus on zero-tolerance and increasingly also on prohibition. The international drug control institutions have managed this threat through adopting a stance of 'reformed prohibition' with a goal, not of a drug free world, but of containment. This position has allowed them to sustain an unsustainable prohibition paradigm. It is also a change which the drug policy reform movement has helped them in producing, and in this manner one might say that also the drug control institutions are governing through the drug policy reform movement. The movement has accordingly become better at working with the system and downplayed its elements of opposition, although they are still in fundamental opposition, which renders them autonomous subjects to be governed through. However, further change towards alternative drug control, and even to an informed debate on the issue, are hampered by barriers such as the character of political benefit and public opinion, securitization of the drugs issue, institutional barriers, a dichotomization of the debate as well as the framing of drugs in terms of immorality.

Yet, the recent years have witnessed particularly rapid and accelerating changes in the global discourse on narcotic drugs. In the last month of the writing process I already noticed some of my sections to be partly outdated, as even current presidents are calling for a revision of the prevailing drug political approach. As Europe the last decades has been the cradle for drug political innovations through harm reduction and decriminalization, a wind of change is now blowing in Latin America, where governments seek progressive approaches to reduce the horrendous levels of violence – a policy priority which has become more pressing than drug control (Jelsma 2012). The president of Guatemala has recently called for an alternative drug

political approach which led to debates in the Sixth Summit of the Americas 14th -15th of April 2012. The Colombian president proposed a special task force of independent experts and economists to be put down to assess the prevailing drug policies and their alternatives in order for future policies to be based on scientific evidence. Such a task force will now be put down by OAS, where the results might have the potential to become a benchmark for future drug policies. What kind of experts will it employ and what will be its mandate? What will be the consequences of bringing in economists as experts to evaluate drug policies? What will be the result of this task force as well as the results of the new task forces within the UN system evaluating human rights compliance and system-wide coherence? What kind of impact will they have on future drug policies?

In this thesis I have attempted to give both a historical account of the drug political discourse and of the efforts of the transnational drug policy reform movement to change it – as well as a snapshot of the current situation. The snapshot is, however, soon to become history and extensive research will be needed on the drug political innovations which are on the way.

Number of words: 48 413.

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9 Appendices

9.1 Abbreviations

ART – Antiretroviral therapy

CAT – Convention Against Torture and Other Cruel and Degrading Treatment and Punishment, 1984

CND – Commission on Narcotic Drugs

CSF – (EU) Civil Society Forum on Drugs

CRC – Committee on the Rights of the Child

CUPIHD – Colectivo por una política integral hacia las drogas

DCR – Drug consumption room

ECOSOC – UN Economic and Social Council

ENCOD - European Coalition for Just and Effective Drug Policies

EU – European Union

HAT – Heroin assisted treatment

HRI – Harm Reduction International (before, International Harm Reduction Association, IHRA)

ICCPR – International Covenant on Civil and Political Rights, 1966

ICESCR – International Covenant on Economic, Social and Cultural Rights, 1966

IDPC – International Drug Policy Consotrium

IDU- Injecting drug user

INCB - International Narcotics Control Board

INGO – International non-governmental organization

INPUD – International Network of People who Use Drugs

IO – International Organization

NGO – Non-governmental organization

NSP – Needle and syringe program

OAS – Organization of American States

OSF – Open Society Foundations

OST – Opioid substitution therapy

TNI – Transnational Institute

UDHR - Universal Declaration of Human Rights

UNAIDS – Joint United Nations Programme on HIV/AIDS

UN – United Nations

UNICEF – United Nations Children's Fund

UNDP – UN Development Program

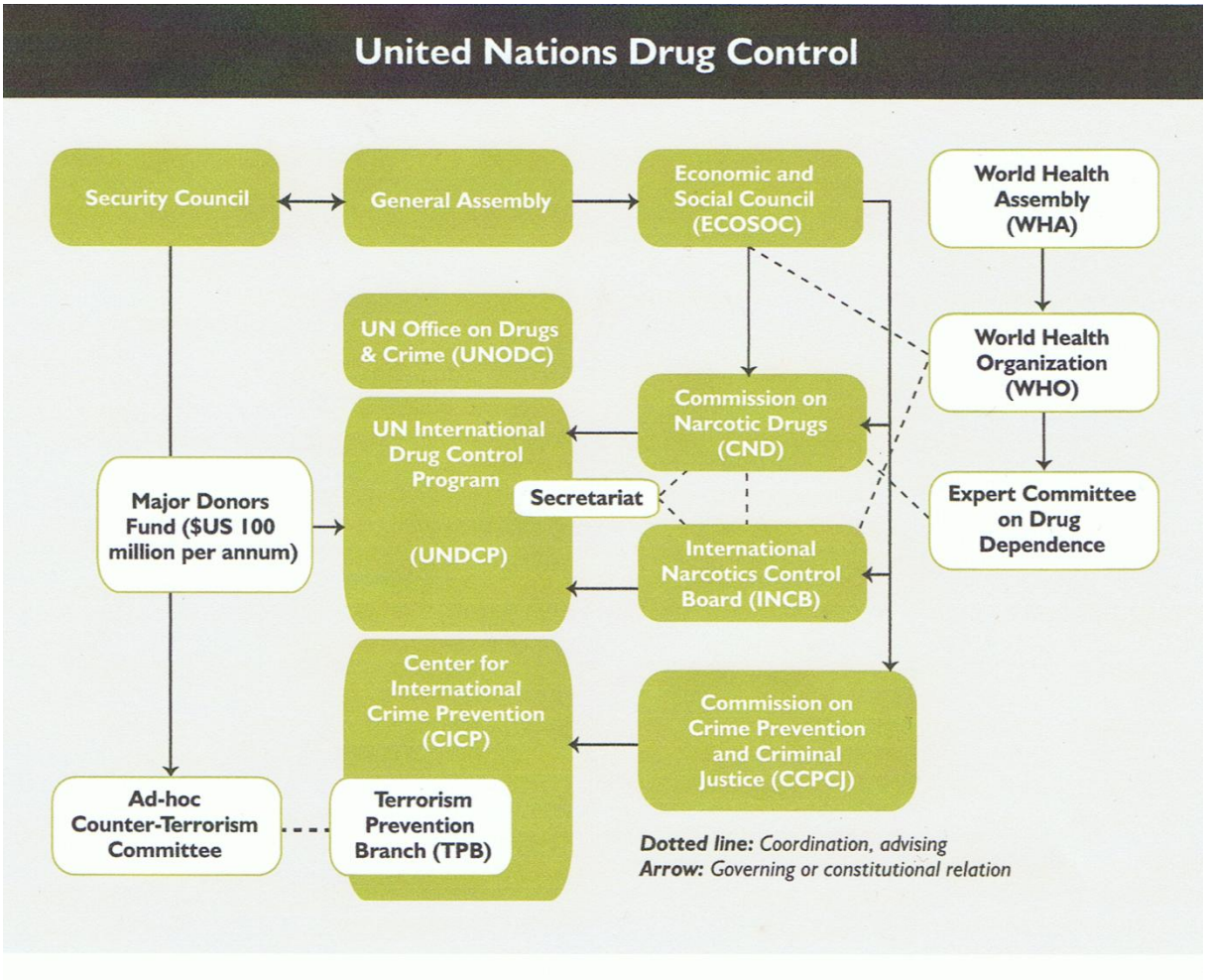
UNODC – United Nations Office on Drugs and Crime

U.S. – United States of America

WHO – World Health Organization

WOLA – Washington Office on Latin America

9.2 Organizational chart of drug control in the UN system



Source: "Cracks in the Vienna Consensus: The UN Drug Control Debate" (Jelsma 2004: 4)

9.3 Examples of thresholds used in decriminalization of possession for personal use

Source: "Legislative Innovation in Drug Policy" (Jelsma 2009: 5)

Country	**Quantity Threshold Defined by Law**	**Judicial Practice**
Portugal	The quantity required for an average individual consumption during 10 days	25 gr cannabis, 2 gr cocaine ase used as indication, but without additional evidence on the intent to supply, larger quantities are regarded as possession for personal use.
Uruguay	Possession of "a reasonable quantity exclusively intended for personal consumption" is not punishable	Left entirely to the discretion of the judge to determine whether the intent was consumption or supply.
Finland	15 gr cannabis, 1 gr heroin, 1,5 gr cocaine, 10 ecstasy pills only punishable by fine	100 gr cannabis, 2 gr heroin, 4 gr cocaine, 40 ecstasy pills only punished by fine
Spain		40 gr cannabis, 5 gr cocaine, not considered supply
Netherlands	5 gr cannabis and 0,5 gr cocaine or heroin not punishable	5 cannabis plants permitted, possession up to 30 gr only small fine, up to 1 kg larger fine, more is punishable with prison sentence; small amounts of "hard drugs" in practice left to police, prosecution and eventually judicial discretion to determine whether the intent was consumption or supply
Mexico	5 gr cannabis, 2 gr opium, 0,5 gr cocaine, 0,05 gr heroin	Any amount above the thresholds is considered intent to supply
Paraguay	10 gr cannabis, 2 gr opium, 0,5 gr cocaine, 0,05 gr heroin	
Colombia	20 gr cannabis, 1 gr cocaine	Supreme Court determined that further evidence is required to punish someone caught with more than threshold for supply
Australia (states)	Four states in Australia have decriminalized cannabis possession of quantities from 15 to 50 gr	Administrative sanctions only
US (states)	13 states decriminalized cannabis possession, several using 28,45 grams (one ounce) as limit	Schemes differ per state or county, most only applying small fines

9.4 Interview guides

9.4.1 Interview guide German interviews

THEME	QUESTION	FOLLOW-UP QUESTION
1. THE IMPACT OF SOCIAL MOVEMENTS ON POLICIES 1.1. IN EUROPE		
European drug policy and impact of social movements	There has been a trend towards decriminalization in many European countries by three models; 1) formal procedural law decriminalization, 2) de facto and informal practices of not enforcing law and 3) substantive law decriminalization (Böllinger 2004). - What do you think are the reasons for this trend? - What do you think is the impact of social movements on this trend? There has also been a wider acceptance of harm reduction measures in European countries, and harm reduction has also become part of the official EU policy. - What do you think has led to this? - What is the impact of social movements on this?	
1.2. IN GERMANY		
Paradigms	Böllinger (2004) claims that there are basically 3 distinct drug policy paradigms; 1) criminalization, 2) medicalization and 3) acceptance. He also claims there has been a paradigm shift in Germany – away from the abstinence model – towards the acceptance model (and definitively also to the medicalization model). - What do you think about this statement? - What are the impacts of social movements on this shift?	

German development in criminal justice practice in the drugs field	In Germany there has been a procedural decriminalization of producing, obtaining and possessing small amounts of drugs for personal use, as well as a change in law enforcement practice. - What do you think are the reasons for this change?	- Böllinger (2004): From hard to soft control and net widening…..
2. THE MOVEMENT ITSELF 2.1. IN GERMANY		
History of the German movement	- How did the NGOs working for harm reduction and policy change come to existence in the first place? - When / where / who/why/ how?	- What lead to the first mobilization for action? Who/ When/Where?
Frankfurt	- What was the role of civil society and social movements in the Montagsrunde?	- The pragmatic harm reduction policies of Frankfurt – Were they merely a bureaucratic solution..?
ECDP	- To what extent was NGOs and civil society movements a part of the European Cities on Drug Policy movement? - What has been the role of scientists in this movement?	- As I understand the University of Frankfurt was actively involved in the establishing of the foundation "Integrative Drogenhilfe" in the last part of the 1980's? And that this was also the background for the ECDP? (Who had contacts with the Lindesmith Center in USA) - Can you tell me more about this involvement?
	- Can you tell me about the collaboration in the ECDP?	- Does the Montagsrunde still exist?
	- What have happened with European Cities on Drug Policy?	- As Frankfurt, Hamburg and Hanover (and some more cities) joined the ECDP, Berlin joined the European Cities Against Drugs (ECAD) collaboration. Could you tell me what consequences and

		differences this has lead to? (German cities have left the ECAD as I understand…)
Professionalization	(To Stöver:) – In Lebanon you said that you perceived the movement to have evolved from grass-root movements to more professionalized movements, Could you explain this?	- Key happenings ? - How did it happen? - What do you think about this development? What is good/bad about it? - What professions and type of knowledge is dominating the discourse of the movement? - Has the movement's advocacy got more efficient?
Movements in Germany now	- How has the professionalization of the movement affected on the drug policy making in Germany? Internationally?	
	(To Stöver:) In one article in the Harm Reduction Journal that you wrote with Ingo Ilja Michels and Ralf Gerlach in 2007, you claim that there has been an opening up of the health sector to drug users' own competence and voice as well as to acknowledging self-help groups as an important component in treatment. - Could you tell me more about this?	- In what ways have the self-help groups affected the orientation of the health sector? - Have they also affected on drug policy making in general? How?
	- As I have understood, it is the NGOs themselves, or private organizations (Eingetragener Verein) that run most of the harm reduction measures in German cities – is this right?	- How are they funded? - What are the biggest challenges for the self help-groups? - What have they accomplished?
	- Böllinger is in one article dividing between self-help groups and NGOs. What do you think about this divide?	- Could you mention some of the

	Could you explain it?	most important/biggest organizations offering harm reduction measures? What/how do they do this? Do they meet opposition?
	- Could you tell me about the NGOs working for drug policy change?	The biggest NGOs I understand is Akzept, Deutsche AIDS-Hilfe and JES (?) - How do they work? - What are their advocacy strategies? - Who are their key partners? - Do they ally with other NGOs in other policy spheres? - Do they ally with particular political parties? - How are they targeting the politicians and the general public? - What are their main arguments and ideas for policy change? - What are their strategies in posing these arguments? - What are their main goals? - How do they get funded? - What are their outcomes? (Impact on German drug policy and popular opinion)
	Böllinger (2004) writes about certain institutional and organizational changes in Germany which indicate social change towards medicalization of the drug problem. He claims that the German Society for Drug and Substitution Medicine changed from being pro-prohibition and that also the Deutsche Hauptstelle für Suchtfragen changed from supporting prohibition to moderate themselves. What are your thoughts about this?	

2.2. INTERNATIONALLY		
Relation German and international movement	- How is the relation between the German NGOs and the international NGOs?	- Which international NGOs are the main partners of the German NGOs? - How do they cooperate? - What are the challenges in the international cooperation? - What are the benefits from the international cooperation?
	- How do you think the international movement has affected the German movement and German drug policies?	
	-. Have the German NGOs cooperated with the EU in some ways?	
International movement itself	- How do you think the international movement has impacted on the international drug policy discourse?	
FINAL QUESTIONS	The Latin American Commission on Drugs and Democracy are stating that we are facing a paradigm shift in international drug policies. - What do you think about this statement?	
	How do you see the development of international drug policies in the future? And of German drug polices?	- And how do you see the social movement advocating drug policy change in the future?

9.4.2 Interview guide Mexican interviews

THEME	QUESTION	FOLLOW-UP QUESTION
IMPACT OF SOCIAL MOVEMENTS ON LATIN AMERICAN DRUG POLICIES	Many Latin American countries have had law reforms the last years, decriminalizing use and possession of drugs to a certain amount or imposing alternative sanctions. - What do you think are the reasons for these changes/ this trend? - Do you think social movements have had any impact on this trend? Do you think the Latin American Commission on Drugs and Democracy has had any on drug policy in Latin America?	- Do you think they will have any impact in the future?
HARM REDUCTION IN LATIN AMERICA	- How would you define harm reduction in a Latin American context?	- And in a Mexican context? - The annual IHRA (now HRI) world report is using 1) amount of clean needles exchanged per IDU and 2) extent of OST treatment as the main measures for how good harm reduction measures are developed in a country or a region. - How good do you think these measures are for evaluating harm reduction in Latin America? - And for Mexico? - Martin Jelsma at the Transnational Institute is arguing for an incorporation of alternative development in drug producing countries in the concept of harm reduction. What are your thoughts about this?

HARM REDUCTION IN MEXICO	- How does the government tackle the trends of increasing numbers of drug users in Mexico?	As I understand, the law has mandatory treatment as an administrative reaction for people caught 3 times for drug use. Have they done anything to improve or increase the treatment facilities? (what kind of mandatory treatment facilities) - What is your role in this process? (do you have any saying, consultation status in this matter?)
SOCIAL MOVEMENTS IN MEXICO AND THEIR IMPACT ON MEXICAN DRUG POLICIES	In 2009 there was a change in the Mexican criminal law; making the Ley de Narcomenudeo. - What do you think were the reasons for this?	- What have been the social consequences of this law until now?
	- Do you think NGOs and civil society (organizations) have had any impact on this change in law?	
	- What consequences has it had for Mexican drug policy that the former presidents Zedillo and Fox have stated that an alternative political approach to drugs is necessary (partly through the Latin American Commission on Drugs and Democracy and through the Global Commission on Drug Policy)? - Do you think this will have consequences for future policy making in Mexico?	
	(To Barra:) In Astrid's interview in Lebanon you said that the process in the U.S. with Prop 19 opened up the debate in Mexico. - How (in what ways) did it open up the debate in Mexico?	- What (practical) consequences has it had that the debate has been opened up?
	For some time now there have been mass demonstrations against the Mexican government's war on drugs - Have these movements had any impact on policy? - Do you think they will get any	- How have the demonstrations impacted public opinion? - Question about the media coverage

	impact on policy in the future? How? - Is your organization involved in this movement? How?	of the demonstrations.
RESEARCH	(To Barra:)You told me 1,5 years ago that there is very little research on drugs and drug use in Mexico. (To Barra:)You told me that Espolea was also involved in a research project on the social consequences of the new law, the Narcmenudeo. Can you tell me more about this?	- Can you tell me what you think are the reasons for this? - What kind of research on drugs is the government funding? - Can I ask you about what outcomes you have from this research so far?
THE WORK OF ESPOLEA History	- Can you tell me about the starting up of your organization? - How have you developed?	- Who, why, how? - Obstacles - Funding
Outcomes	- Do you think you've got a saying in Mexican politics?	- How? On what issues?
Practical work	- Practically how do you approach the politicians? - Can you tell me about other types of practical work you do (and give examples)?	- What has proved to be the most successful/unsuccessful approaches (and what is success?) ? - Conferences, debates, workshops? - Campaigns? - Information and education? - Peer education? - Humanitarian work/field work? One study on harm reduction measures and the role of local stakeholders in Tijuana identified the important role of religious leaders in acceptance of harm reduction. - Are you, or any other organization, working towards religious leaders and communities? How?

		- How do you work to spread information and influence the general population?
Strategic partners	- Who are you cooperating with in Mexico? - How do you see this cooperation?	- (Professionals? Other organizations? Human rights activists? Political groups? Etc)
	- Who are your main partners outside of Mexico?	- Can you tell me about how this cooperation is working (practically)?
International cooperation	- I perceive you as working much towards, not only a national, but also a regional and international level, is that right? - Can you tell me about this?	How do you work practically; - Conferences, debates? - Campaigns? - Peer education? - Humanitarian work/field work?
IMPACT OF SOCIAL MOVEMENTS ON INTERNATIONAL DRUG POLICY	- What do you think have been the impact of NGOs and civil society on the global discourse on narcotic drugs?	- How has it affected on the work and discourse (of the different institutions) of UN?
	- Do you think the report of the Global Commission on Drug Policy will have any impact on future policy-making?	
	- How do you see the role of NGOs and civil society in the drug field in the future?	
FINAL QUESTIONS	The Latin American Commission on Drugs and Democracy are stating that we are facing a paradigm shift in international drug policies.	
	- What do you think about this statement?	

	- How do you see international drug policy in the future?	