

## TENDENCIES IN WORLD IMPRISONMENT FOR DRUG RELATED CRIME

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### Introduction

The latest estimates on the world prison population indicate that 10.35 million people are incarcerated worldwide, according to calculations presented in February 2016<sup>1</sup>. The assertion this figure can be correlated to the effects and outcomes of the global drug prohibition regime is the starting point of this chapter, which will try to give an overview of to what extent the use of criminal law has contributed to this figure on a global scale.

Drug control policies with a strong emphasis on criminal law became a global reality particularly after the adoption of the 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychoactive Substances, which requires countries to suppress the illicit production, supply and consumption of drugs through criminal law. As an indirect result, it can be one of the main causes of imprisonments worldwide, as many countries have adopted legislation with prison sentences for all drugs related offences after signing this treaty. This emphasis on criminal law to deal with the drugs market has provoked thirty three countries to prescribe the death penalty for drug offences. And last but certainly not least, hundreds of thousands of people are locked up without any trial for lengthy periods of time in the name of drug treatment.

The 2014 UNODC “World crime trends and emerging issues and responses in the field of crime prevention and criminal justice”, of April 2014, shows the global

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<sup>1</sup> World Prison Population List (WPPL), researched and compiled by Roy Walmsley and published on Wednesday 3 February 2016 by the Institute for Criminal Policy Research, at Birkbeck, University of London. Including the numbers reported to be held in detention centres in China and in prison camps in North Korea, the total may well be in excess of 11 million.

trend on drug offences remains on the increase: drug trafficking grew by 11%, while offences related to drug possession increased over 18%, in the period 2003–2012.<sup>2</sup> It is of high relevance to stress that most legislations do not distinguish between possessions of and traffic in drugs, possibly altering these figures even more towards the latter. Although exact figures lack, the 2014 World Drug Report indicates that, “worldwide, the large majority of drug use offences are associated with cannabis”; an indication that a large share of penal prosecutions globally is geared towards the cannabis market.

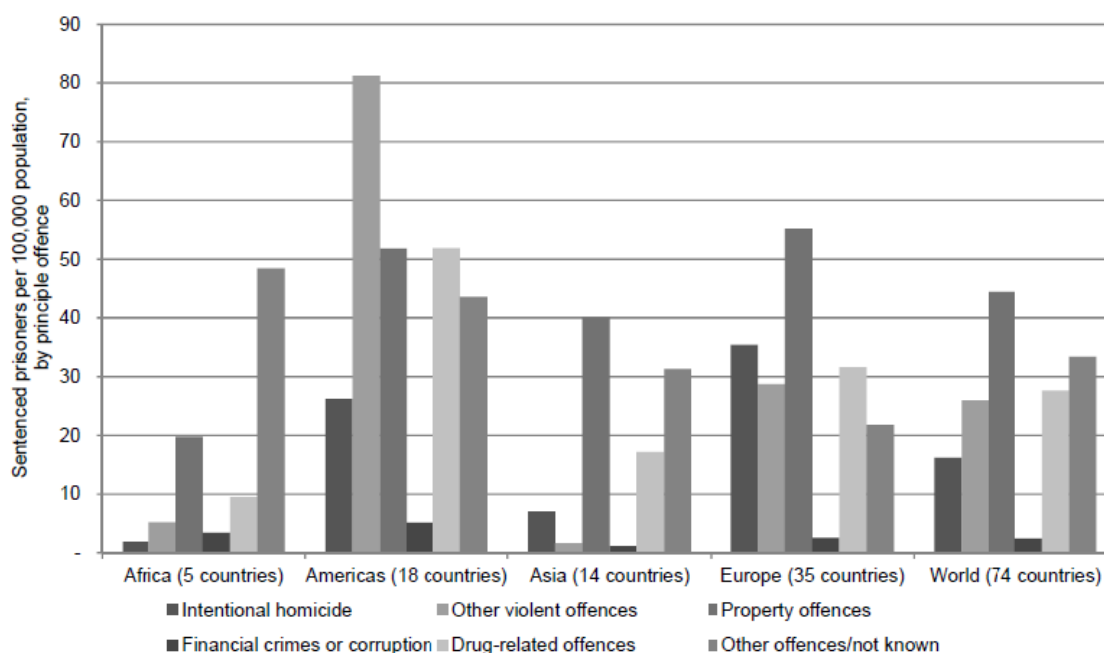
Meanwhile, policy debates in different parts of the world reflect certain recognition of both the ineffectiveness of the current penal focus, especially for non-violent offences, such as possession for personal use and use, but sometimes including small scale traffic; and the degree of injustice being done to certain vulnerable population groups, such as single mothers, and people imprisoned abroad. This has led in some countries to legislative reform and changing practice in the criminal justice system. Questioning the exclusive penal model is no longer taboo, and the need to restore the balance between punishment and care is long overdue.

The following chapter will basically focus on the impact of the present drug laws enforcement in the world’s prison systems. It won't be a mere recount of the share of detainees for drug crimes within the overall inmates’ population, as far as data for that is available, according to geographical macro-regions. While assessing the main trends, we want to highlight the challenges and possible reform proposals of the present prison systems.

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<sup>2</sup> United Nations, Economic and Social Council: World crime trends and emerging issues and responses in the field of crime prevention and criminal justice, Commission on Crime Prevention and Criminal Justice, Vienna April 12-16 2014; E-CN.15/2014/5.

**Sentenced prisoners, by principle offence of final sentence, 2014 or latest year**



*Source:* United Nations Survey of Crime Trends and Operations of Criminal Justice Systems.

*Note:* The world total also includes two countries from Oceania.

### A Global Quick scan

A 2014 analysis showed that in Indonesia drug offenders account for 70 per cent of detainees, in Thailand this figure is 58 per cent, and in the federal prisons of the United States and Mexico for more than the 50 per cent<sup>3</sup>; in European and Central Asian prisons at least one in four imprisoned women were there on drug offences charges in 2012 (over 31.000 out of 112.500, namely the 28 per cent), with highest rates in Tajikistan and Latvia (70 and 68 per cent)<sup>4</sup>. In the large majority of cases the committed offence concerns the mere possession of drugs for personal use (83 per cent of drug arrests in 2011<sup>5</sup>), non-violent crime: nonetheless, the convictions for these offences definitely contribute significantly

<sup>3</sup> <http://www.penalreform.org/wp-content/uploads/2013/04/Trends-Paper-An-Update-May-2014-Final.pdf> (pages 9 and 10).

<sup>4</sup> Harm Reduction International 2012 report conducted on 51 countries: [http://www.harm-reduction.org/sites/default/files/pdf/Cause%20for%20Alarm%20report-2012\\_0.pdf](http://www.harm-reduction.org/sites/default/files/pdf/Cause%20for%20Alarm%20report-2012_0.pdf) (pages 10 and 11).

<sup>5</sup> [http://www.unodc.org/documents/data-and-analysis/statistics/crime/World\\_Crime\\_Trends\\_2013.pdf](http://www.unodc.org/documents/data-and-analysis/statistics/crime/World_Crime_Trends_2013.pdf) (page 6).

to prisons' overcrowding, that plagues nearly all the African and Asian countries, with several worrisome consequences that will be exposed below.

The application of the death penalty for drug crimes, mainly in Asian countries, represents the worst legacy of draconian approaches to drug related offences. As documented by many human rights organisations, it constitutes an example of serious abuse contradicting international human rights norms. Presently, capital punishment is still contemplated in 33 countries (in some mandatory), though a primary distinction can be made among countries with high, low or symbolic application of death penalty: according to information and data available, the countries responsible for the higher number of executions are China (but official figures on this topic are a state secret), and Iran (in 2011, 540 out of 676, that is to say the 80 per cent of the total). Apart from these two countries, executions for drug crimes in 2011 have also been conducted in Vietnam (27), Saudi Arabia (16), Indonesia (14) and Singapore (2), but for countries like North Korea, Libya, Sudan or Iraq figures are not available. In the other countries that provide the death penalty for drug crimes (e.g. Pakistan, Egypt, Yemen, Laos, India) no executions have taken place, and death sentences commuted into life imprisonment<sup>6</sup>.

While it could be obvious that criminal prosecution of drug consumption has never been an effective deterrent, it is also important to stress that harm reduction and health-oriented approaches are also highly needed, to avoid a large increase of people using and injecting drugs in prisons<sup>7</sup>.

## Africa

Analysing the relationship between drug related crimes and prison population in Africa we faced a singular scarcity of information, which has strongly influenced

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6 Global overview of 2012 countries that applied death penalty for drug crimes at: [http://www.ihra.net/files/2012/11/27/HRI\\_-\\_2012\\_Death\\_Penalty\\_Report\\_-\\_FINAL.pdf](http://www.ihra.net/files/2012/11/27/HRI_-_2012_Death_Penalty_Report_-_FINAL.pdf), page 24 and followings.

7 A brief recap of the counterproductive effects of such drug policy in: [http://www.unodc.org/documents/ungass2016/Contributions/Civil/Global\\_Commission\\_on\\_drug\\_policy/1-English.pdf](http://www.unodc.org/documents/ungass2016/Contributions/Civil/Global_Commission_on_drug_policy/1-English.pdf) pages 21 and 22.

the overall outcome of the work<sup>8</sup>. All countries lack data, but the region of Africa is definitely the least documented: most African governments are unable to issue information on the drugs and crime situation in their country, in itself a basic requirement of international drug treaties ratified by them<sup>9</sup>. This explains why some of the findings presented have a general or a regional nature, as data or figures from the single countries are scarce or non-existent.

Over the recent decades the overall African population has grown, and so has the prison population which is still quite low compared to other continents. While no uniform trend can be drawn throughout the continent<sup>10</sup>, it has the lowest share of female and foreign inmates within the prison population in the world, whereas the incarceration rate for children is one of the highest (nearly 4 per cent)<sup>11</sup>. Meanwhile, the overall capacity of prisons has barely changed, and the rise of the inmate population has resulted in a chronic overcrowding, reaching extreme rates in many cases (ranging from Benin's 363 per cent to Mozambique's 200 per cent, with 9 more countries in between)<sup>12, 13</sup>.

Northern Africa is a region known for its cannabis cultivation; Morocco, Lebanon, and Egypt (the region's major cannabis producer), and at the same time provides for a hub in smuggling routes towards Europe or Eastern Asia. Law enforcement

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8 It is worth to mention that in 2005 UNODC launched a programme specifically aimed at improving the knowledge of such topic, assisting African countries in the collection and analysis of data and information on drug and crimes: <http://www.unodc.org/unodc/en/data-and-analysis/Data-for-Africa-description.html>.

9 In 2004, only 24 out of 53 countries (45 per cent) responded to the annual reports questionnaire, although the submission of such reports is mandatory under the provisions of the international drug control treaties. About crime figures, just 7 out of 53 African countries (about 13 per cent) responded to the Ninth United Nations Crime Trends Survey in 2006, according to UNODC. Same source of the previous footnote.

10 In Nigeria and several Southern countries the rate decreased, whereas in other countries from all over the continent it noticeably rose, as shown at pages 154 and 163: [http://www.unodc.org/documents/data-and-analysis/Crime-statistics/International\\_Statistics\\_on\\_Crime\\_and\\_Justice.pdf](http://www.unodc.org/documents/data-and-analysis/Crime-statistics/International_Statistics_on_Crime_and_Justice.pdf).

11 [http://www.unodc.org/documents/data-and-analysis/statistics/crime/ECN.1520145\\_EN.pdf](http://www.unodc.org/documents/data-and-analysis/statistics/crime/ECN.1520145_EN.pdf), pages 17 and 23.

12 A comprehensive overview of the prisons' situation in Africa is provided by the Report Of The Special Rapporteur On Prisons And Conditions Of Detention In Africa, presented at the Ordinary Session of the African Commission on Human and Peoples' Rights in 2012: <http://www.achpr.org/sessions/52nd/intersession-activity-reports/prisons-and-conditions-of-detention/>.

13 [http://www.prisonstudies.org/highest-to-lowest/occupancy-level?field\\_region\\_taxonomy\\_tid=15](http://www.prisonstudies.org/highest-to-lowest/occupancy-level?field_region_taxonomy_tid=15).

efforts have been focussing on a strong criminalisation of drug production, possession, use and traffic<sup>14</sup>.

Tunisia's drugs legislation prescribes a mandatory sentence of one to five years for drug possession without any distinction between hard and soft drugs, in fact punishing the suspect of drug consumption rather than the possession<sup>15</sup>. According to the local press, some 53 per cent of the inmates is liable for drug crimes<sup>16</sup>, often minor offenders, as shown by a survey that depicts a large number of both male and female prisoners, university students in their early twenties<sup>17</sup>. The disproportionality reflected into the drugs legislation leading to the criminalization of drugs users must be related to the overcrowding rate of 139 per cent of the penal institutions<sup>18</sup>, of whom roughly half are awaiting trial<sup>19</sup>. Moroccan prisons are characterized by the same phenomena having an even higher (158 per cent) population rate. Nearly 40 per cent of the prisoners are charged for drug crimes (no distinction between personal use or trafficking)<sup>20</sup>, though nearly half of the detainees have no conviction<sup>21</sup>. UNODC collected data on the arrests made in Algeria in 2012, drug trafficking and personal drug offences (drug use or possession for personal consumption) account for nearly one sixth of the detentions (13 and 3 per cent, namely 6.035 and 1.258 cases respectively)<sup>22</sup>.

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14 <http://idpc.net/policy-advocacy/regional-work/middle-east-north-africa>.

15 <http://www.kolotv.com/news/internationalnews/headlines/Prison-Crowding-Causes-Tunisia-To-Revamp-Drug-Laws-264775381.html>.

16 <http://allafrica.com/stories/201404040637.html?viewall=1>.

17 <http://www.ohchr.org/EN/NewsEvents/Pages/ReportsOnStateOfPrisonsInTunisia.aspx#sthash.3br5CqHV.dpuf>.

18 Same as footnote 13.

19 [http://www.prisonstudies.org/highest-to-lowest/pre-trial-detainees?field\\_region\\_taxonomy\\_tid=15](http://www.prisonstudies.org/highest-to-lowest/pre-trial-detainees?field_region_taxonomy_tid=15).

20 [http://www.unafei.or.jp/english/pdf/RS\\_No88/No88\\_16-2PA\\_Rahouti\\_Overview\\_Morocco.pdf](http://www.unafei.or.jp/english/pdf/RS_No88/No88_16-2PA_Rahouti_Overview_Morocco.pdf), page 115.

21 The rates of prison overcrowding and pre-trial detainees are taken from the same source of footnotes 13 and 19, respectively.

22 UNODC data, the excel file is downloadable at: <http://www.unodc.org/unodc/en/data-and-analysis/statistics/crime.html>, under the entry 'special data collection on persons held in prisons'. Please note: the crimes' percentages are calculated considering only the recorded crimes, that may not correspond with the total of crimes committed.

The over representation of pre-trial detainees in penal establishments is another alarming concern that afflicts the entire continent: in 20 countries more than 50 per cent of the detainees has no sentence, up to Libya's 90 per cent or Liberia's 83<sup>23</sup>. It contributes to the overcrowding mentioned above and combined with the underspending on prison services, it is jointly responsible for the inability to satisfy the basic human rights standards, as they are declared in the regional and international protocols and conventions, formally ratified by the African countries<sup>24</sup>. A meaningful example comes from Ghana, whose Interior Minister suggested to release those suspects who have been remanded in prison custody over five years, with the aim to reduce the inmates' flow<sup>25</sup>.

In many countries of Eastern Africa the prison settings are further burdened by persons affected by drug dependence (but also psychiatric disorders or HIV), locked up together usually in inadequate conditions, and without any effective opportunity for rehabilitation and/or treatment. This 'category' of detainees easily relapse in problems related to substances after the release from prison, and the dissemination of good practice or health care facilities is still weak<sup>26</sup>. The only national data available from Eastern Africa come from Uganda, where the recorded drug crimes in 2013 were 1.380 and led to 5.738 arrests, that is not a remarkable figure if compared to other offences (drug crimes are not listed in the top 10 of leading crimes for 2013)<sup>27</sup>.

Western Africa is one of the regions for transcontinental cocaine smuggling, becoming a transit hub for cocaine to Europe (whose demand doubled in the 2000s), using the Western Africa as a staging area<sup>28</sup>. Detections and seizures of drug shipments throughout the Western coast witness such key role, as well as

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23 Same as footnote 19.

24 Same as footnote 12.

25 <http://saharareporters.com/2014/08/28/ghana-interior-minister-calls-prison-decongestion>.

26 <https://www.unodc.org/easternafrika/en/illicit-drugs/overview.html>.

27 [http://www.upf.go.ug/download/publications%282%29/Annual Crime and Traffic Road Safety Report 2013%282%29.pdf](http://www.upf.go.ug/download/publications%282%29/Annual%20Crime%20and%20Traffic%20Road%20Safety%20Report%202013%282%29.pdf), pages 14 and 3.

28 <http://www.wacommissionondrugs.org/wp-content/uploads/2013/05/UNODC-THREAT-ASSESSMENT-2013.pdf>, from page 3.

unambiguous figures on West Africans couriers arrested for cocaine trafficking in Europe, disclosing a strong net disseminated over the consumer countries, led primarily by Nigerian diaspora communities; data collected in either 2010 or 2011 in 5 European countries revealed some 2.000 Western Africans arrested for drug trafficking<sup>29</sup>.

However, illicit routes concern other drugs too: since the late 2000s a new drug flow interests methamphetamine (meth), in Nigeria 2 laboratories were found in 2011-2012, and estimated 3.000 couriers from the region's countries (like Benin, Ghana, Guinea and Senegal) have been involved in the trade<sup>30</sup>. It mainly flourishes in East and South-East Asia, as clearly shown by the arrests of meth couriers and smuggling cases in many countries of this area, allegedly related to West Africans trafficking groups<sup>31</sup>. It is also worth mentioning the heroin trafficking, as West Africans groups are playing a growing role in the global trade, shuttling the drug sourced from South East Asia and destined for Europe market, with increasing regularity and in growing volumes (during the first five months of 2011, 227 West African heroin traffickers were arrested in Italy)<sup>32</sup>.

Nigeria is the most affected country in the region, according to the National Drug Law Enforcement Agency (NDLEA): drugs are seized every year (nearly 234 tons in 2012, of whom 229 of cannabis)<sup>33</sup>, and drug related arrests, classified in 'Smuggling' and 'Indian Hemp Offences', are the most recurring among the convicts after those for stealing and robbery, and barely above those for murders<sup>34</sup>. Cannabis related arrests account for almost two thirds of the drug arrests, that in 2011 were roughly 10.000 on a total of more than 130.000<sup>35</sup>, but

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29 IBID, from page 15.

30 IBID, page 4 and from page 19.

31 IBID.

32 IBID, pages 4 and 21.

33 <http://www.ndlea.gov.ng/v1/?q=content/ndlea-seizes-34-million-kg-drugs-21871-drug-traffickers-convicted-2>.

34 Figures are taken from page 188 of the PDF document downloadable at: <http://www.nigerianstat.gov.ng/nbslibrary/nbs-annual-abstract-of-statistics/nbs-annual-abstract-of-statistics>.

35 IBID.



many others are arrested worldwide every year; the NDLEA affirmed to have saved 40 Nigerian couriers on death row for drug trafficking in Asian countries in 2012<sup>36</sup>. Some of the countries' available figures refer to several years ago, so the new trends are not properly reflected: in Cameroon just 1 per cent of the prisoners was a drug offender in 2005<sup>37</sup>, whereas in Burkina Faso drug crimes were the second most common offence among those convicted in 2008, and accounted for roughly 8 per cent of the prisoners (228 out of 2.788, sharply increased since 2006)<sup>38</sup>. The numbers are low in Congo (Brazzaville), according to official statistics 138 out of 1.366 convicts were charged for drug offences in 2009<sup>39</sup>, and similarly in Cape Verde, with 109 cases recorded in 2012 on a total of 2.444 crimes<sup>40</sup>, and Ghana, where only 3,5 per cent of the inmates (274) was liable for drug possession in 2012<sup>41</sup>.

In some countries the criminal justice system reflects the legacy of the colonial era with some typical characteristics: rather weak implementation of non-custodial measures leading to drastic rates of prisoners on remand; inappropriate sentencing policies, based on a retributive or punitive philosophy, that do not efficiently work as a deterrent<sup>42</sup>. South Africa has the eleventh largest inmate population worldwide (the first in Africa), in a slight decrease since 2008 but yet over 150.000 prisoners<sup>43</sup>; less than 3 per cent of them was liable for drug offences in the beginning of 2012 (4.645 out of 160.508)<sup>44</sup>. The corruption of warders is an

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36 Same as footnote 33.

37 <http://www.stat.cm/downloads/annuaire/2012/Annuaire-2012-chapitre-10.pdf>, page 5.

38 <http://www.insd.bf/n/contenu/Tableaux/T0817.htm>, from the homepage <http://www.insd.bf/n/index.php/indicateurs?id=90>.

39 <http://www.cnsee.org/pdf/Annuaire%20Statistique%20du%20Congo%202009.pdf>, page 355.

40 The PDF document is downloadable at <http://capeverde.africadata.org/pt/ResourceCenter>, data are taken from pages 17 and 43.

41 <http://www.ghanaprison.gov.gh/Annual%20Report%202012.pdf>, page 22.

42 Same as footnote 12.

43 [http://www.prisonstudies.org/highest-to-lowest/prison-population-total?field\\_region\\_taxonomy\\_tid=All](http://www.prisonstudies.org/highest-to-lowest/prison-population-total?field_region_taxonomy_tid=All).

44 <http://www.dcs.gov.za/AboutUs/StatisticalInformation.aspx>.

evident sign of the prison system crisis<sup>45</sup>, whereas comforting improvements may be found in Gambia, whose National Assembly recently approved the reduction of the penalties for cannabis possession (by lessening the fine and the jail term) in order to decongest the prisons<sup>46</sup>, or in Liberia, where the enforcement of drug control activities is formally adapted to a human rights-based approach<sup>47</sup>.

### Middle East

The data collected for this region is miscellaneous and scarce, yet some shared feature may be noticed concerning some of the countries of the region. Overall, there is a high prevalence of foreign inmates; one third of the prisoners in Bahrain, some 38 per cent in Lebanon, roughly half of the total in Israel and Saudi Arabia, and 92 per cent in the United Arab Emirates<sup>48</sup>; these rates are generally related to drug offences. In Saudi Arabia there are about 47.000 male and female inmates according to the General Director of prisons, and 47 percent of inmates were incarcerated for drug-related crimes<sup>49</sup>, while in Bahrain out of 1.058 drug offenders arrested in 2013, just 385 were citizens<sup>50</sup>, within an overall prison population consisting of some 2.300 inmates<sup>51</sup>.

Interesting findings are shown in a survey conducted in 2013 in the United Arab Emirates, as nearly 90 per cent of the respondents was liable for drug offences, the majority of them were from Central and Southern Asia, Middle Eastern and African nations, and a minority from Europe and the US; moreover, some 80 per cent of the drug offenders had to serve more than 20 years<sup>52</sup>. Dubai Police has

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45 <http://mg.co.za/article/2014-06-15-sas-prison-system-in-crisis-says-da>.

46 <http://www.iollofnews.com/index.php/national-news/health/511-gambia-reduces-penalties-for-cannabis-possession>.

47 <http://idpc.net/publications/2014/09/review-of-the-liberian-controlled-drug-and-substances-act-and-liberia-drug-enforcement-agency-act>.

48 Figures taken from each country's page at <http://www.prisonstudies.org/map/middle-east>.

49 <http://www.saudigazette.com.sa/index.cfm?method=home.regcon&contentid=20130228154859>.

50 Drug arrests are rising and the rate of citizens is dropping since 2011: <http://www.policemc.gov.bh/en/statsFig.aspx?statId=9>.

51 As of 2012: <http://www.prisonstudies.org/country/bahrain>.

52 <http://www.arabianbusiness.com/dubai-police-reiterate-amnesty-for-drug-addicts-seeking-treatment-560813.html>.

stated that drug users will not be prosecuted if they voluntarily undergo a treatment for their addiction, but it is not clear whether this concerns only local inmates or is also applicable to the foreigners<sup>53</sup>. The United Arab Emirates is the only country in the region, together with Lebanon, that has its prisons overcrowded (the rates of occupancy level are 158 and 151 per cent respectively), due mainly to the large share of pre-trial detainees (45 and 75 per cent); yet in Lebanon, nearly one inmate on four was liable for drug crimes, constituting the most frequent offence among the prisoners<sup>54</sup>.

According to UNODC figures<sup>55</sup>, in Jordan drug crimes accounted for one fifth of the arrests made in 2012, as 12 per cent of the convicts were charged for trafficking and 7 per cent for personal drug offences, whereas in Palestine data are available only for the latter crime, recording just a handful of cases, ranging between 2 and 4 per cent of the total arrests<sup>56</sup>; in both the countries all the offenders were male.

The number of drug offenders held in Israeli penal institutions steeply dropped in only 2 years, from 5.090 in 2010 to 3.879 in 2012<sup>57</sup>, but they still constitute a remarkable share of the overall prison population (between 20 and 25 per cent; 18.658 inmates at the end of 2013)<sup>58</sup>. Drug smuggling and possession are by far the most common offences ascribed to drug offenders (86 per cent of the total)<sup>59</sup>, and according to a survey conducted in 2012 in Israeli prisons, some 36 per cent of the respondents had problems with use, and 15 per cent were listed as abusers (higher rates were found among unmarried and 40-49 aged inmates), 9,5 per cent

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53 IBID.

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<https://drive.google.com/viewerng/viewer?a=v&pid=sites&srcid=Y2xkaC1sZWJhbm9uLm9vZ3xjbGRofGd4OjU5MDI2NDY1Zig2MD FhNmU>, page 50 (data as of 2009).

55 Same as footnote 22.

56 In Jordan: 273 arrests for drug trafficking and 160 for personal drug offences. In Palestina: 202 arrests in 2010 and 171 in 2012.

57 <http://www.knesset.gov.il/mmm/data/pdf/m03239.pdf>, page 6 (to be translated from Hebrew language).

58 <http://www.prisonstudies.org/country/israel>.

59 IBID.

reported using drugs in prison and a further 11,8 to have started using drugs while incarcerated. Such findings show a 40 per cent decrease of the addiction prevalence among the prisoners, when compared to the data from 2000 and 2007, that is due to the enforcement of a drug addiction treatment, attended by 60 per cent of those addicts, together with other measures, like a strict separation between users and non-users in prison or the improvement of rehabilitation programmes<sup>60</sup>. Moreover, a study carried out on ex addict female detainees highlights the harsh reality of the life in prison, characterized by physical and mental problems related to withdrawal from drugs and to the separation by their children, as most of them are the single mothers<sup>61</sup>.

Within the region, the situation in Iran deserves a separate analyses, as drug offences are deemed for death penalty, rather than prison sentences. Among the 33 countries where the capital punishment is currently provided for drug crimes, Iraq and China are the two sole countries where the overwhelming majority of executions are recorded<sup>62</sup>.

The amendment to the Anti-Narcotics law that came into effect in 2011 simply cracks down on drug offences, by introducing the death penalty for a list of 17 cases, from trafficking to possession over 30 grams of specified substances, for organize or financially support drug smuggling, and hiring people for it<sup>63</sup>. Nevertheless, the amendment also reforms the regulation on drug addicts, by providing their rehabilitation rather than punishment, provided they accept treatment, prosecution will be halted: they are required to seek a treatment in an authorized rehabilitation and harm reduction centre (otherwise a judicial order will be issued) and only if they undergo a “successful” rehabilitation, prosecution will

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60 The survey involved 5.452 prisoners, namely half of the Israeli residents prisoners, the abstract with all the data is available at: <http://www.shabas.gov.il/Items/09942/Drugs.pdf>.

61 <http://www.inter-disciplinary.net/probing-the-boundaries/wp-content/uploads/2013/04/chenepaper.pdf>.

62 Same as footnote 6, page 26. The number of executions has sharply grown in 2010 (650, of whom about 590 for drug crimes).

63 <http://www.amnesty.org/fr/library/asset/MDE13/090/2011/fr/0564f064-e965-4fad-b062-6de232a08162/mde130902011en.pdf>, page 15.

be dropped<sup>64</sup>. The outcome of the new policy is illustrated by the sheer number of arrests: on the average, 724 people had been arrested per day since the beginning of the Iranian new year (21<sup>st</sup> of March), contributing to a cells overcrowding up to fourfold their capacity<sup>65</sup>. Furthermore, 80 per cent of executions were for drug related crimes in 2011 (at least 540 on 676)<sup>66</sup>, including many foreigners involved in smuggling heroin from Afghanistan to Western Europe<sup>67</sup>.

### Russia and Caucasian Region

The Russian Federation has the third largest prison population in the world (after the US and China), some 670.000<sup>68</sup> detainees are housed within 996 overall penal institutions (including corrective and juvenile colonies, and pre-trial institutions). Their occupancy level is 83,6%, so there is no overcrowding inside the establishments, but the prison population rate is still very high (476 per 100.000 population, whilst the average European level is 98)<sup>69</sup>: in this context, drug crimes represent one of the most common offence amongst the convicts, in a slight growth during the last years. At least since 2004<sup>70</sup>, more than one third of the national prison population is serving a sentence for drug crimes<sup>71</sup>, and a twofold reason can be identified for such a large rate: the Russian Federation counts 8.5 million drug users (of whom 1.5 million are heroin addicts)<sup>72</sup>, and it is

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64 IBID.

65 IBID, from pages 16 and 22.

66 See footnote 6, page 27.

67 <http://www.amnesty.org/fr/library/asset/MDE13/090/2011/fr/0564f064-e965-4fad-b062-6de232a08162/mde130902011en.pdf>.

68 The number decreased during the 2014, due to a six month amnesty to celebrate the 20<sup>th</sup> anniversary of the Russian Constitution: [http://sputniknews.com/voiceofrussia/news/2013\\_12\\_10/Russian-amnesty-to-last-for-half-year-may-affect-to-25-000-including-Greenpeace-activists-1078/](http://sputniknews.com/voiceofrussia/news/2013_12_10/Russian-amnesty-to-last-for-half-year-may-affect-to-25-000-including-Greenpeace-activists-1078/).

69 All the data are taken from <http://www.prisonstudies.org/country/russian-federation>.

70 <http://www.mapinc.org/newscsdv/v06/n210/a10.html>.

71 Personal correspondence with Valery Sergeev, from the NGO Moscow Center for Prison Reform: <http://old.prison.org/english/mcprgen.htm>.

72 <http://www.state.gov/documents/organization/222881.pdf>, page 280.

the recipient of a considerable share of heroin, mostly made from opium produced in Afghanistan.

In 2010, around 108.000 people were convicted for drug crimes, and nearly two-thirds of them (at least 64.7%) were convicted for drug possession with no intent to supply<sup>73</sup>. Although possession for personal use has been formally decriminalized<sup>74</sup>, an amount exceeding 0,5 grams for heroin or opium is considered a crime, punished by incarceration for up to three years. Even when drug use is not a criminal offence, it can result in a 15 days arrest (in 2010, more than 104.000 people were charged with fines and administrative arrest for drug use or possession under the legal thresholds)<sup>75</sup>.

That same year 2010, an esteemed 90 out of 385 tons of opium manufactured in Afghanistan were trafficked to the Russian Federation through Central Asia (the so called Northern Route)<sup>76</sup>, with a tendency to increase<sup>77</sup> up to employ 20.000 members and involve 100.000 drug mules<sup>78</sup>: this business mostly explains the increase of the arrests for trafficking<sup>79</sup>. According to a 2012 survey, 20.000 drug

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73 [http://www.harm-reduction.org/sites/default/files/pdf/costs\\_report\\_2012\\_06\\_19\\_1\\_0.pdf](http://www.harm-reduction.org/sites/default/files/pdf/costs_report_2012_06_19_1_0.pdf), page 15.

74 The new edition of the Criminal Code provides that illicit acquisition, storage, manufacture, processing and transportation are decriminalized if below a threshold quantity of tenfold a one-time average dose: <http://sputniknews.com/russia/20100603/159288161.html>.

75 Same source as footnote 73, that also adds that the above mentioned threshold quantity is much lower than the average quantity necessary for daily use, since they are determined not by the weight of the pure substance but by the weight of the entire mixture seized.

76 [http://www.unodc.org/documents/data-and-analysis/Studies/Afghanistan\\_northern\\_route\\_2012\\_web.pdf](http://www.unodc.org/documents/data-and-analysis/Studies/Afghanistan_northern_route_2012_web.pdf), page 9.

77 In 2014, estimated potential opium production in Afghanistan amounted to 6.400 tons, an increase of 17% from its 2013 level (5.500 tons): UNODC Afghanistan opium survey 2014: <http://www.unodc.org/documents/crop-monitoring/Afghanistan/Afghanistan-opium-survey-2014.pdf>, page 31.

78 <http://sputniknews.com/russia/20130913/183405336/1900-Gangs-Smuggling-Afghan-Drugs-to-Russia---Anti-Narcotics-Agency.html>.

79 Figures from UNODC about the number of convictions for drug crimes count 130.000 imprisonments just for drug trafficking in 2012: <http://www.unodc.org/unodc/en/data-and-analysis/statistics/crime.html>, under the entry 'Special Data Collection on Persons held in Prisons'.

crimes were committed by female offenders (one of every three woman is imprisoned for drug crimes)<sup>80</sup>.

A matter of big concern, regarding also the prisons' environment, is the national prohibition of the OST (opioid substitution therapy) based on Methadone, which has been banned because it is considered a narcotic drug. The adoption of a demand reduction strategy aimed to promote a "healthy lifestyle"<sup>81</sup>, has had no effective outcomes so far<sup>82</sup>.

In the Caucasian countries, prisons overall occupancy level shows the absence of overcrowding, ranging between Armenia's 89 per cent and Georgia's 41 per cent<sup>83</sup> (one of the lowest rate worldwide), where the national prison population between 2012 and 2013 steeply dropped from 24.114 to 9.185 detainees, because of a large-scale amnesty<sup>84</sup>. Drug crimes are on the average common, representing the second most committed offence after thefts in Georgia (2.660 convicts in 2013, accounting for more than one quarter of the total prison population)<sup>85</sup>, and in the Republic of Moldova, with 726 out of 9.390 convictions in 2013<sup>86</sup>. In Azerbaijan drug trafficking is on the rise, in 2012 one third of the convicts (both male and female) was liable for it, and overall 5.630 arrests have been made (in 2010 there were 5.200)<sup>87</sup>; while in Armenia in 2013 drug crimes have been perpetrated by woman in the 15 per cent of cases (104 on a total of

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80 [http://www.harm-reduction.org/sites/default/files/pdf/Cause%20for%20Alarm%20report-2012\\_0.pdf](http://www.harm-reduction.org/sites/default/files/pdf/Cause%20for%20Alarm%20report-2012_0.pdf), page 12.

81 Tortures and abuses are reported to have place during such "drug treatments", their weak effectiveness is shown by the 90 per cent rate of patients return to use drug within one year from the treatment ending: [http://www.harm-reduction.org/sites/default/files/pdf/costs\\_report\\_2012\\_06\\_19\\_1\\_0.pdf](http://www.harm-reduction.org/sites/default/files/pdf/costs_report_2012_06_19_1_0.pdf), pages 21 and 22.

82 Russia has the largest population of injecting drug users (IDUs) in the world, estimated in 1,8 million people, of whom more than one third have HIV, and 90 per cent hepatitis C: <http://en.rylkov-fond.org/wp-content/uploads/2012/04/Lancet-OST-ARF-Russia.pdf>.

83 <http://www.prisonstudies.org/country/armenia>, and <http://www.prisonstudies.org/country/georgia>.

84 <http://www.penalreform.org/wp-content/uploads/2014/06/Prison-Overcrowding-Evaluation-Report-Final1.pdf>, pages 2 and 3.

85 [http://www.geostat.ge/index.php?action=page&p\\_id=602&lang=eng](http://www.geostat.ge/index.php?action=page&p_id=602&lang=eng).

86 Nevertheless, a downward trend can be pointed out, since there were 920 convictions in 2013, and 932 in 2012: <http://statbank.statistica.md/pxweb/Database/EN/12%20JUS/JUS03/JUS03.asp>.

87 According to the figures gathered by UNODC under the voice 'Special Data Collection on Persons held in Prisons' at: <http://www.unodc.org/unodc/en/data-and-analysis/statistics/crime.html>.

686)<sup>88</sup>, though drug possession of small quantity (without intent to sell) was decriminalized in 2008, and now leads to administrative liability<sup>89</sup>. However, the fine is set at 100 to 200 times the minimum wage, so many offenders cannot pay it; moreover those who undergo a treatment are exempted from administrative liability, and as a result the number of drug users dramatically rose<sup>90</sup>. The prisons situation inside the region is not uniform: mistreatments and abuses have still place in Georgia despite the prison reforms<sup>91</sup>, whereas the Republic of Moldavia has developed a remarkable harm reduction programme inside the prisons, that includes methadone and needle exchange<sup>92</sup>.

### Central Asia

Afghanistan being the country with the most extended area of opium poppy cultivations worldwide<sup>93</sup>, and originating a global trade of opiates whose routes pass through all surrounding countries. A sizeable amount of heroin based on the opium produced in Afghanistan is directed to Russia, so the 'Northern route' involves neighbouring Tajikistan and Kyrgyzstan, whose borders are crossed by many mountain passes, suitable for the smuggling<sup>94</sup>, whereas wild cannabis grows in large areas of Kazakhstan<sup>95</sup>. Moreover, the illegal trade in controlled substances in the region are heavily influenced by social and economic factors: as former Soviet Socialist Republics, these countries gained independence

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88 According to the 2013 report by the Police of the Republic of Armenia on the illegal drug trafficking situation: <http://www.police.am/en/fight-against-drug-trafficking/statistics1.html>.

89 [http://www.translation-centre.am/pdf/Translat/HH\\_Naxagah/Order\\_NK\\_162\\_N/order\\_NK\\_162\\_N\\_en.pdf](http://www.translation-centre.am/pdf/Translat/HH_Naxagah/Order_NK_162_N/order_NK_162_N_en.pdf), page 4.

90 <http://drogriporter.hu/files/drogriporter/imce/release-quiet-revolution-drug-decriminalisation-policies.pdf>, page 17.

91 Human Rights groups acknowledged some improvements, though in 2013 there were 28 convictions against the prison staff for abuse: <https://iwpr.net/global-voices/despite-prison-reforms-abuses-still-common-georgia>.

92 [http://www.huffingtonpost.com/michel-d-kazatchkine/is-moldova-leading-the-wo\\_b\\_4731043.html](http://www.huffingtonpost.com/michel-d-kazatchkine/is-moldova-leading-the-wo_b_4731043.html).

93 The total area under opium poppy cultivation in Afghanistan was estimated at 224,000 hectares in 2014, with a farm-gate value of US\$ 0.8 5 billion, roughly 4% of Afghanistan's estimated GDP. Yuri Fetodov, the head of UNODC, stated that Afghanistan produces almost 80 per cent of all opium and heroin in the world: <http://www.dw.de/unprecedented-increase-in-opium-production/a-17428227>.

94 In the latest years the drug situation in Kyrgyzstan was characterized by an intensification of international drug groups using the country as a drug transit corridor to Russia and EU: <http://www.emcdda.europa.eu/publications/country-overviews/kg#dro>.

95 In 2011 the total quantity of drugs seized was 34 tons: <http://www.emcdda.europa.eu/publications/country-overviews/kz#dro>.



during the 90s, and nowadays its citizens often live in poor or underdeveloped conditions; so those who fail to find any employment will be easily persuaded into selling or transporting drugs.

The overall situation of the prisons within the area under investigation is dire; in some country torture is regularly reported to take place<sup>96</sup>, as is a deprivation of primary living needs that lead to unbearable situations<sup>97</sup>. The Pakistani overcrowding rate (nearly 200 per cent), is responsible for the spread of diseases such as Tuberculosis and Hepatitis<sup>98</sup>; similarly a 2010 report highlighted the harsh conditions inside the prisons in Turkmenistan, that accommodated 26.720 detainees, namely 3,3 times the facilities capacity (officially for 8.100 inmates)<sup>99</sup>. Nonetheless, figures show that drug offences are not so common among the detainees in most of the countries under investigation: according to Afghan Minister of Counter Narcotics, in March 2013 just 14 per cent of inmates (3.674 out of 26.459) was serving a sentence for drug crimes, but the trend is ambiguous (their share was 15,7 per cent the year before, and 11,7 per cent in March 2011)<sup>100</sup>. In Tajikistan, the rate of those convicted for drug offences almost halved from 2001 (24,4 per cent) to 2010 (between 12 and 13 per cent, of whom 83,3 per cent were unemployed)<sup>101</sup>; a downward trend in drug crimes can be observed also in Kyrgyzstan, as the percentage of drug offences on the total dropped from

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96 Inhumane accounts inside Jazyk, Uzbek prison: <http://www.rferl.org/content/uzbekistans-house-of-torture/24667200.html>.

97 In Kyrgyzstan a 2012 protest against the living conditions culminated in a nationwide prisons hunger strike, involving 6.400 out of some 7.600 overall inmates: <http://uk.reuters.com/article/2012/01/27/uk-kyrgyzstan-prison-idUKTRE80Q0U920120127>.

98 About 76.000 inmates are accommodated in 97 jails all over the country, which have a total capacity of only 39.578 (<http://tribune.com.pk/story/541571/hrcp-report-packed-prisons-ill-inmates/>). For an overview of the prisons conditions: <http://www.crisisgroup.org/~media/Files/asia/south-asia/pakistan/212%20-%20Reforming%20Pakistans%20Prison%20System.pdf>, from page 14.

99 Edited by the Turkmenistan's Independent Lawyers Association and the Turkmen Initiative for Human Rights: <http://archive.chrono-tm.org/uploaded/1266867677.pdf>, page 7.

100 [http://mcn.gov.af/Content/files/13\\_11\\_07\\_English%20Afghanistan%20Drug%20Report%202012%281%29.pdf](http://mcn.gov.af/Content/files/13_11_07_English%20Afghanistan%20Drug%20Report%202012%281%29.pdf), page 152.

101 [http://tracc.gmu.edu/pdfs/Latypov\\_FINAL\\_EN.pdf](http://tracc.gmu.edu/pdfs/Latypov_FINAL_EN.pdf), from page 14.

9,2 per cent in 2000 to 6,2 per cent in 2012<sup>102</sup>, and it is even lower in Kazakhstan, roughly 2 per cent in 2012 (just 4.360 crimes related to illicit trafficking)<sup>103</sup>.

On the other hand in Uzbekistan, more than 5.000 convictions for drug trafficking took place in 2010 and 2011<sup>104</sup>, but it is worth to focus on women, particularly vulnerable towards the illicit drugs smuggling, as the high rate of female offenders is a common feature in the area: this often involves mothers left alone with children to look after, or unemployed women hired by drug dealers. The female prison colony in the city of Dashoguz (Turkmenistan), designed to accommodate 700 inmates, housed 2010 prisoners, 80 per cent of whom convicted for drug crimes<sup>105</sup>, similarly in Tajikistan, 70 per cent of the female prisoners were charged for drug offences in 2012<sup>106</sup>; while in 2013 women (dealers or couriers) were liable for the 30 per cent of the overall trafficking crimes in Uzbekistan<sup>107</sup>. It finally deserves to be mentioned that 3 on every 4 capital punishments taking place in Iran have been ascribed to people transporting drugs from Afghanistan to Western European countries in 2011<sup>108</sup>, and according to Amnesty International figures, in the same year out of some 5.000 Afghan prisoners held in Iran, up to 4.000 could have been on death row for drug smuggling<sup>109</sup>. It gives a hint when

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102 [http://centralasiaonline.com/en\\_GB/articles/caii/features/main/2013/12/30/feature-01](http://centralasiaonline.com/en_GB/articles/caii/features/main/2013/12/30/feature-01).

103 Such a low number is due to January 2011 decriminalization of Part 1 of Article 259 of the Criminal Code concerning 'Illegal purchase, trafficking, or storage without the purpose of selling of narcotics or psychotropic substances on a large scale', and its inclusion in the category of administrative offences: <http://www.emcdda.europa.eu/publications/country-overviews/kz#dro>.

104 In 2011 the judicial authorities investigated 3.922 criminal cases of drug trafficking (there were 4.472 in 2010), which resulted in criminal charges being brought against 5.248 people (5.828 in 2010): <http://www.emcdda.europa.eu/publications/country-overviews/uz#dro>.

105 Same report as footnote 99, pages 10 and 11. Each year, hundreds of them are released as a forced measure, because such a large number exceeds the colony capacity.

106 See footnote 4, page 16.

107 [http://centralasiaonline.com/en\\_GB/articles/caii/features/main/2013/07/02/feature-01](http://centralasiaonline.com/en_GB/articles/caii/features/main/2013/07/02/feature-01).

108 <http://mg.co.za/article/2011-05-12-sa-grills-iranian-dignitary-on-excessive-executions>.

109 <http://www.amnesty.org/fr/library/asset/MDE13/090/2011/fr/0564f064-e965-4fad-b062-6de232a08162/mde130902011en.pdf>, pages 16 and 25. Please note that, due to paucity of information about individuals on death row, it is difficult to count the exact number of those who face execution for drug offences.

one tries to explain the low number of Afghan domestic convictions for drug crimes, in spite of the large opioid production.

Besides the drug trafficking, opium and heroin are the source of another serious concern for some country of this region, because of their large availability and low price: Pakistan is the most heroin-addicted country per capita in the world, with 6,7 million users in 2013, of whom more than 4 million are addicted<sup>110</sup>, and in Kyrgyzstan, official figures count some 10.000 IDUs nationwide, but according to the Director of the Central Asian Center on Drug Policy, the number is up to tenfold higher<sup>111</sup>, proving that there is a short step for a transit country to turn into a market user.

### South and East Asia

This region includes a large range of countries with different features, located within a wide geographical area. Nonetheless it is possible to highlight some common trends and challenges that such nations are presently confronting.

Firstly, an endemic issue can be pointed out in several countries of the area, namely the high percentage inside the prisons, of pre-trial detainees or under remand regime, without a sentence for the crime they are accused of. This creates an absurd paradox as penal institutions are occupied by more suspects than convicts. Moreover, those countries with these high pre-trial rates, regularly cope with a serious prison overcrowding. Within this context drug offences exercise multiple influences inside the different nations.

As much as 70% of Bangladeshi penal institutions are populated by pretrial detainees, entailing a 192 per cent overcrowding<sup>112</sup>; here drug related crimes account for half of all the offences, and led to roughly 24.700 convictions per year

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110 <http://thediplomat.com/2014/03/pakistan-the-most-heroin-addicted-country-in-the-world/>.

111 In a country of just 5.5 millions population: <http://www.vice.com/read/kyrgyzstan-is-the-latest-victim-of-the-global-heroin-trade>.

112 About 65.600 inmates are housed inside prisons whose capacity is just 34.167: <http://www.prisonstudies.org/country/bangladesh>.

since 2009<sup>113</sup>. In Sri Lanka the overcrowding rate was 190 per cent in 2013, with 44 per cent of the prison population made up by pre-trial detainees, and an annual large number of convictions for drug crimes (some 28.700 in 2012, of whom one third was a drug user)<sup>114</sup>, more than twice the capacity of national prison system (almost 12.000). The Filipino penal establishments accommodate more than three times the inmates they could house according to the official capacity, with an overcrowding rate of 316 per cent (the highest in Asia, and the fourth worldwide)<sup>115</sup>, 63 per cent of the detainees are on remand or pre-trial condition and on the average, some 10.000 offenders per year are arrested for drug crimes since 2007<sup>116</sup>.

The same relation between convicts and pre-trial detainees occurs in India, where in 2013 out of 410.000 prisoners nationwide, nearly 130.000 have been sentenced to prison (31 per cent), while some 278.000 (or 67 per cent) were awaiting the trial, resulting in an overcrowding rate of 118,4 per cent<sup>117</sup>. Drug crimes do not account for a large number and are included within the category of special offences (of which they represent by far the highest share). Taking into account the last three years, the trend seems to be steady: besides a slight increase of the overall numbers of detainees - almost 130.000 in 2013, murder continues to be the most common offence perpetrated by the imprisoned offenders (some 68.000 in 2013, about 60 per cent of the total), whereas almost 7.000 have been convicted for drug crimes in both 2012 and 2013, accounting for roughly 6 per cent of the total. Amongst the pre-trial inmates (226.542 in 2013), more than one fourth is indicted for murder, but the rate of those accused for drug crimes is constantly rising, it has increased from less than 12.000 in 2011

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113 According to a calculation: [http://www.dnc.gov.bd/report\\_dnc/annual\\_report\\_2013.pdf](http://www.dnc.gov.bd/report_dnc/annual_report_2013.pdf), pages 47, 49 and 51.

114 <http://www.prisons.gov.lk/Statistics/statistic2014/Statistics-2013.pdf> page 78.

115 In 2013 there were nearly 111.000 inmates, whereas the capacity is 34.000: <http://www.prisonstudies.org/country/philippines>.

116 [http://www.unodc.org/documents/southeastasiaandpacific/Publications/2013/ats-2013/2013\\_Regional\\_ATS\\_Report\\_web.pdf](http://www.unodc.org/documents/southeastasiaandpacific/Publications/2013/ats-2013/2013_Regional_ATS_Report_web.pdf), page 111, and <http://www.pctc.gov.ph/illicit-drug-trafficking.html>.

117 The official figures refer to 31\12\13, considering that the official capacity is roughly 350.000. All the data at: <http://ncrb.nic.in/PSI-2013/Snapshots-2013.pdf>.

to some 16.400 in 2013 (7,2 per cent of the total)<sup>118</sup>. Nepalese prisons are on the average housing twice their holding capacities, and almost 6 out of 10 inmates are on remand<sup>119</sup>; according to 2008 data drug offenders accounted for the 13 per cent of the total<sup>120</sup>. Also in Cambodia the penal establishments face an inmate's overflow (178 per cent of their official capacity, namely 8.500 inmates), with pre-trial or on remand detainees constituting the 63 per cent of the overall prison population<sup>121</sup>, but the drug offenders compose a not remarkable share of them, though the number of drug related arrests increased nearly tenfold between 2007 and 2011 (from 263 to 2.381)<sup>122</sup>. Moreover, seizures from the last year show that Cambodia continues to be used as a relevant transit country by Asian and African criminal organizations for the trafficking of illicit drugs and chemical precursors (mainly Meth)<sup>123</sup><sup>124</sup>.

In addition, Cambodia together with some other countries of South-east Asia, since the early 2000s saw the spread of Compulsory Treatment Centres (CTC), regarded by national drug control authorities as a response to rising level of problematic drug use. The CTCs are located in countries part of the "*Golden Triangle*"<sup>125</sup>, with opium and methamphetamine production. Some 300.000 patients were held in CTCs in Southeast Asia. The high rates of relapse into drug consumption after release, the lack of health professionals and trained staff and the absence of evidence-based methods are the main criticized points of such

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118 All the data from the different years have been taken from the National Crime Records Bureau website. 2011: <http://ncrb.nic.in/PSI-2011/CHAPTER-4.pdf>, 2012: <http://ncrb.nic.in/PSI-2012/CHAPTER-4.pdf> 2013: <http://ncrb.nic.in/PSI-2013/CHAPTER-4.pdf>.

119 [http://shanghaidaily.com/article/article\\_xinhua.aspx?id=251730](http://shanghaidaily.com/article/article_xinhua.aspx?id=251730).

120 [http://nepal.ohchr.org/en/resources/publications/PrisonDayBrochure\\_Eng.pdf](http://nepal.ohchr.org/en/resources/publications/PrisonDayBrochure_Eng.pdf), page 10.

121 <http://www.prisonstudies.org/country/cambodia>.

122 [http://www.unodc.org/documents/southeastasiaandpacific/2012/12/ats-2012/2012\\_Regional\\_ATS\\_Report\\_FINAL\\_HQPDF\\_3\\_Dec\\_2012\\_low.pdf](http://www.unodc.org/documents/southeastasiaandpacific/2012/12/ats-2012/2012_Regional_ATS_Report_FINAL_HQPDF_3_Dec_2012_low.pdf), from page 48.

123 IBID.

124 <https://www.cambodiadaily.com/archives/more-drugs-seized-and-arrests-made-in-2013-49508/>.

125 The *Golden Triangle* takes place within the lands of Burma, Laos and Thailand, but the whole South East of Asia is concerned by the smuggling of the drug manufactured there.

measure, that is reported to highly expose the patients to infections and diseases, transmitted via needle sharing or sexual behaviour<sup>126127</sup>.

In 2011 Cambodia approved a new law that defines a drug addict as “any person who consumes drugs and is under the influence of drugs”; sets mandatory treatment for up to two years, leading in fact to arbitrary detentions and human rights violations<sup>128</sup>. The UNODC issued a Statement alerting to the counterproductive effects of the centres, calling for their closure<sup>129</sup>.

Such punitive and draconian approach to drugs consumption is now replaced by community-based drug treatment, supported by UNODC, UNAIDS and WHO, with the aim to replace the Compulsory Centres for Drug Users (CCDUs).<sup>130</sup> Findings are amply documented in a report edited in 2011 by Human Rights Watch, that describes Somsanga Drug Treatment Center in Vientiane: it reveals the lack of any health-orientated approach, as well as the absence of objective basis for the detentions, including people that do not use drugs, but defined as socially undesirable beggars, street children or homeless<sup>131</sup>. The patients (between 1.100 and 2.600 per year between 2003 and 2009) lived in a heavily controlled environment, locked up as detainees for most of the daytime, and harshly hit if they tried to escape; the rule infringement was punished with beatings and there have been witnessed also suicides or suicide attempts<sup>132</sup>.

In Vietnam drug users are held responsible for a high share (up to 60 per cent in 2013) of the crimes committed nationwide, and a further growth is expected since confusing new legislation (the Law on Handling Administrative Violations that came into force in 2014) will transfer the decision to send repeated drugs

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126 For an overview of the topic: <http://www.irinnews.org/report/98363/analysis-southeast-asia-slowly-accepting-harm-reductio>.

127 A report realized in 2010: <http://www.opensocietyfoundations.org/sites/default/files/Detention-as-Treatment-20100301.pdf>.

128 IBID, from page 31.

129 <http://www.unodc.org/southeastasiaandpacific/en/2012/03/detention-centres/story.html>.

130 <http://www.unodc.org/southeastasiaandpacific/en/2012/02/cbt-cambodia/story.html>.

131 [http://www.hrw.org/sites/default/files/reports/laos1011webwcover\\_0.pdf](http://www.hrw.org/sites/default/files/reports/laos1011webwcover_0.pdf), pages 34, 46 and 50.

132 IBID, pages 34, 43 and 40.

offenders to compulsory rehabilitation from local People's Committees to district-level courts and judges, without providing any governmental procedural guidance to this end<sup>133</sup>.

There is few information available on Burma, a key-country in South East Asia as the world's second largest producer of opium poppy after Afghanistan, and a central hub for production of methamphetamines (pills locally named Yaba, or ice if in crystalline form). To date the reported number offenders arrested for drug crimes is not really high, during the last years their number was steady (3.991 in 2011, and less than 3.500 in 2010) , but it rose to some 5.700 arrests in 2012<sup>134</sup>. The overall prison population is roughly 60.000 inmates<sup>135</sup> in prisons and 10.000 in labour camps.

The exact extent of meth production in Southeast Asia is unknown -and difficult to estimate-; but the wide availability of this synthetic drug can be confirmed<sup>136</sup>: in Brunei Darussalam for instance, 90% of the 459 drug-related arrests made in 2012 involved crystalline methamphetamine, and the overwhelming majority of them (some 95 per cent), were for drug use or possession<sup>137</sup>.

Thailand counts more than one million of meth users; the pills are smuggled mainly from Burma<sup>138</sup> and then sold throughout the country, with increasing levels of arrests. In 2011, out of nearly 250.000 drug related arrests, more than 190.000 concerned meth pills<sup>139</sup>, and inside the prisons, out of approximately 225.000

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133 <http://www.thanhniennews.com/society/vietnams-new-drug-law-confuses-courts-71.html>.

134 [http://www.unodc.org/documents/southeastasiaandpacific//Publications/2013/ats-2013/2013\\_Regional\\_ATS\\_Report\\_web.pdf](http://www.unodc.org/documents/southeastasiaandpacific//Publications/2013/ats-2013/2013_Regional_ATS_Report_web.pdf), page 97.

135 <http://www.prisonstudies.org/country/myanmar-formerly-burma>.

136 Same as footnote 134, page 9.

137 IBID, page 50.

138 <http://www.theguardian.com/world/2011/jul/10/thailand-war-on-drugs-rights-groups>.

139 Same as footnote 134, page 130.

inmates, 116.000 were indicted for drug crimes<sup>140</sup>. Women are strongly involved in meth illegal trade, as nearly half of female detainees in Thailand (about 42.000, accounting for the 14 per cent of the total) are serving sentences for trafficking or possession of meth<sup>141</sup>.

The Compulsory Drug Treatment Centres have been working since 2002, they are managed either by military personnel, as a boot-camp focused on an exercise regime, or by the Ministry of Interior, with a tough discipline (including chaining and beating) and no medical checks; the average length of the stay ranges between three and four months, and a second imprisonment after release has been reported for some 70 per cent of the patients<sup>142</sup>.

Drug crimes in Japan are by far the most common among the ‘Special Offences’ (as in India), accounting for 26 per cent of the convictions in 2011 (6.629 out of 25.499), the share is even higher considering the female inmates (886 imprisonments on 2.226, namely the 40 per cent)<sup>143</sup>; in both cases the trend is rising slightly over the last years<sup>144</sup>, yet 3.975 drug offenders were placed under probation or parole supervision that same year<sup>145</sup>. Among those drug offenders convicted, more than four thousands had been imprisoned before, for 1 or 2 years<sup>146</sup>. The length of convictions for drug offences is on average below 2 years of imprisonment (with or without suspension of execution of the sentence) in the other cases it does not exceed 3 years, except for a small percentage of convictions<sup>147</sup>. Drug offences constitute infringement of the 1951 *Stimulants Control Act* in nearly all the cases (6.570 convictions), the leftover violations

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140 <http://www.thaiprisonlife.com/thai-prison-statistics/>. It is worth to consider that during the last three years the overall prison population has further increased, to more than 325.000 in the end of 2014 (<http://www.prisonstudies.org/country/thailand>).

141 Data as of June 2014: <http://www.globalpost.com/dispatch/news/afp/140624/behind-bars-thai-women-pay-high-price-drugs>.

142 Same as footnote 127, from page 23.

143 <http://hokusyo1.moi.go.jp/en/61/image/image/h007002006h.jpg>.

144 <http://hokusyo1.moi.go.jp/en/61/image/image/h004003003003e.jpg>.

145 <http://hokusyo1.moi.go.jp/en/61/image/image/h004003003005e.jpg>.

146 <http://hokusyo1.moi.go.jp/en/61/image/image/h007002009h.jpg>.

147 <http://hokusyo1.moi.go.jp/en/61/image/image/h004003003002e.jpg>.



regard either the *Cannabis Control Act* or the *Narcotics and Psychotropic Control Act*, one third of the male offenders was aged between 30 and 40 years old, and another third between 40 and 50 (within the same age groups, female offenders accounted for 42 and 30 per cent of the offences respectively)<sup>148</sup>.

Drug related arrests in South Korea are gradually decreasing: in 2012 there have been 9.255 in total, of whom 55 per cent related to use and 5 per cent to possession, while the number of those charged for drug supply and trafficking has risen, as the amount of foreigners arrested for drug related offences (359, there were 295 in 2011 but 858 in 2010). Crystalline methamphetamine is the primary drug of concern, accounting for 82 per cent of the arrests in 2012, and the increase in illegal drug supply is ascribed to foreign drug organizations, mostly from China, South-east Asia and Nigeria, that are using South Korea as a transit country on their drugs route<sup>149, 150</sup>.

In China drug arrests are on the rise, as they amounted to roughly 133.800 in 2012, some 18 per cent more than the previous year (101.700); heroin and methamphetamine are presently the most smuggled drugs, accounting for the 40 and 36 per cent of the arrests<sup>151</sup>. Drug consumption is increasing continuously, and 'habitual' supplier countries from Southeast Asia (Laos and Myanmar) are no longer able to meet the demand, so the traffickers have turned to the Golden Crescent Region<sup>152</sup>; as a result, the number of foreigners arrested grew 17 per cent in 2013, involving mainly African drug mules hired on the behalf of Pakistani drug lords<sup>153</sup>. As of the end of 2012, drug trafficking constituted the most spread

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148 As of 2011: <http://hakusyo1.moj.go.jp/en/61/image/image/h004003003004e.jpg>.

149 <http://www.globalpost.com/dispatch/news/yonhap-news-agency/130818/sharp-rise-suppliers-illegal-psychoactive-drugs-prosecution>.

150 Same as footnote 134, page 117.

151 Same as footnote 134, page 61.

152 <http://www.scmp.com/news/china-insider/article/1385077/southeast-asia-cant-meet-chinas-opium-demand-says-un-body>.

153 [http://www.chinadaily.com.cn/chinawatch/2014-06/26/content\\_17616164.htm](http://www.chinadaily.com.cn/chinawatch/2014-06/26/content_17616164.htm).

offence among the inmates inside Macau's prison institute, regarding 349 out of 1.358 detainees (25,6 per cent)<sup>154</sup>.

An interesting turn away from a merely punitive approach in drug policy took place in the Maldives, after a 2011 a survey involving 60 per cent of the overall prison population revealed that 66 per cent of the inmates were in jail for drug use or possession, some 78 per cent of the prisoners was drug user or abuser, and drug offenders represented more than half of the recidivists (52 per cent)<sup>155</sup>. Also taking into account the ineffectiveness of the rehabilitation programmes within the prisons<sup>156</sup>, from August 2012 a Drug Court was introduced, with the aim to divert from burdened prisons those convicted for drug use or possession under 3 grams, by ordering them to undergo a rehabilitation programme<sup>157</sup>. The Drug Court handled more than 500 cases in less than 2 years, counting 101 completions of rehabilitation treatments among the drug users<sup>158</sup>. The question remains though, whether the justice administration should be used for health treatment objectives, being a basic human right that is weakened by Drug Courts to some respects.

A similar outcome could be expected in **Indonesia**, whose new drug policy has been defined by the 2009 Narcotic Law, with the aim to relieve the overflowing prisons from drug users by sending them to rehabilitation centres. Nonetheless, the share of those convicted for drug crimes gradually rose in recent years and in 2013, out of 162.000 inmates nationwide, more than 54.000 had been

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154 <http://www.epm.gov.mo/AnnualReport2012/en/index.html#p=72>.

155 <http://minivannews.com/files/2011/09/Prison-Assessment-Report.pdf>, findings from page 9.

156 IBID.

157 <http://minivannews.com/politics/drug-court-ushering-new-era-in-maldives-drug-battle-36537>.

158 <http://minivannews.com/society/101-offenders-complete-drug-courts-rehabilitation-programme-82358>.

convicted for drug offences<sup>159, 160</sup>. The resulting overcrowding of the prisons<sup>161</sup>, coupled with a widespread availability of drugs therein, has created a high-risk environment for a group (the convicted drug users) particularly vulnerable to the transmission of HIV and other communicable diseases<sup>162</sup>. A joint meeting held in March 2014, involving 7 national authorities, resulted in the commitment to prefer the rehab treatment to the imprisonment for drug users, by providing a health instead of a criminal response<sup>163</sup>, though reports of abuses in the centres are widely heard of.

A model used is the Correctional Services Department in Hong Kong, whose overall prison population has been regularly decreasing over the past ten years, dropping from 14.693 inmates in 2004 to 8.906 in the middle of 2014: the downward trend is also due to the increasing number of the detainees sent to drug addiction treatment centres, suggesting a less draconian approach to sentencing<sup>164</sup>. Conceived as an alternative to the imprisonment, the compulsory treatment programme is attended by convicted drug addicts for 2 to 12 months, includes open-air physical activities, work programmes and therapy, and is supported by one-year post release statutory supervision<sup>165</sup>. Also here, the compulsivity of the treatment and methods used are far from ideal.

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159 <http://www.thejakartapost.com/news/2014/03/12/rehab-better-can-drug-users.html>.

160 The number of imprisonments for drug offences increased from 7.122 (10 per cent of all prisoners) in 2002 to 37.295 (26 per cent of the total) in 2009, and between 2007 and 2012, 38 per cent of the 189.294 individuals arrested for drug offences was suspected of possession offence. In fact, the new regulation provides the imprisonment for drug possession (without even distinguishing between use and trafficking), and at the same time the institution of rehabilitation centres to be attended by drug users; but to date only the first provision has been applied, and the judges are hesitant to use these additional discretionary powers, because of a lack awareness about the new regulation. Source: <http://www.cahrproject.org/wp-content/uploads/2013/01/IDPC-Briefing-Paper-Drug-policy-in-Indonesia.pdf>, pages 1 to 3.

161 The rate was 153 per cent in July 2014: <http://www.prisonstudies.org/country/indonesia>.

162 Inter alia: [https://www.researchgate.net/publication/51439854\\_Indonesian\\_prisons\\_and\\_HIV\\_part\\_of\\_the\\_problem\\_part\\_of\\_the\\_solution](https://www.researchgate.net/publication/51439854_Indonesian_prisons_and_HIV_part_of_the_problem_part_of_the_solution).

163 Same as footnote 159.

164 <http://www.scmp.com/news/hong-kong/article/1586883/prison-population-hits-record-low-theyre-spending-more-time-remand>.

165 [http://www.gov.hk/en/about/abouthk/factsheets/docs/correctional\\_services.pdf](http://www.gov.hk/en/about/abouthk/factsheets/docs/correctional_services.pdf), from the bottom of page 1.

Malaysian government nowadays does not provide statistics on drug related convictions, but figures from before show imprisonment for trafficking has risen from 2.955 in 2009 to 3.845 in 2011, with a growing rate of foreigners arrested (601 in 2011, nearly twice the previous year)<sup>166</sup>. As a result, some 10.500 people were detained and accused nationwide<sup>167</sup>. Malaysia is planning to propose the removal of mandatory sentencing of the death penalty<sup>168</sup>. Malaysia has a stable prison population of nearly 40.000 inmates<sup>169</sup>, with one detainee on four accused or sentenced for drug trafficking. This offence leads to mandatory death penalty, if the quantity surpasses the threshold set by the 1952 *Dangerous Drugs Act*<sup>170</sup>. Malaysia is classified among those countries with a high application of capital punishment, and death sentences have increased over the last years, though the executions may be reduced (none in 2011)<sup>171</sup>.

Malaysia is 1 of 7 states in the world that still actively execute for drug offences, (480 out of 1043 in 2015), and many of the convicted are foreigners (an average 20 people per year), mainly couriers from Nigeria and Iran<sup>172</sup>.

A feeling of discomfort towards the death penalty for drug crimes can be observed also in **Indonesia**, where on roughly 100 people on death row, 58 (of whom 41 foreigners) were drug offenders<sup>173</sup>: executions have been interrupted in 2008 (when 10 convicts were put to death, including two drug offenders, both foreigners), to be resumed after 5 years -in March 2013- when a Malawian drug

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166 <http://thejakartaglobe.beritasatu.com/archive/drug-trafficking-arrests-nearly-double-in-malaysia/468030/>.

167 As of 2011: <http://www.thestar.com.my/News/Nation/2012/03/19/Hishammuddin-10500-drug-traffickers-detained-since-2009/>.

168 <http://www.themalaysianinsider.com/malaysia/article/a-g-seeking-to-abolish-mandatory-death-penalty>.

169 <http://www.prisonstudies.org/country/malaysia>.

170 <http://kl98.thecgf.com/athletes/drugs.html>.

171 Same as footnote 6, page 30.

172 IBID.

173 Data as of 2012, same source as footnote 6, page 32.

trafficker was put to death<sup>174</sup>. Fourteen people convicted of drug offences were executed in 2015. Since December 2012, Indonesia changed its vote on the UN Moratorium on the Use of the Death Penalty from opposition, likely because of the high number of Indonesians on death row in foreign countries, to abstention<sup>175</sup>.

Numbers of death penalty executions remain a state secret in **Vietnam and China**, but media reports a large number of capital sentences and executions in both the countries: the former counted at least 27 death sentences issued in 2011 for drug crimes<sup>176</sup>, though the use of narcotics is no longer punishable by death after a 2010 reform<sup>177</sup>. In 2011 there have been 17 executions, all the convicts were either liable for murder or drug trafficking, and yet 8 people have been sentenced to death in January 2015, according to the verdict, because of the large number of smuggled heroin and the seriousness of the case; the conditions on death row are defined as simply inhumane<sup>178</sup>. It is unknown the extent of executions carried out in China, but it remains higher than in every other country, though unofficial sources assert an overall slight decrease; there is no any insight about the number of drug offenders put to death<sup>179</sup>. Having a glance at Singaporean penal institutions, it is manifest that drug offenders represent the largest group of prisoners, within a population of nearly 10.000 inmates: as of 2014, some 6.500 detainees were convicted for drug crimes, with a small increase each year<sup>180</sup>. Singapore has been recently interested by a shift on the capital punishment for drug trafficking, since the *Misuse of Drugs Act* has been emended in late 2012, and now legislates that the death penalty for drug

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174 <http://www.handsoffcain.info/bancadati/index.php?tipotema=arg&idtema=19000551>.

175 IBID.

176 Same as footnote 6, page 28.

177 <http://www.handsoffcain.info/bancadati/schedastato.php?idcontinente=23&nome=vietnam>.

178 IBID.

179 IBID.

180

[http://www.sps.gov.sg/sites/default/files/Press%20Release\\_PRIS%20Annual%20Statistics%20Release%202014\\_SG%20PRESS%20CENTRE\\_0.pdf](http://www.sps.gov.sg/sites/default/files/Press%20Release_PRIS%20Annual%20Statistics%20Release%202014_SG%20PRESS%20CENTRE_0.pdf), page 3.

trafficking is no longer mandatory, in case the trafficker has only played the role of courier, and either cooperates with the Central Narcotics Bureau or has a mental disability. If both the requirements are satisfied, then the capital punishment will be imposed at the discretion of the court<sup>181</sup>. Previously, Singapore has had a high number of executions for trafficking - 327 since 1991 - until 2011, when out of 4 executions in total, 2 concerned drugs smuggling<sup>182</sup>; and again in 2014, after 3 years without any capital punishment, 2 convicted have been sentenced to death for the same offence<sup>183</sup>.

### Oceania

Primary attention should be paid to Australia, that accommodates the largest share of inmates within the whole Continent, and can be defined an early adopter of decriminalisation policies, basically related to cannabis possession and use<sup>184</sup>. Most Australian states and territories use threshold quantities since several years, at first to distinguish between 'personal use' and 'trafficking', then to separate different levels of trafficking, indeed are identified 'trafficable' and 'large commercial' quantities, and increasing penalties are applied to the different cases<sup>185</sup>. The threshold quantity for cannabis possession ranges between 50 grams in Northern Territories and Tasmania's 1.000 grams, whereas for other drugs sometimes a quantity is provided that may be exceeded by the user, as shown by a research that highlights the risk of disproportionate sanctions for heroin and MDMA users (for instance, the maximum legally allowed is 0,75 grams for MDMA in New South Wales, or 2 grams for heroin in South and West Australia)<sup>186</sup>.

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181 [http://www.mha.gov.sg/news\\_details.aspx?nid=MjY4NA%3d%3d-9UYtY1fAog%3d](http://www.mha.gov.sg/news_details.aspx?nid=MjY4NA%3d%3d-9UYtY1fAog%3d).

182 Same as footnote 6, page 29.

183 [http://www.amnestyusa.org/pdfs/DeathSentencesAndExecutions2014\\_EN.pdf](http://www.amnestyusa.org/pdfs/DeathSentencesAndExecutions2014_EN.pdf), page 38.

184 <http://drogriporter.hu/files/drogriporter/imce/release-quiet-revolution-drug-decriminalisation-policies.pdf>, from page 17.

185 Drug trafficking is considered a serious offence throughout Australia, for a trafficable quantity the offender is punished with up to 15 years imprisonment in most states, (and up to 25 years in Queensland), whereas large commercial quantity may be punished with life imprisonment in New South Wales: <http://www.aic.gov.au/publications/current%20series/tandi/461-480/tandi467.html>.

186 IBID.

Drugs use is on the average common among offenders, over the last decade cannabis was the most used; 65 per cent declared to have used or use it, followed by ATS (40 per cent), and cocaine and heroin (barely over 10 per cent)<sup>187</sup>. Cannabis accounts for most of the cases, leading in most cases to their first arrest at the age of 16, when they started to use cannabis regularly. For the inmates who reported to use cocaine, heroin and ecstasy the first arrest came earlier (16, 15 and 16 years, respectively) than both first and regular use of such drugs (between 18 and 21 years)<sup>188</sup>. Generally, Australian states and territories have developed means to divert drug users from the criminal justice system and avoid the incarceration (many have Drug Courts)<sup>189</sup>, the offenders attend a treatment or educational programme, usually after issuing of an infringement or the payment of a fine<sup>190</sup>.

Despite the alternative measures, in recent years drugs claim the largest share of offences, reaching the peak in 2014-2015 with almost 134.000 arrests (61 per cent for cannabis, and 20 per cent for ATS), of whom less than 21.000 interested suppliers<sup>191</sup>; there had been a three per cent increase of drug arrests between 2010-11 and 2011-12 (and in the same years the drug crimes rate rose from 323 to 344 per 100,000 population)<sup>192</sup>.

According to the latest figure, in New Zealand some 12 per cent of the prison population (8.037 inmates) is charged for drug crimes, and within the penal institutions is provided a treatment programme for drugs users<sup>193</sup>, mainly

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187 <https://www.crimecommission.gov.au/sites/default/files/290414-IDDR-2012-13.pdf>, page 15.

188 Data as of 2005: <http://www.aic.gov.au/publications/current%20series/cfi/121-140/cfi132.html>.

189 [http://www.aic.gov.au/criminal\\_justice\\_system/courts/specialist/drugcourts.html](http://www.aic.gov.au/criminal_justice_system/courts/specialist/drugcourts.html).

190 [http://www.aic.gov.au/crime\\_types/drugs\\_alcohol/illicit\\_drugs/diversion.html](http://www.aic.gov.au/crime_types/drugs_alcohol/illicit_drugs/diversion.html).

191 <https://www.acic.gov.au/sites/g/files/net1491/f/2016/08/acic-iddr-2014-15.pdf?v=1470178813>, page 186.

192 [http://www.aic.gov.au/publications/current%20series/facts/1-20/2013/4\\_offender.html](http://www.aic.gov.au/publications/current%20series/facts/1-20/2013/4_offender.html).

193 [http://www.corrections.govt.nz/resources/facts\\_and\\_statistics/quarterly\\_prison\\_statistics/CP\\_June\\_2014.html](http://www.corrections.govt.nz/resources/facts_and_statistics/quarterly_prison_statistics/CP_June_2014.html).

targeting remand and short-serving detainees, with the aim to prevent their relapse into crime<sup>194</sup>.

### Conclusions and recommendations

On a global scale, imprisonment for drug related crime makes a considerable contribution to overall incarceration rates. The application of criminal law to deal with illicit drug markets is common in most countries of the world, as we have seen in reviewing the situation in several jurisdictions. Capital punishment is the most extreme expression of this, and is still being applied to people prosecuted for drug offences, mainly in Asia.

The overcrowding of the prison system is therefore a common and predictable consequence of a tough and outdated approach to the drugs markets, and illustrates how poorly justice is administered. Generally, the prosecution of drug related crimes is conducted through the systemic imprisonment of offenders, regardless of the seriousness of the offence committed, as expressed in most legislation. It has shown to be ineffective in terms of curbing the market and counterproductive in the sense that once a person enters the system, it proves very hard to leave. As a matter of fact, the recidivism rate of the minor drug crimes has not decreased; drug offenders still account for nearly one fifth of the overall prison population.<sup>195</sup>

Discussions of alternatives and reforms to the manner in which criminal law deals with drug related offences are taking place in many countries, as a consequence of shifting paradigms in drug control, from punitive to more health-based approaches. However, considerable repression is also applied in the process of treatment for habitual drug use, and treatment facilities are, too often, difficult to distinguish from prisons. This implies that official statistics under-represent the number of people detained.

The development of policies aimed at restoring proportionality in sentencing for drug crimes is underway in a number of countries. International agencies involved

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<sup>194</sup>[http://www.corrections.govt.nz/\\_data/assets/pdf\\_file/0007/767923/Corrections\\_Annual\\_Report\\_2013-14\\_Full.pdf](http://www.corrections.govt.nz/_data/assets/pdf_file/0007/767923/Corrections_Annual_Report_2013-14_Full.pdf), page 26.

<sup>195</sup> UNODC, 2016 Annual report, page 23.



in drug control have also stated that “balanced approaches necessitate applying the principle of proportionality to drug-related offences and offenders. Disproportionate responses do not serve the cause of justice, nor help to uphold the rule of law”<sup>196</sup>.

The UNGASS outcome document specifically addresses proportionate sentencing, albeit within the margins of the existing legal framework: “Promote proportionate national sentencing policies, practices and guidelines for drug related offences whereby the severity of penalties is proportionate to the gravity of offences and whereby both mitigating and aggravating factors are taken into account, including the circumstances enumerated in article 3 of the 1988 Convention and other relevant and applicable international law, and in accordance with national legislation”<sup>197</sup>

Although this overview did not consider every region of the world, there are two clear overall tendencies: overwhelmingly people imprisoned for drug related crime are those prosecuted and convicted for possession, either for personal use or for small-scale trade or transport of controlled substances. Once prosecuted these people, regardless of where they are in the world are likely to face excessive prison sentences, harsh treatment and limited access to alternatives or treatment.

Worldwide, prison systems fail to fulfil the basic human rights standards, such as providing for adequate healthcare services. The question remains if drug control was intended to have so many to pay such a high price.

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<sup>196</sup> Yury Fedotov statement at a side event at the 59th CND: see <https://www.unodc.org/unodc/en/frontpage/2016/March/unodc-chief-disproportionate-responses-to-drug-related-offences-do-not-serve-justice-or-uphold-rule-of-law.html>.

<sup>197</sup> UNGASS outcome document, section I; <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N16/105/72/PDF/N1610572.pdf?OpenElement>.