

UNODC-TIJ Side Event at ICAD II

‘Rule of Law and Alternative Development: Strengthening the Rule of Law to Achieve Sustainable Development in Areas of Illicit Crop Cultivation’

Background

Alternative Development is recognized by UN Member States as a fundamental pillar of a comprehensive drug supply control strategy. The beneficiaries are primarily small-scale farmers socially, culturally and geographically marginalized from society. They are also often ethnic minorities in difficult to access or isolated areas who suffer poor socioeconomic conditions.¹ While there is no single factor that drives illicit crop cultivation there are common conditions that foster the cultivation of drug crops. According to GIZ, common conditions include, “... *poverty, violence, weak political and judicial systems, absence of public institutions and control mechanisms, well-established trafficking networks for drugs, and the lack of infrastructure and access to legal markets are the main factors pushing farmers to grow drug crops.*”² In the major illicit crop producing countries; Afghanistan, Myanmar, Colombia, and Mexico opium poppy and coca cultivation has thrived in areas of conflict due to a combination of poverty, food insecurity, and weak rule of law. The main stakeholders in illicit crop cultivating area are also often non-state armed groups and/or criminal networks.³

Alternative development is accepted as a development led approach that addresses the root cause of illicit drug crop cultivation and should not be measured only by the reduction in illicit cultivation but also by human development, socio-economic and environmental indicators designed specific to each area taking into account the motivating factors and multi-faceted dimension of illicit crop cultivation. It has been encouraged for alternative development initiatives to measure economic growth, social development and the protection of the environment. Economic growth can be measured by but not exclusive to farmers access to markets and business development, infrastructure (roads and electricity), and by securing land titles. Social development can be measured by legal identity and status, access to justice, information, health, sanitation, education, social services and political participation. The protection of the environment can also be measured by the participation of poor and marginalized groups on environmental management, ending slash and burn cultivation and mono-cropping practices.

While Alternative development focuses on a balanced and sequenced approach to strengthen and diversify the livelihoods of small-scale farmer households to reduce their dependency on the illicit drug economy; strengthening the rule of law is also key to the long-term success of alternative development projects. This has been recognized by the adopted UN General Assembly resolution A/68/458 on the United Nations Guiding Principles on Alternative Development which acknowledges that drug policies and programmes should be implemented in accordance to the Universal Declaration of Human Rights, international law, principle of common and shared responsibility, the rule of law and where appropriate security concerns.⁴ The Principles also encourage states to integrate affected populations often ethnic

¹ UNODC World Drug Report 2015 p.90

² ‘Rethinking the Approach of Alternative Development Principles and Standards of Rural Development in Drug Producing Areas’, GIZ, 2013

³ *ibid*

⁴ United Nations Guiding Principles on Alternative Development General Assembly Resolution A/C.3/68/L.9

minorities and marginalized groups into the broader national poverty reduction development framework to gain access to better health, education, infrastructure, and state resources. This can include strengthening laws and the implementation of policies to support equal access to justice, human rights, gender equality, legal identity, land rights and greater access to economic opportunities.

The Side Event on ‘**Rule of Law and Alternative Development: Strengthening the Rule of Law to Achieve Sustainable Development in Areas of Illicit Crop Cultivation**’ will discuss the linkages between rule of law and alternative development and highlight aspects of rule of law that can be strengthened to have the most impact to the success of alternative development programmes.

If drug crops are able to be cultivated due to a weak rule of law, it is necessary to consider appropriate mechanisms to strengthen the rule of law when designing and implementing alternative development programmes. Lack of good governance can impede illicit crop producing countries from achieving sustainable alternative development depriving people of legal rights and the opportunity for economic, social and environmental advancement. The rule of law may need to be strengthened to respect human rights, promote equality, inclusivity, accountability and justice for all by enhancing legal frameworks for fair laws and policies, strengthen institutional capacity and provide legal empowerment to affected populations.

1. **Strengthen laws and legal frameworks** to bring clarity, predictability and certainty in the law, reduce corruption and enhance economic development by providing greater access to markets and financial services for poor and marginalized populations. Laws can promote gender equality, human rights and fair access to government benefits and services, land rights, access to water, sanitation and electricity. It has also been proven that securing land tenure increases farmer’s investment in the land leading to greater food security and reduction in slash and burn cultivation. Effective legal frameworks can also tackle organized crime, violence and terrorism that proliferate in the area.
2. **Strengthen institutional capacity** in areas of illicit crop cultivation is not limited to the state permitting alternative livelihoods to be provided prior to arrest and crop eradication initiatives, but also for state institutions to provide equitable access to social services such as health and education. Alternative development programs can also design mechanisms to work with the state and stakeholders to strengthen land registries, social welfare institutions, local government offices, and small business’ opportunities to improve the lives of small-scale farmers and affected populations.
3. **Legal empowerment** can improve security, peacefully resolve disputes and increase trust between people and state institutions. By strengthening legal assistance and access to information laws can be meaningful to individuals and the community. This can be achieved by promoting legal literacy, legal aid, informal justice and raising awareness of rights. Legal empowerment can involve legal aid as a tool for state institutions to respond to the legal needs of poor and marginalized populations where public interest lawyers and legal aid lawyers are able to represent and advance law reform for the poor. Effective legal empowerment can also if appropriate recognize informal justice practices in remote and difficult to access areas governed by local customary practices. At the same time alternative development programmes must ensure that informal justice upholds the rights of women, children, the poor and marginalized groups and not be in contradiction to national and international laws.

Date: 24 November, 2015

Agenda:

- 13.05 - 13.10 **Welcome Remarks**
Dr. Kittipong Kittayarak, Executive Director, Thailand Institute of Justice (Chair)
- 13.10 – 13.20 **Introduction to linkages between the rule of law and alternative development**
HRH Princess Bajrakitiyabha Mahidol
- 13.20 - 13.35 **Strengthening laws and institutions in illicit crop cultivating areas**
Jorge Rios, Chief, Sustainable Livelihoods Unit and Coordinator of the Global Wildlife and Forest Crime Programme
- 13.35– 13.50 **Legal empowerment for poor and marginalized populations**
Patrick Burgess, President, Asia Justice and Rights
- 13.50– 14.00 **Q&A Session (Chair)**