Chapter 2

Gendering Drug Policy

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Introduction

This chapter examines the social, economic and political contexts of gendered inequality, vulnerability and agency in which the war on drugs takes place. As the previous chapter has demonstrated, the drug war is failing and causes multiple harms. Those harms are not evenly distributed: they affect overwhelmingly those in society who are most susceptible to being cast as socially undesirable or as violating moral and social norms. Ethnicity, gender, age, social class and occupation are some of the key factors that combine to produce 'punishable subjects' in drug policy. This chapter unpicks some of the ways in which women's continuing inequality in all spheres plays out in drug policy. How do women continue to be framed, included or excluded in key fields of policy and practice such as development, healthcare and security?

Gender: Framing Women

Gender is perhaps the most fundamental of organising principles in human society and it operates in a number of different ways. First, gender is both a personal, assumed identity and a socially ascribed identity, and these may line up, or be in conflict. For most (cis-gender) people, the gender they are assigned at birth, generally on the basis of observable physical characteristics, remains congruent with the gender that they feel themselves to be. However, for transgender individuals, the gender they are assigned at birth conflicts with the one that they identify with. Continuing research has revealed both biological sex and the factors that produce gender identities to be far more complex than simple binaries suggest. However, drug policy, in its different forms and contexts, often relies on Manichean oppositions and seeks to discipline those whose behaviours or identities do

not conform. This tendency has been exacerbated in the current period of far-right populist nationalism, discussed below.

Gender is also a performance, a collection of practices, symbols and actions that signal to others how we wish to be seen, what kind of man or woman we are or what kind of gender identity we wish to project. For example, intoxication, particularly through alcohol use, is strongly associated with masculinity in many cultures, and something that men often feel obliged to perform in order to gain acceptance from other men. Conversely, as Ingrid Walker points out in this volume, women are expected to perform sobriety, whether in relation to drugs or alcohol, and female intoxication often elicits social opprobrium.

Almost universally, each social group has developed identifiable sets of gendered expectations about how women and men should perform gender, what social roles they should take on and what the consequences should be if they contravene those social norms. Whilst gender expectations vary in their detail from society to society, and change over time, some tropes seem to be very pervasive and explain why women seem to be either missing from drug policy or framed by particular sets of ideas and ideologies. One of the strongest tropes is the association of women with motherhood, with care and with nurturing. Every social norm requires its anti-norm, so praise for the 'good mother' means that other mothers must be punished for being 'bad' or 'failing' mothers. The flipside of the mother-and-wife is the sex-worker, the promiscuous or degenerate woman. Notions of purity and passivity are upset when women get involved with drugs as consumers seeking pleasure.

Gender is also a discourse that attaches to all kinds of phenomena, including abstract ideas. For example, 'risk-taking' is strongly associated with masculinity (Byrnes, Miller, & Schafer, 1999) yet, like any abstract idea, it needs breaking down into subcomponents (e.g., what kinds of risk, in what contexts) before then being tested empirically and with gender-disaggregated data (Harris, Jenkins, & Glaser, 2006). The fields that this chapter will concentrate on – development, health, security – are underpinned by key ideas whose meaning is assumed and very often tied to empirical data or suppositions that do not take account of women's lived experience. The discounting of women affects, for example, how women are treated by medical professionals when they report pain. They are less likely to be given effective painkillers, and more likely to be offered antianxiety medication, by doctors who simply do not believe women's self-reported symptoms. The relationship between pain, trauma histories and the failure of public agencies to respond to women's needs is part of the gendered story of drug use.

Gender Analysis

Analysing any social phenomenon from a gender perspective involves asking a series of questions. In what way do social processes and experiences affect men, women and sexual and gender minorities in distinct ways? How do those different experiences produce relative power disparities, discrimination or disproportionality? How are those disparities also affected by intersectional differences between different women, men and sexual and gender minorities? How does

policy address these disparities, seek to diminish them or end up reinforcing them? A comprehensive analysis would differentiate the many different stages of a process and generate gender-related questions for each of those decision-making points. It would also involve a gender audit of the institutions involved in policy and practice, examining their gendered composition, structures and organisational culture. For example, when looking at the criminal justice system's response to illegal narcotics, a gender-sensitive approach would look at who makes law (representativeness), what evidence they draw on, whose voices are heard in consultation, the gender composition of the criminal justice agencies, the gender selectivity of searches and arrests for drugs, gender bias in pre-trial detention and sentencing and gender-disaggregated data on the various dispositions applied to those who produce, supply or consume drugs. Once we can see the extent to which women and men are treated differently by gathering quantitative data, we can answer the even more interesting questions about *why* this occurs, which requires data of a more qualitative nature. Unfortunately, a lot of research on drugs is still gender-blind.

An important distinction when trying to improve our understanding of women's experiences of drugs and drug policy, versus that of men is that between equality and equity. The classic liberal idea of equality is that of equal treatment where equal is understood to mean 'identical'. However, we do not have identical lives. We all live within complex sets of identities, experiences and social expectations of which gender is one component. Therefore, any 'one size fits all' policy that appears to offer exactly the same services to all users will inevitably be appropriate only for the subgroup whose social reality that service most closely approximates. For example, studies of needle-exchange programmes showed that women were less willing to use pharmacy-based ones because they were more sensitive than men to the risk of being seen in public and experiencing the more acute social shame of being recognised as a drug user. The term gender 'equity', however, takes account of the distinct life trajectories of men and women (and of subgroups within these) and develops policies and practices that are differentiated but end up in equivalent outcomes. In the area of medicine, for example, the dosage of a drug to produce the same overall effect should take into account age, weight, sex and other variables. The fact that so many clinical trials on drugs have been conducted only on men means that whilst the treatment offered may be 'equal', it is not 'equitable' as it has not been adjusted for different beneficiaries in order to still achieve the common outcome intended.

Gender analysis, therefore, needs to be multi-layered and take account of complexity. However, gender policy is often reductionist, simplistic and the result of a search for simple propositions, and policies that can be copied, multiplied and transferred. The most simplistic approach, long criticised in the field of women and development, is the 'add women and stir' one, where it is assumed that it is sufficient to have women in the room, as researchers, policymakers or research subjects. Whilst this is undeniably necessary, it is not sufficient, because gender sensitivity in any policy field only comes about through training, research and auditing practices and deeply held assumptions.

Why Gendering the Field of Drugs Is So Hard

There are a number of reasons why insufficient attention has been paid to how drug policy affects women. First, the issue straddles a number of policy fields, and these fields themselves have long existed as siloed policy communities, where there is little interaction or exchange of ideas. This is often entrenched by the existence of separate United Nations (UN) bureaucracies, conferences and hard or soft law governing each field. The gendered impacts of drug policy fall within the fields of development, human rights, women's rights, public health, criminal justice and national/international security, yet it has taken years for certain areas to begin a dialogue. For example, women's rights were long understood in the international system as being synonymous with a certain narrow interpretation of 'development' that involved empowering women economically and giving them equal legal rights within the modernising framework of the policy approach that came to be known as 'women in development'. Women's agency over their own bodies was present to some extent in this development field under the heading of population control, and the observation that family planning was both the result and the driver of women's empowerment and better human welfare within the family. But complete bodily autonomy for women has been controversial since the landmark International Conference on Population and Development held in 1994. The Cairo Programme of Action emphasised sexual and reproductive health as a fundamental human right, a notion still strongly contested by regimes founded on religious fundamentalism and conservatism. In many countries, women remain semi-subjects, only partially in control of their own bodies.

The human rights and the women's rights fields had not crossed over until the 1993 UN conference on human rights in Vienna, where women's equal possession of rights was strongly asserted and finally accepted. Drug policy internationally has been more developed as a criminal justice or national/international security concern, than a public health issue. The former two fields have been much more resistant than the development of human rights to incorporating a gender analysis. The actors in these fields have been overwhelmingly male until very recently. Even with the entry of women into the police and the armed forces, the leadership and internal culture of these organisations remain male-dominated. The meaning of 'security' lies in the hands of those who define it, that is, the politicians, the legislators, the police chiefs and the street-level police officers. Any social fact can be 'securitised', that is, framed as a security threat on which to build a moral panic that will justify the mobilisation of security resources to deal with it. Whilst women's involvement in drug production or consumption is rarely seen as the kind of security threat that leads to direct violence, it is often construed as a more existential security threat to the moral fabric of society. This partly explains why the number of women ending up in prison for drugs offences has been increasing at a rate up to four times that of men, even though the vast majority of offences are non-violent.

There is also the issue of how each of these fields understands and frames gender issues. We all use schemas, that is, shortcuts to simplifying complexity. We want to be able to boil things down to a single proposition or policy proposal that

everyone can understand. For example, in development policy circles, it is easy to default to simplistic schemas such as 'let's help women because many are mothers or heads of household'. Such a schema sees women as having a primary or singular social role. This ignores all the other possible roles and identities that she might have concurrently, or at some other stage in her life. It also excludes women who are not mothers due to choice or circumstance such as age. Furthermore, this schema relies on the idea that women are to be targeted not to assist them per se, but as the means to some other end. A great deal of development policy seeks to empower women through literacy, better healthcare or income generation so that they can better provide for and care for others. For instance, women's literacy is closely linked to improvements in infant mortality, yet that should not be the only reason to increase women's capabilities. Making policy for women that is instrumental – using them to achieve some other end – is problematic not just because it excludes many women but also because it treats those in the target group in an essentialist and reductionist way. However, this tactic of focussing on a social role that is unobjectionable across the political spectrum is often used as a 'wedge' in trying to begin a conversation about women where there is apparent hostility to seeing women as holders of certain kinds of rights and agency.

For example, the 'women-as-mothers' discourse has been used frequently by reformers on criminal justice reform as an argument for not sending women to prison for non-violent offences due to their care responsibilities as mothers. But can strategic maternalism be a lever into women's issues, and can women's issues be a lever into gender analysis? This approach would start by attending to what Maxine Molyneux calls *practical* gender interests. In a society where the primary caring duties are allocated to them, then public policy that makes it easier for women to perform a role that is important to them, their identity, and often their social status, is empowering to those women in the short term. Whether meeting these practical gender needs then reinforces a conservative narrative that carers should be women and women should be carers depends on the way that campaign organisations proceed beyond these pragmatic policies, and frame and reframe the issues. Changes over the longer term in gender relations require deeper attention to *strategic* gender interests, that is, applying a gender analysis that questions why women and men are allocated distinct social roles. In the instance of decarcerating female offenders, a more gender-strategic policy would be to evaluate the family care responsibilities of any person incarcerated for any non-violent drug offence, and to sentence on the basis of that criterion, rather than the sex of the offender. The question for policy is, do we want to assist marginalised groups such as women in the short term, according to their current needs, or do we also want to promote longer term change that recognises a much wider diversity of experiences and needs that are not tethered to a single, homogeneous gender identity?

This is a genuine dilemma in policy-making and social activism. Women are the minority in so many contexts, treated as an after-thought, as the exception to the male norm, that it is quite reasonable from an equality and equity perspective to advocate policies that attend to women *as a social group* in order to raise their profile as subjects of a policy field in order to improve their visibility and encourage more appropriate policy. However, 'women' is just a social

category that contains within it an infinite variety of experience as gender intersects with race, class, (dis)ability and many other variables.

One of the other dominant frames for women is 'vulnerability'. Women are seen, collectively, as a social group that is lacking in agency and needing protection, encapsulated in the term 'women and children'. As Enloe (2017) points out, this phrase infantilises women by association, whereas the terminology that feminists made the UNHCR adopt, 'women and their dependent children', highlights women's adult agency as providers. Patriarchal cultures *do* render women vulnerable in many instances to being victimised and used by third parties, for instance, in producing, taking or selling drugs, but this understanding needs to be carefully balanced against recognition of their agency. Feminist research suggests that both conditions may coexist in the same person, in the same context and it takes little to shift the balance. In studying a social phenomenon such as women's involvement as mules in drug trafficking, ethnographic research reveals that some women feel victimised, others feel empowered and others feel a mixture of both (Fleetwood, 2014). The same is true of women's involvement in drug trafficking gangs. They gain some social status and autonomy from the family but also run very specific risks of certain kinds of gendered violence, of which they are often aware and are attempting to manage (Moloney, Hunt, & Joe-Laidler, 2015). This vulnerability and dependency framework is a hangover from mainstream and development economics, where women's contribution to family production and income generation is so often seen as incidental and peripheral, largely because it is indirect and thus invisible and unquantifiable. Yet, women's time and labour are often central to these enterprises, and frequently bring specific resources and skills, such as social and familial capital (Denton & O'Malley, 1999).

Women as Exceptional and 'Abnormal'

Seeing men as a group as having more agency, personhood and social importance than women has led to a structural bias across a multitude of research and policy areas. Caroline Criado-Perez's (2019) book *Invisible Women* lays out in detail both gender gaps in data and data bias in science, design, medicine and many other fields. As she notes, data determine how resources are allocated and bad data result in bad resource allocation. Whole fields of research have been built on investigating only men's experience as the norm against which women figure as the exception. Women have either been excluded from activities or forced to adapt to the absence of equipment anatomically designed for women, from racing bicycle saddles to astronauts' suits and bullet-proof vests for police officers. The foundational studies in psychology in the post-war period were conducted on US university campuses using samples of convenience – the young white male college students sitting in the researchers' classes. Preclinical research and clinical trials of drugs have often been done only on men because women's hormonal cycle was regarded as 'too complicated'. Women are, biologically, different from men in many complex ways due to a myriad of biological attributes at every level of the organism: macro, micro, cellular and molecular, and women's individual biology also varies, woman to woman, given the complex interactions of

chromosomes, genes and hormones. All these variables play a part in how drugs affect individuals.

When women are regarded as minority consumers of a good, their needs are rarely designed in. One example is women's prisons. Globally, a few decades ago women represented only 3% of the prison population. The war on drugs has pushed this up to around 6%, but this still represents a tiny fraction of the prison population. As a result, women are generally incarcerated very far from home, as there are so few female prisons. Often, they are housed in poor quality facilities: in Brazil, men's prisons and juvenile detention centres that were regarded as no longer fit for purpose have been repurposed as female prisons. In the UK, there are only 12 women's prisons in England, none in Wales, one in Scotland, with some women also detained in units inside men's prisons, and in Northern Ireland women are held in a unit within a male Young Offenders Institution.[1] Or, even if the prison is built specifically for women, it will resemble a male prison 'minus the urinals and painted pink' (Maiello & Carter, 2015). This gender-insensitive custodial environment rarely takes account of women's specific social relations and background. Far more women than men in the prison system have trauma histories of neglect, sexual abuse and domestic violence, which often lead to the substance abuse, chronic health conditions and relationship difficulties that may be implicated on them receiving a prison sentence. A very high proportion of women are now in prison for offences related to drugs, often involving third parties. In the UK, 48% of women in custody committed an offence to support the drug use of someone else, whilst 39% had problematic drug use at the point of entering prison. Once inside prison, women's experiences differ from men's, with higher rates of mental illness and self-harm. Aside from the observation that prison is, therefore, the most inappropriate environment for women with such complex needs, rarely are prisons designed to take into account women's actual needs, such as mental health, menstruation, relationship partners, sexuality, pregnancy and childbirth. Despite the development of the Bangkok Rules on women's incarceration (UN General Assembly, 2010), women's specific needs are still rarely met in custodial environments.

Who Makes Policy?

The aspiration set out in the political statements of the 1998 and 2016 United Nations General Assembly Special Session on Drugs (UNGASS) that member states should 'ensure that women and men benefit equally, and without discrimination, from strategies directed against the world drug problem' is laudable, but inevitably runs up against the reality that nowhere in the world is there complete gender equality in all relevant spheres of policy-making and decision-making. Some of the countries with the most entrenched problems around drug production and consumption, such as Afghanistan, have the deepest forms of patriarchy, in which women's agency is negligible and fiercely resisted by many actors (Enloe, 2017).

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[1]https://www.womeninprison.org.uk/research/key-facts.php

The 1998 action plan also urges that alternative development programmes should 'incorporate a gender dimension by ensuring equal conditions for women and men to participate in the development process, including design and implementation'. Participation requires political will as well as attention to all the ways in which women are excluded from consultation, unless the methods employed are gender-aware and provide equal conditions of access.

Women still have relatively less agency than men when it comes to making laws and determining public policy because in the overwhelming majority of countries in the world they are in a minority in elected legislative office. However, having voice on key social policies is not just a matter of numbers. It also matters *where* policy is forged. If drugs are framed as a public health issue, then the medical establishment, Ministry of Health and any relevant health-related committees in the legislature are likely to have most significant input. Although the medical field has many gender biases in its data collection and research protocols, its professional hierarchies and its treatment of patients (medicalising women in very specific ways), health is associated with care and thus is regarded as a relatively 'feminised' field.[2] Whilst women constitute only 30% of health ministers worldwide, women politicians are more likely to get this portfolio, or some other regarded as connected to social welfare.[3]

When drug policy becomes highly securitised, then it shifts into what has historically been a domain monopolised by men. Women are much less likely to hold leadership posts linked to security. In 2018, there were just 17 women defence ministers around the world. The Ministry of the Interior or of Justice is also a key position, as this is the government office that generally governs policing and law and order and is often central to criminal justice reform. Senior police officers and jurists who draw up the laws will be men, whilst the street-level bureaucrats – the police officers and local judges who sentence – are also still likely to be men and to reflect dominant social views about good women and fallen women.

The development field has been more gender sensitive, at least since the 1970s as the women-in-development movement gained ground, insisting that women's specific experiences and contributions needed to be recognised and reflected in policy. Yet, when security meets development, security – a musculinised field still barely touched by gender sensitivity – tends to dominate. Like all policy fields it wants quick fixes and so solutions such as crop substitution are rolled out without careful examination of local dynamics and gender relations. Where women are heads of household and carers, having to meet their practical gender needs, then alternative development approaches that ignore this imperative and make male-centric assumptions about literacy, access to credit and land ownership patterns and rights will simply not work.

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[2]Women currently constitute 70% of the global health workforce but only 25% of deans of top public health and medical schools. Sources: Women in Global Health.

[3]The Inter-Parliamentary Union reported that in 2019, out of a total of 1,412 portfolios held by women, 109 were social affairs and 107 were family/children/youth/elderly/disabled.

Gender Backlash: Gender, Disgust and Right-wing Nationalism

The current political climate in certain countries is not propitious to careful, nuanced and evidence-led policy that is gender sensitive. Political backlash against pluralism and social diversity always has gender relations at its heart because far-right nationalist populism likes to hark back to an imagined ideal past, when social relations and hierarchies were apparently immobile and unchallenged. Gender relations are often understood as the most primordial of hierarchical relations. Women are seen as the cornerstone of the family, as the primary agent of both physical reproduction (childbirth and childrearing) and social reproduction (feeding, clothing and tending to the family members). In nearly all social–political imaginaries, the family is the microcosm of the ideal society, ergo women's willingness to occupy this idealised role of mother and carer becomes central to any kind of nationalist project. If women are not willing to be 'hostages to tradition' and fall into line with conservative roles and behaviours, then they must be disciplined to do so. This explains why so many semi-authoritarian nationalist regimes move immediately to invoke moral panics about women's bodies as part of a broader bio-political project, on the basis that uncontrolled women and fluid gender roles and relations constitute a form of degeneracy that will corrupt and contaminate the nation itself (Yuval-Davis, 1997).

Disciplining women's bodies, and prohibiting nonbinary, non-heterosexual expressions of identity and sexuality is done both through legislation and social policy, and through developing a moralising climate that enables such moves. The current wave of far-right nationalists, from Trump in the USA, to Bolsonaro in Brazil, Putin in Russia and Orbán in Hungary, have all relied upon the mobilisation of visceral emotions – of which disgust is the most powerful and hard to resist rationally as it is the first emotion we learn – to stigmatise 'outsider' groups – refugees, homosexuals, bad women, drug users and criminals. The election of Jair Bolsonaro in Brazil in October 2018, which relied heavily on the transmission of fake news and memes via the closed family-and-friends networks of WhatsApp, relied heavily on outrageous statements by Bolsonaro and his campaign about the moral degeneracy of their opponents. They alleged, with no evidence, that their opponents, whilst in government, had distributed a 'gay kit' to primary schools to teach children to be homosexual, and that government nurseries had been using babies' bottles with a teat shaped like a penis. Bolsonaro's son declared that right-wing women were 'more hygienic' than left-wing women who allegedly 'bared their breasts in public and defecated in the street'.

This explains why such far-right movements often have similar policies of gendered bio-politics, combining a pronatalist policy restricting reproductive choice and access to contraceptives, with criminalisation of abortion and of lesbian, gay, bisexual, transgender and questioning (LGBTQ) identities, and highly punitive policies on drug consumption and trade. These frequently turn into necropolicies, as bodies that cannot be socially controlled are represented as bodies that may legitimately be eliminated. Thus, Duterte has summarily killed upwards of 7,000 street-level drug users (Amnesty International, 2017). Bolsonaro has given the green light to police for similar shoot-to-kill policies, which will mainly target young black men.

Conclusion

This chapter has discussed the immense challenges that women face in securing effective voice and representation in drug policy. The framing of women who use drugs and/or who are involved in drug supply as deviant and anomalous by policy actors has implications for the upholding and promotion of their human rights and for their autonomy, development prospects, security and health care. This is elaborated in subsequent contributions to this collection, including from the perspective of those with lived experience. There are two important messages from these chapters and from the collection as a whole. First, through creativity and innovation, women are finding a collective voice to challenge prohibitionist-based drug strategies, including in the most repressive social and political contexts. Second, that drug policy is a feminist issue. Drug policy is a driver of injustice, discrimination and stigmatisation of many women. Reform agendas need to be recognised, supported and adopted by feminist and women's movements. In this respect, the following chapter takes a slightly different but important turn. It addresses the much neglected issue of pleasure in the use of drugs and it challenges the normative framing of women's intoxication as a site of deviance and shaming. It introduces an auto-ethnographic approach adopted by other contributions in this collection. As outlined by the author, 'a scholarly activism by and inclusion of women who use drugs' should be foundational to our analysis.