

View from the Ground - Harm reduction, drug policy and the law in the Maghreb: focus on Morocco and Algeria

Khalid Tinasti, Geneva
Global Drug Policy Observatory, Swansea University
October 2016

Introduction:

The Maghreb countries, part of the Arab Maghreb Union, are Algeria, Libya, Mauritania, Morocco and Tunisia and form the largest part of North Africa. These countries are currently in the centre of the boiling issues of the world including terrorism, human trafficking and drug trafficking. These countries are large consumers and producers of plant-based and synthetic or psychotropic substances, Morocco being the largest cannabis producer in the world in 2014.¹ But when it comes to discussing the issue of drug use, the legal response to it, and its impact on society, the debate focuses on ideological issues of morality and the rejection of illicit drugs, as data on the prevalence of drug use and the patterns of the use in these countries are missing.

The Maghreb is also part of the MENA region (Middle East and North Africa), which is one of the two regions in the world in which new HIV infections are increasing (with Eastern Europe and Central Asia) and largely driven by drug injection. In 2014, the region has seen HIV infections related to drug injection represent 28% of all new infections,² and this represents a minimum since it is based only on often incomplete data submitted by governments. The region is also home to an estimated 630,000 people who inject drugs.³ This blog will analyze the current situation in two major countries of the region, Algeria and Morocco, which have chosen different approaches to drugs, and compare the outcomes of their policy choices. The blog will finally highlight the current drug policy reform discussions in both countries.

The current official drug prevalence:

Morocco is the country with the most widely available data in the region, with an estimated injecting population of 3000 to 4000⁴ according to the Ministry of Health. Drug injection is concentrated in the North and East of the country, in the transit regions that export cannabis to Algeria and Spain, and import amphetamines (mainly from Algeria) and heroin (mainly from Spain). The country is also the first Arab country, and the second in Africa, to have introduced methadone substitution therapy in six centers in 2011.⁵ Furthermore, it is among the two only countries that have a national harm reduction policy in the Arab world, the other being Lebanon. The prevalence of HIV in the general population is of 0.14% (0.1%-0.2%),⁶ and mainly concentrated among key affected populations, with people who inject drugs (PWID) representing 10.17% of this total.⁷ The country has introduced methadone therapy in prisons as a pilot project⁸, but the author has been informed that the experiment will be extended to five penitentiary centers throughout the country in the coming months.

In Algeria, the situation of PWID or people who use drugs without injection is undocumented. There is no official data on the prevalence of drug use in the country, but it is known that cannabis is the most widely used substance in the country and its use has doubled in the course of two years, between 2012 and 2014.⁹ PWID living with HIV represents 1.1% of those tested in 2014, for a prevalence rate among the general population of less than 0.1%.¹⁰ In 2014, a study by the National Office on Drugs and Addiction (Office national de lutte contre la drogue et la toxicomanie) showed that the number of people who use drugs (PWUD) is 250,000, while simultaneously independent research by the FOREM (Fondation nationale pour la promotion de la santé et le développement de la recherche), a non-governmental organization, estimated PWUD to be one million people in the country.¹¹ A 2006 study on the number of PWID in developing countries reveals that Algeria is the second highest burden country in all North Africa following Egypt, with a number of PWID reaching 40,961.¹²

The two neighboring countries, the largest demographically in the region, hegemonically and dynamically economically, are at odds largely due to their conflict on the Western Sahara, Morocco claiming

its territorial integrity includes the said territory, while Algeria hosts and supports, diplomatically and financially, the separatists. The conflicting relationship between the two countries is also represented in the cooperation against drug trafficking, where they accuse each other of knowingly enriching their respective black markets of illicit drugs. Publicly and through official press conferences, Algeria accuses Morocco of the impact of the large amounts of cannabis being smuggled by the Rif traffickers, while Morocco reminds Algeria that it is one of the largest producers of psychotropic substances that flood the Moroccan black market.¹³

The narcotic laws and drug use:¹⁴

The laws in Algeria and Morocco punishing drug use and possession are harsh, as they are in the rest of the African and MENA regions. The Algerian law (Law No. 04-18 of 25 December 2004) imposes incarceration between two months to two years in addition to a fine from five to fifty thousand Dinars (fifty to five hundred US dollars) or one of the two sentences for personal use or possession. For a similar offence, a Moroccan convict will face imprisonment of between two months and one year in addition to a fine (Dahir No. 1-73-282 of 21 May 1974), or one of the two sentences. Meanwhile, the Moroccan law remains the least harsh policy in the region. In 2014, 31% of the cases treated by tribunals in the country were related to illicit drugs.

The Algerian narcotics law differs highly from its Moroccan counterpart since it gives precedence to prevention over punishment, as it states preventive and treatment measures before penal judgments. It makes treatment the basis of the legal response to drug use, and sanctions are not enforced if and until the treatment is refused. In addition, returning to treatment when necessary is not prevented even in cases where the treatment decision was previously refused (Article 9 of the law). Sanctions on drug consumption have been reduced for the following reasons: First, punishment for possession or consumption would be imprisonment of between two months and two years. This is a lighter sentence than lockup or hard labor and indicates that drug consumption or possession for personal consumption is considered a misdemeanor rather than a felony; second, the law authorizes the judge to choose between imprisonment and a fine and does not force him to combine the two and third, the judge's authority to determine the sanction provides some autonomy as to whether imprisonment or a fine is chosen, as there are large differences between the minimum and the maximum limits.

These parameters of the law, that are presented as a prioritization of public health over punishment in drug policy, are still problematic as they allow for the institutionalization of mandatory treatment. According to Article 7 of the law, the examining magistrate or juvenile judge may order detoxification, accompanied by medical surveillance and rehabilitation for "any drug user whose condition requires these measures". The court's judicial authority, in this case the specialized judicial authority, may also rule exemption from sanctions (Article 8). According to Article 9, incarceration and fines shall only be applied to anyone who refrains from executing the decision to undergo detoxification. The law as it is today gives judges the power to decide on medical conditions and how they should be treated. Despite every effort, it is still difficult to find data on how many people are diverted from tribunals to treatment centers in both countries.

The findings of on-the-ground research:

To face this complex situation, in countries that produce large quantities of illicit drugs, consume heavily and carry the burden of epidemics related to drug injection, non-governmental organizations on the ground have started researching the situation and gathering evidence. The Association de Lutte contre le Sida (ALCS) in Morocco has launched on-the-ground research as early as 1996 in the Northern provinces of the country to map the injection drug use, and respond to the HIV situation. At the time, drug injection has been found to be limited. A 2003 national survey on mental health and addiction, with a sample of 6000 people over 15 years old, has shown that cannabis is the most widely used substance with a prevalence rate of 3.94%, the age of first use was decreasing, and the prevalence of heroin was of 0.02%.¹⁵ In 2006, with the changing nature of drug use and the spread of HIV through drug injection as transmission mode, the Ministry of Health launched situational studies on drug injection, in order to establish the first harm reduction national plan. The first action was to launch needle and syringe programmes, followed by methadone treatment. The harm reduction programme includes several

advances, such as the inclusion of civil society in the delivery of services, the dispensing of harm reduction training, and the delivery of services during the night hours. For instance, the ALCS delivers through its mobile unit a needle exchange programme in three cities in the Rif.¹⁶ Nevertheless, the programme faces tremendous challenges, be it within the harsh legal environment or through the obstacles for the scaling up the services delivery.

In Algeria, and as stated earlier, data and monitoring of current drug policies is missing. The Association de Protection Contre le Sida (APCS) has reached out to the Moroccan ALCS to conduct a rapid diagnostic mission to map the drug situation in the capital city Algiers. For this research, 43 PWUD were interviewed, of which 5 were women, 62% were students or unemployed at the time of the qualitative interview, and represented 6 communes of the capital city. The findings concluded that outside of the squats in the Blida neighborhood, drug injection remains a personal activity, that it concerns all ages and all socio-professional categories of society. Regarding PWID, 70% injected Subutex (buprenorphine) and 30% heroin, and poly-consumption was the most shared behavior of the study participants (100%). 33% of those interviewed were incarcerated at some point in their lives, and up to 5 times for some, and for over 25% the imprisonment resulted of a simple possession offence. The study finally has shown that PWID do not access the services they need, since pharmacists refuse to sell them clean syringes, increase substantially their price, or do not have a stock in remote areas. Finally, only the national hospital of Blida offers rehabilitation and abstinence based programmes which are limited in number and do not respond to the needs of PWID.¹⁷

This first study highlights the situation in Algiers, and is being currently used to advocate for drug policy and harm reduction reform with the Algerian authorities and civil society. In a consultation entitled “the role of civil society in harm reduction” held in Algiers on September 26-27, 2016 attended by the author, the representative of the Office national de lutte contre la drogue et la toxicomanie, the drug control organ under the chairmanship of the Prime Minister, announced that the country will open the first methadone induction service in Algiers in the coming months.¹⁸ No details were given. Moreover, NGOs collaboration between the two countries is in vivid contrast with the non-cooperation of the states on the drugs issue.

Conclusion:

Algeria and Morocco share the same languages (Berber and Arabic), similar colonial historical patterns, and the longest border for both countries. They also share the drug production, use and trafficking since they both produce large amounts of plant-based (Morocco) or manufactured (Algeria) illicit drugs; they share the same trafficking routes from the Sahara or from the Middle East towards Europe; and cannabis is the most used substance in both countries. Nevertheless, the countries have taken different public policies to respond to drugs. Morocco, a traditional and large producer of cannabis, faced with a heroin crisis in the 2000s developed the first harm reduction strategy in North Africa. Algeria, where heroin injection has not been seen as a health crisis until recently, has focused its efforts on the rehabilitation of PWUD.

After years of designing drug policies, mainly focused on eliminating drugs and curbing the HIV infections among PWID, drug policy reform is becoming a mainstream discussion in Morocco. The political parties *PAM* and *Al Istiqlal* have introduced parliamentary bills to legalize the medical and industrial use of cannabis.¹⁹ In Algeria, the debate still focuses on the issues related to trafficking and illicit production, and the announcement of a methadone service has been recurrent since 2015 without details on the location or the conditions required to enroll PWID in need of this service.

¹ World Drug Report 2016. www.unodc.org/doc/wdr2016/WORLD_DRUG_REPORT_2016_web.pdf (accessed October 24, 2016)

² Global AIDS Update 2016. http://www.unaids.org/sites/default/files/media_asset/global-AIDS-update-2016_en.pdf (accessed October 24, 2016)

³ Aaraj E, Abou Chrouh M (2016). Drug policy and harm reduction in the Middle East and North Africa: The role of civil society. *Int J Drug Policy*, 31: pp. 168–171.

⁴ Himmich H, Madani N (2016). The state of harm reduction in the Middle East and North Africa: A focus on Iran and Morocco. *Int J Drug Policy*, 31: pp. 184–189.

-
- ⁵ Maguet O, Caldèron Christine (2011). Violations des droits humains des usagers de drogues dans trois villes du Nord du Maroc (Tanger, Tétouan, Nador). <http://www.alcs.ma/?Violations-des-droits-humains-des&lang=fr> (accessed October 24, 2016)
- ⁶ Morocco. UNAIDS. <http://www.unaids.org/en/regionscountries/countries/morocco/> (accessed October 24, 2016)
- ⁷ Himmich H, Madani N (2016). The state of harm reduction in the Middle East and North Africa: A focus on Iran and Morocco. *Int J Drug Policy*, 31: pp. 184–189.
- ⁸ Do no harm: Health, Human Rights and People who use drugs (2016). www.unaids.org/sites/default/files/media_asset/donoharm_en.pdf (accessed October 24, 2016)
- ⁹ Contribution de la Commission Nationale Consultative de Promotion et de Protection des Droits de l'Homme (CNCPPDH) - Algérie - Mise en œuvre de la résolution 28/28 (L.22) du Conseil des Droits de l'Homme (2015). www.ohchr.org/Documents/HRBodies/HRCouncil/DrugProblem/NHRIAlgeria.docx (accessed October 25, 2016)
- ¹⁰ Rapport d'activité sur la riposte nationale au VIH/Sida, Algérie 2014. http://www.unaids.org/sites/default/files/country/documents/DZA_narrative_report_2015.pdf (accessed October 25, 2016)
- ¹¹ Benouafa F (2014). Retour sur deux études sur la drogue: qui consomme en Algérie, quoi et... pourquoi ? http://www.huffpostmaghreb.com/2014/06/18/algerie-drogues-consommation_n_5507186.html (accessed October 25, 2016)
- ¹² Regional Overview: Middle East and North Africa (2010). <https://www.hri.global/files/2010/06/14/GSHRMiddleEastNorthAfrica.pdf> (accessed October 25, 2016)
- ¹³ Tossa M (2014). Haine, drogue et politique entre Rabat et Alger. <http://www.huffingtonpost.fr/mustapha-tossa/haine-droque-et-politique-entre-rabat-et-alger/> (accessed October 25, 2016)
- ¹⁴ Chapter based on the author's past research in: Al Shazly F, Tinasti K (2016). Incarceration or mandatory treatment: Drug use and the law in the Middle East and North Africa. *Int J Drug Policy*, 31: pp. 172–177.
- ¹⁵ Toufiq J, El Omari F, Sabir M (2014). Rapport Annuel 2014 de l'Observatoire National des Drogues et Addictions Maroc. <https://www.coe.int/T/DG3/Pompidou/Source/Documents/ONDA-French-web.pdf> (accessed October 25, 2016)
- ¹⁶ Programme de réduction des risques auprès des personnes usagères de drogues à l'ALCS Tétouan. <http://www.coalitionplus.org/alcs-tetouan/> (accessed October 25, 2016)
- ¹⁷ Unpublished data provided by Dr. Mohamed El Khammas, Head of Harm Reduction at the Association de Lutte contre le Sida, Morocco.
- ¹⁸ Atelier Régional MENA, 26-27 septembre 2016, hôtel Hilton d'Alger. Rôle de la société civile dans la problématique de réduction des risques auprès des usagers de drogues.
- ¹⁹ Bayo I (2016). Et si le Maroc légalisait le cannabis? http://www.huffpostmaghreb.com/2016/08/05/cannabis-legalisation-maroc_n_11346266.html (accessed October 25, 2016)