# GDPO Situation Analysis

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# US Drug Policy:
# Clinton vs. Trump

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## Subject

On 8th November, the United States will select their next President. Although drug policy will not be a key deciding factor in the election, it has occupied a far more central role than in previous cycles. An analysis of the proposals put forward by Hillary Clinton and Donald Trump points to a chasm between the two main candidates – in both their vision and understanding of the issues at hand.

On the same day, five states - Arizona, California, Maine, Massachusetts, and Nevada – will also vote on whether to legalize and regulate the production, distribution and use of cannabis for recreational purposes. Once again, local policy experimentation will have a significant impact on the country's drugs landscape.

## A critical juncture: The domestic and global context

Three issues dominate the present domestic drug policy landscape. First, opioids. The U.S. is facing an unprecedented crisis at home. In 2014, the latest year with available government data, more people died from a drug overdose than in any previous year on record. Opioid addiction accounted for over 60% of those 47,055 lethal overdoses, with 18,893 deaths caused by prescription pain relievers, and 10,574 caused by heroin, according to the US Center for Disease Control and Prevention (CDC). How to better control and mitigate the effects of both legal and illegal opioids has thus become a critical issue facing the presidential candidates.[2]

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2    CDC (2015), Number and Age-Adjusted Rates of Drug-poisoning Deaths Involving Opioid Analgesics and Heroin: United States, 2000-2014 http://www.cdc.gov/nchs/data/health_policy/AADR_drug_poisoning_involving_OA_Heroin_US_2000-2014.pdf; For more figures on the US opioid crisis, see also: American Society of Addiction Medicine (2016), Opioid Addiction 2012 Facts & Figures http://www.asam.org/docs/default-source/advocacy/opioid-addiction-disease-facts-figures.pdf and CDC (2016), Increases in Drug and Opioid Overdose Deaths – United States, 2000-2014, Morbidity and Mortality Weekly Report (MMWWR), January 1, 2016 / 64(50); 1378-82 http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6450a3.htm?s_cid=mm6450a3_w

Second, cannabis legalization – for long a 'third-rail issue' – has been routinely discussed since the beginning of the Democratic and Republican primaries. In November 2012, Colorado and Washington became the first states to legalize and regulate cannabis, followed two years later by Alaska, Oregon, and the District of Columbia. These grassroots initiatives, approved by referenda, forced the issue onto local and national politicians' agendas, and indeed the presidential election. A July 2016 YouGov poll found that a majority of Democrats (63-25), Independents (55-33) and even Republicans (45-42) now support the legalization of recreational marijuana use.[3]

Third, mass incarceration. Hillary Clinton and other candidates have noted that the country holds less than 5 per cent of the world's population but almost 25 per cent of its prison population. In the past few years, the issue has become an important one on both sides of the political spectrum – with President Obama putting in place a number of measures to amend mandatory minimum sentencing and find alternatives to incarceration for low-level, non-violent drug offenders, while the Right on Crime movement and similar Conservative initiatives have focused on countering over-criminalization and lowering the costs of the country's criminal justice system.

Meanwhile, the global drug policy debate has greatly evolved in the past few years. Worldwide advocacy efforts led by some Latin American states and involving international NGOs (some including former national leaders) resulted in a United Nations General Assembly Special Session (UNGASS) specifically focused on drugs in April 2016; three years earlier than had been originally planned. While the summit itself did not produce any substantial reform of the international system, it marked an important turning point. Drug policy experimentation at the local, national and regional level is now widely accepted – albeit begrudgingly by the defenders of the status quo. Given the growing cannabis regulation movement at state-level, the U.S. has had to relinquish its long-held opposition to shifts away from prohibition-oriented policies abroad. This has to some extent opened the door for policy innovation across the world. Russia, China, Iran, Indonesia and others continue to advocate for and implement traditionalist, repressive policies, but the U.S. arguably remains the most influential leader in global drug policy.

These recent developments stress the significance of the upcoming presidential election for both American and global drug policy.


## Clinton or Trump? Two diverging paths

To address some of the aforementioned issues, Hillary Clinton and Donald Trump have presented diametrically opposite approaches – in both style and substance.

### Clinton: an ambitious, progressive strategy with some question marks

Hillary Clinton's $10 billion 'Initiative to Combat America's Deadly Epidemic of Drug and Alcohol Addiction'[4] is a detailed, comprehensive and in the main thoughtful strategy to tackle drug addiction in the U.S.. Largely in line with policies put forward under President Obama, the Democratic candidate's plan is divided between state-led efforts and federal actions. Policy interventions Clinton urges states to carry out rest on five pillars, namely prevention, treatment and recovery, first responders, prescribers, and criminal justice reform.

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3    Moore, P. (2016), Republican support for legal marijuana hits a new high, YouGov, July 21, 2016
     https://today.yougov.com/news/2016/07/21/republican-support-legal-marijuana-new-high/

4    HillaryClinton.com (2016), Hillary Clinton's Initiative to Combat America's Deadly Epidemic of Drug and Alcohol Addiction, Fact-
     sheets – The Briefing, accessed on 18 October 2016
     https://www.hillaryclinton.com/briefing/factsheets/2015/09/02/combat-addiction/

1. *Prevention*: Clinton has vowed to develop evidence-based education focused on young people, including classes, community service, and after-school and mentoring programmes.

2. *Treatment and recovery*: States will notably be encouraged to identify current gaps, expand inpatient and outpatient services, and increase funding for hospitals and community health centres.

3. *First responders*: Clinton's plan suggests that they should be given access to naloxone, medication that reverses the life-threatening effects of opioid overdoses.

4. *Prescribers*: As previously noted, a majority of opioid overdoses are caused by prescription drugs. In that light, the candidate aims to strengthen training and monitoring of drug prescribers to avoid excesses and mitigate further risks. A 2011-2013 Nation Survey on Drug Use and Health indeed points that people addicted to opioid painkillers are 40 times more likely to be addicted to heroin.[5]

5. *Criminal justice reform*: The overall goal of this pillar is to move away from mass incarceration through prioritizing rehabilitation and treatment over prison for low-level and non-violent drug offenses, promoting better collaboration between public health and criminal justice, no longer relying on privately-run prisons, and working towards the end of racial profiling. More specific measures include cutting mandatory minimum sentences for non-violent drug offenses by half, removing the sentencing disparity for crack and powder cocaine, amending the 'strike' system, granting judges additional discretion in the application of mandatory minimum sentences, and encouraging the effective rehabilitation and reinsertion of formerly imprisoned individuals.

At the federal level, Clinton's plan includes actions to increase funding for access to treatment, enforcing insurance parity legislation to ensure that treatment for addiction to licit and illicit drugs is covered, and directing the Attorney General to issue guidance for federal prosecutors to favour treatment over incarceration for non-violent, low-level drug offenders.

When it comes to cannabis, Clinton intends to reschedule the drug from Schedule I to Schedule II in order to foster scientific research on its health effects. With regard to legalization at the local level, the candidate has repeatedly noted that "states are the laboratories of democracy", and that other states and the federal government will need to learn lessons from those policy experimentations – rather than interfere with legal decisions.

Two main questions remain unanswered. First, much of the plan relies on actions at state-level, and it remains to be seen whether money will be enough to convince some of these states to implement the measures Clinton recommends. Second, Clinton has championed disproportionate and discriminatory drug policy measures in the past.[6] The controversial 1994 Violent Crime Control and Law Enforcement Act and similar legislation that she strongly supported as First Lady contributed to an increase in incarceration of low-level drug offenders and their subsequent struggles to reintegrate society afterward. Some have thus questioned her ability and commitment to implement the plan she has laid out.

Nonetheless, her pragmatism, understanding of the topic, and policy experience working on complex issues – as well as her plan itself - dwarf her Republican opponent's.

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5    CDC (2015), Today's Heroin Epidemic, Vital Signs, last updated on 7 July 2015
     http://www.cdc.gov/vitalsigns/heroin/index.html#modalIdString_CDCImage_1

6    See for example https://newrepublic.com/article/129433/clintons-war-drugs-black-lives-didnt-matter
     http://www.thestranger.com/blogs/slog/2016/01/29/23497407/new-jim-crow-author-michelle-alexander-on-hillary-clintons-embrace-of-mass-incarceration
     http://marijuanapolitics.com/make-no-mistake-hillary-clinton-is-a-drug-warrior/
     http://fpif.org/hillary-clintons-dark-drug-war-legacy-mexico/
     http://www.alternet.org/drugs/clinton-dynasty-horrific-legacy-more-drug-war-more-prisons

*Trump: a sparse collection of misguided ideas*

While Hillary Clinton has become increasingly progressive on the issue of drug policy over the years, Donald Trump has followed the opposite trajectory. In an event hosted by the *Miami Herald* in April 1990, Donald Trump then declared: 'We're losing badly the war on drugs. You have to legalize drugs to win that war. You have to take the profit away from these drug czars [sic[7]]' – and went on to point out that tax revenues from a regulated drug trade could be used on drug education programmes.[8] Twenty-five years later, Republican candidate Donald Trump now says regulating marijuana is 'bad' and 'feel[s] strongly about that'[9], but would be willing to leave it up to states to decide whether or not to regulate it. He is also "100%" in favour of medical marijuana.[10]

Beyond the evolution of their views over time, another striking difference between the two candidates lies on the level of detail of their plans. In stark contrast to his Democratic rival, Trump has not laid out any actual strategy. Our analysis of his proposals thus has to rely on the 44-second video on the 'drug epidemic' available on his official website[11], the 'contract with the American voter' on his first 100 days in office[12], as well as his comments in the media and at rallies and debates.

Trump's drug policy proposals have revolved around two main ideas. First, building a wall along the US border with Mexico in order to prevent drugs from coming into the country. 'No drugs are coming in. We're gonna build a wall. You know what I'm talking about. You have confidence in me. Believe me, I will solve the problem' – he notes in the aforementioned video. Beyond the cost of the wall itself - of which Trump has given multiple estimates (from $5 to $12bn, while engineering experts consider it would likely be much higher[13]) - or the many practical challenges associated with such a massive endeavour, there are numerous reasons why a wall would do little to decrease the amount of drugs trafficked to the US, let alone stop the flow altogether as Trump claims. A large proportion of drugs produced in or trafficked via Mexico are smuggled to the US by air, sea, or through land border crossings (which would remain open as part of Trump's plan). Of course, the wall would have no effect on drugs produced illegally in the US or coming from other countries. Legal painkillers accounted for almost two thirds of opioid overdoses in 2014 – and a wall would obviously do nothing to address that.[14] As historical evidence suggests, traffickers would likely adjust smuggling methods and routes, while other production hubs would also grow as a result.[15]

Second, his ideas on how to mitigate drug demand are equally inadequate. Trump has talked about the need for more treatment, but has not elaborated beyond declarations such as: 'We're going to take all of these kids—and people, not just kids—that are totally addicted and they can't break it. We're going to

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7    Presumably, Trump meant drug lords, not drug czars.

8    Sarasota Herald Tribune (1990), Donald Trump: Legalize Drugs, April 14, https://news.google.com/newspapers?nid=1755&-dat=19900414&id=eUoeAAAAIBAJ&sjid=EHoEAAAAIBAJ&pg=4675,4533445&hl=en

9    C-SPAN (2015), Donald Trump on Marijuana, Clip of Donald Trump remarks at CPAC, February 27, https://www.c-span.org/video/?c4541840/donald-trump-marijuana

10   Ibid; See for instance his comments on The O'Reilly Factor, 12 February 2016: Tomkiw, L. (2016), Marijuana Legalization 2016: Where do Donald Trump and Other Republicans Stand on Cannabis Use?, International Business Times, February 2016, http://www.ibtimes.com/marijuana-legalization-2016-where-do-donald-trump-other-republicans-stand-cannabis-2306232

11   DonaldJTrump.com (2016), Drug epidemic, Issues – accessed on 19 October 2016, https://www.donaldjtrump.com/issues

12   DonaldJTrump.com (2016), Donald J. Trump delivers groundbreaking contract for the American voter In Gettysburg, Press release, 22 October 2016, https://www.donaldjtrump.com/press-releases/donald-j.-trump-delivers-groundbreaking-contract-for-the-american-vote1

13   BBC News (2016), How realistic is Trump's Mexico wall, 1 September, http://www.bbc.com/news/world-us-canada-37243269

14   CDC (2015), Number and Age-Adjusted Rates of Drug-poisoning Deaths Involving Opioid Analgesics and Heroin: United States, 2000-2014 http://www.cdc.gov/nchs/data/health_policy/AADR_drug_poisoning_involving_OA_Heroin_US_2000-2014.pdf

15   See for instance International Drug Policy Consortium – IDPC (2016), Modernising drug law enforcement, IDPC Drug Policy Guide 3rd edition, pp. 90-95, 13 March http://idpc.net/publications/2016/03/idpc-drug-policy-guide-3rd-edition

work with them, we're going to spend the money, we're gonna get that habit broken or 'we can talk to people and talk to the kids and say "don't do it."' In addition to the lack of details, his 'don't do it' idea is reminiscent of the 'Just Say No' campaign championed by First Lady Nancy Reagan. Prominent in the 1980s and 1990s, the campaign and its associated programmes – notably D.A.R.E. (Drug Abuse Resistance Education) - provided a simplistic response to the issue of drug addiction, for instance stigmatizing drug users and ignoring environmental factors conducive to drug abuse, and had virtually no positive effect on the level of drug use.[16]

## Conclusion

US drug policy over the next four years may well depend on the next president's current plan as much as policy experimentation occurring at state level, the evolution of public opinion on the topic, and new crises. Candidates have largely ignored the issue of US drug policy *abroad*, including how they intend to deal with foreign governments that continue to enforce the death penalty for drug offences, encourage or carry out summary executions, hold forced labour and treatment camps for people addicted to drugs, or violate other human rights in the name of fighting against the drug trade. Overall, some uncertainty remains on the candidates' ability to implement their vision. Nonetheless, based on their plans, track records, temperaments and broader policy positions, Hillary Clinton currently appears to offer the more progressive approach to drug policy, for both the U.S. itself and the wider world.

16    See for instance Pan, W. and Bai, H. (2009), A Multivariate Approach to a Meta-Analytic Review of the Effectiveness of the D.A.R.E. Program, International Journal of Environmental Research and Public Heath, January, 6(1): 267-77, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2672328/; Glantz M.D. and Compton W.M. (2004), Mental health and substance abuse innovations: Issues of diffusion and adoption, Clinical Psychology: Science and Practice, 11:183–185, http://onlinelibrary.wiley.com/doi/10.1093/clipsy.bph069/abstract; and Burke M.R. (2002), School-based substance abuse prevention: Political finger-pointing does not work, Federal Probation Journal, 66:66-71, https://www.researchgate.net/publication/289814467_School-based_substance_abuse_prevention_Political_finger-pointing_does_not_work

## About the Global Drug Policy Observatory

The Global Drug Policy Observatory aims to promote evidence and human rights based drug policy through the comprehensive and rigorous reporting, monitoring and analysis of policy developments at national and international levels. Acting as a platform from which to reach out to and engage with broad and diverse audiences, the initiative aims to help improve the sophistication and horizons of the current policy debate among the media and elite opinion formers as well as within law enforcement and policy making communities. The Observatory engages in a range of research activities that explore not only the dynamics and implications of existing and emerging policy issues, but also the processes behind policy shifts at various levels of governance.

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