

IDPC Advocacy Note

Disconnected realities: Can the UN Commission on Narcotic Drugs develop policies that meet the challenges of drug control in the 21st century?

Introduction

With the UN General Assembly Special Session (UNGASS) on the world drug problem approaching in 2016, there was hopeful expectation that the mid-term review of the 2009 Political Declaration and Plan of Action on drugs¹ would help to set the scene for a transparent, inclusive and wide ranging debate. It was hoped that the UNGASS would take into account the new realities confronting drug control systems – which are evolving at the political level and on the ground. Three processes are occurring which challenge the international community to find new agreements and strategies for responding to drugs:

1. Global drug markets are changing rapidly, with new substances, trafficking routes and methods of distribution, and new patterns of consumption developing much faster than the current ability of government authorities to respond.
2. An increasing number of countries have acknowledged that the main strategies pursued for the past 50 years (law enforcement efforts to eradicate production, stifle distribution and criminalise consumption) have failed to reduce demand and supply, and have resulted in significant costs and wide-ranging negative consequences.² This has led to an opening-up of the debate and a search for alternative approaches.
3. Uruguay and the USA have introduced regulated cannabis markets, constituting a departure from the conventions, with more jurisdictions sure to follow in the coming years (at least 17 US states have legislative or ballot proposals for some form of tolerated or regulated market in cannabis in the next two to three years). In addition, the drug policy report of the Organization of American States has clearly acknowledged the need for drug policy reform, and calls on governments to look for more effective solutions, including consideration of regulated markets.³

To adequately address these new realities and challenges, the UN Commission on Narcotic Drugs (CND) must ensure transparent, inclusive and comprehensive dialogue so that strategies, policies, and programmes are adapted to 21st century drug markets. However the negotiations on the Joint Ministerial Statement – the outcome document expected to be adopted by member states at the CND High-Level Segment on 13-14 March 2014 – have been hampered by archaic positions from some governments, resulting in an unbalanced, incoherent draft.

¹ Political Declaration and Plan of Action on International Cooperation towards an Integrated and Balanced Strategy to Counter the World Drug Problem, adopted by the General Assembly at its sixty-fourth session

² Report of the Global Commission on Drug Policy, June 2011: http://www.globalcommissionondrugs.org/wp-content/themes/gcdp_v1/pdf/Global_Commission_Report_English.pdf

³ OAS Report 'Scenarios for the drug problem in the Americas, 2013-2025', May 2013: <http://idpc.net/publications/2013/05/oas-report-scenarios-for-the-drug-problem-in-the-americas-2013-2025>

Risk of failure of the CND review process to address contemporary and emerging challenges to drug control

So far, the negotiations on the mid-term review of the 2009 Political Declaration and Plan of Action at the CND have largely avoided (or at times denied) the modern realities confronting drug control systems. Months of diplomatic energy have been dedicated to old and introspective arguments. Disappointingly, much debate throughout the past seven months has focused on issues such as whether to incorporate the phrase ‘harm reduction’, or which drug control programmes should be listed in a paragraph mentioning the Paris Pact.⁴ Having observed this process play out in capital cities, and the United Nations mechanisms in New York and Vienna, IDPC is concerned about the following aspects of the procedures being followed in Vienna:

- The need to reach consensus on every point in the Joint Ministerial Statement, combined with a determination of some member states to veto anything considered to be symbolic of the view of the ‘other side’, makes it very likely that the final document will contain nothing of substance – despite progressive text being proposed by a number of governments.
- The debates in Vienna have historically been focused on a narrow interpretation and implementation of the UN drug conventions, resulting in the current prohibitionist drug control system. The UN Secretary General, the UN Office on Drugs and Crime (UNODC), and numerous member states have called for the rebalancing of the drug control system by giving more priority and funding to public health, public security, human rights, and the social and development aspects of drug-related problems. However, Vienna institutions still struggle to engage with, and are often actively dismissive of, these wider implications of drug markets and consumption. Such a narrow approach to the conventions is not sustainable and will only serve to increase political tensions, undermine the conventions themselves, and risk further defections from the system.
- As a process, the primary objective of the mid-term review of the 2009 Political Declaration and Plan of Action was to assess progress made in achieving the agreed goals of eliminating or significantly reducing supply and demand. The official papers presented ahead of the CND make it clear that we are no closer to achieving these objectives than we were in 2009 (or indeed in 1998 when the last UNGASS on drugs was held). This clear evidence of a lack of progress should have triggered a serious debate about why we are failing, and what strategies can work better – but it has instead been side-lined and downplayed in Vienna.

Risk of outcomes from the High-Level Segment that may not respond to critical concerns

The Joint Ministerial Statement, as it currently stands, inadequately addresses vital issues facing the international drug control system, such as:

- **Essential medicines.** The international drug control conventions declare that member states are responsible for ensuring the availability of controlled drugs for medical and scientific purposes. Yet just one paragraph in the Joint Ministerial Statement currently acknowledges this issue. Given that 80 per cent of the world’s population have inadequate access to pain relief and other essential medicines, much more needs to be done to improve access.
- **Harm reduction.** The CND still cannot bring itself to recognise harm reduction as a core element of drug policy despite the overwhelming evidence proving the effectiveness of this approach, and the

⁴ Refer to the IDPC webpage on the CND high-level segment for further details about the process and recommendations made by IDPC: <http://idpc.net/policy-advocacy/un-high-level-segment-on-drugs-march-2014>

fact that it has already been endorsed by the UN General Assembly. In the 16 years since the 1998 UNGASS on drugs, harm reduction is one of the few areas of drug policy that has proven to be both effective and cost-efficient. Practical measures to reduce the incidence of HIV, hepatitis, overdose, tuberculosis and a myriad of other harms are implemented in an ever-increasing number of member states. Yet there is a lack of meaningful debate at CND on the successes of harm reduction strategies. For example, current data show that the international community is going to miss its target of reducing drug-related HIV transmission by 50 per cent by 2015. This highlights the urgent need for member states to overcome barriers to improving access to harm reduction measures that have been proven effective for lowering rates of HIV transmission amongst people who use drugs.

- **Negative consequences of repressive policies.** The UN has failed to acknowledge and address the harms caused – or exacerbated by – the current drug control system, such as stigma, discrimination and marginalisation, drug market related violence, and the ever increasing power and wealth of organised crime.
- **Human rights.** No clear statement has been made on the intersection between human rights and drug control. During the negotiations on the Joint Ministerial Statement, human rights (and in particular the death penalty) were some of the most controversial elements, and has led to deep divisions between member states. Drug control engages a wide range of human rights protections and international legal commitments. These expose tensions at the national level but also within the UN system and between different treaty regimes. Moving towards the UNGASS on drugs in 2016, this inability to face up to the day-to-day human rights violations occurring in drug control is unacceptable.
- **Alternatives to prohibition and criminalisation.** The negotiations on the Joint Ministerial Statement have denied the reality that cannabis policy has started to move in a different direction.
 - While recent developments in Uruguay and the USA – and their impacts for the future of the global drug control regime – are being widely debated, the cannabis issue is completely ignored in Vienna.
 - The CND process to date has also failed to acknowledge the importance of removing drug consumption and possession for personal use out of penal codes and criminal law. This issue features prominently in the materials provided by the UNODC Executive Director (who notably declared that imprisoning people who use drugs exacerbated harm, in particular increasing their vulnerability to blood-borne diseases),⁵ but has been almost entirely absent from the member state negotiations.
 - The CND continues to refer to the current treaties as the immutable foundation of drug policy that cannot be questioned. Discussions on improving the scheduling system, and debates about possible alternative policies, are thus forced from the outset into the narrow confines of Vienna-based processes focused on maintaining the existing treaty framework and restrictive interpretations of it.

We are concerned that there is therefore an increasing disconnect between the reality of drug markets, drug consumption and related problems on the ground; the way in which policies and practices are changing in communities, and within local and national governments around the world; and the ability of the CND to recognise, adapt to, and lead the process for assessing and responding to these problems. We therefore call on the CND, UNODC, and the International Narcotics Control Board (INCB) to be more open to adapting to these changing realities. In the absence of more flexibility in the regime, we are sure to see more challenges to, and defections from, the multilateral agreements that we have worked to build up over the last century.

⁵ United Nations Office on Drugs and Crime (6 December 2013), *Contribution of the Executive Director of the United Nations Office on Drugs and Crime to the high-level review of the implementation of the Political Declaration and Plan of Action on International Cooperation towards an Integrated and Balanced Strategy to Counter the World Drug Problem, to be conducted by the Commission on Narcotic Drugs in 2014*, UNODC/ED/2014/1, http://www.unodc.org/documents/commissions/CND-session57/UNODC_ED/V1388514e.pdf

Recommendations

There are increasing demands for an open and broad review of the international drug control system and drug-related issues. This should not mean side-lining Vienna – UNODC and the CND are still the leading UN structures on drug policy, and have a key role in contributing to the process – but it is important that the UNGASS preparation process learn from and address the weaknesses and frustrations of the Joint Ministerial Statement process. As such, we make the following recommendations for the coming two years and the UNGASS itself:

- A further strengthening of the involvement of other relevant UN agencies (UNDP, WHO, OHCHR, UNICEF, World Bank, UNAIDS, UN Department of Peacekeeping Operations), through mechanisms such as the UN Task Force on Drugs, Development and Organised Crime.
- Closer communication and co-operation between member state representatives in Vienna and New York, and the development of clear positions by political authorities in capitals, that are consistently represented in both settings.
- A series of preparatory briefings for missions in New York to raise awareness on drug policy issues and promote their engagement in drug policy debates, before they consider the UNGASS modalities at the Third Committee in September. IDPC has already hosted a few of these, and are ready to work with missions in New York to co-host additional events.
- A series of Chatham House style meetings through 2014 and 2015 bringing together academics, civil society experts, UN agencies and member states, to debate key issues free from the pressure to agree consensus statements.
- The creation of a meaningful structure for the involvement of civil society in this process (through a Civil Society Task Force according to the precedents set in other UNGASS), and in the UNGASS 2016 meeting itself (through proper access to speaking opportunities and side events).
- The 2016 UNGASS on drugs should have a clear outcome. Ideally, this should be a new Political Declaration (or equivalent) – it would be a wasted opportunity for the UNGASS to simply be a ‘stepping stone’ to the CND in 2019 (when the existing Political Declaration is due to expire). The UNGASS is a stand-alone opportunity to conduct a thorough review of progress and future options at a preminent level of the international system.
- While acknowledging the key role of UNODC and CND within the UN drug control system, the proposals developed by the CND in Vienna should be fully reviewed and decided on separately in New York, in order to broaden the engagement of governments and relevant UN agencies in addressing drug-related problems.
- **The recommendations above should be reflected in the resolution relating to the preparations for UNGASS, that will be negotiated at the 57th Session of the CND.**

The International Drug Policy Consortium is a global network of non-government organisations and professional networks that specialise in issues related to illegal drug production and use. The Consortium aims to promote objective and open debate on the effectiveness, direction and content of drug policies at national and international level, and supports evidence-based policies that are effective in reducing drug-related harm. It produces briefing papers, disseminates the reports of its member organisations, and offers expert consultancy services to policy makers and officials around the world.

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