

IDPC asks for the 2019 Ministerial Segment



Plenary of the Commission on Narcotic Drugs. Source: Steve Rolles

Introduction

In March 2019, UN member states will gather in Vienna for a Ministerial Segment at the 62nd Session of the Commission on Narcotic Drugs (CND), as agreed in CND Resolution 60/1: 'Preparations for the sixty-second session of the Commission on Narcotic Drugs in 2019'.¹

Following the 61st Session of the CND, it is unclear as to whether member states will negotiate a new agreement following on from the 2009 Political Declaration and Plan of Action on international cooperation towards an integrated and balanced strategy to counter the world drug problem,² which had established 2019 as the target date to eliminate or significantly reduce the scale of the illegal drug market. Despite the current uncertainty over its outcome, the 2019 Ministerial Segment will nevertheless be an opportunity for member states to outline the key principles for global drug control for the forthcoming decade.

2019 is also a critical moment to consolidate and build upon the important progress³ reflected in the 2016 UNGASS Outcome Document.⁴ In this advocacy note,

the IDPC network outlines four key asks for member states towards ensuring that future drug policies are firmly situated within the UN priorities of protecting health and human rights, promoting development and advancing peace and security.

ASK 1: Move away from 'drug-free world' targets

'While we are encouraged by the presence of human rights language and standards throughout the [UNGASS] outcome document, in our opinion, the text fails to sufficiently articulate the binding nature of human rights obligations in the context of international drug control and continues to embrace the harmful concept of a "drug-free world".'

UN Special Rapporteurs on torture; on arbitrary executions; on the right to health; Chair of the UN Committee on the Rights of the Child; Chair-Rapporteur of the UN Working Group on Arbitrary Detention, 2016⁵



Peer educator collecting used needles in Vietnam. Credit: Pham Hoai Thanh

In 2009, member states had committed to ‘eliminate or reduce significantly and measurably’ illegal drug supply and demand, the diversion and trafficking of precursors and money laundering.⁶ Available evidence has repeatedly shown that the objective of achieving a ‘society free of drug abuse’⁷ is unrealistic, but also counterproductive and harmful.⁸ Despite the large political and financial investment in repressive measures, the illegal drug market – in the words of the UNODC itself – ‘is thriving’. Currently, there are 250 million people who use drugs worldwide,⁹ and the annual global value of the illegal drug market is estimated at between USD 426 and 652 billion.¹⁰

Unachievable drug-free targets distort policy priorities. They skew policy towards repressive ‘zero-tolerance’ enforcement approaches, and away from proven public health interventions. At times, such targets are also used to justify widespread human rights violations, including extrajudicial killings, the death penalty, arbitrary detention, physical and psychological abuse and lack of justice and due process – all of which have had disastrous consequences for the well-being of individuals and communities, human security, public health and development.¹¹

The negative consequences of punitive and repressive drug policies were openly acknowledged in the UNODC World Drug Report for 2008:¹²

- A huge ‘criminal black market’
- ‘Policy displacement’, with an imbalance of public resource allocation towards drug law enforcement at the expense of public health interventions
- ‘Geographical displacement’, also called the ‘balloon effect’, meaning that the rare successes in reducing cultivation or trafficking in one area merely lead to increases elsewhere
- ‘Substance displacement’: stronger controls against a specific substance leads people who use drugs to turn to other substances, which may be more harmful to their health (such as new psychoactive substances)

- ‘The way we perceive and deal with the users of illicit drugs’: the deliberate stigmatisation of drug use has resulted in the marginalisation and discrimination of people who use drugs. It has negatively impacted their access to healthcare and social services, and has normalised human rights violations against them.

Ten years on from this report, most of these ‘unintended consequences’ are as relevant as ever, and little progress has been made to address them, or indeed measure progress towards doing so. Since 2008, many other UN entities have drawn attention to the harms generated by misguided drug policies.¹³ These serious negative impacts, coupled with the failure to reduce the scale of the illegal drug market, underscores the urgency of embracing alternative approaches.

Beyond 2019, member states should leave behind the damaging targets that are narrowly focused on the elimination the illegal drug market. Instead, the international community should consider adopting more meaningful goals and targets in line the drug control treaties’ objective of ensuring the ‘health and welfare of humankind’, the achievement of the Sustainable Development Goals (SDGs), the implementation of the UNGASS Outcome Document, and international human rights commitments. Such targets could include reducing drug-related deaths and incidence of HIV, hepatitis and tuberculosis; ensuring increased access to controlled medicines for drug dependence treatment, pain relief and palliative care; improving citizen security through reductions in violence, corruption and crime; improving socio-economic development in areas most affected by the illegal drug market; and ending human rights violations and abuses resulting both from illegal drug markets and policies to tackle them.¹⁴

ASK 2: Meaningfully reflect the impacts of drug policies on the UN goals of promoting health, human rights, development, peace and security

The overarching priorities of the UN are centred on protecting public health, promoting human rights, advancing development and consolidating peace and security. Going forward, member states should ensure that drug control policies and programmes reflect these broader UN objectives and do not undermine or run counter to them. In particular, drug policies should be aligned with the 2030 Agenda for Sustainable Development.

‘The cross-cutting UNGASS 2016 approach constitutes a new and better linkage of the objective of drug-control – protection of the health and welfare of humanity – with the key priorities of the UN system, including the SDGs. I encourage the continuation of this structure for future UN drug policy debates’.

UN High Commissioner for Human Rights¹⁵

Protecting health

Policy choices can have a profound impact on the extent of the health risks and harms related to drug use – and people who inject drugs have been disproportionately impacted by zero-tolerance drug policies. In 2011, member states had committed to halve new HIV infections among people who inject drugs by 2015.¹⁶ This target was spectacularly missed, with new infections increasing by a third over that same period.¹⁷ Today, the UN estimates that 1 in 10 new HIV infections occur through unsafe injecting drug use, and that 6 in 10 people who use drugs are living with hepatitis C.¹⁸ Recent years have also seen a surge in overdose deaths. In 2016 alone, 64,000 people died of an overdose in the United States.¹⁹

Harm reduction has proven to be effective in reducing the health risks and harms associated with drug use. The need for a health-based approach has been recognised within the UNGASS Outcome Document, as have several key harm reduction interventions, including overdose prevention strategies, needle and syringe programmes, substitution therapy and antiretroviral treatment.²⁰ However, the coverage of harm reduction interventions remains direly low. For instance, just 1% of people who inject drugs are living in countries with high coverage of needle and syringe programmes and opioid substitution therapy.²¹

The health targets set out within the SDGs,²² the WHO Global Strategy for the elimination of viral hepatitis by 2030,²³ and the 2016 Political Declaration on HIV/AIDS²⁴ will only be achieved if the international community champions the harm reduction approach in the next decade – and allocates adequate and sustainable funding to expand and scale up a comprehensive range of harm reduction interventions.²⁵ Innovative interventions such as drug consumption rooms, naloxone distribution and drug checking services²⁶ should be part of core harm reduction interventions to keep people safe and reduce the risk of overdose.

The risks associated with drug use are exacerbated by punitive and stigmatising approaches against

people who use drugs. Indeed, criminal punishment creates political and practical barriers for accessing the healthcare, harm reduction and drug dependence treatment services they may need. The UN – especially the UNODC, the World Health Organisation and the Office of the High Commissioner for Human Rights – should play a leadership role to promote a broad acceptance of harm reduction and the decriminalisation of drug use and possession for personal use.

Another key issue deserving urgent attention in the next decade of drug control is what has become known as the ‘global epidemic of pain’. Today, 5.5 billion people worldwide have limited or no access to internationally controlled medicines such as morphine – this includes 5.5 million people with terminal cancer and a million with late-stage AIDS. Estimates also show that 92% of the world’s supply of morphine is consumed by only 17% of the global population, concentrated in the global north.²⁷ Significant progress was made in the UNGASS Outcome Document, which calls on member states to consider removing a number of technical and legislative barriers hampering access. This is particularly welcome given the lack of visibility given to access to controlled medicines in the 2009 Political Declaration. However, these good intentions need to be urgently translated into action and meaningful change. Beyond 2019, member states should strongly commit to a detailed plan of action to improve access to controlled medicines in all areas of the world, with support from the WHO and the International Narcotics Control Board.

Promoting human rights

In the next decade, the global drug control strategy should reaffirm the primacy of human rights – in line with the UN Charter, which promotes universal respect for, and observance of, human rights and fundamental freedoms.²⁸ This includes:

- **The right to life**, with the end of the death penalty for drug offences and of state-sanctioned extrajudicial killings.
- **The right to health**, with improved voluntary access to evidence-based age, gender and culturally appropriate prevention, harm reduction and treatment in the community and prison settings, and the removal of punishment against people who use drugs. This also includes adequate access to controlled medicines for medical and scientific purposes.
- **The right to liberty and security**, including the right to be free from arbitrary arrest and detention, as well as the right to a fair trial, due process,

proportionate sentencing and the use of meaningful alternatives to punishment and prison to end the mass incarceration of minor, non-violent drug offenders.

- **The right to be free from racial discrimination** in the implementation of drug laws and policies, as part of a broader social justice approach.²⁹
- **The right to be free from torture**, cruel and inhuman treatment or punishment in the name of ‘treatment’, or during drug law enforcement operations and incarceration.
- **The rights of the child**, which should encompass unhampered access to harm reduction and treatment services, as highlighted by the Committee on the Rights of the Child, as well as the right for the child not to be automatically separated from their parents solely because of their drug use.³⁰ The right of the child to be protected from drugs does not authorise the use of repressive zero-tolerance approaches or any other forms of abuses towards the child or his/her family.³¹
- **Women’s rights**, with a recognition of the need to tackle gender inequality, the vulnerabilities faced by women in all aspects of the illegal drug market, the rising rate of female incarceration for drug offences, and efforts to ensure that their specific health and social needs are being met.
- **The rights of indigenous people** to cultivate and use certain substances for traditional, religious and cultural purposes. This will require correcting the tensions between the UN drug control treaties and international human rights obligations,³² in particular the United Nations Declaration on the Rights of Indigenous Peoples.³³

Advancing development

The SDGs were approved only a few months before the 2016 UNGASS and offer an overarching framework under which any UN policy should be enshrined. Drug policies focusing on criminalisation, stigmatisation, forced crop eradication and mass incarceration have often pushed people deeper into cycles of poverty, marginalisation and engagement in criminal activities for lack of alternatives.

Global drug policies beyond 2019 should recognise that millions of people worldwide have their basic survival needs met through engagement in illegal cultivation, trafficking and sale of drugs.³⁴ The post-2019 strategy should strongly link to the SDGs in an effort to address the situation of vulnerability and marginalisation of affected communities within a sustained, long-term development strategy, which includes

broader agrarian reform and land tenure, improving access to basic state services such as roads, water and sanitation, schools, safety, employment, and addressing gender inequalities – with the objective of leaving no one behind.³⁵ This will also require taking into consideration the potential benefits of legal regulation of certain drugs, and the opportunities these legal markets could offer for affected communities in terms of employment and economic rights.

Consolidating peace and security

Illegal drug markets tend to flourish in fragile and conflict-afflicted regions, where state presence is often limited to repressive law enforcement interventions. In such contexts, organised crime groups may offer the basic services, security and employment that the state is unable to offer.³⁶ Criminal activities, as well as repressive approaches towards them, exacerbate violence and instability, while undermining the rule of law – with local communities often caught in the cross fire between government forces and organised crime.

In addition, by its illegal nature, the drug trade has resulted in a huge black market³⁷ which has fuelled corruption at the highest levels of policy making. Although the collusion between high-level officials and organised crime may be stronger in developing countries with weak governance,³⁸ complicity between local government officials and high-level drug traffickers has also been identified in various European countries.³⁹

Going forward, drug policies should explicitly contribute to reducing violence and corruption, strengthening good governance and promoting the well-being of society, in particular those most marginalised and vulnerable. Here again, the SDGs, in particular Goal 16 on ‘peace and justice’,⁴⁰ offer useful targets and indicators.

ASK 3: Reflect the realities of drug policies on the ground, both positive and negative – the ‘elephants in the room’

The drug policy landscape has changed significantly since 2009, with unprecedented reforms taking place at local and national levels. In response to new drugs and modes of consumption, harm reduction service providers have developed and scaled up interventions such as drug consumption rooms, heroin-assisted therapy, drug checking, ‘housing first’ programmes,⁴¹ legal aid and others.⁴²



Aymara women collectively harvesting coca in Bolivia's Nor Yungas province. Credit: Caroline S. Conzelman

'At the special session, the General Assembly laid the groundwork for the 10-year review of the Political Declaration and Plan of Action of 2009 relating to the world drug problem, the main policy document guiding international action in this area. I look forward to an inclusive dialogue that is open to new ideas and approaches in the lead-up to that review'.

Antonio Guterres, UN Secretary General⁴³

In order to reduce the harms associated criminalisation, 45 countries and jurisdictions have removed criminal sanctions against people who use drugs,⁴⁴ thus removing the challenges of over-incarceration and minimising the harmful effects of arrest, detention and punishment on people who use drugs. Medicinal cannabis reforms have also taken hold in a rapidly growing number of jurisdictions.⁴⁵ The most ground-breaking change since 2009, however, has been the creation of regulated drug markets for non-medical use, first in Bolivia with the coca leaf, and now in Uruguay, nine US states and Canada for cannabis.

Member states should acknowledge and reflect upon these realities of experimentation and innovation – in particular with regards to cannabis, which has so far remained the 'elephant in the room' – and engage in

open and frank discussions on the way forward, especially to address the resulting tensions with the international drug control regime. International legal experts have suggested the option of *inter se* modification of the UN drug control treaties through agreements adopted by like-minded member states to amend specific aspects of the drug conventions among themselves. This would enable them to experiment and learn from different models of regulation in a coordinated manner, while still operating within the boundaries of international law.⁴⁶

In parallel, it is equally important to recognise the human rights violations and atrocities still taking place around the world in the name of drug control. 33 countries and territories worldwide continue to use the death penalty for drug offences,⁴⁷ despite repeated calls from UN human rights entities that the practice is contrary to international law.⁴⁸ In addition, the mass incarceration of drug offenders has resulted in severe prison overcrowding, with one in five people globally incarcerated for a drug offence⁴⁹ – and 80% of these for simple possession alone,⁵⁰ while the limited availability of harm reduction in prison further exacerbates drug-related harms.⁵¹ This is despite the fact that there is no evidence that harsh measures deter people from committing drug offences.⁵² Suspicion of involvement in the illegal drug trade may result in people being arbitrarily arrested and detained, and in extreme cases summary executions, extrajudicial killings in countries like the Philippines, Cambodia,

Indonesia and Bangladesh and ‘disappearances’ as is the case in Mexico. Furthermore, despite increasingly vocal calls for decriminalisation, people who use drugs continue to be marginalised, stigmatised and, as a result, are disproportionately affected by health harms.

These serious human rights concerns should feature prominently in the 2019 debates in order to reflect reality and ensure a paradigm shift in drug policy that is enshrined in international human rights law, health and social inclusion.

ASK 4: End punitive approaches and put people and communities first

‘While each country must decide its own drug policy, I believe there is consensus around the need for a people-centred approach, based on results rather than dogma or prejudice’.

Antonio Guterres, UN Secretary General⁵³

Current drug policies have placed a disproportionate emphasis on the substances they seek to control, rather than on the well-being of the people and communities they seek to serve. In 2015, the former UN Secretary General, Kofi Annan, rightly declared that ‘drugs have destroyed many lives, but wrong government policies have destroyed many more’.⁵⁴ Beyond 2019, the global drug strategy should focus on putting people and communities at the centre, and seek to improve their living conditions, address their vulnerabilities and protect their human rights – in line with the SDG vision of ‘leaving no one behind’.

This will entail embracing a ‘social justice’ approach to drug policy, in order to redress some of the social harms associated with a ‘war on drugs’ approach once reforms have taken place. This includes, for example, expunging criminal records for those previously convicted of possession offences once use has been decriminalised or the market legally regulated, or when drug laws are amended to ensure more proportionate sentencing. In all case scenarios, prison should only be used as a last resort. In a newly regulated drug market (both for medicinal and recreational purposes), this will also necessitate considering how subsistence farmers will be meaningfully involved in the legal production of drug-related crops.

Putting people first also requires the UN to address the ongoing tensions between the obligations within the UN drug control treaties and the rights of indigenous groups, including their right to maintain, protect and develop cultural manifestations of the past, pres-

ent and future, as well as their cultural heritage, traditional knowledge and manifestation of their science, technology and culture.⁵⁵ A Rights-centred approach beyond 2019 should aim to protect the traditional and medicinal practices of indigenous populations, including their right to cultivate and use controlled substances, and to be protected from discriminatory drug laws and their implementation.⁵⁶

This shift in focus will require strong civil society and community involvement in all aspects of the design, implementation, evaluation and monitoring of drug policies, at local, national, regional and international level. This approach must include the continued and meaningful participation of most affected groups, in particular people who use drugs, people involved in subsistence farming, formerly incarcerated people, indigenous communities, and other communities such as affected women and children and youth. We therefore welcome the Civil Society Task Force as a key vehicle for civil society participation in the 2019 Ministerial Segment.

The development of an enabling environment for meaningful civil society participation will also be critical – including the decriminalisation of affected groups and the establishment of mechanisms for citizen participation without fear of intimidation.

The 2019 Ministerial Segment is a genuine and critical opportunity to re-orientate international drug policy away from harmful punitive approaches towards forward-looking, effective policies that do not fuel further harm and, in the words of the Secretary-General, have ‘a positive impact on the lives of millions of people around the world’.⁵⁷

Box 1 The Civil Society Task Force

The CSTF is a joint initiative of the Vienna and New York NGO Committees on Drugs as a vehicle for civil society inclusion in UN drug policy proceedings.⁵⁸ It was first established in the lead up to the 2016 UNGASS, for which it held global consultations, identified civil society speakers, and organised events to showcase civil society positions on global drug control. The CSTF was relaunched in the lead up to the 2019 Ministerial Segment to play a similar role and ensure the meaningful and constructive engagement of civil society throughout the proceedings.

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Support. Don't Punish Global Day of Action in Mauritius. Credit: Collectif Urgence Toxida

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About this advocacy note

In this advocacy note, the IDPC network outlines four key asks for member states towards ensuring that future drug policies are firmly situated within the UN priorities of protecting health and human rights, promoting development and advancing peace and security.

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About IDPC

The International Drug Policy Consortium is a global network of non-government organisations 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 advice to policy makers and officials around the world.

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