

Closing Doors: The exclusion of civil society at the ‘topical meetings’ of the UN Commission on Narcotic Drugs

Introduction

While the overall trend in civil society engagement around the drugs issue at the UN Commission on Narcotic Drugs (CND) has been towards greater inclusion and participation in recent years, there have been some troubling developments as of late: members of civil society have been excluded from the meetings leading to one of the most politically controversial and consequential votes at the CND in the last years, namely the deliberations around the Expert Committee on Drug Dependence (ECDD) of the World Health Organization (WHO) recommendations on rescheduling cannabis. This has been accomplished through the use of a newly-branded format of meetings, so-called ‘topical meetings’, the first of which was held in June 2020. The only difference in this new format of meetings from the usual ‘intersessional’ format seems to be that civil society has been excluded.

In following this path, the CND has departed from its own recent practices and political commitments regarding civil society participation. This concerning development is already resulting in a less fruitful and genuine debate, and must be remedied for the upcoming meetings set for August and September.

Background: Growing participation of civil society in drug policymaking at the UN

Although restriction on civil society space at international fora is a common theme, civil society inclusion has generally seen a marked improvement at the UN drug policy spaces in recent years.¹ For example, in the build-up to the UN General Assembly Special Session (UNGASS) on the world drug problem in April 2016 and the High-Level Ministerial Segment of the CND in March 2019, NGO representatives were invited to provide inputs to member states at civil society hearings, an informal interactive stakeholder dialogue hosted by the CND and the President of the General Assembly, and a series of thematic roundtable debates. The UNGASS itself featured eleven NGO speakers from all over the world representing a range of communities from people who use drugs to Indigenous peoples to farmers of crops deemed illicit.²

These hard-fought improvements have been maintained in recent years. It is now commonly accepted practice for NGO representatives to be invited to attend and intervene in regular sessions and interses-



Civil society meeting at the United Nations Vienna office, during the 63rd CND. Credit: IDPC

sional meetings of the CND, including thematic discussions on cannabis and other topics. Further, it is not unusual for roundtable and other debates at CND to be formatted so that NGO statements are interspersed with member states' interventions, instead of leaving them at the end where they might be omitted due to time constraints. This is an unusual practice at the UN, and a marked improvement over past years.

Due to the recent challenges presented by the COVID-19 pandemic, many UN meetings have moved to virtual platforms and will likely continue to do so at least for the immediate future. This new reality is an opportunity for expanded civil society engagement, since participants (as acknowledged in the CND Chair's non-paper) can be 'based anywhere in the world'.³ The online New York event to launch the UNODC World Drug Report in July 2020, for example, enabled the live participation of a civil society speaker from the global south, whereas in the past participation would have been limited to attendees located in New York or by pre-recorded video. In virtual special events held on the 12th and 26th June 2020 using Microsoft Teams, civil society was able to watch online, and pre-selected NGO representatives were able to speak or submit written statements.⁴ At least for the time being, physical location is no longer an impediment to civil society participation in UN proceedings.

'Topical meetings': reversing the trend towards increasing civil society participation

In January 2019, the WHO Expert Committee on Drug Dependence (ECDD) issued a set of formal recommendations to reschedule cannabis and cannabis-related substances.⁵ 53 CND member states are set to vote on these recommendations in December 2020. The vote, which was originally expected to take place in March 2019, has been postponed repeatedly in order to provide government officials with more time to 'consider' the recommendations.⁶ These recommendations have been the subject of prolonged and continuous discussion amongst member states conducted over the past 18 months during regular and reconvened meetings as well as in a series of intersessional meetings of the CND, based in Vienna.⁷

In their latest action to postpone the vote, the CND agreed at its annual session in March 2020 to hold another series of discussions prior to voting 'in order to clarify the implications and consequences of, as well as the reasoning for' the recommendations.⁸ In a non-paper⁹ released to governments (and not to civil society) in May 2020, the CND Chair – assisted

by the CND Secretariat, housed within the UN Office on Drugs and Crime (UNODC) – explained that these meetings would differ from previous formats in that they would be geared towards an exchange of views among member states on 'implications arising from economic, social, legal, administrative and other factors and the ways of addressing them' if the recommendations were to be adopted. Further, the meetings would be structured to include subject-matter experts from outside of Vienna to provide input relevant to the recommendations.

The May 2020 non-paper labelled these new fora 'topical meetings' rather than the usual format of 'intersessionals' (see Box 1).

Instead, a one-day intersessional has been scheduled for September to recap the discussions, which NGOs may attend as observers. In light of the COVID-19 pandemic and travel restrictions, the June topical meeting was held virtually via Microsoft Teams, in order to 'allow for participation of experts based anywhere in the world' and to 'ensure that all member states are in a position to share their perspectives regarding the implications arising from these recommendations'¹⁰ (although the time zone obviously presents difficulties). The same may be necessary for the August and September topical meetings as well. These meetings are open to all member states, certain UN agencies including WHO, INCB, and experts from other inter-governmental organisations (by member state request only). All other relevant stakeholders, including 'ECOSOC-accredited NGOs'¹¹ have been excluded.¹²

Existing format for CND meetings: why fix what isn't broken?

Member states have historically used two primary meeting formats to deliberate drug policymaking issues at the CND. Officially, the CND meets twice a year in its regular session in March and again at the re-convened session in December. Over the past several years intersessional meetings have also become commonplace as member states have prepared for high-level meetings such as the UNGASS and the 2019 Ministerial Segment, and most recently in conjunction with the WHO cannabis recommendations. In recent years as technology has improved, formal meetings convened by the CND have been increasingly televised via live streaming for the public to observe.

The UNODC publication, *A Practical Guide for NGO Participants*, provides, 'As observers, NGOs are able, among other things, to: [a]ttend and observe *all proceedings of the Commissions with the sole exception*

Box 1: Calendar of topical meetings and intersessionals on the WHO cannabis recommendations

Meeting format	Scope	Date
1st topical meeting	Recommendations 5.4 and 5.5	24-25 June 2020 (possibility to extend to 26 June 2020)
2nd topical meeting	Recommendations 5.2, 5.3 and 5.6	24-25 August 2020 (possibility to extend to 26 August 2020)
3rd topical meeting	Recommendation 5.1	16-17 September 2020
Intersessional	All recommendations	18 September 2020

of informal meetings for Member States’ (emphasis added).¹³ Likewise, ECOSOC guidance provides that accredited NGOs may, among other things, ‘attend official meetings’ of ECOSOC and its functional commissions.¹⁴

Member states may of course also convene informal meetings either bilaterally or through multilateral sessions (‘informals’) during which they can deliberate internal issues out of the view of observers such as NGO representatives. These meetings are typically convened by member states themselves, although they can also be organized by the CND Secretariat (as has been the case in the lead-up to high-level meetings as drafting sessions for declarations and resolutions). While some member states include civil society representatives on their delegations to observe these deliberations,¹⁵ this remains the exception to the norm. IDPC has previously been critical of an increasing reliance on these closed, informal discussions to make decisions at the CND – in terms of civil society participation, as well as concerns about participation from member states who do not have a diplomatic presence in Vienna, and transparency more broadly.¹⁶

The new topical meeting format, introduced for the first time in the drugs arena in May 2020, stands out for a number of reasons. First, it is unprecedented and represents a clear departure from the normal processes and formats¹⁷ – with little apparent justification for doing so. Second, the character of the meeting has not been made clear. In the May 2020 non-paper, the CND Chair did not clarify whether the meetings are ‘official’ or ‘informal’ sessions – an important distinction, when as mentioned above the former would

be required to be inclusive of civil society (as well as translated and recorded). Most unsettling is that the only distinction between the topical meetings and the intersessional meeting that follows seems to be that civil society is invited to participate in the latter, but not the former. In fact, civil society appears to be the *only* group that is specifically excluded from these meetings.

As mentioned above, according to UNODC guidance to NGOs, ECOSOC-accredited organisations are permitted to attend and observe ‘all’ proceedings of the CND – except for informal meetings, which are explicitly described as being for ‘Member States only’.¹⁸ These topical meetings, convened by the CND Chair and the Secretariat, which include non-member state parties (WHO and INCB), do not fit this definition; therefore excluding civil society from these sessions appears to be at odds with UNODC’s own guidance on the issue.

Conclusion: Civil society must be included in all future CND meetings

The value placed by the UN family on inclusion of civil society is clear. The UN Secretary General has recently stated that members of civil society are ‘indispensable partners’ and that he is ‘committed to an inclusive multilateralism based on deep interaction with civil society’. Further he declared that civil society ‘could count on the United Nations to do our utmost to protect and promote civic space’.¹⁹ As recently as

the 2019 Ministerial Declaration, member states underscored the ‘important role’ played by civil society in supporting their efforts in implementing joint commitments around drug policymaking and emphasized ‘the importance of promoting relevant partnerships’.²⁰ Finally, in the UN Common Position supporting the implementation of the international drug control policy through effective inter-agency collaboration, members of the United Nations system committed to ‘stepping up our joint efforts and supporting each other... to promote the active involvement and participation of civil society and local communities, including people who use drugs, as well as women and young people’.²¹ Neither the CND Chair nor the CND Secretariat has provided sufficient (public) explanation as to why these meetings were repurposed and renamed as topical meetings; nor have they clarified whether these meetings are ‘informal’ or formal, ‘official’ meetings of the CND.

At a time when the virtual format of UN meetings makes possible the expansion of civil society participation rather than its limitation, the approach taken for these important cannabis-related discussions sets a dangerous precedent, both within and beyond the drugs sector. Moreover, the exclusion of civil society is detrimental to the discussions themselves: NGOs can bring invaluable perspectives, experiences and expertise to the – often disconnected – debates in Vienna, and are of clear benefit to member states. While IDPC welcomes the gains made in civil society engagement at the CND overall, limiting participation in this way runs counter to the fundamental principle of civil society inclusion so highly valued by the United Nations.

Further topical meetings on the WHO recommendations on cannabis and related substances are set to be held in August and September. It is imperative that the dubious characterization of these meetings be re-examined and reconfigured so as not to exclude the important voices of ECOSOC-accredited NGOs.

Acknowledgements

This Advocacy Note was drafted by Heather Haase, as a consultant for IDPC. IDPC wishes to thank the staff of the IDPC Secretariat, as well as Martin Jelsma, Nazlee Maghsoudi and Zara Snapp, for their valuable contributions in reviewing the paper.

Endnotes

1. Fordham, A., Haase, H. (2018), ‘The 2016 UNGASS on Drugs: A Catalyst for the Drug Policy Reform Movement’, in Klein, A., Stothard, B. (eds.), *Collapse of the Global Order on Drugs: From UNGASS 2016 to Review 2019* (Bingley: Emerald Publishing Limited).
2. Participation by civil society was facilitated by the Civil Society Task Force on Drugs, a joint initiative of the New York and Vienna NGO Committees. For more information, see: Vienna NGO Committee (Website), *Civil Society Task Force*, <https://vngoc.org/ungass-2016/civil-society-task-force/> (accessed 29 July 2020).
3. See United Nations, ECOSOC, Commission on Narcotic Drugs (CND) (2020), *Intersessional considerations of the WHO recommendations on cannabis and cannabis-related substances – Follow up to CND Decision 63/14. Non-Paper prepared by the Chair with assistance of the Secretariat*, as cited in Pascual, A. (28 May 2020), ‘UN body preparing for December vote on WHO cannabis recommendations despite coronavirus’, *Marina Business Daily*, <https://mjbizdaily.com/untied-nations-body-preparing-for-december-vote-on-who-cannabis-recommendations/>
4. The CND Special Event commemorating the United Nations Day against Drug Abuse and Illicit Trafficking on 26 June 2020 was held virtually, as were events to launch the report, available at https://www.unodc.org/unodc/en/commissions/CND/session/63_Session_2020/special-event-launch-of-world-drug-report-26-june.html. In addition, a Special Event commemorating the 25th anniversary of the Fourth World Conference on Women and the adoption of the Beijing Declaration was held virtually on 12 June. See: United Nations Office on Drugs and Crime (2020), *Beijing +25: Realizing gender equality and the empowerment of all women and girls*, <https://www.unodc.org/unodc/en/commissions/beijing-plus-25.html>
5. World Health Organisation (2019), *Letter to the Secretary General of the United Nations of 24 January 2019*, https://www.who.int/medicines/access/controlled-substances/UNSG_letter_ECDD41_recommendations_cannabis_24Jan19.pdf?ua=1
6. CND Decisions 62/14 (2019) and 63/14 (2020). At the reconvened 62nd Session of the CND held in December 2019, member states were given the ‘opportunity to refer in their interventions to the WHO recommendations on cannabis and cannabis-related substances’ but they did not take any action on the recommendations. For a detailed history of CND decisions and other actions regarding the recommendations, see: United Nations, ECOSOC, Commission on Narcotic Drugs (2020), *Changes in the scope of control substances: proposed scheduling recommendations by the World Health Organisation on cannabis and cannabis-related substances*, UN Doc. E/CN.7/2020/14, <https://undocs.org/E/CN.7/2020/14>.
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 10. *Ibid*, p. 2.
 11. 'ECOSOC-accredited NGOs' refers to NGOs that enjoy consultative status with the Economic and Social Council (ECOSOC). Consultative status is a formal relationship between non-governmental organizations and the United Nations to allow NGOs to participate in the work of the UN. ECOSOC is the only main entry point into the UN system for NGOs with a formal framework for NGO participation. For more information see: United Nations, ECOSOC (Website), *Make your voice heard: Want to amplify the voices of civil society at the UN? Apply for ECOSOC consultative status!*, <https://www.un.org/ecosoc/en/make-your-voice-heard> (accessed 29 July 2020).
 12. See United Nations, ECOSOC, Commission on Narcotic Drugs (2020), *Intersessional considerations of the WHO recommendations on cannabis and cannabis-related substances – Follow up to CND Decision 63/14. Non-Paper prepared by the Chair with assistance of the Secretariat*, p. 2, as cited in Pascual, A. (28 May 2020), 'UN body preparing for December vote on WHO cannabis recommendations despite coronavirus', *Marina Business Daily*, <https://mjbizdaily.com/united-nations-body-preparing-for-december-vote-on-who-cannabis-recommendations/>
 13. United Nations Office on Drugs and Crime (Date not provided), *A Practical Guide for NGO Participants*, p. 4, https://www.unodc.org/documents/commissions/CND_CCPCJ_joint/NGO/18-04474_ebook.pdf.
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 17. There have been two well-functioning intersessionals held on the topic – the Fourth and Fifth intersessionals of the 62nd Session of the CND held in 2019 also addressed the WHO recommendations on cannabis and cannabis-related substances. See: United Nations, ECOSOC, Commission on Narcotic Drugs (2019), *Sixty-second session: Fourth Intersessional Meeting, Vienna, Austria, 24 June 2019*, https://www.unodc.org/unodc/en/commissions/CND/session/62_Session_2019/4ISM.html; and United Nations, ECOSOC, Commission on Narcotic Drugs (2019), *5th Intersessional Meeting*, https://www.unodc.org/unodc/en/commissions/CND/session/62_Session_2019/5thISM.html.
 18. The UNODC webpage *Information for NGO Participation* states: 'as observers, NGOs are able, among other things, to: Attend and observe all proceedings of the Commissions with the exception of informal meetings for Member States only' (emphasis added). See: United Nations Office on Drugs and Crime (Website), *Information for NGO participation*, <https://www.unodc.org/unodc/en/commissions/NGO.html> (accessed 29 July 2020).
 19. The full statement is available at: United Nations, Secretary General, *Civil Society Operates as Indispensable Partners Fighting against COVID-19, Racism, Inequality*, Secretary-General Says in Video Message to Network, UN Doc. SG/SM/20145, <https://www.un.org/press/en/2020/sgsm20145.doc.htm>.
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 21. United Nations, Chief Executives Board for Coordination (2019), *United Nations system common position supporting the implementation of the international drug control policy through effective inter-agency collaboration*, UN Doc. CEB/2018/2, Annex 1, <https://undocs.org/en/CEB/2018/2>.

About this advocacy note

In this advocacy note, the IDPC network explains how civil society has been excluded from the newly-created 'topical meetings' on the WHO cannabis re-scheduling recommendations, and why this departs from the UN Commission on Narcotic Drugs' recent progress on openness and civil society participation.

International Drug Policy Consortium

61 Mansell Street, 1st floor
London E18AN, United Kingdom

Tel: +44 (0)20 7324 2975
Email: contact@idpc.net
Website: www.idpc.net

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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Template design by Mathew Birch - mathew@mathewbirch.com



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