

THE UNITED NATIONS REVIEW OF GLOBAL POLICY ON ILLEGAL DRUGS – AN ADVOCACY GUIDE FOR CIVIL SOCIETY

VERSION FOUR - JUNE 2008

In the first half of 2009, the political representatives of all national governments will gather in Vienna to decide a way forward for the management of the international drug control system. The outcome of this meeting, and the process of review and preparation that precedes it, is the subject of fierce debate, as many member states are questioning the value of a continuing reliance on law enforcement and supply reduction to resolve drug problems, and are pushing for a greater emphasis on policies and programmes that focus on the health and social consequences of drug markets and drug use.

Civil society organisations around the world are currently considering how best to get involved with this process, and influence its outcome. This advocacy guide has been produced by the International Drug Policy Consortium (www.idpc.info) to give NGOs information on how the process is unfolding, and ideas on how they can engage in effective advocacy. This version of the guide has been produced in June 2008. It provides a background to the review process, an examination of the weaknesses of existing structures and strategies, and a brief introduction to the issues that we will be focussing on as the review process continues.

The IDPC will also be hosting a series of workshops over the next 12 months, that will provide our partners with the opportunity to debate the issues, network with government officials, and decide on next steps in the process. The next in this series of meetings will be held in Vienna in July, in the margins of the 'Beyond 2008' Global Forum.. If you wish to attend this meeting, contact Andreas Woreth at aw@internationaldrugpolicy.net.

HOW IS THE DRUG CONTROL SYSTEM ORGANISED?

The present system of worldwide drug control is based upon three international conventions. These are the 1961 Single Convention on Narcotic Drugs (as amended by the 1972 Protocol), the 1971 Convention on Psychotropic Substances and the 1988 Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. These enjoy widespread adherence with, as of July 2007, 183 states being Parties to the first and second of the three conventions, and 182 to the third.

A number of UN agencies are involved in the functioning and oversight of these conventions. These include the Economic and Social Council (ECOSOC), the Commission on Narcotic Drugs (CND or Commission), the International Narcotics Control Board (INCB or Board) and the United Nations Office on Drugs and Crime (UNODC or Office).

ECOSOC serves as the central forum for discussing international economic and social issues, and for formulating policy recommendations addressed to Member States and the United Nations system. The UN Charter entrusts ECOSOC with international economic, social, cultural, educational, health and related matters. In order to perform these functions the Council established various functional commissions, including the Commission on Narcotic Drugs.

The CND is the central policy-making body for the UN drug control system. Its brief includes the conduct of ongoing analysis of the global drug situation and the development of proposals designed to combat drug-related problems and to reinforce the system of controls. As a formally constituted organization of the UN,

the CND meets annually for a period not exceeding eight days. The Commission comprises 53 UN member States, elected by ECOSOC. Its functions are assigned to it by the drug control conventions. These provisions authorize the CND to consider all matters related to the objectives of the Conventions and to oversee their implementation. As a treaty organ under the 1961, 1971 and 1988 Conventions, on the basis of recommendations by the World Health Organization (WHO) or the INCB, the Commission decides the regulatory measures to be taken on narcotic and psychotropic drugs and precursor chemicals. The body therefore plays a pivotal role in all international drug policy making. The Commission relies on the UNODC for administrative and technical support.

The INCB is the “independent and quasi-judicial” control organ for the implementation of the drug control treaties. The Board was created under the 1961 Single Convention and became operational in 1968. It is technically independent of Governments, as well as of the UN, with its 13 individual members serving in their personal capacities. The WHO nominates a list of candidates from which three members of the INCB are chosen, with the remaining 10 selected from a list proposed by Member governments. They are elected by ECOSOC and can call upon the expert advice of the WHO.

The Board has the authority to assess legitimate scientific and medical requirements for controlled substances based on estimates from member states, and subsequently allocates quotas among Parties in an attempt to prevent leakage of drugs from licit sources into the illicit market. It also monitors compliance with the provisions of the drug control conventions. Areas of concern can be raised at different levels from individual state to the UN General Assembly. The INCB itself has no power to enforce the Conventions. However, when highlighting to the Parties, ECOSOC and the CND a perceived failure to carry out obligations under the 1961 and 1971 Conventions, the INCB can recommend to Parties that they stop the import of drugs, the export of drugs, or both, from or to the country or territory concerned. Such a sanction has never been applied and the Board has relied on the tactic of “naming and shaming” what it considers to be errant Parties in its Annual Report. Recent years have seen the INCB assume a wider role, reporting on trends in drug trafficking and illicit use, monitoring precursor chemicals in line with the provisions of the 1988 Convention, and commenting on policy developments within UN Member States.

The UNODC is the UN agency responsible for coordinating international drug control activities. It was established in 2002 and currently has around 500 staff members worldwide. Its headquarters are in Vienna and it has 21 field offices as well as a liaison office in New York. The UNODC was established by the UN Secretary-General to “enable the Organization to focus and enhance its capacity to address the interrelated issues of drug control, crime prevention and international terrorism in all its forms.” In fulfilling its mandate “to assist Member States in their struggle” against these issues the UNODC has a three pillar work programme. This consists of research and analytical work, normative work and field-based technical cooperation projects. To this end, the UNODC Drug Programme, formerly the United Nations International Drug Control Programme (UNDCP), runs alternative development projects, illicit crop monitoring and anti-money laundering programmes. As the lead agency for international drug control activities, the UNODC plays an important role in assisting Member States, particularly so-called “producer countries” and developing states, to effectively address a wide range of drug related problems. It also occupies a unique position for the compilation global data sets, to track and investigate international trends in drug production, manufacture, trafficking and use and to act as a central hub for the dissemination of best practice in the formulation and implementation of drug policy.

WHAT ARE THE WEAKNESSES OF THE SYSTEM?

The drug control system was designed and created with a clear primary purpose in mind – the restriction of the production, distribution and use of controlled drugs. However, as professionals and governments have developed a greater understanding of the complexity of drug markets, and their consequences for the social and economic health of communities, questions are being asked about whether the current structures within the UN for tackling the problem are ‘fit for purpose’. There are a number of areas where the current structures could be improved, that would have a direct impact on how some of the key policy and programme challenges in this field are tackled:

INCB – The Board has an important role in overseeing the system for the licit production and distribution of controlled substances for medical and scientific use, and ensuring that countries comply with their obligations under the treaties to prohibit the illicit market. The INCB mandate recognises that this role requires the Board to achieve a balance between these two primary functions, and other considerations such as the cultural and judicial norms of member states, the right to health, or proportionality in sentencing offenders. All too often, the Board has failed to ensure such balance in its activities and statements, bringing it into disrepute with many member states. This inflexible approach can be observed in four areas:

- Treaty interpretation – The INCB currently holds very rigid legal, and non-universal, interpretations of the conventions (in at least one case, in direct contradiction to the legal advice it has received). This frequently results in problematic statements and positions within INCB annual reports and in private letters to national Governments. In acting as an inflexible guardian rather than a watchdog of the conventions, (See http://www.internationaldrugpolicy.net/reports/BeckleyFoundation_Report_07.pdf) the INCB generates tensions with some member states and other parts of the international drug control system.
- Conflict between the INCB and WHO on scheduling decisions – recent years have seen the INCB overstepping its mandate to provide unsolicited scheduling advice to member states. This is particularly problematic because in all such cases the Board’s recommendations contradict those coming from the WHO, the UN body responsible for providing technical advice to member states on scheduling issues.
- Mission Creep – While the INCB mandate is clearly laid out within the conventions, it is currently exceeding its authority and has over recent years illegitimately extended its role within the international drug control system. Among other places, evidence of this can be found in the current attitude of the Board towards member states, with whom it apparently sees itself as at least an equal, and other parts of the UN system (for example, WHO) of which it apparently regards itself as superior.
- Culture of secrecy - An issue that complicates all the above mentioned matters is the cloud of secrecy under which the Board operates. For instance, all the Board’s missions, communications and letters (thousands each year) are confidential. Furthermore, there are no observers allowed at the INCB sessions and no minutes are available, even to member states. The result of such a culture of secrecy is that the INCB lacks any accountability procedure and has arguably become the least transparent and most secretive body within the UN. The secretariat of the INCB has often argued that its unique status within the UN system empowers it to operate this way. In fact, there are many UN mandated bodies with similar roles, that manage to operate more openly, and in closer co-operation with member states. The INCB needs to become a more transparent body, responsive to the concerns of member states, that contributes in a balanced way to helping policymakers navigate a course through the complex policy challenges that they face.

(For a detailed discussion of all four areas see *The International Narcotics Control Board: Current Tensions and Option For Reform*, International Drug Policy Consortium, Briefing Paper 7, February 2008, http://www.idpc.info/php-bin/documents/IDPC_BP_07_INCB_TensionsAndOptions_EN.pdf)

UNODC – The UNODC itself states that “A comparative advantage for the *Office* is its very DNA as a multilateral entity, namely as an honest broker representing the interest of no single Member State.” However, in reality, funding and diplomatic considerations have an enormous impact upon the implementation of this “guiding principle,” the type of projects that become operational, and ultimately the overall functioning of the UNODC. The *Office’s* consolidated Budget, consisting of the budgets of the drug and the crime programmes, generally relies upon voluntary contributions from donors for around 90% of its funding. The remaining 10% comes from the regular UN budget: that is to say, funds given to the UN as a whole to pay for staff, basic infrastructure and some activities. Recent years have seen a growing trend by donors to earmark their voluntary contributions to specific projects and activities. For instance, in the period 2006-2007 between 70-80% of voluntary contributions were earmarked. Therefore, at any point in time, the UNODC is operating with an incomplete ‘jigsaw’ of funding, with a high proportion of planned activities waiting for funds to be raised, and a wide range of donors demanding that the office pursue their own, often conflicting, policy and programme priorities. Such a fiscal reality leads to an unhelpful politicization of *Office* activities and weakens its role within the system. The UNODC performs at its strongest when it is providing objective analysis and expertise

to member states, and facilitating policy debate between conflicting positions. However, all too often, the *Office* has operated as a political actor in its own right, siding with particular member states, or simply defending the effectiveness of existing policies and programmes.

The UNODC, consistent with its mandate, has a primary focus on the control aspects of the global drug problem, which sometimes inhibits its ability to achieve a balance between this responsibility – to minimise the scale of the illegal market – and the related health, development and human rights considerations. The mechanisms for the UN agencies that are concerned with these issues to be involved in drug policy and strategy development are currently weak, making effective policy co-ordination between competing priorities (that is increasingly implemented at national level) impossible.

While there is a considerable degree of substantive agreement on drug policy between UN agencies, significant inconsistencies do remain. These exist within both the immediate confines of drug control framework, and between this framework and the wider activities and goals of the UN. The degree of inconsistency is fluid as both the politics and science surrounding drug policy issues alter over time. Nonetheless, it is possible for example to identify ongoing differences in approach between, on the one hand, the law enforcement orientation of the UNODC and the INCB's rigidly zero-tolerance interpretation of the conventions and, on the other hand, the health and development orientation and wider interpretation of the conventions of other bodies such as UNAIDS, the United Nations Development Programme, WHO, World Bank and the United Nations Population Fund. Furthermore, law enforcement dominated strategies demonstrate a lack of cohesion between some sections of the international drug control system and broader UN principles on Human Rights, as laid out in instruments like the UN Charter and more recently the UN Millennium Goals.

Commission on Narcotic Drugs - One of the negative effects of the lack of system cohesion is that member state delegates to the main UN forum for discussion and decision-making on drug policy are overwhelmingly drawn from the foreign affairs and law enforcement disciplines. This reinforces the primacy of law enforcement perspectives on an issue that has much wider social, health and human rights implications.

There are also procedural difficulties - for many years, all disputes within the CND have been settled by consensus. As one analyst notes, "This means that every decision usually comes down to the lowest common denominator – the one that is the least offensive to the largest number." Such an operating process also means that it is easy for one member of the Commission to block a resolution. As a result "face-saving" solutions are often sought which leads to the vague wording of resolutions. Furthermore, the structure and final wording of resolutions is also often subject to "horse-trading" between CND members, with factors external to the issue of drug control sometimes influencing policy positions within the Commission.

As a result, the annual gathering of member states to discuss drug policy invests an inordinate amount of time and energy in receiving long and self-congratulatory statements from member states, and rarely engages meaningfully in discussion of the true dilemmas inherent in the system, as member states avoid the diplomatic risks of raising difficult issues.

Finally, the entire process takes place with very little involvement of Civil Society, and in particular of those (such as drug users or growers representatives) who are most affected by the issue. In other areas of UN activity, NGOs are much more integrated into the policy making process (for example UNAIDS, where NGOs actually sit on the Programme Co-ordinating Board). However, in the drug control system, NGOs have too often been seen as a threat to the quality of discussion, rather than the expert resource that they can potentially be. For example, representatives of those who grow crops that are used in illegal drug production can bring detailed insight to the governmental discussions on policy in source countries.

WHAT PROBLEMS ARISE FROM THESE WEAKNESSES?

Debates about structural reform can be very dry, and have little relevance to the experiences of the general public. However, the weaknesses we have identified within the structures of the UN drug control system have led directly to deficiencies in the international community's reaction to several pressing challenges. The

failure to achieve balance in the consideration of policy options has been most marked in the following areas, each characterised by too strong a focus on eliminating the illegal market, to the exclusion of tackling the negative consequences of that market:

- Preventing HIV transmission through injecting drug use. An estimated 10% of all new HIV infections worldwide (30% outside of Africa) occur through injecting drug use. Effective public health prevention measures have been available to governments and the international community for 20 years. However, these are currently only available to less than 5% of the target population. This slow and insufficient response has to some degree been due to the lack of leadership on this issue emanating from the UN system, as health measures that enable drug users to inject more safely have been seen as undermining the core message of drug control.
- Tackling drug related crime. The crimes committed by drug users, drug dealers, and the criminal groups involved in trafficking, cause severe harm to individuals, communities, and in some cases entire societies. Efforts by national and international enforcement agencies to respond to drug related crime have focussed almost entirely on objectives related to the reduction in the scale of drug market activity – numbers of seizures, numbers arrested, criminal groups disrupted. Unfortunately, even successful actions in this arena have rarely led to an overall decrease in drug related crime, as new actors in the market quickly replace those taken out by law enforcement efforts. Indeed, successful disruption of a particular network can often lead to increased crime as competing groups battle for territory. Enforcement activity needs to shift focus more towards objectives relating to the reduction of crime that directly affects communities, such as the property crime committed by users, and the violence and intimidation associated with drug markets.
- Rebuilding shattered societies. The countries where drug production is concentrated (Afghanistan for opium, and Colombia for coca) have suffered the most from the global drug problem. They are caught in a vicious cycle in which poverty and lawlessness creates the conditions for drug production and trafficking to thrive, while the corrupting influence of the drug market inhibits any attempt to tackle poverty, and impose law and order. The only solution to this cycle is the long-term development of legitimate economic and social activity, and of effective public institutions. This is the specialist area of agencies such as the UNDP and World Bank, whose work in these countries is compromised and often secondary to the short-term objectives of drug control.
- Providing access to essential medicines. Many of the globally controlled drugs have valid (and essential) medical uses. Opiates, in particular, are widely used in the management of pain, and the treatment of addiction. The World Health Organisation estimates that pain relief medication is underused in countries that together contain 80% of the global population, and opiate based addiction treatment is unavailable in most countries. One of the reasons for this lack of access to essential medicines is the nature of the drug control restrictions placed on the manufacture and distribution of these substances. In seeking a balance between facilitating the legitimate supply of these medicines, and protecting against their leakage onto the black market, the INCB in particular has been guilty of prioritising drug control over health objectives.
- Protecting human rights. The UN has a suite of human rights treaties that promote fundamental rights for all citizens, and an infrastructure that examines and criticises abuses wherever they occur. Furthermore, states Parties to the UN drug conventions are bound by their overarching obligations under Articles 55 and 56 of the *Charter of the United Nations* to promote “universal respect for, and observance of, human rights and fundamental freedoms” (*Charter of the United Nations*, 1945). Under Article 103 of the *Charter*, “In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail.” (*Charter of the United Nations*, 1945). However, the UN drug control system has often been guilty of overlooking or condoning government actions (for example, detention without trial, extrajudicial killings, or the death penalty) that are in breach of these human rights standards, where they are carried out in the pursuit of drug control objectives. All UN agencies should be consistent in their condemnation of such actions, whatever the impact on the drug market.

CAN THIS REVIEW ADDRESS THESE PROBLEMS?

Much has been learnt over the last 10 years about the nature of the global drug problem, and the effectiveness of our efforts to respond to it, so 2008 is the right time to consider how the system could function more effectively. At this stage, however, it is unclear whether governments see the review as a serious opportunity to modernise the drug control system, or just business as usual. When the international community gathered at the UN General Assembly Special Session (UNGASS) in 1998 to address the global response to illegal drugs, they adopted a declaration committing member states to the achievement of significant and measurable results in reduction of illicit supply and demand for drugs by the year 2008. Ten years later, at the 2008 Commission on Narcotic Drugs, member states, UN officials and NGOs reviewed progress, and some familiar divisions were again in evidence. The Executive Director of UNODC, Antonio Costa, acknowledged that these ambitious targets had not been met, but claimed that the global drug problem was being contained through a mix of effective supply and demand reduction activities. Member states' contributions to the debate were widely divergent - while many countries (mainly from Europe, but also including several Latin American countries, and some from Asia and Australasia) emphasised the need to use this review to address some of the imbalances and deficiencies in the global drug control system, many others focussed on the need to remain loyal to the 'spirit' of the conventions, and to make current enforcement-led policies work.

The delegates to the 2008 CND confirmed that a 2 day, high-level, political meeting will be held in March 2009 in Vienna, that will agree the framework for the next phase of UN drug policy. The material and reports to be considered at that meeting will be generated through five intergovernmental working groups that will develop and present draft texts for consideration by governments. These working groups will, respectively, cover:

- Demand Reduction (meeting 15th to 17th September 2008)
- Supply Reduction (meeting 23rd to 25th June 2008)
- Money Laundering (meeting 30th June to 2nd July 2008)
- Crop Eradication and Alternative Development (meeting 2nd to 4th July 2008)
- Precursors and Amphetamine-Type Stimulants (meeting 17th to 19th September)

These meetings will all take place in Vienna. Non-Governmental organisations cannot attend these meetings in their own capacity, but member states have been encouraged to include 'experts' in their delegations which can include non-governmental organisations. NGOs should therefore focus on persuading their government colleagues to include suitably qualified experts in their delegations and contributing ideas and suggestions through these delegations.

The 2008/9 review process therefore presents a significant opportunity to address the current weaknesses in the system – it is no longer sufficient for the UNODC and member states to simply reaffirm existing structures and programmes. Civil society has a significant contribution to make in this regard, by promoting constructive ideas for improving the international drug control system, and ensuring that government representatives to the 2009 meeting seriously reflect experience and public opinion from their own countries.

WHAT ARE THE KEY ISSUES FOR THE REVIEW?

While Civil Society organisations around the world will have a wide range of perspectives and priorities for the review, the IDPC has proposed a focus on four key issues where it is felt that current policies and programmes could realistically be improved through this process:

STRUCTURAL REFORM – At a national and local level, the structures for creating, implementing and reviewing drug policy have become increasingly cross-departmental, as administrations realise the interconnections between the law enforcement, health and social aspects of the problem. Most countries have now enacted national strategies that are overseen by co-ordinating bodies with representation from all relevant branches of government. No such mechanism exists within the United Nations programme.

In the absence of a system-wide strategic mechanism, the CND and UNODC have focused on a crime and control agenda to promote a law enforcement perspective. This is reinforced by the INCB's rigid

interpretation of the conventions. Meanwhile, the much larger UN agencies that deal with the consequences of the drug market (For example, WHO, UNAIDS, UNDP and the Human Rights bodies) play only a marginal role in drug policy formulation and programme implementation. This needs to change to a system where a co-ordinated and holistic strategy, that reflects a balance between the concerns and standards of all the relevant UN agencies (and, in relation to human rights, the fundamental principles of the whole UN system) develops in a truly collaborative fashion. The belated implementation of a version of the 1998 System-Wide Action Plan (SWAP) on Drug Abuse Control could offer a way forward to address many of these issues. Revitalization of a SWAP-type process would also sit well within the broader UN reform agenda, which seeks system wide cohesion. This concept, within which all UN agencies with a shared interest in any given issue work closely together to agree high level strategy, and ensure co-ordination in its promotion and delivery, is one of the key principles driving current attempts to reform the machinery of the UN. It is particularly applicable in the drug control field, as the impact of drug problems (and the unintended consequences of attempts to tackle the drug market) touch on so many aspects of policy and human activity.

A related challenge is to refocus the role of both the UNODC and INCB. These agencies should be objective and independent centres of expertise that support member states in analysing the complexity of the drug problems in their territories, and the development of effective responses. All too often in practice, the leadership of both bodies have assumed a political role, championing a particular policy perspective; even in the face of clearly divergent views amongst member states, or amongst different UN agencies. The opportunity of this 10-year review should be used to adjust the role of these two bodies.

In the case of the UNODC, this would mean significant expansion of its research and analysis function and the dissemination of advice and guidance to member states based on the evidence base it has collated. The forthcoming review and the end of the current ARQ and BRQ process is also an ideal time to re-evaluate and modernise the UNODC's data collection systems, and improve the rigour and objectivity of its analysis. It is important to note that any significant expansion of UNODC research capacity and strengthening of evaluation mechanisms would also require a willingness on the part of donors to provide sustained funds for this purpose. Such investment would be more likely, however, if the UNODC itself extended its engagement with donors beyond merely seeking to secure financial contributions and increased cooperation and communication at all programme stages and with other agencies.

In the case of the INCB, this would mean returning the Board to its original mandate of identifying functional weaknesses in member states' adherence to the drug control conventions, rather than getting involved in matters that should remain the preserve of national policymaking or other UN bodies. Within this context, particular attention should be given to the selection process and expertise of INCB members, the Board's role in drug scheduling within the treaties, the INCB's culture of secrecy, and its selective approach to the implementation of its mandate. (See *The International Narcotics Control Board: Current Tensions and Options For Reform*, IDPC Briefing Paper 7, February 2008 <http://www.idpc.info/php-bin/documents.pl?ID=1000134> and 'Unique in International Relations?' A Comparison of the International Narcotics Control Board and the UN Treaty Bodies, IHRA, 2008 <http://www.idpc.info/php-bin/documents.pl?ID=1000133>)

Finally, it is becoming increasingly difficult to properly address the growing systemic tensions within the UN drug control system, particularly in relation to the issues of harm reduction, the scheduling of coca leaf, and human rights, without looking closely at certain aspects of the conventions themselves. This politically sensitive issue should consequently not be ruled out of longer-term discussions on the topic of structural reform.

IDPC Position Paper 5

http://www.idpc.info/php-bin/documents/IDPC_FivePolicyPrinciples_Exp5_EN.pdf

goes into some of these issues in more detail, and we aim to bring forward constructive recommendations in the coming months for how a functional structure for drug control can be created, consistent with the principles inherent in the wider UN reform agenda.

HARM REDUCTION – This phrase has been mainly associated over the last 20 years with the delivery of public health measures to drug users that help them avoid HIV and other infections, but also overdoses and other negative health consequences that arise from their use of drugs. It has also become somewhat of a ‘political football’ in drug policy circles, as this range of activities represents the clearest and most widespread departure from a policy of zero tolerance that focuses effort entirely on activities that seek to minimise or eradicate drug use and drug markets. The concept of harm reduction, therefore, has a much wider implication for drug policy and programmes, particularly as the UNODC itself now no longer talks about a goal of eradicating drug use, but of the goal of containment of the market at current levels. The IDPC, while sceptical of the claims that containment is being achieved, consider that this change of discourse allows for a shift of focus of international efforts towards responding to the harmful consequences of drug use and drug markets. This would mean greater efforts to respond to the health risks of drug use, but also to the social consequences such as addiction, the impact on family and community life, and drug related crime. Even within the law enforcement arena, such a realignment of focus would mean moving away from the obsession with eradication of crops, seizing drugs and arresting users, to measuring success for example in terms of minimising the power and profits of organised crime, the improvement in development or quality of life indicators, or the extent of drug related corruption.

Such a shift of focus would have an enormous impact on the design of UN programmes – insufficient attention has been paid over the years at UN level to the social and community consequences of drug use, and the UN drug control agencies have at times acted as a brake on the development of much needed programmes - for example, on the scaling up of HIV prevention measures amongst drug users. A more productive future strategy would involve a clear commitment of the UN agencies to tackling the consequences of drug use and drug markets, and therefore the expansion of programmes that support drug addiction treatment, crime reduction, and HIV prevention efforts. There are signs, certainly in the field of HIV prevention, that this idea is receiving greater acceptance within the UN drug control system. Statements at the 2008 CND from Antonio Maria Costa, backed up by text in official UNODC documents, seems to have finally registered the support of that agency for a public health, harm reduction, approach to the prevention of HIV infection amongst drug users, stating that he sees no incompatibility between efforts to reduce the scale of the market, and efforts to tackle its consequences. Our challenge is now to ensure that this growing support for the principle of harm reduction becomes embedded into the outcomes of the policy review, and that the UNODC takes a stronger lead in promoting the expansion of comprehensive HIV prevention measures in affected countries.

IDPC Position Paper 2 [<http://www.idpc.info/php-bin/documents.pl?ID=1000059>] goes into this issue in more detail, and we will continue to work with member states to promote the adoption of these concepts through the review process.

SOURCE COUNTRY ISSUES – The predominant strategy of forced eradication and harsh law enforcement, targeting farmers who grow coca and opium crops that are then deviated to the illicit market, has failed to make a significant dent in the availability of illicit drugs. Despite the presence of western troops in Afghanistan since 2001, the levels of opium production in the last two years have been higher than ever. While the UN reports some recent declines in the area of coca cultivated in the Andean region, it estimates virtually no change in global potential cocaine production.

Yet these efforts have had serious negative consequences for legitimate economic and social development, and the human rights of affected communities. Most farmers grow crops used in illicit drug production as a means of basic subsistence. Eradicating their often only source of income prior to the establishment of alternative livelihoods results in a downward spiral of poverty for those affected, and ensures that they will replant, leading to the geographical expansion of such crops and further environmental degradation. In addition, forced eradication programmes are often counter-productive, generating social conflict and political violence and undermining government legitimacy.

It could be argued that these campaigns need more time and will eventually produce results; however, total Andean coca production has increased since Plan Colombia was launched in 2000, despite billions of dollars

in U.S. assistance and the spraying of over 750,000 hectares of coca and poppy fields. Evidence from the few countries where cultivation has declined suggests that the long term development of realistic alternative livelihoods through collaborative community development projects is much more effective in reducing and in some cases eliminating crops destined for the illicit market in these areas. (It is important to note, however, that as long as demand for illicit drugs remains high, production will migrate to other areas.)

These realities are starting to be acknowledged within the system - the Executive Director's report on the "Action Plan on International Cooperation on the Eradication of Illicit Drug Crops and on Alternative Development" presented at the 2008 CND points out that "there was little evidence that eradication reduces illicit cultivation in the long run" and that alternative development programs remain inadequate. Among its many conclusions, the report encourages states to integrate alternative development strategies into broader national development programs. Perhaps most significantly, it states: "Alternative development must be assessed using human development indicators and not solely based on illicit crop production statistics." In short, drug control indicators should measure socio-economic development rather than hectares eradicated or drugs seized. A resolution was also passed at the 2008 CND on "Promoting sustainability and integrity (sic) in alternative development as an important part of drug control strategy," based on the lessons learned from Thailand's successful alternative livelihoods approach.

The recognition that present eradication and alternative development policies have failed to achieve the desired results and the need for an alternative livelihoods approach which puts socio-economic development at the core of international efforts offers an important opportunity for the construction of more effective alternatives during the UNGASS review process. The working group on this action plan should use the Executive Director's report as a starting point for more in-depth analysis of how to integrate crop reduction efforts into national and regional development programs in order to improve the livelihood of marginal rural populations. Ending forced eradication and putting alternative livelihoods first is a more humane and more effective strategy for curbing the production of coca and poppy crops for the manufacture of illegal substances.

Finally, significant debate took place at the 2008 CND on the INCB's 2007 Annual Report and the coca leaf. The report calls for adherence to the 1961 Convention's call for an end to coca leaf chewing within 25 years and goes even further by incorrectly stating that the practice can lead to "drug dependence." The Bolivian delegation in particular expressed outrage at the INCB's lack of respect for traditional indigenous practices and its denial of advances in later conventions which recognize the right to traditional licit use. Vice Minister Hugo Fernandez therefore announced to the CND that Bolivia would formally request the removal of coca from List 1 of the 1961 Convention. Bolivia also requested that the issue of the coca leaf and the rights of indigenous peoples be taken up in the UNGASS review process. These are sure to remain controversial topics as the process unfolds.

IDPC Position Paper 3 [<http://www.idpc.info/php-bin/documents.pl?ID=1000064>] goes into these issues in more detail, and we will continue to bring forward proposals in 2008 that can be incorporated into future strategies for international action in areas where crops used in the production of illegal drugs are cultivated.

HUMAN RIGHTS – It is becoming increasingly clear that there are many aspects of the implementation of the global drug control system that potentially contradict the human rights and judicial standards that are promoted in other parts of the UN system.

The moral perspective portrays the drug trade not as criminal activity, but rather as a "social evil" or a "global menace". People involved in the drug trade, as growers, dealers or users, are therefore often considered as a homogenous group who constitute a threat to moral and social order, and therefore undeserving of the same rights and protections as 'normal' citizens. With at least 200 million current drug users in the world, this view is clearly unrealistic and indefensible. The utilitarian perspective believes that harsh punishment is effective in deterring the "evil" of drugs and mitigating the negative societal consequences. Following this logic, the harsher the penalty, the greater the deterrent. This 'deterrence principle' has been tested and reviewed in many

countries, and found to be flawed – the extent of enforcement of drug laws, and the harshness of penalties, does not correlate closely with the extent of drug use.

As a result of this moral approach, in high income and low income countries across all regions of the world, people who use illegal drugs are among the most marginalised and stigmatised sectors of society. They are a group uniquely vulnerable to a wide array of human rights violations, including abusive law enforcement practices, mass incarceration, extrajudicial execution, environmental devastation, attacks on indigenous cultures, denial of health services, and, in some countries, execution under legislation that fails to meet international human rights safeguards. For example:

- More than 30 UN member states still retain the death penalty for drug law offences, including possession in some cases. In some of these countries, drug offenders comprise a significant proportion of executions each year.
- Police and military action that is purportedly aimed at tackling drug markets can involve extrajudicial killings, torture and detention without charge or trial.
- Programmes of forced eradication of crops declared illicit are often violent, and take away from poor farmers their family incomes, without providing them with any alternative
- Traditional indigenous cultural practices that involve the consumption of plants declared illicit under international drug convention constitute violations of cultural rights, as well as disrespect for indigenous cultures.
- Law enforcement efforts to identify, arrest and punish drug users can lead to the breach of rights to privacy, of normal standards of criminal justice process, and of proportionality in sentencing.
- Over-rigid controls on the distribution of controlled substances for medical use contribute to inadequate access to essential medicines in many parts of the world, thereby undermining the right to health of tens of millions of citizens.

Despite these major areas of dissonance between drug control policies and practice, and the duty of governments and UN agencies under the UN Charter to protect and promote human rights, little attention has been paid to these issues in either the Commission on Narcotic Drugs, or the UN human rights treaty bodies. IDPC members have been increasingly bringing these issues to the attention of the authorities, and the human rights issue is starting to receive some attention, although not all of it positive:

- Following the publication of an IHRA report on the death penalty, the head of the UNODC, and the UN High Commissioner for Human Rights, have both acknowledged that more work is needed on this issue, and are meeting to discuss ways forward.
- Following the publication of a Beckley Foundation briefing on the subject of drug control and human rights, (Recalibrating the Regime: The Need for a Human Rights-Based Approach to International Drug Policy, The Beckley Foundation Drug Policy Programme, Report 13 <http://www.idpc.info/php-bin/documents.pl?ID=1000131>), a workshop on this subject was held at the CND, which was well attended by government delegates, and stimulated some interesting debates.
- The Uruguayan delegation to the CND tabled a resolution on human rights. The debate on this resolution was fierce, with clear differences between the many governments who spoke strongly in favour of strengthening a rights-based approach to drug control, and the smaller number who resisted this approach (some of whom openly questioned the status of the human rights provisions in the UN Charter, or their relevance to drug control).

The issue of human rights has clearly now been placed on the agenda of the drug control system, and we will work in the coming months to ensure that it does not slip off again. Through constructive engagement with the UN agencies and with national governments, we aim to facilitate closer working between the UNODC and the human rights treaty bodies, greater willingness on the part of the INCB to criticise governments who breach agreed standards, and the inclusion of strong language that supports a rights-based approach to drug control in the political declaration of the 2009 meeting.

HOW CAN NGOS GET INVOLVED?

The opportunities for NGO involvement in UN drug policy processes have in the past been very limited, but there are promising signs for greater engagement this time around. NGOs that are interested in contributing to these debates, and influencing the outcome, have the following options for engagement:

THE 'BEYOND 2008' INITIATIVE – The Vienna NGO Committee has completed its series of consultation seminars for NGOs in each region of the world. These regional consultations have each produced reports that are now being collated into a single NGO paper which will be posted on the VNGOC website (www.vngoc.org) by the end of May 2008. This paper will be reviewed at a global NGO conference to be held in Vienna in July 2008, the conclusions from which will be circulated to member states, and formally presented at the 2009 political meeting. The VNGOC website also contains a downloadable questionnaire that NGOs can complete and return – the information from these questionnaires will also be collated and presented to policymakers.

THE IDPC PROGRAMME – IDPC members are developing an advocacy plan for the UN review. This plan is based on our 5 principles for drug policy [<http://www.idpc.info/php-bin/documents.pl?ID=1000069>], but there are no constraints on NGOs who are not current members of the IDPC becoming involved in this work. If your organisation supports these principles, and wishes to work through the IDPC to promote them through the review process, you can help our work in any of the following ways:

- Helping to develop advocacy ideas and materials. We hold regular meetings and workshops to discuss the review process, and decide on advocacy approaches. The next meeting to discuss the developing IDPC agenda will be held in Vienna in July 2008.
- Expanding channels of communication with policymakers. As decisions on the future shape of drug control will be made by national governments, it is crucial that we maximise the number and quality of our contacts with responsible officials and politicians, who will represent their country at the review. NGOs involved in this process should therefore seek to identify the relevant individuals in their governments, establish contact to publicise the IDPC positions, and assess the level of support or resistance.
- Engaging the interest of NGOs and government agencies in related fields, such as health, development and human rights. As mentioned above, the impact of drug control policies on these policy areas has so far received too little attention, and there is a lack of co-ordination at UN level between the responsible agencies. NGOs involved in this process can help to identify key actors, and seek to get them involved.
- Mobilising political and public opinion. Most previous UN gatherings to discuss drug policy have had very little media or parliamentary scrutiny - despite the importance of the issue, few commentators relate the UN process to domestic drug policy issues. NGOs involved in this process should therefore seek to create interest in this process amongst the media and politicians in their own country, by identifying interested journalists in key media outlets, placing articles and editorials reflecting our advocacy positions, disseminating information to politicians, and stimulating political debate during the preparation of the government position on the review.

INDEPENDENT ADVOCACY – Of course, any individual NGO (or group of NGOs) may have their own ideas on the issues to be covered, or the advocacy approaches to take, that will not be possible to pursue through the two structures described above. You may therefore prefer to develop your own advocacy plans and tactics. A multiplicity of positions and approaches will be a sign of a healthy debate, and the IDPC would be keen to continue to share information with any groups working in a constructive manner to influence the review.

WHAT HAPPENS NEXT?

The IDPC will continue to develop constructive proposals for member states to pursue through the review process, and to provide information and support to its members and other NGOs as they pursue their advocacy activities. Updated versions of our information on the process, and our recommendations for the outcome,

will be produced and disseminated as the review process unfolds, and regular meetings will be organised for NGOs to discuss the emerging agenda, and agree advocacy plans.

International Drug Policy Consortium

June 2008