

IDPC BRIEFING PAPER

WHY IS THE OUTCOME OF THE UNITED NATIONS DRUG POLICY REVIEW SO WEAK AND INCONCLUSIVE?

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

Political representatives from over 130 countries gathered at a United Nations high level meeting in Vienna on 11th/12th March 2009 to conclude a 2-year long review of progress achieved within the global drug control system. The international community, at the 2009 United Nations Commission on Narcotic Drugs (CND), were attempting to assess progress against the objectives, set by the UN General Assembly 10 years earlier, of 'eliminating or significantly reducing' the cultivation of cannabis, coca and opium, and making measurable progress in demand reduction.

All governments involved in this review process received data and analysis that clearly demonstrated that the objectives set in 1998 had not been achieved, and that there were significant policy dilemmas arising from the limited impact of the strategies and actions supported through the previous decade:

- Despite the investment of hundreds of billions of dollars into a wide range of supply reduction strategies and activities, it has proved impossible to achieve significant and sustained reductions in the scale of the illegal market. The UNODC's own figures show that global production of opium has almost doubled during the review period, from 4,346 metric tons in 1998 to 8,800 in 2007 (admittedly a peak year). For cocaine, the increase in global production was from 825 metric tons in 1998 to 994 in 2007.
- The implementation of the drug control regime has led to significant 'collateral damage' (what the UNODC refer to as unintended consequences) – for example the stigmatisation and marginalisation of hundreds of millions of drug users, the creation of a multi-billion dollar black market (much of it controlled by organised crime groups), and the undermining of efforts to prevent the transmission of HIV/AIDS through drug injection.
- Many of the activities that have been shown to be effective in reducing the problems associated with drug markets and drug use – for example harm reduction programmes to prevent HIV, or crime reduction initiatives in local drug markets – do not necessarily contribute to the reduction of the overall scale of the market.

Delegations were also in receipt of letters from the Executive Directors of both UNAIDS and the Global Fund to Fight AIDS, Tuberculosis and Malaria, and also from the UN High Commissioner on Human Rights, and the UN special rapporteurs on torture and the right to health, urging the CND to affirm its support for harm reduction measures, and to rebalance the drug control system towards a public health and human rights approach. It could therefore be expected that governments and the UNODC would take the opportunity to closely examine the reasons why existing strategies and programmes were having a limited impact, and seriously review the options for amending these strategies and programmes, in order to achieve better results in the next decade.

In practice, something very different occurred – while the review process did demonstrate some clear differences of policy and perspective between governments (for example, 26 member states registered a formal objection to the absence of support for harm reduction in the final declaration), the overall tone of the conclusions of the high level meeting was one of complacency, with the United Nations Office on Drugs and Crime (UNODC) asserting 'undeniable success', and the political declaration blandly claiming that 'some progress has been made', and broadly recommitting the

international community to another decade of the same strategies and tactics. The new Political Declaration opted to simply reaffirm the commitments of the 1998 UNGASS – repeating illusionary pledges for a society ‘free of drug abuse’ and setting another 10-year target date to eliminate or reduce significantly the illicit cultivation of opium poppy, coca bush and cannabis plant. If we couldn’t achieve this goal in the last 10 years, we will certainly not achieve it in the next decade using the same strategies.

The IDPC has explained in detail in a recent briefing paper¹ our reasons for being disappointed with the substance of the debates and declarations arising from the drug policy review. This briefing paper examines the procedural and institutional factors that we believe have contributed to such a weak and incoherent outcome.

Of course, one of the main difficulties for governments and international agencies lies in acknowledging the failure or limited impact of policies and strategies that they have previously promoted with such enthusiasm. Almost every government in the world has to some extent over the last 40 years advised its citizens that a tough anti-drug stance, backed up by strong enforcement of laws prohibiting drug production, distribution and use, will eventually lead to victory in the ‘war on drugs’. This is a very attractive political message – drugs cause harm, so we are tough on drugs. Of course, it is more difficult politically to acknowledge that the reality has proved more complex, that you have made little progress, and all indications are that governments indeed do not have the powers and levers to eliminate the illegal market. Faced with this reality, particularly in a highly sensitive and polarised area of policy, most politicians and diplomats will seek to minimise scrutiny and keep their heads down. This, with a few brave exceptions, is what we have witnessed in Vienna in recent months.

Admitting to limited success is also institutionally dangerous. Many major national and international institutions have enjoyed constantly increasing budgets on the back of promises to win the fight against drug production, trafficking and use. The obvious question arising from an acknowledgment of limited success is whether those budgets have given value for money, or whether they should be re-allocated. Many of the senior officials of these institutions are involved in the policy debates at the CND.

Even allowing for these political and institutional realities, why have so many of the decision makers at the CND actively resisted even the mildest efforts to balance and modernise the drug control system? For example, proposals to improve access to harm reduction services that help to prevent HIV/AIDS, or to increase access to pain relief medication in developing countries, are clearly evidence based and beneficial to human health and welfare. Yet there were strenuous efforts by many officials to reject or neutralise these initiatives. Why is this? A major factor is the fact that institutional structures and processes have isolated the CND, and related UN drug control bodies such as the International Narcotics Control Board, from the wider dialogue regarding international policies and strategies on social and economic development, and also on health and human rights. Too many actors in the drug control system therefore see their priority as defending existing, enforcement-led, structures and strategies, rather than finding ways to amend or improve them.

MEMBER STATES

Despite the fact that drug control policy impacts on many aspects of social, health and community development, the government representatives who shape the decisions at the CND are overwhelmingly drawn from law enforcement or foreign affairs departments. While such a focus arises from the original conception of the drug control system as one of prohibition and enforcement, it is unfortunate that these broad ranging debates (almost 50 years on from the first UN global drug convention) continue to be conducted within such narrow parameters. Many national governments have established domestic policy co-ordination structures that bring together health, social affairs, law enforcement, education and other relevant stakeholders to agree a balanced and integrated approach to drug policy. However, the UN mechanisms have not caught up with this trend, leading to a lack of co-ordination between the positions taken at the CND, and those taken in other multilateral settings (such as the World Health Assembly, UN Development Programme, or at the UNAIDS board) This is the exact opposite of the ‘system wide coherence’ that the UN Headquarters is pledged to promote.

This imbalance of representation would be less important if there were effective lines of communication between the government officials permanently based in Vienna (or temporarily there to attend the CND), and their colleagues in the relevant departments in national capitals. In practice, the quality of this co-ordination was highly variable. We have observed the 6 months of negotiations on the political declaration with growing unease, as it has become clear that the

¹ IDPC Advocacy Note – The Political Declaration: A missed opportunity. http://www.idpc.info/php-bin/documents/IDPC_Advocacy_note_PD_Mar09_EN.pdf

majority of governments around the world are playing no part at all, that those who have spoken in the negotiations are not always presenting positions agreed with their national capitals, and that those positions are often at odds with strategies and practice in their country. An important UN declaration, that will affect hundreds of millions of people, is therefore put together with only a small number of member states having fully co-ordinated their contributions.

UNODC AND THE CND SECRETARIAT

As explained above, there is a strong incentive for the UNODC to promote the idea that the drug control system is working effectively, and that by implication the existing structures should continue to be supported, and their budgets increased. Viewed in this light, we have to commend some of the attempts by the agency to lead member states in debates on the complexity of the challenges they face. That said, it is clear that repeated attempts have been made by the Executive Director of the UNODC to present the available data on this review in an unjustifiably optimistic light, to make unsupported claims that these data show that the system is effective, and to resist any references to the clear failure to achieve the objectives set in 1998.

Of course, member states could have rejected the UNODC's analysis of successful 'containment' of the global drug market, but the way in which it has been presented does call into question the objectivity of the agency. This objectivity is crucial, as member states and civil society from around the world look to the UNODC for unbiased management of these political processes.

UNODC's executive director has claimed that he and his staff played no role in the creation or amendment of the political declaration of 2009. Of greatest concern, therefore, has been the role played in this review by the CND secretariat (an executive unit based within the UNODC), and the Chairwoman. From our close observations of the full review process, many of the decisions and actions of the secretariat seem to have been designed to stifle genuine review, or the possibility of reform:

- The decision to base the structure of the entire process on the headings of the action plans agreed in 1998, which automatically locked the CND into repeating a structure that focussed mainly on law enforcement operations (4 of the original action plans addressed different forms of supply reduction, and one addressed demand reduction, with no action plan at all for tackling the health and social consequences of drug use).
- The decision, strongly defended throughout by the Chairwoman, to complete debate on the annex to the declaration, before even circulating a draft of the main body of the text. This meant that all the key principles, and the most controversial issues, had to be debated in the last 7 weeks of the process, and inevitably many important decisions were simply rushed through at the last minute. Indeed, many of the key changes to the text were agreed at a closed meeting in Vienna on March 2nd, attended by representatives from less than 40 countries. Other countries were simply sent a copy of the amended text, and given no further opportunity to comment before arriving to adopt the declaration at the high level meeting.
- After each round of negotiations, the secretariat is responsible for taking all the comments made, and producing an amended draft in accordance with member states wishes. On several occasions, these drafts emerged with forms of language on controversial issues that were not directly reflective of member states' recollection of the debates. For example, on one occasion a text formally submitted by a member state on harm reduction was simply not included in the next draft for debate and, early in the process, a form of words proposed on the issue of better access to essential medicines was significantly weakened in the next draft that emerged.
- The worst case of this interference in drafting, however, occurred in the final days of the review. Throughout the 6 months of the negotiations, the issue of harm reduction had been the most controversial, with repeated attempts to find language that could be accepted by all member states. As this process developed, we became increasingly concerned that the secretariat and Chairs of the CND were not playing an objective and unbiased role, and these fears were confirmed by two incidents:
 1. At many points throughout the negotiations, those countries in favour of strong references to harm reduction were in a clear majority, but the Chairwoman insisted that no text could be agreed unless there was complete consensus, allowing single countries to veto text agreed by everyone else. At the meeting on 2nd March, however, with no advance warning, she called for a straw poll on the inclusion or not of a footnote explaining that the term "related support services" used in the Political Declaration for a number of countries, international agencies and NGOs includes what they refer to as "harm reduction measures". When the 'vote' was 13 to 12 to remove the reference, she announced that this was the final decision on the issue, effectively removing all reference to harm reduction from the declaration. That controversial decision prompted a group of 26 countries to formally declare an 'interpretive statement' about harm reduction when the Political Declaration was adopted ten days later.

2. Following this meeting, the only text in the declaration that focused on HIV prevention was a more general reference to the need for comprehensive programmes to tackle HIV/AIDS, in paragraph 20. The text agreed by member states was ‘universal access to comprehensive prevention programmes, treatment, care and related support services’, the exact words being important as they directly reflected the UNAIDS prevention strategy. Amazingly, when the secretariat produced the final text of the declaration for adoption at the high level meeting, the words ‘comprehensive prevention programmes’ (meaning efforts to prevent the transmission of HIV, as described by UNAIDS) had been changed to ‘comprehensive **drug abuse** prevention programmes’ (meaning efforts to stop people using drugs). The meaning of the sentence had been totally changed by the secretariat, after having been approved by member states. When challenged on this, the secretariat claimed that this was an innocent ‘editorial mistake’. We do not accept this explanation – after months of wrangling over the exact wording of that paragraph, the secretariat must have been acutely aware of the implications of any change to the wording, so explaining this away as an administrative oversight is just not good enough.
- Finally, the secretariat and Chairwoman were responsible for facilitating the appropriate level and nature of civil society involvement in the high level meeting. Despite extensive efforts by NGOs to engage with the process (through the ‘Beyond 2008’ and other initiatives) the secretariat regularly acted as a barrier to such involvement. We give details of examples of these obstructions in a separate briefing paper².

The objectivity of the secretariat is also called into question by the fact that the head of the UNODC directorate within which it is located is a temporary secondment to the UNODC from the US Department of State, whose officials have been very vocal over the years at the CND in support of law enforcement based approaches, and against harm reduction.

It is clear that the international community is now divided on the best way to respond to the continuing existence of a massive illegal global drug market, that continues to affect the lives of hundreds of millions of people. An increasingly clear difference of perspective is emerging between those who support the stronger and more consistent implementation of the drug conventions – focusing on clear social disapproval, and strong law enforcement – and those who support a rebalancing of policy and programmes towards a health and social inclusion approach. These are perfectly valid debates, being conducted between governments, academics and civil society. It is important, therefore, that these debates take place within a spirit of objective enquiry, with evidence and arguments focused on the ultimate objective of maximising the health and welfare of mankind, instead of political and institutional short-term self-interest.

Specifically, it is absolutely crucial that the United Nations structures that have been established to manage these debates are operating efficiently and objectively. For the reasons listed above, we cannot say that this is currently the case. We therefore call on member states to:

- Take greater care to ensure that the positions they take at the CND reflect actual practice in countries, and also discussions with all relevant government departments.
- Take steps to ensure that drug control debates are more closely co-ordinated with social, health and human rights policy making in other UN agencies and commissions.
- Seek reassurances from the Executive Director of the UNODC that his agency, and specifically the CND secretariat, will act with transparency and objectivity in managing future policy debates.

The difference between good drug policy and bad drug policy can be counted in human lives. The actions of the CND are therefore not just diplomatic or theoretical, and need to display a higher level of urgency and coherence than we have witnessed with this review.