

What comes next? Post-UNGASS options for 2019 (Version 5)

Introduction

The 2016 UNGASS on drugs was hailed as an opportunity ‘to conduct a wide-ranging and open debate that considers all options’.¹ Although the UNGASS process had some challenges, it was nonetheless a critical moment for global drug policy reform.² In June 2017, the UN Secretary General welcomed the UNGASS Outcome Document as a ‘forward-looking blueprint for action’ and called on governments to ‘honour the unanimous commitments’ made.³

The next opportunity to build on the important progress made at the UNGASS is the ‘High Level Ministerial Segment’ of 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’.⁴ 2019 is the target date established in the 2009 Political Declaration and Plan of Action⁵ ‘for States to eliminate or reduce significantly and measurably’ illicit drug supply and demand, the diversion and trafficking of precursors and money laundering.⁶ Evidence from the UN itself shows that these targets are unachievable, and in the 2017 World Drug Report, the UNODC states clearly that the ‘drug market is thriving’.⁷

The 2019 moment is fast approaching, and the modalities for the event will likely be finalised with the approval of Resolution L3 ‘Preparations for the sixty-second session of the Commission on Narcotic Drugs, in 2019’, presented by the CND Chair for discussion at the 61st session of the CND.⁸ In this context, it is critical that a clear process be established to:

- Review progress made in light of the 2019 target date set in paragraph 36 of the 2009 Political Declaration, including main trends, achievements and gaps
- Conduct a genuine debate on the state of global drug policy, considering ‘all options’, and involving

all relevant stakeholders

- Delineate a roadmap for 2019 and beyond to effectively operationalise the recommendations included in the UNGASS Outcome Document.

To inform these deliberations, this IDPC advocacy note outlines some of the key issues and possible options for 2019.⁹

An honest review of progress (or lack thereof) made since 2009

‘It is vital that we examine the effectiveness of the war-on-drugs approach and its consequences for human rights. Despite the risks and challenges inherent in tackling this global problem, I hope and believe we are on the right path, and that, together, we can implement a coordinated, balanced and comprehensive approach that leads to sustainable solutions. This would be the best possible way to implement the Special Session’s recommendations and to have a positive impact on the lives of millions of people around the world’.¹⁰

Antonio Guterres, UN Secretary General

In CND Resolution 60/1, member states decided that the Ministerial Segment will be the moment ‘to take stock of the implementation of the commitments made to jointly address and counter the world drug problem, in particular in light of the 2019 target date’. At present, the procedure for a review of progress towards these targets remains unclear. However it is imperative that the evaluation process be transparent, scientific, evidence-based and inclusive to honestly reflect on the progress, or lack thereof, that has been made over the past 10 years. A genuine review process will also allow member states to

Box 1 Establishing new targets and indicators for the next decade

As the 2009 goals and targets will expire in 2019, the Ministerial Segment presents a key opportunity to move away from the targets included in the 2009 Political Declaration and Plan of Action, and to consider instead new indicators to evaluate progress in global drug control for the next decade. The ongoing work to improve the 'quality and effectiveness'¹¹ of the ARQ¹² is complementary to this process – as improving data collection and analysis is crucial to be able to adequately monitor progress and impact. A number of NGOs have been working towards identifying more measurable, realistic and relevant indicators for the past few years, and are actively contributing to this discussion.¹³

The UNODC has also initiated a review process for the ARQ which culminated with an expert consultation held at the end of January 2018.¹⁴ Although we welcome this move, there are a number of issues related to this review process – including the lack of visibility given to the UNGASS Outcome Document in the discussions and the failure to adequately involve civil society in the January meeting.¹⁵ IDPC raised these concerns in a letter addressed to the UNODC ahead of the January meeting. The letter was eventually posted on the UNODC website and sent to those who participated in the January expert consultation.¹⁶

It is critical that the process of identifying new indicators addresses three main concerns. Firstly is the need to move away from process indicators

(i.e. activities such as numbers of arrests, seizures and hectares of crops eradicated) and consider outcome indicators (i.e. impacts on health, human rights, levels of corruption, violence and impunity). Process indicators are inherently flawed for a number of reasons, in particular because they do not measure the effects of interventions on either the scale or diversification of drug markets, or on the people and communities most affected.¹⁷

Secondly, some of the current imprecise, unrealistic and misconceived indicators (e.g. achieving a significant reduction in demand and supply) should be disregarded, in order to focus on others which are realistic, measurable and relevant to assess progress made.

And thirdly, the updated ARQ should incorporate the new aspects of global drug control enshrined in the UNGASS Outcome Document, in particular in the areas of human rights, availability of controlled medicines, improved access to health services and better health outcomes, and the implementation of development programmes in areas affected by supply-side activities to reduce the risk factors of engagement in illicit economies. This will require embedding these new metrics and indicators in the broader framework of the Sustainable Development Goals (SDGs), especially SDG 1 (No poverty), 3 (Good health and well being), 5 (Gender equality), 8 (Decent work and economic growth), 10 (Reduced inequalities) and 16 (Peace, justice and strong institutions).

reflect on the ongoing validity and utility of targets focused on eliminating the illicit drug market and the establishment of a 'society free of drug abuse'.

Evaluating progress made since 2009

The UN drug control system has repeatedly set unrealistic goals to significantly reduce and even eradicate the global drug market. This has left member states with a difficult dilemma – how to emphasize the ongoing priority of an escalating world drug problem, without openly acknowledging the inherent failure and ineffectiveness of existing policies and approaches. This inability to provide an honest critique hampers progress and the exploration of urgently needed new approaches.

2019 therefore constitutes a crucial opportunity for a

long-overdue evaluation to explore progress made (or lack thereof) since the adoption of the 2009 Political Declaration. This should provide an honest and objective assessment of the failures of global drug control and its negative impacts on health, security, human rights, development and poverty; an assessment that failed to materialise at the 2014 mid-term review and the 2016 UNGASS. This review would go hand-in-hand with the UNODC's current efforts to update the Annual Report Questionnaire (ARQ), in order to better reflect the new priority areas within the UNGASS Outcome Document (see Box 1).

The proposal, by the CND Chair, to organise CND intersessionals to conduct a review of the 2009 Political Declaration in light of the seven chapters of the UNGASS Outcome Document, is a positive move towards an open, transparent and participatory

process to discuss progress made over the past 10 years. The CND intersessionals should provide space for all UN member states, civil society and all relevant UN agencies to contribute to the debate – using a model similar to the post-UNGASS intersessionals. A call for written contributions could also be considered for more detailed inputs, using similar mechanisms to the pre-UNGASS calls for contributions,¹⁸ or that routinely used by the Office of the High Commissioner on Human Rights when drafting its reports on key thematic areas.¹⁹ A report reflecting the main conclusions from the CND intersessional discussions and written contributions should be presented and form the basis of the discussions at the 2019 Ministerial Segment.

Deciding on the outcome of the 2019 High Level Ministerial Segment

‘UNGASS was a ground-breaking moment that provided a detailed and forward-looking blueprint for action. Together, we must honour the unanimous commitments made to reduce drug abuse, illicit trafficking and the harm that drugs cause, and to ensure that our approach promotes equality, human rights, sustainable development, and greater peace and security’.²⁰

Antonio Guterres, UN Secretary General

Building upon the UNGASS Outcome Document

The UNGASS Outcome Document represents the most recent global consensus on drugs and a blueprint for action going forward. It should therefore not be sidelined in 2019 for the following reasons:

- Its seven-chapter structure (covering health, access to medicines, supply reduction, human rights, evolving trends and realities, international cooperation, and development) is a significant improvement on the three pillars of the 2009 Political Declaration (demand reduction, supply reduction and international cooperation/money laundering). This new structure should be maintained for future UN drug policy documents and debates as it better links the cross-cutting nature of the drug control objective to protect the health and welfare of humankind, with the key priorities of the UN system – human rights, peace, humansecurity, development – and the SDGs.
- The language from 2016 is an important improvement on both 2009²¹ and 2014²² in the areas of human rights (in particular proportionate sentencing, due process, legal guarantees, ending impunity

as well as ending torture, cruel or inhuman treatment, etc.), gender sensitivity, development (with several references to the SDGs), and health (with the recognition of overdose prevention measures and other harm reduction interventions).²³ All efforts should be made to consolidate these gains in 2019.

- The drug market, and the world more broadly, has changed significantly since 2009 – in particular the emergence of online drug markets and new psychoactive substances. All these aspects are better addressed in the UNGASS Outcome Document than in previous high-level declarations on drugs.

Operationalising the UNGASS Outcome Document

Based on negotiations in Vienna so far, member states appear to agree that there is ‘no need to negotiate a new policy document’, and that the 2019 event should focus on implementation of commitments made to date.²⁴ Given that UNGASS Outcome Document represents the most recent consensus, it would be expedient to focus on the operationalisation of its recommendations as well as taking into account any new indicators agreed through the ongoing data-collection improvement work (see Box 1).

In terms of format for an outcome, we welcome previous proposals²⁵ for a Chair’s summary combined with a procedural resolution – provided that the Chair’s summary consists of a detailed proceedings document of the 2019 High Level Ministerial Segment, that adequately reflects the breadth of discussions and captures any disagreements at the meeting, without forcing global consensus – given the current political tensions between member states on many drug-related issues. Indeed, in both 2009 and 2016, any language considered as ‘controversial’ was quickly filtered out, watered down or ignored as a result of in the consensus-based negotiations in Vienna.²⁶ Alternatively, a report that pictures different perspectives and scenarios for 2020-2030 may also have merits, using a methodology similar to the one successfully used by the Organization of American States in 2013.²⁷ The procedural resolution should focus on clear actions for operationalising the UNGASS Outcome Document, in the form of a ‘roadmap’ for the next decade, establishing review dates (mid-term in 2024 and final review in 2030) to bring this process into line with the Sustainable Development Agenda.²⁸

Box 2 Ensuring a long-overdue discussion on cannabis policy

In 2004, in General Assembly Resolution 59/160, member states requested that the UNODC prepare a global survey of cannabis,²⁹ which resulted in a special chapter in the 2006 World Drug Report, entitled ‘Cannabis: Why we should care’.³⁰ In the report, the UNODC stated that ‘[t]he global community is confused about cannabis’, and that ‘[c]oming to terms with cannabis is important because it is, by quite a wide margin, the world’s most popular illicit drug’.³¹ It further recognised that ‘much of the early material on cannabis is now considered inaccurate, and that a series of studies in a range of countries have exonerated cannabis of many of the charges levelled against it’.³² It went on to note that ‘[m]edical use of the active ingredients, if not the plant itself, is championed by respected professionals’.

The report acknowledged that supply reduction is impossible given the potential to grow the plant anywhere and that all past attempts to control availability had failed. In its final conclusion, the report already raised the key issue concerning cannabis

today, 10 years ahead of the 2016 UNGASS:

‘The world has failed to come to terms with cannabis as a drug. In some countries, cannabis use and trafficking are taken very seriously, while in others, they are virtually ignored. This incongruity undermines the credibility of the international system, and the time for resolving global ambivalence on the issue is long overdue. Either the gap between the letter and spirit of the Single Convention, so manifest with cannabis, needs to be bridged, or parties to the Convention need to discuss redefining the status of cannabis’.³³

However, the issue of cannabis was not discussed at the 2016 UNGASS, despite the fact that some jurisdictions had already legally regulated the substance and others announced they would be doing so. The 2019 Ministerial Segment is a critical juncture to take up UNODC’s 2006 recommendation and ‘discuss redefining the status of cannabis’.

An open and inclusive process

‘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’.³⁴

Antonio Guterres, UN Secretary General

A wide-ranging and open debate that considers all options

The 2019 process needs to be open and transparent to allow for genuine debate – and focus on practical recommendations reflecting the divergence of views and the ongoing exploration of new approaches to address drug-related problems more effectively and coherently in the coming decade.

The discussions – and the Chair’s summary – should acknowledge and respect differing perspectives on drug policy, and should consider all options, including those that may be outside of the scope of the interna-

tional drug control conventions. For example, the undeniable policy trend towards cannabis regulation in a number of countries was the elephant in the room throughout the UNGASS process (see Box 2) and a more open debate is required on how to deal with the tensions that such reforms create with the treaty regime, also taking into account the cannabis review process initiated by the WHO Expert Committee on Drug Dependence.³⁵

To ensure inclusive discussions, the process should also ensure that all relevant UN entities, civil society, academia and affected populations, as well as all UN member states, are able to participate.

Civil society participation

The strong presence of civil society³⁶ in the debates prior to, during and post-UNGASS should be protected and consolidated for the 2019 process. Below are some suggestions to ensure meaningful civil society engagement in the 2019 process:

- Recognition, support and funding for the Civil Society Task Force in the leadup to 2019
- An online civil society consultation to provide inputs into the three broad mandates set forth above – facilitated by the Civil Society Task Force
- Open calls for, and transparent selection of, civil

society speakers for upcoming CND intersessionals and other official meetings held in preparation for the Ministerial Segment

- The organisation of a 2-day consultation in Vienna six months before the 2019 Ministerial Segment (September-October 2018) during which priorities and best practices will be identified – followed by a 1-day dialogue between civil society and member states
- The organisation of a half-day civil society hearing in New York two months before the 2019 Ministerial Segment to keep the General Assembly informed of the process, and foster exchange of information and expertise between civil society, UN agencies and member states
- The organisation of a civil society hearing the day before the 2019 Ministerial Segment
- The inclusion of civil society speakers in the panels of roundtables and plenary sessions of the 2019 Ministerial Segment, as well as the option for a number of civil society speakers to make interventions from the floor
- The preparation of a civil society contribution to be presented, and recognised, as an official document of the 2019 Ministerial Segment.

UN agency participation & UN system-wide coherence

‘We are here to affirm the existential commitment of the whole UN system to ensure that the central focus of all our policies is the advancement of human dignity, equality and rights.’³⁷

Antonio Guterres, UN Secretary General

The gains that were made both during and since the UNGASS in terms of engaging other UN agencies³⁸ need to be structurally built in for the 2019 process and beyond. The fact that the CND has been given a leading role on drug policy matters does not mean it holds a monopoly. Both the UN General Assembly³⁹ and the CND⁴⁰ call upon other UN agencies to engage in relevant drug policy issues, to ‘identify operational recommendations that fall within their areas of specialization’ and to implement them in coordination with the UNODC, the INCB and the WHO.

Crucially, at a meeting of the Executive Committee in April 2017, the UN Secretary General:

‘tasked UNODC with working with OHCHR, UNAIDS, the United Nations Children’s Fund (UNICEF), the United Nations Development Programme (UNDP), the United Nations Entity

for Gender Equality and the Empowerment of Women (UN-Women), WHO, the Department for Peacekeeping Operations, the Department of Economic and Social Affairs, the Department of Political Affairs and the Executive Office of the Secretary-General on developing a set of actions with a view to assisting Member States with the implementation of the operational recommendations contained in the outcome document of the thirtieth special session, in close coordination with the Commission, thereby promoting efforts to achieve the Sustainable Development Goals as well as strategies to strengthen human rights-based and health-based approaches, and elaborating a comprehensive organization-wide strategy across the three founding pillars of the United Nations system — development, human rights, and peace and security — in support of the preparations for the sixty-second session of the Commission, to be held in 2019’.⁴¹

At present the progress towards the ‘comprehensive organization-wide strategy’ remains unclear although the preparations for 2019 are well underway. The memorandum of understanding signed between the WHO and UNODC in 2017 is a welcome development that strengthens collaboration between the two agencies and gives greater prominence to public health in UN drug control. However, more needs to be done by the UNODC to better involve other UN agencies such as the OHCHR, UNDP and UN Women in the 2019 process.

In parallel, some coordination efforts have already begun in New York and Geneva, with the support and encouragement of member states.⁴² In addition, as the mandates of other branches of the UN system very much intersect with drug policy, close coordination is a pre-requisite for a balanced and comprehensive approach, especially in the broader framework of the SDGs. In this regard, there has been increased attention given to drug policy within other UN settings such as the World Health Assembly⁴³ and the Human Rights Council.⁴⁴

For 2019, progress on UN coordination requires establishing:

- Clear criteria and transparency about UN system-wide coherence and inter-agency collaboration
- Opportunities for representatives of all relevant UN agencies to engage in the review process and the 2019 event (including as keynote speakers in panel discussions and roundtables)
- The appointment of a Special Advisor, or a similar mechanism, by the UN Secretary General to facilitate the involvement of the whole UN system in the 2019 process.

Member states' participation

The 2017 drugs 'omnibus' resolution recently adopted by the Third Committee⁴⁵ encourages all member states to actively participate in the discussions leading up to the 2019 Ministerial Segment in order to 'foster an in-depth exchange of information and expertise on efforts, achievements, challenges and best practices to address and counter the world drug problem'.⁴⁶ Mechanisms should be in place to facilitate the active participation of all UN member states on an equal basis, particularly among smaller countries and those which do not have a permanent representation in Vienna. In addition to regular UNODC briefings which serve to inform member states on developments in the process, other mechanisms should include funding to attend Vienna meetings, web-streaming, as well as formal consultations, hearings and roundtable discussions held in Vienna, New York and Geneva with member states, the CND Chair, as well as all relevant UN agencies and civil society.

Endnotes

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About this advocacy note

This advocacy note outlines some of the key issues and possible options for the 2019 High Level Ministerial Segment, including in terms of format, evaluation of the 2009 goals, outcome and stakeholder participation.

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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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Report design by Mathew Birch - mathew@mathewbirch.com

Funded, in part, by:



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