



THE 2017 COMMISSION ON NARCOTIC DRUGS REPORT OF PROCEEDINGS

JULY 2017



Executive summary

The 60th Session of the Commission on Narcotic Drugs (CND) was the first full session since the 2016 UN General Assembly Special Session (UNGASS) on the World Drug Problem. Much of the attention was unsurprisingly turned toward operationalising the commitments included in the UNGASS Outcome Document – with tensions between countries supporting or opposing the progressive aspects of the Document, especially on issues related to public health, human rights and proportionality of sentencing. The approach of the 2019 High Level Review also loomed over the proceedings at this CND session.

Amongst the key opening statements were those by Yury Fedotov, Executive Director of the United Nations Office on Drugs and Crime (UNODC), and Dr. Margaret Chan, Director-General of the World Health Organisation (WHO). Both utilised the opportunity to make normative addresses. Each referred to the Memorandum of Understanding (MoU) recently signed at Geneva, ‘which will further strengthen our long-standing partnership to promote health and science-based and rights-based approaches to drug challenges’. Dr. Chan reminded the assembly that ‘the ultimate objective of drug control policies is to save lives’. Also of note was the video address made by the new Secretary General, António Guterres, in which he highlighted the importance of human rights and development in drug control.

The Plenary discussions reflected the tensions over the source of language to be deployed, whether the 2016 UNGASS Outcome Document or previous high-level documents, in particular the 2009 Political Declaration and Plan of Action and the 2014 Joint Ministerial Statement. This was the case for most debates related to health, human rights, the 2030 Sustainable Development Agenda (SDA), and the need for new metrics and indicators to evaluate the successes and failures of drug control. Much the same happened around discussions on the future direction of international drug control.

As an example of this underlying tension, a number of states spoke out against extra-judicial killings, though the rules of diplomacy mitigated against any explicit mention of the Philippines. By contrast, other states referred to the sanctity of national sovereignty and the non-interference in countries’ domestic affairs.

Equivalent struggles over the selection of language also punctuated discussions in the Committee of the Whole (CoW). The alleged ‘consensus’ that has been a feature of recent sessions of the CND, and of the 2016 UNGASS, continued at the 60th Session of the Commission. Highlights included **Resolution 60/1, Preparations for the sixty-second session of the Commission on Narcotic Drugs in 2019**, which exclusively involved the use of informals, entirely bypassing discussions in the the CoW. The resolution paves the way towards the 2019 process, deciding on a high-level ministerial meeting to be held at the margins of the 2019 CND in Vienna. **Resolution 60/6: Intensifying coordination and cooperation among United Nations entities and relevant domestic sectors, including the health, education and criminal justice sectors, to address and counter the world drug problem** was another core resolution that focused on improving system-wide coherence, although it eventually only reinforced the role of Vienna-based drug control agencies.

Another highlight from the CoW in 2017 was the negotiation of Resolution **60/8: Promoting measures to prevent HIV and other blood-borne diseases associated with the use of drugs, and increasing financing for the global HIV/AIDS response and for drug use prevention and other drug demand reduction measures**. This resolution was the site of dispute between progressive countries and a conservative bloc led by the Russian Federation. However, the text of the resolution passed through the process with a large measure of success, and is the first ever CND resolution to call on governments to address the funding crisis for critical harm reduction interventions.

The session entitled ‘Changes in the scope of control’, in which the CND membership votes on scheduling issues, introduced 13 substances to controls under the international drug control conventions. Two of these were precursors, recommended by the International Narcotics Control Board (INCB).

The exponential increase in side events continued in 2017, reaching 91 events organised over five days by member states, NGOs and UN agencies. These focused on a wide range of topics including drug law enforcement, harm reduction, development issues, the dark net, prison overcrowding, gender, legal regulation and access to controlled medicines, to name a few.

Finally, civil society engagement remained strong at all levels at the 60th CND, with 197 representatives from 66 NGOs attending the Commission. Civil society undertook the now-familiar ‘informal dialogues’ with the UNODC, the President of the INCB, and this year also with the Chair of the CND and the Post-UNGASS Facilitator. NGOs also made several strong statements during the Plenary, and engaged in a number of well-attended side events.

Introduction

Framed within the celebratory context of its 60th anniversary, the 2017 session of the CND once again revealed the multifaceted, increasingly contested and often contradictory dynamics of the international drug control system. Meeting in Vienna for the first full CND session since the UNGASS in April 2016,¹ delegates from member states, civil society, regional bodies and UN agencies understandably focused much attention on operationalising the high-order commitments laid out in the Outcome Document from the Special Session. While problematic in some ways,² this most recent piece of UN soft law on drug control is widely seen to represent progress at the multilateral level, containing progressive language on, among other things, public health, human rights and proportionality as well as direct links to the UN system-wide 2030 SDA.

Yet, away from the grandeur and novel surroundings of the UNGASS in New York, it was not long before the tensions that had accompanied the painful negotiations around the draft Outcome Document in Vienna in the lead up to the UNGASS re-emerged in Vienna. Indeed, a

return to the technicalities of the consultations in the conference halls (and, increasingly, the closed meeting rooms and corridors) at the CND in March were a timely reminder of the arduousness of the negotiation process. As the UNODC’s promotional material surrounding the Commission’s diamond anniversary demonstrates, multilateral regimes change and evolve over time. As examples from this and other multilateral endeavours reveal, smooth transition is not always the case. That said, while not always plain to see within outward facing formal declarations, the challenges currently facing the existing regime are arguably unprecedented. For example, amidst high-level rhetorical agreement on the centrality of public health and human rights to drug control there remains uncertainty concerning what this means – or how it is interpreted – in terms of national policy. Furthermore, diverging positions on key issues such as the death penalty for drug-related offences highlight a continuing gulf in thinking between some member states. For a range of reasons, the issue of regulated markets was also side-stepped by the UNGASS process. Generally regarded to be in contravention of the drug control conventions, the issue stands as an extraordinary test of the regime’s ability to absorb different perspectives of its members and retain the unconvincing illusion of consensus.

Within the setting of such a policy environment, the CND’s meeting between 13th and 17th March consequently represented an opportunity to examine the state of the international drug control system at a point of unusual poignancy. Delegations arrived at the Vienna International Centre prepared to welcome advances in the public health approach, particularly at the UN agency level, and aware of the need to work to improve linkages between the UN’s Sustainable Development Goals (SDGs) and drug control. With, as noted, one eye on the realisation of commitments made at the 2016 UNGASS and the other on the fast-approaching high-level review in 2019, they also came together in the knowledge that among the wide range of issues to be discussed, some, on the surface at least, would lead to dissensus and conflict. Nevertheless, while these forces were certainly evident, the nature of negotiations and discussions revealed the complexity of this area of inter-state activity and the centrality of specific national circumstances – both in terms of drug markets and politics/geopolitics – in determining policy positions and negotiating tactics.

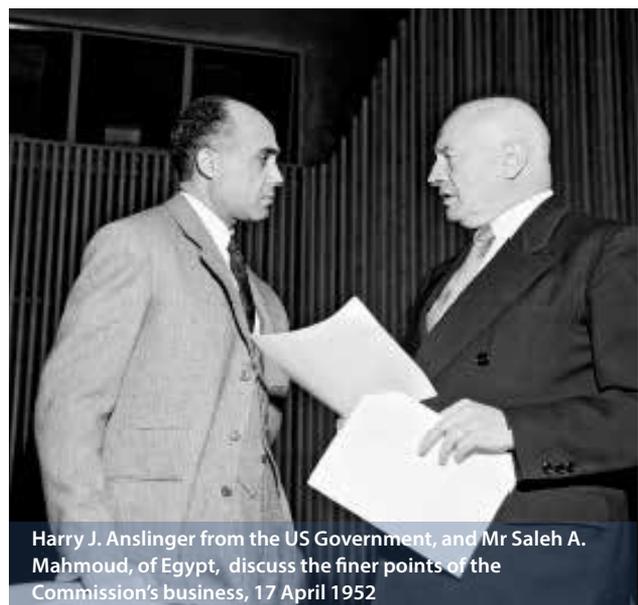
This report aims to provide an overview of the central issues debated and discussed during this important drug control forum. With the intention of incorporating many of the human dimensions lost in more formal records of the meeting,³ this report includes coverage of the now regular NGO dialogues with representatives from the core UN drug control bodies and the ever-increasing number of side events (see Box 4). Further, in attempting to go beyond a basic descriptive account, it offers some analysis of key topics of debate, as well as emphasizing emerging issues of interest and reoccurring themes. Where appropriate, comparisons are also drawn with previous CND sessions as a means of assessing progress and continuity (or otherwise) within particular issue areas. As in previous years, a supplementary – and searchable – account of the entire session can be found on the CND Blog.⁴ This now well-established civil society initiative aims to enhance transparency within the international policy making process and provide real-time monitoring and reporting of proceedings. Official UN documentation relating to the session, including the official report of the proceedings, can be found [here](#).

The opening of the 60th Session of the Commission: The CND goes diamond and WHO joins UNODC on the platform

Mindful of the longstanding, and from the perspective of the UN drug control apparatus, very deliberate link between drug control and young people, as in previous years the ceremonial opening of the 60th session of the CND began with a statement from representatives of the UNODC Youth Initiative.⁵ This was followed by a range of other speakers, including from the UNODC-WHO Informal International Scientific Network, the Vienna NGO Committee on Drugs (VNGOC) and the UNODC Goodwill Ambassador, Her Royal Highness Princess Bajrakitiyabha Mahidol of Thailand. Key among all the opening statements, however, were those from the then Director-General of WHO Dr. Margaret Chan and Mr. Yury Fedotov, who addressed the CND in his capacity as Executive Director of the UNODC⁶ (this may be his last address as his tenure will likely come to a close this year, having commenced in July 2010⁷). Mr. Fedotov took office at a key juncture, when the shifts in the narrative

of international drug control remained fragile, and there was considerable anxiety that, given his close ties to the Russian Federation (as a Russian national with a lifelong career in diplomacy), he might attempt to turn back the direction of change in the drug control regime. This was, however, not to be; as the Executive Director of the UNODC, he has continued to move the office toward greater emphasis, rhetorically at least, on human rights and public health, and will arguably leave the UNODC in a better state than he found it.

His opening speech at the Commission continued along the same trajectory,⁸ as he began his statement by fully supporting a brief video message sent for the opening ceremony by the recently appointed UN Secretary General (UNSG). António Guterres congratulated the CND on its 60th anniversary noting that there 'is much to celebrate'. The theme of celebration was one made explicit within an accompanying – and suitably stirring – video presentation charting the history of the Commission and showing photographs of some of the key figures and moments since 1947 (see below).⁹ In this vein, among other things, Mr. Guterres spoke of the 2016 Special Session as reinforcing a 'forward-looking and more comprehensive approach to the world drug problem', highlighted the importance of human rights and development, and noted the centrality of the SDA to drug policy. The UNSG's former position as Prime Minister of Portugal during a period of significant drug policy reform including the decriminalisation of drug use (which he referred to as a 'comprehensive response' by the country's authorities) added credence to Mr. Guterres' message



Harry J. Anslinger from the US Government, and Mr Saleh A. Mahmoud, of Egypt, discuss the finer points of the Commission's business, 17 April 1952



The CND adopts the 2009 Political Declaration and Plan of Action on drugs. From right to left, Prof. Hamid Ghodse (INCB president), Andreas Finguerut (INCB Secretary), Dr. Libertina Amathila (Chairperson of high-level segment, Deputy Prime Minister of Namibia), Antonia Maria Costa UNODC Executive Director), Her majesty Queen Silvia of Sweden and Bolivian President Evo Morales

that he is ‘personally committed to progress’ at the international level.¹⁰

In his remarks, the UNODC Executive Director also pointed to the large gathering of stakeholders present in Vienna, extending a particular welcome to the other members of what he termed ‘the UN family’, and singling out Dr. Margaret Chan, Director-General of WHO, who has now also stepped down from her leadership role this year.¹¹ Mr. Fedotov noted that a MoU had recently been signed in Geneva between the UNODC and WHO, ‘which will further strengthen our long-standing partnership to promote health and science-based and rights-based approaches to drug challenges.’¹²

The MoU is focused on the 2030 SDA and its objectives, particularly SDG 3, to ‘Ensure healthy lives and promote wellbeing for all at all ages’, and includes the subheadings coming under this goal. Noting the overlap in their mandates, the two agencies ‘have agreed to strengthen their collaboration’ in relation to their work on drugs.¹³ Dr. Chan, in her own opening speech, reciprocated these sentiments and, referring to the Executive Director as ‘brother Yuri’, remarked that they had signed ‘a memorandum of understanding that opens up a new and stronger level of structured and productive collaboration between our two agencies’. ‘Both agencies’, she continued, ‘would like to see more drug users channelled through the public health system instead of through the courts and the criminal justice system.’¹⁴

Indeed, it is instructive to compare further the opening speeches of the respective heads of the UNODC and WHO, with their overlapping but specific mandates. Dr. Chan acknowledged her respect for the CND as the UN central policy-making body on drugs working to implement the conventions. However, she quoted a ‘youth leader’ who had spoken in an earlier presentation within the ceremonial opening to point out that ‘Health is at the centre of the response.’¹⁵ Dr. Chan expressed her approval of the 2016 Outcome Document, and stated that:

‘In the context of comprehensive and balanced efforts to reduce the demand for drugs, the Outcome Document gives attention to prevention of drug use and recovery-oriented treatment as well as to measures aimed at minimizing the adverse public health and social consequences of drug use, including programmes that rely on medication-assisted therapies and the exchange of injection equipment. In other words, in the WHO terminology: harm reduction.’

While the term harm reduction is used by the UNODC in its publications, the Office remains wary of invoking it at the CND, where pockets of hostility continue to exist amongst some member states. Dr. Chan’s use of the phrase is, therefore, of some significance. She went on to remind her audience that, ‘We must never forget that the ultimate



Opening panel of the 60th CND. From left to right: INCB President Werner Sipp, WHO Director-General Margaret Chan, UNODC Executive Director Yury Fedotov, CND Chair Ambassador Bente Angell-Hansen, CND Secretary, UNODC Goodwill Ambassador, Her royal highness Princess Bajrakitiyabha Mahidol of Thailand and Post-UNGASS Facilitator Ambassador Pedro Moitinho de Almeida.

objective of drug control policies is to save lives.¹⁶ This is a celebration of pragmatism over ideology, and she continued it by adding that: 'As countries and international agencies continue to grapple with the world drug problem in its many dimensions, WHO urges that policies be based on the medical and scientific evidence, and not on emotions or ideology'.¹⁷

Mr. Fedotov, meanwhile, stressed that alongside its work in the field of interdiction, the Office supports alternatives to punishment and conviction for minor offences – a term that has still not been adequately defined neither here nor in the international drug conventions themselves – and proportionate responses. In Dr. Chan's terms, 'Nearly everyone in this room will know parents, or will have read about parents, who have a child with a drug problem. These parents want their child in treatment, not in jail'.¹⁸

It is significant that, within their respective statements, both the leaders of the UNODC and the WHO point to the 2016 UNGASS Outcome Document as the source of this emphasis on proportionality, prefiguring an important element of subsequent discussions in both the Plenary and the CoW. As we shall see, the choice of UN text to deploy as a source of language and principles formed a key aspect of debate, with some countries drawing on the Outcome Document, while others preferred older UN textual sources.

Plenary discussions

Over the course of the week, delegates within the Plenary discussed a wide-range of topics relating to both operational and normative issues. Inevitably, several reoccurring and inter-related themes could be identified.

The prominence of the 2030 Sustainable Development Agenda

As was to be expected in the first CND meeting following the 2016 Special Session in New York, the UNGASS process and resultant Outcome Document received significant attention, both under the specific agenda item concerning follow-up to the UNGASS and throughout the week more generally. Much discussion concerned the implementation of the operational recommendations within the Document. Within this context, it was interesting to note the emphasis placed by many states and agencies on the importance of the SDA and its associated SDGs; an issue area that is now a standing item on the CND agenda. Indeed, from the beginning of the week and the video message from the UNSG, the SDA remained prominent. With Mr. Guterres kicking off proceedings by framing the UNGASS as 'rich and forward looking' and making explicit reference to 2030, numerous states from a range of policy perspectives followed by flagging up the importance of linking drug policy to the human development agenda. Delegate statements

from Switzerland, Israel, Turkey, Norway, Uruguay, the Netherlands and Thailand, among others, all highlighted the SDGs, with Mexico calling the CND to align itself more closely with the SDA. In emphasizing UN member states' SDA commitment to 'leave no-one behind', the United Nations Development Programme (UNDP) made a particularly powerful statement identifying the linkages between drug policy and the attainment of many of the SDGs. It went on to highlight the pressing need to develop international guidelines on human rights and drug control.¹⁹

Searching for 'agreement' on agreed language

As the UNDP statement implied, while there was clearly considerable agreement around the high-level goals of the Outcome Document, in terms of implementation not all states were on the same page. Country statements and interventions revealed a number of already emerging tensions among those present. Many states agreed that the UNGASS marked a significant milestone within the international community's endeavours to deal with the 'world drug problem'. In this regard, the Uruguayan delegate noted that there was 'a before and an after', with the Tanzanian delegate going so far as to say that the UNGASS had been a milestone 'in this war' – revealing the ever-present divergence in interpretation within international drug control policy. However, beyond stark disagreement over the omission within the Outcome Document of a call to prohibit the use of the death penalty for drug-related offences, a subtler focus of dissensus could be seen regarding the place of the latest soft law instrument relative to those from 2009 and 2014; that is to say, the most recent Political Declaration and Action Plan²⁰ and the Joint Ministerial Statement from the CND's High-Level Review of the implementation of the Political Declaration five years later.²¹ For some countries, the Outcome Document was to be considered *the* new core piece of soft law guiding the international community. As the delegate from Mexico noted, this should be the case since it was the most 'advanced document' to come out of the international system; a position supported by various other states, notably Germany and Norway. Indeed, while the German delegate pointed out that the Outcome Document was 'better informed by scientific evidence' than those that preceded it, his Norwegian colleague went further by stressing that it should be the 'new

point of departure' for international deliberations. For Norway, the international community should avoid 'prioritising' older documents which, invoking the rhetoric of former President Clinton, he argued encouraged states to 'do the same old thing'. The Outcome Document was a milestone in terms of its position on human rights, he continued, and while there remained concerns regarding issues like access to controlled medicines, it represented real progress.

In what appeared to be a state of growing, and somewhat alarmed, realisation of what had been agreed amidst the excitement of the General Assembly Special Session, other nations were, however, keen to highlight the parity of the Outcome Document with its predecessors. In so doing they were arguably attempting to dilute any progress that had been made relative to the practical implementation of commitments in a number of areas, principally human rights; an issue that has garnered increasingly widespread high-level rhetorical support, but as suggested by the UNDP statement one that still lacks agreement concerning its application on the ground. Presenting a diametrically opposed position to that of Norway, the Chinese delegation, for example, argued that the documents from 2009, 2014 and 2016 were 'complementary and mutually reinforcing'. This position was supported by South Africa and Iraq, among others, both of which believed that the drug control conventions and the soft law instruments from 2009 should be regarded as a 'reinforcing roadmap'. Demonstrating how each nation will always take from such consensus documents whatever they deem to be core, the Russian delegate spoke favourably about the Outcome Document, but, with no reference to human rights principles and norms embodied within it, chose to highlight the importance of the elimination of drug production and use and the practical measures required to achieve that goal.

In much the same way that states could be seen to hold divergent opinions on the status of the Outcome Document as a guiding instrument, the position of states also differed relative to the potential influence of UN bodies. With the Outcome Document doing much to encourage the integration of drug policy activities across the UN system, including through the prominence given to the SDA, has come a move to engage agencies that until recently have only had limited involvement

with the issue of drugs, prominent among them UNDP. On this point, the Ambassador to Vienna from the Netherlands called for the CND and the UN drug control apparatus to engage with other UN bodies and look for 'synergies and expertise'. While this was the case, in statements that appeared designed to ensure that Vienna retained control of drug policy within the UN system, countries like the Russian Federation, China and the USA were clear in stating that the Commission must remain the central policy-making body. Although, within the current architecture, it is unlikely that the CND's authority would be dramatically diminished, it was telling to hear some states defend its role so ardently.

Differing perceptions of public health and human rights

As alluded to above, the inter-connected issues of health and human rights were also reoccurring themes that broke the surface of the debates periodically over the course of the week. On the former, several states, including for example the Netherlands and Switzerland, explicitly praised the MoU between UNODC and WHO. Here again, however, it was possible to see the fallacy of consensus within the Commission. It is true that, in relation to the Special Session and other aspects of the programme, many states made progressive interventions regarding the need to improve access to controlled medicines, including for palliative care. Notable among them was Malta on behalf of the European Union (EU), most EU member states, Nigeria, India and Switzerland. This is clearly a welcome continuation of an emerging trend over the past few years. Moreover, in more general terms, most states and regional groups (in particular the Latin American and Caribbean Group – GRULAC) explicitly highlighted the importance of human rights principles in the formulation and application of drug policy. Prominent high-level statements like that from the Ambassador to Vienna from Brazil also did much to highlight the issue. A substantial number of states, and on occasions regional groups, also used statements and interventions to call for proportionality and the abolition of the death penalty for drug-related offences. These included the EU, France, Poland, Canada and Portugal. In fleshing out opposition, Norway highlighted that scientific evidence has shown that the death penalty has no deterrent effect, with the UK stating that it would hold international agencies involved in programmes in

states where the death penalty is used to account and Italy arguing that the CND needs to give it more attention. On a related point, and while following diplomatic niceties by avoiding any direct reference to the Philippines, several states spoke out against extrajudicial killings, with the German delegate appealing to the room, 'let us not stand by'.

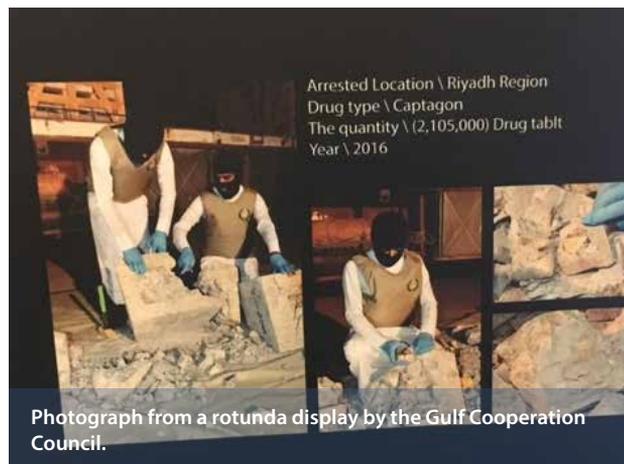
Yet, as has become a familiar dynamic in Vienna, other states emphasized the sanctity of national sovereignty and non-interference in domestic affairs – a perpetual high-level issue of tension within the entire UN system from its inception – to defend their use of capital punishment. In this regard, Middle Eastern states were notable with, for example, Kuwait supporting the use of the death penalty for 'grave crimes as a deterrent for those who challenge society' and Qatar echoing the pro-execution position of the Gulf Cooperation Council. On a related point, it was interesting to hear the delegate from Cuba defend national sovereignty, while claiming that the zero-tolerance policy on the island meant that the country does not suffer from the 'scourge' of drugs as much as other nations.

With the death penalty quite rightly continuing to attract criticism from many states within the Plenary sessions, it was interesting to observe how another issue that was once a re-occurring point of contention appears to have in many ways lost its conflictual qualities. To be sure, while even the mere mention of the harm reduction approach used to evoke hostile responses from several member states, this year it was again a largely non-controversial topic; an appropriate situation bearing in mind the supposed centrality of public health and human rights to all states within the CND, especially post-UNGASS. It is true that a statement from China was again hostile, with the delegate noting in no uncertain terms: 'We oppose the indulgence in the abuse of drugs in the name of harm reduction'. The Japanese delegate was also cautious, although noting that 'the harm reduction approach is applicable under certain conditions', this caution was couched in terms of national sovereignty rather than outright opposition. He went on to point out that '...we are strongly against the uniform production of harm reduction, such as decriminalisation, needle exchange programmes, among others, without consideration of the situation of each country. The government of each country should take into account social and cultural aspects in each country. It is inappropriate to

impose harm reduction policy in countries where it is not fit'. However, neither the term or the approach generated the heat they had in previous years. Although mentioned at various other points in the proceedings, including for example by within the statement from UNAIDS²² and Tanzania in relation to needle and syringe programmes (NSPs) as part of a set of cross-cutting interventions, it was the statement from the Canadian delegate that was probably most noteworthy.²³ Reflecting the fluid nature of drug policy within member states, the plenary was informed that as part of its new public health-oriented and evidence-based drug control strategy the Trudeau administration was – in the post-Harper era – restoring harm reduction as a key ‘pillar’ to complement prevention, treatment and law enforcement. Over the course of the week the Federal government announced that it would extend a legal exemption to allow for the continued operation of the INSITE facility in Vancouver as well as give licences to permit the establishment of drug consumption rooms at other sites; a point on which the INCB made noteworthy comment (see below). Demonstrating the transnational character of the drug issue and the ability of various ‘epidemics’ to transcend national boundaries, the Canadian delegate also echoed a statement from the USA highlighting the opioid crisis within North America, particularly in relation to overdoses from the recreational use of fentanyl. In this regard, Canada added its voice to US calls to schedule precursors (ANPP and NPP) involved in the substance’s manufacture (see below).

More discussions on drug policy metrics and indicators

As regular observers of the CND will know, in the past few years the issue of drug policy metrics and indicators has become more prominent.²⁴ This year was no exception. No doubt a combination of the Outcome Document, the (in many ways resultant) increasing prominence of the SDA within deliberations and the scheduled high-level review in 2019 of the targets set in 2009 contributed to this state of affairs. Many states continued to follow the age-old practice of including within statements long lists of figures concerning drug seizures and in some cases, such as India, crop eradication. Although countries including Tanzania, Algeria and Sudan were part of this group, it was those from the Middle East that were particularly noteworthy. Indeed, numerous photographs of drug seizures



Credit: Dave Bewley-Taylor

displayed in the Vienna International Centre Rotunda as the centrepiece of an exhibition on drug control in Saudi Arabia and the Gulf countries (under the auspices of the observer mission of the Gulf Cooperation Council) left little to the imagination regarding what are considered metrics of success in this part of the world (see photo).

That said, a significant number of other states noted the inadequacies of traditional metrics. For example, the Ambassador to Vienna from Panama highlighted the need for a better framework of indicators beyond those relating to seizures, the UK delegate flagged up the importance of improving impact indicators concerning actions targeting organised crime and the Netherlands stressed the necessity of new indicators and the need to improve statistics and maintain continuous monitoring of drug markets. A statement from the Norwegian delegate summed up the situation well and highlighted the pressing need to re-visit the data collection mechanisms operated by the UNODC:

‘The process up to and the finalizing of the UNGASS revealed a need to collect better and more reliable data, and towards viewing international drug policy in a more holistic manner. The metrics designed to measure the effectiveness of interventions would profit from more dynamic and sophisticated approaches towards metrics that measure outcomes related to individuals and communities in terms of human rights and development. It now seems timely to review the ARQ [Annual Report Questionnaire] such that the UN drug control apparatus is able to capture data relevant to the commitments made in New York, including those relating to the SDGs...The imperative for

such a review is also heightened by the approach of 2019 and the expiration of the targets set by the 2009 Political declaration’.

Such reference to a review of the ARQs echoed that made by the Swiss delegation at the CND intersessional in September 2016²⁵ and, with a discussion of the topic also evident elsewhere at the session, it seems likely that it will become an increasingly pressing concern as time goes on. Similarly worthy of note was a statement from the Mexican delegate who, also bringing together several themes discussed here, stated that the ‘prohibition approach is never going to be enough’ with a better way forward involving the measurement of policy impact on individuals’ lives as part of a move to ‘intersectoral multidimensional strategies’. Building upon positions that have been developing over the course of recent CND sessions, new indicators should, the Mexican delegate claimed, link closely to the work of a range of UN agencies and are essential to achieving progress towards the objectives of the UNGASS Outcome Document.

Interest within Mexico for the metrics issue was also evident in discussions concerning the work of the UN’s Statistical Commission (StatComm). Demonstrating a welcome convergence of endeavour across the UN, StatComm presented at its 48th session – the week before the CND – the *Report of the National Institute of Statistics and Geography of Mexico (INEGI) and the United Nations Office on Drugs and Crime on an international road map to improve drug statistics*.²⁶ The report was discussed at various points during the Commission’s 60th session, including within the Plenary and side events. Although agreed on for publication some time ago, it was in many ways a response to the UNGASS Outcome Document, and was generally well-received. As Angela Me, chief of the UNODC’s Research and trend Analysis Branch, explained to the Plenary under agenda item 10, it sets out a proposal to improve statistics and respond to calls made by member states to enhance the statistical information on drugs through a series of integrated objectives and activities. Its key areas, she continued, are methodological developments, capacity building and international data collection and coordination. Me also highlighted the high levels of uncertainty surrounding the current data and emphasized the poor response rates for the ARQs. Flagging up the new challenges

and areas to be monitored, she singled out the darknet, new psychoactive substances (NPS) and illicit financial flows and, in demonstrating the collaborative nature of the project, pointed out that it had involved consultation with the WHO, the World Customs Organization, the Joint United Nations Programme on HIV and AIDS (UNAIDS), the European Monitoring Centre on Drugs and Drug Addiction (EMCDDA) and the Inter-American Drug Abuse Control Commission (CICAD). Speaking to the plenary via a video presentation the Vice-Chair of StatComm, George Simon, also drew attention to the importance of SDG indicators within the process and emphasised the fact that the New York-based Commission is not responsible for policy formulation, but rather works to find indicators on agreed policy directions.²⁷ Having listened to an overview of the report, undoubtedly a useful piece of work that while adding value to the debate arguably remains overly focused on measuring the scale of drug markets rather than the multidimensional harms that result from them, most member states offering comment (for example, the Netherlands, Portugal, Canada and Mexico) responded positively. This was the case both in relation to the content of the report and its objective of generating better data and the cooperation of the two commissions on this increasingly pressing issue. On the latter, Mexico went so far as to note that StatComm is a ‘fraternal’ body of the CND. Reinforcing a point made by Norway elsewhere, the Netherlands also noted that with a broadening in scope initiated by the UNGASS and the SDGs, it is now time to ‘update the instruments’ for data collection.

While this was the case, the Russian Federation expressed displeasure with the process behind the Report. Perhaps influenced by its nervousness regarding the possible dilution of the role of Vienna, and while acknowledging the need for improving ‘drug statistics’, it was noted how ‘The Russian delegation regrets that the report prepared by UNODC containing a roadmap to improve the collection of drug related data was submitted to the UN without a prior detailed discussion with CND’. ‘We believe’, the Russian delegate continued, ‘the expertise that went into the report should have been carried out only after the CND had decided its conclusions regarding the direction of the anti-drug track’. ‘How much of the report is in keeping with the CND?’, he asked. The delegate concluded his point by stating that, ‘The plan which was adopted by the CND and General Assembly, it is

our opinion that it is only after discussion here that we can properly talk about this report. We hope in the future the UNODC will first get agreement of CND as it is the policy making body of the UNODC'. This position was fully supported by the delegate from Cuba, who also used the intervention to call for more help for developing countries in the data collection process. While its annoyance may be somewhat legitimate in terms of procedure, it is difficult to forget how in previous years the Russian Federation has shown signs of moving to control the evidence base with a view to justifying its own policy approaches.²⁸

Nevertheless, this will certainly be an interesting area to observe in the following months and years. It looks likely that, in line with calls from the Russian delegation, the Report will be further discussed during the intersessionals, with the CND Chair closing Item 10 by stating that she was looking forward to re-visiting it later in the year.

The future shape of the international drug control system

The differing outlooks of member states were also in evidence regarding the more substantial, but related, issue of the future shape of the international drug control system, including in relation to the treaties themselves. As was the case with responses to the UNGASS Outcome Document, there remained widespread ostensible agreement within the Commission around the drug control conventions. Yet, one did not have to scratch too far beneath the

surface to find divergent views. As has been the case during previous sessions, many country statements included a sentence noting that the conventions remain the cornerstone of international efforts, including in relation to achieving the goals of the SDA (for example China). For some, like the Russian Federation, the conventions also stood as the 'guiding light' in the 'struggle with the evil of drugs in the 21st century'. Indeed, although the term 'evil' may have become less common within the halls of the Vienna International Centre, it was interesting to observe the frequent use of the term 'scourge' by states seeking to demonstrate the severity of the issue they were addressing. Prominent in this regard were states such as Algeria (on behalf of the Africa Group), Tunisia, Kuwait and China. Further, despite the advances made in understanding the complex and multidimensional nature of drug use and related markets, a substantial number of states still chose to frame statements and interventions in terms of working towards a drug-free world. These included Russia, China, Peru and India with the Africa Group talking of a 'drug-free continent' and Malaysia highlighting the goal of the ASEAN drug control strategy (2016-2025) of a drug-free region. Within this context, as at other points during the week, Malaysia and China both highlighted the importance of national sovereignty. The former stressed that there is 'no one-size-fits-all' approach and that states have the right to do what they see is best within their own borders. In what felt like a time warp back to the days of Harry J. Anslinger, arch prohibitionist and head of the US Federal Bureau of



Credit: ECHO Citizens Twitter

Plenary of the 60th CND session.

Narcotics (1930-62) and US representative to the CND (1947-1970),²⁹ the delegate from Singapore also informed the Plenary of a plethora of horror stories surrounding the use of 'Ice' (methamphetamine) and the need for a law enforcement approach that is 'tough, swift and uncompromising'. In an interesting acknowledgement of the fact that we remain far from a world free of drugs, a number of states including the United Arab Emirates and Sudan also asked the Commission to consider extending the deadline for the targets set in 2009 beyond 2019.

While these requests were built upon the belief that, given enough time, the current structures and dominant approaches can achieve success, other states adopted a different perspective. For instance, the Colombian Minister of Foreign Affairs set forth the view that, in relation to the 2009 Political Declaration, a 'new type of drug policy needs to replace the old one that has failed'. This was a view echoed by the delegate from Bolivia, who noted however that La Paz's approach to coca was operating within the existing international framework. Delegates from Venezuela and Mexico spoke of the need for a reorientation of international drug control and a new paradigm respectively. According to the Mexican delegate, such a shift should move towards a 'people focused' approach and one that links with the SDGs, a new set of drug policy indicators and the involvement of other UN bodies beyond those in Vienna. In one of the few statements explicitly criticising the current control architecture to come from a European nation, Mr. Jindřich Vobořil, National Drug Policy Coordinator of the Czech Republic, pointed out that in 1961 the evidence base was not as advanced as it is today and that 'policies should not be driven by ideologies or wishful thinking but rather by science'. The idea of a drug-free world, he claimed, is consequently built on 'false assumptions'. Rather Mr. Vobořil concluded, 'Policies should not be based on the belief of a drug-free world but rather work towards the maximum reduction of risks and harms'.

Such fundamental differences in outlook could also be seen in the contrasting views of the Colombian Minister and Dr. Nora Volkow, Director of the US National Institute on Drug Abuse and Chair of the UNODC-WHO Informal International Scientific Network. At several points during the week, including during the opening session, in presenting drug dependence as a disease, Dr.

Volkow suggested that science has come up with the 'solutions' to the drug problem and that the remaining challenge is implementation within the current framework. 'We are not prioritizing treatment', she claimed, citing figures from the 2016 World Drug Report. It is undoubtedly true that in many parts of the world insufficient resources are invested in evidence-based treatment strategies. Moreover, a shift from a criminal justice approach to one guided by public health approach is clearly welcome.³⁰ Nonetheless, such an 'addition as disease' approach risks oversimplifying a complex and multifactorial behaviour that includes multifaceted environmental considerations.³¹ As a recent editorial in the *International Journal of Drug Policy* notes, 'despite the currency addiction (and related terms such as "dependence") have in the media and policy, it occupies a complex and unstable place in contemporary research on drug use'.³² Indeed, in contrast to Dr. Volkow's view of addiction as a solvable phenomenon, an alternative conception of drug use was articulated by the Colombian Minister who stressed that the current approach was far from 'eliminating global markets' or 'resolving the multiple problems associated with illicit drugs'.

Regulated cannabis markets: The low-key but criticised approach continues

Such a divergence in perspectives was clearly informative in terms of getting some sense of alternative views of the existing international drug control framework nearly a year after UNGASS. That said, in terms of substantive deviations from the rules and norms of that framework, the issue of cannabis legalisation remained key. As in the last few years, however, considering the serious implications of the establishment of legally regulated cannabis markets for recreational use for the current UN drug control regime, discussion remained relatively low key and often oblique.

As has often been the case in the CND in relation to controversial domestic policy shifts,³³ those countries with an interest in cannabis legalisation maintained a low profile. Although after the November 2016 elections, and associated ballots, the USA is currently in a situation whereby one in five citizens is living in a state where cannabis is, or soon will be, legal for non-medical and non-scientific purposes, the US delegation chose not to mention the issue. Mindful of the awkward dynamic

generated by state initiatives relative to the US Federal government and, at the multilateral level, the UN drug control treaties, officials no doubt felt that the best approach was a side-step. Unable to entirely ignore its own moves to establish regulated cannabis markets at the federal level within Canada, Hillary Gellar (assistant Deputy minister, Healthy Environment and Consumer Safety Branch, Health Canada and Head of Delegation) made an appropriately bland statement in which, framing all Canada’s drug policy in terms of health, safety and security, she informed the Plenary that her government ‘continues to move forward with plans to regulate cannabis’ and to ‘keep it out of the hands of youth and keep profits out of the hands of criminals’. Noting that the report of the Task Force on Cannabis Legalization and Regulation had contributed to the design of a new control system, Gellar stressed that Canada remained committed to ‘working with the international community on drug policy issues’.

Representing a state that passed legislation to establish a regulated market in late 2012, the Uruguayan delegate was keen to avoid criticism in stressing that, although market research would be available to other nations, ‘we don’t want to be a model’ in the sense that our policies are ‘imposed on other countries’. Reflecting the somewhat confusing approach to reconciling national policy shifts with international law, it was noted how Uruguay endorsed the ‘goals of the treaties’, but stated that they must be ‘interpreted and applied’ in a way that is ‘consistent with human rights’. The delegate defended ‘flexibility’ for each state, stating categorically, ‘it cannot be otherwise’. In going on to legitimise the ground-breaking policy choice, he also emphasized the fact that the approach was grounded in public health, human rights and the safety and security of individuals. For Uruguay, the negative impacts of ‘repressive and prohibitionist polices conducted over the past 50 years’ had led to a search for ‘new alternative innovative approaches’. The ‘depletion of the old approach’, the delegate continued, ‘has led year after year to increases in drug use and violence’. Cannabis regulation, he concluded, does not promote drug use or underestimate health risks, but is rather part of an integrated public health approach including both alcohol and tobacco. Although it was unclear precisely what was meant by ‘flexibility’ within the treaties, in another statement the Ambassador of Guatemala pointed out that states need to choose

the policy approaches that best suit them and reflect ‘new realities’. At one point in the week, as part of a statement urging the shift to public health-oriented policies, a Mexican delegate acknowledged legalisation in some states, but made no comment.

Such a neutral stance, however, was rare. Many other statements were critical, including what might be interpreted to be a subtle reference to cannabis by the VNGOC chair in his opening statement who noted that ‘policy changes’ were impacting human rights. Less subtle were critical comments from Nigeria, Morocco, Kuwait, Qatar, China, the Russian Federation and, surprisingly, Germany. The Russian delegate noted that ‘We reject any attempts to legalize drugs or to remove the taboo surrounding drugs. We believe that the health, prosperity and survival of people should not be subjected to legalization experiments’. The delegate from Pakistan also expressed the view that ‘legalisation in some parts of the world is a matter of serious concern’. ‘Trends need to be reversed’ he continued and the ‘INCB should play more of an active role’.

The Committee of the Whole (CoW): Mining previous UN documents for language

The CoW is a technical committee of the Commissions, where resolutions (see Box 1) are discussed and approved before they are submitted to the CND Plenary for the formality of adoption. This means that the CoW is often the place where opposing views between member states are most likely to be revealed. This year, the CoW saw continuing differences over many areas of drug policy. In these centres of UN diplomacy, such differences manifest themselves as (often seemingly pedantic) disputes over the use of language, expressed in terms of tensions surrounding the selection of sources of agreed UN language and phraseology. Interestingly, there was no desk space provided in the room for civil society observers in this year’s CoW – in contrast to previous years.

It is customary for the First Vice-Chair of the Commission to chair the CoW, and this year the role was taken up by Ambassador Alicia Buenrostro Massieu from Mexico. At first, it was proving difficult to shift the debates along: at one point,

Box 1 Resolutions agreed at the 60th CND³⁴

Resolution 60/1: Preparations for the sixty-second session of the Commission on Narcotic Drugs in 2019

Resolution 60/2: Strengthening international cooperation to assist the States most affected by the illicit transit of drugs, especially developing countries, based on the principle of common and shared responsibility

Resolution 60/3: Improving the governance and financial situation of the United Nations Office on Drugs and Crime: recommendations of the standing open-ended intergovernmental working group on improving the governance and financial situation of the United Nations Office on Drugs and Crime

Resolution 60/4: Preventing and responding to the adverse health consequences and risks associated with the use of new psychoactive substances

Resolution 60/5: Increasing international coordination relating to precursors and non-scheduled precursor chemicals used in the illicit

manufacture of narcotic drugs and psychotropic substances

Resolution 60/6: Intensifying coordination and cooperation among United Nations entities and relevant domestic sectors, including the health, education and criminal justice sectors, to address and counter the world drug problem

Resolution 60/7: Promoting scientific evidence-based community, family and school programmes and strategies for the purpose of preventing drug use among children and adolescents

Resolution 60/8: Promoting measures to prevent HIV and other blood-borne diseases associated with the use of drugs, and increasing financing for the global HIV/AIDS response and for drug use prevention and other drug demand reduction measures

Resolution 60/9: Enhancing the capacity of law enforcement, border control and other relevant agencies to counter illicit drug trafficking through training

the Ambassador extended a session after the translation services had stopped at 6pm in order to get through the negotiations. However, as the week progressed, the Ambassador succeeded in inducing some of the more recalcitrant states to be more flexible, with the result that all of the draft resolutions were agreed and passed on to the Plenary on time.

One notable feature of this year's CoW was the increased reliance on so-called 'informal' meetings. This is the CND term for smaller meetings which take place in a side room away from the main event, at which the key participants in debates surrounding a resolution meet to resolve their differences off the record. These 'informal' meetings are private, and cannot be observed by civil society delegates. As a result, a trend towards the over-use of 'informal' meetings does not bode well for the transparency of the negotiations – a point that IDPC has made in previous CND proceedings documents when this practice first became more commonplace.³⁵ An important example of the use of 'informal'

meetings was for **Resolution 60/1, Preparations for the sixty-second session of the Commission on Narcotic Drugs in 2019**. This resolution was not debated in the CoW at all, but rather was directly overseen by the Norwegian Chair of CND, and was sent directly from a series of closed 'informal' discussions to the Plenary. This process bypassed those member states who were not involved in the 'informal' meetings, as well as the observations of civil society participants.

It is entirely possible that the CND Chair wished to avoid a protracted debate that could force the Commission backwards from the gains achieved from the 2016 UNGASS, as inscribed in its Outcome Document.³⁶ In fact, many of the underlying tensions that arose in the debates at the CoW centred on whether member states wanted to give prominence to language from the 2016 Outcome Document or the 2009 Political Declaration and Plan of Action. This debate reared up in the negotiation of every resolution, and perhaps reflects on the more progressive nature of the UNGASS Outcome Document: with more conservative member states

Box 2 The CND App



As much of the negotiations at the CoW rely on previously agreed language from existing resolutions and documents, IDPC worked through the German-funded Global Partnership on Drug Policies and Development (GPPDP)³⁷ to develop a mobile application for CND.

The CND App allowed users to track what was happening during the week, and to search the relevant agreed UN language on key drug policy issues. This aimed to support member state delegates in their negotiations, and to support efforts to strengthen progressive language in the CND resolutions that were negotiated. Since it was launched, the CND App had more than 7,650 page views, from 988 unique users.

keen to revert back to 2009 language instead, while more progressive states attempted to reinforce and use the 2016 language. As is often the case in the CoW, the battles were not won outright by either side, but compromises were found in each instance – commonly by using language from both documents (albeit making some of the linguistic formulation tortuous, and at the same time reducing the potential impacts of resolutions).

One example of this was the debates surrounding **Resolution 60/6: Intensifying coordination and cooperation among United Nations entities and relevant domestic sectors, including the health, education and criminal justice sectors, to address and counter the world drug problem.** This key resolution followed directly from calls at UNGASS (and in the SDA) to enhance system-wide coherence – yet the draft seemed to focus exclusively on the Vienna-based agencies and bodies, therefore representing a missed opportunity to strengthen cross-UN coordination. The Russian Federation wished to insert language on ‘the leading role of the International Narcotics Control Board, as an independent treaty-based body, in monitoring the

implementation of the international drug control conventions, in accordance with its mandate’ – extracted from the 2009 Political Declaration (paragraph 18). The Russian Federation also wished to have a separate paragraph recognising UNODC’s leadership – clearly feeling that the UNGASS Outcome Document did not emphasise this enough. Norway objected to this language on matters of factual accuracy. The Swiss delegation then spoke up regarding the ‘confusion as to who controls the UN system – is it UNODC? CND? INCB?’ Several countries supported Norway’s objection, including the UK, the Netherlands, Mexico and Guatemala. The USA, one of the sponsors of the resolution, remarked that the existing language in the draft resolution was drawn from the UNGASS Outcome Document. After several intensive ‘informal’ meetings to resolve the differences, a preambular paragraph was eventually agreed: acknowledging the leadership role of the UNODC for addressing and countering the ‘world drug problem’, reaffirming the role of the INCB in implementing the treaties, and speaking of WHO as the directing and coordinating authority on international health,

including the public health aspects of drug control and the review and recommendations of drugs to the CND for scheduling purposes.

The Russian Federation, for whom drugs act as a symbol of the degradation of its national culture, once again led the conservative bloc in the negotiations across the various resolutions in the CoW, and their influence was clearly visible through repeated reaffirmations of the 2009 Political Declaration and Plan of Action. Yet there was considerable support from other member states – including the EU member states – for the UNGASS Outcome Document throughout the discussions, making this an interesting session of the CoW. The reliance on previously agreed UN language is nothing new, of course, and is diplomatically the easiest solution when disagreements arise. For this reason, IDPC, Harm Reduction International and the Transnational Institute (with funding from UNODC and the Open Society Foundations) have previously created a ‘Book of Authorities’ which allows users to search for existing language on key

drug policy issues.³⁸ For 2017, IDPC also launched a mobile application to further assist CND delegates in navigating the Session and accessing UN-agreed language (see Box 2).

One other highlight from the CoW in 2017 was the negotiation of Resolution **60/8: Promoting measures to prevent HIV and other blood-borne diseases associated with the use of drugs, and increasing financing for the global HIV/AIDS response and for drug use prevention and other drug demand reduction measures**. This resolution was drafted and proposed by Norway, who expertly shepherded the negotiations throughout. It was a direct response to the funding crisis faced by the UNODC HIV/AIDS Section, who have led on the Office’s harm reduction work in recent years, and breaks new ground by directly calling for increasing funds to prevent the spread of HIV/AIDS (including, implicitly at least, harm reduction interventions). The Russian Federation wanted the resolution to be broadened out (proposing a new title: *Fighting the World Drug Problem, including the problem of*



Members of the Norwegian delegation proudly holding up the newly adopted Resolution 60/8.

Credit: Norwegian delegation



Scheduling decisions at the 60th CND

HIV), and had support from Iran and Pakistan, but numerous other countries resisted this proposal (including Australia, the Netherlands, the USA, the UK and France). Attention also focused on the new precedent of calling for funding for one specific part of UNODC, rather than for the Office as a whole (with Pakistan eventually 'willing to be flexible on this' – as long as such flexibility was reciprocated in the future!). Overall, however, the text progressed through the CoW with much less rancour than expected, and was eventually sponsored by Andorra, Australia, Brazil, Colombia, Costa Rica, Ecuador, Guatemala, Israel, Liechtenstein, Malta (on behalf of the 28 EU member states), Switzerland, Togo, Tanzania, the USA and Uruguay, as well as Norway. Interestingly, in the final moments before adoption in the Plenary, the USA asked for the reference to the UN technical guide on harm reduction to be the 2009 version³⁹ rather than the revised 2012 version (which is noteworthy, as the 2012 document is more explicit on the decriminalisation of drug use and overdose prevention).⁴⁰

In conclusion, the CoW at the 60th Session of the CND was not characterised by the fierce debates and controversies that had marked some of its recent predecessors. However, the underlying lack of consensus between national positions on a wide range of important drug policy issues was

still highly visible upon careful attention and a close reading of the texts and the debates around them.

Changes in the scope of control at the 60th CND

As has become customary, proposals dealing with changes in the scheduling of drugs were considered in the plenary on the morning of the penultimate day of the Commission. It will be recalled that scheduling decisions are rare within the CND since they are decided by votes rather than consensus. Within this context, first, there was consideration of the substances proposed by the WHO for scheduling under the conventions. These had been reviewed by the WHO's Expert Committee on Drug Dependence (ECDD), mandated by the treaties to undertake such work. The substances under discussion were U-47700, Butyrfentanyl, 4-MEC (4-methylethcathinone), Ethylone, Pentedrone, Ethylphenidate, MPA (methiopropamine), MDMB-CHMICA, 5F-APINACA (5F-AKB-48) and XLR-11 (see Box 3). Each substance was given a short introduction by Dr. Gilles Forte of the WHO, describing its chemical composition, illicit use and the associated risk profile. They were NPS of various kinds, mostly synthetic opioids or stimulants. Parties to the CND then voted on each proposal,



Scheduling decisions at the 60th CND

and all the substances were assigned according to the WHO's recommendations (See Box 3 on CND decisions, including those relating to scheduling).

Alongside these proposals from the WHO, were precursors recommended for control by the INCB, which is mandated to review precursors under article 12 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988.⁴¹ Specifically, **4-anilino-N-phenethylpiperidine (ANPP)** and **N-phenethyl-4-piperidone (NPP)** were put forward to be placed in Table I of the 1988 Convention (see Box 3). These substances were introduced by Mr. Werner Sipp, who explained that they were precursors that could be utilised in the production of fentanyl and certain fentanyl analogues. Fentanyl is approximately 100 times the potency of morphine, and is linked to an expansion in fatalities associated with overdose, particularly in North America. In the course of his remarks, Mr. Sipp argued that inclusion in Table 1 of the 1988 Convention would not interfere in the substances' availability for licit purposes, which consist primarily in the production of fentanyl for medical purposes. The substances were duly placed in Table 1 of the 1988 Convention, leading Mr. Sipp to state that the scheduling of fentanyl precursors demonstrates that the international conventions are effective in protecting public health.⁴²

It was notable that one of the documentary sources that was available to the CND in this session was the Conference room paper submitted by Egypt on 'strengthening international cooperation in addressing the non-medical use and abuse, the illicit manufacture and the illicit domestic and international distribution of tramadol'.⁴³ This could prefigure the kind of tensions that erupted over the projected international control of ketamine.

The INCB: A solid performance with some progressive messages

The role of the Board and how that sits with its view of the treaty system were prominent topics within statements coming from the INCB over the course of the week, including during the opening ceremony. Then the INCB President, Mr. Werner Sipp, 'applauded the results of the special session of the General Assembly' and noted how the Outcome Document 'underscored' the 'pivotal role' of the three international conventions. Highlighting the importance of the current period for the regime architecture, the President stressed that 'As the 2019 review landmark approaches', the INCB 'urges all Governments to reinforce our efforts to meet goals set out in the conventions as well as the political

Box 3 Decisions at the 60th CND⁴⁴

Draft decision I: Preparations for the sixty-second session of the Commission on Narcotic Drugs in 2019 (adopted by ECOSOC)

Draft decision II: Improving the governance and financial situation of the United Nations Office on Drugs and Crime: extension of the mandate of the standing open-ended intergovernmental working group on improving the governance and financial situation of the United Nations Office on Drugs and Crime

Decision 60/1: Strengthening the subsidiary bodies of the Commission on Narcotic Drugs

Decision 60/2: Inclusion of U-47700 in Schedule I of the Single Convention on Narcotic Drugs of 1961 as amended by the 1972 Protocol

Decision 60/3: Inclusion of butyrfentanyl in Schedule I of the Single Convention on Narcotic Drugs of 1961 as amended by the 1972 Protocol

Decision 60/4: Inclusion of 4-MEC (4-methylethcathinone) in Schedule II of the Convention on Psychotropic Substances of 1971

Decision 60/5: Inclusion of ethylone in Schedule II of the Convention on Psychotropic Substances of 1971

Decision 60/6: Inclusion of pentedrone in

Schedule II of the Convention on Psychotropic Substances of 1971

Decision 60/7: Inclusion of ethylphenidate in Schedule II of the Convention on Psychotropic Substances of 1971

Decision 60/8: Inclusion of MPA (methiopropamine) in Schedule II of the Convention on Psychotropic Substances of 1971

Decision 60/9: Inclusion of MDMB-CHMICA in Schedule II of the Convention on Psychotropic Substances of 1971

Decision 60/10: Inclusion of 5F-APINACA (5F-AKB-48) in Schedule II of the Convention on Psychotropic Substances of 1971

Decision 60/11: Inclusion of XLR-11 in Schedule II of the Convention on Psychotropic Substances of 1971

Decision 60/12: Inclusion of 4-anilino-N-phenethylpiperidine (ANPP) in Table I of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988

Decision 60/13: Inclusion of N-phenethyl-4-piperidone (NPP) in Table I of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988

declarations adopted by the General Assembly and the Commission in 1998, 2009 and 2016. The target you, member states, have established are ambitious, but achievable.⁴⁵

Acknowledging the unavoidable, if still relatively low-key tensions and emerging divergence of views on the treaties, he also noted that 'some, although he refrained from identifying which, 'voices continue to talk about the need to modernize or "reform" the conventions'. 'The INCB remains of the view', he continued, 'that the international drug control system, which ultimately aims at the promotion of the health and welfare of humankind, represents a flexible framework for drug control, provided it is implemented in compliance with the fundamental principles of the three conventions'. Going some way to address the sort of views expressed by Pakistani delegation later in the week, Mr. Sipp reiterated the

Board's position that 'The conventions do provide flexibility for their implementation at the national level but this flexibility does not in any way extend to any legalization or regulation of non-medical use of narcotic drugs or psychotropic substances'. However, putting the legalisation ball firmly into the member states' court and no doubt irking states favouring a more interventionist INCB position on the issue, the President stressed that 'It is now up to State Parties to the conventions to reflect on how to respond to the action of some States in which the non-medical use of cannabis has or is being legalized and regulated, which is in clear contravention of the conventions'.

Unsurprisingly, the legalisation issue was also covered in some detail in Mr. Sipp's statement under agenda item 8(c), implementation of the international drug control treaties, and his summary

of the Board's Annual Report and Precursor Report for 2016. Highlighting that 'Regulation of the use of cannabis for non-medical purposes' was again a Special Topic within the Annual Report, he stressed here that the '...Board reiterates that Parties to the 1961 Convention have assumed the obligation to limit exclusively to medical and scientific purposes the production, manufacture, distribution, use and possession of drugs. *To this rule no exception is possible* (emphasis added). In this regard, the President went on to note that the INCB had maintained dialogue with states that have adopted or who are considering legalisation and, interestingly, called upon 'these Governments to pursue their *political* (emphasis added) objectives by putting in place measures and policies which remain in the ambit of the conventions'. Having flagged public health risks associated with what he referred to as the 'abuse of cannabis' and leaving the issue of legalisation very much up to the consideration of country delegations (quite rightly so in terms of Board's mandate), Mr. Sipp stressed once again that 'It is now up to State parties to determine how to respond to the developments in those countries which disregard the treaties by permitting and regulating the non-medical use of the drug'.

During both his statement at the opening ceremony, under item 8(c) and elsewhere, Mr. Sipp highlighted other key themes within the Boards' work and hence its reports for 2016. Prominent among these were the topic of women and drugs, to which the Annual Report has a dedicated thematic chapter, and the drug situation in Afghanistan. On the former, it was pleasing to see the President stress at points over the week that "one-size-fits-all" drug policies are not adequate, highlight the need to use gender-disaggregated data in the design and implementation of interventions and call for the increased funding within states for gender-sensitive drug policies.

Several additional 'Special Topics' given attention in the President statements are also worthy of note here. The first of these is 'State responses to drug related offenses'. As has been the case in recent years, Mr. Sipp emphasized the Board's concern for proportionality, a 'matter', Mr. Sipp informed the Plenary, 'I personally hold dear to my heart'. With this in mind, he stressed that 'No obligation stems from the conventions to imprison people who commit minor drug-offences'. 'The determination

of sanctions applicable to drug related offences', Mr. Sipp continued, 'remains the prerogative of States Parties to the conventions'. 'Nevertheless', the President concluded on this point, 'the Board continues to encourage States that retain capital punishment to consider the abolition of the death penalty for drug related offences, in view of the relevant international conventions and protocols'. On a related issue, Mr. Sipp also told the Plenary of the Board's 'categorical condemnation of extrajudicial targeting of people suspected of illicit drug related activity'. In this regard, and while on this occasion not naming any particular states, he repeated the welcome message made elsewhere that the INCB calls 'upon all Governments concerned to immediately halt such actions and to investigate any person suspected of involvement of any such extrajudicial action'.⁴⁶

In addition to flagging up the importance of both international cooperation on precursor control and accurate and timely reporting, the latter being an issue where 'regrettably' many states were 'failing to comply' with their treaty obligations, Mr. Sipp also highlighted an important shift in perspective within the Board's oversight on regional developments. Indeed, the President noted that the '...INCB has noticed that a growing number of governments continued to establish so-called "drug consumption rooms"'. However, rather than stating outright that drug consumption rooms operated in contravention to the conventions as has long been the Board's stance, he provided a more nuanced assessment of the situation:

'The Board has reiterated that for the operation of such "drug consumption rooms" to be consistent with the conventions, a number of conditions must be met: The ultimate objective of these facilities must be to effectively reduce the adverse consequences of drug abuse. They must not condone or encourage drug trafficking. They must refer patients to treatment, rehabilitation and social reintegration services and they cannot be a substitute for demand reduction programmes, particularly prevention and treatment'.⁴⁷

Another key theme of the President's statements, and one that is also included with the recommendations of the Board's Annual Report, was that of international cooperation to ensure the availability of narcotic drugs and psychoactive substances for medical and scientific purposes while

preventing their diversion. Reflecting the growing awareness of this important issue, Mr. Sipp noted that the prominence given to issue in Outcome Document has been 'truly novel' before pointing out that 'The operational recommendations adopted on this important aspect of the international drug control architecture provide national governments, international organizations and civil society at large with a clear focus for action in the next years'. He also highlighted that a special INCB report, *Indispensable, adequately available and not unduly restricted*,⁴⁸ had been published in February and encouraged member states to engage with the Board on the issue. This included through its 'Learning' project (launched in 2016) and, in supporting commitments within the Outcome Document, via use of the *INCB/WHO Guide on estimating requirements for substances under international control*.⁴⁹ As with other aspects of its mandate, the President used the opportunity to call on states to enhance their domestic data collection. As is always the case, concluding comments on the issue included some caveats and challenges. 'I would like to close', said Mr. Sipp, 'by mentioning the need to raise awareness of the problem of over-consumption of controlled substances' before noting concerns about diversion and over-prescription. 'The challenge', he validly concluded 'remains to strike the right balance between the need for controlled substances to treat or alleviate various health conditions and the potential negative effects and damage that the same substances can cause if taken beyond the therapeutic purpose'.

With the Board's increasing and timely collaboration with the WHO, it was interesting to observe that the WHO is not the only treaty body suffering from resource issues; an issue that IDPC has discussed on several occasions.⁵⁰ In an unusual move, Mr. Sipp made it abundantly clear that to carry out its growing portfolio of projects across a range of mandated areas, the Board requires more support from member states. On this issue, he stated to country delegations that 'the Board counts on your support and cooperation, on an ongoing basis in meetings, reporting obligations and accepting INCB missions, *but also in ensuring that the Board is adequately resourced to fulfil its treaty-based mandates*' (emphasis added). Further, in relation to the monitoring systems operated by the INCB, he continued, 'I would like to urge those Governments to continue supporting our work, and invite other Governments to join them in enabling INCB

to continue and expand this work'. To be sure, according to the President, the Board's 'capacity to monitor, analyse and promote compliance with the treaties, to conduct consultations with Governments, to provide training to competent national authorities, and to respond [to member states]' requests for advice has not kept pace with the incremental treaty monitoring'. As such, on several occasions he made a personal appeal to states to help increase funding, stating 'I also urge you, through your representations at the United Nations Headquarters, to ensure that the Board's regular budget resources are set at a level that permit the Board to meet the evolving treaty implementation challenge'.

Responses to the INCB statements were varied, but in the main supportive, particularly in relation to its stance on the death penalty and an increased emphasis on gender issues. For example, although statements from a range of states, NGOs and UN agencies reiterated opposition to capital punishment, of note was the statement from Malta, on behalf of the EU, and Andorra, Argentina, Australia, Bosnia and Herzegovina, Canada, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Georgia, Iceland, Mexico, Montenegro, New Zealand, Norway, Panama, Serbia, Switzerland, San Marino, Turkey and Ukraine. As was perhaps to be expected, the Chinese delegate expressed reservations about the Board's position on the issue. Picking up on the topic of drug consumption rooms, the delegate from Denmark noted the good working relationship with the Board during the course of opening a facility within its borders. Meanwhile, India and Venezuela criticised the Annual Report concerning its inclusion of what was regarded to be erroneous data on drug seizures within both countries. On cannabis legalisation, the Japanese delegate strongly supported the Board's position and stressed that medical cannabis should never be used as a front for recreational use. Regarding the issue of access to controlled medicines, supportive statements came from the UNODC's Drug Prevention and Health Branch, WHO and a range of countries, including China, with both Venezuela and Korea calling for improvements within the current systems. Interestingly, while the delegate from China was keen to stress that the country had cooperated with the INCB and has continued to protect the legitimate use of all drugs while preventing diversion and 'abuse', he called for the Board to act on the international

control of ketamine; an issue, it will be recalled, that has proved to be controversial in recent years.⁵¹ This was a position supported by Algeria on behalf of the Africa Group, among others. The Chinese reaction to the control of NPS and fentanyl – which are produced in and exported from the country – was nonetheless far more positive, with statements from both China and the USA holding up efforts here, including in relation to precursors, as a model response and, according to Ambassador Brownfield, an example of the treaties working and being ‘nimble’ to respond to emerging problems.

NGO engagement in the 60th CND Plenary

With 197 representatives from 66 NGOs formally registered as attending the 60th session of the CND, NGO participation remained at strong levels. While having decreased from the frenetic levels leading up to the UNGASS (300 representatives from 84 NGOs joined the 59th CND session), it fell back to the nevertheless comparably high rate of participation at the 58th CND session (227 representatives from 66 NGOs). Of those, only eight delivered plenary statements, with INPUD and IDPC each delivering two each. It is noteworthy that statements supporting the role of civil society, including academia, within the CND and the formulation of drug policy more generally, came from a range of countries, including under the auspices of the EU.

Recurring themes throughout the NGO statements were recommendations for more action to end human rights violations and to pursue public health approaches to drug use, including prevention and harm reduction, in the processes and framework of the 2019 review of the Political Declaration and Action Plan and the SDGs. As

the first CND session after the UNGASS, almost all statements unsurprisingly referred to the Outcome Document and made recommendations regarding its implementation.

The first NGO statement in the plenary came from the VNGOC during the opening segment.⁵² It acknowledged the gains made at the UNGASS, particularly in agreeing to ensure a public health approach to drug issues, access to controlled medicines, and to safeguard and promote human rights. In referring to the challenges that persist, emphasis was given to the VNGOC’s strong belief in the centrality of respect for human rights and its commitment to respectful, constructive engagement with governments in ensuring the effective implementation of international drug policy commitments in the framework of the 2030 SDA. It was noted how the VNGOC has also signed a new MoU with the UNODC to establish collaboration during the implementation of the UNGASS Outcome Document and preparations for the 2019 review of the 2009 Political Declaration and Action Plan on drugs.

Day three of the 60th CND session, under item 3, saw the Association Proyecto Hombre speak in the plenary about the ‘Declaration of Mallorca’,⁵³ which, adopted at the 2016 World Conference of Therapeutic Communities, aims to contribute to the work of CND and implementation of the UNGASS Outcome Document in reducing illicit drug use through effective drug prevention, primary care, affordable non-discriminatory treatment, recovery and social re-integration of people dependent on drugs.⁵⁴

IDPC then spoke on the 2019 review of the 2009 Political Declaration and Action Plan, calling for it to genuinely and meaningfully evaluate



Judy Chang, delivering a Plenary statement on behalf of INPUD



Juan Fernandez, delivering a Plenary statement on behalf of IDPC



Marie Nougier, delivering a Plenary statement on behalf of IDPC

Credit: Marie Nougier, IDPC

progress against the 2019 targets.⁵⁵ Drawing on the previous review that took place in 2009, the Consortium asked member states to consider a three-step process to ensure an open, transparent, independent and honest review process leading up to 2019, that uses the 2016 UNGASS Outcome Document as the starting point (representing as it does the most recent global consensus on international drug policy) and that focuses on practical recommendations reflecting the divergence of views and ongoing exploration of new approaches to address drug-related problems.⁵⁶

In its Plenary statement under item 5, the Eurasian Harm Reduction Network (EHRN) drew attention to the negative side effects of the war on drugs, including HIV and hepatitis epidemics, overdose mortality, massive incarceration, corruption, and police abuse. EHRN called for a global agreement on reforms to institute measures leading to positive impacts for health, safety, and human rights instead, which in turn will help achieve the SDGs. Some countries are experimenting with such measures, including diversion from arrest, decriminalisation, and market regulation, EHRN continued. According to the organisation, a global evaluation of drug policy impacts is needed to help evaluate their positive impacts and build evidence for reform, as supported by the UNGASS Outcome Document.⁵⁷

The International Network of People Who Use Drugs (INPUD) then highlighted the glaring omission of a fourth pillar of harm reduction in the 2009 Political Declaration and Action Plan as a ‘staggering failure’. INPUD questioned how extrajudicial killings, detention of people who use drugs in compulsory drug detention centres, the death penalty for drug offences and systemic violence and abuse of communities form part of an ‘integrated and balanced strategy’ in response to drugs. Rather, an integrated and balanced approach must protect the lives of people who use drugs, it was argued. Given the shortcomings of the 2009 Political Declaration and Action Plan, INPUD said that it must be superseded by the UNGASS Outcome Document until 2019. INPUD further highlighted the decriminalisation of drug use as the necessary first step towards protecting the human rights of youth, children, women and communities.⁵⁸

On the penultimate day of the 60th CND session, under agenda item 8, IDPC delivered a second statement⁵⁹ welcoming the INCB’s newly released

annual report and its thematic chapter on women, highlighting the discussion on the specific vulnerability of women who use drugs to HIV and other drug-related health harms, as their access to gender-sensitive harm reduction and treatment services continues to be severely limited, not least by overly repressive and stigmatising drug control policies. Women are also the fastest growing prison population worldwide and this is overwhelmingly driven by punitive drug policies. IDPC called on member states to ensure more proportionate sentencing and, whenever possible, to use alternatives to incarceration. IDPC also urged the INCB to continue working with member states to bring an immediate end to human rights abuses, in particular imposition of the death penalty and extrajudicial killings, as well as communicate a clear position on the decriminalisation of drug use. IDPC also welcomed the INCB’s more supportive position on drug consumption rooms.

Friday 17th March saw a number of NGOs give statements under agenda item 6, follow-up to the UNGASS. Harm Reduction International (HRI)⁶⁰ urged member states in plenary to implement harm reduction services following their commitment to the UNGASS Outcome Document, such as medication-assisted therapy, injecting equipment programmes, antiretroviral treatment and naloxone for the prevention of overdose deaths, as well as their pledge to end AIDS by 2030 under the SDA. In this regard, HRI highlighted that countries must make funding available for these measures – HRI’s 10 by 20 campaign calls on governments to redirect just 10% of the resources that they currently spend on drug law enforcement to harm reduction.⁶¹

In its second statement, this time jointly with the International Council of AIDS Service Organizations (ICASO), INPUD called for the implementation of the UNGASS Outcome Document recommendations on drugs, human rights, women and communities. It specifically recommended that member states invest in community systems strengthening, invite community members to policy and programming decision-making forums, allow human rights observers access to monitor and report on national programmes, halt the continued human rights violations on people who use drugs, and promote the incorporation of full spectrum harm reduction strategies.⁶²

In its statement, IOGT International called for a

child-centred approach as part of a human rights-based approach to the world drug problem. Within this context, it was also stated that a development perspective should be at the core, to build on the SDA, because the harm caused by drugs has a significant impact on peace, security and development. IOGT said this would mean that discussions about the world drug problem should no longer be dominated by Western experts, focused on Western solutions to Western problems – although ironically, this is very much what IOGT does itself, being a Western NGO very much focusing on Western issues. It nonetheless urged governments to put a high priority on assuring that drug use in developing countries does not increase to the levels that exist in Western countries. A public health approach is also needed, it was argued, encompassing prevention and treatment based on scientific evidence and that are gender-sensitive. IOGT urged governments to address risk factors and structural causes of drug-related harm on a population level and concluded by urging new momentum through strong international collaboration, proposing a global commitment to reduce illicit drug use by 30% until 2030, when the SDGs will be re-evaluated.⁶³

And finally, under agenda item 6, came the statement from Drug Policy Futures. Much like IGOT, this NGO also favours an approach that operates squarely within the existing treaty framework. It was therefore no surprise that the statement included a call to member states not to take up legalisation. This was a point reinforced by the fairly reasonable charge that regulated markets do not sit within the convention framework. However, such a fair assessment of the legal landscape did not stretch to the comparison between ‘legalisation’ and legal markets for alcohol and tobacco. The characterisation of these as a public health disaster made for a good soundbite but arguably lacked the necessary nuance around what is a complex issue.

Informal NGO dialogue with the UNODC

The now regularly scheduled informal NGO dialogue with UNODC was held on Wednesday 15th March, with the participation of Mr. Fedotov (who stayed for the first 30 minutes), Mr. Aldo Lale Demoz (Deputy Executive Director), Mr. Gilberto Gerra (Chief of the Drug Prevention and Health Branch) and Mr. Jean-

Luc Lemahieu (Director of the Division for Policy Analysis and Public Affairs). As in previous years, the questions were sent in advance and the event was coordinated by the VNGOC. NGOs were invited in turn to ask their questions, with the conversation mostly centred around health, criminal justice and human rights.⁶⁴ Mr. Fedotov kicked off the discussions by praising the role of civil society and offering his continued support to the meaningful participation of NGOs – mentioning as an example the MoU⁶⁵ that had just been signed between UNODC and the VNGOC. UNODC’s commitment to civil society engagement was reiterated in response to a question from Dianova International about the SDG process, with Mr. Fedotov stating that ‘the effective implementation of the SDGs depends on local efforts from many entities including civil society’.

Discussions on health-related issues started with a representative from Veterans for Medical Cannabis Access asking about UNODC’s position around evidence that medical cannabis reduced the use of opioid pain relief medicines, and could therefore reduce the risk of overdoses. Mr. Fedotov noted that medical cannabis was allowed under the 1961 Single Convention, but concluded that UNODC experts did not yet have sufficient scientific evidence to take a position on the issue. Reflections around access to controlled substances followed suit. When asked about the need to prescribe heroin to improve people’s quality of life, Mr. Gerra acknowledged that heroin prescription was in line with the conventions, and was one of the effective tools available to retain clients into treatment. In addition, Mr. Gerra highlighted, heroin-assisted treatment has positive outcomes in terms of HIV and hepatitis C rates.

Moving on to harm reduction, representatives from UNODC were asked how the Office was planning to extend harm reduction services to refugees – an issue that is increasingly relevant with the refugee crisis that is now affecting many parts of the world. UNODC is ‘inundated with requests’ to scale up harm reduction services, stated Mr. Lale-Demoz, and is not, at this stage, in a position to extend these ‘essential services’ to refugees due to lack of funding. Instead, he continued, NGOs should call on donors to provide more funding to UNODC for the harm reduction response, focusing on those most vulnerable – including refugees, but also people incarcerated.



Informal NGO dialogue with the UNODC at the 60th session of the CND

On criminal justice issues, Mr. Fedotov was asked by IDPC to make a public statement in support of decriminalisation and proportionality of sentencing – to which Mr. Fedotov retorted jokingly, ‘This is my favourite question!’. In a more serious tone, the Executive Director explained that the concept of proportionality was gaining momentum for two key reasons: the need to protect human rights and the rule of law, and the need to decrease criminality without generating prison overcrowding – a serious concern for many countries. He then listed a number of resources in which both UNODC and the INCB have pushed for proportionality of sentencing – including UNODC’s *From coercion to cohesion* report published in 2010⁶⁶ and the latest INCB Annual Report.⁶⁷ UNODC, he stressed, is ‘making practical efforts in offering support to member states’ to put proportionality into practice – with the UNGASS outcome document providing ‘a chance to move forward’ on this issue.

In a surprising turn of events, the organisation San Patrignano – long known for advocating against the decriminalisation of drug use – then called on UNODC to urge member states to stop punishing people who use drugs and provide support and rehabilitation services instead. This was an opportunity for both Mr. Lale-Demoz and Mr. Gerra to reiterate the need to address drug use

outside of the criminal justice system, but also to promote alternatives to incarceration for minor drug offenders, such as drug dealers.

Another point raised by Help Not Handcuffs was the need to support and empower people who have suffered from human rights violations because of drug law enforcement. In response, Mr. Gerra mentioned UNODC’s and WHO’s work in providing social protection and programmes that seek to eliminate stigma and discrimination against people who use drugs, in particular via law enforcement training. On the production side, Mr. Lale-Demoz referred to UNODC’s alternative development programmes for subsistence farmers who have been victims of violence – although this statement certainly was a missed opportunity to move away from the narrow ‘alternative development’ approach and towards the achievement of the broader SDGs.

The dialogue ended with a question by Dianova International about UNODC’s plans for 26th June, the International Day against Drug Abuse and Illicit Trafficking – when UNODC usually launches its World Drug Report and organises various campaigning activities. This year, the message for 26th June will likely be along the lines of ‘Listen First’,⁶⁸ a prevention campaign led by UNODC, Sweden and France and launched at the UNGASS

last year. IDPC would of course have preferred UNODC to endorse 'Support. Don't Punish'⁶⁹ – a global advocacy campaign calling for the end of the war on drugs, with a global day of action organised every 26th June⁷⁰ – although it is unlikely that states like the Philippines, Iran, China and others would have agreed to that message.

Informal NGO dialogue with the INCB President

This year's informal dialogue with the INCB President Werner Sipp, chaired by Esbjörn Hörnberg and Katherine Pettus of the VNGOC, saw pragmatic and candid responses that referred to UN system-wide principles and processes covering two key issues: human rights, especially with respect to extra-judicial killings, and cannabis policy developments.⁷¹ The VNGOC also asked for the INCB to report back to the VNGOC about the NGOs they meet with during the INCB country visits, given that the INCB asks the VNGOC to submit a list of civil society organisations in the countries to be visited by INCB to assist with their preparations for each visit. Dr. Sipp said that while the INCB can report on which NGOs it meets with, which include NGOs working at the grassroots level and those that do not necessarily accord with the government, it cannot report on the content of discussions in order to avoid antagonising member states and to ensure confidentiality, thereby enabling open dialogue.

On topics relating to human rights, the Transnational Institute asked whether there exists a legal conflict between the 1961 Single Convention and the

human rights of indigenous people to use drugs (coca, cannabis and opium) in their traditional or religious practices as recognised by the UN Office of the High Commissioner for Human Rights (OHCHR) in his statement to the UNGASS.⁷² Dr. Sipp agreed there are some contradictions within the 1961 Convention itself, for example in recognising the existence of traditional uses but then stating that coca should be prohibited, and within the 1988 Convention, which states that human rights should be respected but also notes that there cannot be derogation from the provisions of the 1961 Convention. He framed the position of the OHCHR as an invitation to solve these conflicts, urged a closer dialogue between the institutions mandated to work on human rights and drug control and welcomed an invitation to Geneva to pursue such dialogue.

In response to a question from IDPC on further guidance from the INCB to promote implementation of decriminalisation of drug use and proportionality of sentencing, Dr. Sipp responded that the INCB has already done this repeatedly. He referred to the special focus on proportionality in the INCB's 2007 Annual Report, and reiterated that proportionality is at the cornerstone of the international drug control system, and that the conventions offer alternatives to conviction and punishment. San Patrignano made a follow up intervention to emphasise the need to urge the implementation of proportionate responses and alternative sentencing options given the significant concerns with disproportionate responses and extrajudicial killings. Dr. Sipp replied that the INCB regularly brings forward model responses that respond to such concerns, for



Informal NGO dialogue with the INCB President at the 60th session of the CND

Credit: Marie Nougier, IDPC

example Portugal's model of decriminalisation, with which other governments can refer to as options to adopt in responding to their own realities. He noted that the INCB also asks member states to consider statements from international human rights bodies, including those against use of the death penalty although the Conventions are silent on the death penalty. On the Philippines, the INCB issued a press release in August 2016,⁷³ even before the human rights bodies, stating that the practice of exhorting the population to kill people suspected of committing drug offences is clearly not in line with the Conventions.⁷⁴

On topics relating to cannabis, President Sipp stated that the INCB has no problem with accepting medical access to controlled substances such as cannabis based on advice from the WHO ECDD, which is responsible for reporting on the medicinal properties of such substances, in response to a question from Veterans for Medical Cannabis. However, countries are free to decide for themselves which substances are considered medicinal, the provision of which would need to abide by certain administrative requirements.

Proyecto Hombre asked for advice on resolving concerns with the proliferation of cannabis social clubs in Spain given high cannabis prevalence rates and the country being an entry point for cannabis into Europe. Dr. Sipp relayed that Spain had reported a reduction in the number of cannabis social clubs and expressed commitment to solve these problems. Indeed, it was noted that the INCB will report on these developments next year. That said, ICEERS asserted a contradiction in the INCB's position in support of decriminalisation but opposition to cannabis social clubs in Spain and elsewhere. The President explained that cannabis social clubs are not focusing on decriminalising drug use, but rather aim for the regulation of such use. He continued to note that the conventions say that the use of controlled substances outside of medical or scientific purposes is a punishable offence, which means that sanctions should be applied in accordance with the principle of proportionality. For minor offences, Dr. Sipp concluded, there need not be any punishment or alternatives to punishment may be applied.

Lastly in response to a question from Marco Perduca (an ex-senator from Italy), Dr. Sipp affirmed that the INCB does encourage the scientific world to carry out research on controlled substances.

Informal NGO dialogue with the CND Chair and Post-UNGASS Facilitator

While absent from the informal dialogue programme since 2012,⁷⁵ the final NGO informal dialogue of the 60th Commission was with the CND Chair, Norwegian Ambassador Bente Angell-Hansen, and the Post-UNGASS Facilitator, Portuguese Ambassador Pedro Moitinho de Almeida. Held on Thursday 16th March, the dialogue was much more relaxed than those with the UNODC and INCB, with real discussions with civil society representatives. It was unfortunate, however, that only a few NGOs attended, as the dialogue clashed with various popular side events (including one on cannabis regulation).

Focusing on the importance of NGO engagement, the CND Chair kicked off the discussions by highlighting the need to 'keep with the UNGASS way of working' with civil society. While agreeing, the Post-UNGASS Facilitator also acknowledged the many obstacles that NGOs faced in New York in April 2016.⁷⁶ 'We tried to improve on that' in the post-UNGASS implementation phase, he noted, concluding as follows: 'The commitment to your participation is strong. We see your work on the ground and we salute and recognise it', despite the 'limits of the environment in which we are working'. The role of Ambassador Moitinho in opening up space for civil society at the post-UNGASS CND intersessionals should indeed be recognised here, with NGOs being able to make statements regularly and in between those made by government officials, rather than at the very end as is usual practice at the CND (as noted above, this year's being no exception).

Next came questions on the need for greater coordination between UN agencies on drug control issues. As examples of good practice, the CND Chair praised Dr. Chan's participation in this year's CND, as well as the operationalisation of partnerships within the SDG framework, while the Post-UNGASS Facilitator mentioned the recent MoU signed between UNODC and WHO. On the role of UNSG Antonio Guterres in facilitating coordination and system-wide coherence – a question raised by IDPC – the CND Chair reiterated the Secretary General's commitment to drug control. The CND Chair also mentioned,



Informal NGO dialogue with the CND Chair and Post-UNGASS Facilitator at the 60th session of the CND

as examples of greater coordination, the recent participation of the Commission on the Status of Women at a special event organised at the CND Reconvened Session in December,⁷⁷ as well as the participation of WHO, UNAIDS, OHCHR, UNDP and UN Women in the post-UNGASS implementation process. Resource constraints, she continued, was another reason for more coordination to avoid duplicating work.

Discussions then turned to the ongoing uncertainties in the 2019 process, and the future role of the Post-UNGASS Facilitator. Mr. Moitinho took on the position of Post-UNGASS Facilitator after the Special Session and was to fulfil this position until the end of this year. There is therefore considerable uncertainty as to what will happen beyond 2017, although Mr. Moitinho reiterated his commitment to remain if invited to do so by the next CND Chair (which will be Mexico). As for expectations for 2019, Mr. Moitinho's reaction was clear: 'There will be another date set in 2019, but let's be realistic – we won't be able to fulfil all the commitments made in 2009'.

Inevitably, questions were also raised on the death penalty and extrajudicial killings – two issues where there is strong consensus among civil society. The CND Chair recalled the lack of consensus on the death penalty, a 'divide' that will surely 'continue in the years ahead'. Extrajudicial killings, she continued, 'are a gross violation of international law'. She mentioned the Human Rights Council and the Universal Periodic Review in Geneva as critical mechanisms to uphold human rights worldwide, concluding that although 'there are

different mandates' for Geneva- and Vienna-based UN agencies, 'the legally binding instruments apply here in Vienna too'.

Turning to development issues, the Norwegian and Portuguese Ambassadors were asked how the post-UNGASS process could feed into the achievement of the SDGs. For the Post-UNGASS Facilitator, the SDGs are 'at the forefront of our approach, and it will feature more prominently in the negotiations in the future'. As an example, the CND Chair mentioned the funding crisis for harm reduction – a key priority for Norway. Here, Ambassador Bente highlighted Belarus' policy of redirecting drug control funding towards HIV prevention, treatment and care among people who inject drugs – leading to a rapid reduction in HIV transmission, in line with Target 3.3 on HIV.

In response to a question about drug prevention by a Pakistani NGO representative, the CND Chair conveyed her support for approaches that 'address exclusion, poverty, harassment, fragility of the human being as a driver' of drug use – an important statement in a political context where prevention approaches promoted by member states generally focus on fear and stigmatisation.

Finally, several NGOs raised concerns about logistical issues, tight deadlines (especially for the CND intersessionals) and the need to ensure access to online videos or streaming of CND/post-UNGASS meetings. On this, the CND Chair and Post-UNGASS Facilitator highlighted financial constraints. They nonetheless took note of the request and agreed to raise these questions at the UN headquarters in New York.

Box 4 Side events: Constructive spaces?

The exponential increase in the number of side events continued apace for the seventh consecutive year at CND. From 15 in 2010 to a record-setting 91 organised in the five days of the 60th Session, the number and nature of the events speak volumes of the dynamism of the debate taking place within the margins of the Commission, if not within the conference rooms themselves. Testament to the hard work of the UNODC Secretariat in accommodating so many applications, the often 20 events per day covered an enormous range of topics organised and delivered by an eclectic array of member states, NGOs and UN agencies. While too many to mention here, a flavour of the diversity of topics can be seen from events on topics ranging from synthetic drugs, a variety of development issues, drug enforcement strategies, legal regulation foras, supply side harm reduction, the internet and drugs, to the economics of NPS markets, incarceration and human rights.⁷⁸ Reflecting the increased attention given to the issue across the Commission in recent years, of note was the 'gala' special side event on access to controlled medicines.⁷⁹ This included speakers from a number of members states, as well as civil society, WHO, UNODC, INCB and, demonstrating the in-

terconnecting of another Vienna based agency in terms of medical treatment, the International Atomic Energy Agency.

IDPC joined civil society representatives, UN agencies and member state delegates to co-organise and participate in 11 well-attended events. In tune with the variety of events overall, the topics discussed covered a broad range of issues, including harm reduction, the SDGs and the development of new drug policy indicators, alternatives to incarceration, gender and the preparations for 2019. Some of these events had a regional focus, with particular attention to challenges and opportunities in the Americas and Asia.⁸⁰

It is worth noting that several of these events were actively supported by member state representatives, both from Vienna Missions and from capitals. Germany, Mexico, the Netherlands, Norway and Switzerland joined discussions on key issues related to drug policy, such as the importance of championing harm reduction approaches, the development of more nuanced and sophisticated data collection mechanisms, the benefits of increased dialogue



Luciana Pol (CELS), Ernesto Cortés (ACEID) and Ambassadors Bente Angell-Hansen (Norway) and Ambassador Alicia Buenrostro (Mexico) presenting at IDPC co-organised side event on Implementing CND resolution 59/5: Mainstreaming a gender perspective in drug policy.

Credit: Marie Nougier, IDPC

between member states beyond Vienna, and the need for mainstreaming a gender perspective in drug policy. On the latter, IDPC was delighted to share the panel with Norwegian ambassador Bente Angell-Hansen, Chair and Alicia Buenrostro, the Mexican Ambassador, and Vice-Chair of the CND.

In the absence of formal mechanisms for the concrete participation of civil society in the Commission's negotiations, and particularly in light of the increasing use of 'informals', it is possible to argue that these side events increasingly serve as an alternative avenue for engagement. Moreover, amidst what might be called the politics of denial surrounding current challenges to the current international framework within the CND, these spaces have become a locus for the constructive exchange of ideas and best practices between policy makers from different member states, representatives of UN agencies as well as those from civil society.

Within this context, it is worth noting that a significant number side events this year leaned towards what might be referred to as a pro-reform stance, either pushing the boundaries of longstanding – and in many instances overly-repressive approaches to drug control – or, although fewer in number, discussing the current parameters and architecture of the current global drug control regime itself.

As was perhaps to be expected following the UNGASS last April, a noteworthy number of events also addressed what can be considered progressive developments enshrined in the Outcome Document; such as the development of alternatives to incarceration and punishment (and even decriminalisation) and, as noted above, increased access to controlled medicines. It must be said, however, that as with statements and negotiating positions in both the Plenary and CoW respectively, a good number of side events (civil society and state sponsored) also addressed issues from the perspective of reinforcing the status quo. In some instances, such as in the case of the Russian Federation, this included implicit opposition to the harm reduction approach.

Despite the wide-ranging and fascinating programme, the sustainability of the current format for side events continues to pose challenges. The dozens of sessions, often on similar issues, took place on concurrent time slots. On occasions, up to 7 events took place in parallel, and events were held as early as 8:00 in the morning. The inevitable clashes risk diluting attendance, as it was the case for a small number of side events this year. Such a situation will certainly pose a dilemma for the UNODC Secretariat in balancing the increasing number of side event applications with what is logistically feasible and constructive to run at the session.



Tom Blickman (TNI), Alison Holcomb (Action Now), John Walsh (WOLA) and Lisa Sanchez (MUCD), at side event 'Cannabis and the Conventions: Aftermath of UNGASS', side event organised by WOLA, GDPO, TNI, Transform and the Canadian HIV/AIDS Legal Network.

Credit: Steve Rolles

UNODC Budgetary, governance and management issues: Same story, slightly different numbers

Many familiar themes re-emerged during discussions of the UNODC's budget, governance and management at the 60th session of the Commission. Key among these interconnected issues were the ongoing financial pressures faced by the Office with discussions largely based around the Executive Director's report on the consolidated budget,⁸¹ that is to say for both the CND and the Commission on Crime Prevention and Criminal Justice and related documents. As such, deliberations within the Plenary were predicated on the fact that, once again, the UNODC was dealing with not only reduced funding relative to workload and donor-supported programmes, but also an increasingly precarious situation vis-à-vis general purpose funding; that is to say monies not earmarked for specific projects. According to the information provided to delegates, revised cost estimates and resource projections for the biennium 2016-2017 came to a total of \$606.1 million. This comprised \$9.6 million in general-purpose funds, \$513.3 million in special-purpose funds, \$45 million in programme support costs funds and \$38.2 million from the UN's regular budget. Overall this marked a significant decrease on the overall projection on the consolidated budget for biennium 2014-15, but also represented a \$37 million and an estimated \$1 million reduction in the special-purpose fund budget endorsed by the CND in previous years and support cost funds respectively. Such figures reflected the Office's attempts to maintain a balanced budget in relation to income projection. Indeed, it was clear from statements and accompanying documentation that the UNODC continues to work hard to balance the books and implement a range of cost-saving measures, both at the headquarters in Vienna and at field offices, including in relation to filling staffing vacancies. Some of the need for cost savings, it became clear, was due to ongoing problems with the roll out of the Umoja financial management system and the necessary resources to fix it. The system is now said to be in a 'stabilization phase', whatever that means.

Problems with Umoja, however, appeared relatively minor to general-purpose funding issues with the low level of contributions here continuing to raise 'medium-term sustainability concerns'.

With projected income down, general purpose funds currently constitute a 'mere' 1.9% of extra-budgetary contributions. This 'coupled with the tight earmarking' of special-purpose contributions, country delegates were informed, 'hinders' the ability of the UNODC to execute mandates, manage programmatic shortfalls, exert strategic direction and oversight and implement improvements. While this is the case, it was interesting to learn that a downward adjustment of special-purpose income reflected increased contributions from major donors, but lower contributions from national donors. Moreover, while the UNODC was keen to stress that, against backdrop of a 2014-15 net loss of \$3.2 million against the general-purposes fund, the minimum budget of \$9.6 million had been maintained. That said, according to the Office, keeping it at this level will depend upon the realisation of expected income, a strict adherence to full cost recovery (a practice that has been implemented by the UNODC over the past few years) and increase in unearmarked contributions in the medium term. Overall then, the take-home message from the UNODC in terms of funding was that, much like the INCB, there remains a mismatch between the growth in the number and range of activities with which the Office is involved and available financial resources, particularly in relation to general-purpose funds. On the latter, the Office is working to seek support of member states to secure continuous and predictable contributions.⁸²

During country responses to the UNODC's updates on financial matters, as well as those relating to wider management and governance issues, several reoccurring themes emerged. For example, in addition to general statements of backing for the technical support provided by the UNODC and encouragement to continue fundraising, there was some concern for the Office's financial situation, especially regarding the decrease in general-purpose funding in specific regions. On this point a statement from GRULAC encouraged states to increase contributions to the general-purpose fund and noted regret concerning the impact of financial shortages on technical programmes within the region. In a similar, although perhaps less realistic, vein, the Thai delegate stated the UN should give more money to the UNODC, particularly regarding its work in the Golden Triangle. Several speakers called for an increase in contributions, again specifically in relation to general-purpose funding, to allow the UNODC to continue to deliver activities

and reduce financial risk. On this point the delegate from Brazil noted his 'serious concern' and stressed that he did not want the UNODC to be 'donor driven'. Having used the opportunity to not only express support but also highlight how much money they had contributed to the UNODC in 2016 (\$23 million and \$77 million respectively), delegates from Japan and the USA called for continued transparency, monitoring and evaluation; points reiterated by, among other states, China. In relation to the UNODC's cost-saving measures attention was also given to need to distribute programme support costs between headquarters and field offices on basis of clear criteria and in an equitable manner. In this regard reference was made to the UNODC's tendency to allocate regular budgetary resources and general-purpose funding to functions in Vienna while leaving field offices to be reliant on more unpredictable sources.

Statements also included comments on the activities of the standing open-ended intergovernmental working group on improving the governance and financial situation of the UNODC (WG-FinGov).⁸³ Within the context of an EOCOSOC resolution concerning a review of its mandate, several delegates, including those from Japan, Korea, China, Thailand, Brazil as well as those representing the Africa Group and GRULAC, expressed their appreciation for FinGov's work in improving the governance and financial situation of UNODC, enhancing transparency and accountability and strengthening cooperation on programmatic, financial and other relevant issues. Indeed, there was a consensus that support should be given for an extension of its mandate until the first half of 2019. On a related issue, as in 2016, a significant number of states spoke of the importance of streamlining and the implementation of the UNODC's full-cost recovery model (for instance, Japan and Korea). Additionally, and while highlighting the problems concerning its implementation, especially in field offices, the delegate from Japan referred to the introduction of Umoja as means of improving transparency and verifiability in project accounting.

On perhaps a more positive note, some states noted an improvement in gender and geographical balance among UNODC staff (for example, Japan and Korea and the Africa Group and GRULAC), although the delegate from Brazil pointed out there was still much to be done, especially within Latin America where there were many well-qualified

individuals able to work in field offices. The general feeling on this point seemed to be that the UNODC should continue to improve recruitment policies from developing and unrepresented and underrepresented countries.

Finally, it was noteworthy that discussions of the UNODC's finances included statements of support for the strengthening links between drug policy and the SDA, including the complementarity of the Outcome Document to the SDGs. Beyond the development agenda, some states welcomed the strengthening of partnerships between UNODC and other agencies, including WHO, INTERPOL, the Department of Political Affairs and the Department of Peacekeeping Operations. On this point, the US delegate used his statement to emphasise that his country had introduced a resolution to encourage integration of agencies (what eventually became Resolution 60/6, see Box 1).

Conclusions

Almost a year on from the UNGASS and formal agreement of the Outcome Document, the current state of the international drug policy landscape as represented by this year's CND remains confused and contradictory. Although in many ways, and inevitably within the context of consensus-based multilateral diplomacy, a suboptimal document, the soft law instrument emanating from the New York meeting contained much that was positive in further shifting the international community's focus away from the traditional law enforcement dominated approach. Consequently, with the operationalisation of commitments contained within the Outcome Document colouring a great deal of deliberation in the plenary and negotiation in the CoW, the 2017 session can be remembered for much that was progressive.

Although there remains a lack of clarity among member states concerning the details of interpretation and implementation of commitments relating to public health and human rights, at a UN agency level the MoU between the UNODC and the WHO is clearly a positive move that does much to better integrate the latter and its public health mandate formally into the Vienna structures. That the WHO Director-General was given a place on the stage for the opening ceremony reflects the progress made in this regard. It was not too many years ago when WHO representatives found

themselves fighting for space at the back of the Plenary. Moreover, Dr. Chan's decision to highlight harm reduction in her opening statement helped set the tone for the session. While, as has been the norm for several years, some member states affirmed their pursuit of evidence-based health-oriented interventions, it is important not to overlook the importance of the INCB's shifting position on drug consumption rooms; a long overdue but nonetheless welcome alteration of its interpretation of the drug control conventions.

In terms of MoUs, it is also worth highlighting the ongoing level of engagement between civil society and the UNODC, in this case specifically with the VNGOC. In combination with the better integration of NGO statements within the plenary and productive informal dialogues this reflected a continuation of the gradual improvement of the place of civil society in Vienna, a shift admittedly somewhat sullied by the increasing use of 'informals' and an associated reduction in transparency in the negotiation of resolutions in the CoW. Nevertheless, the role of civil society in helping once again to raise and sustain the profile of the vital issue of access to controlled medicines, as evidenced among other points over the week at the 'gala' special side event, represented an example of effective collaboration. Indeed, the levels of attention now given to this once largely ignored issue at the CND arguably reflects one of the key positives to come from the Outcome Document and its explicit reference to the SDA. It will certainly be interesting to observe how, beyond access to controlled medicines, member states work to better integrate drug policy and the SDGs more generally. As a universally accepted framework, the 2030 SDA offers the potential to improve UN system-wide coherence of the issue of drug control and put human development at the centre of national policy responses.

On this point, it is also noteworthy that this year discussions around the need to re-evaluate the way the UN system measures the 'success' of international drug policy were increasingly prominent not only within the 'constructive spaces' offered by side events but also during the Plenary discussion. This seems to be an increasingly pressing issue as we approach the now agreed ministerial segment in 2019 and a scheduled review of indicator mechanisms. It is also becoming increasingly obvious that the existing indicators expressed within the ARQ are no longer fit for

purpose within a changing system where member states have committed to prioritise public health and human rights; domains that are inadequately captured or completely ignored within the existing approach. Again, it will be interesting to see how this issue unfolds as we approach 2019. As the Russian Federation's view on the topic suggests, it seems likely that some states will be uncomfortable with the introduction of any mechanism that will hold them to account relative to the high-order commitments made within the rarefied atmosphere of the UN in Vienna and New York.

Indeed, preparations for the fast approaching 2019 ministerial segment reveal that beneath the chimera of consensus sustained by the Outcome Document lies fundamental, and probably in some instances irreconcilable, differences in the way member states – all signatories to the UN drug control conventions – perceive the best way to deal with the 'world drug problem'.

At one level this could be seen at the 2017 CND in the discussions among states concerning the status of the Document relative to previous, and arguably less progressive, pieces of soft law.⁸⁴ This exercise in searching for authoritative language, however, only hints at a more substantial divergence of perspectives. As the UNODC's celebratory *CND Goes Diamond* multi-media package subtly demonstrates, multilateral regimes change over time. This is natural and only to be expected. In this regard, one only has to contrast the photograph of Harry J. Anslinger in 1952 with that of President Evo Morales on the stage at the high-level segment of the 2009 CND. Yet, while this is the case, there is surely a limit to the levels of disagreement and divergent approaches that a regime can tolerate in its original shape and remain credible. And while the use of the death penalty for drug related offences remains a thorny point of contention, perhaps this limit has been reached with implementation of regulated markets for non-medical and non-scientific cannabis use.

Although some observers may contend that states no longer care, if they ever did, about the drug control conventions, or indeed broader international law of which they are a part, the evidence suggests otherwise. Whether it be through 'untidy legal justifications' and calculated political denial⁸⁵ or, as in the case of Canada a low-key slow and steady approach, most members of the international community of states for various political and

geo-political reasons continue to give the drug control treaties careful consideration. In a world where international law and associated norms, including those relating to human rights, are ever more important for the protection of vulnerable individuals and groups, this is quite proper. Yet, as the dust settles after the 60th CND, a meeting that was held very much amidst the reverberations of the UNGASS and in the shadow of 2019, one key question becomes ever more pressing: how long will the Commission be able to maintain the pretence of business as usual? Within the context of advances in our understanding of drug markets, appreciation of evidence and rights-based policy and respect for international law, the ministerial segment in two years' time is surely an opportunity to take stock and consider the new realities.

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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.

This report provides an overview and analysis of the central issues debated at the 60th Session of the Commission on Narcotic Drugs, covering the negotiations of key resolutions, as well as discussions in the Plenary, side events and NGO dialogues.

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