International Drug Policy Consortium
A global network promoting objective and open debate on drug policy

## IDPC Advocacy Note

# UNODC's shifting position on drug policy: Progress and challenges

**February 2014**

## Context

In March 2014, country delegations will gather at the United Nations Commission on Narcotic Drugs (CND) to review progress and challenges in international drug control since the agreement of a Political Declaration on drugs in 2009.[1] Given that the Political Declaration aims to "eliminate or reduce significantly" the use, supply and demand of controlled drugs by 2019, this meeting represents an important opportunity for honest evaluation and an acknowledgement that these targets are not being achieved. With a United Nations General Assembly Special Session (UNGASS) on drugs just two years away, this is an important time for international drug control policy.

To support these deliberations, the United Nations Office on Drugs and Crime (UNODC) has released two important documents: a 'Contribution of the Executive Director of the United Nations Office on Drugs and Crime to the high-level review of the implementation of the Political Declaration and Plan of Action on International Cooperation towards an Integrated and Balanced Strategy to Counter the World Drug Problem',[2] and 'Drug Policy Provisions from the International Drug Control Conventions'.[3]

Both documents formalise an emerging rhetoric from UNODC that we have seen develop over recent years: that drug policies need to focus more on health than crime, but that the three international drug conventions[4] – as they currently exist – provide sufficient flexibility to do this. This position is welcomed, as it follows years of targeted advocacy at UNODC to support this shift in their position – but the paper is also restrictive in that it seeks to contain calls for the international conventions to be revisited or in any way amended. In keeping with a Joint Ministerial Statement that is being negotiated ahead of the CND meeting in March, this Advocacy Note will review both UNODC documents in terms of 'Progress', 'Challenges' and 'Ways Forward' for this debate.

## Progress

The 19-page Contribution from the UNODC Executive Director Yury Fedotov is, in parts, refreshingly honest about the paucity of good data, the "setbacks" that are being faced, and the "unequal" progress that has been made since 2009. Reductions in supply or demand for some drugs in some places have been offset by increases elsewhere, and so we congratulate the authors for conceding that "the overall magnitude of drug demand has not substantially changed at the global level". This is an important acknowledgement that the Political Declaration's targets are not being met. By contrast, the Joint Ministerial Statement being negotiated in Vienna fails to match this honest assessment.

The report contains several other highlights:

- It provides a rare and welcomed endorsement of harm reduction from Mr Fedotov: "Countries which have adequately invested in evidence-informed risk and harm reduction programmes aimed at preventing the

[1] http://idpc.net/policy-advocacy/un-high-level-segment-on-drugs-march-2014
[2] http://www.unodc.org/documents/commissions/CND-session57/UNODC_ED/V1388514e.pdf
[3] http://www.unodc.org/documents/commissions/CND-session57/Drug_policy_provisions_from_the_international_drug_control_Conventions.pdf
[4] The 1961 Single Convention on Narcotic Drugs, the 1971 Convention on Psychotropic Substances, and the 1988 Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances – which together form the basis of global drug policies.

spread of HIV through injecting drug use have remarkably reduced HIV transmission among people who inject drugs and their sexual partners".[5]

- It describes a series of lessons learned and "reflections on the way forward", including:
  - the need to rebalance efforts – and funding – away from law enforcement and into health
  - the value of harm reduction and evidence-based treatment
  - the need for drug responses to be "in line with human rights standards"
  - the need to ensure access to controlled drugs for medical purposes.
- It underscores that comprehensive alternative development programmes can result in sustained crop reductions when carried out as part of broader development strategies, and that "where illicit crop eradication was carried out without a commensurate program in alternative development, reductions in illicit crop cultivation were not sustainable".
- Mr Fedotov acknowledges that "Imprisonment of people for drug use increases their vulnerability to drug-use disorders and numerous health conditions, including HIV, tuberculosis and viral hepatitis. A public health response to the drug problem should consider alternatives to criminalization and incarceration of people with drug-use disorders".
- The report also explicitly endorses the depenalisation of drug possession (where possession remains illegal and criminal, but sanctions are reduced or no longer applied in practice) – stating that this "can be an effective way to decongest jails, reallocating resources to treatment". This position is welcomed by IDPC, and we urge member states to reflect this endorsement in their own country positions and statements.

The Contribution report also includes this interesting passage, which has been well received by a number of more reform-minded member states:

> *"There continue to be challenges in the implementation of the international drug control conventions which should be openly recognized and discussed. Many of the challenges are associated with misconceptions about what the conventions actually stipulate, indicating that there is a need to raise awareness about the content and spirit of the conventions.*
>
> *It is important to reaffirm the original spirit of the conventions, focusing on health. The conventions are not about waging a 'war on drugs' but about protecting the 'health and welfare of mankind'. They cannot be interpreted as a justification — much less a requirement — for a prohibitionist regime but as the foundation of a drug control system where some psychoactive substances are permitted solely for medical and scientific purposes because, if used without the advice and supervision of medical doctors or licensed health professionals, they can cause substantial harm to people's health and to society."*

The 16-page Drug Policy Provisions document further supports this position. It revisits the content of the three international drug conventions themselves, and concludes that they do not commit governments to implement a prohibitionist regime. Instead, the report claims that the conventions provide for drug treatment programmes and do not proscribe harm reduction strategies (provided they are "not carried out in isolation or as an alternative to demand reduction") nor opioid substitution therapy. The conventions also cannot be used to defend human rights violations, compulsory treatment or the death penalty.

## Challenges

However, while the Contributions report contains a great deal of positive messages and important statements, it does also raise some questions and concerns:

[5] It should be noted that, since his appointment to UNODC in 2010, Mr. Fedotov has still yet to explicitly support key harm reduction measures such as needle and syringe programmes or opioid substitution therapy in any of his speeches or statements – which has been regarded as a reflection of his close ties with the Russian Government, which continues to vehemently oppose these measures in spite of the global evidence.

- It states that "The recommendations made in the 2009 Political Declaration remain valid today" – although many of that Political Declaration's headline targets – such as those to "eliminate or reduce significantly" drug use, drug supply, money laundering, and drug-related health and social risks – are clearly not realistic and are clearly not being achieved.
- It incorrectly states that "The drug control system reduces the availability of harmful substances and mitigates the high risks associated with their use" – also claiming that it "drives their prices higher" when recent evidence indicates that prices have been gradually falling.[6]
- Bold claims are made with regards to the global cocaine market having "shrunk in the last five years". Notably, the UNODC World Drug Report 2013 is more circumspect and acknowledges that "the available indicators do not yet fully reflect the extent of global cocaine demand and supply" and "levels of uncertainty are especially pronounced".[7]
- The report also indulges in the spurious association of 0.2 million deaths annually from controlled drugs alongside 2.3 million for alcohol and 5.1 million for tobacco – the implication being that international drug control is saving millions of lives whereas these rates cannot be usefully compared for a wide range of reasons.
- While congratulating countries that have adopted harm reduction approaches and reduced their HIV epidemics, Mr Fedotov does not take the argument to its natural conclusion: governments who actively refuse to adopt such measures are failing their people and wilfully facilitating epidemics.[8]
- The report is also vague on the implications of comprehensive, sustainable alternative development programmes. These would require new ways of measuring success – focusing not on eradication activities, but more on impact and human development indicators. As pointed out in previous UNODC documents, these would include "improvements in education, health, employment, the environment, gender-related issues, institution-building and government capacity."

The more technical Drug Policy Provisions document – although well intentioned – contains some highly problematic statements, and is insufficiently comprehensive or legally rigorous in a number of areas. Despite stating that the international drug conventions promote access to controlled drugs for medical purposes, it fails to acknowledge the fact that the availability of opioid medicines remains shockingly low to non-existent in most countries.[9] Similarly, the section on harm reduction does not mention the appallingly low coverage of these interventions around the world.[10] While the conventions may not technically present barriers, they clearly do not do enough to promote these interventions. There is problematic language throughout as well – including references to people who use drugs as addicts, abusers, victims of "unwholesome environments", and even "slaves of drug dealers". This report focuses on the brain disease model of addiction, with little regard for how drug policies also apply to people who use drugs free from addiction or any mental health problems. Controversially, the document even dismisses the term opioid substitution therapy as "misleading and counterproductive" – despite this being agreed language for UNODC and the rest of the UN system.[11]

The claims that the 'war on drugs' approach "is not the vision of the conventions" are also disingenuous. Analysis of the debates surrounding the adoption of each convention shows that many advocates very much desired the criminal suppression of drug use and supply. Furthermore, the 1988 Convention specifically dictates that the possession, purchase or production of controlled drugs for non-medical, non-scientific purposes is a criminal offence. In addition, coca leaf and cannabis are two of the key policy issues where the conventions provide little flexibility and have been

[6] See, for example, http://www.bmjopen.bmj.com/content/3/9/e003077.full.pdf+html
[7] http://idpc.net/publications/2013/10/idpc-response-to-the-unodc-world-drug-report-2013
[8] See Footnote 5 above
[9] http://www.who.int/medicines/areas/quality_safety/access_Contr_Med/en/
[10] http://www.idurefgroup.unsw.edu.au/publications/hiv-prevention-treatment-and-care-services-for-peo
[11] See, for example, http://www.unodc.org/documents/hiv-aids/idu_target_setting_guide.pdf

fundamentally challenged – and both are omitted from the Drug Policy Provisions document (as is the issue of indigenous rights).

Although both UNODC documents support the depenalisation of drug possession offences, they fall short of supporting decriminalisation (where criminal sanctions are removed altogether), amending the conventions, or creating regulated markets, as has happened for cannabis in Uruguay and the US states of Washington and Colorado, and for new psychoactive substances in New Zealand. Some of these reforms lie outside of the international drug conventions as they stand, but they arise from legitimate government efforts to manage drug markets within their territories more effectively. UNODC and the International Narcotics Control Board (INCB)[12] need to be engaged positively with these developments.

## Conclusions and priorities for the way forward

For decades, UNODC's messaging on drug policy has been defensive and seeking to protect the repressive, law enforcement-led status quo. Against this backdrop, the changing rhetoric from the agency – of flexibility and health-based policies – is very much welcomed. Similar to the previous UNODC Executive Director's acknowledgement of "unintended consequences" from drug policy,[13] Mr Fedotov's Contributions have the potential to push the debate forward in Vienna.

However, the debate needs clearer legal analysis and more extensive normative guidance than the Drug Policy Provisions document currently provides. UNODC also needs to articulate a strategy for disseminating this new approach to member states around the world in order to modernise national policies in countries that still assume that UNODC wants them to continually toughen laws and policies. UNODC also needs to work hard to ensure that these more progressive statements are not undermined by CND discussions, resolutions and documents, nor by the INCB.

Nonetheless, these two reports formalise an important message from UNODC – that the international drug conventions need to be interpreted differently in order to support an approach that is based on public health and human rights, rather than on crime and repression. This is yet another sign that the drug policy debate is moving forward, albeit slowly, at the international level. This is something that IDPC welcomes, and we hope that it will be reflected by honest, open debate at this year's CND High Level Segment[14] and the UNGASS on drugs in 2016.[15]



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[12] The independent body created by the international drug conventions to monitor countries and enforce the implementation of the conventions: see http://idpc.net/incb-watch
[13] http://www.unodc.org/documents/commissions/CND-Session51/CND-UNGASS-CRPs/ECN72008CRP17.pdf
[14] http://idpc.net/policy-advocacy/un-high-level-segment-on-drugs-march-2014
[15] http://idpc.net/policy-advocacy/the-un-general-assembly-special-session-on-drugs-ungass-2016