

THE BECKLEY FOUNDATION
DRUG POLICY PROGRAMME



REPORT OF THE THIRD BECKLEY INTERNATIONAL DRUG POLICY SEMINAR

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The Beckley Foundation Drug Policy Programme (BFDP, www.internationaldrugpolicy.net) is a non-governmental initiative dedicated to providing a rigorous independent review of the effectiveness of national and international drug policies. The aim of this programme of research and analysis is to assemble and disseminate material that supports the rational consideration of complex drug policy issues, and leads to more effective management of the widespread use of psychoactive substances in the future. The Beckley Foundation Drug Policy Programme is a member of the International Drug Policy Consortium (IDPC, www.idpc.info), which is a global network of NGOs specialising in issues related to illegal drug use and government responses to the related problems. The Consortium aims to promote objective debate on the effectiveness, direction and content of drug policies at national and international level.

1. THE OBJECTIVE OF THE SEMINAR

The Beckley Foundation organised its third annual international seminar on drug policy in the House of Lords, Palace of Westminster, London, United Kingdom, on 4 December 2006. The objective of the seminar was to examine the preparations for the forthcoming global review of the international drug control system.

The review by national governments, under the auspices of the United Nations Office on Drugs and Crime (UNODC), is likely to consist of the collation of data and evidence that describe progress and problems since the last review in 1998, the consideration of that material by national governments, and a high-level political meeting to discuss lessons learned and map out the way forward. There are signs that the contribution of Civil Society – NGOs, professional bodies and academics – to this process has the potential to be much more integrated than it has been in previous reviews. A number of Civil Society organisations have already begun to explore how they might best influence this process. This seminar brought together key stakeholders of both the governmental and the non-governmental sectors to review the current state of preparations for the structure and content of the process, and to discuss how Civil Society can be most usefully involved.

In the spirit of open debate, the seminar assessed the current status of UN and its Member States' plans for a prospective UN General Assembly (UNGASS) meeting in the coming years. It reviewed the

recent work of the Vienna NGO Committee and the preparation for the 4th International NGO Forum. The event also addressed some of the priority subjects that Civil Society may wish to discuss through this process: rescheduling of substances within the UN Conventions on drugs, a clear position on harm reduction, as well as the role of the UNODC and International Narcotics Control Board (INCB) in the current international drug control system.

2 CURRENT STATUS OF PLANS FOR THE UNGASS

The preparation for the next UNGASS has already started in various settings, although it is still at a preliminary stage. Ms. Alison Crockett, First Secretary of the UK Permanent Mission to the UN in Vienna presented a summary of governmental preparation at the UN level and governmental level. Mr. Michel Perron, Acting Chair of the Vienna NGO Committee summed up the current status of organising the 4th International NGO Forum. Mr. Mike Trace, Chair of the International Drug Policy Consortium, introduced the plans of IDPC to contribute to the process. The discussions which followed the presentations revealed a range of opinions and concerns from many Civil Society organisations.

The next UNGASS aims to examine the progress made since the UNGASS Special Session on Drugs in 1998, when a 10-year programme was adopted. The prime objective of the Political

Declaration¹ and the International Co-operation against the world drug problem² was to eliminate or significantly reduce the production, trafficking and use of illicit drugs. Specific resolutions of subsequent sessions of the Commission on Narcotic Drugs (CND) were drafted to operationalise the objectives, which included monitoring and reviewing progress towards the stated goals.

The basis of the preparation for UNGASS provided by CND Resolution 49/1³, which was adopted by the 49th session in 2006. The resolution authorises UN Member States to set up an expert working group to make the evaluation and assessment of the monitoring process more robust. Despite the fact that the expert group is expected to meet in early 2007, its mandate, management structure and composition is not decided yet. One possible option is that UNODC will take the lead. The UNGASS co-ordination group at UNODC is tasked to pull together all assessment from the research group, similarly to the compilation of World Drug Reports. At the same time, a number of states, particularly some Member States of the European Union, have critiqued the information produced by the UNODC and claim that its quality and content has room for improvement. They would prefer an alternative approach, within which the expert group would have a status of a consultative group working in parallel to the UNODC. According to this view, this status would ensure more independence for the group in operating and publicising the result of their work.

Various UN Member States have already started discussions themselves with the intention to influence future drug policy. However, views differ on the possibilities. On the one hand, it seems that the enthusiasm among the Member States for anything as radical as a renegotiation of the Conventions on drugs is limited. Taking account of this climate, relying on the interpretive flexibility within the Conventions, rather than attempting to re-write them, appears to be a more realistic target. On the other hand there are views that aspirations for change should not be modest. Although there is no agreement on a single direction to pursue particular objectives, Civil Society organisations are urging that issues such as harm reduction, the problem of HIV/AIDS, the medical use of particular drugs and the governance, structure and operation of UNODC as well as INCB should be addressed.

Further to governmental preparations, various NGOs are planning to contribute to the process. According to some views, room to seek out opportunities to influence the UNGASS process is limited. In contrast, others argued that the lack of government interest in the process may actually present opportunities for NGOs.

It was noted at the Seminar that NGOs must have a clear idea of exactly what they want from UNGASS, UNODC and UN Member

States. One of the possibilities to channel the clearly articulated input of Civil Society to the UNGASS process is the 4th International NGO Forum. This project – in co-operation with the New York NGO Committee and the support of UNODC – is organised by the Vienna NGO Committee (www.vngoc.org), which provides a structured link between NGOs, the UNODC and the CND. The Committee was established in 1983 with the objective to contribute to the work of the UNODC, provide information on NGO activities and mobilise a wide range of Civil Society organisations in order to raise awareness of global drug policies.

The UNGASS Special Session in 1998 called upon NGOs to work closely with governments and others in assessing the drug problem, identifying viable solutions and implementing appropriate policies and programmes. Therefore the revision of the 10-year programme presents an opportunity for the NGO community to reflect on its own achievements in drug control, rethink current collaboration mechanisms with UN agencies, and reach agreements on ways to make recommendations to multilateral agencies and UN Member States on future directions for drug control. Consequently, the objectives of the 4th International NGO Forum are threefold:

- (1) To highlight tangible NGO achievements in the field of drug control, with particular emphasis on contributions to the 1998 UNGASS Action Plan such as achievement in policy, community engagement, prevention, treatment, rehabilitation and social-reintegration.
- (2) To review best practices related to collaboration mechanisms among NGOs, governments and UN agencies in various fields of endeavour and propose new and/or improved ways of working with the UNODC and CND.
- (3) To adopt a series of high order principles, drawn from the Conventions and their commentaries, that would be tabled with the UNODC and CND for their consideration and serve as a guide for future deliberations on drug policy matters.

The Forum itself will be the culmination of a comprehensive global process of consultation with, and discussion between, Civil Society organisations interested in drug policy. The Forum does not aim to unite all NGOs, but pays special attention to liaise with other groups to avoid duplication and utilise limited NGO resources to the utmost extent. Starting in 2007, work programmes addressing each of the three core themes will be articulated by the steering committee, and a network of 8 regional Civil Society fora covering the following geographical areas: (1) North America, (2) Central and South America, (3) Europe, (4) North Africa and the Middle East, (5) Sub-Saharan Africa (6) Eastern Europe (non-EU states), (7) Central and South Asia (8) South-East Asia and Oceania. Each of these regional fora will be charged with gathering the views of interested parties in their region, and feeding them into the various work programmes and meetings

¹ Political Declaration A/RES/S-20/2

http://www.unodc.org/unodc/en/resolution_1998-06-10_1.html

² International Co-operation against the world drug problem A/RES/53/115

http://www.unodc.org/unodc/en/resolution_1998-12-09_1.html

³ CND Resolution 49/1 (E/2006/28 E/CN.7/2006/10) on the Collection and use of complementary drug-related data and expertise to support the global assessment by Member States of the implementation of the declarations and measures adopted by the General Assembly at its Twentieth Special Session http://www.unodc.org/pdf/resolutions/cnd_2006_49-1.pdf

of the Forum. Because of the comprehensive effort representing added value to the revision of global drug control, the Forum will seek to have its work formally adopted as a part of the UNGASS process.

The timing of the key meetings of the Forum is contingent on the deliberations of the CND, which is currently in the process of selecting the date for the 1998-2008 review. The key political meeting is likely to take place in 2009, but there will be a series of preparatory meetings on behalf of the CND and others throughout 2008. The Forum will be timed to coincide with these for maximum and most timely impact on that process. There have been suggestions that the UNODC wishes to hold the key political meeting in Shanghai to celebrate 100 years of drug control, but this has been resisted by many member states on practical grounds, and also on the grounds that there is not much in the way of progress to celebrate.

Besides this work, other Civil Society groups are likely to emerge to have their say in the process. One of them is the International Drug Policy Consortium, which is a global network of 25 international and national NGOs. In accordance with the mid-term review of the implementations of 1998 UNGASS plans, which agreed to continue with the 1998 strategy, the IDPC's intention is to ensure that the forthcoming UNGASS will comprise a genuine and comprehensive review of present drug control strategies, and we are therefore promoting the implementation of an independent and rigorous academic review of the UN drug control system, which is unfettered by institutional and financial relations.

Having discussed the possible structures and timetables for the 10 year review, the seminar moved on to consider some of the issues that could be addressed through this process.

3. SOURCE COUNTRY ISSUES, AND RESCHEDULING OF SUBSTANCES WITHIN THE CONVENTIONS

The Seminar addressed possible measures to develop the drug control system within the framework of the current UN Conventions. Mr. Martin Jelsma, Programme Co-ordinator of the Transnational Institute's Drugs and Democracy Programme (<http://www.tni.org/drugs/index.htm>) spoke of the issue of coca leaf with special reference to Bolivia. Ms Katy Swaine, Consultant of Release, a UK-based NGO (www.release.org.uk) presented approaches to drug classifications at UN and UK level. These presentations were followed by a discussion when participants raised questions about the problem of opium production in Afghanistan.

Martin Jelsma presented the Bolivian government's concerns at the inappropriate scheduling of Coca Leaf within the conventions.

Coca leaf was included in Schedule I of the 1961 Single Convention on Narcotic Drugs, hence it became an illegal substance. The appropriateness of this decision has been debated since the adoption of the Single Convention. Coca leaf cultivation and consumption have been prevalent and culturally embedded in the Andean region for a long time. Despite the 25 years of transition period to phase out cultivation and consumption allowed by the 1961 Convention, the tradition is still alive. Coca leaf is still considered to be a sacred plant and a traditional facet of Andean culture. In some of the South American countries national legislations protect this tradition; hence they contradict the stipulations of international legislation. The need to settle this contradiction has often come forward at particular sessions of the CND, but the formal revision of the Schedules of the Conventions has never taken place.

The current Bolivian government allows legal farming of coca and consequently there is a realistic opportunity that the issue will be brought to the UN again in the near future. It is realised in Bolivia now that the move to prohibit coca was a great error in policy, which was based on outmoded scientific information. The UN mechanism has long ignored scientific reports such as, for instance, the WHO Cocaine Research Project, which has found that traditional patterns of use of Coca have not been detrimental to health or social cohesion. Further to the dismissal of scientific evidence, the Conventions are particularly stringent about the coca plant, while other stimulant plants, for example ephedra, are not mentioned at all.

The Bolivian government now wishes to reduce cocaine use by making coca more available, expanding its use in tea and chewing of the leaf. In order to pursue this policy, Bolivia can ask for the Single Convention to be reviewed with reference to coca at the UNGASS. The prospects for success are not great at the moment, mostly because withdrawing a substance from Schedules of a Convention has a symbolic meaning, which is politically and procedurally difficult. However, even if the attempt fails, it will open debate and expose the flawed nature of the scheduling of substances within the Conventions, which make no distinction between mild natural stimulants and concentrated industrial stimulants.

Katy Swaine compared both the UN and the UK substance scheduling mechanisms. At the UN level the general purpose of scheduling is to control narcotic drugs, psychotropic substances and substances which may be used for illicit production of drugs. Scheduling substances vary depending on the particular Conventions. Under the 1961 Conventions drugs are listed in schedules according to the intensity of control, but the schedules do not necessarily indicate their harmfulness as assessed in 1961. Apparently there are not any clear criteria stated by the Conventions for including a particular substance into one schedule as opposed to the other. The decisions about additions, deletions or transfers between schedules may be considered on the basis of a notification of a signatory party or the World Health Organization (WHO). The decision is made by the CND on the recommendation of the WHO, but the decision is not subject to review

by the Council or the General Assembly. The 1971 Convention lists substances into schedules in accordance with their potential for dependency, abuse and therapeutic value, and the scheduling procedure is identical with that under the 1961 Convention. The 1988 Convention aims to tackle various aspects of illicit traffic in narcotic drugs and psychotropic substances on an international level. It incorporates various elements of the Schedules of the 1961 and 1971 Conventions and substances used in the illicit manufacture of narcotic drugs and psychotropic substances.

In the UK, drug control is based on the Misuse of Drugs Act 1971 (MDA) and the Misuse of Drugs Regulation 2001 (the 2001 Regulations). Their aim is, among others, to control the use, production and distribution of all drugs recognised as being medically or socially harmful; to promote understanding of the problem by undertaking research; to enforce law, to treat drug dependents and to educate the public. Controlled drugs are listed under the MDA into three Classes (A, B, C), depending on their relative harm. The classes stipulate the maximum possible penalty for criminal activities (possession, supply, manufacture, etc) in relation to particular substances. Changes to the classification of substances can be made only with the approval of Parliament. Before a proposed amendment the government is obliged to seek advice from the Advisory Council on the Misuse of Drugs, which consists of scientific experts. Nevertheless it is not mandatory for the government to make its decision on the basis of the Council's recommendation. Although for different reasons, both the UN and UK scheduling practices are inherently controversial. They represent an inconsistency between classification and the current scientific evidence on the level of harm that particular drugs may cause.

Additionally, although there was no presentation on the opium issue, the Seminar participants raised questions about the current state of play in Afghanistan. The problematic relationship between poppy cultivation and the international drug control mechanism is well known. Interventions ranging from crop eradication to alternative development projects have been put into operation in order to reduce opium production. In spite of these efforts, Afghanistan still remains the leading opium producing country and her population at large is widely involved in the industry. A proposed new alternative to the situation could be to remove the production of opium from the illicit economic sector into licit business in Afghanistan. On the one hand, it was argued that there is need for opiate-based pharmaceutical products on both the domestic as well as the international market; therefore the promotion of legal morphine production in Afghanistan has the potential to give a solution to the enduring and acute problem at a relatively low cost. On the other hand, it was pointed out that this option is not realistic, because of the various practical barriers to the creation of a controlled market in opium products, and the protectionist position of the existing major legal opium producers, protecting their economic interest and markets. Consequently such a development possibility in Afghanistan can represent an enormous political challenge, which would be difficult to accomplish. Nevertheless a more modest proposal to enable Afghanistan,

similarly to its neighbouring country of Iran, to use confiscated opium to meet the domestic pharmaceutical demand is worth further considering. The discussion concluded that such developments can result in progress in Afghanistan, but they would hardly stop the flow of heroin into Europe; therefore they should not be wishfully regarded as an ultimate solution.

4. A CLEAR POSITION ON HARM REDUCTION

Gerry Stimson, of the International Harm Reduction Association, gave a brief summary of the current situation – he explained that the current global control system, including two of the conventions currently in force, were created before HIV and AIDS, and the risk of transmission through drug injecting, were known. Consequently, the entire system was not well equipped to deal with a public health challenge. Even when the threat became clear, the UN system has been scandalously slow in reacting – the 1998 UNGASS produced declarations on supply and demand reduction, but nothing on harm reduction, it took UNODC 20 years to set up an HIV/AIDS unit, and it is only in 2005 that UNAIDS produced a prevention strategy that explicitly endorsed harm reduction approaches to minimising drug related infection. Even with that breakthrough, there remains no coherent and well-resourced UN strategy to avert the potential injecting related epidemics brewing in many parts of the world. Indeed, the INCB continues to raise questions about the public health programmes of individual countries, despite the fact that they are consistent with UNAIDS policies.

On the positive front, the HIV/AIDS unit in Vienna was showing signs of formulating a clear plan for the upscaling of HIV prevention measures amongst drug injectors, and some donor countries were increasing their investment in these activities. The challenge to the NGO community in the coming months and years was therefore to demand that the UN system urgently expand its work to promote proven HIV prevention measures, and that the rich donor nations make this a priority. The forthcoming UNGASS should be an opportunity to incorporate an unequivocal commitment to effective HIV Prevention into the international agreements.

In the discussion that followed Professor Stimson's presentation, delegates considered the best way for NGOs to promote an evidence-based approach in this area. Some contributors emphasised the need to work through national governments and parliamentarians to improve awareness of the evidence. Others thought that it was necessary to work at UN level to change the attitudes there, as the UNODC, INCB and UNAIDS officials have a major influence on government thinking, particularly in developing countries.

5. THE ROLE OF UNODC AND INCB: MISSION CREEP?

David Bewley-Taylor, PhD, a Senior lecturer at the University of Swansea and a member of the International Society for the Study of Drug Policy (ISSDP www.issdp.org) presented his findings on the apparent anomalies between the official, or mandated, roles of the UNODC and INCB and their actual activities and performance within the UN drug control system.

The presentation argued that, to varying degrees, both bodies have been exceeding their mandates in some of their activities, and choosing not to be active in other areas of their mandate.

With regard to the INCB (or Board) there exist two inter-related factors to consider. These are treaty interpretation and the INCB's current role as a Guardian rather than a Watchdog of the Conventions. Because the INCB has a role in implementing the international drug control system it should act as a watchdog not a guardian of the Conventions. As a watchdog it should monitor the world drug situation and highlight any existing or emerging tensions between national policy and the Conventions. It is then up to member states at the CND to address these issues.

In recent years, however, the INCB has been increasingly acting as a guardian of the conventions: That is to say protecting the purity of the conventions and challenging any policy or activity that does not correspond with what it perceives as the original vision of the control system. Two key outcomes of such a dynamic can be identified. First, while the Board has no police power to enforce provisions of the Conventions (or more appropriately its interpretations of provisions), it does have significant informal influence; particularly through what is effectively a naming and shaming mechanism. This has different impacts on different nations, but it often negatively influences the dynamics of legitimate policy debates and decisions within sovereign states. Second, it stifles moves to modernize the Conventions.

As with the INCB, one of the key problems presently facing the UNODC concerns independence, or perceptions of independence. The UNODC itself believes that its comparative advantage is that it is an honest broker representing the interest of no single Member State. In reality this is often not the case. There is a disconnect between how the UNODC portrays itself and the mechanics of what actually takes place in Vienna. Here Mission Creep manifests itself as the UNODC often privileging the policy positions of individual member states. The reason for this has much to do with how the Office is funded. The UNODC receives very little money from the Regular UN budget. Generally about 90% of the *Office's* funding comes from voluntary contributions from member states.

As a result opportunities are available for Major Donors to in effect buy influence within the UNODC and influence the type and geographical location of programmes as well as more general policy positions.

The most obvious recent example of the latter was the UNODC's review of its stance on harm reduction inventions, including needle exchange programmes in 2004. This came in response to a threat by the US to withdraw funding unless the UNODC withdrew support for such programmes. Another more recent example involves the UNODC's publication of *Sweden's Successful Drug Policy: A Review of the Evidence (2006)*. It can plausibly be suggested that choice of Sweden as an exemplar had something to do with the nation's financial contributions to the *Office*, and the current Executive Director's increasingly strident advocacy of the Swedish model. The funding predicament impacts the *Office's* capacity to fulfil its role in a number of ways. For example, rather than assisting member states, it is often being driven by the agenda of a single member state or a small but active group of member states. Furthermore, inadequate or inconsistent funding inhibits strategic planning and thus degrades the *Office's* ability to coordinate, complete and evaluate/analyze international drug control activities.

The presentation concluded by suggesting that any specific action at the UNGASS has to take place within the context of a reclamation of the international drug control system by the member states. With this in mind, the UNGASS provides an opportunity to re-visit the roles of both the INCB and the UNODC and to shine a light on and ask difficult questions of important areas that have hitherto received relatively little attention. For example, the Board's mandate, its position on harm reduction and transparency of operation. With reference to the UNODC, an important issue due for attention is the current funding mechanism and discrepancies between donor contributions and leverage within the *Office*. Encouraging member states to address this issue does, however, raise some awkward questions for Civil Society. When thinking about the roles played by certain parts of the UN drug control framework, it has to bear in mind a balance between making the system work better and encouraging particular countries to work better within the system.

POSSIBLE NGO ACTIVITIES AND PRIORITIES

The seminar concluded with an open discussion of the various issues raised during the day, and possible areas where Civil Society could make a positive impact on the UNGASS process. Suggestions for further action include

- The NGO sector should further support governmental preparations for UNGASS with responsible and reliable information.
- The 4th International NGO Forum to be officially adopted as a part of the UNGASS process.
- To further mobilise drug NGOs to have their say, regardless of their ideological background.
- To reach out for non-drug based NGOs and invite them to contribute to the process.
- To promote the research of positive and negative impacts of scheduling and to facilitate developing better practices within the current Conventions.
- To examine alternative options to remove the production of opium from the illicit economic sector into licit business in Afghanistan.
- To promote the reduction of harm as a legitimate and effective drug policy option.
- To further address the issue of governance of UN drug agencies.