

Public health and human rights: accepted or denied?

Readers will recall DAT Issue 2 2017 which covered the proceedings of the 2016 UNGASS; and the subsequent collection of essays 'Collapse of the global order on drugs' published in 2018. Core to both publications and the 2016 UNGASS on drugs are the regular meetings of the Commission on Narcotic Drugs (CND), held under the auspices of the UN Office on Drugs and Crime in Vienna. Ostensibly designed to monitor the workings and impact of the International Drug Control Conventions ¹, CND proceedings have increasingly operated as a forum for contrasting, opposing and, more and more, irreconcilable views and attitudes on the Conventions. Prior to the March 2019 62nd session of CND, there was a two-day High-Level Review of the Conventions. Taken together, the two events represented six days of discussion, debate and position-stating - not to mention denouncement, denial and refusal to recognise the sovereignty of states whose ideas were not in alignment with some of the nations represented.

As a first-time attendee at the UN City in Vienna, my initial impressions of the site and the event were of open-ness and accessibility. Once inside the complex of UN buildings, after passing through airport-style security where the only interventions I observed by the UN's security staff (all armed with side guns) were reminders and requests to put away mobile phones in the security check area, pass holders had unlimited access to the whole site and complex. The UNODC building consists of meeting rooms of various sizes and shapes; offices for the permanent staff - and corridors.... Whether occupied or not, these offices were almost without exception characterised by open doors. Display screens gave details of events and rooms, with one or two events shown as 'closed'. The larger rooms – room is something of an understatement – were equipped with simultaneous translation facilities for the UN languages. The only occasion on which I was stopped and checked was when the photograph and name side of my pass was not visible when I was about to enter the large room where the plenary sessions were held during the two days of the High-Level Review.

Style over substance: Enforcement versus treatment

This initial impression of open-ness stayed with me till the second day, when I realised that the two days during which I was listening to national delegations stating their positions and policies were, effectively, sterile activities, with the appearance of 'debate' being gone through: the defining Ministerial Declaration had been announced on Thursday morning, at the start of the week's proceedings. So any expectations that the week would truly comprise monitoring, let alone review, were quickly dispelled. Colleagues with more experience of CND were too kind to comment on my naïvety, but this failure to include any genuine review of the Conventions and

¹ Single Convention on Narcotic Drugs of 1961 as amended by the 1972 Protocol; Convention on Psychotropic Substances 1971; United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988.

their real-world impacts was but one example of the Newspeak approach to language which I increasingly observed during my five days observing proceedings and talking to others (I was not present at the first, Monday, day of CND itself). As the official delegations' statements followed one another, I became aware that many of the speakers were wearing police or military uniforms, or had military titles. As I attended the CND events the following week, I also noted the male-female discrepancies: the majority of those who spoke as official delegations during the two High Level Review days were male, while the NGO and CSO organisations had a high ratio of female members, speakers and meeting convenors.

So what is the purpose of the High-Level Review? Given that the outcome is published before any events have taken place, it is clearly not designed or intended to benefit from the impressive array of events and meetings which took place during the five CND days. As the introductory chapter of 'Collapse of the global order on drugs' suggests, many of the official delegations adopted a stance which seemed more suited to demonstrating a presence on the international stage at which power and status could be paraded rather than to outline their nation's evidence-based approach to drug policy. As the two High Level Review days rolled on, I became more interested in observing nations' and speakers' stances, language and attitudes rather than the content of their speeches.

However, alongside the frustratingly predictable references to 'the world drug problem', descriptions of drug use (and users?) as a 'scourge' from, amongst others, China, Japan, Myanmar, the Russian Federation, Singapore and the USA, there were more thoughtful and reflective contributions from, amongst other nations, Canada, Chile, Colombia, Ecuador, Ireland, Mexico, Slovenia and Uruguay. My list is weighted to countries where 'the war on drugs' has actually been fought, so they speak with the authority and first-hand knowledge of the effects of a prohibition and enforcement interpretation of the Conventions. In its speech, the USA took the opportunity to verbally attack Venezuela, not for its drugs policies. The US speaker ended her presentation by stating that "We are never as strong alone as when we are working together". This statement was regarded with scepticism by my two female neighbours, one from Colombia, one from Canada. I too found it at odds with 'America first' sloganising, a nationalist and protectionist attitude shared with other nations. During the CND days, the Russian Federation denounced Canada for its 'violation of international law' by legalising the recreational use of cannabis. By contrast, the Irish Minister for Health stated that 'Our drug policy is based on compassion and humanity'; and speakers from several Latin American countries referred to the need for land reform.

The official UK position was put by a Home Office civil servant, who referred to international co-operation and the UK Crime Agency. This follows the first-time inclusion of a section on global

activity in the UK drug strategy from 2017, possibly positioning for a post-Brexit 'global Britain'. The principal UK government contribution to the CND side-events was a session on law enforcement and organised crime. Some states seemed to deny any domestic use of illicit drugs, seeing their place in the drugs trade as transit routes and their roles as subject to the activities of international organised crime. There was a reluctance of such states to acknowledge their own domestic roles as growers, producers, exporters and users of illicit drugs. The number of references to evidence-based practice and to gender equality was striking, not least because many such statements were made by nations whose poor human rights practices and lack of equality between the sexes have long been documented by NGOs and civil society organisations (CSOs).

Whereto in drug control? Between the CND 2009 Declaration and the UNGASS 2016 Outcome Document

It was also becoming clear that there is a divide between national delegations and statements which emphasise the CND 2009 political declaration; those which emphasise the 2016 UNGASS Outcome Document; and the UN's own Sustainable Development Goals. The UNGASS Outcome Document made important concessions to and inclusions of public health and human rights approaches to drugs policy, including the acknowledgement of harm reduction. 'Harm reduction' had been a taboo term in the 2000s, and it was one of the achievements of CSO participation at UNGASS and other events to make the term, the practice and the usage recognised and accepted at the international fora. It was interesting to note which states prioritised the 2009 document over the 2016 document, which was intended to up-date and move-on interpretations of the Conventions, even though the proceedings and declarations of UNGASS out-rank those of UNODC. The UN itself has written this year on the 'hierarchy' of events and their priorities.²

Two of my foci from the events and discussions were on the role of CSOs; and the position of tramadol. The (previously submitted and selected written) question-and-answer session with the Director of UNODC during the CND days included the issue of civil society organisations. Yuri Fedotov emphasised that CSOs alone cannot change or amend the Conventions. However, their inclusion in official delegations, which have the power to change and amend the Conventions, was acceptable and one way in which the CSO and user voice could be better heard and acted on. Tramadol was a frequent topic in both the High-Level Review sessions and the CND events the following week. Part of its 'presence' was in contexts where its value as an analgesic and an essential medicine was accepted and developed. This acceptance was clearly not shared by all official delegations, some of whom continued to call for tramadol to be 'controlled' (more Newspeak) under the Conventions in spite of its value as a pain killer. For many, the response to

² Report of the UN Chief Executives Board for Coordination, January 18 2019, Appendix 1.

tramadol seemed to be used as a litmus paper to show a strong and unshakeable stance on illicit drugs, regardless of the cost to health services and individuals. Many of those nations pointed to the claimed 'abuse' of tramadol, on their territories and elsewhere, and used this as their basis for arguing for controls. Evidence from the WHO Expert Committee on Drug Dependence was dismissed by such nations, often on the grounds that it was 'insufficient', an argument which sounded to me like kicking the can down the road as a tactic to avoid acknowledging and accepting the many medical benefits of the drug and the supporting evidence. It seemed, too, that the opposition to tramadol as a substance being abused misunderstood or misrepresented tramadol. Where 'tramadol' is being misused, it is a different substance to pharmaceutical quality tramadol – street tramadol? - and is at a far remove from the 'real' thing, being subject to dilution, adulteration, cutting or simply not being 'tramadol' at all. This failure or refusal to accept the extensive evidence of the nature of the trade in illicit drugs – what is sold as tramadol is not necessarily tramadol – continues to mean that some states seek to ban and control pharmaceutical tramadol in the mistaken belief that doing so will impact the trade in illicit tramadol: the two substances are completely distinct.

This confusion, whether deliberate or arising from a lack of understanding, which is increasingly inexcusable given the extensive evidence around the trade in pharmaceutical and illicit tramadol, also runs in opposition to the much-resorted to Conventions' texts. The 1961 Single Convention on Narcotic Drugs starts with a preamble whose first two items read: 'The parties...Concerned with the health and welfare of mankind; Recognizing that the medical use of narcotic drugs continues to be indispensable for the relief of pain and suffering and that adequate provision must be made to ensure the availability of narcotic drugs for such purposes...'. Along with the casual misuse of references to evidence-based policy, human rights, gender sensitivity and national sovereignty, the wording of the Conventions is prey to a range of interpretations. Here it is 'the health and welfare of mankind', the opening statement of the Preamble to the 1961 Single Convention. The range of interpretations and understandings of 'health and welfare' as they apply to drug policy indicated by the statements of the official delegations extend from treatment and care through imprisonment to extra-judicial murders and judicial executions. Here again the divide between nations championing the UNGASS Outcome Document and the SDGs., and those preferring the 2009 Political declaration was brutally evident.