The Meaningful Participation of ‘Stakeholders’ in Global Drug Policy Debates—a Policy Comment

Ann Fordham

Abstract

This policy comment seeks to address three key questions relating to the participation of civil society in international drug policymaking. Firstly, who are the relevant ‘stakeholders’ and what options do they have to participate in drug policy discussions at the United Nations level? Secondly, have certain ‘stakeholders’ been able to positively influence the direction of global drug policies? And thirdly, who are the ‘most affected’ communities and what could be done to improve their meaningful engagement in the definition of drug policies that directly impact their lives? Unpacking the terminology around civil society, stakeholders, and most affected communities, the chapter argues for a clearer distinction between ‘rights-holders’ and ‘duty-bearers’. Masking the inherent power imbalances between the different stakeholders risks underplaying the rights of affected communities and legitimising a place at the table for corporations as ‘equal actors’ in spite of fundamentally different interests. The commentary concludes that the increased involvement over the past decade of civil society as well as other United Nations entities around the 2016 United Nations General Assembly Special Session on the World Drug Problem (UNGASS) has markedly influenced the global drug policy debate by shifting more attention towards health, human rights and development concerns.

1 Introduction

Everyone has the right to participate in public life. This includes the right to meaningful participation in the design, implementation, and assessment of drug laws, policies, and practices, particularly by those directly affected.

UNDP, International Centre on Human Rights and Drug Policy, UNAIDS,
WHO, 2019, 6

This policy comment seeks to address three key questions relating to the participation of ‘stakeholders’ in the formulation, design, implementation and evaluation of drug laws and policies at the global level. Firstly, who are the ‘stakeholders’ and how are they included, or not included, in drug policy discussions? Secondly, how have certain ‘stakeholders’ been able to positively influence drug policies? And finally, what more can be done to improve the impactful and meaningful engagement of the ‘most affected’ stakeholders in the global drug policy discussions that take place at the United Nations (UN)? In addition, the framing of the development perspective when it comes to discussing the ‘most affected’ will also be examined.

For the purposes of this policy comment, the main focus will be on unpacking civil society participation in UN drug policy formulation and debates. Some reference will be made to the role of other stakeholders, particularly other UN entities whose primary focus is not drug control, and their impact on the direction of drug policy discussions. The role of the private sector needs to be better acknowledged and understood, especially in terms of the growing trend towards permitting the use of medical cannabis, as well as legal regulation of cannabis for adult recreational use. This paper, however, will largely examine the question of civil society participation, and in particular the representation and inclusion of the ‘most affected’ communities. This policy comment is not a ‘stakeholder analysis’ as that is a much more detailed exercise and as such is beyond the scope of this project. It does, however, seek to enumerate the various types of so-called ‘stakeholders’ that are relevant to drug policy.

2 Who Are the ‘Stakeholders’?

Numerous UN declarations on drug control have referred to ‘the important role played by all relevant stakeholders’ (UN CND, 2019, 3) and sought to ensure their involvement and participation in policy discussions. In this context, ‘stakeholders’ are often enumerated as ‘law enforcement, judicial and health-care personnel, civil society, academia and relevant United Nations entities’ (UN CND, 2019, 6). Sometimes the private sector is also included in this list.

The term ‘stakeholder’ itself merits some interrogation. It is used widely across the UN system (UN General Assembly, 2015), but it originates from the corporate world and has benefited corporations enormously by allowing them to have a legitimate seat in policymaking, standard-setting or project-oriented forums (Buxton, 2019; George, 2015). Crucially, the term does not differentiate between ‘rights-holders’ and ‘duty-bearers’. This obfuscation, whether by accident or by design, underplays the rights of affected communities, masking

power imbalances between the different stakeholders by treating them as 'equal actors' (George, 2015, 3). The recently agreed partnership framework that brings together the UN and the World Economic Forum (WEF, 2019) with the aim of accelerating the achievement of Agenda 2030 by strengthening institutional collaboration between the two entities has been called out as highly problematic in this regard. A letter to the UN Secretary-General from 240 civil society organisations expressed concern that the agreement further deepens the corporatisation of the UN, and called on him to strengthen mechanisms for engagement with the most-affected communities:

These communities which are human rights holders and are committed to preserving the common wellbeing of people and the environment; as well as to building a stronger, independent, and democratic international governance system must be treated differently from "stakeholders" who only have profit at stake.

FIAN International and TNI, 2019, 1

This is increasingly relevant to the drug policy sphere as moves towards cannabis regulation continue apace. For drug policy formulation, the role of transnational corporations (such as the rapidly proliferating pharmaceutical cannabis companies) as stakeholders must be carefully considered. Their 'stake' is significantly different from that of civil society and affected communities for example—namely, it is ultimately to increase shareholder value (George, 2015). UN drug policy does not yet have a formal multi-stakeholder forum or group, as might exist in other UN settings, such as the Multi-stakeholder Forum on Science, Technology and Innovation for the Sustainable Development Goals (SDGs) (UN, 2019), which explicitly includes 'business and industry' alongside the categories of 'women', 'farmers', 'children and young people'. It has been suggested that a system of governance that 'combines some form of legitimisation with a vague undefined form of accountability has proved very advantageous to corporations' (Buxton, 2019). For example, there are serious concerns around how large corporations are behaving in the growing cannabis industry, especially with respect to marginalising traditional growers, lobbying to influence government policy and problematic practices such as land grabs (Paley, 2019). These concerns must be taken into account as cannabis companies increasingly seek to engage in UN drug policy debates. Corporations have greater power and resources than affected communities, such as traditional small farmers, but the latter have a right to meaningful participation as 'rights-holders'. In this sense, power and legitimacy must not be confused.

With respect to drug policy, the affected communities often face violations of their rights, and their role at the table is to hold the ‘duty-bearers’, in this case member states, accountable. The meaningful participation of affected communities is therefore fundamentally different from the role played by other stakeholders and this needs to be acknowledged and recognised.

3 Who Are ‘Most Affected’?

The 2016 *Outcome Document of the United Nations General Assembly Special Session on the World Drug Problem* (UNGASS) noted that ‘affected populations and representatives of civil society entities, where appropriate, should be enabled to play a participatory role in the formulation, implementation, and the providing of relevant scientific evidence in support of, as appropriate, the evaluation of drug control policies and programmes’ (UN General Assembly, 2016, 4).

The genuine and meaningful participation of affected communities in policy design, implementation and evaluation has long been ubiquitous in development, health and social policymaking processes. This should, however, be without reservation. In that sense, the caveat in the UNGASS *Outcome Document* of participation ‘where appropriate’ is problematic. Governments continue to reserve the right to limit participation according to their own criteria with regard to when it is deemed appropriate. This also plays out in terms of whom they deem ‘appropriate’ participants. Caveating participation in this way undermines the rhetoric of meaningful participation. From a human rights perspective, the people who are most affected have a right to be meaningfully included in all the decisions that affect their lives (UNDP, International Centre on Human Rights and Drug Policy, UNAIDS and WHO, 2019). The 2030 Agenda commitment seeks to ensure that no one is left behind, and commits to the participation of ‘all stakeholders’ (UN General Assembly, 2015).

It is relevant to drug policy discussions that the rights of certain groups have been enshrined in UN declarations. For example, indigenous peoples have been granted special rights to self-determination (UN General Assembly, 2007). The recently adopted UN *Declaration on the Rights of Peasants and Other People Working in Rural Areas* enshrines certain and specific rights for those engaged in ‘small-scale agricultural production for subsistence and/or for the market, and who [rely] significantly, though not necessarily exclusively, on family or household labour and other non-monetized ways of organizing labour, and who [have] a special dependency on and attachment to the land’ (UN General Assembly, 2018, 4). The right to participation in the ‘preparation

and implementation of policies, programmes and projects that may affect their lives, land and livelihood' is clearly stated in Article 12 of the *Declaration*.

The right to participation for people who use drugs has not yet explicitly been enshrined in a UN declaration, although the *International Guidelines on Human Rights and Drug Policy* outlines all the relevant human rights that must be respected, protected and fulfilled in relation to this affected community. People who use drugs' right to participation in the design and implementation of policies and programmes that affect them has long been championed by the International Network of People who Use Drugs (INPUD) under the slogan 'nothing about us without us' (Canadian HIV/AIDS Legal Network, 2005). The use of this slogan in activism has its roots in the disability rights movement and is a radical rejection of paternalistic control and oppression by others. Politically active people living with disabilities used the slogan to 'proclaim that they know what is best for them and their community' (Charlton, 1998, 4).

Furthermore, those most affected, and civil society and community groups more generally, often perform a vital function in the effective implementation of policies and programmes, as well as ensuring transparency, good governance and accountability in policymaking (Pompidou Group, 2015). One of the most pertinent examples of this comes from the HIV movement, where a key principle in policy and programme design denotes that people living with HIV must be central to such developments.

In drug policy debates, however, civil society and community groups have often been viewed by some governments as a problem to be managed or avoided because drug control is traditionally enmeshed in politically sensitive agendas such as national security, law enforcement, border control and criminal justice (Fordham and Haase, 2018).

In terms of seeking to ensure the meaningful participation of those most affected by drug policies, it is firstly critical to define who are the 'most affected'. The International Drug Policy Consortium has defined this as specifically including, but not limited to, 'people who use drugs, people involved in subsistence farming of crops destined for the illegal drug market, formerly incarcerated drug offenders, indigenous peoples, and other communities such as affected women, children and youth' (IDPC, 2018). This list is by no means exhaustive; for example, people who are currently incarcerated and affected ethnic minorities must be included. In addition, the lack of access to controlled medicines for the relief of pain and palliative care brings in a further affected population of pain patients. People who live in situations of conflict and/or are forcibly displaced, fleeing violence or insecurity, may also be caught up in the drug trade and impacted by drug policy responses (Gutierrez and Balfe, 2019).

Across all the different categories of communities affected, it has been widely accepted that the burden of punitive and repressive drug control policies has been largely borne by people who are marginalised and in situations of vulnerability (IDPC, 2018). More often than not, socio-economic vulnerability is a key characteristic of those who are 'most affected' when it comes to drug policies. This is logical given that an illicit economy, such as the drug market, serves as a survival economy for so many who live on the margins of society, in situations of poverty and without genuine opportunities to engage in the formal economy. Some have argued that this inconvenient truth has been largely ignored by the development sector and that there is a need to consider 'not only the harms generated by illicit economies, but also the positive roles they may play by providing a social safety net or even a means of wealth creation and upward mobility for poor, marginalised communities' (Gutierrez and Balfe, 2019, 21).

The specific impacts on women have received greater attention in recent years in global drug policy debates. 'Discrimination and inequality shape women's experiences of drug use and in the drug trade and the impact of drug control efforts on them, with disproportionate burdens faced by poor and otherwise marginalized women' (Schleifer and Pol, 2017, 253).

Women who use drugs face greater stigma, which deters them from accessing health services. In general, coupled with the overall scarcity of harm reduction services, there is a severe lack of gender-sensitive programmes (IDPC, 2018). It has been argued that the socio-economic vulnerability that women face makes them more susceptible to involvement in the drug trade, although they are most often engaged in the lower echelons (Giacomello, 2014). Women are incarcerated at much higher rates than men for drug-related offences in most parts of the world and are afforded far less familial and community support than men during incarceration (Csete et al., 2016).

In addition, the starkly disproportionate impact on people of colour is now widely acknowledged. The UN Working Group on Peoples of African Descent has stated unequivocally that there is a 'lack of recognition that enduring racial disparities and race-based outcomes are related to policy priorities that are grounded in discrimination and negative racial stereotypes' (UN Working Group of Experts on People of African Descent, 2019) and that people of African descent are disproportionately affected by punitive drug laws and policies (UN Working Group of Experts on People of African Descent, 2016). However, the 'intersecting discrimination' of racial disparity in drug law enforcement has not been adequately highlighted or acknowledged in the UN drug control debates (Schleifer and Pol, 2017).

From a more traditional development perspective, the 'most affected' would refer exclusively to those living in developing or less developed countries. If

a broader definition of development is taken, however, one that redefines the traditional 'north–south' divide that often masks the deep socio-economic inequality in the richer, developed, so-called geographical 'global North' countries, then it allows for the inclusion of those people and communities who are marginalised in developed countries as well (Trefzer et al., 2014). Towards this end, the term 'global South' is 'being employed in a postnational sense to address spaces and peoples negatively impacted by capitalist globalization' (Garland Mahler, 2018, 6). This is an important lens through which to address the question of the 'most affected' by drug policies because unjust laws and policies disproportionately affect the most marginalised in all societies. With respect to people who use drugs, for example, the brunt of draconian policies towards drug use are mostly borne by people who are vulnerable and marginalised, regardless of whether they are caught using drugs in London or in Jakarta. In both developed and developing countries, people who use drugs and who are wealthy and have social capital are far less likely to be caught up in criminal justice responses. This dynamic can also be observed in relation to access to pain medicines. What is referred to as a 'global pain crisis' is actually a crisis of access for the world's poorest, who have little or no access to pain relief and palliative care (Bhadelia et al., 2019). Access is not limited in developed countries, where 90 per cent of the world's morphine is consumed (GCDP, 2015); and the same is true of people with high revenues in less-developed nations. Financial resources can help to address this overall dearth of access.

Therefore, socio-economic vulnerability, poverty and intersectional discrimination such as that based on race and gender are the common characteristics of communities that are most affected by drug policies.

4 Meaningful Participation?

'Respectful, strategic, constructive, transparent and accountable lines of communication should therefore be created between governments and civil society representatives, in order to ensure meaningful exchanges of information and perspectives. However, conditions for a truly open, respectful and meaningful dialogue with those most directly affected by drug policy will only be created if governments remove criminal sanctions for people who use drugs and subsistence farmers engaged in illicit crop production' (IDPC, 2016, 16).

The dominant punitive approaches to drug control, in particular criminalisation, further deepen and exacerbate the marginalisation, vulnerability, and in many cases the stigma and discrimination that the most affected communities

face. Although the UN rhetoric identifies them as important ‘stakeholders’ and calls on governments to ensure their meaningful participation, there is no acknowledgement of the significant barrier that criminalisation creates in terms of the ability to participate in public life. In addition to fuelling stigma and discrimination, criminalisation also becomes a literally physical barrier to participation if people are incarcerated and/or excluded because of a criminal record.

With respect to drug control, more repressive governments have shown themselves to be resistant to civil society participation and in some cases have been openly hostile to community representatives, including within the deliberations and sessions of the United Nations Commission on Narcotic Drugs (UN CND) (Fordham, Haase and Nougier, 2020). At the national level, policy makers have also been unwilling to engage with certain communities on the basis of their criminality as defined by existing drug laws. For example, in Colombia, as the medical cannabis industry opens up and the government eyes the potential profits from production, traditional cannabis farmers are struggling to get a seat at the table (Rivera, 2019). From a social justice perspective this is deeply problematic, as these traditional farmers should be supported to transition into the licit market, which will require political will, as well as capacity building, technical support and financial investment. Furthermore, restorative justice must be implemented—for those who have been criminalised under previous regimes—when the activities they have engaged in are no longer subject to criminal penalties (Jelsma, Kay and Bewley-Taylor, 2019). From the perspective of reparations towards those who have disproportionately borne the brunt of punitive drug policies, such as people of colour and people from lower-income communities, positive discrimination policies to support and enable their participation in the newly legal cannabis market are critical. Examples of social equity programmes, such as that implemented by the Massachusetts Cannabis Control Commission in the United States, which seeks to ‘promote and encourage full participation in the marijuana industry by people from communities that have been disproportionately harmed by marijuana prohibition and enforcement and to positively impact those communities’ (Massachusetts Cannabis Control Commission, 2019, 2), represent a serious and genuine effort at reparations.

Within policymaking spaces, strong resistance and hostility towards certain affected groups who are criminalised or have been criminalised makes genuine participation difficult and is also often a serious impediment to organising for collective activism. This resistance calls into question the successive commitments made to achieving meaningful participation.

5 The Civil Society Task Force on Drugs

In relation to the UN drug control debates, civil society participation has been facilitated for the last thirty-five years by two NGO committees, based in Vienna (Vienna NGO Committee on Drugs (VNGOC)) and New York (New York NGO Committee on Drugs (NYNGOC)), respectively. Over the years, various initiatives have been undertaken by these committees around high-level meetings and diplomatic gatherings to encourage and support civil society engagement (Fordham and Haase, 2018).

The most recent effort is the Civil Society Task Force on Drugs (CSTF), which was first convened ahead of the 2016 UN General Assembly Special Session on the World Drug Problem (UNGASS) to enable 'comprehensive, diverse, balanced, and inclusive' representation of civil society groups in the UNGASS process. In setting up the CSTF, special attention was paid not only to trying to ensure regional representation, but also—and for the first time—to including representatives of affected populations and global issues (called 'global voice' seats), which involved seats for people who use drugs, people in recovery from drug dependence, families, youth, farmers of crops deemed illicit, harm reduction, drug prevention, access to controlled medicines, health workers, and criminal justice personnel (CSTF, 2016). When the CSTF was reconvened for the 2019 Ministerial Segment, an additional seat was added for 'alternative development' as a 'global voice' seat. Representation on the CSTF had to be carefully balanced in terms of ideology, as the spectrum of civil society that engages in drug policy discussions is broad. At one end, there remain groups very much committed to the achievement of a 'drug free world'. At the other, there are advocates for the full legal regulation of all drugs. In between these two positions, there is a great deal of nuance and diversity (Fordham and Haase, 2018).

For the 2016 UNGASS, the representatives on the CSTF organised consultations with their various constituencies to facilitate genuine input into the debates and discussions. The regional representatives organised consultations within their regions, while the representatives of affected populations and the 'global voice' thematic areas organised among their peers. Numerous consultations were conducted via online surveys, interviews, and in some cases conferences (CSTF, 2016).

One of the largest in-person consultations took place in the Netherlands and convened approximately sixty farmers and farmers' representatives for the Global Forum of Producers of Prohibited Plants, for a discussion of their views on and experiences with illicit crop control policies. The *Heemskerk Declaration*, the official outcome of the forum, which included a list of policy recommendations, was presented at the UNGASS in New York and also

submitted as part of the official input from the CSTF (Metaal, 2016). INPUD made a submission based on five consultations undertaken throughout 2015; one was conducted virtually, while the others took place in Tanzania, Thailand, Georgia and the United Kingdom. Representatives from over twenty-four drug user organisations from across twenty-eight countries were consulted (INPUD, 2016). Alongside the numerous other thematic consultations, ranging from those affected by the lack of availability of controlled substances for medical and scientific purposes to recovered users, youth and families, these submissions sought to bring the perspectives of those with lived experience into the UN drug policy discussions. Despite the huge effort coordinated through the CSTF for the official civil society input into the UNGASS process, the report was never formally considered by member states during the deliberations, which was disappointing for the civil society representatives who had been active in the CSTF (Fordham and Haase, 2018).

While the CSTF mechanism has been the most inclusive to date in terms of seeking to ensure that the voices of affected populations are heard in the UN fora on drugs, it remains challenging to genuinely bring in the voices of those most affected on the ground. This difficulty is acknowledged especially in relation to the commitment to ensure 'no one will be left behind' and to 'endeavour to reach the furthest behind first' (UN General Assembly, 2015). The United Nations Development Programme (UNDP) has identified five factors affecting the furthest left behind: discrimination, geography, governance, socio-economic status, and shocks and fragility (UNDP, 2018). 'Governance' is a factor that is particularly poignant for drug policies and the meaningful participation of those most affected. Under this point, the UNDP asks how people are disadvantaged by 'ineffective, unjust, unaccountable or unresponsive global, national and/or sub-national institutions' and are affected by 'inequitable, inadequate or unjust laws, policies, processes or budgets'. Moreover, 'absolute deprivation' and 'relative disadvantage' are underscored as preventing those left furthest behind from being able to 'participate in or benefit from human development' (UNDP, 2018, 7).

Within the UN drug control fora, these challenges are brought into sharp relief. Part of the issue arises from the continued lack of genuine and explicit acknowledgment by member states of the failure to achieve the stated goals of reducing the size of the illicit market, and of the damage caused by punitive drug policies. The inability to accept these inconvenient truths creates resistance to allowing participation and acknowledging inputs from certain civil society actors, in particular. This creates a challenge for member states to agree as to 'who' exactly is most affected. As noted above, those that the system has categorised as 'criminals' experience this resistance, as well as structural

barriers to their participation. One clear example of such structural barriers is the inability to travel to attend meetings because of denial of entry visas based on previous criminal records.

6 The False Dichotomy

Within the UN CND setting, member states are still known to question civil society participation in drug policy, continuing to regard many groups with suspicion and viewing them through a simplistic prism of whether they are 'liberal' or 'prohibitionist' (IDPC, 2008, 1). This binary categorisation of civil society has hampered access for the more reform-oriented civil society groups, including those advocating for harm reduction. In 2009, Antonio Maria Costa, the Executive Director of the United Nations Office on Drugs and Crime (UNODC), referred repeatedly to the 'pro-drug lobby' in his foreword to the annual *World Drug Report* to malign civil society organisations that challenged and questioned the status quo of prohibitionist drug policies (UNODC, 2009, 1). This analysis mischaracterised pro-reform groups as 'libertarian' bodies who sought less control of drugs in 'pursuit of the old drug legalization agenda' (UNODC, 2009, 3). In fact, the most prominent organisation calling for legal regulation, Transform, argued that prohibition left the drug market uncontrolled and in the hands of organised crime. It posited that legal regulation would allow state control of the drug market, taxation, and quality/purity standards (Rolles, 2009). This false dichotomy continues to define civil society participation in the UN drug policy fora to this day, although over the years the groups advocating for reform, for harm reduction and for stronger human rights oversight have grown in visibility, strength and number, and have in turn attained more legitimacy at the UN CND.

There has been a significant shift in the voices represented at the UN, which for the first few decades of the UN CND's existence consisted almost exclusively of civil society representatives who called for prohibition, encouraging governments to implement repressive measures to reduce demand and supply (Fordham and Nougier, 2019). Over the past two decades, however, there have been an increasing number of credible reform-minded civil society groups engaging at the UN level to redress this balance and challenge the punitive thrust of dominant drug control policies (Fordham, Haase and Nougier, 2020). In addition, many of the civil society groups from the other end of the spectrum have increasingly taken on a more moderate rhetoric, reflecting that reform groups have been successful in shifting the debate. At the UNGASS, reform messages dominated the civil society narrative, and the same has been true since.

7 Other 'Stakeholders'—UN Entities

The reform narrative coming from civil society has gained significant ground, which is most clearly demonstrated by the progressive tone coming from the UN system. Over the years, there has been a significant effort to draw attention to the lack of 'system-wide' coherence on the issue of drugs at the UN level, in particular with respect to the disconnect between drug control and human rights (Barrett, 2008). Although there was recognition that drug policy was a cross-cutting issue that would require coordination across the UN system (Bridge et al., 2017), several attempts to bring this about failed, creating a 'Vienna drugs and crime monopoly' that became increasingly more siloed over the years (Jelsma, 2019). While other UN entities that were not specialised in drug policy were invited to contribute to the debates that took place in Vienna as another group of 'stakeholders', in reality they were given very little space to do so (Jelsma, 2019).

The 2016 UNGASS heralded a shift in this dynamic. The UN General Assembly declared that the 2016 UNGASS 'shall have an inclusive preparatory process that includes extensive substantive consultations, allowing organs, entities and specialized agencies of the UN system, relevant international and regional organizations, civil society and other relevant stakeholders to fully contribute to the process' (UN General Assembly, 2014). In addition, the Deputy Secretary-General at the time, Jan Eliasson, reinforced this approach. The fact that, in parallel, the new SDGs were being negotiated in New York may also have provided a further impetus for strengthening UN system coordination in all relevant settings. In the end, an unprecedented number of the other relevant UN entities made submissions to the UNGASS process (Fordham and Haase, 2018). In 2015, the Human Rights Council passed the first ever resolution related to the impact of drug policies on human rights, resulting in both a high-level panel at the Council and the first report from the Office of the High Commissioner on Human Rights, which was presented as a submission to the UNGASS (UN High Commissioner for Human Rights, 2015). Nearly all of the submissions highlighted the failures and damage of punitive policies. Many of them called for reforms, including specifically the decriminalisation of people who use drugs, with the exception of the submissions by UNODC (Hallam, 2016). This broad and progressive engagement from across the UN system had a positive impact on the tone of the debate, with the UNGASS *Outcome Document* viewed as more forward-looking than previous consensus-agreed declarations on drugs from the UN (Bridge et al., 2017).

Since the UNGASS, there has also been a marked shift in the tone of UN drug control bodies, first concerned being the International Narcotics Control

Board (INCB) and the UNODC with respect to their strict view on how to implement drug control. Both organisations have since become more vocal regarding some of the most serious human rights violations committed under the guise of drug control—for example, around the question of the death penalty in Indonesia (UNODC, 2016), extrajudicial killings in the Philippines (INCB, 2017b), and human rights abuses more broadly (INCB, 2017a).

The most recent and significant development in terms of the UN system's engagement has been the development of the *UN System Common Position* to support member states in the practical implementation of the *UNGASS Outcome Document*. In addition to providing coherent messaging on drug policy for UN entities that aligns strongly with human rights obligations as well as the SDGs, the common position establishes a 'United Nations system coordination task team, to be led by UNODC, and composed of interested United Nations system entities' to deliver on the objectives of the document (Chief Executives Board for Coordination, 2019, 14). These twin initiatives of the *Common Position* and the task team have been exceptionally hard-won and 'provide unprecedented authoritative guidance for UN entities and can help guide the current international drug control system into the 21st century' (Jelsma, 2019, 1). Crucially, the *Common Position* explicitly promotes 'alternatives to conviction and punishment in appropriate cases, including the decriminalization of drug possession for personal use' (Chief Executives Board for Coordination, 2019, 14) and makes this a cross-UN recommendation. This has finally brought the UNODC in line with the other entities that recommend the decriminalisation of drug use and possession for personal use.

Reform-minded civil society groups have made a direct contribution to this shift in rhetoric, and have been consistent and unwavering in advocacy messages with respect to the UN debates for many years, seeking to create pressure and tension in the system and to draw out its inconsistencies.

8 Conclusion

Participation in public life by rights holders and organizations that represent them is a fundamental principle of human rights. Participation also improves the efficacy of political systems, as well as policy development and implementation. Civil society space is therefore a threshold issue, not only for human rights, but also for development and peace and security more broadly. When civil society sits at the table, policymaking is more informed, effective and sustainable.

OHCHR, 2018, 36

The strong, meaningful and genuine participation of civil society, and in particular the most affected populations, must be fought for and protected. Although this principle is enshrined in numerous UN resolutions, when it comes to global drug policy debates, the reality falls far short of the ideal. In general, the key barriers to civil society participation are discrimination and inequality (OHCHR, 2018). Under a global drug policy regime that purports to actively promote a 'society free of drug abuse' (UN CND, 2019, 1), many of those most affected and criminalised by punitive policies face discrimination. These include people who use drugs and subsistence farmers of drug crops. This discrimination undermines their participation as rights-holders in the policy debates and must be challenged and questioned. Factors such as geography and socio-economic vulnerability act as further barriers to their ability to participate in policy discussions—especially at the UN level, but also at more local levels.

Much more needs to be done to facilitate the participation of the most affected in the UN drug policy debate. The efforts of the CSTF have been invaluable in this regard. For the 2016 UNGASS, the CSTF defined the affected population groups and this was critically important given that member states would not be able to reach consensus on this categorisation and, because of ideological opposition, certain groups would likely be excluded. The CSTF consultations also sought to ensure that the voices of those from the geographical global South were included, alongside those of the most affected. Given the very real resource and visa challenges faced by some community representatives who sought to participate in person, these efforts were crucial.

To further strengthen civil society participation in UN drug policy debates, including formal seats for civil society representatives in the governance structures of the Vienna-based drug control institutions could be considered. The example of the Joint United Nations Programme on HIV and AIDS Coordinating Board (UNAIDS PCB), the governance body for UNAIDS, is an enlightened model in this regard. There are five seats for non-governmental organisations on the UNAIDS PCB—three from developing countries and two from developed countries or countries with economies in transition. These five organisations have one representative each; they are also each supported by five additional NGOs, which stand as alternate members. Crucially, ensuring that people living with HIV are represented in this structure is a fundamental principle. This is a distinctly different governance model from that seen in Vienna, where civil society representatives are only permitted to participate at the UN CND as observers.

The participation of other stakeholders beyond rights-holders needs to be considered in relation to their 'stake' in the debate. Allowing the term 'stakeholders' to mask the differing status of the various groups is problematic.

Although the private sector increasingly does have a stake in drug policy as the cannabis market opens up, transnational corporations driven by the profit motive must not be elevated to the same status as those participating as rights-holders. Masking the inherent power imbalances between the different stakeholders risks underplaying the rights of affected communities and legitimising a place at the table for corporations as 'equal actors' in spite of fundamentally different interests.

Finally, the significant strides made towards ensuring greater participation in UN drug policy from across the UN system must now be further strengthened. This has been a key advocacy ask from civil society over the years, in the knowledge that the siloed approach taken at the UN with respect to drug control needed to be broken apart. The global drug policy debate has become more dynamic as a result of the increased involvement over the past decade of civil society, as well as of other UN entities, heralding an irrevocable break in the long-revered global consensus on punitive drug control and shifting greater attention towards health, human rights and development concerns.

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