Measuring the 'world drug problem': 2019 and beyond

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ABSTRACT:

This chapter analyses major issues surrounding the Annual Report Questionnaire (ARQ) – the key mechanism through which the UN collects data on various facets of the world's illicit drug market. As the ARQ is currently under review by the United Nations Office on Drugs and Crime (UNODC), the authors suggest ways to incorporate the gains made at the United Nations General Assembly Special Session on the World Drug Problem (UNGASS).

The UNGASS Outcome Document has, to certain degree, enabled the international community to move away from the simplistic goals of a drug-free world enshrined in the 2009 Political Declaration and towards a more comprehensive health- and human rights-based approach. The UNGASS has also laid important groundwork for the 2019 Ministerial Segment, where member states will delineate the global drug control approach for the next decade. In this context, the issue of metrics and indicators has a critical political role to play as it will shape how member states will measure progress against their international drug control commitments.

Starting with a review of the 'triple trouble' – poor data quality, low response rates from Member States and other inconsistencies that have long persisted with the ARQ – the chapter moves on to offer substantive critiques on the content of the Questionnaire and ways to better incorporate issues related to health, human rights and development. The chapter concludes by providing guidance on possible synergies with the Outcome Document and the Sustainable Development Goals, bringing international drug control in line with the UN Charter.

KEYWORDS:

1. Metrics and indicators

2. System-wide coherence

3. Annual Reports Questionnaire

4. UNGASS Outcome Document

5. Sustainable Development Goals

6. Human rights

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Introduction

Almost two years after the United Nations General Assembly Special Session on the World Drug Problem (UNGASS), the implications of the resultant Outcome Document (UN, 2016) remain unclear, and complex. At a structural level, it can legitimately be regarded as a homeostatic text that does much to help prop up the increasingly creaky UN international drug control framework (Bewley-Taylor, D., & Jelsma, M. ,2016). Yet, as member states move to operationalize its key provisions, it is becoming increasingly obvious that the Document has in fact generated considerable concern among what might be called 'status quo countries' seeking to preserve the treaty system in its current form. One need only look at the debates and country statements within the UN's central policy making body on the drugs issue, the Vienna based Commission on Narcotic Drugs (CND or Commission) for evidence to support this view (IDPC, 2017). That prohibition-oriented states like the Russian Federation are investing considerable effort and political capital to argue that the Outcome Document does not supplant previous soft law instruments, particularly the 2009 Political Declaration and Plan of Action (UN, 2009), suggests that the progressive character of the Document exceeds what might have been initially thought as the dust settled in April 2016. Although problematic in many respects, the 2016 instrument does to a certain degree move away from the 2009 Political Declaration's simplistic goal for states to 'eliminate or reduce significantly and measurably' illicit drug supply and demand, the diversion and trafficking of precursors and money laundering. This, is should be recalled, was agreed nearly ten years ago with a target date of 2019. While the operationalization of many aspects of the Outcome Document merit ongoing scrutiny, key among them is how the international community refines its measurement of what has become known simply and somewhat vaguely as the 'world drug problem'. This is especially so as we approach what has now been agreed to be a high-level ministerial segment of the CND in March 2019 (UNODC, 2017) and not only what is likely to be an awkward review of progress made against the targets within the Political Declaration, but also negotiations regarding how the Commission approaches international drug control in the next decade. Beginning with an overview of the Annual Report Questionnaire (ARQ), the key mechanism by which the UN system collects data on various facets of the state of the world's illicit drug market, this chapter examines the content of the UNGASS Outcome Document in terms of its reference to indicators and some of the problems surrounding the current framework. It then goes on to discuss the increasing attention given to the ARQ within Vienna since the UNGASS before concluding with a critique of the process leading to the meeting of an 'Expert Group' to revise the ARQ; a Group scheduled to meet for the first time in January 2018 (UNODC, 2018).

The Annual Report Questionnaire: Triple trouble.

The ARQ has long been core to the UN drug control system's attempts to monitor and better understand the state of the 'world drug problem'. The not unreasonable logic here is that the resultant knowledge will assist national authorities in the design and implementation of effective drug control policies in line with obligations and goals under the international drug control conventions and complementary soft law instruments, including CND resolutions and high-level documents like that emanating from the UNGASS. While non-binding for states, such instruments possess considerable normative power and influence. In terms of hard law, the conventions formally oblige States Parties to provide data each year concerning the situation in their countries to the Secretary General (UNODC, 1961) – in practice the Secretariat of the UN Office on Drugs and Crime (UNODC or Office), the body mandated to assist Member States 'in their struggle against illicit drugs, crime and terrorism (UNODC, 1971). This mechanism dates to the pre-UN foundational era of the international drug control system, including the requirement to submit annual reports from States parties contained within the 1931

Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs. At various points since 1945, and the transfer of the international control machinery to the UN, the reporting system was reviewed and revised (ECOSOC, 1994; UNODC, 2000). Notably, in December 1999 the CND 'adopted a unified single questionnaire that included information required on all action plans and measures adopted by the General Assembly at its twentieth Special Session', that is to say the 1998 UNGASS on the 'world drug problem' (UN, 2001). More recently, in 2010, the CND endorsed a revised version of the questionnaire 'to enable the monitoring of and biennial reporting to the Commission on the implementation by Member States of the Political Declaration and Plan of Action on International Cooperation towards an Integrated and Balanced Strategy to Counter the World Drug Problem, as well as for the reporting to the Commission mandated by the three international drug control conventions (UNODC, 2010).' The review processes usually involve some form of expert group, for example the 'open-ended expert group on data collection' mandated by Resolution 53/16 in 2010 (UNODC, 2010). Of note is the fact that, among other things, this resolution stresses that the ARQ 'should be periodically reviewed in order to have a flexible instrument allowing the reporting of national and emerging drug situations (UN, 2010).'

Having been revised and streamlined at various points over the years, the ARQ is currently structured in the following way:

- Part I: Legislative and institutional framework

- Part II: Comprehensive approach to drug demand reduction and supply

- Part III: Extent and patterns of drug use

- Part IV: Extent and patterns of and trends in drug crop cultivation and drug manufacture and trafficking.

With UNODC acknowledging that sometimes there is insufficient data to provide an 'accurate or comprehensive picture of world drug markets,' the Questionnaire is supplemented by a range of other sources. In addition to official national publications, these include the Heads of National Law Enforcement Agencies (HONLEA), the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), the Inter-American Drug Abuse Control Commission (CICAD) and the Drug Abuse Information Network for Asia and the Pacific (DAINAP) (UNODC, 2017).

As UNODC itself notes, there remain considerable problems with the reporting system, particularly regarding the quality of responses from member states. For example, in relation to the ARQ for 2015, the key source of data upon which the UNODC's *World Drug Report 2017* is based, out of 199 potential respondents (including 193 Member States), the Office received only 98 replies to its questionnaire on Part III (down from 101 the previous year) and 101 replies to Part IV (down from 104 the previous year). 'The best coverage', UNODC notes, 'was from Europe (where 80 per cent of the respondents provided a reply), Asia (63 per cent) and the Americas (57 per cent). Reflecting one of the major challenges in data collection, in the case of Africa, however, 'only 24 per cent of the Member States replied'. And in the Oceania region, only two out of the 16 countries, responded to the ARQ.

In addition to the response rates themselves, there is significant variation in the quality of data provided. Again, as UNODC recognises in relation to the 2015 Questionnaire, 'the quantity of data provided on illicit drug supply is "significantly better" than that provided on drug demand.' More specifically, '79 per cent of ARQs part iv were "substantially completed", compared to 67 per cent of ARQs part iii.' 'It should be noted,' the Office goes on to say, 'that those ARQs that were more than 50 per cent completed were classed as having been "substantially filled in", while those having less than 50 per cent completion were classed as "partially filled in" (UNODC, 2017). Mindful of the complexities and financial cost of data capture, response rates and the quality and completeness of information returned within the Questionnaire is often dependent on frameworks and mechanisms within

member states. As understandable as this may be for many countries, variable quality data impact the accuracy of the picture generated, with irregular returns having the potential to influence reported trends 'in a given year' (UNODC, 2017). Indeed, although the *World Drug Report 2017* states that the 'drug market is thriving' (UNODC, 2017), as has been discussed at length elsewhere, data gaps and incomplete and poor-quality data sets generate high levels of uncertainty concerning the true state of the 'world drug problem'. This includes a likely underestimation of the scale and complexity of drugs markets in some regions, especially Africa and Asia (IDPC, 2016).

Reducing the levels of uncertainty through an improvement in the quality of the existing data sets clearly remains an ongoing issue of concern; and one that is certainly not new. Writing about data collection in their seminal 1975 book, *The Gentlemen's Club: International Control of Drugs and Alcohol,* Kettil Bruun, Lynn Pan and Ingemar Rexed point out 'the paucity of information in the national reports to the UN' in the early 1970s (Bruun, K., Pan, L., and Rexed, I., 1975). Regarding data 'given to the secretariats' of the Commission and the Division on Narcotic Drugs (a predecessor body of the Office) 'by governments under their treaty obligations', the authors note that this 'information is quite inadequate' and that the 'questionnaires used for such reporting are in need of overhauling'. Interestingly, a key topic of concern raised by research at that point related to 'returns under the heading "drug abuse."' Here Bruun, Pan and Rexed note how a 'systematic study of these reveals the *limited value of the information given*' (emphasis added) (Bruun, K., Pan, L., and Rexed, I., 1975). Today, while not focusing specifically on drug use, such a perspective is finding increasing resonance. Indeed, while there is a widely held view that gaps in the data pose considerable analytical dilemmas, questions are also being increasingly asked concerning the type and worth of the data that is being collected. Adding another problematizing layer to the contemporary challenge, there this clearly a growing disconnect between the current structure and focus of the ARQ and what member states have recently agreed is important when addressing the 'world drug problem'.

Finally, it is also worth mentioning not only the relationship between member states and the data they supply to UNODC, but also member state reactions to data drawn from additional sources. In the first instance, states are able to challenge particular interpretations and forms of presentation within draft versions of the World Drug Report that are perceived to put them in a bad light. However, since countries themselves have supplied the data, complaints are generally difficult to sustain. In such circumstances anecdotal evidence suggests that irked national officials may be less than cooperative in engaging with the ARQ process in future years. Where annoyance is the result of non-member state data sources, nations are in a position to challenge them and even force UNODC to rewrite offending paragraphs. As occurs at other points within the UN drug control framework, and indeed within the wider UN system of which it is a part, the ability to effect change depends greatly upon the geopolitical and diplomatic muscle of a particular state. This includes its status within the Commission, which is often related to its voluntary financial contributions to the ever cash-strapped UNODC (Bewley-Taylor, D and Trace, M, 2006).

Indicators and the Outcome Document: Limited progress, but some opportunities

 In the lead up to the 2016 UNGASS, it was possible to identify a growing awareness and related discussion within UN fora concerning the increasing inadequacy of the indicators used to assess the state of the illicit global drugs market. This assessment was held not only among sections of civil society, but also by some member states (Bewley-Taylor, D, 2016). Longitudinal analysis of information contained within the *World Drug Report*, reveals a noticeable and significant shift over recent years to include more data on the negative health consequences of drug use (UNODC, 1997). This is important, since the UNODC's flagship publication does much to set the 'mood music' for discussion in Vienna with member states often referring to its findings during statements within the CND plenary as well as during discussions in the Commission's Committee of the Whole where resolutions are negotiated. Moreover, the data generated by the ARQ currently feeds into the Executive Director of UNODC's biennial report to the Commission on action taken by states to

implement the 2009 Political Declaration and Plan of Action; document that include a set of recommendations for member states (ECOSOC, 2016).

Nonetheless, at the international level, information collected from states via the ARQ remains dominated by a concern for scale and flows; largely process indicators that often tell us more about law enforcement activity than the state of the illicit market. It is plausible to suggest that this preoccupation is the result of a system traditionally premised on the belief that the most effective way to protect the 'health and welfare' of humankind, as laid out in the preamble of the bedrock of the extant international drug control regime, is to shrink the size of and eventually stamp out the illicit market. Such a path dependent approach, however, is at odds with increasingly widespread and more nuanced market management-oriented perspectives whereby authorities are focusing on reducing the harm associated with not only drug markets themselves, but also those policies designed to significantly and measurably reduce the scale of - and ultimately eliminate - them. Consequently, and not unreasonably, during preparations for the New York meeting there was some hope, again both from some member states and sections of civil society, that the UNGASS would allow for substantive discussion of revised policy objectives accompanied by more sophisticated indicators pertaining to various forms of drug and drug market-related harm This was particularly so considering both the improved understanding of the dynamics of drug markets and their associated harms, and the development of innovative metrics taking place within some member states.

Although often presented as an esoteric and purely technical matter, the political dimension of the issue of indicators soon became clear in the intensity of the negotiations of the Outcome Document – which was to be agreed by consensus. Moreover, as the discussions unfolded, it grew more obvious that many states were willing to side-step what was becoming a contentious issue to secure agreement for other aspects of the draft text. Indicative of this was the loss of a proposed – and on the face of it relatively innocuous – paragraph in a working draft of the Outcome Document that included a call to 'identify quantifiable indicators…in line with the integrated and balanced approach…'. This was shifted to the so-called 'car park', a stand-alone document designated to 'hold' contested language in order to aid the flow of discussions during negotiations, and failed to gain sufficient agreement for inclusion in the final text.

That said, some positives must be acknowledged regarding the issue of indicators. Involvement within the formulation process of a range of UN entities beyond the drug control apparatus in Vienna can only be constructive in terms of any future consideration of non-traditional drug policy indicators.[1] Similarly, a move away from the established three-pillar structure laid out in the 2009 Political Declaration ('demand reduction', 'supply reduction' and 'countering money-laundering and promoting judicial cooperation to enhance international cooperation') also offers opportunities for more sophisticated and disaggregated measurement processes, particularly in relation to access to controlled medicines,[2] a point to which we will return.

In terms of specific metrics, the Document also includes mention of the target to end the HIV epidemic by 2030 'among people who use drugs'. This was the compromise language after agreement could not be reached to recognize that the 2015 target agreed by the international community to reduce HIV transmission by 50 per cent among people who inject drugs had been missed. Furthermore, that the Outcome Document explicitly welcomes the Sustainable Development Goals (SDGs) as 'complementary and mutually reinforcing' to drug control, and recommends 'the use of relevant human development indicators' provides a valuable toe hold for the future development of metrics that not only move beyond law enforcement process indicators, but also enhance system-wide coherence on the issue. To be sure, linking new and carefully designed indicators to broader UN objectives, principles and contemporary UN endeavours, such as Sustainable Development Agenda agreed in late 2015, has the potential to bring international drug control policy more into line with the UN Charter and other instruments, including those concerning indigenous rights – and to better reflect the high-level priorities of the United Nations: achieving human rights, peace & security and

development. Any serious discussion of the measurement of drug policy impacts within the broadly defined development domain must read across relevant SDGs indicators (Bewley-Taylor, D.R., 2017). Beyond these high-level statements of intent, the Document also mentions, at a more granular level, areas where member states agree to improve data collection. This includes issues that span both the health and organized criminal dimensions of illicit drug markets, and particularly – even though the Questionnaire is not mentioned specifically – areas not covered within the current structure of the ARQ.[3] Furthermore, as discussed below, although problematic in terms of the extant mechanisms, the 2016 text includes some intriguing possibilities in terms of voluntary reporting.

Discussion of metrics since the UNGASS: Increasing attention on ARQ revision

As regular observers of the CND will know, in the past few years the issue of drug policy metrics and indicators has become more prominent (IDPC, 2016). The Commission's 2017 session was no exception. No doubt a combination of the Outcome Document, the, in many ways resultant, increasing prominence of the SDA within drug policy deliberations and the scheduled high-level review in 2019 of the targets set in 2009 contributed to this.

Many states continued to follow the age-old practice of including within statements long lists of figures concerning drug seizures and in some cases, such as India, crop eradication. Although countries including Tanzania, Algeria and Sudan were part of this group, it was those from the Middle East that were particularly noteworthy.

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

> The process up to and the finalizing of the UNGASS revealed a need to collect better and more reliable data, and towards viewing international drug policy in a more holistic manner. The metrics designed to measure the effectiveness of interventions would profit from more dynamic and sophisticated approaches towards metrics that measure outcomes related to individuals and communities in terms of human rights and development. It now seems timely to review the ARQ such that the UN drug control apparatus is able to capture data relevant to the commitments made in New York, including those relating to the SDGs…The imperative for such a review is also heightened by the approach of 2019 and the expiration of the targets set by the 2009 Political declaration (Bewley-Taylor, and IDPC, 2017).

Such reference to a review of the ARQ echoed that made by the Swiss delegation at the CND intersessional in September 2016. Then, among a range of other issues concerning the Questionnaire and the SDA, Mr Martin Matter (then Counsellor, Permanent Mission of Switzerland to the United Nations in Vienna), raised an interesting point about states furnishing 'additional information to the CND' than that currently requested by the ARQ, particularly in relation to 'criminal justice policies and practices' and the 'promotion of human rights'. Indeed, Matter's statement highlighted how the current structure of the Questionnaire made the collection of such information difficult (UNODC, 2016). This is of particular relevance in relation to Paragraph 4 (h) of the Outcome Document. Under 'Operational recommendations on cross-cutting issues: drugs and human rights, youth, children, women and communities,' this notes that member states:

Consider, *on a voluntary basis*, when furnishing information to the Commission on Narcotic Drugs pursuant to the three international drug control conventions and relevant Commission resolutions, the inclusion of information concerning, inter alia, the *promotion of human rights and the health, safety and welfare of all individuals, communities and society* in the context of their domestic implementation of these conventions, including recent developments, best practices and challenges (emphasis added).

Another statement worthy of note came from the Mexican delegate who, bringing together several themes that emerged during the March meeting, stated that the 'prohibition approach is never going to be enough' with a better way forward involving the measurement of policy impact on individuals' lives as part of a move to 'intersectoral multidimensional strategies'. Building upon positions that had been developing over the course of recent CND sessions, new indicators should, the Mexican delegate claimed, link closely to the work of a range of UN agencies and are essential to achieving progress towards the objectives of the UNGASS Outcome Document.

Interest within Mexico for the metrics issue was also evident in discussions concerning the work of the UN's New York based Statistical Commission (StatComm). Demonstrating a welcome convergence of endeavour across the UN, StatComm presented at its 48th session – the week before the CND – the *Report of the National Institute of Statistics and Geography of Mexico (INEGI) and the United Nations Office on Drugs and Crime on an international road map to improve drug statistics (ECOSOC, 2017).* Although agreed on for publication some time ago, the report was in many ways a response to the Outcome Document. Discussed at various points during the Commission's 60th session, including within the plenary and side events, it was generally well-received (IDPC, 2017). Without offering a full critique of the document here, it is fair to say that the international 'Roadmap' certainly adds value to the current discussions, especially in terms of inclusion within the drafting process of other agencies from within and outside the UN (for example the World Customs Organization, CICAD, EMCDDA, and WHO). Involvement of these bodies can provide different perspectives and expertise and have the potential to 'increase synergies' and 'coordination' in data collection. Nevertheless, the Roadmap arguably remains overly focused on measuring the scale and flow of drug markets rather than multidimensional harms that result from them, or from misguided repressive drug policies.

All that said, and in terms of the immediate future of the ARQ, probably the key outcome of the March 2017 session of the CND came in the form of resolution 60/1, Preparations for the sixty-second session of the Commission on Narcotic Drugs in 2019 (UN, 2017). Within this the UNODC was invited, in close cooperation with Member States, to 'reflect on possibilities to strengthen and streamline its existing data-collection and analysis tools, including improving the quality and effectiveness of the annual report questionnaire, and to report to the Commission on possible ways to enhance these, for consideration by the Commission at its sixty-second session' (UNODC, 2017). Having initiated the review process in March, members of the CND also discussed it at the Commission's intersessional meeting in November and the reconvened session the following month. Reiterating the sentiment expressed in March, the Norwegian delegate at the intersessional meeting noted how '…the UNGASS outcome document is a turning point to tackling the world drug problem. It is now time for action, implementation and monitoring.' He then went on to say that, 'We need new metrics and indicators to assess progress. It is timely to review the ARQ so that we can capture data relevant to the commitments agreed in New York' and in relation to the 'SDGs' (IDPC, 2017).'

Within the context of discussions in Vienna, and agreement in Autumn 2017 around the establishment of an 'Expert group Meeting' to meet in January 2018, the UNODC began to organize an 'Expert Consultation' by way of 'a first step to reflect on ways to improve the current data collection on drugs, including the ARQ, and to discuss activities to support countries in the production of drug relevant statistics, as for example indicated by the Roadmap (VNGOC, 2017).' Reflecting on both how to 'strengthen and streamline' UNODC-mandated drug data collection tools and on issues around

capacity building, the principal outcome of the consultation is intended to be a report submitted to the CND as a 'room document' to inform discussions in March 2018 'on the possible avenues to undertake to improve the quality and availability of drug statistics. (VNGOC, 2017)' The same document will be presented to the 49th session of the UN Statistical Commission, also to be held in March 2018 – and a final product will be shared at the 62nd CND in March 2019.

Reviewing the ARQ: An opportunity to increase synergies with the Outcome Document

At the time of writing this chapter, December 2017, the precise nature of the work and focus of the 'Expert Consultation' remains fluid. Nonetheless, through the UNODC's welcome engagement with civil society organisations (CSOs), it is becoming clearer how the process is unfolding and where there may be opportunities for states, CSOs and UN agencies based outside Vienna to feed into the revision of the ARQ and bring it more into line with the aspirations of the UNGASS Outcome Document, its calls for an improvement in data capture and movement towards a more rights based approach to drug control more generally. The final section of this chapter consequently briefly explores some of the key issues arising from the discussions, giving particular attention to issues that appear to have been omitted.

In December 2017, the UNODC launched an online questionnaire to collect feedback on the ARQ from governments, UN agencies and civil society organisations. The strategy behind this initiative was that responses to the online questionnaire would then result in a report that would be presented as a background document for the January 2018 meeting. In relation to possible new topics for data collection, the Office's questionnaire selected only seven issues – apparently based on the Statcomm Roadmap: (1) Trends in the composition, production, prevalence and distribution of New Psychoactive Substances; (2) Social, economic and other risk factors encouraging drug use; (3) Prevention and countering of drug-related crime and drug supply reduction measures; (4) Links between drug trafficking, corruption and other forms of organized crime; (5) Money-laundering and illicit financial flows; (6) Drug-related criminal activities using the Internet; (7) Factors contributing to illicit crop cultivation. These are all relevant issues of interest for the ARQ. Nonetheless, such an approach leaves out several other critical thematic areas for the Questionnaire review process – some directly mandated, others suggested, by the UNGASS Outcome Document.

Human Rights

As noted above, the Outcome Document explicitly calls on member states to 'Consider, on a voluntary basis…the inclusion of information' on a range of issues, including human rights (paragraph 4.h). The Document also promotes more proportionate penalties for drug offences (paragraph 4.l), and alternatives to incarceration (paragraph 4.j). Whether or not member states offer treatment as an alternative to incarceration is already included in the ARQ (Part ii, question 9.e). Nonetheless, these two critical issues could be better incorporated within Parts i and ii of the Questionnaire.

The Outcome Document also calls on member states to 'Promote and implement effective criminal justice responses to drug-related crimes to bring perpetrators to justice that ensure legal guarantees and due process safeguards' and 'practical measures to uphold the prohibition of arbitrary arrest and detention and…torture and other cruel, inhuman or degrading treatment or punishment and to eliminate impunity' (paragraph 4.o). Mindful of the high-level commitments made to human rights values within the Document and other texts, it seems important that the updated ARQ reflects these commitments. This might be achieved either as a new 'Human rights' section within the ARQ, or by embedding human rights considerations across the various ARQ sections. Additional data (including from CSOs) would most probably need to be considered by UNODC for issues where self-reporting by UN member states to the Office may present some difficulties (e.g. impunity, acts of torture and ill-treatment, etc.) – an issue that will need to be addressed in the Expert Group's deliberations. Other UN agencies, notably the Office of the High Commissioner on Human Rights (OHCHR), have done

significant work on developing human rights indicators, and such expertise and experience could be utilized (OHCHR, 2012). For instance, the OHCHR might consider drafting regular reports on the impact of drug policies on human rights as a useful tool to feed into the UNODC World Drug Reports.

Gender

The Outcome Document provides a clear mandate for the UNODC to collect gender-disaggregated data across the spectrum of drug policy, stating 'that targeted interventions that are based on the collection and analysis of data, including age- and *gender-related data*, can be particularly effective in meeting the specific needs of drug-affected populations and communities' (preamble, emphasis added). The Document also promotes non-discriminatory access to health and social services, the need to address the protective and risk factors that make women vulnerable to participation in the illicit drug market, and the specific needs and vulnerabilities of women drug offenders when imprisoned. Currently, the ARQ only requests gender-specific information for alternative development and for the overall prevalence of drug use (but not for other critical issues such as drug injection, related harms and access to services, or indeed on any issue related to supply-side activities). Although, as a reading of recent World Drug Reports reveals, the Office has been devoting increasing attention to the issue of gender, the review might consider the inclusion of requests for gender and age-disaggregated data throughout the ARQ. Moreover, it might ask, on a voluntary basis, that member states submit information disaggregated by socio-economic status, race, ethnicity and other categories as appropriate.

Additional UNGASS-related data collection

Several new drug-related issues covered in the Outcome Document could also be considered for inclusion within any revised version of the Questionnaire. This might be done both via voluntary reporting by member states to the UNODC (possibly by expanding the 'Additional Comments' sections of the ARQ), or by using the data already being collected by other UN agencies.

For instance, the ARQ currently requests data on HIV, hepatitis and tuberculosis – as well as on interventions like needle and syringe programmes, opioid substitution therapy and others. Meanwhile, the Outcome Document expands these health issues to include overdose prevention and naloxone distribution (paragraph 1.m). The Expert group might consequently consider requesting member states to report, on a voluntary basis, on progress made towards preventing overdose deaths. Further developing the inter-agency cooperation involved in Statcomm's production of the Roadmap, data collected by other UN agencies on this issue, especially by the WHO, could be included.

Crucially, the Outcome Document dedicates an entire chapter to ensuring adequate availability of controlled substances for medical and scientific purposes. This is one of the key objectives of the UN drug control treaties and an issue that has been growing in prominence in recent years as research reveals disparities in access to essential medicines in many parts of the world (Global Commission on Drug Policy, 2015). While this is the case, the current ARQ does not address this issue. Better data is essential both for informing policy action by states to improve access to controlled medicines, to take corrective action when problems with their use occur, and for measuring progress over time. The International Narcotics Control Board (INCB), the 'independent and quasi-judicial monitoring body for the implementation' of the drug control conventions (INCB, ?), routinely collects information on the consumption of controlled medicines. It therefore seems reasonable for the Expert Group to consider the use of this valuable data the future analysis of the world drug situation. In addition, the Group might call upon UNODC to request that, on a voluntary basis, member states report back on progress made towards other relevant questions identified in the Document, in particular removing legislative and technical barriers to accessing controlled medicines, and improving training for healthcare providers.

Reviewing the scope of the new thematic areas

As noted above, it appears as if only seven possible new topics for data collection have been identified by the Statcomm and UNODC. Among these is 'Social, economic, and other risk factors encouraging drug use'. Available data from the Office itself shows that there are no common trends on drug use or the risk factors associated with it – drug use happens across all ages, genders, cultures and political systems. That said, problematic use, drug dependence and drug-related health harms (e.g. HIV and hepatitis C infections, tuberculosis and overdoses) are often concentrated in marginalised, impoverished, conflict-afflicted areas across the globe. Consequently, it may be more relevant for the Expert Group to consider the social, economic and other risk factors around problematic drug use and harms, including poverty, social inclusion, criminalisation, policing, incarceration, gender inequality, armed conflicts, and so on.

In addition, it will be recalled that the seventh thematic area listed by the UNODC relates to the 'Factors contributing to illicit crop cultivation'. While these factors are critical, the Outcome Document also commits member states to address 'drug-related socioeconomic issues' related to all supply-side drug control – cultivation, manufacture, production and trafficking – through development-oriented drug policies (paragraph 7). This appears to be an opportunity for the ARQ to cover broader development concerns in involvement in all illicit drug supply activities – hence contributing to member states' reporting requirements within the 2030 Agenda for Sustainable Development. Furthermore, and as mentioned above, paragraph 7.g of the Document promotes the 'use of relevant human development indicators' – another dataset that could be utilized to support the UNODC's analysis of drug policy issues globally.

Conclusion

Any revision of the ARQ is clearly a complex process; one that involves not only myriad technical challenges but also, and as is likely to become more obvious in the months before March 2019, deeply ingrained political and systemic tensions. While arguably limited in scope, the seven possible new topics for data collection are all fraught with conceptual and methodological dilemmas. As briefly discussed here, both 'Social, economic, and other risk factors encouraging drug use' and 'Factors contributing to illicit crop cultivation' are fiendishly intricate and require a holistic perspective, including the promotion of linkages to the SDGs. Moreover, although not unique within the list, the collection of meaningful data around new forms of drug market such as the darknet and indicators around drug-related corruption will be particularly difficult.

While in some instances, such as crypto-drug markets, a revised ARQ may require the capture of new data, in other instances information might be mined from existing data sets; sets that are already being generated both within the UN system by agencies other than the UNODC and non-governmental organisations (NGOs) (Bewley-Taylor, D, 2016). For example, in addition to utilizing data on essential medicines collected by the INCB, any revised process might incorporate data from NGOs working in the sector (The Economist, 2015).

In terms of improved cooperation with non-Vienna based UN agencies, it should be recalled how in its Roadmap, the Statistical Commission concluded that 'international and regional bodies…*should increase synergies and improve the coordination and their statistical work* in the area of drugs, including with respect to reporting on the indicators and targets related to the Sustainable Development Goals' (emphasis added) (UNODC, 2016). In parallel with the ARQ review process, it seems logical therefore for the UNODC to access relevant drug-related information already being collated by other UN agencies and related bodies. This would prevent a significant additional burden on member states for data collection, while promoting more system-wide coherence within the UN for data collection and analysis within their respective mandates. This could include, inter alia, data collected by the WHO,[4] UNAIDS,[5] UNICEF,[6] the INCB,[7] the World Bank,[8] the OHCHR,[9] the Committee

on the Prevention of Discriminations Against Women,[10] the United Development Programme via the Human Development Index,[11] and the Sustainable Development Goals.[12] Mindful of the UNODC's current use of data sets from a range of bodies to complement that generated by the ARQ, such a widening of scope should not be beyond the realms of possibility.

That said, in additional to substantial technical challenges, several fundamental problems can be identified. First, mindful of the increasingly complex and fluid state of the world drug market, it is difficult to reconcile the request within resolution 60/1 to simultaneously 'strengthen' and 'streamline' the ARQ, particularly if many of the existing categories concerning scale and flows are retained. Indeed, although there remains an understandable desire to reduce the burden on member states, particularly since the collection of good quality data is so expensive, it appears as if a better understanding of the 'world drug problem' requires more data, not less. Second, any shifts away from the longstanding interest in flows and scale, as contained within the Outcome Document, raises the sticky twin issues of self-reporting and state sovereignty, including when this involves data from non-state actors. As has been raised elsewhere and mentioned briefly above, that the entire ARQ process is based on self-reporting raises some serious questions. There is certainly something to be said for the view that 'States naturally have an inbuilt bias against reporting failures or poor performance, a problem assumed to be most acute in states or regions of greatest concern' (Rolles, S. et al, 2016).

Reporting poor performance within the domain of human rights, however, goes well beyond the issue of drug policy and the work of the UNODC and an Expert Group. It strikes at the heart of the systemic tension inherent within the UN system: differing perceptions of the appropriate balance between states' obligations and state sovereignty. To be sure, while the language of human rights now permeates soft law instruments (such as the Outcome Document) within the realm of drug policy, there clearly remains substantial differences of view within the international community. These are differences that, while often side-stepped within Vienna, New York, and to a lesser extent Geneva, can be seen to play out within the domestic sphere. As touched upon here, the option of voluntary reporting may be the most realistic first step in capturing states' performance on drug policy vis-à-vis human rights obligations. That some states may choose not to offer information may speak volumes in terms of the creation of new normative standards. Another, or possibly additional, route may be the use of proxy human rights indicators such as incarceration rates for drug-related offences. Ultimately, however, it may be the case that adequate human rights indicators will not fit within anything other than a fundamentally redesigned and reframed ARQ; an unlikely prospect bearing in mind the apparent systemic inertia within Vienna. In such circumstances, recourse to other measurement and review mechanisms, including the SDGs and those in Geneva relating to the work of the OHCHR such as the Annual Report, the Universal Periodic Review and Special Procedures mechanisms, may be more realistic options. In whichever part of the UN system the monitoring of human rights outcomes of drug policy takes place, it seems clear that the establishment of a monitoring framework is essential for the operation of a modern and internally coherent international drug control system. Indeed, as Rodrigo Uprimny and Diana Esther Guzman point out, appropriate 'indicators to evaluate drug policies are fundamental' for a human rights approach to the issue area. 'Although current indicators are important to measure some aspects of efficacy of drug policies', they continue, 'supplementary indicators are needed to assure' the fulfilment of 'human rights obligations' (Uprimny, R. and Guzman, D.E., unpublished).

Indeed, whatever the route forward, it is becoming increasingly clear that for the language within the Outcome Document to be meaningful there must be an appropriate set of performance indicators and associated capture mechanisms. On this point it is worth recalling the words of Bente Angell-Hansen, Norway's Ambassador to Austria and Head of the Norwegian Mission to the United Nations, Vienna. Speaking at a side-event at the reconvened session of the CND in December 2017, she evoked the maxim, 'If you have a problem that you don't want to do anything about – don't measure it (IDPC, 2017).' How states choose to measure or avoid measuring various facets of the world drug problem,

the human rights issue prominent among them, looks set to be a key area of concern in the lead up to 2019 and beyond.

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[1] These included UNAIDS, WHO, UNDP the OHCHR and UN Women

[2] The seven headings are: Demand reduction and related measures, including prevention and treatment as well as other health-related issues; Ensuring the availability of and access to controlled substances exclusively for medical and scientific purposes, while preventing their diversion; Supply reduction and related measures; effective law enforcement; responses to drug related crime; and countering money laundering and promoting judicial cooperation; Cross-cutting issues: drugs and human rights, youth, children women and communities; Cross-cutting issues in addressing and countering the world drug problem: evolving reality, trends and existing circumstances, emerging and persistent challenges and threats, including NPS, in conformity with the three international drug control conventions and other relevant international instruments; Strengthening international cooperation based on the principle of common and shared responsibility; Alternative development; regional, interregional and international cooperation on development-oriented balanced drug control policy; addressing socioeconomic issues.
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[3] See for example Paragraphs 1 (h), 3 (c), 3 (k), 3 (u), 5 (d) and 5 (p)

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