

Striving for system-wide coherence: An analysis of the official contributions of United Nations entities for the UNGASS on drugs

By Christopher Hallam¹

Introduction

In April 2016, the General Assembly of the United Nations (UN) will convene its 30th Special Session (or ‘UNGASS’) – and the third to focus on the ‘world drug problem’. The General Assembly has called for an ‘inclusive preparatory process that includes extensive substantive consultations, allowing organs, entities and specialized agencies of the United Nations system, relevant international and regional organizations, civil society and other relevant stakeholders to fully contribute to the process’.² Through the United Nations System Task Force on Transnational Organized Crime and Drug Trafficking, UN entities were invited to make submissions on how the international drug control system impacts upon their respective mandates and the coherence of the UN more broadly.

By 1st March 2016, 15 UN entities had contributed documents to the preparatory deliberations, which have been uploaded onto the official UNGASS website (see Box 1).³ As UNDP observes in its submission, ‘UNGASS 2016, and preparations thereto... provide an important opportunity to widen the discussion to include UN organisations that approach issues of drugs and crime from health, sustainable development, human rights and peace building perspectives, and ultimately, to promote system-wide coherence with respect to global drug control strategies’.⁴ The international

Box 1: UN entity submissions on the UNGASS website, 1st March 2016

- Human Rights Council (HRC)
- International Narcotics Control Board (INCB)
- Joint United Nations Programme on HIV/AIDS (UNAIDS)
- Office of the High Commissioner for Human Rights (OHCHR)
- Special Rapporteur on the Right of everyone to the highest attainable standard of mental and physical health
- UN Department of Political Affairs (DPA)
- UN System Task Force
- UN Women
- United Nations Development Programme (UNDP)
- United Nations Interregional Crime and Justice Research Institute (UNICRI)
- United Nations Office for Disarmament Affairs
- United Nations Office on Drugs and Crime (UNODC)
- United Nations University (UNU)

drug control system in Vienna – comprising the Commission on Narcotic Drugs (CND), UNODC and the INCB – is often accused of operating in isolation, and sometimes at cross purposes to, other parts of the UN system, such as the health and human rights entities based in Geneva.⁵ In the contribution of the UNU, it is pointed out that the CND must consult beyond the Vienna drug control complex, criminal justice ministries, law enforcement and drug control agencies, and reach out to health ministries, agriculture and economic development ministries, and multilateral and regional financial institutions. The engagement of UN bodies from across sectors therefore represents an explicit objective of the Special Session, and a key part of the change that the International Drug Policy Consortium (IDPC) and other civil society organisations are looking for from the 2016 UNGASS,⁶ as their contribution expands and diversifies the perspectives brought to bear upon the fundamentally cross-cutting issue of drugs.

This briefing paper examines several of the most prominent themes to emerge from the contributions of the 15 UN entities to have responded so far, and their progress or otherwise into the UNGASS debates and the draft UNGASS Outcome Document.

Re-balancing the international drug control system towards public health and human rights

The most common theme, for which there exists something close to a consensus amongst the UN entities, is the need for the rebalancing of international drug control toward a greater focus on public health and human rights. Most of the UN submissions recognise that the historical emphasis of the international drug control regime has been on criminal justice, law enforcement, punishment and repression, and that this approach has had limited success and requires change. For example, UN Women states that ‘the world drug problem needs to be addressed... in a more balanced and humane way, prioritizing evidence-based, health-centred approaches focused on prevention, treatment, and social rehabilitation and integration, and addressing both supply and demand’.⁷ The comprehensive submission from

UNAIDS is entitled ‘A public health and rights approach to drugs’,⁸ while the WHO submission recalls that the international drug conventions ‘envisage the use of public health measures to prevent and reduce health and social harm due to abuse of drugs’.⁹

In line with the principle of system-wide coherence within the UN,¹⁰ many contributions, such as that from UNDP, emphasise that drug control is not an end in itself, but a means toward the more important core objectives of the UN: respect for human rights and fundamental freedoms, peace and development.¹¹ In the words of UNAIDS, ‘Leadership at the UNGASS needs to be accompanied by a real commitment and concrete steps at national level to reform legislation, redirect investment, and strengthen policies and programmes towards public health outcomes. The UNGASS will be a decisive moment’.¹²

Decriminalisation

Several of the UN contributions acknowledge the harms being caused by criminalisation, and advocate the removal of criminal sanctions for drug consumption. UNAIDS, for example, contends that the reorientation of international drug control away from punishment and toward care and support ‘can only be achieved by implementing alternatives to criminalization’.¹³ This represents a concrete measure to realise the narrative around reorienting the drug control system toward health and human rights. Navi Pillay, former High Commissioner for Human Rights, states in her contribution that the criminalisation of people who use drugs may result in the avoidance of seeking healthcare and the adoption of risky forms of drug consumption.¹⁴ Alongside UNAIDS, UNDP, the UN System Task Force and the HRC, she recommends the decriminalisation of drug use.

The Special Rapporteur on the Right to the Highest Attainable Standard of Physical and Mental Health likewise argues that ‘drug use and possession should be decriminalized and de-penalized alongside increased investment in treatment, education, and other interventions’.¹⁵ He warns of the ‘very serious’ effects of criminalisation, with criminal records having lifelong effects on entire

families, leaving prisons overcrowded with drug offenders, and creating environments in which cruel, inhuman and degrading treatment is more likely to occur. 'At the root of many health related problems faced by people who use drugs', writes the Special Rapporteur, 'is criminalization itself, which only drives issues and people underground and contributes to negative public and individual health outcomes'.⁵⁶

UN Women, meanwhile, goes a step further, calling for member states to avoid 'criminalizing the most vulnerable in the chain of drug production and drug trafficking, including the possibility of decriminalizing drug use and low-level, non-violent drug offenses'.¹⁷

Access to controlled medicines

Once more, the realisation of the call to re-balance the international drug control system requires concrete measures to improve access to controlled substances for medical and scientific purposes. There has been increasing attention to the provision of controlled medicines in recent years, and the issue features in several of the contributions of UN entities to the UNGASS. 'Implementation of the conventions', says the WHO, 'should aim to fulfil the "dual obligation of governments to establish a system of control that ensures the adequate availability of controlled substances for medical and scientific purposes, while simultaneously preventing abuse, diversion and trafficking"'.¹⁸

The WHO seeks to shift the balance of the current drug control regime, under which some 5.5 billion people, or approximately 83% of the global population, have little or no access to controlled medicines – especially opioids – for treating moderate to severe pain. This is particularly the case in low-income developing countries. In 41% of countries, there is little or no access to opioid substitution therapy for drug dependence.¹⁹ This state of affairs should not exist: the international drug control system is specifically intended to ensure access to drugs for these purposes. The UNODC submission recommends that the international community should 'take concrete steps to take a balanced approach... by redistributing the resources allocated to

drug control policies, giving more attention to public health, drug abuse prevention, treatment of drug-use disorders and access to controlled medicines for medical and scientific purposes'.²⁰ The OHCHR submission notes that 'access to these medications is often excessively restricted for fear that they will be diverted from legitimate medical uses to illicit purposes', and recommends that 'The right to health requires better access to controlled essential medicines, especially in developing countries'.²¹

Harm reduction

The low global coverage of harm reduction services is another topic raised by several UN entities in their UNGASS contributions. The WHO, OHCHR, HRC, UNAIDS, UNDP and UNODC all mention harm reduction and advocate for its importance in international drug control. As UNODC observes, 'Countries which have adequately invested in evidence-informed risk and harm reduction programmes aimed at preventing the spread of HIV through injecting drug use have remarkably reduced HIV transmission among people who inject drugs and their sexual partners'.²² With such a strong evidence base underpinning harm reduction, widely recognised across the UN system, UNAIDS calls for this approach to be included in the outcomes of the UNGASS, and for the Special Session to 'commit to fully implement harm reduction and HIV services', in addition to ensuring that harm reduction measures are available in prisons.²³

The impact of drugs and drug policy on development

Several UN organisations, including UNU, the WFP, the UN System Task Force and UNDP, are critical of the failure of drug policies to affirm and support sustainable development objectives. According to UNDP, which naturally explores the question in the greatest depth, drug control touches every aspect of its work, and 'addressing the development dimensions of drug control policies requires a paradigm shift that takes into consideration all the elements that have an impact on human development and how they interact'.²⁴ It goes on to say that 'there is growing evidence... that current drug control policy has

not only failed to achieve its own objectives but has generated considerable harms to health, social and economic development, and to peace, security and stability'. The UNDP contribution recalls the so-called 'unintended consequences' of the international drug control system that were cited by former UNODC Executive Director Antonio Costa: illicit drug markets of 'macroeconomic proportions'; policy displacement away from health and towards law enforcement; the 'balloon effect' of geographical displacement of illicit crop cultivation and production; substance displacement to potentially more harmful drugs that are less stringently controlled; and the global criminalisation and marginalisation of people who use drugs.²⁵

For many of those engaged in cultivating illicit drug crops, this step is a livelihood option, providing income for those who are land- and cash-poor, and the 'enforcement of opium bans and crop eradication interventions have eliminated the principal source of income of thousands of families, driving them further into poverty', says UNDP.²⁶ Drug control activities have an increasingly disproportionate negative effect on women, whose participation in the global drug trade is growing rapidly, often playing the role of drug 'mules'. UN Women notes that: 'In Latin America, between 2006 and 2011, the female prison population almost doubled, with the vast majority incarcerated for drug-related offences'. In the United States, two-thirds of women in federal prisons are there for nonviolent drug offenses, and are mostly single mothers.²⁷

A similarly disproportionate impact afflicts groups such as peasant farmers, low-level drug offenders, ethnic minorities and indigenous peoples, in addition to causing deforestation, soil erosion ecological and crop destruction through both the evasive movements of the illicit trade and drug control efforts involving fumigation, herbicides etc. 'Alternative development' is also subject to UNDP criticism, chiefly for its focus on the margins where illicit crops are cultivated and its lack of sufficient attention to the root causes of illicit cultivation and trafficking and their impacts on national economies, institutions and governance, in addition to human rights and public health.²⁸

Human rights

Human rights concerns cut across each one of the issue-areas above, and are inseparably bound up with drug policy, health, development, human security, effective governance and other domains. As Navi Pillay observes in her contribution, 'Regrettably human rights violations continue to occur in the implementation of drug control policies by states. Violation of the right to life, the right to health, the prohibition of torture and other forms of ill treatment, the prohibition of arbitrary detention, the right to equality and non-discrimination, the rights of indigenous peoples and the rights of children are all sources of serious concern'.²⁹ In an open letter to Mr. Fedotov, the Executive Director of UNODC, the Special Rapporteur on the right to health expresses concern regarding 'the lack of explicit and clear human rights standards and commitments' in the draft UNGASS Outcome Document, stating that 'While human rights is included as a theme, it has played a very minor role in the negotiations to date, and risks becoming a hollow opening paragraph with no meaningful debate, development or follow up'.³⁰

The most fundamental aspect of human rights is the right to life. The OHCHR, the HRC, the Special Rapporteur on the right to health, UNAIDS, UNDP, INCB, UNODC and UNU all raise their principled objection to the use of the death penalty in the context of drug control. Perhaps most important amongst these in this setting is the INCB, which recently changed its position to one of explicit opposition to the practice. In its UNGASS contribution, the INCB reiterates that 'Taking into account the relevant international conventions and resolutions pertaining to the death penalty, the Board encourages the States Parties that still provide for the death penalty for drug-related offences in their national legislation and practice it, to consider the abolition of the death penalty for drug-related offences'.³¹

Retaining the drug control conventions

It should be recognised that despite the widespread call for a reorientation of the regime toward health and human rights, several contribu-

tors insist that the approach to drugs must remain within the three UN drug control conventions. This is particularly the case with respect to contributions from the drug control treaty bodies themselves, which defend the continued relevance of the conventions explicitly and at length. The INCB, for example, in a statement by its President Werner Sipp at the reconvened 58th session of the CND, claimed that the present international drug control system has ‘undoubtedly achieved remarkable success’ by reducing diversion from the licit trade; in the last two decades establishing programmes for prevention and treatment, and significantly improving international cooperation in drug-related matters.³² UNODC meanwhile urges the return to the original principles of the international drug control treaties, which, it argues, were ‘concerned with the health and welfare of mankind’.³³

Conclusion

It is welcome progress that a number of UN entities, representing the broader spectrum of the UN’s work, made submissions for the UNGASS on the world drug problem – and especially welcome that these submissions drew out key areas for the international drug policy debate, as shown above. However, to date, few of these issues and recommendations have been incorporated into the draft UNGASS Outcome Document, which is currently being negotiated by member states at the CND in Vienna. These negotiations are hampered by numerous procedural and thematic challenges which undermine the original calls for the UNGASS to be ‘a wide-ranging and open debate that considers all options’.³⁴ For example, most of the negotiations are taking place behind closed doors and the UN entities whose contributions have been discussed above are unable to participate.

It is crucial that, in the spirit of system-wide coherence within the UN, these valuable and insightful contributions from UN entities are not ignored or marginalised. Yet the common themes from the UN entity submissions, many of which are clearly the result of broad and open-ended reflection on the problems and possibilities associated with contemporary drug policy, remain largely absent from the UNGASS negotiations. As

UNDP Assistant Secretary General Jessica Faieta stated at a UNU roundtable discussing the Special Session, ‘rather than engaging in limited reforms of existing policies, it is crucial to undertake a paradigm shift’.³⁵ Unfortunately, as things currently stand, any such movement looks unlikely. For this situation to change, the non-drug control UN entities must adopt a more proactive stance in demanding a role in the UNGASS discussions. In addition, member states should insist on the full participation of the range of relevant UN entities in order to comply with the terms of reference as specified by the UN General Assembly in its resolution of December 2014.³⁶ Civil society organisations and members of the scientific and academic communities should likewise express their dissatisfaction with the direction of the draft Outcome Document, and the apparent failure of the UNGASS process to meet the hopes it had originally raised for a more humane and coherent approach as global drug control meets the dawn of its second century.

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Endnotes

1. Research and Analysis Officer, IDPC
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4. http://www.unodc.org/documents/ungass2016//Contributions/UN/UNDP/UNDP_paper_for_CND_March_2015.pdf
5. It should be recalled that the WHO is also one of the UN bodies having an important role to play in the international drug control system, and that any substances proposed for controls must be reviewed by the WHO, which then makes its recommendations to the CND.
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About this briefing paper

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About IDPC

The International Drug Policy Consortium is a global network of non-government organisations that specialise in issues related to illegal drug production and use. The Consortium aims to promote objective and open debate on the effectiveness, direction and content of drug policies at national and international

level, and supports evidence-based policies that are effective in reducing drug-related harm. It produces briefing papers, disseminates the reports of its member organisations, and offers expert advice to policy makers and officials around the world.

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