

The Road to UNGASS 2016: Process and Policy Asks from the IDPC



Introduction

On 19th to 21st April 2016, there will be a United Nations General Assembly Special Session (UNGASS) held in New York, dedicated to the issue of drug policy.^{1,2} The General Assembly is the highest policy making and representative organ of the United Nations (UN), and its infrequent Special Sessions focus on pertinent topics at the request of member states. The UNGASS on drugs has the potential to be a ground-breaking, open debate about the international drug control system – but there is much work to be done to ensure that it fulfils that potential.

The International Drug Policy Consortium (IDPC) is a global network of more than 130 civil society organisations that come together to promote objective and open debates on national and international drug policies.³ This document outlines the five main “asks” that the Consortium members will collectively call for between now and

2016. These “asks” have been developed through detailed consultations with IDPC members and partners, and will each be the subject of more detailed briefing papers in the coming months:

ASK 1: Ensure an open and inclusive debate

ASK 2: Re-set the objectives of drug policies

ASK 3: Support policy experimentation and innovation

ASK 4: End the criminalisation of the most affected populations

ASK 5: Commit to the harm reduction approach

ASK 1: Ensure an open and inclusive debate

The UNGASS on drugs is an important opportunity to properly and honestly assess the successes and failures of global drug policies that have been implemented over the past 50 years. This dialogue is sorely needed – which is why the Presidents of Colombia, Guatemala and Mexico called for the UNGASS to be held in 2016 (rather than 2019 as originally planned).⁴ It must be allowed to be an open debate – one which includes all UN agencies, scientists and researchers, civil society and those most affected by drug policies (including people who use drugs and small-scale subsistence farmers involved in the cultivation of drug-linked crops). Getting drug policy right is an important and urgent task which requires political courage and leadership to ensure an honest, inclusive and open debate.

Firstly, certain procedural mechanisms must be included to ensure the full participation of civil society. The Civil Society Task Force (CSTF) for the UNGASS has now been convened and is beginning the important work of ensuring broad, diverse and geographically representative civil society participation that gives due prominence to representatives from the most affected communities. However it will only be able to play its part if it is provided with funding in order to support outreach to currently unheard voices around the world, to host meetings, and to collate materials for member states in the months preceding the UNGASS. Donor requests have been distributed, and we urge member states to find a way to contribute to this important work. In particular, the CSTF is planning:

- Regional consultations with civil society on priority issues for the UNGASS
- An interactive civil society hearing in New York at least three months prior to the UNGASS
- To source civil society speakers to participate in the UNGASS plenaries, roundtables and panels based on an accountable and transparent selection process and to ensure that under-represented voices are heard, particularly those from the most affected communities.

The President of the General Assembly must fully support and recognise the mandate of the CSTF and ensure that both ECOSOC accredited and non-accredited civil society observers will be able to attend the UNGASS.

Secondly, the UNGASS itself must not be side-lined as just a reaffirmation of previous documents or merely a milestone towards the next meeting in 2019. Given the importance of the issues at stake, the UNGASS must be seen as a stand-alone moment where new agreements can potentially be made to reflect rapidly changing drug policy challenges. The existing goals (to “eliminate or reduce significantly and measurably” the illicit cultivation of opium poppy, coca leaf and cannabis, illicit drug demand and related risks, trafficking of psychotropic substances and precursors, as well as drug-related money-laundering)⁵ are unachievable and inappropriate. Therefore, simply reaffirming these goals is unacceptable and will not reflect the reality of contemporary global drug markets, nor the alternative policy approaches being actively pursued in some countries.

Thirdly, the UNGASS should have a strong outcome that reflects what we hope will be a rich, open and broad debate. The proposal in CND Resolution 58/8 to produce a “short, substantive, concise and action-orientated document comprising a set of operational recommendations”⁶ is welcomed, especially given that it is not simply aimed at “strengthening the implementation of the Political Declaration and Plan of Action” as was originally proposed but will now include “an assessment of the achievements as well as ways to address longstanding and emerging challenges” in global drug policy. The chairs’ summaries from the proposed roundtables should accurately and objectively describe the debates, and serve as an additional record of the UNGASS discussions that provides member states with clear parameters within which to consider their own policy options, and could outline the key issues for further multilateral review and reform in 2019 and beyond.

Finally, an open debate also requires the consideration of a wide range of issues, including those on which there is no current consensus (such as regulated cannabis markets, harm reduction and the death penalty). Themes and ideas for the UNGASS should emerge from inclusive expert consultations

– incorporating input from scientists and the Civil Society Task Force described above – which can deliberate and present proposals to governments.

ASK 2: Re-set the objectives of drug policies

The 1998 UNGASS on drugs was held under the slogan “A drug free world – We can do it”.⁷ Similarly, the 2009 Political Declaration on drugs aims to “eliminate or reduce significantly” illicit drug production and demand, drug-related health and social harms, and drug-related money laundering.⁸ We have clearly failed to achieve these goals – and the UNGASS must focus instead on how the international drug control regime contributes to broader UN objectives such as public health, human security, social and economic development, and human rights.

Governments should use the opportunity of the UNGASS to question, evaluate and redefine the overall objectives of the drug control system. The UNGASS must address the failure of the drug control system to ensure adequate access to controlled substances for medical and scientific purposes – a core obligation under the UN drug conventions which has been deprioritised in favour of stringent and restrictive drug control measures. Member states must prioritise access to essential controlled medicines and establish a firm timeline for the implementation of a target of universal coverage.

“Putting health and community safety first requires a fundamental reorientation of policy priorities and resources, from failed punitive enforcement to proven health and social interventions”

Global Commission on Drug Policy, 2014

High-income donor states should also provide adequate funding for a dedicated programme led by the World Health Organisation (WHO), developed in partnership with UNODC and other relevant agencies, to design the necessary protocols to guarantee adequate, evidence-based, affordable distribution in member states where access is inadequate.

Governments can also move the discussion forward by calling for more relevant objectives and measurable indicators for the future – shifting the objectives of drug policy away from “process measures” such as crop eradication statistics, arrest rates, drug seizures and imprisonment statistics. New indicators need to be explored that focus on the impact on health, security and development – these should cover, for example:

- **Public health, harm reduction and well-being:** reduced drug-related deaths including overdose fatalities, increased coverage and quality of harm reduction and drug treatment services, reduced incidence of HIV, hepatitis and tuberculosis.
- **Essential medicines:** the increased availability of controlled medicines for medical and scientific purposes – especially for pain and palliative care in low and middle income countries.
- **Human security:** improved citizen security and a reduction in violence, corruption and crime that results both from the illicit drug market and from counter-productive policy responses.
- **Development:** improved social and economic indicators in areas of drug production, increased provision of equitable and environmentally sustainable development programmes, and advances in achieving the Sustainable Development Goals that will be launched in 2015.⁹
- **Human rights:** ending human rights violations and abuses against affected populations, the establishment of robust and effective human rights monitoring mechanisms to ensure compliance by governments and law enforcement agencies, and comprehensive access to health, social and legal protections with adequate access to justice and legal aid for victims of human rights abuses.

To fulfil this broader vision on drug-related problems and policy responses, the active involvement of the UN system as a whole in the UNGASS is essential. Preparations must therefore be broader than just the CND and the Vienna-based specialised agencies – they require the meaningful involvement of all relevant UN departments and the General Assembly itself.

ASK 3: Support policy experimentation and innovation

The UNGASS on drugs must acknowledge that there are numerous inherent problems with current drug control policies. They have failed to significantly reduce the size of drug markets, and have led to severe negative consequences: violent criminal markets; the stigmatisation and marginalisation of the hundreds of millions of people who use drugs; mass incarceration and arrest; increased health harms such as HIV, hepatitis and overdoses; wasted public resources; the appearance of more harmful adulterated drugs and new psychoactive substances; and damage to the environment and the livelihoods of subsistence farmers as a result of forced eradication programmes. Therefore, the UNGASS must seek to create space for countries to experiment with new policy approaches in order to respond to the realities on the ground. The legal regulation of cannabis and coca markets is a promising policy alternative from which the international community must learn.

The contemporary rhetoric, including from the UNODC and the USA, is that the drug conventions already contain enough flexibility and do not stand in the way of policy innovation and shifts towards a health- and human rights-based approach.^{10,11} Indeed, treaty latitude has allowed the growth of many harm reduction and decriminalisation practices, in spite of consistent attempts by the International Narcotics Control Board (INCB) and others to deny their legitimacy.¹² The advantages of this emphasis on the “wriggle room” in the Conventions are that it may offer tolerance for a wider range of innovative drug policies to be accepted (e.g. harm reduction, including drug consumption rooms, and international trade in coca products).

But there are also clear limitations: this rhetoric runs the risk of glossing over some of the clearly outdated and inconsistent provisions in the conventions, does not recognise the need to prioritise human rights obligations, and may be used to keep the door closed to treaty reform. Eventually, it may even undermine respect for international law more broadly. Change is necessary: the fact is that the 50-year-old UN

drug conventions do need to be modernised to reflect the realities of a 21st century globalised drug market. The conventions contain language, provisions and an underpinning philosophy that are no longer fit for purpose. Secretary General Ban Ki-moon urged member states to use the UNGASS opportunity “to conduct a wide-ranging and open debate that considers all options”.¹³ Governments, therefore, should raise questions about the shortcomings and inconsistencies of the UN conventions themselves, and about options that lie outside of the framework of the three drug control conventions.

“Further exploration of flexible interpretations of the drug treaties is an important objective, but ultimately the global drug control regime must be reformed to permit responsible legal regulation”

Global Commission on Drug Policy, 2014

The UNGASS should acknowledge the full scope of latitude within the conventions, and support governments in identifying and implementing innovative policies in line with human rights standards and norms. When innovative policies present tensions in terms of treaty adherence (such as with the legal regulation of cannabis for non-medical use), these challenges need to be openly and honestly discussed. If required, multilateral agreements between groups of like-minded countries could inform the way forward – reflecting local realities and contexts. The role of UNODC and the INCB should be to support, monitor and evaluate such innovations in an objective way (this will require a shift in the INCB’s functions and approach).

To support these processes, an Expert Working Group should be commissioned in advance of the UNGASS to further explore the key issues in relation to the UN drug conventions. This includes reviewing the existing tensions between the drug conventions and other UN treaties (such as human rights law), and advising on how to overcome them. In parallel, governments should also ensure adequate funding for the WHO Expert Committee on Drug Dependence (ECDD) for scientific reviews of controlled drugs – new and old – and ensure that any decisions to schedule substances are based on evidence.

ASK 4: End the criminalisation of the most affected populations

The punishment of a crime must be proportionate to the crime committed, yet millions of people continue to be imprisoned for possession or use of controlled drugs. Sentences for low-level, non-violent drug crimes tend to be disproportionately high.¹⁴ In many contexts, those suspected of drug offences are beaten, tortured, imprisoned for life, or executed. Small-scale subsistence farmers involved in the cultivation of drug-linked crops are also criminalised despite having no other sustainable livelihood options. Many years ago, it was felt that this tough approach would reduce demand and supply – this has clearly not happened, and the negative consequences are increasingly clear. The UNGASS must call for an end to the criminalisation of people who use drugs and the possession of drugs for personal use, and of subsistence farmers – while also calling on governments to address disproportionate sentences for other drug offences.

A health and human rights based drug policy necessitates that governments stop criminalising people who use drugs and small-scale subsistence farmers involved in the cultivation of drug-linked crops. Such a policy shift would have a positive impact on millions of lives around the world. UNODC and a number of governments already acknowledge that such policies, at least in the case of people who use drugs, are permissible under the drug conventions.¹⁵ However, the WHO¹⁶ and the UN Joint Programme on HIV/AIDS (UNAIDS)¹⁷ have gone further, and at the UNGASS member states must actively promote the decriminalisation process.

“Criminalizing people for the possession and use of drugs is wasteful and counterproductive. It increases health harms and stigmatizes vulnerable populations, and contributes to an exploding prison population. Ending criminalization is a prerequisite of any genuinely health-centred drug policy”

Global Commission on Drug Policy, 2014

For all other drug offences, governments should commit to reviewing their drug sentencing frameworks and ensuring that drug-related sentences are comparable to those for other offences of similar motivation and impact. The death penalty should no longer be applied for any drug offences, in accordance with international human rights law.¹⁸ At the same time, mitigating factors (such as a person’s motivation for involvement in the drug trade) must be given more prominence in sentencing decisions – in particular when involvement in the illicit drug market is driven by coercion, incapacity, vulnerability or basic subsistence needs.¹⁹

All efforts should be made (at arrest, prosecution and sentencing) to refer people experiencing problems with drug use to health and social services including, where appropriate, evidence-based treatment, rather than criminalisation and imprisonment. At the same time, treatment must never be forced upon those who do not need or want it – nor should treatment failure or relapse be deemed as punishable offences. Governments must also commit to the closure of compulsory drug detention and rehabilitation centres and implement voluntary, evidence-informed and rights-based health and social services in the community.²⁰

ASK 5: Commit to the harm reduction approach

The UNGASS is an opportunity to reset the drug control system to focus on health and human rights. In order to operationalise this, member states should explicitly support and promote the harm reduction approach to drugs, and should ensure a major reallocation of funding away from drug law enforcement and into public health and harm reduction approaches – redirecting just 10 percent of the drug control spend by 2020.

Harm reduction is defined as policies, programmes and practices that aim to reduce the harms associated with the use of psychoactive drugs in people unable or unwilling to stop.²¹ It is a pragmatic, humane and evidence-based response to drug use – and has been endorsed by the relevant UN agencies, the UN General

Assembly, the Global Fund, PEPFAR, the International Federation of Red Cross and Red Crescent Societies, and many more. It is endorsed in policy or practice by around 100 member states, yet remains a highly politicised and divisive term within the CND – where it has yet to be explicitly named in agreed documents and resolutions.²² Harm reduction is the most successful drug policy response of the last 40 years approaches – it is a practical, feasible, effective, safe, inexpensive and cost-effective approach.

Through a parallel consultation, Harm Reduction International (HRI)²³ has defined harm reduction “asks” for 2016 which are fully supported by the IDPC network. They are calling this the “harm reduction decade” – a direct contrast to the “drug-free world” mantra from previous years. At the UNGASS (and the High Level Meeting on HIV/AIDS that is also scheduled for 2016), member states should explicitly acknowledge and endorse the harm reduction approach.

Despite the evidence, funding for harm reduction and other health approaches remains far below the estimated need. UNAIDS estimated that US\$ 2.3 billion will be needed in 2015 to fund HIV prevention among people who inject drugs, while at the last estimate less than US\$ 0.2 billion was available from international donors.²⁴ At the same time, however, the global budget for drug law enforcement almost certainly exceeds US\$ 100 billion every year.²⁵ Redirecting a small fraction of this expenditure – just ten cents for each US dollar spent on drug law enforcement – would fill the current funding and coverage gaps for harm reduction. This will drastically reduce drug-related deaths, HIV infections and other harms. Crucially, this is not a call for “new” money, but for better and more effective spending of existing public funds – and is something that should be endorsed and promoted by member states at the UNGASS in 2016.²⁶

Endnotes:

1. <http://www.unodc.org/ungass2016/>
2. <http://idpc.net/policy-advocacy/the-un-general-assembly-special-session-on-drugs-ungass-2016>
3. <http://idpc.net/>
4. <http://idpc.net/blog/2013/09/latin-american-leaders-bring-drug-policy-debate-to-the-un>
5. www.unodc.org/documents/commissions/CND/CND_Sessions/CND_52/Political-Declaration2009_V0984963_E.pdf
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10. <http://idpc.net/publications/2014/02/idpc-advocacy-note-unodc-s-shifting-position-on-drug-policy-progress-and-challenges>
11. www.youtube.com/watch?v=gtOLegzeEoQ
12. <http://idpc.net/publications/2012/03/un-drug-control-conventions-the-limits-of-latitude>
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14. <http://idpc.net/publications/2010/12/tni-wola-prison-overload-in-latin-america>
15. <http://idpc.net/publications/2014/02/idpc-advocacy-note-unodc-s-shifting-position-on-drug-policy-progress-and-challenges>
16. <http://idpc.net/publications/2014/07/consolidated-guide-lines-on-hiv-prevention-diagnosis-treatment-and-care-for-key-populations>
17. <http://idpc.net/publications/2014/07/the-gap-report>
18. www.ihra.net/files/2010/07/01/DeathPenaltyReport2007.pdf
19. <http://idpc.net/publications/2012/06/drugs-crime-and-punishment-proportionality-of-sentencing-for-drug-offences>
20. www.unaids.org/en/media/unaids/contentassets/documents/document/2012/JC2310_Joint%20Statement6March12FINAL_en.pdf
21. www.ihra.net/what-is-harm-reduction
22. Rather than refer to “harm reduction”, recent CND resolutions have, as a compromise, included explicit references to the WHO, UNODC, UNAIDS Technical Guide which outlines a “package” of harm reduction interventions.
23. www.ihra.net
24. <http://idpc.net/publications/2014/07/the-funding-crisis-for-harm-reduction>
25. www.countthecosts.org/seven-costs/wasting-billions-drug-law-enforcement
26. www.ihra.net/10by20

Notes:

About this briefing paper

On 19th to 21st April 2016, there will be a United Nations General Assembly Special Session (UNGASS) held in New York, dedicated to the issue of drug policy. The UNGASS on drugs has the potential to be a ground-breaking, open debate about the international drug control system – but there is much work to be done to ensure that it fulfils that potential. This document outlines the five main “asks” that IDPC members will collectively call for between now and 2016.

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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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