



## **French Civil Society platform's recommendations on Global Drug Policies, for the « Zero draft » of the UNGASS 2016 on drugs.**

*September 2015*

Preparations for the United Nations General Assembly's Special Session (UNGASS) on Drugs in April are moving quickly.

The French Civil Society platform on global drug policies, in relation with the International Drug Policy Consortium, has submitted the following recommendations on fundamental questions regarding drug policies, which should in its opinion be taken in consideration during the UNGASS 2016<sup>1</sup>.

To support as strongly as possible the consultation process, this advocacy paper presents a synthesis of the key which includes some of the guidelines provided by the EU, CELAC and the United States.

We hope France will consider and support our paper during the negotiations, and its national and international allocutions.

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<sup>1</sup> [https://dl.dropboxusercontent.com/u/64663568/library/IDPC-advocacy-note\\_Recommendations-on-UNGASS-zero-draft\\_ENGLISH.pdf](https://dl.dropboxusercontent.com/u/64663568/library/IDPC-advocacy-note_Recommendations-on-UNGASS-zero-draft_ENGLISH.pdf)

## **1. Drugs and Health**

### **1.1. To remove criminal sanctions for drug use**

- Commit to upholding everyone's right to the highest attainable standard of health, as a central aim of international drug control. The issue of drug use and drug dependency should be dealt with solely in the public health sphere.
- Commit to the principle of « support, don't punish » – following both the US “Nonpaper” and the EU and CELAC positions : people who use drugs should receive adapted support, treatment and protection, rather than be punished.
- Remove criminal sanctions for drug consumption and other non-violent, low-level offences – recalling that, under the UN drug conventions, alternatives to conviction and punishment can be applied to drug-related offences of a minor, non-violent nature. The removal of criminal sanctions for drug use has been endorsed by the WHO<sup>2</sup>, UNAIDS<sup>3</sup>, UNDP<sup>4</sup>, and is supported by many NGOs.

### **1.2. To improve access to controlled medicines**

- Acknowledge the failure of the international drug control system and member states to ensure adequate access to controlled medicines, particularly for pain and palliative care, in many parts of the world, in compliance with WHO's preamble<sup>5</sup> and recommendations.
- Agree upon a concerted UN-wide effort and action plan – including WHO, INCB, UNODC and UNDP – to close the gap in the availability of, and access to, controlled substances for medical use while reinforcing efforts to prevent their diversion and misuse where relevant.
- Establish and commit to – as part of the action plan – a timeline for the implementation of a target for universal coverage.
- Ensure adequate funding for a dedicated programme led by WHO, in partnership with UNODC and other relevant agencies, to assist countries in assessing and addressing the barriers to adequate availability of controlled medicines.
- Support WHO recommendations to take the importance of access for medical use fully into account in scheduling decisions.

### **1.3. To promote Harm Reduction and evidence-based drug dependence treatment**

- Ensure universal access to harm reduction services for people who inject drugs – as outlined by WHO, UNODC and UNAIDS<sup>6</sup>, and for other uses of drugs (inhaling, smoking, mixing substances).
- Acknowledge that member states that have implemented these interventions “have remarkably reduced the number of HIV infections, with some countries approaching the elimination of injecting drug use-related transmission of HIV”<sup>7</sup>.

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<sup>2</sup> <http://www.who.int/hiv/pub/guidelines/keypopulations/en/>

<sup>3</sup> <http://www.unaids.org/en/resources/campaigns/2014/2014gapreport/gapreport>

<sup>4</sup> [www.undp.org/content/undp/en/home/librarypage/hiv-aids/addressing-the-development-dimensions-of-drug-policy/](http://www.undp.org/content/undp/en/home/librarypage/hiv-aids/addressing-the-development-dimensions-of-drug-policy/)

<sup>5</sup> The WHO Constitution identifies the "enjoyment of the highest attainable standard of health" as "one of the fundamental rights of every human being without distinction". July 22 1946 (reviewed in 1977, 1984, 2005)

<sup>6</sup> [http://www.who.int/hiv/pub/idu/targets\\_universal\\_access/](http://www.who.int/hiv/pub/idu/targets_universal_access/)

<sup>7</sup> <https://www.unodc.org/documents/ungass2016//V1403583-1-2.pdf>

- Scale-up investments in, and ensure supportive legal environments for, evidence-based harm reduction, prevention and treatment programmes.
- Acknowledge that drug dependence treatment must always be voluntary and based on individual choice – and that, according to the 2015 World Drug Report, only one in ten people who use drugs are “problem drug users”<sup>8</sup>, and that most users may not therefore require treatment or intervention. Promote consequently Harm Reduction, education and social services to people who use drugs who don’t need or want treatment.
- Commit to a timeline for the closure of compulsory detention centres for people who use drugs – in line with the Joint UN Statement on this issue<sup>9</sup> – as well as the end of other punitive measures such as compulsory registration, forced urine testing and corporal punishment.
- Favour and support a Community approach based on peer-training in Harm Reduction strategies.

## **2. Drugs and crimes**

### **2.1. To move away from the focus on punishment**

- Recognise that justice systems derive legitimacy from their ability to enforce laws efficiently, fairly and effectively (as highlighted in the US « Nonpaper »).
- Recognise that law enforcement measures have had a disproportionate impact on minority groups and ethnies
- Emphasise the need for law enforcement strategies to learn from what has worked, and not worked, in the past – adjusting to new challenges without contributing to negative consequences such as geographical or substance displacement (the so-called « balloon effect »<sup>10</sup>)
- Acknowledge that severe criminal sanctions imposed indiscriminately on drug offenders have not worked as a deterrent – yet have led to overloaded criminal justice systems and prisons, created huge financial burdens, and exacerbated a range of health and social harms. Agree accordingly on redirecting parts of the law enforcement national budget to health, education and social policies.
- Member states commit to review their drug sentencing frameworks to ensure proportionality of sentencing (taking into account, for example, the level of engagement in the drug trade, whether violence was involved in the offense, and any other mitigating factors) and that incarceration is only used as a last resort.
- Recognize that member states who adopted alternative approaches have shown important results, significantly reduced the nuisances and offences linked to drugs. Those experiences should be put forward as good practices to follow.
- Promote collaboration between law enforcement officials, justice authorities and health and social services for the effective implementation of alternatives to arrest, prosecution and incarceration, and promote in this framework Health approaches more than repression<sup>11</sup>.

<sup>8</sup> <http://www.unodc.org/wdr2015/>

<sup>9</sup> <http://www.unodc.org/southeastasiaandpacific/en/2012/03/detention-centres/story.html>

<sup>10</sup> [https://www.unodc.org/documents/commissions/CND/CND\\_Sessions/CND\\_51/1\\_CRPs/E-CN7-2008-CRP17\\_E.pdf](https://www.unodc.org/documents/commissions/CND/CND_Sessions/CND_51/1_CRPs/E-CN7-2008-CRP17_E.pdf)

<sup>11</sup> Adapted from CND Resolution 58/5, <http://www.un.org/Docs/journal/asp/ws.asp?m=E/2015/28>

## **2.2. To reorganize law enforcement and supply reduction**

- Set up a technical working group to review the headline objectives of the international drug control system, with a view to agreeing a new and comprehensive approach in 2019. This new approach should move towards what UNDP have described as «a comprehensive set of metrics to measure the full spectrum of drug-related health issues, as well as the broader impact of drug control policies on human rights, security and development »<sup>12</sup>.
- Refocus supply reduction strategies to ensure that they are primarily aimed at reducing the negative consequences of criminal behaviour associated with drug markets – i.e. targeted at individuals and organisations with a significant or controlling role in the supply of drugs, and/ or who are engaged in violence, intimidation and corruption.
- Establish a robust mechanism for the global exchange of information, research and best practice, including the launching of pilot programmes and research initiatives, in order to accelerate improvements in this area

## **2.3. To end entirely the use of death penalty for drug offences**

- Demand [as the EU, UNODC, INCB and others have done] the abolition of the death penalty for drug-related crimes, as well as the abolition of other enforcement practices and sanctions which are not in line with the principles of human dignity, liberty, democracy, equality, solidarity, the rule of law and human rights<sup>13</sup>, in compliance with the 5th article of the Universal Declaration on Human Rights : « No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment ». <sup>14</sup>

## **2.4. To coordinate actions against organised crime, money laundering and corruption**

- Strengthen democratic institutions to be more effective in countering organised crime, corruption and impunity.
- Strengthen social measures to reduce poverty and marginalisation, in order to weaken the main recruiting ground for illicit survival economies and criminal groups. Ensure that efforts to counter organised crime, money laundering and corruption address the broader underlying issues and do not only focus on illicit drug trafficking; the Convention Against Corruption (UNCAC) and the Convention Against Transnational Organized Crime (UNTOC) are more appropriate guiding instruments in this regard than the 1988 Convention Against Illicit Trafficking of Narcotic Drugs and Psychotropic Substances.
- Consider the option of regulating parts of the drugs market, for example cannabis or certain low-risk NPS, in order to reduce the source of illicit income for organised crime and thereby reduce the negative impacts of violence, corruption, economic distortions and the undermining of democracy and the rule of law.

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<sup>12</sup> [www.undp.org/content/undp/en/home/librarypage/hiv-aids/addressing-the-development-dimensions-of-drug-policy/](http://www.undp.org/content/undp/en/home/librarypage/hiv-aids/addressing-the-development-dimensions-of-drug-policy/)

<sup>13</sup> Adapted from the EU declaration during the thematic debate of the UN General Assembly: [http://eu-un.europa.eu/articles/en/article\\_16424\\_en.htm](http://eu-un.europa.eu/articles/en/article_16424_en.htm)

<sup>14</sup> UN General Assembly, December 10th 1948.

### **3. Drugs, human rights, youth, women, children and communities**

#### **3.1. To promote human rights**

- Emphasize the need to implement drug control policy consistent with the core UN mandates of peace, security, human rights and development (as highlighted in the US, EU and CELAC inputs)
- Ensure due respect for universal human rights and the rule of law, which is essential for the effective implementation of the international drug control system<sup>15</sup>.
- Ensure that the strengthening of international judicial and law enforcement cooperation and intelligence sharing must be carried out in full compliance with human rights standards. Such cooperation should not take place if there is a risk that doing so could facilitate human rights violations (such as the use of the death penalty, torture or inhumane treatment).
- Request UNODC to implement the provisions outlined in its 2012 position paper ‘UNODC and the Promotion and Protection of Human Rights’<sup>16</sup>, in order to assess the human rights impact of its own programmes.
- Request the UNODC Executive Director to include details of these human rights impact assessments undertaken in his annual reports to the CND, and in the World Drug Report.

#### **3.2. To focus on reducing incarceration of women for non-violent drug offences**

- Acknowledge that women incarcerated for non-violent drug offences represent the fastest growing prison population globally, with devastating impacts on their lives, their families and society as a whole.
- Encourage member states to address the stigma and discrimination faced by women involved in drug use and drug markets, and ensure the provision of gender-sensitive treatment, harm reduction, health, legal and social service

#### **3.3. To promote adapted health systems focusing on youth and young users**

- Acknowledge the evidence-based added value of preventive and educational approaches in working with young people.
- Support access to harm reduction and comprehensive institutions and services for minors who use drugs without being problem drug users, and to social, educational and harm reduction services for people who have a problem with their drug use.

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<sup>15</sup> [https://www.unodc.org/documents/commissions/CND/Drug\\_Resolutions/2000-2009/2008/CND\\_Res-2008-12e.pdf](https://www.unodc.org/documents/commissions/CND/Drug_Resolutions/2000-2009/2008/CND_Res-2008-12e.pdf)

<sup>16</sup> [https://www.unodc.org/documents/justice-and-prison-reform/UNODC\\_Human\\_rights\\_position\\_paper\\_2012.pdf](https://www.unodc.org/documents/justice-and-prison-reform/UNODC_Human_rights_position_paper_2012.pdf)

## **4. New Challenges**

### **4.1. To review the scheduling system of classification for narcotics**

- Ensure that scheduling decisions do not undermine public health objectives and the need to secure greater access to controlled medicines – in line with scientific evidence and the advice provided by WHO’s Expert Committee on Drug Dependence.
- Ensure greater support and funding for WHO’s Expert Committee on Drug Dependence to carry out their core functions within the scheduling system.

### **4.2. To address new challenges and new tensions**

- Create an expert advisory group to recommend how best to deal with the new challenges in addressing contemporary problems within the international drug control system – similar to the 1990 and 1998 UNGASS meetings, where special advisory groups played a useful role<sup>17</sup>.
- Request this expert advisory group to address challenges such as regulated cannabis markets, tensions with human rights obligations (including indigenous rights), the traditional use of coca leaf chewing<sup>18</sup>, and (as included in the EU position) « the urgent need for improving access to and availability of controlled medicines » while also « looking at possible obstacles within the framework of the Conventions ».
- Request this expert advisory group to report back on its findings and recommendations in the lead-up to the 2019 review.
- Recognize and develop the scientific evaluation of the social and economical impacts of crisis on drug uses, to promote a global diagnostic of links between social situation and drug use in the world. The use of psychoactive substances is a multi-factorial phenomenon which can only be understood in relation with its social, cultural and economical context. To include these dimensions in the response is to facilitate social and professional inclusion of drug users and the development of countries.
- Request the funding behaviour studies on new psychoactive substances (including sexual practices and context).

## **5. Alternative development**

### **5.1. To review and promote an adequate response to development issues and tensions**

- Refrain from linking alternative development programmes to unrealistic targets such as the elimination of illicit cultivation of opium poppy, coca bush and cannabis plants (as the US “Nonpaper” does).
- Ensure that alternative development programmes are properly sequenced ; development must come first, and the eradication of illicit crops is counter-productive unless alternative livelihoods are already firmly in place. [As the EU recommendations state: “alternative development proves to be successful and sustainable if the corresponding programs are non-conditional, non- discriminating and, if eradication is scheduled, properly sequenced”].
- Commit to decriminalising the small-scale cultivation of plants used for the illicit

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<sup>17</sup> <http://www.tni.org/briefing/prospects-treaty-reform-and-un-system-wide-coherence-drug-policy>

<sup>18</sup> The Quito Declaration refers to a declaration adopted during a past summit, la *Special Declaration on Coca leaf*, II Cumbre Doc. 3.19, 28 y 29 de enero de 2014: “Reconociendo el uso tradicional del masticado (Akulliku) de la Hoja de Coca como una manifestación cultural ancestral de los pueblos de Bolivia y Perú, a ser respetada por la comunidad internacional”.

production of narcotic drugs.

## **5.2. To take into account the social and economical issues linked with drug production.**

- Acknowledge that alternative livelihood goals and strategies should be integrated into local, regional and national development plans; and be designed in coherence with fair international trade policies and agreements
- Take into account the expertise and knowledge of producers and growers
- Consider the impact of current policies on populations and traditional solidarities.

## **Civil Society Engagement**

Additionally, our delegation calls upon member states to acknowledge and support – including financially – the Civil Society Task Force (CSTF) which has been created as the official NGO engagement mechanism for the UNGASS<sup>19</sup>. We ask that member states support the inclusion of civil society speakers in UNGASS plenaries, roundtables and panel discussions, in consultation with the CSTF – and it is notable that civil society interventions were not allowed at the recent High Level Thematic Debate in New York last May 2015.

At least three months prior to the UNGASS, the CSTF will hold a one-day Interactive Civil Society Hearing in New York to be presided over by the President of the General Assembly (similar to events held in connection with recent high level meetings on HIV/AIDS, migration, non-communicable diseases, and the post-2015 development agenda). This Hearing will provide an essential forum for civil society inputs to be heard, with a President's Summary to be circulated to member states and other stakeholders in preparation for UNGASS.

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<sup>19</sup> [https://www.unodc.org/documents/NGO/2015-03-09\\_Civil\\_Society\\_Task\\_Force\\_in\\_brief.pdf](https://www.unodc.org/documents/NGO/2015-03-09_Civil_Society_Task_Force_in_brief.pdf). The CSTF has submitted its own recommendations on the « zero draft » for the UNGASS ; we strongly advice the reading of those recommendations by the French official Delegation : <http://idpc.net/publications/2015/09/civil-society-task-force-recommendations-for-the-zero-draft-of-the-outcome-document-for-ungass-2016>