

THE UNITED NATIONS GENERAL ASSEMBLY SPECIAL SESSION (UNGASS) ON THE WORLD DRUG PROBLEM

REPORT OF PROCEEDINGS

SEPTEMBER 2016



Introduction

In October 2012, the governments of Colombia, Guatemala and Mexico issued a joint declaration calling for a UN General Assembly Special Session (UNGASS) to be held on the urgent issue of drug policy.¹ The conference – the 30th Special Session, and the third focused on drugs – took place in New York from 19th to 21st April 2016.² The meeting comprised a Plenary – at which a pre-negotiated Outcome Document³ was adopted at the very start, followed by a varied and long list of country statements – and a series of five thematic ‘roundtable’ debates, all of which are captured below.

The preparations for this Special Session were led from 6,700 km away in Vienna, Austria, by the UN Commission on Narcotic Drugs (CND) and guided by a specially appointed ‘UNGASS Board’.⁴ The scope of the UNGASS debate was promptly restricted to be ‘within the framework of the three international drug control conventions’.⁵ The UNGASS Outcome Document was also negotiated entirely in Vienna, in a rushed series of ‘informal informals’, which

are closed meetings with a large number of UN member states absent⁶ and from which civil society observers are excluded. The lack of transparency and accountability in this process led a large group of civil society organisations to raise serious reservations in a joint public statement.⁷ By the time the show moved to New York in April, the Outcome Document was already finalised and a number of barriers were in place to hinder civil society participation. This all served to ensure that the UNGASS was not the drug policy revolution that some stakeholders seemed to be expecting. In spite of these challenges, the UNGASS created much needed momentum and mobilisation for reform among civil society, UN agencies, the media and several member states. It also provided the clearest indication to date that the global consensus on drug policy is fundamentally broken. While many people came away with mixed emotions, the UNGASS has undoubtedly ploughed fertile ground for ongoing efforts to reform and improve the global response to drugs.



The Plenary

Introductory remarks

The main Plenary of the Special Session ran across six morning and afternoon sessions over the three days, all of which have been captured and summarised on the CND Blog.⁸ After a minute's silence to remember those whose lives have been lost, the Session was opened by the President of the 70th Session of the United Nations General Assembly, Mogens Lykketoft from Denmark. Framing drug policy within the broader context of the Sustainable Development Goals (SDGs),⁹ Mr. Lykketoft stated that 'We need to respect proportionality and the wellbeing of the individual... We must look at new approaches and reflect on our past policies'.

The UN Deputy Secretary-General, Jan Eliasson, called for more balanced approaches including alternatives to incarceration, while acknowledging that 'some aspects are sensitive and controversial'. This was followed by opening speeches from the Vienna-based triad: the Chair of the CND (Vladimir Galuska from the Czech Republic), the Executive Director of the United Nations Office on Drugs and Crime (UNODC, Yuri Fedotov) and the President of the International Narcotics Control Board (INCB, Werner Sipp). Mr. Galuska spoke of the 'spirit of consensus' in Vienna, 'despite our differences and the different challenges we face'. Mr. Fedotov highlighted that "global drug policy must put people first" and the need for the agreed commitments and actions to be backed by funding.¹⁰

In one of the more progressive statements from the INCB in recent memory, Werner Sipp repeatedly emphasised that 'the [international drug control] conventions never called for a war on drugs', that 'there is no treaty obligation to incarcerate for minor offenses such as possession of small quantities for personal use', and that 'inhumane punishments and treatment of [people who use drugs] is not in line with the conventions'. However, he explicitly drew the line at regulated markets: 'This does not extend to non-medical regulation of illicit drugs such as cannabis. This is not compatible with the conventions'. Interestingly, Mr. Sipp was one of only a handful of speakers throughout the Special Session to explicitly refer to the cannabis regulation policies being newly implemented and adopted in some member states – this topic being the largest elephant in the room during UNGASS.¹¹

Box 1 Reaching out to Ban Ki-Moon

Days before the UNGASS began, a letter calling for more humane drug policies was signed by more than 1,000 leading figures including former heads of state, US presidential candidate Hillary Clinton and a long list of celebrities and public figures.¹² The letter was addressed to the UN Secretary-General Ban Ki-moon, who had earlier called for the UNGASS to be 'a wide-ranging and open debate that considers all options'.¹³ However, the Secretary-General was not in attendance in New York – and copies of the letter were confiscated by security officers within the UN building along with other civil society materials.¹⁴



In a welcome development, the Director General of the World Health Organisation (WHO), Margaret Chan, was then invited to the podium to speak. Although Dr. Chan's leadership on this issue had not been as prominent as was hoped for during the UNGASS preparations, the inclusion of the WHO on the opening panel builds upon the strong cross-UN engagement in the UNGASS (something which needs to be sustained and nurtured beyond 2016).¹⁵ She referenced harm reduction services such as needle and syringe programmes and opioid substitution therapy, and told of her time in Hong Kong where methadone maintenance programmes have significantly reduced crime. She also highlighted the plight of those in need of controlled substances for the treatment of pain

The Chair of the UNGASS Board

The final opening speaker was Ambassador Khaled Shamaa from Egypt, in his capacity as Chair of the UNGASS preparations board in Vienna. Ambassador Shamaa had successfully secured this new role once his Chairmanship of the CND expired in 2014 – in order to maintain control of the design and delivery of various UNGASS processes, not least the negotiation of the Outcome Document itself. At times during the process his conduct in this role was opaque and questionable, and this became a growing frustration for reform-minded member states and civil society alike. Many of the important decisions lacked transparency – such as which submissions and language were being accepted into the Outcome Document drafts, and which remained ‘parked’ or side-lined to avoid difficult discussions.¹⁶

The Chair’s tactics were especially prominent at the CND in March 2016, where an agreement on the Outcome Document was eventually brokered in the early hours of the morning on the last day – following much confusion and delay to increase the sense of brinkmanship, with most of the negotiations taking place within a series of closed ‘informal informals’ (sessions for which even regional bodies such as the European Union and African Union were denied entry as well as civil society observers). Problematically, decisions taken in the closed meetings, out of sight of observers, were then considered final and could not be reopened in the formal sessions.¹⁷ That such behaviour did not solicit more explicit complaints from member states was disappointing.

and other conditions: ‘When you go home after this conference, I urge you to remember these people.’

The Outcome Document

With the opening speeches and formalities out of the way, Mr. Lykketoft then presented the Outcome Document for approval without a vote, which was met by no objections from member states and a round of applause.¹⁸ This created an odd situation

– an ‘outcome’ being agreed before the UNGASS debates had even begun. It was a clear expression of fears that the fragile consensus on the document (see below) might break apart in New York.¹⁹ But it created a sense of tedium as the Plenary sessions wore on with no clear goal at the end other than the closure of the meeting.

The Outcome Document was the subject of protracted and heated negotiations in Vienna over several months – climaxing at the CND in March 2016. On the one hand, it contains elements of solid progress compared to its predecessors – even its structure is an improvement – moving away from an overly simplistic three pillar approach (demand reduction, supply reduction and international cooperation) to a more comprehensive and cross-cutting seven pillar structure (demand reduction and related measures; access to controlled substances for medical and scientific purposes; supply reduction and related measures; human rights and cross-cutting issues; evolving trends and emerging challenges; international cooperation; and alternative development). Among other things, the Outcome Document welcomes the SDGs, it refers to the concept of proportionality for the first time, it refers to ‘injecting equipment programmes’, ‘medication-assisted therapy’ and naloxone (an essential medicine used to reverse opiate overdoses), it includes good language on the need to mainstream a gender perspective, and it calls for ‘alternative or additional measures with regard to conviction or punishment’.

But on the other hand, the Outcome Document is a far cry from the promised ‘short, substantive, concise and action-oriented document’. It fails to recognise the lack of progress achieved by international drug control (even citing ‘tangible progress’ that has been achieved, without any justification), and reaffirms the unrealistic goal of ‘a society free of drug abuse’. It fails to acknowledge the growing calls for the abolition of the death penalty, nor the reality of cannabis regulation in some states, and does not explicitly mention ‘harm reduction’ despite this being agreed UN General Assembly language.²⁰ The document is also notably light on any measurable targets or outcomes, and does not mention proposals for an expert advisory group.²¹ Crucially, even where positive language was negotiated into the Outcome Document, it was heavily caveated with diplomatic get-outs such as

Box 2 ‘Sufficient’ flexibility?²²

There were many individual battles and tensions during the negotiation of the UNGASS Outcome Document,²³ but one of the most interesting surrounded the statement that ‘the three international drug control conventions... allow for sufficient flexibility for States parties to design and implement national drug policies’.

This was part of the concerted efforts throughout the UNGASS process to protect the integrity of the drug conventions – led by the USA and European Union with support from the G7 and the Vienna-based UN entities. Several more regressive member states also supported this concept, as the conventions explicitly permit the use of ‘more strict or severe’ approaches – which may include forced treatment and the death penalty.

The addition of the word ‘sufficient’ sought to shut down any attempts to revise or question the treaties, or to promote policies and responses outside of those allowed by the conventions – including the regulatory markets being applied for coca in Bolivia, or cannabis in Uruguay and parts of the USA, and being considered in Jamaica, Mexico and Canada among others. A small group of countries therefore strongly opposed this language, but to no avail.

‘as appropriate’ (mentioned a staggering 46 times in the document), ‘where appropriate’ (10 times), and ‘in accordance with [their] national legislation’ (14 mentions). The document also underlines the flexibility within the conventions but unfortunately in a confusing and contradictory way (see Box 2). A more detailed analysis of the Outcome Document can be found in the CND Proceedings report.²⁴

Paradoxically, the adoption of the Outcome Document ‘by consensus’ was immediately followed by a series of interventions outlining elements that some countries did not agree with.²⁵ For example, Uruguay noted the absence of decriminalisation – ‘a human right which we must protect’ – and that there was ‘no serious balance’ in the document, nor acceptance of harm reduction strategies ‘which have proven effective in tackling this problem’. Jamaica expressed that they were ‘not entirely

satisfied with the document’ due to the lack of focus on the rights of indigenous groups.

The lack of consensus among member states was particularly highlighted with regards to the Outcome Document’s failure, as with the Joint Ministerial Statement from 2014,²⁶ to include any references to the death penalty for drug offences. Switzerland, Brazil, Costa Rica, Norway and Uruguay all made statements lamenting the absence of this central issue. This was then followed by a group statement read by Indonesia on behalf of China, Singapore, Yemen, Malaysia, Pakistan, Egypt, Saudi-Arabia, Oman, the UAE, Qatar, Kuwait, Bahrain, Iran and Sudan – stating that ‘There is no international consensus on the prohibition of the death penalty... Every State has the sovereign right to choose what is in its own best interest’. In turn, this was followed by a statement on behalf of the 28 European Union members and 28 additional countries²⁷ which stated that ‘We have a strong and unequivocal opposition to the death penalty in all circumstances, and consider that the death penalty undermines human dignity and errors made in its application are irreversible. Moreover, imposing the death penalty for drug offences is against norms of international law, specifically Art. 6 Para 2 of the International Covenant on Civil and Political Rights’.

Country statements

The ‘general debate’ was then able to start, with each country making a statement outlining their own national contexts, policies and positions – starting with the President of Guatemala, Jimmy Morales. President Enrique Peña Nieto of Mexico then received an ovation from the civil society participants on the balcony when he gave his support to countries working towards cannabis regulation: ‘We must move beyond prohibition to effective prevention and effective regulation. Thousands of lives depend on this’ (although it should be noted that he then opposed such regulation once he returned to Mexico). The remaining plenary statements then came over three days from member states, regional groups, and other ‘observers’ such as the Holy See (who never resist the opportunity to share their expert views: ‘Drugs are an evil, and with evil there can be neither surrender nor compromise’). These statements are best summarised in terms of some thematic highlights.²⁸

Harm reduction

The European Union statement – on behalf of all 28 member states – stated that ‘Risk and harm reduction measures must be further promoted and implemented’. Additional support came from the statements of Belgium, Brazil, Costa Rica, Cyprus, Denmark, Ecuador, Finland, Georgia, Germany, Ghana, Iran, Israel, Latvia, Luxembourg, Macedonia, the Maldives, Malta, the Netherlands, Norway, Romania, Slovenia, Sweden, Vietnam and the Pompidou Group. At the same time, Canada supported drug consumption rooms and naloxone distribution, while the USA spoke in favour of medication-assisted therapy. The only country to speak explicitly against harm reduction in their Plenary statement was Singapore, whose speech stated that ‘When you go down the route of harm reduction... drugs harm the abuser, their family and community’.

Decriminalisation

Colombia’s country statement contended that ‘Not one mother would prefer the jail option. Jails are for criminals, not for addicts. Criminalization has affected the weakest ones in the chain: farmers, mules and consumers’. Additional support for a move away from criminalisation came from Costa Rica, the Czech Republic, Ecuador, Greece, Iceland, Jamaica, the Netherlands, Portugal, Slovenia, Switzerland, Trinidad and Tobago, Tunisia, the USA and Uruguay. Many other countries and the European Union cited the need for more proportionate sentencing. Some countries, however, spoke directly against the decriminalisation of drug use, including Algeria, Morocco, Pakistan, Sudan (both on behalf of the Africa Group, and in their own statement) and Turkey (who announced that they have increased penalties). Nicaragua and Zambia also claimed that decriminalisation was contrary to the international drug conventions, despite recent assurances from the INCB and the UNODC that this is not the case.

A drug-free world

Countries such as Albania, Burkina Faso, Brunei Darussalam, Cuba, Egypt, Kenya, Lebanon, Myanmar, Nigeria, South Africa, Sudan and Vietnam all reaffirmed their ambitions for a society free of drugs – as did the African Group, the African Union and the Association of Southeast Asian Nations (ASEAN). Singapore went further still and declared ‘we are drug free’, while Brunei Darussalam pronounced itself ‘relatively drug free’. Statements

Box 3 Striving for system-wide coherence

One of the notable positives from the UNGASS was undoubtedly the heightened engagement from across a wide variety of UN agencies, rather than just from the Vienna-based drug control entities. This was welcomed as it better reflected the cross-cutting nature of drug policy, and especially because the contributions from these agencies were, on the whole, progressive.

Through the United Nations System Task Force on Transnational Organized Crime and Drug Trafficking, UN agencies were invited to make submissions on how the international drug control system impacts upon their respective mandates – and responses came from the WHO, the World Food Programme (WFP), the Office of the High Commissioner for Human Rights (OHCHR), UN Women, UNAIDS, the UN Office For Disarmament Affairs (UNODA), the United Nations University, the Department of Political Affairs (DPA), the United Nations Development Programme (UNDP), the INCB, the UNODC, the Special Rapporteur on the right to health, the UN Interregional Crime and Justice Research Institute (UNICRI), and the Human Rights Council.²⁹ Many of these submissions covered issues such as rebalancing drug control policies, harm reduction, human rights, access to medicines, and development – and the likes of UNAIDS, UNDP, UN Women and the Human Rights Council also endorsed the need for decriminalisation.³⁰

At the UNGASS itself, many of these UN agencies had a notably improved presence compared to other international drug policy fora – making a series of positive interventions during the roundtables and plenary. These included the opening speech by the WHO Director General (covered above) and an excellent roundtable intervention from the High Commissioner for Human Rights, in which he supported decriminalisation and harm reduction and gave a strong assessment of the shortcomings of the Outcome Document.³¹ This cross-UN engagement is something that needs to be maintained and capitalised upon in order to ensure a lasting legacy from the UNGASS for system-wide engagement in the drug control debate.

from 20 countries additionally expressed varying degrees of support for the 'war on drugs' approach against the 'scourge' of drugs.³² The Russian Federation proclaimed that 'some skeptics [sic] and pessimists argued that the world community had lost its war against drugs. We cannot accept this. We have by no means lost the war, but to win we must achieve a new level of solidarity and unity'.

On the other side, Colombia urged countries to 'recognize honestly that we do not have a world free from alcohol, tobacco or violence, and that we will not have a world free from drugs'. Cyprus also conceded that 'We regret that a drug-free world is not realistic', while Liechtenstein highlighted that 'no country is drug-free'. A number of countries also spoke of the need for a new approach and a new paradigm for drug policy – including Belarus, Bolivia, Brazil, Canada, Colombia, Costa Rica, Liechtenstein, Mexico, Portugal, Switzerland, Trinidad and Tobago, the USA, Uruguay and Venezuela, as well as the Organization of American States. The statement by St Vincent and the Grenadines criticised the 'cul de sac of trite, ineffective rhetoric' and urged that 'Ten years from now, let it not be said that the international community continued to delude itself about the efficacy of its war on drugs'. In one of the highlights of the UNGASS, the Canadian delegate announced their plans to regulate cannabis in 2017 to 'keep marijuana out of the hands of children and profits out of the hands of criminals'.

Roundtable 1: Drugs and health³³

One of first speakers at this roundtable, UNAIDS Executive Director Michel Sidibe, asked the delegates: 'Will we continue with a war on drugs prioritising law enforcement and a criminal justice response, or will we restore the balance to improve the health and wellbeing of humankind?' It was a pertinent question for the participants – after more than 60 years of implementing a repressive approach towards drugs, were UN member states ready to re-balance their strategies to prioritise health? Mr. Sidibe's response was clear: 'It is time to right the wrongs of global drug policies'.

The subsequent discussions included a welcome focus on the availability of controlled substances for medical and scientific needs. The INCB speaker reiterated that more than 92% of people who had access to morphine were from just 17% of the world's countries, with 'most people left with limited

or no access' to controlled medicines. According to the INCB, this is because of a series of 'major impediments to access' such as inadequate estimates that do not reflect actual needs, punishments for inadequate prescribing, lack of training and awareness, fear of dependence, cultural attitudes and fear of diversion. It was therefore welcome to see a wide range of countries – including Norway, Tunisia, New Zealand, Australia, Colombia and the UK – calling for better access to these substances. National reforms were presented by countries such as Panama and Mexico – who were also joined by the Czech Republic, New Zealand and Colombia in promoting access to medicinal cannabis, in addition to the substances included in the WHO List of Essential Medicines which are agreed to be basic components of any functional health system.

The remainder of the roundtable focused on health-based approaches targeting people who use drugs. The US delegate acknowledged the harms caused by prohibitive policies: 'Forty years ago, my country initiated a war on drugs, that unintentionally became a war on people who use drugs. It ended up stigmatising and criminalising them instead of addressing the root of the problem... People living with addiction need support and treatment'. Both Chile and the Czech Republic explicitly called for the decriminalisation of people who use drugs, while Australia and Cyprus presented local diversion mechanisms offering treatment instead of incarceration for low-level offenders.

Others focused on access to health services, with a strong focus on harm reduction. This included the Czech Republic, Norway, New Zealand, Canada, Colombia, the USA, as well as the European Union, whose delegate concluded, 'Drug policies must be based on facts – member states have no excuse not to apply risk and harm reduction measures'. Calls for a health-based approach toward people who use drugs were also the key focus of the pre-selected civil society speakers from Senegal, Australia, Scotland and Norway. UNAIDS reminded participants that the 2015 target to reduce HIV infections among people who inject drugs had been spectacularly missed: 'People are being left behind because of prejudice, discrimination and bad laws'. Michel Sidibe also called for the redirection of drug control funding towards harm reduction.³⁴ A member of the UK Parliament from the Scottish National Party and civil society speaker



at the roundtable called for 'leadership in harm reduction', that is, 'increasing political support and funding for harm reduction'. He added, 'A tiny shift in funding could virtually end AIDS among people who inject drugs by 2030'. New Zealand and the UK also explained the importance of ensuring 'that the environment and social determinants of health are in place' – i.e. that programmes address poverty, housing, education and employment. In a similar vein, Brazil called for more attention to be given to harm reduction for stimulant use, in particular cocaine and methamphetamine, citing its successful programmes in Sao Paulo and Rio de Janeiro in addressing the health and social harms associated with stimulant use.

The interventions were not all progressive, however, and the panellist from Singapore reiterated their goal of a drug-free country and a drug-free ASEAN through 'tough laws to prevent drug use'. The Chinese delegate argued that offering harm reduction was 'in essence legalisation, as users are free to use drugs' – showing a clear lack of understanding of the concept of harm reduction and contradicting the country's own harm reduction programmes. With regards to legalisation, both Spain and the Dominican Republic explicitly rejected this approach, the latter stating that 'Any policy making drugs more easily accessible should be rejected'.

Roundtable 2: Drugs and crime³⁵

The discussions during this roundtable were dominated by issues such as internet-based drug markets, new psychoactive substances (NPS),

money laundering, and dealing with the proceeds of crime. The panel comprised government representatives from Ghana, Japan, the USA, Uruguay and the Russian Federation, alongside a civil society representative from X-Cons. Japan expressed concerns about the links between drugs and terrorism (citing cases where drugs were used to motivate suicide bombers) and outlined their development assistance to support supply reduction measures overseas. Russia focused on the need to strengthen financial intelligence, anti-money laundering measures and international cooperation.

Shifting away from the traditional rhetoric on supply reduction, the USA spoke about its reform efforts targeting violent traffickers rather than micro-traffickers and people who use drugs. Uruguay went a step further and highlighted their alternative approaches to supply reduction, such as regulating drug markets, stating that prosecuting low-level offenders is ineffective. The civil society representative, Peter Soderlund from X-Cons, spoke of the need to support people who have been criminalised for drug-related activities, as well as calling on member states to remove the death penalty – 'a primitive punishment in a modern world'.

The statements from other member states reflected a variety of priorities and concerns. They ranged from focusing only on law enforcement measures (such as precursor control, and controls on NPS), to recognising supply reduction as one component that fits as part of a balanced drug policy approach. The UK noted the inclusion of proportionality of

sentencing and alternatives to incarceration in the UNGASS Outcome Document, while Nigeria and Pakistan stated their opposition to legalisation. China recognised the lack of consensus on the use of the death penalty, noting that some countries refuse to cooperate with others that implement the death penalty, and called on member states to overcome these differences.

Uruguay and Mexico were the only member states calling for a complete reorientation of supply reduction policies – alongside Penal Reform International and Jeffrey Feltman, the UN Under-Secretary-General for Political Affairs who called on countries to focus on ‘poverty, inequality and violence reduction as principal goals of drug policy’ consistent with the 2030 Sustainable Development Agenda. The Mexican delegate stated that although supply reduction measures have focused on aerial spraying and dismantling drug producing laboratories, the root causes of supply is poverty and economic disparity. The Mexican delegate also stated that supply reduction has failed as a result, and called for more humane approaches. Andrea Huber from Penal Reform International spoke on behalf of several NGOs and noted that punitive approaches to drug policy have contributed to the erosion of fair trial and justice rights, and have resulted in negative consequences including overcrowded prisons and overburdened criminal

justice systems. She noted concerns about ‘the disproportionate effect [of drug control] on ethnic and other minorities and the disproportionate impact on women who play minor roles in the drug trade but are easy targets for law enforcement’. She recommended decriminalising the use and possession of drugs for personal use, and called on governments to ensure that their spending on law enforcement was balanced compared with other drug policy interventions. She also called on governments to ‘look at different measures instead of only considering the numbers of arrests and seizures... to evaluate the success of drug policies’.

Towards the end of the session, Uruguay noted that the governments present had not taken advantage of the opportunity to engage in a proper debate about addressing the lack of balance in drug policies.

Roundtable 3: Cross-cutting issues: Drugs and human rights, youth, women, children and communities³⁶

The third roundtable on human rights represented the culmination of several years of hard fought advocacy, and so was much anticipated. From the panel, both Costa Rica and Sweden strongly



Costa Rican Ambassador in Vienna discussing the impacts of punitive drug policies on women at UNGASS roundtable on drugs and human rights

highlighted the need to address the gender dimension of drug policies, and the issue of how women have been disproportionately affected by punitive drug policies was one which was raised repeatedly by many speakers throughout the roundtable. The second issue that clearly resonated with many was the abolition of the death penalty for drug offences. Sweden kicked this off on the panel by expressing regret that the UNGASS Outcome Document failed to call for abolition. Tellingly, when the Indonesian panellist spoke directly afterwards, she did not mention the renewed application of capital punishment in Jakarta.

The final two panellists were Maria-Ane Goretti, a human rights lawyer and IDPC consultant from Ghana, and Zeid Ra'ad Al Hussein, the UN High Commissioner for Human Rights. Both delivered a comprehensive and scathing assessment of how drug control policies undermine the enjoyment of a broad range of human rights. The High Commissioner spoke of how the UNGASS had evoked both 'suppressed excitement' due to the 'discernible progress, however modest it may be' towards health and human rights principles, but also 'intense frustration' because that was so painstakingly slow given the clear evidence in favour of ending punitive policies.³⁷

The interventions that followed from the floor were mostly weighted in favour of acknowledging the negative impacts of overly repressive, disproportionate and punitive drug policies. Argentina, in particular, gave an impassioned speech and lamented the huge resources wasted on the 'war on drugs', noting that current policies were failing, otherwise governments would not have to spend so much time discussing them! Many other participants also echoed Sweden by calling for an end to the death penalty for drug offences, while China and Singapore emphasised the national sovereignty of member states to devise their own policies, including the death penalty. In fact, these two countries seemed to be at odds with the predominant discourse at the roundtable overall – rejecting the notion of individual rights in favour of the rights of society to be 'free from drug abuse'.

The most memorable moment in this roundtable came from Ricky Gunawan,³⁸ a human rights lawyer who had worked for more than a decade with the Brazilian Rodrigo Gularte who was recently



executed in Indonesia. Ricky was originally due to be on the panel, but was dropped in favour of an Indonesian government representative. He delivered an eloquent and emotional intervention from the floor that gave a human face to what is often an abstract and detached debate. He broke down during his speech as he recalled that his client, who was mentally disabled, had not understood he was to be executed until just two hours beforehand. Mr. Gunawan condemned those governments who were 'addicted to the death penalty', calling it a useless and senseless response. Throughout his intervention, the majority of the civil society representatives silently stood as a mark of solidarity, followed by a few Member State representatives as well. Many in the room were moved to tears and the applause after Ricky had finished continued for several minutes.

Roundtable 4: New challenges, threats and realities³⁹

The tone for this roundtable was set from the beginning when the co-chair from Estonia stated that drugs are not harmful and dangerous because they are illegal, rather they are illegal because they are dangerous – a thinly disguised criticism of regulated cannabis markets. Similar views permeated most of the contributions, especially with regards to NPS – which became the focus of all four panellists from China, Colombia, Slovenia and the UK. Their statements highlighting the challenges that NPS pose to public health, existing

legal structures and traditional law enforcement approaches. The discussions highlighted the need for better information, improved monitoring and evaluation, the need for a balanced response, appropriate prevention and treatment, and the need for shared responsibility. The UK identified scheduling as an important tool, while China was keen to point out that NPS were often produced in developing countries but used in developed countries. Refreshingly, Slovenia also argued for a ‘person targeted’ approach that included harm reduction, risk management and a respect for human rights. Disappointingly, the discussions regarded NPS as a reason to remain vigilant and committed to existing responses, rather than on the role of current policies in generating the NPS market in the first place.

The roundtable failed to open up into a genuine discussion, and instead became a series of country statements about the threat posed by NPS to young people (for example in Italy, El Salvador and Singapore), the importance of better monitoring (Brazil), the need for precise indicators (Italy), and the challenges posed by the use of the internet to sell NPS (Myanmar). In his statement on behalf of the UNODC, Yury Fedotov mentioned the (not so new) challenge of the dark net, while the Italian representative was regretful that the Outcome Document did not include any mention of the phenomenon. Statements from both the WHO and Australia were noteworthy as they referred to not only NPS but also the importance of access to internationally controlled medicines. By subtly making the connection between ketamine’s status as an essential medicine and (in some eyes) an NPS, the Australian representative stressed how important it was that efforts to control NPS did not serve to further restricting access to medicines – a nod to China’s recent efforts to ban ketamine internationally.

While most member states expressed commitment to the drug control treaties, two statements stood out from the rest in their critiques. Ecuador stressed the need for a new public health paradigm in place of the failed ‘war on drugs’ approach, and cautioned that a monolithic view must be avoided. The Jamaican representative pointed out that ‘old’ substances still needed attention, particularly cannabis: ‘For Jamaica, we see this as an opportune time to re-evaluate the systems that are currently in place... We ask, are they fit for purpose? Do they

take into account domestic realities?’ She described the decriminalisation of possession for personal use and the development of regulated structures for medical use, and the problems relating to the Single Convention. Jamaica went on to ‘call for an examination of the international drug control legal framework to ascertain whether it is in need of revision in order to respond to current and emerging challenges to our global efforts’. Finally, on behalf of civil society, Rafael Toruella representing Intercambios Puerto Rico highlighted the harms caused by a prohibitionist approach towards drugs on health and development, stating that, ‘We must move from talking about hectares of illicit drugs that are being produced to how to deal with poverty, social inequality and promoting health’. Notably, the official summary of the roundtable chose not to mention these important points.

Roundtable 5: Drugs and development⁴⁰

The final roundtable was co-chaired by Peru, the Bahamas and Iran. The representative from Mexico set the tone for the discussions from the very start, calling for a holistic response to the drug phenomenon, and lamenting the international community’s fixation on alternative development without considering broader development imperatives. He then enumerated a set of suggestions for the way forward, including the increased involvement of relevant UN agencies (welcomed by Sweden, but rejected by the USA), and the organisation of an international forum to share experiences on less repressive policies, including decriminalisation and alternatives to incarceration.

The two international pioneers of alternative development – Germany and Thailand – both reiterated the call for a broader approach linked to the SDGs. Germany called for a ‘human-centred’ approach, focusing on the ‘empowerment of farming communities’ to address the root-causes of their involvement as part of a ‘long-term’ development plan. This human-centred approach was reiterated throughout the discussions by countries such as Mexico, Thailand, Ecuador, India, Peru, Costa Rica and Sweden, as well as the European Union, the UNODC and the INCB – highlighting the need to address poverty, food security, land tenure, weak governance, infrastructure and access to markets, as well as the specific vulnerabilities faced by women.

Some exceptions were China and Indonesia, who both promoted crop eradication as an integral part of alternative development – with Indonesia advancing eradication as a ‘national priority’. Crucially, several member states did acknowledge the failures of repressive strategies. Colombia called on the international community to ‘understand the failures and limitations of the past’,⁴¹ the European Union highlighted the ‘balloon effect’, and Ecuador and Thailand raised concerns about the damage of crop eradication on the environment (as opposed to Peru which limited its concerns to the environmental harms caused by drugs themselves).

Another prominent topic was the severe gap in funding for alternative development – with Thailand calling for ‘flexible, long-term funding’ as well as new ways of measuring success. Mexico also proposed expanding the concept and focus to include urban settings (as did Ecuador, under the label of ‘preventative alternative development’). This was reiterated by Thailand, Brazil and Argentina, among others. Others, including Burkina Faso and the Bahamas, focused on issues of transit countries such as the link between development, drug trafficking and organised crime.

However, two issues were notably absent from member state interventions: the traditional use of controlled substances, and the need to decriminalise subsistence farmers. A highlight of the session was the interventions from two representatives of farmers of prohibited plants – an affected population whose voice had been conspicuously absent from the UNGASS debates so far. The interventions by Nang Pann Ei Kham (speaking on behalf of the Myanmar Farmers Forum) and Amapola Duran Salas

(a Peruvian coca grower federation leader) provided a counterweight to the member state rhetoric and highlighted the severe impact of forced eradication on small-scale cultivators and the many failures of alternative development: ‘We farmers are not victims, we are not criminals, we are not terrorists. We are people who are in charge of feeding our world... In Peru poverty, injustice has grown tremendously because of crop eradication and we are tired of these policies that criminalise and penalise the sectors that grow these illicit crops.’⁴²

Civil society participation: Voices that cannot be silenced

The UNGASS was a moment of unprecedented mobilisation for civil society in favour of policy reform. In December 2014, the Civil Society Task Force for the UNGASS was launched – a collaborative effort between the Vienna and New York NGO Committees on Drugs to bring a broad civil society voice into the debates.⁴³ The existence of the Task Force itself was the result of protracted discussions and advocacy, and the group comprised 31 representatives from nine regions of the world as well as of affected populations (farmers, the palliative care sector, recovered drug users, families, youth, and people who use drugs), and global representatives from the harm reduction, prevention and criminal justice sectors.⁴⁴ The Task Force held a series of regional and thematic consultations, in particular an Informal Interactive Stakeholder Consultation on 10th February 2016 in New York which was overseen by the President of the General Assembly. A summary of the Consultation was formally submitted to the UNGASS process,⁴⁵ and reflected the progressive tone of the



Box 4 The UNGASS side events: Eclectic, but somewhat chaotic

Mindful of the significance of the New York meeting, it was unsurprising to see a large number of side events competing for the delegates' attention. A total of 46 side events took place over four days – coordinated by a mix of UN agencies, regional bodies, member states and civil society

groups, and covering an eclectic mix of issues.⁴⁷ Prominent among the topics were human rights, public health, evidence-based policies and alternative development. IDPC was involved in several of the events, working alongside a variety of partners.⁴⁸



Side event organised by New Zealand, Brazil, Canada, Switzerland, the Global Drug Policy Observatory, the International Centre for Science in Drug Policy, Transform and IDPC at the UNGASS, and moderated by New Zealand Associate Minister of Health Hon. Peter Dunne

Sadly, few events escaped the organisational chaos that engulfed the UNGASS with regards to civil society access and security passes (see below). Whether deliberate or not, it was also noted that many of the more controversial side

events from a UN perspective (such as the event on cannabis and the conventions) were held in the smaller conference rooms, with delegates forced to sit on the floor and spill out into the corridors.



The elephant in the room – despite huge attendance, side event on cannabis regulation and the UN drug conventions relegated to the smallest available room



debate among civil society participants – including calls for decriminalisation and the recognition of traditional use of certain plants. However, it was scarcely referenced or discussed by the CND in their UNGASS preparations. The Task Force also issued a series of reports and submissions following their consultations with global civil society.⁴⁸

On 18th April, the Task Force held a Civil Society Forum with co-sponsorship from the Missions of Sweden and Colombia. The Forum featured civil society speakers from all over the world, and was opened by the President of the General Assembly among others. Unfortunately, hundreds of civil society delegates were unable to attend as the UN security office only issued 130 passes – some participants waited in line early on Monday morning for several hours, but were turned away. These access issues only worsened as the UNGASS opened the following day: the event seemed plagued with challenges ranging from disorganisation around entrance passes, to censorship of civil society t-shirts, to disrespectful treatment by UN personnel. The UN Department of Economic and Social Affairs (UN-DESA) was coordinating the civil society accreditation, but sent out a mass confirmation email only to follow it with a mass retraction. Numerous NGO representatives, many of whom were traveling from all over the world to attend the

UNGASS, were not informed until the last minute (and only after several inquiries) whether they were accredited to attend at all. Some NGOs had been advised in writing that they would not need special events passes, only to be turned away when they appeared at the opening session. Problems with civil society passes continued throughout the meeting, with some delegates even being denied access into side events that they helped to coordinate or were speaking in (see Box 4). The official reason for the arcane pass system was security, with various heads of state present in the building for the UNGASS and other meetings. Yet it should be noted that these special event passes were just anonymous pieces of coloured card issued at street corners around the UN building at 7:00 am (see image) – hardly the most secure system available to the United Nations, which routinely organises much larger meetings than this one.

Civil society also faced restrictions and censorship when it came to literature and reports, with advanced requests for somewhere to disseminate documents being denied or ignored. Some organisations' literature was arbitrarily confiscated at the entrance and some delegates were even turned away because of the reform-minded messages on their t-shirts (such as 'Marijuana is Safer than Alcohol', or indeed anything with a



Tuari Potiki, New Zealand Drugs Foundation, at the final Plenary session of the UNGASS

cannabis leaf on), seemingly dependent on the mood of the security guards. Attempts by IDPC and the Civil Society Task Force to address these issues during the UNGASS with multiple UN departments were fruitless: UN-DESA, UN Security, the Office of the President of the General Assembly, and the CND secretariat all consistently refused to take responsibility and placed the blame on one another – even after interventions and support from a number of member states. All of these issues left a bitter taste in the mouth, and ran counter to the supportive rhetoric about civil society engagement from the President of the General Assembly.

Yet despite the barriers, the voice of civil society – including affected populations such as people who use drugs – was strongly heard at the UNGASS, both in the preparations and the meeting itself. Nearly 60 civil society organisations or networks submitted contributions to the debate through the official UNGASS website – including IDPC and a number of IDPC members.⁴⁹ Although these submissions may have had a limited impact on the final Outcome Document, we hope that this website will be maintained as a legacy of the UNGASS to reflect the breadth and scope of civil society's expertise and contribution to the debate more broadly. At the meeting itself, the government delegations of Bolivia, Canada, Costa Rica, Japan, Mexico, New Zealand, Norway, Sweden, Switzerland and Thailand, among others, included civil society representatives, and hundreds of civil society participants were registered to attend.

Many more also attended a series of public-facing events and activities around the UN building – including a Cannabis Science and Policy Summit on 17th and 18th April,⁵⁰ a public rally for drug policy reform on 18th April followed by an event for affected families, and a full programme of engaging activities at the Museum of Drug Policy, a pop-up cultural hub in New York for art, presentations and other live events.⁵¹ This strong and impactful mobilisation owed a great deal to the ongoing support and engagement of the Open Society Foundations, who also operated the Stop The Harm campaign to help coordinate and strengthen UNGASS engagement.⁵²

Inside the UNGASS, each of the five roundtable debates included pre-selected civil society panellists and also allowed civil society participants to intervene from the floor, and in many cases these were the highlights of the sessions as described above. At the Plenary itself, the sixth and final session allowed time for a series of impactful and moving interventions from pre-selected civil society participants (albeit late in the afternoon): the Kenya Hospices and Palliative Care Association, FORUT (a Norwegian drug prevention organisation), FAZZA, the Pro Coalition Association.

Tuari Potiki from the New Zealand Drugs Foundations also made a strong statement in the Plenary, questioning the mere rationale of prohibitionist policies. 'Sometimes, when we are threatened, we go to war, and we go to war against the wrong



Families speak out against the war on drugs (demonstration coordinated by Transform)

people. If we decided to wage a war against cancer, would we do that by bombing people who have cancer? Many nations have joined up to wage a war against drugs and have ended up attacking and harming who really are in need of our help and our support... You are here to discuss the world drug problem, but many of you directly contributed to their problems by denying yourselves access to vital support such as harm reduction; the support that saved my life. You are actively blocking progress towards providing help to those who most need it. If you are not part of the solution, then you are part of the problem... If there is a war to be fought, and I believe that there is, it should be a war on poverty, on disparity and on the multitude of political and historical factors that have left and continue to leave so many people vulnerable and in jeopardy’



Museum of drug policy (coordinated by OSF)

Charan Sharma from the India HIV/AIDS Alliance also spoke in support of harm reduction and against forced treatment, criminalisation, the death penalty and the notion of a drug-free world. He called on member states to ‘Ensure that policy is informed by evidence of what works: accessible, holistic, people-centred services, tailored to the needs of people who use drugs. I appeal to you to stop arresting and incarcerating people for consumption and possession of drugs for personal use. The death penalty for drug related offences must be abolished. I appeal to you to support drug users and organisations working with us, to participate meaningfully in design and delivery of Harm Reduction services’.⁵³

Throughout all of the Plenary sessions, civil society participants were confined to the third floor balcony but were regularly heard.



Charan Sharma, India HIV/AIDS Alliance, at the final Plenary session of the UNGASS

Conclusions: Diplomacy or denialism?

The UNGASS on the world drug problem was a big moment for the drug policy reform movement. But it was also a big moment for the international drug control system more broadly, which continues to face a period of unrest and transition. In the end, the facade of the 'Vienna Consensus' between member states resulted in an Outcome Document that fell far short of the expectations of an open and honest assessment of what is, and what is not, working. Yet both sides of the debate seemed to come away from the negotiations with mixed feelings and a sense of frustration which demonstrates that both had to concede ground, and the result is a document that undoubtedly takes a step forward from previous commitments – not least in terms of access to medicines, human rights,⁵⁴ overdose prevention and proportionate sentencing.⁵⁵ The sense of frustration also lends itself to the increasing complexity and fierceness of these UN debates,⁵⁶ as well as to the stifling tactics employed by the UNGASS Board to suppress any challenges to the status quo.

Despite the areas of progress in the Outcome Document, it is important that this is not remembered as the only outcome of the UNGASS – the five roundtable summaries, the UN submissions and engagement, the civil society presence (in the face of adversity), and the country statements in the Plenary are also important outcomes from this meeting that all lay the foundation for ongoing advocacy and policy change. The country statements in particular demonstrate that the 'Vienna Consensus' has become irreversibly shattered – with the divergent stances of member states impossible to ignore on key issues such as the death penalty, decriminalisation, regulated markets and development.⁵⁷

The UNGASS was more evolutionary than revolutionary – setting the stage for future debates, rather than being the main act itself. Although those who built expectations of 2016 as the end of the 'war on drugs' may have come away disappointed, the meeting and debates do represent tangible progress and an important milestone on the road to the next UN review in 2019 or 2020. Work has to begin now to counter the Pavlovian response of the UN drugs architecture and ensure that this next meeting is not simply a repeat of what has gone before⁵⁸ – including through the creation of an expert advisory group to address some of the existing tensions and to think through different scenarios for the future.⁵⁹

In his closing remarks, the President of the General Assembly thanked participants for a 'truly historic process' and stated that 'With your experience and expertise, you have brought home to us the immense human cost of this problem and indeed, at times, of the approaches we take to address it'. He also acknowledged that affected populations 'need interventions that have proven to work and perhaps as importantly: they need honesty about those that have failed'. The challenge now for the drug policy reform sector is to maintain the momentum and attention which the UNGASS managed to achieve – within the UN, the media and broader civil society. This requires a concerted effort to keep the fire burning, rather than leaving it to burn out and to build on the steps forward and lessons learned to ensure further significant shifts in 2019 or 2020.

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This IDPC report offers an overview and analysis of the much awaited UN General Assembly Special Session (UNGASS) on drugs, covering the adoption of the UNGASS outcome document, the plenary, roundtables and side events, as well as civil society engagement in and outside the UN building.

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