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## Spotlight

# Recent Trends in Drug Policy Reform and UNGASS 2016

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**Undoubtedly, the most prominent development we can see in global drug policy today is that more and more players, including countries, are admitting the need to move away from law-enforcement-dominated approaches in drug policy towards approaches that are based on public health instead. Most notably, in recent years in Latin America there has been an intensifying debate about the failure of prohibition, and most recently even sitting presidents started loudly criticizing the 'war on drugs', saying that the Conventions should be more flexible to allow for experimentation with innovative approaches, especially where drug production and trafficking have caused a prolonged political and humanitarian crisis. But what are these conventions that have bound the hands of politicians of decision-makers so much in Latin America and elsewhere?**



## The UN Drug Control System

Since the heavily U.S.-influenced 1961 Single Convention on Narcotics laid the groundwork for the modern "war on drugs," countries have struggled to navigate its legal obligations. This UN convention draws together previous drug control legislation and forms the unified legal bedrock of the current system, in effect encouraging countries to practice virtual total prohibition in order to gain acceptance internationally. But since the 1961 convention could not ban the many newly discovered psychotropics (its scope was limited to traditional plant-based narcotics and their derivatives) in 1971 the Convention on Psychotropic Substances was designed to control psychoactive drugs such as amphetamines, barbiturates, benzodiazepines, and psychedelics. And a final 1988 UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances required ratifying parties within their domestic legal frameworks to criminalize the possession of drugs included in the previous conventions, overnight creating a global criminal class of drug users.

These international agreements have formed the very basis of drug prohibition, enjoying widespread adherence from the 183 states that have ratified them. A whole set of UN institutions are built on them: for example, they are overseen by a body called the **International Narcotics Control Board**, which monitors member states' implementation of the treaties, immediately warning states when it thinks they have deviated from the right path. But global drug policy is really shaped by the **Commission on Narcotic Drugs (CND)**, which is the central policy-making body for the UN drug control system. That said, it needs to be pointed out the CND generally adheres to a conservative interpretation of the treaties, so its policy-making degrees of freedom tend to be somewhat restricted. At the same time, member state delegates to this UN forum are overwhelmingly drawn from the foreign affairs and law enforcement disciplines, which basically reinforces the dominance of law enforcement perspectives in the discussions.

There are also procedural difficulties as all disputes within the CND are settled by consensus, which means that a single member of the Commission can block a resolution. Thus decisions tend to reflect a bland "lowest common denominator", and new policy directions are not explored. Hence, it is not surprising that for diplomatic reasons member states avoid problematic issues, which basically means that nothing ever really changes in global drug policy, at least on the official level. And from an NGO perspective, one of the gravest issues is that there is very little civil society or IDU involvement, and the lack of independent oversight is one of the factors that lets this mysterious body keep up the outdated paradigm of prohibition in ways that are basically unknown to the public.

Finally, all this work is coordinated by the **United Nations Office on Drugs and Crime**, which has its headquarters in the UN premises in Vienna, where the annual meetings of the CND are also held. UNODC provides the secretariat of both the CND and the INCB. UNODC also does research and analytical work, normative work and field-based technical cooperation projects. To this end, its drug program supports alternative development projects, illicit crop monitoring and anti-money laundering projects.





## The UNGASS in 2016

Probably the only framework in which this system of concrete can be challenged, at least within the UN, is a **United Nations General Assembly Special Session**, that is UNGASS, a

periodic review of important political declarations made within the UN. UNGASS are convened by the 'General Assembly', the principal policy-making organ of the United Nations - the only one in which all 193 UN member states have equal representation. There was an UNGASS on drugs in 1998 at which member states agreed a Political Declaration on Global Drug Control. Ten years later, member states met in Vienna to discuss progress made and to agree a new Political Declaration and Plan of Action on International Cooperation to Counter the World Drug Problem for the next 10 years.

The next UNGASS on drugs was originally scheduled for 2018, but the presidents of Colombia, Guatemala and Mexico issued a formal statement underscoring the need to review present drug policies and called on the UN to "conduct a profound reflection to analyze all available options, including regulatory market measures, in order to establish a new paradigm that prevents the flow of resources to groups involved in organized crime." As a result of their efforts, it was announced that an UNGASS on the world drug problem would be moved to early 2016.

Following a mid-term high-level review of the implementation of the 2009 Political Declaration due in 2014, the UNGASS 2016 will review the progress in implementation of the Political Declaration and Plan of Action. The preparations are in progress with the mid-term review already happening. It is expected that the CND will be the preparatory body for the UNGASS 2016, as opposed to the UN headquarters in New York.



## Why this UNGASS and taking part in the preparations are so important?

In general, there is the hope among some drug policy reform experts that the discussion at the 2016 UNGASS will not be the same rubber-stamping of the system that the previous UNGASS in 1998 and the high-level segment in 2009 were. After all, member states will have to reckon with the recent changes in cannabis laws in Uruguay and the US and prospective changes elsewhere (for more on these instances of reform, see later) and the ongoing drug-related violence in Latin America, and it may therefore be harder than in the past to just pretend that everything is working well. There will probably be a group of people going to the UNGASS with the goal of opening the discussion about getting cannabis out of the jurisdiction of the conventions, and there will likely also be a concerted attempt to get wording out of the UNGASS about not criminalizing drug use per se. Overall, however,

there seems to be no real consensus yet in the drug policy reform movement about what we can really expect from this meeting, though a lot of people are talking about pushing for the UN to set up some kind of commission not to formally rewrite the conventions, but to look at whether there are outdated provisions, etc.

The 2016 UNGASS is set to be held at the UN Headquarters in New York. There are a number of key events that can be used to feed into the debates (this timeline was taken from the website of the International Drug Policy Consortium):

- The **High Level Segment of the UN Commission on Narcotic Drugs** just mentioned, to be held March 2014, Vienna,
- The adoption of the **Modalities Resolution** in New York in either 2014 or 2015, which will outline the process for the proceedings at the 2016 UNGASS, delineating civil society participation, member states' participation, what (if any) the outcome of UNGASS will be, and what the negotiation process will be. The resolution is usually passed in the autumn prior to an UNGASS, but Guatemala is pushing for its passage in the autumn of 2014 instead.
- The **Hemispheric Review of the Organization of American States**, to be held in 2014, which may result in a strategy to be submitted to the General Assembly.
- The **Millennium Development Goals (MDGs) review** in New York, September 2015, which may be used as an opportunity to promote drug policy reform.

There are several ways in which NGOs can engage in the preparations for UNGASS:

- **Support and join international reform organizations**, such as IDPC, to strengthen their influence in the international community and at the UN and to stay informed about the process.
- **Join the Vienna NGO Committee on Drugs (VNGOC)** as it is likely that this committee will play a role in engaging civil society for the UNGASS. The Committee works with the UN drug control organizations already mentioned to provide information on NGO activities, draw attention to areas of concern, build partnerships between governmental and non-governmental organizations and to involve a wide sector of civil society in contributing to the development of global drug policies. It can be argued that, from a reform perspective, the engagement of the VNGOC has not been too meaningful, as it has been dominated by the agenda of prohibitionist organizations such as European Cities Against Drugs. It is therefore important that an increasing number of reform-minded NGOs join the committee, which has fortunately been more and more the case lately.
- CSOs can **educate public opinion** on the structure of international drug policy politics and decision-making and options for reform, since, as mentioned above, this is an obscure area for the general public: decisions are made in an ivory tower, with hardly any coverage by the media or NGOs.
- **Learn who is representing your country in the UNGASS and lobby your delegation** to promote more progressive drug policies during international debates.



- ***Try to bring civil society voices not usually focused on drugs into this important health and human rights issue*** with an objective to make sure that the question of reform is discussed in a meaningful way at UNGASS 2016.

As already indicated, one of the milestones leading up to UNGASS 2016 will be a **High-Level Segment on Drugs to be held in March 2014 in Vienna** at the annual UN Commission on Narcotic Drugs (CND). The purpose of this meeting is to make a mid-term review of the progress made since the 2009 Political Declaration and Plan of Action on the World Drug Problem. The main focus of the High-Level Segment will be the negotiation of a 'Joint Ministerial Statement', which will set the scene for the 2016 UN General Assembly Special Session on Drugs (UNGASS), as well as recording member states' views of progress.

The negotiation of the Statement started in September and continued during a series of 'intersessional meetings' – which finished in December. At these formal meetings in Vienna, member states negotiated key messages and ideas that they want to include in the Joint Ministerial Statement. The International Drug Policy Consortium has been leading a group of NGOs who formulated a civil society response to the document. It may be hoped that many of these pro-reform and pro-human rights comments and additions will stay in the document, though the inertia around the status quo will be strong. It seems, for example, that language on decriminalization and legalization that had been proposed by one of the members states (we don't know which one) will be left out of the document.

To conclude, there are many ways in which NGOs can engage in working towards an UNGASS in 2016 where the real problems around drug policy and alternatives for the future are put on the agenda. Apart from the ways of engagement discussed above, the most important mission of NGOs in this respect is to work with country delegations to the CND and the UNGASS, inform them and policy makers about the need for drug policy reform and scaling up harm reduction, and going beyond that, build coalitions and exchanges among reform-minded country delegations. This would ensure that we have at least a small group of well-prepared delegations that are ready to work to make sure that the issues around drug policy reform are indeed discussed at the 2016 UNGASS.



## Other recent developments in drug policy

In Spring 2013 the **Organization of American States (OAS)** made a significant contribution to the reform debate by publishing a report on the effectiveness of global policies in the American hemisphere. The report highlights the achievements and challenges in public health and in

security, and presents scenarios for future developments, including market regulation of drugs. The review process was commissioned at the Summit of the Americas (held in Cartagena, Colombia in 2012) - a meeting of heads of state that included President Barack Obama - and reflects growing dissatisfaction with the status quo. Several Latin American heads of state, frustrated with the failure and counterproductive nature of existing drug control structures, pushed for this review.

The report is significant because it is notably the first time any major multilateral agency has given serious and detailed visualization to alternatives to prohibition including legal market regulation, or reform of the UN drug conventions. It is hoped that the scenarios will inform the discussions at 2016 UNGASS meeting, and they are already influencing the discussion in Latin America: the Declaration of Antigua, adopted in June by the OAS' General Assembly, for example, encouraged "the consideration of new approaches to the world drug problem in the Americas based on scientific knowledge and evidence". Another recent development, again from Latin America, is that on 10 December 2013 the Uruguayan senate voted to legalize cannabis, and so Uruguay became the first nation to legalize and regulate the production, sale and consumption of marijuana. It is an interesting story since in most countries it is usually the public and civil society that are pushing for drug policy reform, but in Uruguay it happened the opposite way: the president's office proposed the measure, but according to a poll in July, 63% of Uruguayan respondents said they disagreed with it, and only 26% said they approved.

It happened completely the other way around in the US states of Colorado and Washington, where the majority of the public decided to go with cannabis legalization through referenda. Since the Obama administration wisely decided not to go against the decisions of the peoples of the two states and stop the process on federal grounds, the regulatory systems that will put the legalization into practice are beginning to materialize: the details of legal regulation have been worked out, and cannabis will be widely and legally available in designated outlets as of January 2014. In the meantime, the city of Portland, Maine has also decided to legalize cannabis, and more states are expected to follow.

Arguably this is something that will have, and is already having, the effect of transforming the drug-control system from inside. The leading force behind the conventions and the whole drug control system has long been the US – it basically imposed prohibition on the world, creating sort of a system through which it has been able to exert influence and exercise power over a large number of countries, including in a military sense, though others such as Russia have also become dominant supporters of prohibition on very similar grounds. Nowadays, it is becoming increasingly hard to imagine a US delegate routinely turning down any language on decriminalization and legalization in the UN - although this is what is still happening. But it is easy to see that this cannot be maintained for too long.

So overall it is obvious that the winds of change are blowing from the direction of the Americas these days. Just a few



months ago, it was again governments from Latin America - namely from Costa Rica, Guatemala and Mexico - that openly spoke out for a paradigm shift at the 2013 UN General Assembly. They also called for an open and wide-ranging debate leading up to the 2016 UNGASS, and pointed to the Declaration of Antigua of the General Assembly of the OAS as a "first step which leads us to the desired direction" towards the 2016 UNGASS. At the same time, all the developments mentioned in this article are in great part due to the strengthening civil society engagement that we saw in the area of drug policy over the last decade or so. Organizations like the International Drug Policy Consortium, the Drug Policy Alliance, the Washington Office on Latin America, the Transnational Institute or the Hungarian Civil Liberties Union, and a large number of regional and national organizations have fostered this debate. And this is a time when the efforts are bearing fruit and we can really start capitalizing on them.

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