

UNASUR and the regional vision on drugs

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Introduction

On 31st August 2015, the document *Regional vision of UNASUR's South American Council on the World Drug Problem for UNGASS 2016* was approved. This unprecedented declaration was made possible thanks to the convergence of various factors. It could either mark the start of a productive and long-term endeavour or turn to nothing after the effervescence of this year's United Nations General Assembly Special Session (UNGASS), which specifically addressed drug-related issues.

This report by the International Drug Policy Consortium (IDPC) analyses the factors that permitted a novel Latin American position to be forged within UNASUR, the main agreements, and lays out the differences of opinion, as well as the drug policy challenges that lie ahead for the region.

Awakening from lethargy

UNASUR's South American Council on the World Drug Problem (CSPMD in Spanish) was created in 2010 and achieved some progress in approving its statutes² and devising a plan of action³. It initially carried out periodic activities and was active in certain debates, in particular those related to the issues tackled by its working groups. These discussions did not differ much from those taking place within bodies such as the Inter-American Drug Abuse Control Commission (CICAD) or the Andean Community of Nations (CAN).

In the years that followed, the CSPMD lost its dynamism – debates became less substantive,

officials attending the Council's meetings were increasingly junior, and gatherings were held less frequently. In addition, the body faced some of the issues that are characteristic of many multi-lateral entities: high turnover rates among country delegates, bureaucratic procedures for decision making, and the fact that the delegations' positions were not always coherent.

In this context, UNASUR (along with other multilateral bodies in the region – such as CAN, the Community of Latin American and Caribbean States (CELAC), MERCOSUR and the Organization of American States (OAS)) appeared to be on the side-lines of the global discussion about drugs in which Latin America was a protagonist. Latin America's central role in the debate required that discussions be held to establish positions that would recognise country diversity, focus on strengthening existing points of agreement and reflect upon the remaining differences.

Since UNASUR's inception, some members of civil society and drug policy advocates expected that UNASUR would lead the Latin American movement in opening the debate and exploring new options. But it was the OAS – particularly in 2012 – that paved the way for broader and more comprehensive regional discussion.

Fortunately, in 2015 both UNASUR and the CSPMD awoke from their lethargy. In the international arena, drug policy debates had gathered steam as the 2016 UNGASS drew nearer, and the voices of some Latin American countries such as Uruguay, Colombia and Ecuador called for a political

Some aspects of UNASUR's regional vision

The UNASUR declaration constitutes the first document by a multilateral body that reflects the vision of South American countries by consensus. For example, the OAS document was not adopted by countries but rather was officially issued as a report of the Secretary General; while CELAC is not a multilateral body but is instead an intergovernmental mechanism for dialogue and political concordance. Some highlights of the declaration include:

- We affirm the human being as the primary focus of drug policies'
- 'Address the world drug problem, in conformity with international human rights law, within the framework of the three international conventions on drugs, international public law, the United Nations Charter and other relevant instruments, respect for the sovereignty and territorial integrity of the States, non-interference in internal affairs, and mutual respect among the States'
- 'We recognize and are paying attention to sovereign initiatives that have been adopted by various countries based on the current scientific evidence, and in the spirit of continuing to create and collect evidence'
- 'There should be open, frank, and realistic debate regarding assessment of achievements and the routes for confronting the pre-existing and emerging challenges of the world drug problem, especially regarding measures for achieving an effective balance between reduction of supply and demand, and how to address its key causes and consequences, including those in the fields of health, society, human rights, the economy, justice, and security'

In addition, 'the countries of UNASUR, in preparation for the UNGASS 2016, recommend an emphasis that includes but is not limited to the following':

- The need for a comprehensive, balanced, multidisciplinary and sustainable approach; a gender perspective and attention to vulnerable groups; a territorial focus for drug policy; the need for a transversal human rights approach
- Drug policies must be developed in conformity with full respect for civil, political, economic, social and cultural rights, and the right to a healthy and adequate environment, within the framework of national laws and in conformity with applicable international law
- A health approach implies not criminalising users or those involved in the lowest levels of the drug trafficking chain
- Ensure the application of the principle of proportionality of sentencing, even for offences related to drugs
- Guarantee medical and scientific uses of controlled substances
- Strengthen democracy and the rule of law
- Eradicate compulsory treatment of drug users
- States must strengthen academic and scientific research that could support the formulation of public policies on drugs
- Strengthen measures for comprehensive and sustainable alternative development, including prevention
- Adopt control measures for reducing supply and fighting organised crime
- Improve coordination and harmonisation of the United Nations system
- Recommend an independent evaluation of follow-up on the UNGASS resolutions.

debate that would lead to the forging of a joint vision on the world drug problem and define responses to the phenomenon.

In 2015, former Colombian President Ernesto Samper Pizano was the UNASUR Secretary General, (elected in August 2014) and in December 2014, the UNASUR Pro Tempore Presidency passed on to Uruguay. These coincident events were very important. In Colombia, Samper had openly expressed his support for a new drug policy approach on multiple occasions, while Uruguay had not only adopted a similar position, but also

started implementing reforms, notably regarding the regulation of cannabis for recreational use.

Argentina, Colombia and Ecuador aligned with the UNASUR Secretary General and Pro Tempore Presidency, while Brazil and Venezuela, which traditionally favoured the status quo, did not actively block the proposal to debate the issue within UNASUR. And even though Chile, Paraguay and Peru – the most resistant governments to drug policy reform – held their position, dialogue within UNASUR was nonetheless possible.

In February 2015, the CSPMD met and instructed the General Secretariat and the Pro Tempore Presidency to lead a broad and open discussion, aimed at forging a document that would reflect the Latin American position on the world drug problem ahead of the 2016 UNGASS.

This mandate came to fruition on 31st August 2015, when the CSPMD approved by consensus the document *Regional vision of UNASUR's South American Council on the World Drug Problem for UNGASS 2016*⁴.

In this document, countries established the points on which there was full agreement within the region, such as respect for human rights, sovereignty, the need for policies that reflect the diversity of countries and of drug phenomena, and respect for the new approaches being taken in the region, among other issues.

In addition to the CSPMD meetings, other meetings were held that tended to support the elaboration of a regional vision on drugs. In August 2015, prior to the meeting on the 31st of that month, a forum took place and created a space for country delegates to learn first-hand about the proposals of some civil society organisations – including those of the Transnational Institute,⁵ IDPC,⁶ Intercambios,⁷ DeJusticia⁸ and Fundación Ideas para la Paz (FIP)⁹ – and other experts, to feed into the preparation of the regional document.

Finally, in February 2016, another forum¹⁰ was held where civil society interacted with various UN agencies, with clear points of agreement emerging in favour of the prevalence of human rights, public health and sustainable development. In light of the UNGASS, UN agencies such as the United Nations Development Program (UNDP), the UN Organization for Education, Science and Culture (UNESCO), the United Nations Children's Fund (UNICEF) and the Pan American Health Organization (PAHO) showed much more flexibility and inclination to revise the international drug control regime than the United Nations Office on Drugs and Crime (UNODC) and the International Narcotics Control Board (INCB).

The factors that favoured consensus

The UNASUR declaration, as well as those agreed by CELAC¹¹ and MERCOSUR,¹² contributed to setting the scene in the hemisphere, complementing

the *Report on the Drug Problem in the Americas*, which was prepared and launched by the OAS in 2013. That report contains two documents: *The drug problem in the Americas*¹³ and *Scenarios for the drug problem in the Americas 2013 – 2025*.¹⁴

In this context, the first factor that favoured consensus and enabled the adoption of the UNASUR declaration (also known as the 'Montevideo Declaration') was the emergence of a timely and favourable political situation. This situation originated from the Summit of the Americas in 2012, when Colombian President Santos proposed that the OAS prepare a report for member states. The OAS work resulted in a report which was presented by the OAS Secretary General in March 2013. The resulting documents (the 'analytical' and 'scenarios' reports) were not approved by member states or subject to discussion, and some stakeholders did declare that had this been the case, the reports might never have been produced.

Shortly after the presentation of the OAS reports, the governments of the hemisphere gathered at the annual meeting of the OAS General Assembly, which took place in Antigua, Guatemala in June 2013. At the urging of the Guatemalan government, drug policy was, for the first time, the thematic focus of the General Assembly. The debate that ensued reflected the growing consensus in the region that current drug policies were not working, and that possible alternative approaches should be considered. However, the meeting in Antigua also exposed discrepancies among Latin American and Caribbean countries on how to move towards alternative policies. The meeting concluded with the adoption of a declaration entitled *For a comprehensive policy against the world drug problem in the Americas*.¹⁵ Although much of the original progressive language was eventually eliminated, the declaration did urge countries to initiate a consultation process on drug policy in various national and regional forums, taking into account the OAS reports.¹⁶

Within the OAS process, it was important that the US representatives – who had traditionally held strong positions defending the current drug control regime – were open to dialogue and to the participatory phase of the report. This was, however, based on the tacit understanding that the UN drug conventions would not be questioned. The then Secretary General, José Miguel Insulza, played an

instrumental role in driving the discussion and promoting a regional stance; this key event nevertheless highlighted the differing positions within the region, which had traditionally only been reflected upon by civil society organisations.

The regulation of cannabis for recreational and medicinal purposes in Uruguay contributed to the favourable political environment, placing the issue on the agenda of other countries, and sparking support for new approaches that deviated from strict prohibition across the region. Although no other Latin American country has approved laws that regulate the recreational use of cannabis, several have recently paved the way for initiatives that regulate its medicinal use, including Chile and Colombia.

A third factor, which coincided and contributed to this opportune political juncture, was the leadership of UNASUR's General Secretariat and its Pro Tempore Presidency. Both were adeptly able to progress and manoeuvre the negotiations towards the preparation of a draft declaration, despite the obstacles sometimes created by diplomacy and bureaucracy. This process was strengthened by the participation of civil society at various times, supporting both the regional consensus and elaboration of the draft.

Another key issue in the process of drafting the declaration and building consensus, was the flexibility of the parties regarding the draft document and its adjustments. The final result reflects the recognition of differences within and between countries from the region, while moving forward in areas for which there was already some basis consensus and agreement. This included: flexibility in the interpretation of the drug conventions, openness to new approaches, and national sovereignty and human rights as essential components in the design of national and global drug policies. As such, the final document reflects what was possible to agree on, while avoiding those issues on which the region did not yet agree, such as the comprehensive or partial revision of the international drug control regime or the creation of regulated markets in Latin America.

Agreements and disagreements in Latin America

Throughout the UNASUR process, it became evident that, as UNGASS 2016 approached, both

points of consensus and discrepancy must be understood and incorporated in order to make progress in the coming years.

Within spaces of dialogue and discussion, whether official, academic or informal, stakeholders recognised that despite the operational achievements made (increases in arrests of organised crime leaders dedicated to drug trafficking or in seized cocaine shipments), the rates of drug use, micro-trafficking and violence continued to rise. In addition, there exists a general agreement among all sectors that the region needs a change in drug policy.

The way 'change' is interpreted, however, varies a great deal between countries and between the different sectors of society. Furthermore, although there is a certain consensus about the need to approach drugs from a perspective of human rights, public health and sustainable development – language which now tends to replace the 'war on drugs' expression – the discursive consensus does not necessarily translate into concrete country positions in the international arena or into public policy decisions within borders.

It is not only the approaches that vary sector by sector; the issues and priorities debated in each country are also different – although the following issues are all being discussed by countries in the region: cannabis for medicinal and recreational use; the amount of psychoactive substances that may be possessed for personal use (and the objective criteria used to define it); an increase in drug-related violence and a strengthened organised crime; proportionality of sentencing for drug-related offences; prison overcrowding; and alternatives to prison and criminal penalties, in particular for vulnerable women.¹⁷

In this context, and even while recognising different degrees of organisation and capacity for influence, civil society has been acknowledged as one of the main drivers of the debate. However, this does not always translate into public policy proposals or legislative bills, since the necessary space for dialogue and debate does not always exist between governments and civil society.

At the same time, members of Congress and Parliament, judges and magistrates have been protagonists of regional change. Some national legislators have led debate processes and introduced bills; judges and magistrates, meanwhile, have

facilitated some of the most notable changes in several countries, in particular on matters of drug use, possession and medicinal cannabis. While leadership emerging from different sectors (the executive branch, Parliament or Congress, the media, civil society and academia, among others) do not necessarily lead to effective changes in policy or in resource allocation, they do contribute to national and international debates via the media or in academic and political fora.

It is also clear that drug policy is generally not a priority area for governments in the region. This might explain why some states do not have a defined position on the issue, leading a country to express incoherent or contradictory positions in different fora, depending by whom it is represented.

A similar situation is happening at national level, with debates, laws and policy decisions often moving in opposite directions. Although countries avoid using the term ‘war on drugs’ in their official discourse, some countries’ actions continue to reinforce this traditional vision, while other countries have moved towards a new approach by embracing regulated drug market regimes. A new focus has been adopted in Argentina, Ecuador and Colombia – although the latter recently decided to resume glyphosate spraying, this time on the ground.

The divergent views on drug policy, the lack of priority given to the issue and the diversity of the region have resulted in a situation where views on the drug problem and how to tackle it differ widely. While Andean countries have prioritised issues related to illicit production, trafficking and drug-related crime are higher priority areas for other Latin American states.

The issue is also manifest with regards to the international drug control regime and the diverging country positions towards it. While some countries (Mexico, Guatemala, Colombia and Uruguay) have supported revisiting and updating the drug conventions (albeit to different degrees), others maintain that these should remain intact but be interpreted more flexibly (e.g. the United States). Yet another group of countries (Peru and most Caribbean nations) considers that the conventions should remain as they are and continue to be interpreted as they have always been.

UNASUR and a regional position: a long way to go

While it is true that a basic consensus was reached on some issues within the framework of UNASUR, Latin America was not able to consolidate a position as a bloc at the UNGASS in April 2016. One could even state that the achievement represented by the UNASUR document was a diplomatic failure since it was not used as the region’s official position at the session. This situation was somewhat predictable, since no joint position was achieved by GRULAC¹⁸ ahead of the UNGASS.

Nevertheless, the only heads of state who attended the UNGASS were from Latin America. Enrique Peña Nieto (Mexico), Jimmy Morales (Guatemala), Juan Manuel Santos (Colombia), Ollanta Humala (Peru) and Evo Morales (Bolivia) were all present for the official photo, the results of the UNGASS 2016 having already been negotiated and approved on the first day of the session.¹⁹ This is a good reflection of Latin American processes when it comes to drugs – much discourse and little action.

Indeed, Mexican President Peña Nieto only confirmed his attendance a few days before Assembly was held, after having previously cancelled his participation; the Guatemalan president who had called for the UNGASS to take place is currently incarcerated under corruption charges; and President Santos only arrived in New York on the last day of the special session. This reflects how the three Latin American countries that had originally promoted the meeting lost steam along the way and were not able to forge a true regional position.

This situation was compounded by changes in the government positions of Argentina, Brazil and Ecuador. All three commenced 2015 with a stance that was favourable to new policy options to address the world drug problem, but then changed position for a number of reasons: the arrival of a new government in the first case; domestic political matters in the second; and an unexpected shift in the third. Meanwhile, although Peru, Venezuela and Chile permitted a regional dialogue to take place within UNASUR, they were set on defending the status quo during the UNGASS preparatory process. In fact, Peru ended up being Russia’s main ally in Latin America on the issue

of keeping the UN drug conventions intact (and ensuring that the region would not come up with a unified position at the session).

It should be recalled that drug policy reform has not been considered as a reality for Latin American governments and, even when there is almost full technical consensus on the need to carry out reform, the political dialogue is not yet mature enough to achieve tangible reform. Further steps will need to be undertaken to incorporate political dialogues into diplomatic scenarios, since country representatives in different fora and organisations are often reticent to adopt positions in favour of change.

Challenges and opportunities

The current context poses some challenges but also represents opportunities for Latin America to move towards better drug policies. First, more evidence – focusing on the most pertinent for the debate – should be produced. It is important that the region defines some of its own indicators to better reflect countries' needs and expectations in terms of development, and include the contributions from other actors such as UN agencies. It is equally important that decision makers accept available evidence to better inform political, legislative and budgetary decisions.

The region should also overcome its own fears. Drug policy change can have a political cost if the public is inadequately informed. However, adequate awareness raising is a challenge that governments and decision makers promoting a better vision for the region should take on, to ensure that the costs of the current approach and the benefits of change are properly understood.

Furthermore, there is a need to build upon debate and participation. Defining legitimate national positions on the basis of broad and open debates in which different sectors of civil society are engaged will reduce the potential for fluctuations as governments change and will facilitate a more democratic and inclusive outcome. Fostering leadership and building bridges between the distinct positions is an enormous challenge for the region.

Another challenge lies in consolidating regional agreements. The declarations of CELAC, MERCOSUR

and UNASUR should be strengthened or they run the risk of having no impact at international level. These declarations should be promoted as valid regional agreements in other multilateral debates and be supported by governments in these fora. Establishing blocs or change in the region will be a challenge for UNASUR which continues to lack strength or traction. In addition, there is a risk that change in the Pro Tempore Presidency could radically alter its line of action.

The Pro Tempore Presidency is currently held by Venezuela, which has adopted a conservative view on drugs and is also grappling with a domestic crisis, relegating the drug issue to the bottom of its priority list. Furthermore, the difficult diplomatic relations between Venezuela and Uruguay – which held the Pro Tempore Presidency just before Venezuela – are well known.

Another challenge faced by Latin America is how to put its discourse into practice. Even those countries that invest most in drug policy and promote reviewing the current regime have had limited results at national level when it comes to transforming discourse into policy decisions, legal reform and budget allocation. A great deal can be done to move toward drug policies that are aligned with human rights, public health and sustainable development within the framework of the current drug conventions. Overcoming this situation will be a challenge for decision makers and backers of drug policy reform.

In this regard, it will be very important to take advantage of the consensus achieved in 2015. The declarations of CELAC, MERCOSUR and UNASUR, the reports by the OAS and the Antigua Declaration, are unprecedented. This is the first time that the region expressed themselves as a bloc, with a vision that revolves around less repressive and more inclusive drug policies.

Strengthening spaces where Latin American countries question the results of the international approach and attempt to build a consensus that better represents their own needs and expectations, constitutes an opportunity to continue shaping a regional vision on the drugs issue.

Members of civil society and academia are instrumental in this process, and the region should harness their contributions. In all the region's countries, regardless of strength and capacity for

influence, both civil society and academia have promoted drug policy reform. The consolidated body of evidence delivered by academia and an active civil society, present an opportunity for decision-makers to develop better educational campaigns and design new drug policy and legislation. In light of this opportunity, civil society must be willing to focus on promoting realistic change – and not only the desired options – to achieve increasingly relevant reforms. As such, it is critical that the agenda set out at national and global levels is realistic.

Other actors can also play a key role. Members of Congress and Parliament, media outlets and other actors such as associations of families, doctors and religious leaders, have all shown more interest in the issue and could help drive education and change, both in local community arenas as well as at national level.

Among those actors belonging to civil society, academia, national legislatures and the judicial branch and other new stakeholders in the debate, new leaders are standing out – again, with greater or lesser degrees of political influence – and represent an opportunity for facilitating and promoting domestic debates and putting discourse into practice.

Meanwhile, in the international sphere, the UNODC and the INCB have been the traditional actors in the debate on drugs, and will continue to be so. However, there are other UN agencies – such as the WHO, the UNDP, UN Women, UNAIDS, the OHCHR and others – that have established their own position on drugs and proposed approaches and solutions that must be considered as governments are forging their national and regional positions and responses to drugs.²⁰

Recommendations

As the current international approach fails to represent the region's vision, needs or expectations, and given that the post-UNGASS regime continues to lack flexibility, Latin America and other like-minded countries should consider the possibility of creating their own drug control and regulation regime. This would not only serve local and regional interests, but would also help to promote a genuine discussion about revising and modernising the UN drug conventions.

In this process, countries should seriously consider the possibility of establishing regulatory systems for the cocaine market, since the greatest drug problems in Latin America are related to the production, trafficking, sale and use of cocaine. This debate should be initiated as soon as possible to properly investigate all options that differ from strict prohibition.²¹

To this end, communication channels should be built and strengthened. Governments should recognise the valid and valuable voices that can contribute to the drugs issue, going from producers and users to civil society and academia, as well as many others.

The technical and academic debate should remain open and incorporate the political component of this issue. Indeed, many evidence-based conclusions have not been debated in the political arena and, consequently, the necessary changes have not been made.

Finally, it is necessary for the region to develop its own metrics. The forging and consolidation of a regional vision on drugs and on the steps to address this issue require a different way of measuring progress and impact.²² This process should account for advances in terms of sustainable development, human rights and public health.

Acknowledgements

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About IDPC

The International Drug Policy Consortium (IDPC) is a global network of NGOs that promotes 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 harms. IDPC members have a wide range of experience and expertise in the analysis of drug problems and policies, and contribute to national and international policy debates. IDPC offers specialist advice through the dissemination of written materials, presentations at conferences, meetings with key policy makers and study tours. IDPC also provides capacity building and advocacy training for civil society organisations.

About this briefing paper

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