

## **Further reflections on the UNGASS outcome document: Comments on the third draft**

The negotiation process for the official outcome document of the United Nations General Assembly Special Session (UNGASS) on drugs is now well underway. As discussed in previous IDPC Advocacy Notes,<sup>1</sup> this document is being finalised by the UN Commission on Narcotic Drugs in Vienna, for adoption at the Special Session from 19<sup>th</sup> to 21<sup>st</sup> April.<sup>2</sup> It should, according to the UN General Assembly, be a 'short, substantive, concise and action-oriented document comprising a set of operational recommendations... including an assessment of the achievements as well as ways to address long-standing and emerging challenges in countering the world drug problem'. A series of drafts of the outcome document have so far been distributed, along with a list of agreed paragraphs, and a list of additional, more controversial paragraphs (including proposals on harm reduction and the death penalty) that have not yet made it into the document.<sup>3</sup>

This IDPC advocacy note raises some persisting concerns and proposes some additional comments and recommendations intended to support the ongoing negotiations process, as member states are about to gather at the 59<sup>th</sup> Session of the Commission on Narcotic Drugs in Vienna on 14<sup>th</sup> March. These comments have been divided into two parts: general comments on the overall document, and a selection of more specific suggestions to support member state deliberations.

### **Civil society resources to support the negotiation of the UNGASS Outcome Document**

The E-Book of Authorities collates previously agreed languages on key issues of contention, including harm reduction, civil society participation, the death penalty, human rights, proportionality of sentencing for drug offences, flexibilities in the UN drug conventions for alternatives to punishment, access to essential medicines and alternative development: [www.bookofauthorities.info](http://www.bookofauthorities.info).

IDPC has also produced a series of reports to support the UNGASS preparations:

- The road to the UNGASS 2016: Process and policy asks from IDPC<sup>4</sup>
- IDPC recommendations for the 'zero draft' of the UNGASS outcome document<sup>5</sup>
- Negotiating the UNGASS outcome document: Challenges and the way forward<sup>6</sup>
- Striving for system-wide coherence: An analysis of the official contributions of United Nations entities for the UNGASS on drugs<sup>7</sup>

### **General comments**

The latest iteration of the draft outcome document (the third draft) was released on 25<sup>th</sup> February 2016.<sup>8</sup> Despite progress in some small

areas, IDPC and many others remain deeply concerned that the outcome document is not the forward-looking and action-oriented statement, reflecting an open and inclusive process, that was hoped for. We have always emphasised the importance of the international community finding a new consensus that reflects reality on the ground, and that has a realistic prospect for positively reducing the harms arising from a rapidly evolving illicit drug market. The negotiations have so far fallen well short of this ideal. In particular:

- The negotiations have become embroiled in the same Vienna diplomatic arguments that have been debated for years, despite this being a General Assembly document and more progressive language having already been agreed in numerous General Assembly documents.<sup>9</sup>
- The complacent, ‘business as usual’ tone of the current draft adds very little to the 2009 Political Declaration<sup>10</sup> and the 2014 Joint Ministerial Statement,<sup>11</sup> despite rapidly evolving challenges on the ground.
- The current draft text does not reflect the balance of the original submissions made by many member states and regional groups, the clear advice from UN agencies,<sup>12</sup> nor the recommendations of the Civil Society Task Force.<sup>13</sup>
- Despite calls for an inclusive process, the negotiations have taken place in closed ‘informal’ meetings, involving representatives of a minority of UN member states; and the strong recommendations from numerous UN agencies with regards to public health, human rights, development and decriminalisation have not been incorporated into the draft.
- There is no acknowledgment of the lack of progress achieved, and the undeniable damage that has been caused, by current approaches. Claims of ‘tangible and measurable progress’ and references to the preposterous and unachievable goal of ‘a society free of drug abuse’ – reiterated twice in the 25th February draft – undermine the credibility of the CND’s

claimed commitment to evidence and openness.

- There are very few truly operational outcomes in the document, especially in terms of improving system-wide coherence, a stated objective. If this UNGASS is to have any impact at all after three years and tens of millions of dollars investment, there at least needs to be a mechanism created to address the challenges that exist and propose how to mitigate these between now and 2019 – such as the proposals for an expert advisory group.
- As IDPC has previously highlighted, it is important to note that as many as 70 member states do not have permanent representation in Vienna, meaning that they have been overlooked or unable to engage in the negotiation processes in Vienna.

## Specific language on key areas

### A: Public health

As has been mentioned in the EU submissions<sup>14</sup> and others, a preamble paragraph pointing out the massive failure to meet global HIV targets is an important addition. Mention should also be made to the new targets contained within the Sustainable Development Goals (SDGs) (Target 3.3 to end AIDS by 2030), and how these will also be missed if proven approaches are not comprehensively implemented. These are existing commitments to be acknowledged, not new ones being proposed.

Harm reduction approaches are not a subsection of demand reduction – they sit alongside one another as a complementary pillar of balanced drug policies. The heading used in the outcome document should therefore be ‘Operational recommendations on drugs and health: covering demand reduction and the protection of public health’.

Furthermore, a specific sub-heading should separate out, and therefore give due prominence to, harm reduction. If this sub-heading cannot be ‘Risk and harm reduction’ (as has been proposed by some supportive member states) then it could

be ‘Prevention and management of the harms associated with drug use’ (as used in the recent WHO Executive Board documents<sup>15</sup>).

Under this new sub-heading, we call upon member states to urgently protect the current references to needle and syringe programmes, opioid substitution therapy, naloxone, and the *WHO, UNODC and UNAIDS Technical guide for countries to set targets for universal access to HIV prevention, treatment and care for injecting drug users*.<sup>16</sup>

We urge member states to resist efforts to include ‘scientific’ before every reference to ‘evidence-based’ in the text. IDPC believes that these moves are designed to marginalise the role of a full range of evidence – including the grassroots experiences of civil society and people who use drugs.

## B: Human rights

The human rights language in the 25<sup>th</sup> February draft is still very weak overall. Even where there are good references to human rights, caveats around state sovereignty and ‘the principle of non-intervention in the internal affairs of States’ severely undermine these. Human rights obligations are contained in the UN Charter, and should not be diluted in a General Assembly document by qualifications such as ‘in accordance with national legislation’ or ‘as appropriate’. In addition, there is no acknowledgment that drug control policies should contribute to the ‘fulfilment’ of human rights, not just ‘protecting and respecting’ them.

The paragraphs on ‘Countering international illicit drug production and trafficking, including through eradication’ contain no references to human rights, despite this being the area of drug control where the risk of human rights abuses is the highest.

While we welcome an increased focus on proportionality in the current draft, references to article 3 of the 1988 Convention (and particularly paragraph 5 of article 3, which lists the ‘particularly serious’ crimes) need to be avoided, as the concept of proportionality works in both directions and such references may be interpreted by some as endorsement of the death penalty and

other extreme responses. The following language can help to avoid these pitfalls: ‘Promote proportionate sentencing regarding drug-related offences, whereby both mitigating and aggravating factors are taken into account, in accordance with relevant and applicable law’.

As has been noted before, if the drug control system is genuinely based on a ‘concern for the health and welfare of mankind’, the failures to call for the implementation of proven harm reduction measures, to promote the removal of criminal sanctions for drug use (which is within the flexibility of the treaties, and has now been called for by the UN-Secretary General and all the relevant UN agencies<sup>17</sup>), to express concern at the use of the death penalty (as condemned by UNODC, the INCB and several UN agencies, including the OHCHR, the Human Rights Council, the Special Rapporteur on the right to health, UNAIDS, UNDP, the INCB, UNODC and UN University<sup>18</sup>), or to call for the closure of compulsory drug detention centres (as per the joint UN statement from 2012<sup>19</sup>), are all significant failings of the outcome document and the negotiation process.

## C: Gender issues

There have been some attempts at including a gender perspective in the 25<sup>th</sup> February draft. However, this is not sufficient to truly address the specific needs of women.

In the drugs and health/demand reduction section, we call on member states to recognise that women often face greater stigma, discrimination and risks than men, and that their health and social needs may differ significantly. The outcome document should therefore highlight the need to ensure the provision of gender-sensitive risk and harm reduction, treatment and care services that are evidence based and grounded on human rights, and available at sufficient scale. This should include the provision of childcare, the prevention of mother-to-child HIV transmission, family counselling and support, programmes to reduce gender-based violence, sex work services, female condoms, and women-only spaces and/or times.<sup>20</sup>

We encourage member states to also recognise that women incarcerated for non-violent drug offenses represent the fastest growing prison population globally, with devastating impacts on their lives, their families and societies as a whole. The outcome document should therefore promote alternatives to punishment and incarceration for women convicted of non-violent drug offences, in particular for mothers and pregnant women for whom incarceration should only be used as a last resort.

#### **D: Acknowledging the lack of progress**

We urge member states to resist the ‘drug-free world’ language of ‘a society free of drug abuse’ and unsubstantiated references to the ‘tangible and measurable progress’ that has supposedly been made. Similarly, member states should continue to challenge some of the outdated language on eradication and elimination of drug production or drug markets within the supply reduction paradigm.

Despite several vague references to evidence and best practices throughout the text, there is still no specific call or commitments to review the objectives and indicators of the international drug control system, or to set up mechanisms to strengthen the dissemination of evidence and expertise.

The section on ‘Addressing links with other forms of organised crime’ needs to be strengthened with language on the lack of effective measures against money laundering in particular, such as:

‘Ensure the implementation of effective measures to identify the beneficial ownership of companies, trusts and other business and financial corporations to enhance the countering of money laundering and detect illicit financial flows’. This is in line with SDG Target 16.4.<sup>21</sup>

On the important and inadequately addressed issue of the metrics of drug policies, we recommend strengthening the current preamble paragraph on the SDGs by adding ‘We further note the need to undertake work to align drug control objectives and indicators with the SDGs’. Similarly, the current operational recommendation on metrics can be strengthened as follows: ‘Encourage the CND and the UN Statistical Commission, with the support of UNODC, to undertake work to align drug control objectives and indicators with the 2030 Sustainable Development Goals and, in that context, to continue to identify quantifiable indicators in line with the integrated and balanced approach to effectively address and counter the world drug problem’.

#### **Conclusion**

As it currently stands, the outcome document runs the risk of being alarmingly disconnected from, and therefore largely irrelevant to, national and local drug policy making and the realities on the ground. Even worse from a diplomatic standpoint, the current text may even prove to be unacceptable to some member states and heads-of-state when they gather for the UNGASS in New York.

## Endnotes

<sup>1</sup> See, for example:

<http://idpc.net/publications/2016/02/negotiating-the-ungass-outcome-document-challenges-and-the-way-forward>

<sup>2</sup> <http://idpc.net/policy-advocacy/the-un-general-assembly-special-session-on-drugs-ungass-2016>

<sup>3</sup> See: <http://cndblog.org/about/>

<sup>4</sup> Available here: <http://idpc.net/publications/2014/10/the-road-to-ungass-2016-process-and-policy-asks-from-idpc>

<sup>5</sup> Available here: <http://idpc.net/publications/2015/07/idpc-recommendations-for-the-zero-draft-of-the-ungass-outcome-document>

<sup>6</sup> Available here: <http://idpc.net/publications/2016/02/negotiating-the-ungass-outcome-document-challenges-and-the-way-forward>

<sup>7</sup> <http://idpc.net/publications/2016/03/striving-for-system-wide-coherence-an-analysis-of-the-official-contributions-of-united-nations-entities-for-the-ungass-on-drugs>

<sup>8</sup> [http://cndblog.org/wp-content/uploads/2015/03/2016\\_02\\_25\\_OutcomeDocument.pdf](http://cndblog.org/wp-content/uploads/2015/03/2016_02_25_OutcomeDocument.pdf)

<sup>9</sup> See: [www.bookofauthorities.info](http://www.bookofauthorities.info)

<sup>10</sup> <https://www.unodc.org/documents/ungass2016/V0984963-English.pdf>

<sup>11</sup> [https://www.unodc.org/documents/commissions/CND/Joint\\_Ministerial\\_Statement/V1403583\\_E\\_ebook.pdf](https://www.unodc.org/documents/commissions/CND/Joint_Ministerial_Statement/V1403583_E_ebook.pdf)

<sup>12</sup> Hallam, C. (March 2016), *IDPC Briefing Paper - Striving for system-wide coherence: An analysis of the official contributions of United Nations entities for the UNGASS on drugs* (London: International Drug Policy Consortium), <http://idpc.net/publications/2016/03/striving-for-system-wide-coherence-an-analysis-of-the-official-contributions-of-united-nations-entities-for-the-ungass-on-drugs>

<sup>13</sup> See: [http://www.unodc.org/documents/ungass2016//Contributions/Civil/CSTF/Civil\\_Society\\_Task\\_Force\\_Recommendations\\_for\\_Zero\\_Draft\\_September\\_2015.pdf](http://www.unodc.org/documents/ungass2016//Contributions/Civil/CSTF/Civil_Society_Task_Force_Recommendations_for_Zero_Draft_September_2015.pdf)

<sup>14</sup> <http://www.unodc.org/ungass2016/en/contributions.html>

<sup>15</sup> [http://www.unodc.org/documents/ungass2016//Contributions/UN/WHO/B138\\_11-en.pdf](http://www.unodc.org/documents/ungass2016//Contributions/UN/WHO/B138_11-en.pdf)

<sup>16</sup> WHO, UNODC, UNAIDS Technical Guide for Countries to Set Targets for Universal Access to HIV Prevention, Treatment and Care for Injecting Drug Users – 2012 Revision:

<http://www.who.int/hiv/topics/idu/en/index.html>

<sup>17</sup> Joint United Nations Programme on HIV/AIDS (2015), *A public health and rights approach to drugs*, [http://www.unodc.org/documents/ungass2016//Contributions/UN/UNAIDS/JC2803\\_drugs\\_en.pdf](http://www.unodc.org/documents/ungass2016//Contributions/UN/UNAIDS/JC2803_drugs_en.pdf); UN Task Force on Transnational Organized Crime and Drug Trafficking as Threats to Security and Stability - Policy brief on gender and drugs, UN Women (2014), *A gender perspective on the impact of drug use, the drug trade, and drug control regimes*, [https://www.unodc.org/documents/ungass2016//Contributions/UN/Gender\\_and\\_Drugs\\_-\\_UN\\_Women\\_Policy\\_Brief.pdf](https://www.unodc.org/documents/ungass2016//Contributions/UN/Gender_and_Drugs_-_UN_Women_Policy_Brief.pdf); United Nations Development Program (June 2015), *Addressing the development dimensions of drug policy*, <http://www.undp.org/content/dam/undp/library/HIV-AIDS/Discussion-Paper--Addressing-the-Development-Dimensions-of-Drug-Policy.pdf>; World Health Organisation (July 2014), *Consolidated guidelines on HIV prevention, diagnosis, treatment and care for key populations*, <http://www.who.int/hiv/pub/guidelines/keypopulations/en/>

<sup>18</sup> See, for more information: Hallam, C. (March 2016), *IDPC Briefing Paper - Striving for system-wide coherence: An analysis of the official contributions of United Nations entities for the UNGASS on drugs* (London: International Drug Policy Consortium), <http://idpc.net/publications/2016/03/striving-for-system-wide-coherence-an-analysis-of-the-official-contributions-of-united-nations-entities-for-the-ungass-on-drugs>

<sup>19</sup> <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=11941&LangID=E>

<sup>20</sup> United Nations Office on Drugs and Crime, UN Women, World Health Organisation & International Network of People Who Use Drugs (August 2014), *Women who inject drugs and HIV: Addressing specific needs*, [http://www.unodc.org/documents/hiv-aids/publications/WOMEN\\_POLICY\\_BRIEF2014.pdf](http://www.unodc.org/documents/hiv-aids/publications/WOMEN_POLICY_BRIEF2014.pdf)

<sup>21</sup> For more information, see: <http://www.gfintegrity.org/illicit-flows-and-funding-the-sdgs/>



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## About this advocacy note

This IDPC advocacy note raises some persisting concerns and proposes some additional comments and recommendations intended to support the ongoing negotiations process on the UNGASS outcome document, as member states are about to gather at the 59<sup>th</sup> Session of the Commission on Narcotic Drugs in Vienna on 14<sup>th</sup> March. The advocacy note includes general comments on the overall document, as well as a selection of more specific suggestions to support member state deliberations.

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## About IDPC

The International Drug Policy Consortium is a global network of non-government organizations that specialize in issues related to illegal drug production and use. The Consortium aims to promote objective and open debate on the effectiveness, direction and content of drug policies at national and international level, and supports evidence-based policies that are effective in reducing drug-related harm. It produces briefing papers, disseminates the reports of its member organizations, and offers expert advice to policy makers and officials around the world.

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