

IDPC Advocacy Note

A drug-free ASEAN by 2015: harmless rhetoric or a dangerous mantra?

Context

In early September 2013, the Association of South East Asian Nations (ASEAN) held a meeting in Brunei Darussalam for ministers with responsibility for drug control issues to discuss the mid-term review of the strategy for a drug-free ASEAN by 2015.¹ As Chairman of the meeting, the Brunei Minister of Energy at the Prime Minister's Office, said in his statement:

*"We have reaffirmed our determination to resolve and work closely together to realise the vision of a Drug-Free ASEAN 2015 and beyond, realising that combating the drug menace is no longer just the individual responsibility of each ASEAN state, but the collective responsibility of all."*²

In emphasising the collective responsibility of ASEAN member states, the Chairman's remarks reflect the recognition that illicit drug markets do not respect borders – perhaps a heightening concern as border controls are set to become more liberalised in the establishment of the ASEAN Economic Community in 2015. Incidentally, ASEAN's current drug strategy ends in 2015 and to inform the development of a post-2015 strategy, Ministers announced that the final review of member states' implementation of the current drug strategy would begin in 2014. Ministers expect that the final review will provide a clear picture of ASEAN's achievements and gaps in implementing the drug strategy.

In an advocacy note released in 2012, the International Drug Policy Consortium (IDPC) referred to the regional trends in drug use and supply, which show the futility of focusing drug control efforts on eradicating drug markets.³ IDPC recommended that ASEAN develop a drug strategy capable of managing the complexity of causes and consequences relating to drug markets, in order to achieve the desired improvements in human security, health and development. These recommendations are consistent with those of expert bodies such as the Global Commission on HIV and the Law (established by the United Nations Development Programme) and the Global Commission on Drug Policy (body of eminent figures promoting informed, science-based discussion about humane and

¹ The last time such a ministerial meeting was held was in August 2012, where ministers reaffirmed their strong commitment to achieving the drug-free vision for ASEAN. (<http://www.asean.org/news/asean-secretariat-news/item/asean-reaffirmed-commitment-towards-drug-free-vision>) Just a few months earlier, heads of state or governments had issued the *ASEAN Leaders' Declaration on Drug-Free ASEAN 2015*, calling on member states to "[i]ntensify concerted efforts to realize the vision and goal of a drug-free ASEAN Community by 2015 as a high-priority agenda of ASEAN". (http://www.asean.org/archive/documents/Declaratin%20on%20Drug%20Free%20ASEAN_Endorsed%20by%20Summit_FINAL.pdf)

² Borneo Bulletin, 'Achieving a drug-free ASEAN by 2015', 4 September 2013, <http://borneobulletin.bornei-online.com.bn/index.php/2013/09/04/achieving-a-drug-free-asean-by-2015/>

³ International Drug Policy Consortium (2012), *IDPC Advocacy Note: Recommendations for the mid-term review of the ASEAN Drug Strategy*, http://dl.dropboxusercontent.com/u/64663568/library/IDPC-Advocacy-Note_Recommendations-for-ASEAN-Drug-Strategy.pdf

effective ways to reduce the harm caused by drugs).⁴ This briefing aims to provide recommendations for ASEAN member states as they consider approaches to conducting the final review of the ASEAN drug strategy ending in 2015.

Introduction

ASEAN is an intergovernmental organisation that was established in 1967 to enhance regional cooperation. It comprises 10 member states from Southeast Asia: Thailand, Malaysia, Myanmar, Indonesia, Brunei, Philippines, Cambodia, Laos, Vietnam and Singapore.⁵ ASEAN's drug strategy is reflected in the 1998 *Joint Declaration for a Drug-Free ASEAN*, which outlines a broad strategy for eradicating the production, processing, trafficking and use of controlled drugs in the region, and revised in 2000 to bring forward the target year from 2020 to 2015.⁶ The goal of a drug-free ASEAN is sought to be achieved through implementation of the *ASEAN Work Plan on Combating Illicit Drug Production, Trafficking and Use (2009-2015)* (the Work Plan),⁷ which aims to eradicate supply through the "elimination" of syndicates involved in the production and trafficking of drugs and their precursors, and to reduce the prevalence of drug use, primarily with the use of preventative education programmes. The ASEAN Senior Officials on Drug Matters (ASOD), comprising senior officials from agencies with responsibility for drug-related issues from each member state, has responsibility for coordinating, monitoring and evaluating implementation of the Work Plan.

Reflecting ASEAN's perception of drugs as primarily a threat to the security and stability of states, there is only one mention of HIV/AIDS in the entire Work Plan: as a component of preventative education programmes for the general population and people who use drugs. The Work Plan does not refer to the comprehensive package of interventions advised by the WHO, UNAIDS and UNODC to provide prevention, treatment and care services for people who inject drugs.⁸

At the same time, however, the ASEAN Taskforce on AIDS (ATFOA) monitors the implementation of member state commitments relating to HIV, such as the *ASEAN Declaration of Commitment: Getting to zero new HIV infections, zero discrimination, zero AIDS-related deaths*, which includes a commitment to reduce transmission of HIV among people who inject drugs by 50 per cent by 2015.⁹ The Declaration states that ASEAN countries commit to implementing and expanding "risk and harm reduction programmes, where appropriate and applicable, for people who use drugs".¹⁰ Given the established evidence on the effectiveness of harm reduction programmes for reducing HIV

⁴ Refer to the reports published respectively by these bodies: Global Commission on HIV and the Law (2012), *Risks, rights and health*, <http://www.hivlawcommission.org/resources/report/FinalReport-Risks,Rights&Health-EN.pdf>; Global Commission on Drug Policy (2012), *The war on drugs and HIV/AIDS: How the criminalization of drug use fuels the global epidemic*, http://globalcommissionondrugs.org/wp-content/themes/gcdp_v1/pdf/GCDP_HIV-AIDS_2012_REFERENCE.pdf

⁵ For details on the founding of ASEAN, see the relevant page on its website: <http://www.aseansec.org/the-founding-of-asean/>

⁶ *Joint Declaration for a Drug-Free ASEAN*, Manila, Philippines, 25 July 1998, <http://www.aseansec.org/1638.htm>; *Bangkok Political Declaration in Pursuit of a Drug-Free ASEAN 2015*, Bangkok, Thailand, 11-13 October, 2000, <http://www.aseansec.org/644.htm>

⁷ Siem Reap, Cambodia, 17 November 2009, <http://www.aseansec.org/24036.htm>

⁸ WHO, UNODC, UNAIDS (2009), Technical guide for countries to set targets for universal access to HIV prevention, treatment and care for injecting drug users (Geneva: World Health Organization), http://www.unodc.org/documents/hiv/aids/idu_target_setting_guide.pdf

⁹ [http://www.asean.org/archive/documents/19th%20summit/ASEAN Declaration of Commitment.pdf](http://www.asean.org/archive/documents/19th%20summit/ASEAN%20Declaration%20of%20Commitment.pdf)

¹⁰ Paragraphs 16(b) and 17 (d), *ASEAN Declaration of Commitment: Getting to zero new HIV infections, zero discrimination, zero AIDS-related deaths*

prevalence among people who inject drugs, and the need to remove legal and policy barriers that restrict access to those programmes,¹¹ improved integration between the work of ATFOA and ASOD is necessary for achieving better health outcomes for people who use drugs and their communities. The need for collaboration between ATFOA and ASOD was also recognised in the *Statement of ASEAN Task Force on AIDS (ATFOA) in the Asia Pacific Regional Consultation on Universal Access to HIV Prevention, Treatment, Care and Support* agreed in Bangkok in 2011.¹²

Drug policy trends at global and regional levels

The vision of ‘drug-free’ societies has been abandoned by the vast majority of governments and intergovernmental entities. For example, the United Nations Commission on Narcotic Drugs promoted the slogan “A drug-free world, we can do it!”, as part of its ten year strategy which ended in 2008 – but no such statements have been made in subsequent documents. Over the past 20 years, the European Union has sought to implement a drug strategy that steers away from repressive law enforcement intervention and towards an approach which balances security, health and harm reduction priorities, supported by significant investment in providing rights- and evidence-based health services for people who use drugs.¹³ Another regional entity, the African Union, recently adopted a drug strategy known as the *African Union Plan of Action on Drug Control for 2013 to 2017* that appropriately balances health and security priorities, and promotes health services and alternatives to incarceration, instead of punitive measures, for people who use drugs.¹⁴

Latin American governments, after decades of adopting “war on drug” policies to reduce drug supply and demand, have begun to accept that such approaches are costly, ineffective and cause a range of severely negative outcomes for human security, health and the proper functioning of state institutions, for example, judicial and prison systems that are overloaded with drug-related cases. In the past year, Latin American governments have raised the issue of alternative approaches to drug policy for discussion within the Organisation of American States (OAS) and the United Nations.¹⁵ At the same time, Uruguay is likely to become the first country in the world to establish a legally regulated market for cannabis after its House of Representatives approved a new bill, which now awaits final approval from the Senate in October 2013.¹⁶

¹¹ Global Commission on HIV and the Law (2012), *Risks, rights and health*, <http://www.hivlawcommission.org/resources/report/FinalReport-Risks,Rights&Health-EN.pdf>; Global Commission on Drug Policy (2012), *The war on drugs and HIV/AIDS: How the criminalization of drug use fuels the global epidemic*, http://globalcommissionondrugs.org/wp-content/themes/gcdp_v1/pdf/GCDP_HIV-AIDS_2012_REFERENCE.pdf

¹² <http://www.asean.org/communities/asean-socio-cultural-community/item/statement-of-asean-task-force-on-aids-atfoa-in-the-asia-pacific-regional-consultation-on-universal-access-to-hiv-prevention-treatment-care-and-support-bangkok-31-march-2011>

¹³ International Drug Policy Consortium (2013), *IDPC Advocacy Note - The European Union Drugs Strategy 2013-2020*, <http://idpc.net/publications/2013/07/idpc-advocacy-note-the-european-union-drugs-strategy-2013-2020>

¹⁴ Bridge, J. (21 December 2012), *African Union agrees: “Support. Don’t Punish.”*, IDPC Blog, <http://idpc.net/blog/2012/12/african-union-agrees-support-don-t-punish>

¹⁵ Youngers, C.A. (2013) *IDPC Briefing Paper: The Drug Policy Reform Agenda in the Americas*, <http://idpc.net/publications/2013/08/idpc-briefing-paper-the-drug-policy-reform-agenda-in-the-americas-version-2> For further details, please refer to the OAS reports, published in 2013, which explore alternative drug policy approaches, at: http://www.oas.org/en/media_center/press_release.asp?sCodigo=E-261/13

¹⁶ For further details, refer Hetzer, H. (2013) *Uruguay moves one step closer to becoming first country to legally regulate marijuana*, IDPC blog, <http://idpc.net/blog/2013/08/uruguay-moves-one-step-closer-to-becoming-first-country-to-legally-regulate-marijuana>

Even the U.S. – which has traditionally played a strong role in promoting a global ‘war on drugs’ – is seeing the introduction of legally regulated markets for cannabis in some states.¹⁷ The U.S. has also begun to address the problems of disproportionate sentencing of drug offences and overcrowded prisons by introducing a policy change in the prosecution and judgment of low-level, non-violent drug offences to minimise their prison sentences. This change was announced by the U.S. Attorney General Eric Holder in August 2013, when he declared:

*“Too many Americans go to too many prisons for far too long, and for no truly good law enforcement reason...By reserving the most severe penalties for serious, high-level, or violent drug traffickers, we can better promote public safety, deterrence, and rehabilitation – while making our expenditures smarter and more productive.”*¹⁸

These shifts in drug policy in several parts of the globe are taking place amidst the increasing realisation that tough rhetoric and harsh punishment have failed to reduce drug supply, use and related harms, led to extensive social and financial costs, and a drug-free society is not, and has never been, achievable.

The dangers of adopting a drug-free vision

Given the consistent increases in drug use (particularly of amphetamine-type substances (ATS)), and expanding and diversifying drug markets (exemplified by the rise of new psychoactive substances) in the Asian region, setting the goal of a drug-free ASEAN is undoubtedly futile.¹⁹ Even if the vision of a drug-free ASEAN is intended to be an aspirational slogan rather than an achievable goal, this language underpins a repressive, stigmatising rhetoric of drugs as a ‘social evil’ to be eliminated. As such, it is used to justify a range of harmful policies:

- widespread human rights violations, including abusive practices by police against people who use drugs, and compulsory drug detention and rehabilitation centres that have been condemned by United Nations agencies,²⁰

¹⁷ The U.S. states of Colorado and Washington are the first to formally adopt legally regulated markets for cannabis after a vote in November 2012. More U.S. states are now considering initiatives to implement this measure. For more details, refer: Walsh, J. (ed.) (2013), ‘Q&A: Legal Marijuana in Colorado and Washington’, Governance Studies at Brookings, http://dl.dropboxusercontent.com/u/64663568/library/Legal_marijuana_in_Colorado_Washington.pdf

¹⁸ Attorney General Eric Holder Delivers Remarks at the Annual Meeting of the American Bar Association's House of Delegates (12 August 2013), <http://www.justice.gov/iso/opa/ag/speeches/2013/ag-speech-130812.html>

¹⁹ The United Nations World Drug Report 2012 predicts that by the year 2050, the number of people who use drugs will have increased by 25 per cent, mostly amongst the populations of developing countries (<http://www.unodc.org/unodc/en/data-and-analysis/WDR-2012.html>). Also refer: United Nations Office on Drugs and Crime, *UNODC early warning system records rapid increase in legal highs in 2013* (2013), <http://www.unodc.org/unodc/en/frontpage/2013/September/unodc-early-warning-system-records-rapid-increase-in-legal-highs-in-2013.html?ref=fs1>

²⁰ Refer *United Nations Joint Statement on compulsory drug detention and rehabilitation centres* (March 2012), http://www.unodc.org/documents/southeastasiaandpacific/2012/03/drug-detention-centre/JC2310_Joint_Statement6March12FINAL_En.pdf; Human Rights Watch (2007), *Deadly denial: Barriers to HIV/AIDS treatment for people who use drugs in Thailand*, <http://www.hrw.org/sites/default/files/reports/thailand1107.pdf>; International Harm Reduction Development Program (2009), *Human rights abuses in the name of drug treatment: Reports from the field*, <http://www.soros.org/publications/human-rights-abuses-name-drug-treatment-reports-field>; World Health Organisation (2009), *Assessment of compulsory treatment of people who use drugs in Cambodia, China, Malaysia and Viet Nam: an application of selected human rights principles*, http://www.who.int/hiv/pub/idu/assess_treatment_users_asia/en/index.html

- punitive and stigmatising measures in response to drug use, including compulsory registration, criminal conviction, imprisonment, and denial of or inadequate provision of life-saving health measures such as needle and syringe programmes, and
- disproportionate sentences and penalties for drug-related activities, including lengthy imprisonment sentences for low-level, non-violent offences, and use of the death penalty.²¹

Policies which seek to eliminate the use and supply of drugs not only lead to a wide range of severe harms, they are not able to achieve the goal of eliminating, or even reducing, drug markets. Available data on regional drug trends in the past decade show that there has been no significant reduction in the overall use and supply of drugs. There was a drop in the supply of heroin in the years prior to 2006 due to national opium eradication campaigns, but it was merely replaced by a rapid rise in the production and use of ATS—an example of supply reduction interventions that are not able to eliminate or reduce, but only displace the drug market either in terms of geography or in terms of the type of drug.²²

Setting such strategic or policy goals also leads to the concentration of resources in law enforcement and criminal justice interventions – based on the mistaken belief that punitive measures will deter drug-related activities, which is not supported by any evidence. Another consequence is inadequate investment in evidence-based, cost-effective health and social programmes to manage the harms associated with drug use and markets.

Recommendations for the final review by ASEAN member states

It is hoped that after the current ASEAN drug strategy ends in 2015, ASEAN will adopt a vision and work plan that aims to achieve the implementation of effective, evidence-based responses to the use and supply of drugs, and which prioritise the development, health, rights and security of communities in the region. Accordingly, and as ASEAN starts preparing for the final assessment of its drug strategy and work plan, IDPC offers the following recommendations for its consideration:

1. Conduct a final review of the ASEAN drug strategy and work plan that is transparent and open to civil society and multi-sectoral engagement, as with review processes conducted by

²¹ Global Commission on HIV and the Law (2012), *Risks, rights and health*, <http://www.hivlawcommission.org/resources/report/FinalReport-Risks,Rights&Health-EN.pdf>; Global Commission on Drug Policy (2011), *War on drugs*, http://www.globalcommissionondrugs.org/wp-content/themes/gcdp_v1/pdf/Global_Commission_Report_English.pdf; Global Commission on Drug Policy (2012), *The war on drugs and HIV/AIDS: How the criminalization of drug use fuels the global epidemic*, http://globalcommissionondrugs.org/wp-content/themes/gcdp_v1/pdf/GCDP_HIV-AIDS_2012_REFERENCE.pdf

²¹ <http://www.asean.org/communities/asean-socio-cultural-community/item/statement-of-asean-task-force-on-aids-atfoa-in-the-asia-pacific-regional-consultation-on-universal-access-to-hiv-prevention-treatment-care-and-support-bangkok-31-march-2011>

²² United Nations Office on Drugs and Crime (2012), *World Drug Report 2012*, <http://www.unodc.org/unodc/en/data-and-analysis/WDR-2012.html>; United Nations Office on Drugs and Crime (2011), *Patterns and Trends of Amphetamine-Type Stimulants—Asia and the Pacific 2011*, http://www.unodc.org/documents/scientific/Asia_and_the_Pacific_2011_Regional_ATS_Report.pdf; UNODC Regional Centre for East Asia and the Pacific (2008), *Drug-free ASEAN 2015: Status and Recommendations*, http://www.unodc.org/documents/eastasiaandpacific/Publications/ASEAN_2015.pdf; Transnational Institute, *Withdrawal Symptoms in the Golden Triangle: A drugs market in disarray*, 2009, <http://www.tni.org/report/withdrawal-symptoms-golden-triangle-4>

other regional bodies such as the Organisation of American States, African Union and the European Union, and as envisaged in the *ASEAN Socio-Cultural Community Blueprint*.²³

2. Review the effectiveness, costs, and negative consequences of existing approaches resulting from implementation of the ASEAN strategy, including disproportionate sentencing of low-level and nonviolent drug-related activities, the criminalisation of people who use drugs, ineffective and inappropriate drug treatment methods such as compulsory drug detention and rehabilitation centres, and forced eradication programmes targeting crops declared illicit.
3. Promote awareness-raising initiatives which provide accurate information on the health effects of drug use, including UN data showing that only about 12 per cent of people who use drugs do so problematically.²⁴ Such awareness-raising activities should promote the need to support, rather than punish, people who use drugs and provide them with the life-saving health services they need.
4. Improve integration of work by the ASOD with other ASEAN entities working on drug-related issues, especially the *ASEAN Task Force on AIDS*, which has a mandate for ensuring member states' implementation of a commitment to reduce transmission of HIV among people who inject drugs by 50 per cent by 2015.²⁵

The International Drug Policy Consortium is a global network of non-government organisations and professional networks that specialise 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 organisations, and offers expert consultancy services to policy makers and officials around the world.

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²³ Section B.6 *Ensuring a drug-free ASEAN* states that its Strategic Objectives are: Reduce significantly, the overall prevalence of illicit drug abuse in the general population, in particular students, youth and those in high-risk and vulnerable groups through preventive measures and by increasing access to treatment, rehabilitation and aftercare services to ensure full re-integration into society as well as through enhanced partnership between the public and private sectors and civil society organizations. <http://www.asean.org/archive/5187-19.pdf>

²⁴ United Nations Office on Drugs and Crime, *World Drug Report 2012*, 2012, available at: http://www.unodc.org/documents/data-and-analysis/WDR2012/WDR_2012_Chapter1.pdf

²⁵ Paragraphs 16(b) and 17(d), *ASEAN Declaration of Commitment: Getting to zero new HIV infections, zero discrimination, zero AIDS-related deaths*.