

GLOBAL DRUG POLICY, HUMAN RIGHTS & PUBLIC SECURITY: PERSPECTIVES FROM LATIN AMERICA*

This report is based on the discussions of a workshop convened by The Centro de Estudios Legales y Sociales (CELS), UCL's Institute of the Americas, and UCL's Global Governance Institute in June 2016 to assess the outcomes of the United Nations Assembly Special Session on the World Drug Problem (UNGASS). The workshop operated under Chatham House rules, and this report does not necessarily reflect the views of all workshop participants. The participants reflected the new constellation of actors engaging with global drug policy today, with representatives from academia, civil society, and government.

The resolution to bring UNGASS forward, from 2019 to 2016, was sponsored by Mexico, Colombia, and Guatemala and supported by 95 other UN member states. The Special Session was attended by several heads of state and government, and had significant representation at the ministerial level. Representatives from civil society, the scientific community, and academia were also present. The 2016 UNGASS came at a crucial moment in global drug policy governance, as a growing number of states implement increasingly divergent domestic regulations. As a result, the meeting was preceded by an atmosphere of expectation among civil society. This contrasted with a general sense of disappointment with an outcome document which, despite its incorporation of some proposals put forward by reform-minded actors, reflected considerable policy continuity.

From the perspective of Latin America, after decades of drug related violence, UNGASS 2016 was a success in and of itself. Nevertheless, the region faces many challenges. Prospects for Latin America to provide leadership in the area of global drug policy are limited due to the lack of a coherent position, increasing political polarisation in the region and the widening gap between government rhetoric and drug policies implemented in practice. Domestically, Latin American governments should take advantage of the internal debates on drug policy, including legalization, that UNGASS initiated. Importantly, the UNGASS outcome document underscored that the global regulatory framework allows for flexibility for states to experiment with drug policies according to their specific challenges. Because economic growth and drug legalisation are unlikely to be enough to precipitate an end to drug-related violence drug policies should also address the socio-economic drivers of exclusion, such as access to jobs and quality education.

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EXECUTIVE SUMMARY

- The April 2016 United Nations Assembly Special Session on the World Drug Problem (UNGASS) laid bare the divisions between states who want an escalation of drug prohibition and those calling for a different approach, demonstrating the inadequacy of current treaties for accommodating the diverse positions of states with respect to global drug policy.
- While the growing divergence of national positions makes it difficult to agree on common positions it opens up opportunities for policy experimentation.
- UNGASS 2016 saw important steps taken towards reforming global drug policy. Notably, the outcome document references harm reduction, alternatives to incarceration, and the Sustainable Development Goals (SDGs). Increased civil society participation should also be welcomed. However, UNGASS 2016 ultimately fell short of expectations as it failed to articulate comprehensive policy changes.
- A human rights perspective has the potential to focus the drug policy debate on more progressive strategies, but human rights organisations' involvement in global drug policy still needs to develop further.
- In Latin America, there is a significant gap between progressive government rhetoric and the implementation of repressive policies on the ground. Moreover, the increasing political polarisation between left- and right-wing governments undermines the prospects of coherent Latin American leadership in the area of global drug policy.
- Drug legalisation and economic growth may not be enough to halt the activities of organised armed groups. Latin American governments should also address socio-economic causes of exclusion to tackle structural drivers of drug-related violence.



UNGASS General Debate. Source: "[Debate General de la Sesión Especial de UNGASS 2016](#)" (CC BY 2.0) by [Presidencia de la República Mexicana](#).

UNGASS 2016 – HIGH EXPECTATIONS, MIXED OUTCOMES

Overall, UNGASS 2016 saw some significant steps forward in terms of the inclusion of civil society and the recognition of alternative approaches to drug policy. However, it ultimately fell short of expectations for those who hoped for a more comprehensive change in global drug policy.

Key Aspects of the UNGASS 2016 Outcome Document:

➤ **New Actors, Old Outcomes:**

UNGASS 2016 functioned as a focal point around which civil society coordinated. A civil society task force led by the New York and Vienna NGO Committees on Drugs organised formal interactive stakeholder discussions which fed into the UNGASS process. These included representatives from many international and national NGOs, who saw their visibility in this policy area increase. UN agencies, such as UNDP and OHCHR, which previously saw drug policy as falling outside their institutional mandates, demonstrated a desire to become involved in the policy process. African and Caribbean countries critical of the current state of global drug policy, including Benin, Ghana, and Jamaica, became integrated into existing alliances such as the Cartagena Group.

However, the UNGASS preparatory process, in which meaningful negotiations occurred behind closed doors, limited the efficacy of civil society involvement. Ultimately, the continued presence of a block of intransigent states prevented significant reform. Further, the Egyptian ambassador who chaired the Special Session was instrumental in pushing back reform. The risks of co-optation of civil society participation also remain real. States who favour the status quo might benefit from the positive PR that the involvement of civil society groups generates for the UNGASS process, without having to commit to the reforms that many of these groups are pushing for.

➤ **Resetting Objectives and Supporting Innovative Approaches:**

The incorporation of the Sustainable Development Goals (SDGs) into the UNGASS discussion signalled an important step in further integrating development concerns into global drug policy. The outcome document also included references to human rights, highlighting the UN's "commitment to respecting, protecting and promoting all human rights [...] in the development and implementation of drug policies" as well as a new section on essential medicines pledging to "regularly update the Model Lists of Essential Medicines". The principle of flexibility was also explicitly recognised within the framework of the convention, allowing governments to tailor their own drug policies to address the specific needs of their country.

However, there was a distinct lack of recognition of the failures of oppressive drug policy approaches. The outcome document also reaffirmed the commitment to a drug-free world that underpins repressive policies and the 'war on drugs'. A proposal for new indicators was removed from the outcome document, as was a proposal from Jamaica for the creation of an expert advisory group to amend disconnects between expert advice and UN policy. There were only two calls to reform the Single Convention on Narcotic Drugs that many observers regard as no longer fit for purpose, whereas twenty-four states continued to support the 'war on drugs'.

➤ **Ending Criminalisation of Affected Groups and Death Penalty:**

Country statements demonstrated the lack of consensus at UN level, in particular in the area of criminalisation. Fifteen UN agencies, including UNDP, OHCHR, and UN Women, called for decriminalisation. Seventeen countries called for proportional sentencing. This was reflected in the outcome document which called for alternatives to incarceration and was the first document of this eminence to make reference to proportionality of sentencing. The widening divide in positions was evidenced, however, by discussions on the death penalty for drug-related offences. Although sixty-one states opposed the death penalty, they were ultimately nullified by a prohibitionist group led by China, Russia, Egypt, and Iran.

➤ **Recognition of Harm Reduction:**

The outcome document included references to overdose prevention, injection equipment, and medically assisted therapy. Moreover, a harm reduction strategy received full support from UN agencies and positive statements from over thirty member states and regional organisations. This suggests that the adoption of a UN harm reduction strategy that puts people at the centre of global drug policy is already underway.

However, a comprehensive commitment to the principles underlying a harm reduction strategy was missing, as the outcome document included only a few narrow policy recommendations. Further, it failed to commit to redirecting significant funds to harm reduction measures. There was still no consensus on what exactly harm reduction entails and there remained an overwhelming focus on achieving a drug-free society.

KEY INSIGHTS

- The array of positions which fed into the UNGASS preparatory process did not translate fully into the outcome document, which was ultimately a disappointment for actors critical of current approaches.
- The limited success in embedding reformist approaches within the UNGASS document reflected the increasing fragmentation of global drug policy.
- Whilst the initial phases of deliberation saw debates on decriminalisation of drug use and small-scale trafficking, there was ultimately no mention of decriminalisation in the outcome document.
- The outcome document represented the first time a high level document included references to harm reduction policies, but it fell short of presenting a comprehensive harm reduction strategy.



Drug seizure in Colombia. Source: "[Incautamos la caleta más grande al 'Clan Úsuga' con aproximadas 8 toneladas de cocaína](#)" (CC BY-SA 2.0) by [Policía Nacional de los colombianos](#).

LOOKING AHEAD TO 2019

The next important date in the global drug policy calendar is the 2019 revision of the Political Declaration and Plan of Action, which sets out the general strategy to address the world drug issue. Several issue areas for drug policy reform were identified.

➤ **Fragmentation:**

Although there has never been an international consensus on global drug policy, the differences between states are becoming increasingly unsustainable. This situation reflects the disconnect between the global level and the situation on the ground, as well as the degree to which out-of-date treaties are ill-equipped to cater for the diversity of positions on drug policy.

Significant differences remained between the UN drug control institutions, which dominated UNGASS, and the rest of the UN system. Expositions from human rights, health, and development agencies explicitly outlined points of disagreement with the final document, which exposed a clear lack of institutional coherence within the UN system. Similar statements were made by country representatives. For example, a Norwegian delegate lamented the lack of consensus for a "more progressive approach", and called for drug policy that was centred on human rights.

➤ **Human Rights:**

A human rights paradigm has the potential to refocus the drug policy debate on individuals, highlighting issues such as forced displacement, mass detention, prison overcrowding, lack of due process, forced disappearances, arbitrary executions, access to health, and particularly the role of the state in such violations.¹

However, the intersection between drug policy and human rights at the UN level has also traditionally been poor and engagement from human rights organisations in drug policy has been relatively recent. The 2012 landmark report by the Organisation of American States, *Scenarios for the Drug Problem in the Americas*², placed human rights at the centre of the discussion on drug policy and involved many human rights organisations. Although human rights based contributions were largely marginalised in the UNGASS outcome document, the mobilisation of human rights groups³ and UN agencies at UNGASS undoubtedly signifies progress. The Joint Open Letter by the UN Working Group on Arbitrary Detention⁴, signed by four Special Rapporteurs and the Chair of the UN Committee on the Rights of the Child, suggests further involvement of the wider UN human rights system in drug policy debates.

This momentum should be harnessed. With the aim of precipitating a shift in funding from repressive measures towards harm reduction, more actors need to be mobilised to create better strategies that further the human rights dimension within UN drug control institutions.

¹ Human Rights Council, 2015. 'Study on the impact of the world drug problem on the enjoyment of human rights.'. United Nations: New York. Accessed on 10/10/2016. Available at:

http://www.unodc.org/documents/ungass2016//Contributions/UN/OHCHR/A_HRC_30_65_E.pdf

² Organization of American States (OAS), 2012. *Scenarios for the Drug Problem in the Americas*. OAS: Washington. Accessed on 10/10/2016. Available at:

http://www.oas.org/documents/eng/press/Scenarios_Report.PDF

³ Centro de Estudios Legales y Sociales (CELS), 2015. *The Impact of Drug Policy on Human Rights. The Experience in the Americas*. CELS: Argentina. Accessed on 10/10/2016. Available at:

<http://www.cels.org.ar/common/drug%20policy%20impact%20in%20the%20americas.pdf>

⁴ United Nations Office of the High Commissioner for Human Rights, 2016. 'Joint Open Letter by the UN Working Group on Arbitrary Detention'. United Nations: New York. Accessed on 10/10/2016. Available at:

http://www.unodc.org/documents/ungass2016//Contributions/UN/OHCHR/UNGASS_joint_OL_HR_mechanisms.pdf

➤ **Institutional Strategies:**

Working between the cracks in prohibitionist blocks could be a productive way forward as there are growing differences between countries seeking an escalation of repressive policies (such as Russia, China, Indonesia, Pakistan, and Egypt) and countries that are aware that reforms are necessary but unwilling to expend the diplomatic energy to push them through (Latin American, European, Caribbean, and African countries). Exercising pressure within these cracks could potentially have large payoffs. Another strategy would be to ensure the substantive participation of representatives from human rights, development and other relevant UN agencies in drug policy design.

➤ **Civil Society:**

Capitalising on the increased prominence achieved at UNGASS, the reform movement should move beyond the campaign for indicators and targets and push for concrete proposals that address issues of development (e.g. the SDGs) and security. A focus on drugs can be a red herring for states to ignore more complex structural problems. The example of Mexico clearly shows that economic growth alone is not enough to combat organised crime and drug-related violence, and public policy has to be aimed at tackling deeper economic and social drivers of these problems.

➤ **Latin American Leadership:**

The credibility of some Latin American states has been damaged by the gap between government rhetoric and policies implemented on the ground. Increasing polarisation and a resurgence of conservative governments in the region, makes the prospect of hemispheric leadership from Latin America even less likely. Nevertheless, civil society actors should continue to pursue all opportunities to pressure government policy in the region.

KEY INSIGHTS

- The increasing divergence of state approaches to global drug policy should be welcomed in the short to medium term, as it enables policy experimentation.
- Although progress was made at UNGASS with regards to the involvement of human rights organisations in global drug policy, there is still a lot of work to be done to embed a human rights paradigm at the UN level.
- It is important to identify strategies that increase the influence of actors seeking to reform drug policy.
- Civil society should focus its efforts on broader structural issues that fuel drug related violence.
- Ahead of 2019, the likelihood of a Latin American block to lead UN drug policy reforms is decreasing.

PERSPECTIVES FROM LATIN AMERICA: REALITY, RHETORIC, AND POLICY RESPONSES

Although the security situation has improved in many parts of Latin America, the region is still the epicentre of widespread drug-related violence. Home to about 8 percent of the world population, the region suffers from an estimated 33 percent of the world's homicides⁵.

Key Insights - Drug-Related Violence and its Consequences:

- **Drug related violence in Latin America is driven by the socio-economic dimensions of exclusion. Economic growth alone is not enough to tackle drug violence.** Despite over two decades of stunning growth, thanks in part to the boom in commodity markets, many areas of Latin America experienced a simultaneous increase in violence and crime. In some states, the situation is so serious that they are referred to as conflict and post-conflict states. Although there have been some social gains, Latin America remains the most unequal region in the world. If the governments of the region are serious about tackling drug-related violence they should consider public policies to address inequality and exclusion, particularly in the areas of tax collection and land redistribution.
- **In spite of their important role, drugs should not be considered as the primary cause of violence in Latin America.** Illicit drugs have played a critical role in generating the ongoing crises throughout Latin America. However, considering drugs as the principal source of violence is problematic for two reasons. First, it allows authorities to deprioritise policies aimed at addressing the structural causes of exclusion that create the conditions for violence to emerge. These causes include endemic inequality, the prison population crisis, lack of investment in youth education and employment, or deficiencies in tax collection. Second, it fails to acknowledge that illicit markets can be peaceful and that in many cases it is the state that drives the violence.
- **There are significant differences between sub-regions as well as within countries.** Drugs and drug policies have varied effects across Latin America, making it important to disaggregate and contextualise challenges. Drug-related violence is driven by a complex range of factors and does not map onto a straightforward ideological or political spectrum.

THE WAR ON DRUGS IN MEXICO

The ongoing situation in Mexico encapsulates all three dynamics (socio-economic inequalities, the fetishisation of drug-violence, and sub-national variation). Although the country experienced a period of economic growth over the past 20 years, violence has exploded. An important factor was the opening up of the cocaine economy, a result of the US closing the Florida trafficking route from Colombia. The democratisation process highlighted vulnerabilities in the Mexican political system for intensified criminal infiltration. Violent competition to capture lands was incentivised by the failure of the state to guarantee property rights. Although criminal violence in Mexico has dominated, it converges and overlaps with state-led and social violence. The counter-narcotics policies enforced by ex-president Felipe Calderón also acted as a catalyst for violence. Moreover, the geographical distribution of drug violence in Mexico highlights the need for a disaggregated examination: the fact that violence has erupted in states that are not poverty-stricken and that have benefitted overall from the North American Free Trade Agreement (NAFTA) demonstrates the complex relationship between socio-economic factors and drug violence.

⁵ Igarapé Institute, 2015. 'Homicide Monitor'. Accessed on 10/10/2016. Available at: <https://igarape.org.br/en/apps/homicide-monitor/>

The Gap between Rhetoric and Reality:

There is a considerable gap between the rhetoric employed by Latin American leaders at the international level and the policies they implement domestically.

Latin American countries have emerged as leaders of the efforts to review the current state of global drug policy. This is a significant step forward as Latin American governments have traditionally favoured repressive approaches. However, at UNGASS there was a clear gap between the rhetoric employed by various Latin American delegations and the policies implemented by their governments on the ground. Mexico, for example, advocated for drug policy reform at UNGASS while human rights organisations denounced the country's repressive counter-narcotics policies.

At UNGASS, both Mexico and Colombia adopted a seemingly progressive yet contradictory stance. The post-UNGASS statement by Mexican President Enrique Peña Nieto was progressive inasmuch as it referred to development and human rights. However, the message was contradicted when he called for a strengthening of the common front against organised crime. This is indicative of a worrying shift from the 'war on drugs' towards a 'war on organised crime' that reproduces the logic of violent militarised state responses. Similarly, in his post-UNGASS statement, Colombian President Juan Manuel Santos argued against legalisation of drugs in Colombia and confirmed his country's commitment to the 'war on drugs' not only as a moral imperative, but as a matter of national security.

However, the gap between government rhetoric and policy reality is not unique to Latin America. For example, although some US states regulate their cannabis markets, the US still pushes for militarised responses to drug control. Similarly, although the US advocates for alternatives to incarceration internationally, the number of people incarcerated on drug offenses in the US remains high. Although the death penalty is supposedly a red line for European Union (EU) diplomats, countries that implement capital punishment for drug-related crimes continue to enjoy EU funding.

The gap between rhetoric and reality is sustained by several factors, which reflect the complexity of the issues faced by governments in this policy area. Firstly, drug policy reform is not politically attractive and does not generate electoral gains. Secondly, powerful actors who want to make a distinction between a virtuous "us" and criminal "them" can benefit from the current state of affairs. Unless those profiting from the status quo feel the need for change, prospects for policy reform will remain low. Finally, the nature of public debate on drug trafficking in Latin America tends to privilege repressive policy responses.

Although rhetorical leadership in the international arena is important, it is far from enough. Domestic policy changes may have multiplier effects and ultimately drive global policy reforms. This is evidenced by the dynamics that motivated the 2016 UNGASS: growing violence in the main theatres of the 'war on drugs' and widespread policy experimentation at country-level, such as marijuana regularisation in Uruguay and some US states. Advocacy work, in Latin America and elsewhere, should focus on closing the gap between rhetoric and reality by ensuring that political leaders are held accountable.

THE OLD IS DYING, BUT THE NEW IS YET TO BE BORN

The decades old drug policy consensus is breaking down and it is becoming increasingly difficult to find common positions.

The US is not unalloyed champion of the 'war on drugs' it once was. Other countries, however, such as Russia, have doubled down on their commitment to the prohibitionist norm. In spite of growing differences of opinion between member states and pockets of transformative change at the local level, the international legal framework remains resilient to change. The challenge remains to articulate a concrete policy framework which places human rights at the centre of drug policy. Looking towards 2019, civil society should harness the momentum of 2016, reaching out to unorthodox allies if possible, to push for further reform at the international level.

Recommendations:

- There is a need for closer collaboration between the UN drug control regime and other UN institutions, particularly in the areas of health, human rights, and development.
- The pledges made at UNGASS should be developed into actionable policy proposals with due consideration given to the need for budget reallocations towards harm reduction programs, policies aimed at reducing the socio-economic drivers of exclusion, and drug policies privileging human rights.
- A detailed mapping of country positions can help formulate advocacy strategies in support of progressive global drug policy and effective coalition-building. This should include tracking and analysing the evolution of alliances and positions in this area.
- There is a pressing need for more fine-grained research on the informal power networks that control the drug economy, in order to acquire a better understanding of drug supply chains and develop more effective policies aimed at the reduction of violence and disarticulation of criminal networks.



Burning of a coca laboratory in Colombia. Source: "[Policía Nacional de los colombianos](#)" (CC BY-SA 2.0) by [Policía Nacional de los colombianos](#).

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