UNAIDS leadership at the 2016 UNGASS on drug policy, and beyond

**Context**

The linkages between the criminalization of drug possession for personal use, stigma and discrimination against people who use drugs, and HIV transmission are well known to the UNAIDS Reference Group on HIV and Human Rights, as is the frequent exclusion of people who use drugs and evidence-based programs from the HIV response. An issue paper prepared for the 15th meeting of the Reference Group (in December 2013) surveyed a range of human rights concerns related to drug policy and HIV, emphasizing that “ineffective drug policies are a major impediment to the success of global efforts to rein in HIV.” As UNAIDS galvanizes energy and resources toward the goal of “ending AIDS as a public health threat by 2030,” the Reference Group can play a useful role in assisting in that effort, which will require not only protecting and promoting the human rights of people who use drugs (including improving access to health interventions), but also addressing larger questions of the drug policy environment, which can either fuel the HIV epidemic or can enable effective responses.

**UNGASS 2016: a crucial opportunity**

Much has changed in the drug policy realm since the 1998 UNGASS on the theme “A drug free world — we can do it,” which notably completely neglected HIV. The body of scientific evidence regarding effective drug dependence treatment and prevention of blood-borne infections such as HIV and HCV is extensive and continues to grow. In addition, several European and Latin American countries have moved towards decriminalizing individual-level drug offenses and providing affordable, accessible harm reduction services, and the West African Commission on Drugs released a ground-breaking report earlier this year calling for more human-rights friendly drug laws and policies. This complements earlier recommendations for substantial reforms to global and domestic drug policy issued by the Latin American Commission on Drugs and Democracy (2009), the Global Commission on Drug Policy (four reports since the initial report in 2011, including reports in 2012 and 2013 on how the “war on drugs” is fuelling the HIV and HCV epidemics, respectively), and the Global Commission on HIV and the Law (2012). There is increasing recognition that the “drug-free” aspiration, punitive enforcement mechanisms, and current international structure are more harmful than helpful in terms of both human rights and public health. As such, the 2016 Special Session of the United National General Assembly on the World Drug

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Problem (UNGASS)\(^2\) comes at a time when it seems possible to make some significant headway toward re-aligning the global approach to drug policy.

The official preparatory activities for the 2016 UNGASS got underway with the High-Level Segment on Drugs and 57\(^{th}\) session of the Commission on Narcotic Drugs (CND) in March 2014. The resulting Joint Ministerial Statement\(^3\) and UNGASS resolution\(^4\) set the stage for the UNGASS and preparations through to 2016. Modalities for how the UNGASS will unfold are under active debate among UN Member States via the CND. Various civil society groups and international agencies have also begun preparations, and are actively engaged in attempting to ensure the process and its outcomes will reflect evidence, public health concerns and human rights.\(^5\)

As noted in the Reference Group’s issue paper on human rights and drug policy in the run-up to the 2016 UNGASS on drugs:

It would be a terrible failure for the global HIV response as well as for drug policy reform if the 2016 UNGASS fails to address the link between drug policy and HIV and fails to recognize the harms to human rights of people with HIV and people who use drugs in the current regime. UNAIDS should do everything possible to ensure that HIV and human rights concerns are adequately reflected in both the debate and the official declaration of the UNGASS. It should also do everything possible to ensure the involvement of civil society from the HIV and human rights sectors in the UNGASS debates and preparatory processes. It would be useful for UNAIDS in advance of the UNGASS to articulate, in a user-friendly was, some clear positions that embody the evidence of decades of HIV-related harms inflicted by repressive drug policy and to seek support of UNAIDS Co-sponsors so that a strong voice for rights-friendly global drug policy can be part of the debate.\(^6\)

In this spirit, the Reference Group will seize the opportunity of its 16\(^{th}\) Meeting to formulate key messaging and concrete actions to recommend to the UNAIDS Executive Director and Secretariat in order to ensure that UNGASS produces evidence-informed, human rights-based results which both guarantee the rights of people who use drugs and propel us towards dramatic reductions in HIV transmission and HIV-related deaths amongst people who use drugs.

**Potential key messages and recommendations**

1. **The planning process:** Civil society organizations and UNAIDS must be included in the preparations for the UNGASS with the objective of designing a process, format and outcome document that would encourage productive dialogue to achieve in good faith a well-reasoned set of outcomes.

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\(^5\) See for example the International Drug Policy Coalition (IDPC), http://idpc.net/policy-advocacy/the-un-general-assembly-special-session-on-drugs-ungass-2016 and the Vienne NGO Committee on Drugs http://www.vngoc.org/.

\(^6\) Supra note 1, p. 7.
2. **Taking a revolutionary approach:** The UNGASS process must acknowledge that the existing international drug policy framework, and the treaties supporting it, must be critically re-examined. Rather than continuing with a “more of the same” approach to drug policy, the UNGASS offers an opportunities for an open-ended discussion in which there is space to debate the larger underlying question of whether different objectives and different norms in a legal framework need to be established.

3. **An evidence-informed dialogue:** The deliberations must be informed by the best available evidence, independent of political interventions by Member States. The role of scientific experts in providing background documentation (e.g., scientific consensus papers on the key topics) must be formalized.

4. **Inclusive participation:** Throughout the UNGASS, the participation of diverse participants should be encouraged and facilitated. In the opening, plenary debates, workshops and other session, people who use drugs, youth, and civil society organizations from around the world must be able to engage actively and meaningfully.

5. **The outcome document:** The final outcome document of this significant event cannot be drafted in advance of the event, without benefit of the debate and workshops, nor can it reflect a lowest common denominator of political agreement amongst governments. It must focus on action plans to address tensions and advance the response. Moreover, several critical human rights messages must be included in the outcome document, including:

   o Drug dependence and problematic substance use are health issues first and foremost.

   o Imprisoning people who use drugs exacerbates HIV transmission, HIV-related illness, co-infections and violence. The mass incarceration of minor, non-violent offenders has devastating consequences (individual and societal).

   o The criminalization of drug use and minor possession is connected to HIV risk.

   o There is not a blanket obligation under the international drug control treaties for States to criminalize possession of small amounts of drugs for personal consumption. States in fact have flexibility in this regard, including in light of the constitutional principles of their own domestic law. Given the well documented harms of a strictly prohibitionist approach, States are in fact encouraged to explore models of regulation, depenalization and decriminalization of drugs for personal consumption to identify policy approaches that are more supportive of human rights and of individual and public health.

   o An effective and evidence-informed response is required to curtail the rapid spread of HIV among people who use drugs, but also to prevent onward transmission to other populations (including regular sexual partners...
and sex workers, and mother-to-child transmission) that may significantly expand the reach of the epidemic. To curtail the rapid spread of HIV among people who use drugs and also to prevent onward transmission to other populations, it is essential to implement a comprehensive package of nine interventions. This package consists of:

- Needle and syringe programmes;
- Opioid substitution therapy and other drug dependence treatment;
- HIV testing and counselling;
- Antiretroviral therapy;
- Prevention and treatment of sexually transmitted infections;
- Condom distribution programmes for people who inject drugs and their sexual partners;
- Targeted information, education and communication for people who inject drugs and their sexual partners;
- Vaccination, diagnosis and treatment of viral hepatitis; and
- Prevention, diagnosis and treatment of tuberculosis.

No single intervention will prevent or reverse HIV epidemics. The greatest impact will be achieved if the nine interventions are implemented as a package. Such interventions must be implemented in prisons as well.

- The death penalty is never an appropriate punishment for drug-related offenses.
- Compulsory drug detention centres are ineffective with respect to drug addiction treatment and are in violation of international human rights standards. All compulsory drug detention centres should be closed without delay.
- Countries are obliged to ensure the availability of narcotic drugs for pain treatment. Overzealous drug-control policies must not impede access to pain medications for patients in need. Morphine is a safe and inexpensive drug that is, according to WHO, absolutely necessary for the treatment of severe pain and therefore must be available within the healthcare system to those who need it.

6. **Development of a new system-wide drug policy mechanism:** The Secretary-General should pursue a new system-wide drug policy mechanism that puts health, economic development, human development and human rights on part with drug law enforcement.

7. **Common United Nations position on drug policy:** In the lead up to the 2016 UNGASS, UNAIDS and its co-sponsors should work towards the adoption of a common UN position with respect to drug policy, based on the following principles:
- People who are dependent on drugs should be subject to public health, not criminal measures;
- All harm reduction measures should be legal and available;
- Possession for personal use should not be criminalized; and
- Drug use is a human rights issue, not just a health issue. The human rights of people who use drugs must be respected and promoted.

**Key dates**

**CND in March 2015:** UNAIDS should be actively engaged to press for the case for HIV prevention and treatment for people who use drugs, and necessary reforms to the broader policy environment so as to make this possible.

**CND in March 2016:** Final opportunity before the UNGASS to make the case.

**High Level Meeting on HIV in 2016:** UNAIDS must ensure that in the preparation for the HLM, issues of drug policy, harm reduction and the rights of people who use drugs are an essential part of the discussion and included in the outcome document.