

“INTERNATIONAL DIALOGUE ON REVIEW OF DRUG POLICIES, 2017-2019”

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The International Dialogue, informal and confidential, held in Santa Marta in December 2016 brought together Government officials from ten of countries most active and determined to promote a change in drug policies, seeking to review and redirect their policies towards a people-centered approach that fully respects human rights and public health, while also attending to the changing and complex reality that characterizes the topic. The Dialogue counted on the auspices, technical support, and active participation of NGOs specialized in the subject.

The Santa Marta Dialogue focused on three main themes:

- An assessment of the present and future of drug policies;
- An evaluation of the UNGASS preparatory process, its outcomes, and the post UNGASS 2016 stage; and
- The ways these conversations can be continued and expanded upon by the participants to promote the global and regional debate between 2017 and 2019.

I. **The assessment of the present and future of drug policies** contrasted global goals with national realities and highlighted significant trends, that include, among others, the following:

- The international consensus on drug policies is fractured: Two major opposing views coexist on how to understand the drug problem, on how realistic and timely the goals set out in the Political Declaration and Plan of Action of 2009 are, if the goals set out in 2009 aggravate rather than resolve the situation, and if alternatives exist.
- In the UNGASS preparatory process there was no systematic review of the Political Declaration and Plan of Action of 2009, which was one of the main purposes of its convening. This evaluation is still required, in particular the goals outlined by the document, based on indicators and evidence.
- The UNGASS 2016 document negotiated in the Commission on Narcotic Drugs and approved by the General Assembly, despite the advances, is not in tune with the daily reality that is lived in the streets, in the countries, where postulates such as “human rights approach” are in contradiction with mass incarceration, extrajudicial executions, and the death penalty.
- Other contradictions present in the current reality were not even discussed or mentioned in the Outcome Document. Crop eradication strategies contradict the

implementation of the United Nations Sustainable Development Goals, the criminalization of traditional and religious uses of substances clashes with human rights, and recreational cannabis clashes with the Drug Conventions.

- Those who defend the current policy continue to impose their views, and their efforts are evident at regional and trans-regional level, delaying the needed debate over the defects of the control regime and how it might be modernized. Meanwhile, these policies continue to have negative effects in numerous countries.
- However, those who demonstrate that the so-called “war on drugs” has failed have increased the pressure to adopt alternatives to remedy the harm caused by such policies, including at the institutional and social levels, particularly with regard to the most vulnerable sectors.
- The processes of change have multiplied. In particular, several countries in the Americas have chosen to manage the different dimensions of the problem and the impacts of current policies in different ways. The alternative policies and regulations adopted will require new internal processes that will be difficult to create and once they are created they will require international support. Currently they have not been considered in multilateral debate. In fact, UNGASS 2016 circumvented this debate.
- Notwithstanding these limitations, the ongoing changes that are happening open spaces for greater change in the Western Hemisphere and in Europe. Some thirty jurisdictions have decriminalized possession—and in some cases even cultivation—of drugs for personal use. Many more have undertaken health reforms by introducing harm reduction programs alongside their prevention and treatment services.
- The formation of a large regulated market is under way in one-fifth of the United States and in Canada. The Uruguayan and Jamaican processes, the decisions in the Mexican Senate and the Colombian Congress, the local measures adopted in Chile, as well as the debate in Argentina, Brazil and Costa Rica, are signs of significant advances in the medicinal and recreational use of cannabis.
- Simultaneously, in the midst of advances and setbacks, other changes are evident. In countries such as Bolivia and Colombia, reforms are under way in the management of crops for illegal markets. In Colombia the process has received a boost under the Peace Accord, including the creation of territorial peace and negotiations with farmers producing illicit crops. These advances are paired with resolution of agrarian problems and a recognition of the need for an integral presence of the State in these areas.

- More disappointing, on the other hand, is the lack of international progress in the debate regarding the regulation of coca and poppy whose illegal markets cause very significant socioeconomic problems.
- In the same vein, in terms of criminal justice policy, the discussions and debate that have taken place in the Americas regarding excess criminalization, the humanitarian crisis in prisons and the importance of alternatives to imprisonment have yet to result in concrete legal and practical reforms, with the exception of some isolated cases.
- Drug policy is not a priority on the agenda of most countries. Only a small number of countries in the Americas do governments see it as an important issue.
- The United States has developed contradictory processes. On the same day of the presidential election in November 2016, four states, including California, voted in favor of initiatives to regulate “recreational” cannabis markets; now one in five U.S. residents lives in a jurisdiction where cannabis regulation has been approved.
- For its part, the U.S. Congress decided to form an independent Commission to evaluate the hemispheric drug policy. Before leaving office, former President Obama named the Executive Branch’s two delegates to the Commission. However, the work of the commission will depend on the perspectives that eight additional delegates bring to the discussion—whose appointment is in the hands of Congress—and the respective budget allocation.
- There is concern and uncertainty with regard to the change of administration in the United States, as the new administration may try to reverse state regulatory systems for cannabis or increase arrests and incarceration for drug offenses, especially by targetting the most vulnerable sectors of society.
- There are also risks of setbacks in the European Union, whose countries have implemented many different national policies and generally have preferred a flexible application of the drug conventions and implementation of harm reduction policies. At present, drug policy has taken a back seat to urgent issues such as Syria, Brexit, and migration.
- In Latin America and the Caribbean, contradictory national processes have multiplied, which in some cases has been accompanied by strong internal polarization and conservative policies, as well as a decrease in debate due to tensions within the various groups striving for regional concertation, cooperation, and integration.

- Thus, the current political processes in the United States, and in some European countries and in Latin America and the Caribbean, make the current context of reflection and debate on drug policy more adverse than that which accompanied the preparation and implementation of UNGASS 2016. Such processes fill the international scene with uncertainty, and could marginalize the debate in the United Nations, push reforms backwards, and create pressure for punitive or criminalizing positions.
- The drug control system created in the second half of the 20th century was constructed with a top-down approach, according to what the United States was interested in at that time. However, such policies are now facing pressure from the bottom up, encouraging changes—particularly those relating to cannabis—that have been difficult to reverse. This gives rise to opportunities to deepen the debate on drug policies. There are also certain changes in language stemming from international organizations and there is some influence in other thematic areas that allow a variety of tools to be used to advance changes to drug policy.

II. **As for UNGASS 2016**, an assessment has depended on the timing of its development. The preparatory process generated high expectations because the debate reached a wider range than at previous sessions on the subject, linking both United Nations headquarters and agencies and networks of social, academic and non-governmental organizations.

The UNGASS Outcome Document, however, did not recognize the failure of drug policy and its devastating consequences. Some messages issued by the Presidents who were present at UNGASS and the participants in the parallel round tables that deepened the discussion and referred to these failures. It was also not possible to define elements of the political-diplomatic process for 2019 at UNGASS.

In addition, inputs from the preparatory process, including the amplification of the concept of harm reduction and indicators for policy evaluation, were ignored.

Civil society was very well organized and the Civil Society Task Force represented diverse points of view, and was able to organize several forums with in-depth debates on key issues. However, the participation of civil society in the preparatory process and the UNGASS itself was limited, which generated a strong reaction from 187 social organizations that signed the declaration “Diplomacy or Denialism” in which they pointed out that the official process was not inclusive or transparent. A similar trend was evident with regard to the involvement of other UN agencies. There were very important inputs presented by UNDP, UN Women, UN Office of the High Commissioner on Human Rights, among others, which were not recognized in the discussion of the final document.

However, the document approved by the General Assembly on April 19, 2016, makes it necessary to qualify this evaluation. The text of the Outcome Document maintains bureaucratic inertia and is more political-diplomatic than technical. But it also includes several advances. The document contains some changes in language that modify some

terms of reference and accept new realities or challenges. It recognizes the possibility of reshaping national or subnational policies, although this flexibility also leaves room for governments in favor of current policies, including the most repressive policies. The document also allows for ambiguity that permits the coexistence of competing policy options, such as the cannabis policies in Colorado and California, on the one hand, and the extrajudicial executions in the Philippines on the other hand, or the persistence of the death penalty for drug offenses.

Above all, the document expands on the three pillars of the Political Declaration and Plan of Action of 2009—supply and demand reduction plus international cooperation. Operational recommendations provided in the document were based on seven pillars: 1) Reduction of demand and other health-related issues; 2) Availability of substances for medical purposes; 3) Supply reduction; 4) Drugs and Human Rights; 5) A changing reality; 6) International cooperation and 7) Alternative development and socio-economic issues (in addition to an important reference to the Sustainable Development Goals).

These seven themes should become the new pillars of the international debate—emerging in the 2019 assessment—and should be the basis for developing new indicators for policy evaluation.

The UNGASS Outcome Document gathers some of the contributions of previous processes of reflection such as those advanced by the Global Commission on Drug Policy as well as by organizations such as the OAS, CARICOM, UNASUR and the Community of Latin American and Caribbean States (CELAC).

Likewise, the document includes part of the efforts of the informal preparatory dialogue, which brought together nearly 30 like-minded countries in Cartagena, Colombia, in November 2015. The Cartagena Dialogue Group positioned its proposals to promote an informed debate on new realities and approaches to drug policy, which is inclusive of different sectors of society, especially the most vulnerable.

It should be recognized, however, that there were difficulties in the Cartagena Group to coordinate and advance a joint strategy, as in some cases there were changing national priorities, and in others there was a lack of coherence in the actions of some of the Missions. This lack of coordination was also due to differences of opinion over which “red lines” to defend.

Despite these difficulties, the Cartagena Dialogue Group managed to articulate reflections and initiatives from governments, academics and civil society. These and other initiatives made it possible to link various organizations to the preparation of the UNGASS, and not only in the areas of reflection/action on drug policy, but also in many of those devoted to Human Rights, gender, farming, development, and environmental issues. In the UNGASS assessment there are many lessons learned, pending issues, and areas for advancement, which will be put into action when the goals of the Political Declaration and the Plan of Action expire.

A central conclusion of this segment of the Santa Marta meeting was to recognize the UNGASS Outcome Document as the best consensus that could have been achieved at the time and, consequently, the participants in Santa Marta believe that the evaluation of the Political Declaration and the Plan of Action of 2009 must be undertaken in light of the UNGASS document.

- III. With regard to the **route to be followed** to promote the global and regional debate for 2017-2019, the analysis focused on the aims and strategies, procedures and methodologies, and mechanisms of joint action.

With regard to goals, the Dialogue focused on a double examination. On the one hand, we analyzed the central positions and proposals that would allow us to escape from self-imposed limits in the conceptualization of desirable outcomes, as well as the “agreed language” and the consensus trap in the multilateral organizations that narrow the political dialogue and limit decision-making on new approaches or necessary changes. On the other hand, we examined possible objectives that allow a reasonable reform scenario to be constructed, taking into account constraints at the national level and realistic goals for the global climate. We also recognize the importance of not overloading the United Nations, whose limited capacity for action and the extent of the members’ divergences make the reform process slow, especially now, in the midst of international uncertainty and just as the negotiations for UNGASS 2016 have concluded.

As a result, **questions such as the following** arise to help to define **common purposes**:

- Promoting “a society free of drug abuse”: Is it simply an aspirational statement or is it still the cornerstone of current policy? How do we move towards achievable goals based on the advances of UNGASS 2016 and the newly opened windows for change created by debates and experiments in progress?
- Is the purpose of pushing the boundaries of the discussion towards new consensus in 2019 feasible, or is it better to translate progress now into concrete operational efforts?
- How do we develop new indicators that reflect the 7 themes of the UNGASS Outcome Document and measure the impact of policies with regard to the well-being of affected communities?
- Is it possible to request a revision of substance scheduling, in an effort to update the medical and scientific uses that corresponds to the evolution of medicine and science? Additionally, is it possible to point out that the principle of flexibility is limited by respect and protection of Human Rights and the basic principles of international law with regard to a good faith interpretation and implementation of international conventions?

- Will the growing process of cannabis regulatory measures make it possible to focus on reclassification and recognition of new regulations?

Among other common goals is to reconceptualize issues such as harm reduction, so that drugs themselves are considered a symptom or effect of other problems that need to be addressed or the challenge of finding indicated suited to the new approaches such as those considered here: people-centered approaches, human rights, health, personal responsibility in the choices that each person adopts; a gender approach not limited to drug use or justice reforms but also applied to rural issues; the ethnic approach, with pending implementation; the territorial approach that considers in particular environmental and border issues.

An additional common objective involves a redefinition of alternative development so that it is not a security strategy, a drug control or law enforcement policy, or limited to the total eradication of crops for illicit markets. Alternative development should also not be a requirement that is imposed on rural farmers as a condition for their eligibility for public services that the State is obliged to provide, particularly in marginalized regions. The objective instead implies the integral presence of the State in rural areas, comprehensive rural reform, respect for different cultures, coordination with sustainable development and with food security programs, access to microcredit, options for deriving alternative income—including the replanting of crops for regulated medicinal and recreational uses—and social participation in local processes.

Keeping the theme of the UN Conventions on Drugs on the agenda pushes the debate forward and helps to make changes possible. Even more so as regulatory progress will continue to advance and compromise the Treaties. A diplomatic effort is necessary to link the countries that are not present in Vienna to the debate and to protect the most vulnerable from those who are powerful in international law.

The more substantial common positions are aimed at defending what has already been achieved and at applying it nationally or locally. The challenge is protecting what has been achieved, and preventing the achievements from being blurred or reduced in scope. Therefore, the joint objectives must be accompanied by **strategies** such as the following:

- There is a need to promote coherence in the United Nations system, among other means, by encouraging the active participation of all UN specialized agencies in the debate towards 2019, without overburdening them with tasks and convenings; aligning drug policies with sustainable development goals, as well as the development of new indicators, which is a task that requires close collaboration with the Statistical Commission.
- It is important to consider the potential benefits of having a Special Advisor to the Secretary-General or a Panel of High-Level Advisors to develop operational

recommendations to help improve the coherence of the UN system in dealing with the drugs issue.

- It is required that the issue of drugs not only be dealt with by specialized entities, but also to other forums and international organizations dedicated to issues that intersect with the drug problem.
- It is also necessary to deepen the discussion in the intersessional meetings of the Commission on Narcotic Drugs and to defend the advances of UNGASS 2016, working towards its implementation, and converting these advances into reference points for all UN agency reports on the topic, as well as statements from civil society, and regional organizations such as UNASUR, CELAC and its meetings with the European Union, and the COPOLAD programme.
- The OAS could become the first regional organization to follow up on the implementation of the operational recommendations agreed upon at UNGASS and bring its concrete experience to the relevant UN agencies, especially now that CICAD is presided over by a Caribbean island country absent from the discussions in Vienna.
- It is necessary to achieve national coherence by articulating different types of actions: applying UNGASS progress to public policies, articulating the institutional framework and specifying national guidelines for the seven pillars of the document, and using their respective indicators in internal and international evaluations and reports; expanding programs at the intermediate levels of government established by the president or specialized drug agencies, while maintaining coordination with civil society; addressing with these new approaches other dimensions of drug policy linked to security, crime, money laundering, policies that rely on the intervention of security forces, and rebalancing expenditures with those in health, education, and development; achieving coordinated participation of various UN agencies not only in emergency situations but also on crucial issues involving the comprehensive readjustment of drug policy; not to accept cooperation, for example, judicial cooperation, with countries that violate human rights in drug policies.
- The road to 2019 also requires specifying procedures and methodologies for short-medium- and long-term work. Hence the importance of examining whether it is possible to think about the negotiation of a new Political Declaration and Plan of Action or, rather, the adoption of a short and basic document that, together with tables for thematic debates, should help to deepen the progress achieved in UNGASS 2016 and the conceptualizations necessary for the redefinition of goals and indicators.
- In any case, even if the desired outcome for 2019 is not clear, under no circumstances should an endorsement be made of the Political Declaration and Action Plan of 2009 to extend the goals and objectives for a further decade, as some pro status quo countries would hope to do.

- In collective action it is necessary not to limit oneself to the minimum due to pressure in favor of an ambiguous consensus; to generate openness to negotiation on some issues based on evidence-based discussion, while not ignoring reality; to resist negative policies, where appropriate, on crucial issues that cross a red line and lead to loss of coherence, legitimacy, and credibility.
- Joint actions are crucial now when international uncertainty prevails and there are pressures—such as those arising in the discussion of the Omnibus resolution—to disfigure or reverse the achievements of UNGASS 2016.
- It is necessary to be aware of the quick timetable for the multilateral process towards 2019, and the urgent need for a multifaceted approach, on the one hand to new UN Secretary-General, an expert on the subject due to policies promoted in his country and in the European Union; and, on the other hand, to the representatives of Norway who took over the Presidency of the Commission on Narcotic Drugs. In both cases, as in GRULAC, it is a question of proposing a roadmap that uses the seven pillars of UNGASS to deepen the themes at debate tables and as a basis for the review of the application of drug policies.

In order to develop objectives, strategies, methodologies and joint actions towards 2019, it is necessary to have a **road map** that marks the timing and scenarios in the different UN agencies and in other international and regional organizations. To this end, it is essential to strengthen and expand the Group that met in the Santa Marta Dialogue, which transcended the general debate, frankly examined diplomatic-technical-political differences among its members, derived from different national emphases and priorities, and at the same time defined affinities, created common positions and drew up **joint actions** such as those set out below:

- a) To maintain a Dialogue not sporadically but permanently, in a face-to-face and virtual capacity; maintain communication and constant coordination in all the headquarters of Agencies and Specialized Organisms of the United Nations.
- b) Deploy a constant effort of observation/reflection, prudence/patience, review gaps and weaknesses, prepare to influence as a block, fortify alliances, defend local processes and the progress of UNGASS Outcome Document. This will be helped by planning and assumption of the Presidencies and Vice-Presidencies of Organisms from which to promote the debate towards 2019, in addition to supporting technical exchanges between countries that have undertaken changes in drug policy and the effort to ensure that regulatory advances are not sources of conflict, but are solutions.
- c) Improve the articulation of the Group and provide information to those who could not attend (Portugal and Ghana), to convincingly argue for Canada to be part of this effort, and to build bridges between regions and sectors.

- d) Approach possible allies that can be found even in countries that have defended the status quo, as there sometimes are nuances between who speaks and who gives the instructions and other members of a governments delegation.

Conclusions and Roadmap

After taking stock of the UNGASS process, including shortcomings as well as achievements, and looking forward to the 2019 review of the 2009 Political Declaration and Action Plan, five key “action points” were developed:

- **The 7 Pillars¹:** The 7 pillars of the UNGASS Outcome Document should now be the basis for any future discussion, evaluation, political declaration or planning with regard to international drug control. “Not Taking one step back with UNGASS (Ni un paso atrás con UNGASS)” should be a universal “red line.” Therefore, even if the desired outcome for 2019 is not clear yet, it is necessary that the goals and targets of the Political Declaration and Plan of Action of 2009 are not extended for another decade, as pro status quo countries would intend.
- **The importance of national-level reforms/coordination between like-minded countries:** A repeated theme of the discussions was that it is time to move beyond rhetoric to action. The impact of reforms carried out at the national level between now and 2019 are of fundamental importance for building an evidence base for reforms. On a related note, coordination should be strenghtend between like-minded countries on issues of mutual concern. In addition to bilateral exchanges, working groups could be set up around specific issue areas, such as cannabis regulation, access to essential medicines, human rights-centered drug policies, etc. We can also seek to strengthen coordination in like-minded settings, in and outside of Vienna.
- **New metrics:** One of the greatest failures of the UNGASS Outcome Document was the avoidance of carrying out any signficiant evaluation of the impact of current international drug control policy. Going forward, new metrics or indicators must be developed—guided by the 7 pillars and linked to the SDGs—in order to carry out such evaluation and to monitor the progress of the UNGASS Outcome Document. Such indicators should help guide people-centered drug policies, i.e., policies that promote the wellbeing of affected communities. Various iniatives to develop new indicators are underway, including an effort led by the Social Science Research Council (SSRC) in New York to be launched in January 2017. We should ensure that the results of these efforts are channeled into the meetings of the CND and the 2019 review.
- **System-wide coherence:** The UNGASS marked a significant advance in involving other UN agencies—including UNDP, UN Women, WHO and the Office of the High Commissioner on Human Rights, among others—in the international drug policy

¹ 1) Demand reduction, 2) Availability of and access to controlled substances, 3) Supply reduction, 4) Drugs and human rights, 5) Evolving reality, 6) International Cooperation and 7) Alternative Development.

debate. Our challenge is to ensure that relevant UN agencies remain engaged—and expand their engagement—on drug policy issues. The 2030 Agenda for Sustainable Development provides an important framework for integrating drug policy into broader UN debates, while the International Guidelines on Human Rights and Drug Policy being developed could also be used as a means of continued engagement with UN human rights bodies. The dialogue also highlighted the importance of work in Geneva and to enhance coordination of “like-minded” countries there through the core groups on health and human rights. Countries can also seek to work with the OHCHR at the national level.

- **“We are Realists, and we ask for the impossible” (“Seamos realistas, pedimos lo imposible”)**: Another repeated theme in the two days of discussions was the need to continue pushing the envelope on the issues under discussion. This was also referred to as “moving the goalpost.” This includes exploring options for challenging the treaty system on cannabis. While it is not yet clear if it would be feasible or desirable to draft a new UN political declaration and action plan, a short document reaffirming the 7 UNGASS commitments might be a possible way forward. Crucial to any future action will be to maintain a core group of countries that agrees on basic principles, or “red lines,” with regard to human rights, health, drug policy, and reforms.

With these five key “action points” in mind, some **concrete next steps** that were discussed include:

- Sending a letter and requesting a meeting with the Secretary-General of the United Nations, regarding the appointment of a “Special Advisor” and other measures to promote system-wide coherence.
- Ensure that the results of this informal drug policy dialogue are “socialized” with country representatives in New York, Geneva, Vienna and in their respective capitals. Take advantage of opportunities for meetings with the countries involved in this group.
- Following the model of the core groups in Geneva, create core groups focused on drug policy, health, and human rights in Vienna. (Also ensure that the Geneva groups include all relevant like-minded countries.)
- CND 2017: Encourage the Chair (Norway) to invite representatives of other UN agencies to speak formally at the CND.
- The draft CND Decision that Norway is proposing to present on the process towards 2019 merits the Group’s management vis-à-vis the Permanent Mission of Norway to the UN (Vienna) to promote a broad debate that includes inputs from experts.

- Follow-up to the Omnibus resolution, which is negotiated annually in the Third Committee of the General Assembly, ensuring more active participation and better coordination among the most like-minded countries.
- Ask OHCHR to update its existing study on drug policy and human rights, and to include human rights indicators. Also explore the possibility that drug policy and human rights be chosen as a theme for a high-level General Assembly, ECOSOC or CND session in 2018.
- Engage countries in actively supporting the announced special meeting of WHO's Expert Committee on cannabis as part of WHO's review procedure for psychoactive substances.
- Reach out to the various initiatives engaged in developing new indicators to ensure that the efforts are well coordinated and the outcomes are channeled effectively into UN drug policy debates.
- Make the most of presidencies and other areas of leadership, both at the UN level and regional organizations.
- The occupation of unexplored or non-traditional spaces, as suggested in reference to the HONLEAs and the mechanisms of the human rights system.
- Continued collaboration with civil society; those countries that are able to include representatives of civil society in their official delegations to the CND should do so.