



## Pre-Print – Editorial

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# Discrimination, HIV among People who Use Drugs, and the UNGASS 2016 on the World Drug Problem

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## Introduction

The United Nations General Assembly is holding a special session (UNGASS) in April 2016 on the world drug problem, with an aim to review the implementation of its global plan of action against illicit drugs, and to approve practical recommendations aimed at accelerating the global fight against drugs. The UNGASS is also meant to introduce adapted responses to the HIV epidemic among people who use drugs (PWUD) – injecting and non-injecting.

This UNGASS is the latest in a long series of multilateral conferences which focus on solutions to significantly reduce illicit drug use, combat the high prevalence of HIV and hepatitis among people who inject drugs (PWID), and address health and human rights violations faced by PWUD globally. However, prior UNGASS' have resulted in the adoption of a consensual strategy that is far from representing the needs of PWUD, the imperatives of the health community, or the requirements of international human rights law.

People who inject drugs represent one of the key populations most at risk for HIV and hepatitis infection. Among the 15.9 million (11 million-21.2 million) PWID globally, about 3 million (0.8 million-6.6 million) live with HIV.<sup>1</sup> The HIV prevalence is 28 times higher among PWID than the general population, and only 14% who are living with HIV were on antiretroviral therapy (ART) in 2014.<sup>2</sup> Infection vulnerability and access to services among PWID are directly influenced by the global mechanisms addressing global drug issues.



In this editorial, we 1) report the recent history of the UNGASS; 2) discuss the international response to the global drug issue; 3) share our concern with the persisting discrimination against PWUD that we perceive as the source of the current inadequate drug policies; and 4) call on the upcoming UNGASS to address the HIV epidemic among PWUD as a human rights imperative.

### **Recent History of the UNGASS**

After 3 decades in which the 3 international conventions on drug control have taken place, the last 26 years have seen the adoption of 3 political declarations on drugs all with the similar objective of drug control. In 1990, the first UNGASS on drugs was convened to build a consolidated UN response to drugs, and created the United Nations International Drug Control Programme,<sup>3</sup> the first technical United Nations (UN) agency on drugs, which later became the United Nations Office on Drugs and Crime (UNODC). The second UNGASS, which took place in 1998, adopted a declaration with the clear goal to reach a drug-free world in 10 years<sup>4</sup> and introduced the concepts of drug demand reduction<sup>5</sup> to balance the heavy law enforcement approach based on supply reduction. In 2008, far from having achieved the objectives of the 1998 political declaration, UN member-states renewed their commitment to eliminate or significantly reduce illicit drug use in the world by 2019.<sup>6</sup> The UNGASS 2016 seems to be respectful of the traditions, with a negotiated objective of strengthening the 2009 goal to eliminate or significantly reduce drug abuse by 2019.

In efforts to attain a drug-free world, prior UNGASSs have severely erred by excluding HIV and the significant impact it has on PWUD, in discussions on global drug policy. Specifically, harm reduction for PWID have been largely left out in prior UNGASS, and the negative effects that drug policies stemming from a zero-tolerance approach have on PWUD's ability to access preventative and therapeutic HIV services are not considered.

### **Current International Response**

Following in line with the UNGASS, the Commission on Narcotic Drugs (CND), the UNODC's decision-making body and membership State assembly that is leading on illicit drugs, does not give the need of a large spectrum of prevention, treatment, harm reduction, and care options for PWUD the attention it deserves. Although the CND has adopted the 9 interventions recommended by the UNODC, the World Health Organization (WHO) and the Joint United Nations Program on HIV/AIDS (UNAIDS), including needle-syringe programs (NSP), opioid substitution treatment (OST), HIV testing and counselling (HTC), and ART,<sup>7</sup> the CND's member-states do not discuss the possibility to turn this normative guidance into legally binding interventions to address HIV and other blood-borne diseases, even if the right to health is an obligation under international human rights law<sup>8</sup>.



Existing drug policies around the world demonstrate that countries that implement harm reduction services and proportionality for drug offenses in their criminal justice systems have better results in their responses to HIV among PWID. Switzerland for example, a country that introduced a large set of harm reduction services for PWID – from NSP to heroin-assisted treatment (HAT), has seen HIV infections through drug injection drop from 15% in 1997 to 5% in 2009.<sup>9</sup> In high HIV burden countries such as Russia, China, and the United States, where access to harm reduction services is limited or legally banned, HIV prevalence rates are respectively of 37%, 12% and 16%.<sup>1</sup> The Russian Federation for example, home to 2 million PWID (1.8 million-2.2 million), has a high hepatitis C virus (HCV) prevalence among PWID at an estimated 71%.<sup>10</sup> Despite the evidence, the country has consistently reaffirmed its position against harm reduction, including NSP and OST.<sup>11</sup>

Further, while health sector strategies on HIV<sup>12</sup>, hepatitis, and sexually transmitted infections (STIs) call for the availability of harm reduction services to prevent HIV transmission; while the 2011 political declaration on HIV/AIDS had as a goal to halve HIV transmission by 2015<sup>13</sup> (an objective largely missed with a reduction of HIV transmission of 10% in 2013<sup>14</sup>); and while the UN strategy to end the AIDS epidemic has an objective of 90% of PWID accessing HIV combination prevention services by 2020;<sup>15</sup> the CND still fails to address the HIV epidemic among the PWID with the urgency and importance it deserves.

Despite the CND's regressive approach, there has been a push from the international community and UN agencies to respond to the global drug problem in a way that puts PWUD at the center of global drug policy, with consideration to protecting their health and human rights. This push is further strengthened by the Sustainable Development Goals (SDGs), which include among them ending AIDS and reducing the abuse of licit (alcohol and tobacco) and illicit drugs, and is built on the sustainable development elements of justice and dignity.<sup>16</sup>

The International Association of Providers of AIDS Care (IAPAC), in its 2015 *Guidelines for Optimizing the HIV Care Continuum for Adults and Adolescents*, calls for optimizing the care continuum environment in a way that allows those most at risk for HIV, such as PWUDs and PWIDs, to freely engage in each step of the care continuum from testing and diagnosis to treatment and viral suppression. The IAPAC guidelines specifically urge the global community to decriminalize drug use and possession and to repeal criminalization where it exists,<sup>17</sup> and calls for the end of stigma and discrimination against key populations, including PWID, and particularly in healthcare settings. Similarly, the Global Commission on Drug Policy, a group of 23 world leaders including 8 former Heads of States, a former UN Secretary-General and Nobel Prize laureates, also calls on governments to decriminalize drugs, arguing that the legal environment and the State should indeed protect PWUD and preserve their human rights, taking into account their social and cultural realities.<sup>18</sup>



In the same way, the WHO calls for better drug policies that support harm reduction, decriminalization of drug use and NSP, the legalization of OST, the ban on compulsory treatment, PWUD community empowerment, policies to address discrimination, stigma and violence, and reduced incarceration.<sup>19</sup> The UNAIDS also calls for drug policies with a focus on treating and supporting PWID instead of criminalizing and incarcerating them, as a recommendation to UNGASS negotiators to strengthen the HIV response.<sup>2</sup>

Leading officials concerned with health and human rights have further backed these calls from the international community. Leaders including the Special Rapporteur on the Right to Health, the Special Rapporteur on Torture, and the High Commissioner for Human Rights are aligned in their concerns on the human rights violations related to the international drug control regime; and specifically the violations related to the right to health and the obstacles to the HIV response. The Special Rapporteur on the Right to Health stated that the criminalization of drug users deters them from using or even accessing health services, and facilitates HIV transmission because it impedes access to substitution therapy.<sup>20</sup> The Special Rapporteur on Torture reported that essential controlled medicines, including methadone used for OST and which is part of the WHO's Model List of Essential Medicines, are not available for people who need them in 150 countries, although human rights law requires States to provide them.<sup>21</sup> The High Commissioner for Human Rights has taken a similar position to the special procedures by calling for the decriminalization of drug use and possession, identifying criminalization as a source of discrimination against PWUD and a serious barrier to the right to health and the HIV response.<sup>22</sup>

Although the CND does not explicitly oppose the above mentioned calls to protect the health and human rights of PWUD, it assumes a distinct functionality of drug control from a prohibition-based approach, and leaves issues around HIV among PWUD to be addressed from a separate health and human rights community. As apparent, this approach is immensely flawed since drug control mechanisms directly and negatively influence the HIV epidemic among PWUD.

As it stands, the practical recommendations adopted at UNGASS further reiterate old inadequate solutions to face new challenges related to drug use, and the impact of drug policies on HIV transmission will remain negative in the foreseeable future. The upcoming UNGASS, therefore, is an important and appropriate platform to induce collaboration and develop consensus between the CND and other member-states assemblies and international organizations addressing HIV, and to discuss, honestly and based on evidence, the heavy toll PWUD and those living with HIV pay due to discriminatory drug policies.

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