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'Improving Global Drug Policy: The importance of UNGASS - the contextual setting'
UNODC contribution

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Introduction to UNGASS 2016

The UN General Assembly resolution 67/193 of April 2013 decided 'that the special session of the General Assembly will review the progress in the implementation of the Political Declaration and Plan of Action on International Cooperation towards an Integrated and Balanced Strategy to Counter the World Drug Problem, including an assessment of the achievements and challenges in countering the world drug problem, within the framework of the three international drug control conventions and other relevant United Nations instruments.'

Interesting and eventually telling, is that the Action Plan of the 2009 Political Declaration allocates 10 pages to demand reduction topics, while the remainder 25 pages tell international states what to do on supply reduction and criminal justice. It surely was an improvement to the earlier 1998 and first ever Political Declaration which nevertheless stated that 'demand reduction is an indispensable pillar in the global approach to countering the world drug problem, commit ourselves to introducing into our *national* programmes and strategies the provisions set out in the Declaration on the Guiding Principles of Drug Demand Reduction' (Art. 17). More on this later.

UNGASS 2016 aims thus to assess the 2009 Political Declaration and its Plan of Action, including achievements and challenges. It is not about assessing the 'War on Drugs', which never has been framed, mentioned or asked for, in any of the UN Conventions.

The War on Drugs was a moniker coined by the US media to reflect the drug policy announced by then President Richard Nixon, declaring in 1971 drug addiction as 'public enemy number one' partly in reaction to the sudden increase in heroin use due to the returning Vietnam war veterans. The policy markedly involved adding substantial federal resources to the 'prevention of new addicts, and the rehabilitation of those who are addicted'. Yet that policy part never received the same public attention as did the slogan 'war on drugs', representing everything that can go wrong when law enforcement dominates the debate and the tanks roll in.

The demand for UNGASS 2016 came from specific Latin American countries, Colombia, Guatemala and Mexico, indeed frustrated with an overemphasis on law enforcement and military counter narcotics operations, negating the concept of an Integrated and Balanced Strategy as prescribed by the 2009 Political Declaration.

Therefore UNGA Resolution 67/193 of April 2103 decided to convene a special session of the General Assembly on the world drug problem early 2016, following a high-level review to be conducted by the Commission on Narcotic drugs (CND) in March 2014 (art. 44).

It does this ‘gravely concerned that, despite continuing increased efforts by States, relevant organizations, civil society and non-governmental organizations, the world drug problem continues to constitute *a serious threat to public health and safety and the well-being of humanity*, in particular children and young people and their families, and to the national security and sovereignty of States, and *that it undermines socioeconomic and political stability and sustainable development (...)*’.

The Joint Ministerial Statement, an outcome of the March 2014 High Level Review, reiterates this by recognizing that ‘the world drug problem *undermines sustainable development, political stability and democratic institutions*, including efforts to eradicate poverty, and threatens national security and the rule of law and that drug trafficking and abuse pose *a major threat to the health, dignity and hopes of millions of people and their families and lead to the loss of human lives*’.

This dissatisfaction with the implementation of drug control policies resulted in an ‘UNGASS 2016 momentum’ for a wider and very divergent group of lobby groups most demanding changes in ‘international drug policy’, some also asking for a change in the Conventions themselves, ranging from libertarians advocating legalization, to those wanting space for added policy and operational experiments, and again others seeking a rescheduling of cannabis. All in all the April event is an excellent opportunity to take stock and assess the effectiveness of the current drug policies at the national, regional and international levels.

However, two caveats. First, UNGASS 2016 is and remains foremost an inter-governmental discussion and the three Conventions themselves are not under discussion within the UNGASS 2016 process. It is to be noted that the 2014 Joint Ministerial Declaration welcomes ‘the important role played by civil society, in particular non-governmental organizations, in addressing the world drug problem, and note(s) with appreciation their important contribution to the review process’. To this end, the active participation of civil society within the CND led processes towards UNGASS 2016, as demonstrated during the interactive discussions, has been ground-breaking. Secondly, UNGASS 2016 is a significant ‘bus-stop’ but not the culmination of the decade starting with the 2009 Political Declaration and having its final review set for 2019. It should result in a ‘short, substantive, concise and action-oriented document comprising a set of operational recommendations’ (Resolution 58/8 CND, June 2015).

In conclusion, while UNGASS 2016 certainly will not result in a policy revolution that some had aspired for, it has been instrumental in mobilizing a wide range of voices and opinions in a 3 pronged debate: (1) the formal inter-governmental debate as led by the CND in Vienna; (2) the ‘substantive debate’ as led by academia and practitioners, including civil society; and (3) the ‘public and media debate’ which has witnessed quite some intensive lobbying in ‘the battle for the public opinion’. This paper aims to place UNGASS 2016 in its contextual and historical setting.

Westphalian order causes a historic bias towards supply side

The preamble of the 1961 Single Convention starts with the sentence '*Concerned with the health and welfare of mankind, (...)*' making clear that the international instruments of drug control policy have as their main objective the protection of public health. The purpose of drug control at the international level is to ensure the availability of narcotic drugs for medical and scientific purposes, while affirming that these are too dangerous for recreational use.

However, the overarching perception is that measures of control, punitive action and law enforcement have been overemphasized while the public health principle was neglected. Demand reduction, prevention and treatment, seem to have been long on rhetoric but short on resources. How do we explain this paradox? Why has it been so difficult for States to implement the integrated and balanced approach as laid out in 1998 Guiding Principles of Drug Demand Reduction and, relevant to the UNGASS 2016 debate, the 2009 Political Declaration and Action Plan?

First and foremost, international conventions deal by definition with cross-border issues of mutual interest between sovereign states. The Westphalian system of sovereign states was established in 1648 as part of the Peace of Westphalia, ending the 'Thirty years' War, one of the longest and most destructive conflicts in European history. It is, still today, a dominating principle in international law that each nation state has sovereignty over its territory and domestic affairs, to the exclusion of all external powers, on the principle of non-interference in another country's domestic affairs, and that each state (no matter how large or small) is equal in international law. It is notable that it is not the individual but the collective embodied in the State standing central in the Westphalian political order.

International trade among nations is a cross-border issue by definition. Hence, the conventions focused largely on trade and trafficking, while public health or what we now call demand reduction interventions, were left in the domain of the sovereign state – simply because cross-border consequences of the abuse and use of illicit drugs were less perceptible. Demand reduction was seen as a typical task which – in principle – can and should be dealt with either locally or at the national level as the cultural context and root causes for drug dependency may differ from country to country. This is evident up to the 1998 Declaration on the Guiding Principles of Drug Demand Reduction' (Art. 17) which invites member states to commit introducing the provisions set out into their *national* programmes and strategies.

This Westphalian doctrine, putting nation states at the core of international relations, has since been under critique and has witnessed a rapid change over the last decades when sub-state factors have significantly altered the way in which governments can or cannot function. It has and still evolves away from the traditional state-centered approach to a more people-centered approach, backed by international standards and guidelines. Examples are the universal declaration of human rights adopted in 1948, revolutionary in defining individuals as the bearers of inalienable rights and the State as a holder of duties towards the rights bearers. Of more recent vintage, are the new and still much disputed concepts of military action based on the 'responsibility to protect' and 'humanitarian interventions'. It has taken a similar time to include concepts of 'human dignity' within the international discourse on narcotic drugs. A brief overview of this fascinating journey:

The first 'war on drugs' dates from 1839, between exactly your country and the United Kingdom,- the infamous Opium War. Its declared aim was exactly the opposite of the Nixonian war. The first was fought on the altar of free trade and is perhaps better dubbed 'the war to

allow free trade of drugs', while the other refers to a 'war against trafficking in and production of drugs'. The first war forced the Chinese border open for opium imports, which rose from 200 tons in 1800 to 6,500 tons by 1880, most out of then British-India. A gigantic amount – well beyond the annual average estimated global production of opium for each of the years between 2000 to 2010.

In fact, global opium production in 1906/07 was estimated at a whopping 41,600 metric tons, a record never again witnessed and five times more than global illicit opium production a century later. Free trade in opium was won at the cost of the well-being of hundreds of thousands of Chinese people. The devastating impact of large-scale addiction resulted in an outcry not only from the Chinese themselves, but also on moral grounds, from Christian churches, anti-slavery and human rights activists, and left-wing politicians. Even the then less famous Karl Marx had his words to contribute in the New York Daily Tribune, September 1858, the 'flagrant self-contradiction of the Christianity-canting and civilization-mongering British Government' for its pursuit of what Marx called the 'free trade in poison'.

It will take China until after the WWII to regain control on both production and addiction.

To deal with the ensuing opium use problematics in especially China, but also the Philippines, at that moment a colony of the US and facing high levels of addiction, the International Opium Commission was founded exactly 100 years before the Political Declaration and Action Agenda was approved in 2009. In good Westphalian tradition, trade was at the center of the Commission's discussions. It was finally agreed that it was undesirable to import drugs into a country where their use was illegal.

The International Opium Commission laid the groundwork for the first international drug control treaty, the International Opium Convention of The Hague, 1912, where it was considered a '*humanitarian endeavour*' to 'bring about the gradual suppression of the abuse of opium, morphine, and cocaine and also of the drugs prepared or derived from these substances'. No surprise in Westphalian international relations, while the aim was to reduce use and addiction, the focus of the first Convention was export/import of the trade – a cross-border issue. The logic was simple, reduced supply would help cutting down on demand.

The growth of international health norms, complementing the Conventions

As stated earlier, at no time did any of the Conventions stand in the way of public health approaches. These were initially considered of sovereign and domestic nature and simply not considered essentially relevant in the sphere of international relations. International health cooperation began very modestly with the first International Sanitary Conference in Paris, which opened on 23 July 1851. The objective of this conference was to harmonize and reduce to a safe minimum the conflicting and costly maritime quarantine requirements of different European nations. No revelation, a cross border topic. Decades later the next borderless plague of cholera pushed the envelope gradually further and we have to wait until 1948 for the creation of the first global health body, the World Health Organization (WHO).

The State assumed thus, for long, the principal responsibility to look after the well-being of its citizens. What is telling, is that the 1961 Single Convention had one paragraph (art. 38) labelled 'Treatment of drug addicts' which was later expanded to 'Measures against the Abuse of Drugs' through the 1972 Protocol. This change was influenced by the 1971 Convention on Psychotropic Substances that for the first time promoted a '*multidisciplinary approach*' breaking open the

monopoly of trade control that so far had dominated international relations on narcotics control.

In 1987, the next step forward was the adoption of the 'Comprehensive Multidisciplinary Outline' by the International Conference on Drug Abuse and Illicit Trafficking'. Significant among other issues was the agreement 'that Parties may enter into bilateral or multilateral agreements at dealing with illicit demand', possibly one of the first instances where the cross border implications of drug use were recognized in an international instrument.

In 1998 then, international standards were set with the first Political Declaration and the earlier quoted 'Guiding Principles on Drug Demand Reduction'. Art. 4 of the Guiding Principles reads, 'The most effective approach towards the drug problem consists of a *comprehensive, balanced and coordinated approach, encompassing supply control and demand reduction reinforcing each other*, together with the appropriate application of the principle of shared responsibility. There is now a need to intensify our efforts in demand reduction and to provide adequate resources towards that end.' However, the principles are for guidance only and, as Art. 17 clarifies, to be introduced *within the national programmes and strategies of the members states*.

Ten years later, in 2009 the Political Declaration and Plan of Action is assumed to be '*integrated and balanced*' and is broadened to include '*drug related health and social risks*'.

Seen this historical context it is easier to understand why the international drug control instruments, devised ostensibly to combat threats to public health, were for long implemented in a unidimensional fashion with a focus on interrupting interstate trade – or supply. In an era where production, transit and consumption were considered to function in three distinct geographical spheres, demanding for each different interventions, it even made sense.

While the 1912 International Opium Convention of The Hague was focused on cutting supply lines to reduce demand, this approach would be turned around half a century later, with the producing countries insisting that the so called consuming countries cut down on their demand. The theory went that reduced demand for a drug would push down its supply.

In today's epoch of synthetic drugs and hydroponically cultivated cannabis, the distinction between producing and consuming countries has broken down and becomes far more muddled and complex. Producing and transit countries often suffer from the highest addiction figures as demonstrated respectively by Afghanistan, Pakistan and Iran. The contemporary truth has become somewhat more complex as supply does create demand, and demand stimulates supply.

The historic international bias generates a paradox

The Westphalian bias in international relations had an added effect that, according to the international obligations and serving the domestic interests best, the lion's share of international aid was invested in trade or border control and law enforcement. It is easy to explain to a national Parliament why a significant amount of tax revenue was invested in trimming the supply of drugs directed towards its own shores. Up to today, it proves far more difficult to clarify that the same sum has been invested on demand reduction in a faraway destination without immediate obvious benefit for the donor country. Ultimately addiction is a non-contagious ailment not ranked among the WHO's global top priorities and therefore most likely not even listed among the multiple development and health urgencies that recipients of international aid are confronted with.

Uneven relationships between nations and geostrategic interests compounded this even more. What was good for the domestic fight in crime was good enough for other countries needing external aid in the field of counter narcotics.

As mentioned earlier when referring to the 'War on Drugs', the US witnessed in the early 1970s both an upsurge in crime and in addiction. While the federal policy under President Nixon included directing substantial federal resources to the 'prevention of new addicts, and the rehabilitation of those who are addicted', reducing crime became an overarching priority. The draconian Rockefeller Drug Laws, issued in 1973 by then Gov. Nelson A. Rockefeller of NY State, were exemplary. With the aim to drive crime out of its neighborhoods, the state law mandated that conviction for possessing four ounces or more of heroin or cocaine be punished by at least 15 years to life in prison. The 1986 federal Controlled Substances Act followed the same spirit by setting statutory minimum and maximum penalties for possession of 5 grams crack cocaine up to respectively 5 to 10 years jail.

Hence, the initial bias towards supply in international drug policies radiated, in several countries, to harsh and punitive supply reduction at the domestic levels too – this despite the Convention, for instance, allowing alternatives to imprisonment when it comes to drug use. Thus while the Conventions kept public health as their main objective, domestic drug policies became narrowly focused on law enforcement interventions directed towards reducing another societal harm – namely curbing crime, often, yet not exclusively, linked to narcotics.

In parallel a new body of international norms and guidelines, referring to public health, human rights and human dignity, was seen taking shape. Alongside the public rhetoric in favour of health interventions, few European countries were the first to opt for action, within and accompanying the Conventions, testing newer and more humane approaches that are now gradually, becoming part of the mainstream. Concepts of continued care, including opiate substitution therapy (OST) and needle exchange, are now being applied in several countries on different continents.

This was not the work of one day revolution, but instead the product of a still continued evolution. Take the notion of harm reduction which, according to Harm Reduction International, saw the light in the 1980s on the streets of Liverpool ('the Mersey Harm Reduction Model'). It for the first time finds mention in the 1998 Guiding Principles of Drug Demand Reduction,- only not under this label. It will take until the 2001 UN Declaration of Commitment on HIV/AIDS (General Assembly Resolution S-26/2, annex) before it appears under its full name. Approaches to drug demand reduction have expanded and diversified considerably over recent decades. New interventions are still been developed and evaluated, new settings are included in the treatment and prevention networks, and special target populations have gained more attention.

In conclusion, starting from the 1970s we witness an emerging paradox within the application of the Conventions, on one hand several domestic policies opting for harsher criminal justice approaches while simultaneously others, moving in almost diametrically opposed ways, experimenting and creating an emerging body of international health norms with a respect for human dignity at its core.

UNGASS 2016 should be seen as an opportunity to bridge the paradox gap, bringing public health back as the leitmotif of drug control policies and ultimately arriving at a truly balanced and integrated approach.

The needs are pressing. As noted in the 2015 WDR, the fact remains that today more than one out of ten drug users in the world are a problem drug user, a person suffering from use disorders or dependence. But only one out of every six problem drug users has access to treatment. The same WDR points out that law enforcement or supply reduction has its limits. Despite guards, towers and barbed wire, heroin use within prisons is fifteen times higher than among the general population (5% versus 0.35%).

Current state of affairs

The question in everybody's mind during the discussions leading up to UNGASS 2016 is straightforward – have the existing drug policies failed or succeeded in their public health objective? A secondary but eventually more significant question is, how efficient, cost-effective being one element of this, have the operational measures proven to be? As the Colombian Director of Drug Policy of the Ministry of Justice of Colombia stated at the Human Rights Council in Geneva, September this year, 'Drug policies should not be assessed based on their good intentions but on their effectiveness.'

From the outset, let us accept that very diverging opinions exist on what works and what does not. While there are indeed international Conventions in place, the scope and flexibility of this normative structure allows States to develop their own domestic policies either individually, bilaterally or as smaller collectives within the flexible international parameters set out. These varying views are observed not only among governments but equally among the civil society itself, including both lobby groups and practitioners. At the recent September briefing in Vienna by the Civil Society Task Force gearing up towards the special session of the General Assembly in April 2016, the Global Civil Society Survey was presented, illustrating the wide range of opinions while making a plea for progress through compromise.

This applies even for regions where one would assume that cultural and historical traits have more in common. Latin America might not share a common view, but neither does Europe. Caroline Chatwin of the University of Kent remarks in a 2014 Brookings' paper that it is 'consistently difficult for European institutions to engender a harmonized drug policy or to present a united front in global debates about drug policy reform'.

For instance, within the parameters set out by the Conventions, both Sweden and Portugal have developed strong and relatively successful profiles on drug policies but with very different attitudes towards addiction, respectively from abstention-based to tolerance.

To steer an oftentimes vivid public debate, in a constructive direction, evidence has to come into play. If we look at the physical dimensions of the problem (tons of production and numbers of addicts), we can state that humanity has made remarkable measurable progress since the first 'war on drugs', or perhaps better, the 'war in favor of drugs' (the Opium Wars).

Starting with traditional indicators, the multilateral drug control system has largely reduced and then contained the annual prevalence of drug use among the adult population (age 15-64) on around 5% or an average 250 million people. Problem drug use is again a fraction of this, 0.6% of the global adult population or somewhat more than 25 million.

Drug use does not figure among the WHO top 20 leading health risks, in contrast to the legally accepted addictive substances tobacco (rank 6) and alcohol (rank 3). According to WHO, tobacco contributes to globally 12% of all deaths (2004) among adults aged 30 years and older; whereas alcohol accounts for 5.9% of the deaths or 3.3 million. The mortality rate caused by the

use of controlled drugs does not figure within the WHO top ranking, with people dying of illicit drug-related casus estimated on about 200,000 a year – each of these victims obviously one too many.

If we look however at the bigger picture using a wider range of indicators, namely at the impact of drugs on security, development, and human rights – especially acknowledging the ever evolving definitions of these terms– then the assessment is more complex, and not necessarily benign.

As the world evolves, an evolving set of drug policy norms and guidelines

It is by now accepted that traditional indicators prove insufficient to capture the wide ranging impact of drug policies. Perhaps unknown to many, it was UNODC that first, in 2008 introduced the expression of ‘unintended consequences’ that is used so widely in international drug control discourse today. In the 2009 WDR we can read: ‘UNODC has highlighted some negative, obviously unintended effects of drug control, foreshadowing a needed debate about the ways and means to deal with them.’ This debate is today pursued in the UNGASS 2016 context and that by itself is a positive.

As Peter Reuter defined in 2009 in a technical report series from the Rand Corporation, ‘Consequences are effects on social wellbeing that are large enough to be valued by society.’ These consequences can be intended or not, predictable or not, and again beneficial or not. The debate on unintended consequences of drug policies relates to negative implications that were not predictable at the time action was taken, but the results of which should be taken in account by policy makers for future action. These lessons learned are to form part of the evolving body of international norms and guidelines which accompanies the Conventions.

For instance the uncompromising criminal justice approach in the US starting from the early 1970s had direct implications for the criminal justice and penitentiary systems but indirect ones on the well-being of people and communities. David Brooks in his op-ed for the NYT on September 29 writes ‘Back in the 1970s the increase in incarceration did help reduce the crime rate, maybe accounting for a third of the drop. But today’s incarceration levels do little to deter crime while they do much to rip up families, increase racial disparities and destroy lives.’ Leaving aside for a moment if drug offenses are indeed the main cause for the incarceration boom, it is still obvious that the primary focus on criminal justice overran the drive to counter narcotics and with it, the ‘health and welfare of humankind’ as contained in the preamble of the 1961 Single Convention.

Interestingly enough, Brooks adds in his exposé that ‘the drug war is not even close to being the primary driver behind the sharp rise in incarceration. About 90 percent of America’s prisoners are held in state institutions. Only 17 percent of these inmates are in for a drug-related offense, or less than one in five.’

Brooks finds his inspiration in the recent research of John Pfaff published in the Harvard Journal on Legislation (vol. 52, August 2015) titled ‘The War on Drugs and Prison Growth: Limited Importance, Limited legislative Options’. It debunks the narrative that ‘US penal population exploded from around 300,000 to more than 2 million, with drug convictions accounting for a majority of the increase’. Pfaff looked at the prison data beyond the perceived correlation and comes to the conclusion that the explosive prison growth was caused by ‘locking up violent offenders, and a large majority of those admitted to prison never serve time for a drug charge’. All other elements remaining constant, if drug charges were to be taken out of the equation, the

state prison population would have increased 3.7 times between 1980 and 2009 instead of the 4.5 times when drug charges are included.

Nonetheless, Pfaff admits that a reduction of sentences and decriminalization for drug offenses in the US would be sensible, but submits that drug offenders already serve relatively short sentences with a median stay of one year and 'that relatively few people appear to be in prison on marijuana charges, which is the drug most amendable to decriminalization'.

Leaving this interesting discussion aside, the principle stands and only this month, October 6, the spokesperson of UN Secretary-general Ban Ki Moon, 'welcomed' on behalf of his boss, the 'U.S. decision to release some 6,000 federal prisoners to ease overcrowding and provide redress for people who had received disproportionately long sentences for non-violent drug-related offenses.' Depriving someone of liberty should be a last resort, the spokesperson said, adding that the UN SG believed 'consideration needs to be given to alternatives to criminalization and incarceration of people who use drugs, with an increased focus on public health, prevention, treatment and care.' It can be doubted that a UN SG would have made similar statements in the 1970s, illustrating the evolving character and the use of other and wider criteria to define 'justice' within the notion of 'criminal justice'.

What we do witness today is the return of the principle of proportionality of sentencing. This has in turn influenced drug policy. Within the emerging set of international norms, drug disorders are considered a chronic health condition to be addressed by qualified and trained professionals, and not a criminal act. Practice demonstrated that criminalization of drug use has a negative impact, stigmatizing vulnerable problem and further excluding them from the mainstream and away from lifesaving health services. Imprisonment in these cases proves ineffective, contributing to the overcrowding in prisons and exacerbating the transmission of HIV and other diseases.

Another interesting and evolving global debate surrounds the death penalty, bearing a direct impact on the emerging new norms guiding drug policies. This evolutionary debate has not always been a linear one. As an example, only in 1972 the US Supreme Court (*Furman v. Georgia*) had created a de facto moratorium on applying the death penalty until a decision in 1976 (*Gregg v. Georgia*) again reversed this. Another illustration of more recent date is Pakistan, which decided to end a seven year-long moratorium in March 2015, as a direct reaction to the vicious attack on a school in Peshawar. Nonetheless, according to Amnesty International, 139 or over two-thirds of countries in the world have by now abolished the death penalty in law or in practice. Today about an approximate 50 countries do retain capital punishment of which 33 include it for drug trafficking charges.

Also on this topic the UN has become more vocal as phrased by the UNODC Executive Director, Yury Fedotov, on April 2015, 'Under international law, if the death penalty is to be used at all, it should only be imposed for the most serious crimes, namely those involving intentional killing, and only with appropriate safeguards. Drug-related offences generally are not considered to fall under the category of 'most serious crimes.' He encourages every country to join the UN appeal on a moratorium on its use and to eventually abolish this practice.

Again the Conventions do not directly express themselves on what was for long considered an essentially domestic matter. Nonetheless the quasi-judicial body charged with monitoring Government compliance to the three international drug control conventions, the International Narcotics Control Board (INCB), called in March 2015 upon states 'that continue to impose the

death penalty for drug-related offenses to consider abolishing the death penalty for such offenses'. The world evolves and so do the drug policies.

A comprehensive approach demands comprehensive benchmarks

Another remarkable phenomenon within the current debate on 'unintended consequences' is the excessive violence within the implementation of drug control measures and the ensuing justifiable demand to reduce the harm this violence imposes on society. Reasonable no doubt, but in practice it proves a far more complex issue than it sounds, transcending the drug problematics towards a much wider series of issues not least of which are governance and rule of law, development and exclusion, corruption and equitable justice.

An INEGI/UNODC award-winning doctoral thesis in Mexico, September this year, by Javier Osorio, a Yale and Notre Dame student, is provocatively called 'Hobbes on Drugs'. As you will recall, the political philosopher Thomas Hobbes is known for his statement 'The condition of man (...) is a condition of war of everyone against everyone'. To clarify the violence in his country, Osorio promotes the model that the introduction of competitive elections in Mexico disrupted the peaceful configuration that enabled coexistence between corrupt government entities and criminal organizations. It sounds similar to the saying 'the only thing worse than organized crime, is disorganized crime'. From a peaceful Pax Mafiosa, Mexico moved to a confrontational anti-crime policy resulting in a bloody cycle of violence.

Bring in this discussion the papers of Letizia Paoli, an academic lecturing at the University of Leuven, arguing that the intensive cocaine trafficking through the Low Lands inwards to continental Europe witnesses minimal violence and thus causes little harm to both countries, Belgium and the Netherlands. The reason for this is relatively effective governance and rule of law as applied in these countries. The best strategy for criminal groups here is not attracting any attention by stirring up violence.

Linking the papers of Osorio and Paoli, if the options to reduce violence for the societal wellbeing are a Pax Mafiosa or instead a functional governance system, then the choice seems rather logical. Coexistence between corrupt government entities and criminal organizations proves rarely sustainable since it acts are, by definition, abusive, exclusive and corrupt, inhibiting sustainable and equitable development.

Yet what in conflict countries or countries confronted by crisis where government does not have full control? What if resources are insufficient to tackle crime in an integrated manner? Who and on what criteria does one define a prioritization of harm which allows a selective approach towards crime. Paoli makes a sensible plea for a scientific approach instead of a political or populist ranking. However, such objective benchmarking is still in the initial stages of academic discussion.

Moreover, should the old Westphalian concept of the nation state be the structure in which harm is measured, or should instead the principle of international shared responsibility play a bigger role? If universalism plays a role, then the country which experiences little harm still has the responsibility to act when the harm is experienced in the next country.

Take for instance the issue of illicit financial flows (IFFs) as tabled in the Addis Ababa Action Agenda (AAAA) of the Third International Conference on Financing for Development held in July this year. Stolen assets usually figure as crimes in both the destination as well as the recipient

country, even if the former suffers the harm and the latter the benefit, thus allowing for effective cooperation in recovering stolen assets.

In conclusion, the world is undergoing a transformative process and the discussion on how future counter narcotic policies, increasingly comprehensive and multifaceted, must look like is fully influenced by changes in our understanding of how the international system works. Academic work is of significant support to guide this debate and format a new set of norms, guidelines and subsequent benchmarks. Understandably though, as with any moving and infinite target it is hard to capture a definite photo picture. Many outstanding and evolving questions will remain to be debated in the years and decades to come.

'Unintended consequences' or 'new insights'

Significant lessons learned, useful to the UNGASS 2016 debate, are also gathered from practitioners in the field. An example is Afghanistan, showing record opium crops despite a multibillion-dollar counter narcotics investment over the last decade. It is instructive to note that traditional market models of demand and supply find it hard to explain this record jump. There was no measurable increase in demand outside Afghanistan, at least none that was significant enough to explain the steep hikes in cultivation. If anything the overproduction over recent years is now expected to stimulate demand, since, as our forefathers had figured out in 1912 in The Hague, supply is to stimulate demand. In contemporary terms called the 'Coca-Cola effect'.

The reason for the recent jump in cultivation is intrinsically rooted in the political economy of Afghanistan. Unseen financial aid and security investment for well over a decade, since the toppling of the Taleban, pacified the fragmented patronage systems resulting in a de facto Pax Militia. It equally drove up the political transaction prices for official positions within the Government, the main beneficiary of and mode of access to the international largesse. With the 2010 announcement of the international community 'transiting out' of the country and with them the drying up of aid flows, the patronage system, by then addicted to high levels of income, turned to an already thriving illicit economy of opium, mining, logging, arms trafficking, migrant smuggling and human trafficking.

Domestic speculation drove prices up from about USD 85/kg of dry opium to close to USD 300. With this incentive farmers and traders alike boosted record opium cultivation. This speculative boom proved untenable without takers for the surplus opium production on the other side of the borders. First the prices and now also the cultivation itself are witnessing an economic correction. Yet with reduced licit and illicit gains to share, the Afghan Pax Militia is unravelling and predictably first so along the trade and smuggling routes such as in Kunduz, Takhar and Badakshan traditionally the stronghold of the Northern Alliance. Meanwhile a few billion had been spent on traditional counter narcotic activities, scoring few tactical gains but essentially with little strategic improvement to show for.

The international community found itself trapped in a schizophrenic approach, abstractly dividing farmers in opium farmers and others. The legal 'others' received support from traditional providers such as USAID and FAO, while the opium farmers were tackled by specialized drug control entities according to the 'carrot and stick' approach. Agricultural reality in Afghanistan does not fit this abstraction.

Opium in Afghanistan is planted on never more than 5% of the country's total arable land and monoculture is rare. Farmers will concurrently plant legal and illicit crop based on both

‘vulnerability’ and ‘opportunity’. Vulnerability relates to criteria such as poverty, access to markets, provision of basic services, needs of the extended family, and alternative sources of income i.e. a sibling employed by the government. Opportunity in turn connects to elements such as conflict and lawlessness, involvement of the political elite and impunity, corruption and abusive power relations. This convolution was best summarized in the proverb ‘not all poor farmers do cultivate opium, and not all opium farmers are poor’.

Lessons learned are that counter narcotic efforts which are not rooted in the cultural, socio-economic and political context are counterproductive. In turn, mainstreaming counter narcotics without relevant benchmarks and indicators in development and security agendas leaves it invisible and toothless. Practical field experience has demonstrated that development by itself – doing good for its own sake – will not win the field in reducing opium.

No surprise, if the contrary were the case, then there was simply no need to approve a Sustainable Development Goal 16 within the new 2030 Development Agenda, coupling the rule of law with development. Including SDG 16, with its specific benchmarks, is an explicit acknowledgement that development goes beyond tackling ‘vulnerability’. Rule of law, governance, justice, and by extension counter-narcotics are an indivisible part of the new development paradigm. More on this later.

The abstract Dr. Jekyll and Mr. Hyde methods that have proven inept in Afghanistan are still conventional economics today. The IFIs and Finance Ministries continue issuing statistics negating a large chunk of economic reality, the illicit economy, as if the criminal economy in Afghanistan, the DR of Congo or Guinea-Bissau has no bearing on macroeconomic variables such as the trade balance, currency fluctuations, investment, employment or even land titling.

This too proves an evolving situation and since 2014 the EU overhauled its accounting system, requesting its member states to include the economic value of certain criminal sectors in their respective countries’ GDP. The Guardian reported in 2014 that ‘Britain’s economy could be as much as £65bn bigger – almost 5% – when new GDP figures are published in September incorporating items such as prostitution and drug dealing under new statistical rules’.

In conclusion, many of these ‘unintended consequences’ and ‘lessons learned’ can be better classified as ‘new insights’, largely caused by a transformative world. These insights, the facts posed to us in today’s fast evolving world, are composite in nature – demanding multifaceted approaches away from the one-dimensional solutions of the past. Contemporary notions encapsulated in the UNGA Resolution 67/193 of April 2103 such as ‘undermines sustainable development, political stability and democratic institutions, including efforts to eradicate poverty, and threatens national security and the rule of law’ simply were not perceived relevant in 1998, the first ever Political Declaration.

UNGASS 2016, not overturning but contextualizing the Conventions

As stated before, driven by a transformative global agenda, over the last decades a new body of international norms and guidelines, referring to public health, human rights and human dignity, is shaping form complementing the international drug Conventions. Yet this is not the only change we witness today within drug policy. Also the acceptance of comprehensive and multi-layered approaches, having to deal with aspects as divergent as environment, culture, development, security and governance, alter the outlook of drug control interventions. As mentioned above, the ambitious Sustainable Development Agenda 2030 (previously known as

the Post-2015 development agenda), approved at the September Summit in New York, does play a vital role in this context, joining the dots.

At the NY Summit UNSG Ban Ki Moon declared: ‘there can be no peace without development and no development without peace, and that neither can be achieved without full respect for human rights and the rule of law’.

The topic of health figures high among the Sustainable Development Goals (SDGs) and SDG 3.5 makes an explicit reference to the prevention and treatment of substance abuse, including narcotic drug abuse (and harmful use of alcohol). But so does food security under SDG 2 (ending hunger), equitable development under SDG 8 (Promote sustained, inclusive and sustainable economic growth) and environment as a cross-cutting issue.

Important is that the 17 goals, in the words of the Open Working Group, ‘constitute an integrated, indivisible set of global priorities for sustainable development. Targets are defined as aspirational global targets, *with each Government setting its own national targets* guided by the global level of ambition, but taking into account *national* circumstances.’

Carrying great significance for drug control policies and one of the significant breaks with the former Millennium Development Goals, is the recognition within the new agenda that ‘development challenges can no longer be addressed in isolation and in a piecemeal fashion. Many of today’s challenges, such as violence, crime and political crises, have cross-border aspects’, as quoted from the Interactive Dialogue Paper, utilized to negotiate towards the SDGs. The Outcome Document itself reads: ‘Good governance and the rule of law at the national and international levels are essential for sustained, inclusive and equitable economic growth, sustainable development and the eradication of poverty and hunger’.

Correct that the 2000 Millennium Declaration had put forward similar assertions, however the final and counting MDG goals did not hint to the link between development and the rule of law. The SDGs are thus an expression of a better understanding of or insight in the growing complexity of this world.

In counter narcotic terms this implies that both ‘vulnerability’ (i.e. development issues such as poverty, access to markets, access to other sources of financing) and ‘opportunity’ (i.e. governance issues such as lawlessness and impunity, involvement of local elite, corruption) are to be dealt with in sync. Both development aid by itself and criminal justice approaches in isolation, are to fail if not implemented as one integrated counter narcotics effort.

A direct consequence is that advocating the UNDP Human Development Index as the new set of benchmarks to rate the effectiveness of drug policies, misses the point made by the SDG’s namely that governance and the rule of law, that form not part of the HDI, are fundamental to any notions of human development. Indeed this was the very reason why Goal 16 was agreed upon and adopted as an indivisible part of the new development agenda.

In conclusion, UNGASS 2016 offers an ideal platform to take stock of lessons learned and new insights alike. The flexibility and scope inbuilt in the Conventions allows, up to today, to absorb a new body of international body norms and guidelines aiming for an integrated and balanced approach with public health and human dignity at its core. The rapid and multi-faceted changes in the world we know, imply that the drug control Conventions themselves cannot any longer be viewed as a stand-alone legal instrument but have to relate to a broader context of covenants and agreements, ranging from the Universal Declaration on Human Rights of 1948 up to the

recent Sustainable Development Agenda 2030 with its multiple references to '*all human beings*' and '*nobody left behind*'.

Yet the few among us hoping on a world without borders ruled by a uniform set of guidelines will find themselves disappointed when realizing that each Government is to set its '*own national targets* (guided by the global level of ambition, but) taking into account *national circumstances*'. The Outcome Document of the aspirational Agenda 2030 reads: 'All countries acting in collaborative partnership will implement the plan' including 'the principle of common but differentiated responsibilities', and '*Our Governments have the primary responsibility* for follow-up and review, at the national, regional and global levels, in relation to the progress made in implementing the goals and targets over the coming fifteen years.'

If the Westphalian political order still peeks around the corner in the self-proclaimed '*supremely ambitious and transformational vision*' of Agenda 2030, it would be mistaken to presuppose that UNGASS 2016 will do better. Reaching consensus around a new set of international norms, among a myriad of stakeholders, often with very diverging views and within a still evolving debate, is simply not going to happen. April 2016 is one opportunity, a significant opportunity, to pragmatically adjust the drug control policies, within the scope and flexibility of the Conventions, to contemporary needs.

(unedited draft)