

The post-2015 drug strategy for ASEAN: Towards a new paradigm in drug policy?

Introduction

At the 3rd Association of Southeast Asian Nations (ASEAN) Ministerial Meeting on Drug Matters in Jakarta, Indonesia, on 3rd December 2014, ASEAN Secretary-General Le Luong Minh said:

As organized criminal groups and drug traffickers are taking on a more global perspective in their operations, we must ensure that our responses to drug trafficking are equally innovative, equally prompt to adapt to changing and challenging circumstances, and equally global in our outlook.¹

Indeed, there is a serious need for ASEAN member states to ensure that their drug policies are capable of addressing constantly changing and expanding drug markets, and the associated challenges to health, security and development. As the region moves toward greater integration with the establishment of the ASEAN Economic Community in 2015, member states will face enhanced risks due to easing restrictions on the movement of people and goods across borders – but also heightened opportunities for regional collaboration in managing those risks.

In its 2014 advocacy note, *A Drug-free ASEAN by 2015: Comments on the final assessment from a civil society perspective*,² the International Drug Policy Consortium (IDPC) offered comments and recommendations on the final assessment of the

*ASEAN Work Plan on Combating Illicit Drug Production, Trafficking and Use (2009-2015)*³ (the Work Plan), which is expected to conclude this year. The advocacy note highlighted serious risks that are not addressed in the current Work Plan and require further attention by ASEAN governments:

- protecting against harms relating to drug use, including risk of overdose, HIV, hepatitis and tuberculosis
- providing effective treatment for people dependent on drugs, consistent with public health and human rights principles
- advancing the livelihoods and human development of communities engaged in illicit opium cultivation, and
- ensuring proportionate sentencing for drug offences, and addressing the negative consequences of disproportionate sentencing, notably overcrowded prisons.

As the ASEAN Senior Officials on Drug Matters (ASOD) group develops a new drug strategy to take effect from 2016, it is hoped that the most serious harms relating to drug markets and the negative consequences of zero-tolerance approaches will be considered and addressed. This advocacy note offers analysis and recommendations to contribute to the development of a post-2015 ASEAN drug strategy that can meet the

expectations of the ASEAN Secretary-General in being innovative, prompt to adapt to changing and challenging circumstances, and global in its outlook.

Proposed strategic priorities for the post-2015 ASEAN drug strategy

At the meeting on drug matters in December 2014, ASEAN ministers agreed on the need for a new paradigm to manage the risk of drugs, with a new strategy that balances treatment and prevention on the one hand, and law enforcement on the other. The agreement on a new strategic approach towards drugs is positive, and appears to recognise the need to shift away from the existing focus on reducing the size of drug markets with the use of law enforcement measures.

The Chairman's statement on the outcomes of the 3rd ASEAN Ministerial Meeting on Drug Matters in 2014 referred to:

- “the need for implementing a new paradigm to manage the risk of drugs, with a new strategy and approach that attain the balance between the treatment and prevention approach with the law enforcement approach”
- “the importance of ensuring the availability of treatment services with recognised evidence based practices for drug users to be able to reintegrate into society” and
- “Assigned ASOD to develop best practices and standards for key measures on drug control in Post 2015 such as treatment and rehabilitation as well as drug prevention and legal measures to be nearly at the same level throughout the region”.⁴

It is also positive to note ministerial agreement on the development of best practices and standards for measures such as treatment and rehabilitation, perhaps in acknowledgement of the acute need for evidence-based drug treatment services in the region. However in order to provide critical, life-saving health measures for people who use drugs, ASEAN countries must ensure adequate capacity in their drug treatment systems to prevent and treat the most serious health risks associated with drug use, such as overdose, HIV, hepatitis and tuberculosis.⁵ It is also important for ASEAN to recognise that the

criminalisation and punishment of people who use drugs under existing law enforcement-led drug policies severely hinders positive outcomes for treatment and prevention. An effective approach that balances treatment and prevention with law enforcement is therefore dependent upon reforms to existing punitive measures and law enforcement practises in relation to people who use drugs.⁶ The measures important for enabling those reforms are proposed as priority areas for action in the post-2015 ASEAN drug strategy:

A. Ensuring the provision of evidence-based drug treatment and rehabilitation measures, to achieve improved health outcomes

Inaccurate understanding about the causes and effects of drug use and dependence underpin current drug policies in ASEAN. The UNODC's 2012 *World Drug Report*, for example, refers to research findings showing that only about 12 per cent of people who use drugs do so problematically.⁷ However, the misguided belief that all drug use represents a moral failing – and one which endangers individual health and public security – sustains the adoption of dangerous visions for a drug-free region.⁸ Such beliefs continue to drive policies that are based upon misinformation, rather than scientific evidence, resulting in the criminalisation and punishment of people who use drugs, including registration with law enforcement and security agencies, forced urine testing, corporal punishment and detention.⁹ These policies are costly, ineffective and divert resources away from establishing adequate capacity to deliver evidence-based public health responses to drug use and dependence, and exacerbate the funding crisis for HIV-related harm reduction services for people who use drugs.¹⁰

In 2015, the UN Economic and Social Commission for the Asia-Pacific, UNODC and UNAIDS organised consultations with CSOs and governments to promote a transition from compulsory detention centres for drug users to voluntary, evidence-based drug treatment and support services in Asia. This process follows the *United Nations Joint Statement on compulsory drug detention and rehabilitation centres* issued in March 2012.¹¹

B. Ensuring adequate access to controlled substances for medical use, to achieve improved health outcomes

A key objective of the international drug control conventions is to ensure the health and welfare of mankind, through the adequate availability of controlled substances for medical purposes.¹² However in ASEAN countries, misinformation about drugs has also led to excessive restrictions on the availability of controlled substances for medical use. In its 2014 Annual Report, the International Narcotics Control Board (INCB) reported that approximately 5.5 billion people, or three quarters of the world's population, have inadequate access to treatment for moderate to severe pain.¹³ Due to limited access to controlled medications, the World Health Organisation (WHO) estimates that tens of millions of people around the world, including around 5.5 million end-stage cancer patients and one million people living with HIV/AIDS, suffer from moderate to severe pain each year without treatment.¹⁴ In 2011, the INCB classified the consumption of opioid analgesics in all ASEAN countries as "inadequate"; in seven out of the ten ASEAN countries it was considered "very inadequate".¹⁵ A 2013 study published in the journal *Annals of Oncology* identified numerous regulatory barriers in ASEAN countries, such as cost and multiple restrictions on issuing prescriptions.¹⁶ Shifts towards a balanced public health approach in ASEAN's drug policy must entail reforms to remove legislative, political and technical barriers in order to ensure adequate access to controlled substances for medical use.

C. Compilation of accurate data on the use of drugs, and its associated health impacts, to inform the development of effective health and criminal justice responses

The Chairman's statement highlighted the emerging challenges posed by new psychoactive substances (NPS), and the possibility of conducting a study on NPS in the region. As discussed in the IDPC's 2014 advocacy note, there are strong indications that illicit drugs are becoming purer, numbers of people who use drugs are increasing, and more harmful methods of use, such as in-

jecting use of methamphetamine, are proliferating in the region.¹⁷ But despite these developments, consistent and comprehensive data on the prevalence of drug use (as well as patterns and modes of use) do not appear to be available amongst countries in the region.¹⁸ Such data, along with data on associated health risks such as overdose, HIV, hepatitis and tuberculosis is essential for informing the development of effective prevention, treatment and harm reduction responses to protect the lives of people who use drugs and their communities.

Relevant and accurate data on drug use and supply is also needed to inform the development of evidence-based approaches for improving social and health outcomes relating to drug use and dependence. As a result it can also help ensure an end to the implementation of costly, damaging and ineffective measures, such as the compulsory detention of people who use drugs and the death penalty, which implementing countries claim are necessary to protect the security and health of communities.¹⁹

Only thirty-two countries in the world retain the death penalty for drug smuggling, and only seven of those countries routinely execute drug offenders. Four of those countries – Vietnam, Malaysia, Singapore and Indonesia – are ASEAN member states.²⁰

D. Proportionate sentencing of drug offences to achieve improved security and development outcomes

The implementation of disproportionate penalties for drug offences leads to overburdening of the criminal justice system, including law enforcement agencies, prosecutors, courts, and prisons. The institution of severe penalties for low-level, non-violent offences diverts criminal justice and law enforcement resources away from targeting the more serious, violent offenders thereby failing to enhance public security,²¹ with little impact on the scale of the illicit drug market, as those arrested are easily replaced by others.

The increasing number of drug-related arrests during the period of the ASEAN Work Plan's implementation (see Table 1), provides an indication of the current balance of drug policy approaches toward law enforcement, and the high rates of prison overcrowding (see Table 2) show the extent of the overburden on criminal justice systems.

Table 1: Drug-related arrests in ASEAN countries

Source: UNODC, *Patterns and Trends of Amphetamine-Type Stimulants and Other Drugs: Challenges for Asia and the Pacific*, 2009 and 2013.

	2008	2012	Change (%)
Brunei	591	459	-22.3
Cambodia	394	1,788	353.8
Indonesia	25,558	25,670	0.4
Lao PDR	395	1,943	391.8
Malaysia	11,140	117,442	954.2
Myanmar	3,368	5,740	70.4
Philippines	10,530	10,159	-3.5
Singapore	2,537	3,507	38.2
Thailand	157,871	211,372	33.8
Vietnam	21,000	31,412	49.5
Total	233,384	409,492	

Data on the proportion of people imprisoned for drug offences in ASEAN countries seem to be available only in Indonesia (24.7% as of 2015),²² the Philippines (50% as of 2015)²³ and Thailand (64% as of 2012).²⁴ In an indication of possible trends in other ASEAN countries, the proportion of women imprisoned for drug offences is growing faster than men in Thailand, with 81.7% of the female prison population incarcerated for drug offences, compared with 61% of men as of 2012.²⁵

Given the increasing rates of drug-related arrests amongst most ASEAN countries, and the high proportion of people imprisoned for drug offences in countries where such data is available, data on the proportion of people imprisoned and detained in other facilities for drug-related activities should be a priority for ASEAN, in addition to data on drug use. In countries implementing alternative development programmes and enforcement measures in response to illicit opium cultivation, data on the livelihoods and development of communities engaged in such cultivation should also be gathered.²⁶ Such data could

be collected as part of a review on the proportionality of sentencing frameworks for drug offences, and their effectiveness in achieving improved human security, health and development outcomes.

Table 2: Prison overcrowding rates

Source: International Centre for Prison Studies, *World Prison Brief*

Country	Prison occupancy level, based on official capacity (%)
Brunei	132.8 (2007)
Cambodia	178.6 (2014)
Indonesia	148 (2014)
Lao PDR	n/a
Malaysia	122.3 (2013)
Myanmar	144.3 (2012)
Philippines	316 (2012)
Singapore	79.2 (2013)
Thailand	133.9 (2013)
Vietnam	n/a

Global developments in managing drug-related risks

ASEAN is not alone in facing serious challenges to managing drug markets. However ASEAN risks becoming isolated if it continues to avoid a comprehensive assessment of the effectiveness and consequences of its drug strategy, and reforms to a zero-tolerance, law enforcement-led approach to drugs.

Most governments and regional intergovernmental structures around the world have already abandoned visions of a 'drug-free' society. Recognition of the failure of tough law enforcement action and harsh punishment to reduce drug supply, use and related harms, and the extensive social and financial costs they have caused, has led many governments and regional bodies to pursue more balanced drug policies. For example, the Organization of American States (OAS), a regional body for Latin American governments, has already conducted research on alternative approaches to drug-related challenges that can achieve better outcomes for human security, health and development in their region.²⁷ The African Union drug strategy, adopted

in 2012, balances health and security priorities, and promotes health services and alternatives to incarceration for people who use drugs.²⁸ The European Union has adopted a drug strategy that balances security, health and harm reduction priorities, with significant investment in providing rights- and evidence-based health services for people who use drugs.²⁹

In 2014, both the WHO and the Joint United Nations Programme on HIV and AIDS (UNAIDS) published prominent technical reports strongly recommending the removal of legal and policy barriers that hinder access to, and the scale-up of drug treatment and HIV-related harm reduction services. Both reports also recommended the removal of criminal sanctions – i.e. decriminalisation – for drug use as a key measure in reforming policies which criminalise, punish, stigmatise and discriminate against people who use drugs.³⁰

Similarly the USA, traditionally in favour of zero-tolerance drug policies, has begun to re-balance its approach towards achieving greater cost efficiency and improved outcomes for justice and health. Importantly, the USA, which has the world's highest rate of incarceration and where half of inmates in federal prisons are held for drug offences, has also begun to address the disproportionate penalties and sentencing imposed by its drug laws.³¹ In 2013, the U.S. government began to introduce policy changes to reduce prison sentences for low-level, non-violent drug offences, and innovative programmes have been developed to offer alternatives to arrest and incarceration for minor drug offenders.³² Since 2014, the US President has also commuted the prison sentences of 76 people convicted of non-violent drug offences.³³

Opportunities for UNGASS 2016

In April 2016, a UN General Assembly Special Session on the world drug problem (UNGASS) will be held in New York. The UN Secretary-General has urged member states to use the UNGASS as an opportunity “to conduct a wide-ranging and open debate that considers all options”.³⁴ At the UN Commission on Narcotic Drugs intersessional meeting on 12th June

2015,³⁵ countries and regional groups were invited to submit their first ideas for what could be included in the UNGASS Outcome Document, by a deadline of 11th September 2015.

The Book of Authorities

This online resource, re-launched in 2015, catalogues agreed UN statements and language on a selection of topics: human rights, harm reduction, the death penalty, access to controlled medicines, cultivation and alternative development, and flexibilities of the UN drug conventions on alternatives to arrest and imprisonment. In doing so, it aims to show the extent of existing international support for evidence-based drug policies, and to inform international drug policy discussions and negotiations: <http://bookofauthorities.info/>

To help address concerns and tensions amongst member states and within the UN system relating to imbalances in the international drug control system in favour of enforcement over health, IDPC has recommended that member states seek to include the following actions in the UNGASS outcome document:

- A. Agree upon a concerted UN-wide effort and action plan to close the gap in the availability of, and access to, controlled substances for medical use.
- B. Set up a technical working group to review the headline objectives of the international drug control system, with a view to agreeing a new and comprehensive approach in 2019.
- C. Set up an expert advisory group to review contemporary tensions within the UN drug control architecture.
- D. Establish a robust mechanism through which best practices and experiences can be shared between governments and professionals.³⁶

It is hoped that ASEAN governments will take account of these recommendations in contributing to their regional group submission on the UNGASS Outcome Document. It is also hoped that ASEAN governments will take the oppor-

tunity to contribute to an open and honest assessment of drug policies culminating in the adoption of realistic, evidence-based recommendations to achieve improved outcomes for security, health, human rights and development at UNGASS.

Recommendations to ASEAN on the post-2015 drug strategy and UNGASS

- 1) Conduct a comprehensive assessment of the effectiveness and impacts of implementation of the current Work Plan ending in 2015.
- 2) Develop the post-2015 drug strategy through open and objective policy processes that are based upon scientific evidence and best practice, and inclusive of community and civil society consultation.
- 3) Adopt realistic, achievable objectives and indicators for managing drug-related risks, moving away from process indicators focusing on arrests, seizures and crops eradicated, towards indicators aimed at achieving improved outcomes for health, human security, human rights and development.
- 4) Develop a post-2015 drug strategy that aims to manage drug-related risks by balancing law enforcement approaches with those of health, by incorporating as priority areas:
 - a. Ensuring the provision of evidence-based drug dependence treatment, rehabilitation and harm reduction measures for drug use, including with the removal of criminalisation and punitive measures for drug use
 - b. Ensuring adequate access to controlled substances for medical use, by addressing legislative, political and technical barriers to access
 - c. Compiling accurate data on the use of drugs, and its associated health impacts, to inform the development of effective health and criminal justice responses

- d. Establishing proportionate penalties and sentencing for drug offences, and addressing the negative consequences of disproportionate sentencing, including abolishing the death penalty.

- 5) Contribute towards ensuring an open and honest assessment of drug policies at the 2016 UNGASS that will result in actions aimed at achieving improved outcomes for security, justice, health, human rights and development.

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About IDPC

The International Drug Policy Consortium is a global network of non-government organisations that specialise in issues related to illegal drug production and use. The Consortium aims to promote objective and open debate on the effectiveness, direction and content of drug policies at national and international level, and supports evidence-based policies that are effective in reducing drug-related harm. It produces briefing papers, disseminates the reports of its member organizations, and offers expert advice to policy makers and officials around the world.

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