



**CELS Case Study**

# Building a Human Rights Framework for Drug Policies

**CELS**  
CENTRO DE ESTUDIOS  
LEGALES Y SOCIALES

Piedras 547, p1º (C1070AAK) CABA, Argentina  
tel/fax (+5411) 4334-4200  
consultas@cels.org.ar  
www.cels.org.ar

## Building a Human Rights Framework for Drug Policies



### Why did drug control policies become a human rights problem?

Drug trafficking has been perceived historically as a security matter and even as one of the “new threats to security.” However, human rights violations have multiplied as a result of a model of combating drug trafficking that has intensified and expanded violence – without achieving its purported goals. This policy’s inability to reduce the production and trade of illegal substances is clear, along with the effects on the lives of communities: forced displacements, mass detentions, prison overcrowding, eroded judicial guarantees, enforced disappearances and extrajudicial executions.

Latin America has played a key role in questioning the current model, and some countries in the region have pushed for rethinking policies. CELS was one of the actors to understand early on that it was necessary to build a bridge between human rights and drug policy implementation. This connection must be present in the design and implementation of policies but also in human rights mechanisms and tools.

For CELS drug policy was a new line of work. However, it thrives on and interacts with others that the institution has been developing for decades, such as the functioning of the criminal justice system, prison conditions and torture, police practices on the streets, citizen security services and health care attention. CELS has been a key player promoting a drug policy paradigm shift in Latin America and in the global arena, articulating its expertise in human rights and its ability to reach out to social movements of various kinds, with new alliances that include international drug policy organizations, academia and communication platforms.

#### *Domestic fieldwork*

CELS started documenting the human rights impacts of drug policies after encountering repeated situations in our fieldwork. We first noticed the phenomenon in women’s prisons. Women who committed drug offenses constituted 70% of the federal female prison population. The social and economic vulnerability of this population and

the characteristics of the crimes committed (mostly related to serving as drug couriers) led to the inclusion of this problem in our research.

The consequences of Argentina's drug law soon became apparent in other areas of our work: police detentions and other extortionary practices related to the drug trade, and the treatment of people with mental health conditions and drug dependence.

### **Regional advocacy: Documenting violations, raising awareness and developing partnerships**

Moving beyond Argentina, the next step was the Inter-American Commission on Human Rights (IACHR), where the topic had never been addressed from a regional perspective in 150 sessions. CELS led a joint initiative with 16 other prestigious organizations from different fields to request the first regional hearing on drug policies in March 2014. This was one of the first events that sought to explicitly link drug regulation with human rights problems.

The diagnostic report prepared for that occasion scaled up into a collaborative bilingual publication, [\*The Impact of Drug Policy on Human Rights\*](#), which highlights the consequences of the "war on drugs" in the Americas. The report was released in July 2015 and presented in ten different cities by CELS and partner organizations, prompting discussions at places such as universities, UN agencies, social organizations, national parliaments, and regional and sub-regional mechanisms.

At that point, it was also crucial to link our regional achievements to the upcoming UN General Assembly Special Session (UNGASS) on the "world drug problem," scheduled for April 2016. This session and its preparatory process were an opportunity to open a wider debate on drug policies, with more active involvement from the human rights community.

### **International work: Disseminating the human rights consequences of prohibitionist drug policy in Latin America**

CELS began advocating in traditional international human rights fora, where the topic of drug policy had not been introduced either. More specifically, we promoted the intervention of international agencies – such as the Human Rights Council and the Office of the High Commissioner for Human Rights (OHCHR) – in drug-related matters and in the UNGASS process already underway. In doing so, CELS contributed Latin American perspectives and experiences with human rights-based approaches to drug law reform to the international debate.

This intervention bore fruit quickly. In 2015, the Human Rights Council (UNHRC) passed its first resolution on drug policy, requesting that the OHCHR prepare a study on the world drug problem's impact on the enjoyment of human rights. CELS was an active collaborator with the OHCHR in drafting this report, which incorporated several elements from the joint report on the Americas. We also participated in drug control

agencies like the Commission on Narcotic Drugs (CND), a new field for a human rights organization from the Global South. One of the big challenges of this process was having to interact with three different UN hubs in Geneva, Vienna and New York, and promote coordination among them.

Taking an innovative approach, we were also able to draw the attention – for the first time – of the political bodies and technical agencies responsible for the protection of women’s rights (CEDAW, UN Working Group on discrimination against women) to the dramatic ways in which their lives are being affected by drug trafficking and drug policies.

Even though UNGASS did not lead to a comprehensive revision of the international regime in force for the last 40 years, it showed that the consensus on the prohibitionist paradigm is broken and that civil society and human rights entities have a growing role to play in these debates.

At the same time, UNGASS showed that the UN failed to achieve a coherent position on the topic or embrace the analysis made by human rights agencies. The strategy for the future includes some ideas about how to deal with this resistance.

### **Alliances: Influencing the international human rights movement and drug policy organizations**

Our work on drug policy had important implications for the forging of broader alliances. Starting with our domestic work, and later through regional and international strategies, we developed deeper connections and encountered new social actors.

- One of these was the **international drug policy reform movement**. CELS joined the International Drug Policy Consortium (IDPC) and worked to fully inform international drug policy organizations of human rights positions and the Latin American situation.
- As a member of the **Human Rights Council Network (HRC-Net)**, CELS presented the topic directly to the UN Secretary-General Ban Ki-moon, highlighting concerns about the lack of coherence among UN agencies on this matter.
- In addition, a member of CELS’ staff was invited to become one of the 20 independent experts convened by **Amnesty International** to explore the opportunities for and relevance of working on these issues.
- Important channels are the **NGO Committees interacting with the UN** on drug policy: the Vienna NGO Committee on Drugs (VNGOC) and the New York NGO Committee on Drugs (NYNGOC). CELS’ institutional role in both committees enabled us to influence conversations with UN agencies.
- Disseminating drug policy developments to wider audiences was part of our strategy. In 2016, CELS engaged in a successful editorial partnership on [The Human Cost of Global Drug Policy](#) with the digital commons **openDemocracy** to provide insight and analysis of the discussions around UNGASS.

- We drew upon existing collaborations with Latin American and European scholars, incorporating academic knowledge and fieldwork from social organizations into policy advocacy and UN discussions. Our partners have included **Essex University, University College London, CIDE in Mexico and Central European University**.
- CELS has also strengthened alliances with **organizations in the area of security**, analyzing the militarization related to the ‘war on drugs.’ Ideas para la Paz (Colombia), WOLA, Comisión Mexicana de Defensa y Promoción de Derechos Humanos and Centro ProDH (Mexico), and Torcuato Di Tella University are providing in-depth regional analyses.

### **The post-UNGASS scenario and what lies ahead**

CELS has identified three strategies for influencing the post-UNGASS scenario from a human rights perspective:

1. **Advocating before regional and universal human rights bodies and mechanisms to develop a work agenda on the human rights consequences of the international drug control regime.** This requires strengthening the conceptual framework that links drug policy to human rights and then promoting the creation of legal instruments that provide orientation to states for national implementation of drug policies predicated on human rights principles. CELS was invited to collaborate on the project “International guidelines on human rights and drug control” led by the United Nations Development Program (UNDP) and the University of Essex’s International Centre on Human Rights and Drug Policy. To follow up within the human rights system, CELS is also promoting further actions at the UNHRC and addressing the possible contributions of the Special Procedures of the OHCHR.
2. **Strengthening Global South involvement in future international debates.** In our role at the NGO Committees, we are selecting speakers from civil society across the globe to participate in the CND sessions in Vienna. CELS has formally assumed the responsibility in those committees and the Civil Society Task Force for promoting participation from the Global South.
3. **Building deeper knowledge and empirical evidence.** In the aftermath of UNGASS 2016, there is significant agreement about the need to produce evidence-based drug policies. Currently, official metrics focus almost solely on the impact of drug policies on demand and supply while often failing to measure and monitor their impact on human rights. Post-UNGASS, many scholars and civil society actors are partnering to promote these evidence-based policies, which are also emphasized in the UN’s Sustainable Development Goals. Finally, CELS is taking further steps to understand more deeply the challenges that the world drug problem poses to human rights in Latin America. In this new stage, we will try to analyze the militarization of security, identify the arguments

used to try to justify it, and pinpoint the role that US bilateral cooperation is playing in this phenomenon.

Nearly all of the actions we have taken in this field were collective, which means that more social organizations dedicated to human rights, women's rights, and development in Latin America and across the world are aware of the impacts of drug policy on human rights and are committed to denouncing them. There is still a considerable gap between territorial organizations and human rights protection mechanisms. Those directly affected by rights violations and the organizations that represent them have to overcome obstacles to have a voice in the decision-making processes and, afterwards, to ensure that the achievements made have an impact on the ground. Those articulations are at the core of CELS' role.