



General Assembly

Distr.: General
9 September 2016

English only

Human Rights Council

Thirty-third session

Agenda item 8

**Follow-up and implementation of the Vienna Declaration
and Programme of Action**

Written statement* submitted by the Indian Council of South America (CISA), a non-governmental organization on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[29 August 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.16-15709(E)



* 1 6 1 5 7 0 9 *

Please recycle



The Contribution of CISA to the Human Right Council concerning UNGASS 2016 and 2019

As stated by the Deputy High Commissioner for Human Rights, Ms. Flavia Pansieri, “the Study on the impact of the world drug problem on the enjoyment of human rights”, elaborated according to Human Rights Council resolution 28/28, is the first comprehensive report of the High Commissioner in this domain.¹

This Study, discussed at the panel on Drug Policy and Human Rights the 25th September of last year, was a milestone contribution to the discussion and the outcome document of United Nations General Assembly Special Session (UNGASS) 2016. The outcome document includes observations made in the study promoted by the Human Rights Council on right to health, criminal justice, rights of the women and children, rights of indigenous peoples.

In one hand, the UNGASS outcome document recognizes drug dependency as a “health disorder”, opening the path to a health approach on drug policy; encourages the consent of drugs user to accept treatment; advocates for the promotion of medicated treatment for women and youth in prison; considers reviewing the obstacle to access controlled substances for the relief of pain. **Regarding indigenous people’s rights, the outcome document develops the last recommendation of the Study that supports the use of psychotropic substances made by indigenous peoples, subject to limitations provided for in human rights law.**² As Mrs. Flavia Pansieri said: “They have the right to follow their traditional, cultural and religious practices, and where drug use is part of these practices, it should in principle be permitted”.³

On the other hand, the UNGASS outcome document fails to explicitly addresses harm reduction programs and ban the death penalty in criminal justice for drug-related offenses. It is also worthy to mention that **commitments for health approach, access to pain relief substances, rights of Indigenous Peoples and participation of civil society are limited to national legislations.** On the contrary, the position of CISA, the national legislation is not acceptable without the Free, Prior and Informed consent to its application to Indigenous Peoples, since history shows that “national legislation” could do more harm than good, without the equal right and self-determination principle applied in the consent process. According the UNGASS outcome document, **The United Nations Declaration on the Rights of Indigenous Peoples must “also take into account, as appropriate and in accordance with national legislation”**⁴. Again the position of CISA is that **articles 13, 24, 25 and 34 of the Declaration must recognize the right of Indigenous Peoples to promote, to develop and to revitalize their traditional knowledge, healing practices and spirituality.**

UNGASS 2019 offers the Human Rights Council to take the opportunity to continue playing a central role in the promotion in developing the drug policy. To do so, the **Human Rights Council could take into consideration one of the recommendations made by 17 NGOs during the panel discussion on the 28th of September 2015: to demand the elaboration of a joint report of special mechanisms on this issue.**⁵ This report would provide with evidence-based input, to achieve a wider consensus on the recommendations made by last year’s Study on the impact of

¹ PANSIERI, Flavia. Opening Statement at The Panel Discussion on the Impact of the World Drug Problem on the Enjoyment of Human Rights. Geneva, Palais des Nations room XX. 28th September 2015 at 15:00. P. 2.

² A/HRC/30/65. Study on the impact of the world drug problem on the enjoyment of human rights. Geneva, 4th September 2015. Paragraph 67, and A/RES/S-30/1. «Our joint commitment to effectively addressing and countering the world drug problem». New York, 4th of May 2016, paragraph 4 (i).

³ PANSIERI, *Op. Cit.* P. 4.

⁴ A/RES/S-30/1. «Our joint commitment to effectively addressing and countering the world drug problem». New York, 4th of May 2016, paragraph 4 (i).

⁵ See: joint statement by CELS, ISHR, Maloca Internationale and alts. Panel Discussion on the Impact of the World Drug Problem on the Enjoyment of Human Rights. Geneva, Palais des Nations room XX. 28th September 2015 at 15:00.

the world drug problem on the enjoyment of human rights. With the equal participation of Indigenous Peoples, these three next years will be fruitful for the preparation of UNGASS 2019 on drug policy and human rights.

Bearing in mind that Indigenous Peoples must participate and consent in any standard setting process in matters that affect them, the Declaration does not have to be the only vehicle to realize the rights of indigenous peoples. The principles of equal participation and consent are well supported in the final “Study on Treaties, Agreements and other Constructive Arrangements between States and Indigenous Peoples” by Professor Miguel Alfonso Martinez.⁶ The last recommendation made in the “Study on the impact of the world drug problem on the enjoyment of human rights” states: **“Indigenous peoples have a right to follow their traditional, cultural and religious practices. Where drug use is part of these practices, the right of use for such narrowly defined purposes should in principle be protected, subject to limitations provided for in human rights law”.**⁷

⁶ MARTINEZ, Miguel Alfonso. “Study on Treaties, Agreements and other Constructive Arrangements between States and Indigenous Peoples”. (E/CN.4/Sub.2/1999/20).

⁷A/HRC/30/65. Study on the impact of the world drug problem on the enjoyment of human rights. Geneva, 4th September 2015. Paragraph 67.