

# Informal Drug Policy Dialogue in Latin America

*San Juan, Puerto Rico, April 2015*

Focusing on the Caribbean region, the **thirteenth Informal Drug Policy Dialogue in Latin America, was held in San Juan, Puerto Rico, from 23-25 April 2015**, at the initiative of TNI (Transnational Institute), WOLA (Washington Office of Latin America) and Intercambios, Puerto Rico. It was supported in part by the Commonwealth of Puerto Rico Department of State and the Centre for Advance Studies of Puerto Rico and the Caribbean.

Participants representing governmental agencies and legal bodies, NGOs, academic institutions and advocacy organisations hailed from 15 different countries of the Caribbean, Latin America, and Europe as well as from the United States. Communicating in Spanish, English, and French, participants noted that the event was a first-ever Caribbean-wide meeting on Drugs Policy. The occasion served as an opportunity for the sharing of experiences and information on legal, penal, socio-political, and cultural postures.

The two-day dialogue was structured around five thematic sessions concerning the Caribbean region and covering: (1) the panorama of the drugs market in the Caribbean; (2) harm reduction: a new concept for the Caribbean? (3) cannabis policies in the Caribbean and reform options; (4) drug-related crime and incarceration; and (5) the United Nations General Assembly Special Session on Controlled Substances (UNGASS) and role of the Caribbean.

As always, the meeting followed Chatham House rules to encourage confidentiality and a free exchange of ideas. This report, therefore, safeguards the anonymity of opinions and omits any information that could reveal the participant's identity.

The dialogue took place just two months after the government of Jamaica made nuanced advances in their process of cannabis decriminalisation. Puerto Rico, a non-incorporated U.S. territory in the Caribbean with a Spanish speaking population of 3.5 million, has a prominent number of legislators and a significant number of state representatives who openly support decriminalisation of drug use. One week after the meeting, Puerto Rico Governor Alejandro García Padilla issued an executive order legalising the use of cannabis derivatives for medical purposes.

## Introduction

The meeting began during the early evening of 23 April, with a welcome extended by the Centre for Advanced Studies of Puerto Rico and the Caribbean, a representative of the Department of State, and the organisers of the event.

On Friday morning, 24 April, the meeting began with an expression of thanks to the local and international organisers that supported the event and to the attending guests. Chatham House rules and the agenda—providing for five introductory presentations, remarks and discussion—were reviewed.

While the Informal Drug Policy Dialogues in Latin America began in 2007 in Uruguay, the chair noted that this is the first time experts and representatives of governmental and

non-governmental agencies engaged specifically on issues related to the Caribbean. Geographically, the Caribbean serves as a port or bridge in drug trading routes from South America to North America and Europe. Furthermore, there are endogenous drug-related dynamics like the production of cannabis that have historical and cultural implications.

An NGO representative expressed how appropriate it was to hold the meeting in Puerto Rico, which is often seen as nothing more than a U.S. territory. Integrating the realities of Puerto Rico into the Caribbean and vis-a-versa should serve to help participants look towards the future regionally.

## I: A Panorama of the Drugs Market in the Caribbean

A regional body representative offered a general panorama on the drugs market situation in the Caribbean. Emphasis was given on the importance of the Caribbean and how it has been used historically and today as a transit point where the market is driven by supply and demand. There is trafficking, consumption but also production. Not only are controlled and illicit substances being transported from the South to the North and Europe but also to Africa and back through the Caribbean.

The drug of choice in the Caribbean is crack/cocaine and cannabis, with popular preference leaning towards the latter. In Jamaica, couriers are still transporting cocaine but even cases of marijuana swallowing have been detected. Little research has been conducted on trade in heroin. Couriers travelling from the Caribbean to northern markets (i.e., North America and Europe) face complex

problems of socio-economic realities and curtailed human rights. Due to economic hardships and shifts in trade preferences with other regions throughout the last few decades, agricultural workers have been pushed into the cannabis growing business and these have been criminalised in many countries.

## Gender

The market is considered an Equal Opportunity Market, where men and women and young people participate equally. The impact of running into law, however, does not fall so evenly. When women go to prison, men do not “step up to take care of family.” Therefore, there is a greater impact on families and communities when women participate in drug trafficking and when they are incarcerated. “When a woman is incarcerated, a family suffers and so does the community.”

So there is a need to look at the market and how to deal with it from gender perspective.

“Regional bodies and national governments should be working more on the condition of women. There should be more educational programmes for the public and for law enforcers.” A participant from Belize stressed the gender perspective while introducing sociological aspects of family, community and race.

## Government intervention

Trinidad and Tobago was reported to have fewer arrests of couriers going to Britain after various campaigns in public education and law enforcement were carried out by the government. There is government and regional training in court management of drug trafficking cases. Such programmes were first implemented in Jamaica (such as the “Eva goes to Foreign” campaign which led to a 75% decrease in arrests of women arriving in the UK with drugs) and now both governments are encouraging Sta. Lucia to broaden such prevention programmes.

A government representative of Jamaica made brief mention on the patterns of trafficking and use, and some remarks on the impact of interventions in his country. “The trafficking from South to North America implies local and international crime.” In 2015, Jamaica is emerging as a Sea/Air cocaine trafficking point to Central America and the U.S. The rugged coastline of the island is difficult to manage and control; 87 metric tonnes of cocaine were seized in 2012, though there seems to be a decline.

Drugs-for-guns bartering between Jamaica and Haiti is a serious problem. Greater cooperation between the two governments is needed to address this issue.

As for the local markets, the main drugs are cannabis and cocaine; there is a slight increase in the use of cocaine and crack. Heroin and ecstasy are not yet significant. An estimated 13.5% of the adult population uses cannabis and less than 0.1% cocaine, while 74.5% use alcohol. "There continues to be inadequate educational programmes for youth, and persistent economic problems encourage the growth of marijuana in the countryside."

Making brief remarks upon the recent cannabis policy changes in Jamaica, a government official stated that "up until 2014, the government policy was eradication. In 2015 the government of Jamaica has now turned to decriminalisation permitting the cultivation of 5 plants or less."

## Haiti

Most cocaine and cannabis found in Haiti are en route to North America. As the cannabis grown in Haiti is generally of poor quality, most cannabis consumed in that country comes from Jamaica. Cannabis enters through seaports where at times the government has carried out operations to destroy it. While there is no record of cocaine being brought in by air cargo, unregulated airstrips have been destroyed. Since 2012, Haiti has a naval base whose main purpose is to limit drug trafficking.

For the last 20 years, Haiti's policies on drug trafficking have been based on accords with the United States and neighbouring Dominican Republic, within the context of the "War on Drugs." In 2010 an inter-institutional National Strategy was launched, aimed at combatting trafficking, and fostering preventive education and rehabilitation for drug users. The largest agencies working on the National Strategy are the Minister of Interior Bureau on Drug Trafficking and the National Commission on Drug Trafficking. A government official reported that "since 2011 there have been seizures amounting to 15,000 kilograms of cocaine and 20,000 kilograms of cannabis."

The drug market in the Caribbean as elsewhere is linked to other related issues such as the sex industry and guns trade. The channels and seaway passages among Jamaica, Cuba and Haiti, for instance, is where guns and drugs meet.

## House Cleaning versus War on Drugs

A drug policy expert from the Dominican Republic expressed the need to push for further collaboration between the Haitian and Dominican governments. This intervention promoted a discussion on the involvement of officials, corrupt judges, and high level governmental authorities in the drug trade. In Jamaica, for instance,

more than 600 police officers were dismissed since 2007 for their involvement in drug rings. In this sense, house cleaning has been successful and is needed in all countries.

Over U.S. \$5 billion were spent on drug criminalisation efforts in the Dominican Republic to little or no avail. The drug market has proven to be good business for traffickers as well as justice authorities. "Prosecution of drug users is so profitable (in the Dominican Republic) that police officers are planting drugs on young suspects in order to have them arrested," said a Dominican drug expert, implying that officers may benefit and be promoted according to the number of arrests made within a certain amount of time.

## Conclusion

The discussion on the drugs market in the Caribbean led to a general discussion on the failure of the war on drugs and the need for decriminalisation. During this part of the dialogue, there was evidently a clear consensus among participants on how the war on drugs has failed to curb drug production and use and has caused more harm than good. "The war on drugs has been a war on users and poor people." There is also a racial element when it comes to couriers that travel from the Caribbean to North America and Europe, reflecting a socio-economic reality. From St. Vincent and the Grenadines, one hemp grower emphasised that farmers were pushed into growing cannabis because of economic hardship and that "this sector" should not be punished.

One expert from Puerto Rico underscored the need for questioning the discourse used nationally and internationally. "We must move from using words like 'eradication' and start talking about 'decriminalisation'. The focus must be on quality of life and not on how to control the drug market. It is time to break down the dominant discourse. The paradigm must change."

Currently, throughout the Caribbean, there is public debate on decriminalisation as an alternative, instigated by civil society groups. In St. Maarten, there is debate about how to deal with users and those who are forced to enter rehabilitation programmes in psychiatric centres; so not only must there be a critique of the legalistic/moralistic aspects but also of the way the medical professionals define and diagnose "addiction" in some countries. In St. Lucia there are reportedly 25,000 users, many of whom have been admitted to psychiatric care.

Participants from Jamaica, Trinidad, and Tobago and Guyana noted that much work must be done on the legal system, as legislation is changing. There is, for instance,

little legal distinction between users and traffickers, no threshold quantities of amounts of drugs are applied. “There must be new laws treating the amounts of drugs found differently.” Jamaica has a limit of five plants rule for personal use for its citizens; such legislation and experiences need to be shared with other countries.

Regionally, churches and religion play different roles in different places. In Jamaica, there is an infrastructure in the making that opens dialogue between the Ministry of Justice and the Rastafarian community, while in other countries Evangelical and Catholic churches are putting the brakes on advancing decriminalisation. One important question raised was how the State distinguishes between cannabis use for religious purposes and recreation.

## II: Harm Reduction (HR)

The extent of problematic drug use in the Caribbean is difficult to quantify due to the lack of available research data. However, a picture of the regional situation may be developed using treatment monitoring data as well as various anecdotal sources. This evidence suggests that the main drugs used in the Caribbean are alcohol, tobacco, cannabis and (crack) cocaine. The use of crack plays a role in the transmission of HIV in the region, just like sexual behaviour has a role. Little is known about injecting drug use in the Caribbean, and although it seems to be rare, in some places it is increasing. Harm Reduction (HR) policies and practices exist on a small scale but would need expansion to reach a higher impact on health indicators and general wellbeing. In this session participants discussed specific HR instruments worth consideration in the Caribbean region and how to promote policy acceptance.

Experts from St. Lucia, Puerto Rico, and the Dominican Republic offered introductions to the status of HR policies in current regional debates, which concentrated on the origins of HR, its link to HIV treatment and prevention, philosophy and discourse, strategies and advances in the field.

While it is becoming more popular to talk about HR, it is still not a common policy intervention in the Caribbean. HR has its history in HIV prevention and syringe exchange programmes. At first, HR was “very mechanical, not much attention was given to the sexual aspect. Concern for HIV infection went from a medical science to a human rights framework and people working with drug users started to get drawn into a Harm Reduction discourse.”

Key population groups in other harm reduction schemes have been Men who have Sex with Men (MSM) and sex workers, later developing on this basis a philosophy in prevention treatment and care. There is, however, still very little interaction between treatment of drug users and HIV key populations, while there continues to be sexual transmission of HIV between drug users and their partners. In Trinidad and Tobago, there have been moderate changes made in educational strategies, actually lowering teenage pregnancies and HIV infection. Now there are more arrests of drunken drivers (driving while intoxicated-DWI). The problems are rooted in inadequate legislation. For instance, possession of drug paraphernalia continues to be a crime and there is currently no project to change legislation.

## What works

HR was described as a philosophy that counters the practice of criminalising drug users; it is the complete opposite of criminalisation and criminalisation has become the root of the problem in the application of drug policies. Harm reduction is based on evidence and a realistic, humanistic rather than a moralistic-legalistic approach. There was some debate on the use of the term 'humanism,' as it is historically loaded with individualistic postures, originating in individualistic societies. But as one activist from Puerto Rico noted: "Humanism does not have to be individualistic; it can take collective experiences into consideration." Users who have been treated can be the first to go out into the communities. "Harm Reduction should be brought to a societal level, we can even take it further to a global level."

One fundamental principal of HR is that people should not be required to stop using drugs in order to receive treatment. Health services should be provided for all people, including drug users. The point is to make drug use safer. Needle exchanges, for instance, is practised in many countries and does not discriminate against the varying conditions of users.

HR also includes such services as Drop-In centres, educational campaigns, and inclusive and anti-discriminatory legislation. Drop-In centres in the U.S. and certain parts of Europe were mentioned as models to be considered. Drop-In centres can provide a shower, a meal and change of clothes for "dysfunctional" addicts that are homeless and also provide an opportunity for engagement. The police force can be trained to direct users to the Drop-In centres without arresting them.

A study conducted in the Dominican Republic found that out of 200,000 drug users, 11% were HIV positive and that the link between drug addiction and the sex industry has increased in recent years. During the eighties and nineties in Uruguay

and Argentina, 40% of HIV infection occurred through intravenous drug use but the governments had yet to create adequate HR policies that deal with this.

Participants recognised that the increase in sex industry-related drug addiction is due to a lack of a coherent HR policy. Heroin users of Dominican origin are being deported from the United States. According to participating experts, some 3,000 to 4,000 Dominican heroin addicts are being “repatriated” to the Dominican Republic yearly. Many are undocumented immigrants that have lived in the United States most of their lives. In Puerto Rico, recent reports actually depict the opposite; Puerto Rican police authorities are secretly putting heroin addicts on the airplane to cities like Chicago and parts of New England.

The anti-model for services provided to drug users presented at the dialogue was Puerto Rico’s Hogar Crea, Inc., which is now, thanks to independent research and public debate, coming under fire. Hogar Crea is a private institution dependent on public funds and carries out operations throughout Latin America and the Caribbean. Its philosophy is based on religious moralism and its practices often include shaming and humiliation of patients within its programmes. Drug users are found forced to sell cakes on the streets, raising funds for an already affluent institution. Treatment of drug dependent persons should rather be based on evidence-based approaches that respect human rights.

## Pluralistic Harm Reduction

Putting HR philosophy into practice poses some challenges due to the varying effects of different substances on individual users. Methods and strategies dealing with a particular form of problematic drug use cannot be used with others. What works for opiate users may not work for non-opiate drugs. With the varieties of cocaine (smokable varieties such as crack, etc.) there must be more research invested into exploring all the possibilities of HR.

“Needle exchange is important but what about crack users?” One response to that question that was discussed is distribution of safe crack pipes.

Participants discussed opiate substitution therapy and alternatives. “Methadone satisfies cravings without the euphoria. It is a non-pleasurable therapy ... that is a problem,” said one expert from St. Lucia. Participants agreed, “Cannabis therapy should be explored and seriously considered.” Substitution can also be observed among methamphetamine users.

Participants from the Dominican Republic noted that their current president is making advances towards HR and making the links with sex work and HIV

prevention. This includes inviting members of the Transgender community to the presidential palace to talk about services provided to them and changing homophobic legislation. Intersectional partnership and empowering individuals is clearly needed.

In Jamaica, “recent changes in drug policy have resulted in more people coming forward and we can now reach people who are ‘coming out’.” In Mexico “drug consumption is not as high as US and Europe but violence is the main problem. We need to push HR but with the principal objective to reduce levels of drug-related violence.”

The discussion moved to debate about legislation and policy. While some participants encouraged putting efforts into policy change, others from the social work perspective looked at new programmes that can be provided by civil society. Changing legislation is important but “we can’t wait for legislation to change because this takes time.” There must be holistic intervention. Community initiatives need to be explored and there are other areas of study, like gender, that need to be considered. Mobilising and educating youth—and in the case of Jamaica, engaging Rastafarians—have proven to help advancing HR policies.

## Conclusion

While HR is not new to the Caribbean, there are still very few instances and places where it is practiced. Experiences with HIV prevention projects should not be seen as separate from HR in drug policies; rather they should be seen as fundamentally integral to future projects adopted by governments and practices among NGOs. HR requires a global and scientific/humanist perspective that considers aspects of socio-economic development, gender and diversity among Caribbean countries and within each country. Once again, criminalisation is fundamental to the problems countries are facing and the use of criminal law and racist/xenophobic policies such as “repatriation” and exportation of those with drug dependencies are part of the problem.

Uneducated law enforcement and adulterated drugs were identified as two serious challenges that only HR-inspired policies could tackle. Non-HR projects such as Hogar Crea in Puerto Rico should be identified and criticised, as they do more harm than good.

Participants agreed that the Caribbean should not only be seen as a region of production and consumption, of supply and demand, but also as a place where HR based on human rights can really work.

### III: Caribbean cannabis policies and options for reform

Recent policy changes in Jamaica have brought worldwide attention to the Caribbean as a region. Participants from Jamaica offered a historical background to the policy changes, going back as far as 1977, when the parliament created a joint committee to study cannabis use and suggested legalisation for medical purposes. The difference in state postures today is due to a solid political leadership respected by the grass roots movements, and friendly attitude towards decriminalisation by one key government official. "It was essential to have someone from the state level to drive this process." Previously people were jailed for up to five years for growing. Possession was punishable by a one year prison sentence and fines of up to JMD 5,000. The Rastafarian community was persecuted. Now, decriminalisation represents a multifaceted approach that is beneficial in many different areas such as public health, citizen security, and peace in the communities. The engagement of Rastafarians is essential but so was a cross-political party alliance, as both major parties supported decriminalisation.

There are major concerns in relation to new legislation in Jamaica, much of which reflects broader debates in the Caribbean region. There are those who support full legalisation of cannabis, while there are those who support only decriminalisation or only medical use.

"What will regulation look like? Should we look to Uruguay? Will farmers be included in the national debates? What about foreign investment? There is no standard and there exists a fear that farmers will be blocked in the legislative process."

As far as medical cannabis is concerned, there is a fear that multinational corporations will come in, buy up land and push people off. Most people are planting for recreational purposes, while medical cannabis provides a new dimension to what is going on in Jamaica requiring technical expertise, high quality, and standardization. A household is allowed to have a maximum of 5 cannabis plants; many see this as a restriction barring artisanal growers from the market.

Regionally, hemp growers need to unite and make their voices heard. "Jamaica is taking a step in the right direction," a cannabis farmer and activist from St. Vincent and the Grenadines stated. "But we are concerned about the farmers as they are the first who are going to be affected by new legislation. We can no longer be ignored."

As one participant noted, "For the first time the police force is conducting dialogues with communities; the new law has opened up dialogue and growers and police are

sitting and talking together. There is improvement and the discourse has changed.” Educational programmes have been able to persuade youth to drink and/or smoke responsibly.

In Jamaica people want legal reforms to go further but the model does not yet exist, it is made while walking the path; recent legislative changes are steps in a longer-term process. “Most Jamaican key players are not in favour of the Uruguay model because they do not like the idea of the State producing and regulating the drug market.” Both participants from Jamaica made clear that as far as investment in the cannabis industry goes, foreign entities must have local business partners.

In March 2012, Belize’s Minister of Justice commissioned a committee to review cannabis policy; the main worry was the large number of young black Belizeans with a criminal record who were denied a “second chance in life.” In the final report of the “Decriminalization of Marijuana Committee,” released in early 2015, recommendations were made to decriminalise possession of up to 10 grams of cannabis and to expunge previous criminal records in order for people to get jobs and reintegrate into society. Criminalization in this sense is now seen as a social problem. The participant from Belize described a “two-year battle” that involved broader sectors of society from government to grassroots organisations and communities. The first challenge was getting people involved and educating the public on the difference between legalization and decriminalization. While there was a general acceptance of adult cannabis use, people responded quite differently to a question like “Do you support cannabis decriminalization?” compared to, “Are you willing to send a young person to jail for possession of less than 10 grams?” the latter hardly receiving any positive answer at all.

Belize and many Caribbean nations have never had a legal definition of the quantity of drugs possessed to determine whether those drugs are for personal use or sale. The president of Belize has supported the recommendations made by the Committee and is now looking at how to put them into legislative forms. Belize is observing the changes in Jamaica. Once again, churches are playing a significant role and “there is a difference in postures between the Anglican Church and some more conservative evangelical churches.” Still, there is nothing happening in legislative proposals concerning growing cannabis, and smoking is still prohibited in public.

In Jamaica, the expunging of records has been hampered by the absence of a computerized system or catalogue classifying criminal records by type of offense and type of drug. Deleting records of past drug use therefore requires the

convicted person to make an appeal for acquittal. Since 2014, over 2,000 people had their records cleared; these people can now apply for jobs without fear of being rejected for having criminal records.

Despite the differences in postures concerning the role of the State, the presence of a participant from Uruguay was highly appreciated. In 2010, two progressive policies were put into legislation: respect for sexual diversity and the decriminalisation of possession and cultivation for personal use. Social and civil society organisations were largely responsible for these progressive changes, but so was the fact that the leadership (President Mujica) supported the draft laws. The cannabis reform project evolved from a decriminalisation bill to a comprehensive legal regulation framework for recreational use, which was adopted at the end of 2013.

“Uruguay is establishing a regulated market.” This requires strong institutions, strong civil society, social organisation, and international actors who are accompanying the process. Today people can possess up to 40 grams of cannabis, 6 plants per household unit is allowed, and cannabis clubs can cultivate collectively for up to 45 members. The regulation also allows for state-controlled cannabis production geared towards sale in pharmacies where adults can buy up to 40 grams a month for recreational use. In Uruguay there are now 3,000 domestic growers registered. There are now cannabis research agreements with universities, capacitation courses for the medical community, and inter-institutional collaboration.

As far as drug policy reforms in the legal systems of those countries promoting decriminalisation, some “risks” and contradictions were found; the most important of these being that more people may be fined for the possession of drugs in amounts surpassing what the law allows, when these limits are too low or arbitrary. In the case of Jamaica, the fine for cannabis possession is only US\$4, which is an amount that does not allow for police extortion.

Participants agreed that decriminalisation must be focused on better cohesion between society and the police force. “Personal use is not police business, trafficking obviously is.” The Jamaican government estimates that there will be 12,000 to 15,000 fewer arrests each year as a result of its new legislation, which should have a significant impact in reducing congestion in the courts.

## Conclusion

Discussion turned towards collaboration, trends and possibilities for working on cannabis policies at an interstate and regional level. Most participants agreed that policies should be adopted in CARICOM and that a Monitoring and Evaluation mechanism should be instated. In February, CARICOM set up a commission of enquiry to study the situation of cannabis in the Caribbean. This commission will analyse the situation and recommend policy changes.

A couple of participants from the Caribbean expressed their inconformity with the way the United Nations regional group of Latin American and Caribbean countries (GRULAC) functions, having no diplomatic representations in Vienna they are left out and are not consulted. Someone mentioned the region should come forward, do advocacy and take a position.

Participants from the U.S. explained their take on President Barack Obama's recent visit to Jamaica and why they thought the U.S. has remained muted in international discussion concerning cannabis. This is due in part to the fact that there are many changes underway in the U.S. itself. The U.S. federal system provides the states with significant autonomy, and prevents the federal government from forcing states to adopt laws that mimic federal laws, or from using state enforcement personnel to enforce certain federal laws. As a result, the Obama administration has not sought to block state-level cannabis legalization, but has allowed them to proceed as long as they meet certain conditions. This qualified accommodation of state-level legalization has meant that the Obama administration is in no position to pressure other countries looking to revise their cannabis laws, such as Uruguay and Jamaica.

"Changes in the US are slow and it will be like that for some time", as a state cannot nullify a federal law and the federal government cannot impose any law upon a state. Also by looking at the US, cultural diversity and geographical jurisprudence has proven to be interesting, as First Nations were allowed to develop their own reforms in regards to other drug use such as peyote. Colorado and Washington states have recently regulated recreational use.

One participant noted that changes in the U.S. are already encouraging countries to look for better solutions. An official from Jamaica noted that changes at the state level in the U.S. related to cannabis "took the risk out of" making changes in that country. He also noted that, "small states need to uphold international law, as it is international law that protects us from large countries." Hence the need to reform the international drug control conventions to allow for more flexibility.

“The international drug regime has to change ... [W]e have an international framework involving mafias and organised crime. The question is what can we (the Caribbean) do to have a functioning system? We need to be mindful of the U.S. but need to guide our own realities... [I]nternational crime needs to be dealt with, but domestic issues must be dealt with by countries independently.”

From Mexico, a functionary of the Ministry of Foreign Affairs commented that his country is not in favour or against legalization, but in favour of multilateral efforts. “We cannot take on unilateral positions.”

## **IV: Drug related crimes and the prison population**

The Caribbean region is characterised by a high prison population density, one of the world’s highest rates. Little is known about the extent to which this incarcerated population is composed of persons detained for drug offences, or about the type of drug/amount of drugs for which they have been sentenced. The prison infrastructure and medical services for people who are ill and/or with problematic drug use are considered to be of poor quality. Participants discussed incarceration statistics, mental health services and socio-economic indicators.

### **Dutch Caribbean**

Specialists from Aruba and Dutch St. Maarten provided a description of the situation in the Dutch Caribbean, including information on the relation of these islands to the Kingdom of the Netherlands, its Caribbean and South American neighbours, Puerto Rico and the U.S. Free Economic Zones were identified as places used for the transport of illicit drugs including cocaine, crack and base. Drug couriers pass through these islands; the ABC (Aruba, Bonaire, and Curacao) are not producers or source countries. At the same time cocaine is available for sale at US\$5,000 per kg in 2015. In comparison to other islands, the ABC generally has a higher standard of living. “Law enforcement and the criminalization of cannabis is not that significant,” as there is a tendency to send people who use drug into treatment. The Dutch Caribbean is unique as rehabilitation is not an alternative for most countries.

In the Dutch Caribbean much work is done in the area of anger-management programmes, addiction care and rehabilitation treatment, much of which is done by sending users to the Netherlands (particularly Rotterdam). Medical care and psychological/psychiatric care is up to date. While 54% of the prison population in Aruba comes from Aruba, the other little less than half comes from South America,

and are detained on drug traffic charges. Hard drug use is found among 20-80% of the incarcerated population and youth drug use is at an alarming 48%.

## Class and Race

One speaker restated that criminalisation is a failure. The fundamental question is “How do we reorient law and policy?” Drug users end up in prison even when it is only a tiny amount. “We need to look at how offenders get to prison.” There are identifiable patterns disproportionately targeting certain groups, mainly young black males and poor women. Race and gender, again, becomes important and this is exasperated by poverty. In some countries, it is worth looking at the condition of Indigenous peoples. “Attitudes of law enforcement will be informed by deeply discriminative values. It is not accidental; it is a reflection of accepted values.” Police do not raid posh clubs; they raid streets corners in the ghetto.”

Other concerns expressed were the extremely slow justice system, the way in which black and indigenous people are discriminated against, and the lack of discretion judges have in sentencing, as well as the quality of justice. In addition to drug law reform, “Society has to embrace a more just value-system, non-discrimination and fundamental human rights.” Changing legal codes is insufficient. More attention should also be paid to youth, another vulnerable sector, including the need for legal assistance for low-level offenses committed by young people. A large percentage of juveniles detained for drug offences have learning disabilities. Finally, there is a suspected link between drugs and human trafficking, but this connection needs to be studied further.

## Puerto Rico

A lawyer from a public legal assistance programme in Puerto Rico shared an extensive report on the condition of convicted and confined persons in that country. Statistics were given on male and female populations, youth and those convicted for illicit drug use. The participant made clear that over 80% of the incarcerated population (most of who live below the poverty line) were drug users, who received little or no health care. The report also described the impact of incarceration on families, seeing that most inmates are fathers. Also very interesting and common to most Caribbean countries is that there is little difference in administrative penalties. Particular to Puerto Rico it is aggravating factors that add to a person’s sentence. For instance, an aggravating offence can be selling drugs somewhere near a school or a place where there are many minors. Forced rehabilitation in non-governmental agencies (like Hogar Crea) was also mentioned.

## Alternatives and models

Regional statistics provided for the profiles of the prison populations clearly makes the link between poverty, mental health, and the precarious situations in which families find themselves. While rehabilitation can be seen as an alternative to imprisonment, the infrastructure throughout the Caribbean varies. In Costa Rica, there is much work done on incarcerated women, which has been the priority of certain advocacy groups and governmental programmes. A recent legislative change significantly reduced sentences for women smuggling drugs into prison. A participant from Costa Rica said that the UN guidelines for women in prison, known as the Bangkok Rules, need to be taken seriously. "We are hoping to extend such programmes to the male population."

Ecuador was identified as an interesting case study in legal policy reforms. In 2008, there was a general pardon for low-level drug offenders, whereby 2,000 people were let out of jail, of whom according to an initial study only 1% re-offended. Once a country with the harshest sentences for drug offences (12-20 years in prison), Ecuador now has a completely new Penal Code, introducing principles of proportionality of sentences more in line with the severity of the offence.

## Conclusion

Drug related crimes and the treatment of prison populations in the Caribbean cannot be understood without looking at socio-economic indicators, colonial-race relations, gender and its impact on poor families. The link between poverty and incarceration clearly depicts the distorted value system that must change. While medicating people in places like the Dutch Caribbean can be seen as an alternative, detention away from one's country presents a series of problems for families and their communities. Many caught carrying drugs are serving time in other countries. Violence in drug related crimes has more to do with criminalization and police operations in poor areas. A look at new programmes in Costa Rica, especially working with women prison populations, allows for Caribbean countries to study alternatives. Jamaica's new laws and its process of decriminalisation, while not yet perfect, are viewed as successful. Stepping away from criminalization entails putting human rights at the forefront of any legal reform. Participants identified national as well as regional institutions that can push through reforms in the Caribbean. Civil society organisations continue to be those taking the lead in advocating for human rights and decriminalisation in most countries.

## V: UNGASS and the Caribbean

Up until now, Jamaica's policies have been based on international and regional approaches including CARICOM's crime and security strategy. Security measures implemented are often insufficient to deal with more sophisticated measures practiced by traffickers. For Jamaica, it is necessary to look at socio-economic development and a more holistic approach; this is manifested through decriminalisation, health, education, economics and livelihoods, ensuring that the perspectives of CARICOM member states can be incorporated to take a solid stance in UNGASS.

"As we approach UNGASS, we have to ensure that this is not just a forum for rubber stamping but an opportunity to develop new approaches. This requires us to be transparent among ourselves." Jamaica looks forwards to developing common positions of like-minded countries. With the preparations, there is also an opportunity for engagement in the areas of advocacy.

"Our perspective is reflective in any policy reform. We would like to see an expert advisory group coming out of UNGASS to review the conventions. Civil society must be taken into consideration and we hope that the U.S. can be persuaded to look at its own domestic problems. The exclusion of the World Health Organization needs to be undone."

A participant from Colombia also expressed the desire to look at "what we can do in order to advance partnerships for UNGASS 2016." The current punitive regime is based on what is

"bad." "Everything that is 'bad' should be erased, incarcerated and that is not possible." Behaviour in regards to drugs and the behaviour of institutions must be taken into consideration. "Humans cannot be divided into good and bad." Unfortunately, the prohibitionists are still the majority, they hold public opinion and in many cases government. There is a big push among those who are convinced that we cannot continue to follow current unethical policies. Cultural aspects are important. Much national legislation goes beyond the obligatory standards. Criminalization of possession for personal use is not required by the UN conventions. "But we tend to be more Catholic than the Pope. It might seem impossible that we get a global agreement on drug offences."

Participants agreed that taking into consideration international law, agreements should be formulated to protect health and human rights first and foremost,

whereas current policies in fact have proven to be harmful to both. It is necessary to resolve contradictions between international drug policies and the UN Charter and the Universal Declaration on Human Rights. The treaties also leave considerable room for interpretation about what constitutes medical use of drugs, which according to one participant could be used to open space for innovative policies.

A participant from Mexico stated that his country is looking forward to a new approach that takes social conditions into consideration. It is not only necessary to look at consumption but individual development: health education, safety, etc. He also called for broad-based participation in the UNGASS: "We need to hear all the voices, agencies and organisations."

The decade following the first UNGASS on drugs in 1990 was called the UN Decade Against Drug Abuse, meant to strengthen the UN institutional architecture and to develop a

system-wide coherent approach to drug control. "This has completely failed," stated a participant from the Netherlands. The 1998 UNGASS called for a more balanced approach. There had been too much focus on the production side; since then there was more attention to the demand-side of the market, to harm reduction and there was "a call on the North to take its responsibilities more seriously in the areas of money-laundering, chemical precursors and arms trade." This became the beginning of a "shared responsibility" approach. The existing mechanism within the UN to have a coordinated approach, established by the UN Secretary General was abolished shortly after the 1998 UNGASS, however, and the result was that, instead of system-wide coherence all the efforts became monopolised by the UN drugs triangle in Vienna consisting of the INCB, CND and UNODC.

Much has already changed in discourse these past few years, about going back to the original spirit of the conventions (protection of human welfare), about respect for human rights and a more developmental approach to illicit cultivation. But still the challenge is to think through how to translate the discourse into reality, incorporating the thinking of other UN agencies such as the WHO, the Human Rights Council, and the like. The other challenge is that there are policy developments taking place that represent systemic breaches with the conventions as they can no longer be justified within the treaty flexibility. Also, it still appears difficult to move away from the deadline thinking; for instance, there will be another high level moment in 2019, the target year for a "drug free world."

One participant from Saint Lucia expressed a pessimistic view on possible political outcomes of the UNGASS 2016, “it looks impossible that a serious review of the international control system could come out of it.”

### **Caribbean involvement at Vienna**

Concern was expressed over the lack of Caribbean participation at the Commission on Narcotic Drugs (CND) meetings in Vienna. Only St. Vincent and the Grenadines and Surinam are official members of the commission (and by the end of this year they are also out) but they did not actively participate in the meetings. Next year there will not be a single Caribbean country among the 53 CND members. While in principle all countries are allowed to participate in the UNGASS preparations, no Caribbean country has a diplomatic representation in Vienna at all, so they have to send representatives from their Geneva mission or from capital (in which case funding is often an obstacle). The high-level thematic debate in the General Assembly in New York on May 7th is therefore a serious opportunity for Caribbean countries to get involved.

