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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by the IDPC Consortium, a non-governmental organization in special consultative status

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

[13 February 2017]

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

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Drug Policy & Human Rights

The International Drug Policy Consortium is a global network of over 170 non-government organisations around the world, calling for evidence-based drug policies that are grounded in principles of public health, human security, social inclusion, development and human rights.

People do not surrender their rights simply because they use, produce or become involved with illicit drugs – yet the multiple forms of human rights abuses resulting from drug laws and their enforcement have been well documented. The report of the United Nations High Commissioner for Human Rights, *Study on the impact of the world drug problem on the enjoyment of human rights* (A/HRC/30/65, 4 September 2015),¹ outlined the comprehensive violations resulting from drug control measures implemented around the world in relation to the:

- a. **Right to health:** the continued criminalisation of people who use drugs has created serious barriers to access to evidence-based drug treatment and life-saving health measures to prevent HIV transmission and other health-related harms associated with drug use. The widespread mass incarceration of people who use drugs has resulted in major health crises in many prisons around the world. The ongoing use of compulsory detention as a means of rehabilitation for people who use drugs is a serious violation to their right to health. In addition, essential controlled medicines such as morphine remain unavailable in the greater part of the world, with an estimated 83 percent of the world's population living in countries with low to non-existent access to treatment for moderate to severe pain.
- b. **Rights related to criminal justice:** people who use drugs are at high risk of arbitrary arrest and detention. Violence and torture during detention is all too common (for example, by intentionally withholding people dependent on heroin from opioid substitution therapy). In addition, grossly disproportionate penalties against low-level and non-violent drug offenders severely impacts upon their lives and that of entire communities – in particular women in charge of children and other dependents.
- c. **Right to life:** the use of the death penalty for drug offences – which continues to be used in 33 countries across the world – contravenes article 6 (2) of the *International Covenant on Civil and Political Rights*, and extrajudicial killings constitute further violations of the right to life.
- d. **Prohibition of discrimination:** different forms of discrimination often result from the imposition of a criminal record for a drug-related offence, including in accessing justice for human rights violations, in seeking employment, on children custody or visitation rights, or on government assistance for housing, education and food, as well as when travelling abroad. Members of ethnic minorities, particularly those who are poor and living in marginalised communities, are particularly subject to discrimination.
- e. **Rights of the child:** in most countries, children and youth – who are particularly vulnerable drug-related health harms – have not adequately benefited from HIV prevention programmes related to substance use. Barriers hampering their access to harm reduction and treatment programmes should be urgently removed.
- f. **Rights of indigenous peoples:** the possession, purchase and cultivation of controlled drugs for personal consumption, such as opium, cannabis and coca, is prohibited in many countries despite the fact that such substances have been used for cultural, religious and traditional purposes for millennia.

In April 2016, governments met in New York for a UN General Assembly Special Session (UNGASS) on the world drug problem to adopt an outcome document that includes a set of recommendations on the way forward in global drug control. Although the outcome document acknowledges human rights as a cross-cutting theme, it fails to highlight many of the gross human rights violations resulting from drug control, as submitted by UN human rights experts in a *Joint Open Letter*.²

¹ http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session30/Documents/A_HRC_30_65_AEV.docx

² Joint letter by the UN Working Group on Arbitrary Detention; the Special Rapporteurs on extrajudicial, summary or arbitrary executions; torture and other cruel, inhuman or degrading treatment or punishment; the right of everyone to the highest attainable standard of mental and physical health; and the Committee on the Rights of the Child,

As the Philippines and Indonesia are subject to review under the Universal Periodic Review (UPR) process in May 2017, member states will have an opportunity to promote the fulfilment and protection of human rights obligations in developing and implementing drug policy responses in specific relation to those countries.

Philippines

The Philippines government has intensified its ‘war on drugs’ and, in the process, created an environment where the rights to life and due process are no longer respected, fulfilled, nor protected. As of 8 February 2017, the Philippines National Police (PNP) has reported a total of 7,080 deaths resulting from this war on drugs since July 1, 2016. As part of the government’s policy to eradicate drugs, the police have conducted 43,593 operations, arrested 53,025 persons involved with drugs, and visited a staggering 7,069,095 homes. 1,179,462 persons have reportedly “surrendered” to local authorities for drug use or involvement in the drug trade, many of them after being named in lists of suspects arbitrarily compiled by police.

People who use drugs are at risk of being killed during police operations or by unidentified assailants, imprisoned or forcibly detained in so-called “rehabilitation centres”. The government has already completed construction of a “mega rehabilitation centre” in a military camp, which may be used for the compulsory detention of people who use drugs, including those who have “surrendered,” thereby constituting a violation of their rights to liberty and health. As for Philippine jails, they now have congestion rates of more than 500%, with detainees reportedly subject to torture and ill treatment. Legislators are also deliberating proposals to re-instate the death penalty for drug-related offences and lowering of the age of criminal responsibility from 15 to 9 years old.

These alarming developments display a blatant disregard of the Philippines towards international human rights obligations. We urge the Human Rights Council to call on the Philippines Government to:

1. immediately end incitements to violence and killing of people suspected and accused of drug-related offences, and to investigate the over 7,000 cases of people killed, as well prosecuting the individuals responsible for murder and extrajudicial killing, and
2. uphold and fulfil the rights to health of people who use drugs and those held in drastically overcrowded prisons by ensuring the provision of alternatives to incarceration and punishment, and evidence-based health and harm reduction services.

Indonesia

Since its last review under the UPR in 2012, Indonesia has resumed executions. 23 people have been executed since 2013, and 20 of them were executed for drug offences. These executions show a clear connection between Indonesia’s imposition of the death penalty and its punitive approach towards drug policy – Indonesia’s stated objective being to deter involvement in drug trafficking. Evidence has showed, however, that the renewed use of the death penalty has not lowered the rates of drug-related crimes in the country; but it has certainly been the driver of increasing human rights abuses against people who use drugs and drug offenders, including the institutionalisation of mandatory reporting and compulsory rehabilitation of people who use drugs.

We call on the Human Rights Council to recommend that the Government of Indonesia:

1. review and undertake comprehensive reform of national drug strategies to ensure they are consistent with human rights principles, including decriminalising the use of drugs, increasing the availability of evidence-based drug treatment and harm reduction measures, institutionalising effective redress mechanisms for discrimination against people who use drugs and removing requirements for mandatory reporting and compulsory treatment for people who use drugs, and
2. apply a moratorium on executions and death penalty sentences, while establishing an independent expert team to conduct a review of the previous three rounds of executions and its impacts, as well as all death penalty cases to ensure that the right to a fair trial has been protected and will be strengthened.