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**Annual report of the United Nations High Commissioner
for Human Rights and reports of the Office of the
High Commissioner and the Secretary-General**

**Joint written statement* submitted by IDPC Consortium,
Centro de Estudios Legales y Sociales (CELS) Asociación
Civil, International Harm Reduction Association (IHRA),
México Unido contra la Delincuencia, A.C., non-
governmental organizations 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.

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* Issued as received, in the language(s) of submission only.



Implementing the United Nations system common position on drug control policy: the role of the office of the High Commissioner for Human Rights

Introduction

In November 2018, the UN System Chief Executives Board for Coordination (CEB) – the main instrument for supporting and reinforcing the coordinating role of UN intergovernmental bodies on social, economic and related matters – adopted the ‘United Nations system common position supporting the implementation of the international drug control policy through effective inter-agency collaboration’.¹ The OHCHR contributed to drafting the document, and featured it in its 2018 Human Rights Report.²

To ensure the implementation of the UN common position, the CEB established the ‘UN system coordination task team on the implementation of the UN system common position on drug-related matters’, led by the United Nations Office on Drugs and Crime (UNODC), within the framework of the UN Secretary General’s Executive Committee. The task team is responsible for translating the common position into practice by guiding approaches across the UN system and stepping up efforts to ensure that no one is left behind; identifying joint inter-agency activities; and speaking with one voice and raising awareness of the multifaceted nature of drug policy.

Both the common position and the task team are critical opportunities to promote more coherence within the UN system both at international and national levels – ensuring that drug policies promoted by the UN are ‘truly balanced, comprehensive, integrated, evidence-based, human rights-based, development-oriented... within the framework of the 2030 Agenda for Sustainable Development’.³

Human rights violations committed in the name of drug control

The UN drug control regime relies upon three conventions adopted in 1961, 1971 and 1988,⁴ aiming at limiting access to controlled substances for non-medical use, while ensuring availability for medical and scientific purposes. For decades, the UN drug control bodies (UNODC, International Narcotics Control Board, Commission on Narcotic Drugs) and member states have implemented the conventions by seeking to create societies free of drugs.⁵ Evidence from UNODC shows, however, that overly punitive approaches have failed to reduce the scale of the illicit drug market,⁶ and have resulted in wide-ranging human rights violations.

A study conducted by IDPC of the past ten years of global drug control⁷ has showed that over 4,000 people were executed for drug offences between 2008-2018, with 35 jurisdictions retaining capital punishment for drug offences.⁸ The recent escalation of punitive drug policies and militarised state responses has resulted in generalised violence,

¹ CEB/2018/2, <https://www.unsceb.org/CEBPublicFiles/CEB-2018-2-SoD.pdf>.

² <https://www.ohchr.org/Documents/Publications/OHCHRreport2018.pdf>.

³ CEB/2018/2, <https://www.unsceb.org/CEBPublicFiles/CEB-2018-2-SoD.pdf>.

⁴ <https://www.unodc.org/unodc/en/commissions/CND/conventions.html>.

⁵ https://www.unodc.org/documents/commissions/CND/CND_Sessions/CND_52/Political-Declaration2009_V0984963_E.pdf;

https://www.unodc.org/documents/commissions/CND/2019/Ministerial_Declaration.pdf.

⁶ <https://www.unodc.org/wdr2018/en/drug-demand-and-supply.html>.

⁷ <https://idpc.net/publications/2018/10/taking-stock-a-decade-of-drug-policy-a-civil-society-shadow-report>.

⁸ Based on Harm Reduction International research on the death penalty for drug offences for 2010, 2015, 2017 and 2018.

with extrajudicial killings in countries like the Philippines⁹ and Bangladesh,¹⁰ and violent homicides in the Northern Triangle, especially Mexico.¹¹

Punitive approaches towards drugs have also had a severe impact on criminal justice systems and prison overcrowding, with 20% of prisoners worldwide incarcerated for drug offences,¹² most of them for drug possession for personal use.¹³ This proportion is even greater for women in some regions like Latin America,¹⁴ and in Thailand where over 80% of female inmates are incarcerated for drug offences.¹⁵ Disproportionate and inhumane treatment or punishment include forced urine testing and compulsory registration requirements hampering travel, access to employment and education; compulsory¹⁶ and arbitrary detention;¹⁷ and corporal punishment.¹⁸

In areas of illicit drug cultivation, subsistence farmers see their economic, social and cultural rights violated by drug policies, while the overall scale of cultivation has reached record highs.¹⁹ Forced eradication campaigns only displace cultivation to more remote areas²⁰ (including indigenous lands)²¹, exacerbating poverty and marginalisation of subsistence farmers, and sometimes resulting in violent encounters between law enforcement and local farmers.²² Furthermore, aerial fumigation with harmful pesticides harms affected communities and the environment.^{23,24}

Repressive drug control also violates the right to health for people who use drugs, who are disproportionately impacted by HIV, hepatitis C and tuberculosis,²⁵ especially during or as a result of incarceration.²⁶ WHO estimated 450,000 drug use-related deaths in 2015 alone, 33 to 50% of which caused by preventable overdoses, and the rest associated with HIV, hepatitis C and tuberculosis. Besides the harms associated with the criminalisation of people who use drugs, the high level of stigma and discrimination against them – especially women – severely hampers their access to life-saving harm reduction services.²⁷ Meanwhile, 75% of the world population, concentrated in the Global South, remain without

⁹ <https://drugarchive.ph/post/26-the-drug-killings-who-what-where-when-how-master>.

¹⁰ <https://idpc.net/media/press-releases/2018/06/ngos-call-on-the-united-nations-to-condemn-bangladesh-drug-war>.

¹¹ <http://www.oas.org/en/iachr/reports/pdfs/Mexico2016-en.pdf>.

¹² E/CN.15/2014/5,

https://www.unodc.org/documents/commissions/CCPCJ/CCPCJ_Sessions/CCPCJ_23/_E-CN15-2014-05/E-CN15-2014-5_E.pdf.

¹³ E/CN.15/2013/9, http://www.unodc.org/documents/data-and-analysis/statistics/crime/World_Crime_Trends_2013.pdf.

¹⁴ <http://www.oas.org/en/cim/docs/womendrugamericas-en.pdf>; http://www.drogasyderecho.org/wp-content/uploads/2015/10/luciana_i.pdf.

¹⁵ <http://www.bangkokpost.com/opinion/opinion/586901/for-female-offenders-jail-often-no-solution>.

¹⁶ <https://idpc.net/alerts/2015/01/throughout-asia-criminalisation-and-hard-punishment-are-imposed-on-people-who-use-drugs>;

http://www.who.int/substance_abuse/publications/atlas_report/profiles/egypt.pdfhttp://www.who.int/substance_abuse/publications/atlas_report/profiles/saudi_arabia.pdf.

¹⁷ A/HRC/30/36, http://www.hr-dp.org/files/2015/09/13/A_HRC_30_36_ENG.WGADannualreport_.docx.

¹⁸ https://www.hri.global/files/2011/11/08/IHRA_CorporalPunishmentReport_Web.pdf.

¹⁹ https://www.unodc.org/wdr2018/prelaunch/WDR18_Booklet_2_GLOBAL.pdf.

²⁰ https://www.gdpdp.org/wAssets/docs/Policy_Brief_Coca-y-deforestaci-n.pdf.

²¹ https://www.unodc.org/documents/crop-monitoring/Colombia/Colombia_Coca_survey_2016_English_web.pdf.

²² <https://www.theguardian.com/world/2017/dec/20/more-than-100-human-rights-activists-killed-in-colombia-in-2017-un-says>.

²³ <https://www.opensocietyfoundations.org/sites/default/files/impact-drug-policy-environment-20151208.pdf>.

²⁴ Bigwood, J. (2002), *A brief overview of the scientific literature regarding reported deleterious effects of glyphosate formulations on aquatic and soil biota 2*.

²⁵ https://www.unaids.org/sites/default/files/media_asset/JC2954_UNAIDS_drugs_report_2019_en.pdf.

²⁶ https://www.unodc.org/wdr2018/prelaunch/WDR18_Booklet_2_GLOBAL.pdf.

²⁷ http://www.unaids.org/sites/default/files/media_asset/donoharm_en.pdf;

https://www.unodc.org/documents/hiv-aids/publications/WOMEN_POLICY_BRIEF2014.pdf.

access to essential medications for pain relief, with 92% of morphine being used by just 17% of the world population.²⁸

Drug policy and human rights at the UN

In Vienna, UN drug control agencies have taken timid steps towards ensuring that drug policies respect and protect human rights obligations. The most significant advancement was made in the Outcome Document of the 30th UN General Assembly Special Session (UNGASS) in 2016, which dedicates an entire chapter to ‘drugs and human rights, youth, children, women and communities’²⁹ and several CND resolutions.³⁰ In addition, the significant harms associated with overly punitive drug control were recognised in the 2019 Ministerial Declaration, including the fact that ‘responses not in conformity with... applicable international human rights obligations pose a challenge to the implementation of joint commitments’.³¹ But the response remains wholly inadequate.

Important progress, however, has been made in recognising the human rights implications of drug policies among UN agencies and entities in Geneva. In 2015, the UN Human Rights Council (HRC) held a panel discussion and adopted its first resolution on this issue,³² resulting in a landmark report of the OHCHR in 2015 on the ‘impact of the world drug problem on the enjoyment of human rights’.³³ Following up from the UNGASS, the HRC adopted a second resolution in 2018,³⁴ leading the OHCHR to publish another report, providing recommendations on the implementation of the UNGASS Outcome Document with due regard to human rights.³⁵

Furthermore, at the occasion of the 2016 UNGASS³⁶ and 2019 Ministerial Segment, various Special Procedures raised concerns over a number of human rights violations committed in the name of drug control, including on arbitrary detention,³⁷ drug courts,³⁸ racial discriminations,³⁹ and women.⁴⁰ This is in addition to various reports and statements mentioning specific human rights abuses relating to drug policy, from UN human rights bodies,⁴¹ Special Procedures⁴² and the High Commissioner.⁴³

Recommendations

The UN common position and the task team represent crucial opportunities to strengthen coherence across the UN system on the multidisciplinary nature of global drug policy, and to further highlight the interrelation between drug policy and human rights. In this regard, the UN Human Rights Council, its Special Procedures, human rights treaty bodies and the OHCHR have a key role to play. IDPC recommends that:

²⁸ https://www.incb.org/documents/Publications/AnnualReports/AR2015/English/Supplement-AR15_availability_English.pdf

²⁹ <https://www.unodc.org/documents/postungass2016/outcome/V1603301-E.pdf>

³⁰ For example, the first CND resolution on stigma was adopted in 2018: see CND resolution 61/11, https://www.unodc.org/documents/commissions/CND/CND_Sessions/CND_61/CND_res2018/CND_Resolution_61_11.pdf

³¹ https://www.unodc.org/documents/commissions/CND/2019/Ministerial_Declaration.pdf

³² A/HRC/28/L.22, http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/28/L.22

³³ A/HRC/30/65, <https://undocs.org/A/HRC/30/65>

³⁴ A/HRC/37/L.41, http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/37/L.41

³⁵ A/HRC/39/39, http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/39/39

³⁶ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=19828&LangID=E>

³⁷ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24369&LangID=E>

³⁸ <https://www.ohchr.org/Documents/Issues/IJudiciary/InfoNote20March2019.docx>

³⁹ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24332&LangID=E>

⁴⁰ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24330&LangID=E>

⁴¹ For example: E/C.12/RUS/CO/5, E/C.12/EST/CO/2, CRC/C/GC/15, CEDAW/C/GC/15

⁴² For example: A/65/255, HRC/22/53

⁴³ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24529&LangID=E>

The OHCHR, the HRC and its Special Procedures and human rights treaty bodies highlight the common position in dialogues with other UN agencies/entities and UN member states.

The OHCHR proactively engages in the task team to translate the human rights-focused recommendations of the common position on the ground.

The OHCHR continues its strong engagement in Vienna to highlight the links between human rights and drug policy, in particular at the CND and in discussions on the review of the Annual Report Questionnaire to improve data collection on drug policy and human rights.

The OHCHR cooperates with, and supports, NGOs engaged in the promotion of human rights and health-based approaches to drug policy, and takes appropriate measures to protect them from intimidation, threat, harassment or reprisal.

The HRC takes necessary steps, including through systematic investigation and reporting, to respond to the human rights violations associated with drug control measures both at national and international level, making use of existing Special Procedures and providing necessary support to these mechanisms, and considering additional tools such as a new Special Rapporteur on human rights and drug policy.
