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

Human rights challenges in addressing and countering all aspects of the world drug problem

Report of the Office of the United Nations High Commissioner for Human Rights*

Summary

The present report outlines human rights challenges in addressing and countering key aspects of the world drug problem. It also offers an overview of recent positive developments to shift towards more human rights-centred drug policies, and provides recommendations on the way forward in view of the upcoming midterm review of the 2019 Ministerial Declaration and to contribute to the implementation of the 2030 Agenda for Sustainable Development.

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I. Introduction

1. The present report is submitted pursuant to Human Rights Council resolution 52/24. The Council requested Office of the United Nations High Commissioner for Human Rights (OHCHR) to prepare a report, in consultation with States, the United Nations Office on Drugs and Crime (UNODC) and other relevant United Nations agencies, civil society and other relevant stakeholders, on human rights challenges in addressing and countering all aspects of the world drug problem, and to present it to the Council at its fifty-fourth session.

2. In preparing the report, OHCHR issued a call for submissions, addressed to States and other stakeholders. The report is based on the analysis conducted by OHCHR of over 100 contributions,¹ and a review of publicly available material, including recent developments from human rights mechanisms and Vienna-based bodies.

II. International legal and policy framework

3. International drug control measures are regulated by three drug control conventions: the 1961 Single Convention on Narcotic Drugs, the 1971 Convention on Psychotropic Substances and the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. The International Narcotics Control Board monitors the implementation of these conventions. The original aim of these conventions was to protect the health and welfare of humankind. However, current drug control policies have primarily taken a punitive approach to suppress the market in illicit drugs, and many countries have adopted repressive policies, with consequent impacts on human rights.

4. On various occasions, States have committed to respecting, protecting and promoting all human rights in the development and implementation of drug policies.² The outcome document of the thirtieth special session of the General Assembly on the world drug problem introduced new language on respecting, promoting and protecting human rights in drug policy, and moved the narrative beyond the traditional three pillars of supply, demand and cooperation, of previous United Nations documents on drug policy,³ and towards public health and development.⁴

5. In the 2019 Ministerial Declaration, all States noted that responses “not in conformity with applicable international human rights obligations pose a challenge to the implementation of joint commitments based on the principle of common and shared responsibility”.⁵

6. The International Guidelines on Human Rights and Drug Policy, developed by a coalition of United Nations Member States, the World Health Organization (WHO), the Joint United Nations Programme on HIV/AIDS (UNAIDS), UNDP, OHCHR and human rights and drug policy experts, provide a comprehensive set of international legal guidance for placing human dignity, human rights and sustainable development at the centre of State responses to the drug problem.⁶ The Guidelines highlight the measures States should take to comply with their human rights obligations, while taking into account their obligations under the international drug control conventions. They provide that “obligations contained within international drug control treaties may not be used as a basis for violating concomitant international human rights obligations”.⁷

¹ Submissions are available at <https://www.ohchr.org/en/calls-for-input/2023/call-inputs-ohchrs-report-human-rights-challenges-addressing-and-countering>.

² <https://www.unodc.org/documents/postungass2016/outcome/V1603301-E.pdf>; and General Assembly resolutions 74/178, 75/198, 76/188 and 77/238.

³ https://www.unodc.org/documents/drug-prevention-and-treatment/JOINT_MINISTERIAL_STATEMENT_2014_HIGH_LEVEL_REVIEW_BY_THE_COMMISSION.pdf.

⁴ <https://www.unodc.org/documents/postungass2016/outcome/V1603301-E.pdf>.

⁵ https://www.unodc.org/documents/commissions/CND/2019/Ministerial_Declaration.pdf.

⁶ <https://www.undp.org/publications/international-guidelines-human-rights-and-drug-policy>.

⁷ Ibid.

7. In the United Nations system common position supporting the implementation of the international drug control policy through effective inter-agency collaboration, United Nations agencies reiterated their strong commitment to supporting Member States in developing and implementing truly balanced, human rights-based, development-oriented and sustainable responses to the world drug problem, within the framework of the 2030 Agenda for Sustainable Development.⁸

III. Human rights challenges in addressing and countering the world drug problem

8. The world drug problem has a major impact on the enjoyment of human rights. Responding to the harms associated with drug use and to the illicit drug trade constitutes a major public policy challenge of our time, of which all aspects have human rights implications. This chapter examines the human rights implications of the main areas of concern when addressing and countering the world drug problem.

A. Lack of, and unequal access to, treatment and harm reduction

9. The World Drug Report 2023 put the global estimate of people who injected drugs in 2021 at 13.2 million, 18 per cent higher than previously estimated. Globally, over 296 million people used drugs in 2021, an increase of 23 per cent over the previous decade. Furthermore, the number of people suffering from drug use disorders skyrocketed to 39.5 million, a 45 per cent increase over 10 years.⁹

10. The provision of accessible drug treatment services is essential to realize the right to health of people who use drugs. However, the demand for treating drug-related disorders remains largely unmet. Only one in five people suffering from drug-related disorders was in treatment for drug use in 2021, with widening disparities in access to treatment across regions.¹⁰ Regarding this gap in services, nearly 600,000 people still die every year from drug-related causes, namely viral hepatitis, HIV, overdose and injuries.¹¹

11. The right to the highest attainable standard of health applies equally in the context of drug laws, policies and practices, and includes access, on a voluntary basis, to harm reduction services¹² and drug dependence treatment.¹³ In the outcome document of the special session of the General Assembly on the world drug problem, Member States agreed on various measures to address demand reduction and health-related issues.¹⁴ In the 2019 Ministerial Declaration, Member States noted with concern that drug treatment and health services continued to fall short of meeting needs, and reiterated their resolve to strengthen demand reduction initiatives covering prevention, early intervention, treatment, care, recovery, rehabilitation and social reintegration measures on a non-discriminatory basis.¹⁵

12. Treaty bodies have expressed concern over the lack of harm reduction programmes for drug users,¹⁶ and have recommended the expansion of such programmes,¹⁷ including in prisons,¹⁸ and the removal of obstacles that limit access to those services.¹⁹ Special

⁸ CEB/2018/2, annex I.

⁹ <https://www.unodc.org/unodc/en/data-and-analysis/world-drug-report-2023.html>.

¹⁰ Ibid.

¹¹ https://apps.who.int/gb/ebwha/pdf_files/WHA75/A75_43-en.pdf.

¹² <https://www.who.int/publications/i/item/9789240052390> and <https://www.who.int/publications/i/item/978924150437>. See also submission from Association de Lutte contre le Sida.

¹³ <https://www.undp.org/publications/international-guidelines-human-rights-and-drug-policy>.

¹⁴ <https://www.unodc.org/documents/postungass2016/outcome/V1603301-E.pdf>, recommendation No. 1 (a)-(r).

¹⁵ https://www.unodc.org/documents/commissions/CND/2019/Ministerial_Declaration.pdf.

¹⁶ E/C.12/BOL/CO/3, para. 56; and E/C.12/ECU/CO/4, para. 47.

¹⁷ E/C.12/BEN/CO/3, para. 42; E/C.12/ITA/CO/6, para. 60; and E/C.12/AZE/CO/4, para. 49.

¹⁸ E/C.12/UKR/CO/7, para. 43.

¹⁹ E/C.12/CHE/CO/4, para. 51.

procedures of the Human Rights Council have recommended access to adequate medical care,²⁰ including drug replacement therapies for drug users,²¹ the strengthening of aftercare programmes to support sustained recovery,²² the prohibition of compulsory drug rehabilitation, the development of oversight and accountability structures of drug treatment and rehabilitation centres, and strengthening and promoting effective, consensual and voluntary community-based treatment and rehabilitation.²³ Regarding the situation in prison settings, special procedures have expressed concern over the lack of drug withdrawal treatments,²⁴ noted that prison-based needle and syringe programmes are an essential harm reduction measure for the prevention of blood-borne virus transmission,²⁵ and recommended making available voluntary, evidence-informed and rights-based medical care.²⁶

13. In its resolution 64/3, the Commission on Narcotic Drugs encouraged States to promote, improve and facilitate drug prevention, treatment, care, sustained recovery and related support services, on a voluntary basis, and to prevent any possible acts of cruel, inhuman or degrading treatment or punishment.²⁷ The International Narcotics Control Board welcomed the implementation of initiatives based on voluntary, evidence-based treatment services and discouraged the use of compulsory detention and rehabilitation for people who use drugs.²⁸

14. Submissions reported the continued existence of non-voluntary, compulsory or coercive treatment,²⁹ which poses serious challenges to human dignity and rights and is contrary to international norms and standards.³⁰ Submissions also reported a reduction in support to medium to long-term treatment programmes and social reintegration services, including employment, affordable housing and childcare services, which are key to ensure sustained, long-term recovery and social reintegration, including for individuals formerly incarcerated.³¹ Submissions also stressed that structural barriers such as punitive drug control laws, policies and law enforcement practices are among the main obstacles to people's ability to enter drug treatment programmes, and result in stigma³² and social exclusion.³³

15. People who use drugs are disproportionately affected by HIV/AIDS³⁴ and are at risk of being left behind in the response in certain contexts.³⁵ As a result of lack of services, in 2021, 10 per cent of all new HIV infections globally were among people who inject drugs, and people who inject drugs faced a 35 times higher risk of acquiring HIV than the rest of the adult population.³⁶

²⁰ [A/HRC/46/26/Add.1](#), para. 101.

²¹ *Ibid.*, para. 97 (i); and [A/HRC/40/59/Add.2](#), para. 85 (f).

²² [A/HRC/46/26/Add.1](#), para. 102.

²³ [A/HRC/45/51](#), para. 93 (g); [A/HRC/42/39/Add.1](#), para. 76; [A/HRC/42/60](#), para. 74 (q); and [A/HRC/40/68](#), para. 68 (c).

²⁴ [A/HRC/46/26/Add.1](#), para. 73.

²⁵ [A/HRC/53/29](#), para. 38. See also submission from Fédération Addiction France.

²⁶ [A/HRC/42/39/Add.1](#), para. 76. See also submission from Chronic Illness Advocacy and Awareness Group.

²⁷ [E/2021/28-E/CN.7/2021/10](#).

²⁸ <https://www.incb.org/incb/en/publications/annual-reports/annual-report-2022.html>.

²⁹ Submissions from UNAIDS, Amnesty International, Canadian Drug Policy Coalition, Dianova International, Harm Reduction International, Helsinki Foundation for Human Rights (Poland) and Pempidou Group.

³⁰ [A/HRC/47/40](#), paras. 82 and 83.

³¹ Submissions from Dianova International and TASC.

³² Submissions from the Forum of People Who Use Drugs in Kazakhstan and the Slovak National Centre for Human Rights.

³³ Submissions from UNAIDS, Dianova International, Eurasian Harm Reduction Association, Helsinki Foundation for Human Rights (Poland), Harm Reduction International and Pempidou Group.

³⁴ Submission from UNAIDS.

³⁵ Submissions from Active Youth Zimbabwe, Association de Lutte contre le Sida, Organisation pour la Promotion Agro-Pastorale et le Développement au Congo and Women and Harm Reduction International Network; and joint submission from Eurasian Network of People Who Use Drugs and Alliance for Public Health.

³⁶ UNAIDS submission.

16. Affordable access to and adequate availability of internationally controlled essential medicines for palliative care, cancer treatment and drug dependency, and other treatments, also constitute core minimum obligations of the right to health.³⁷ Reportedly, more than 80 per cent of the world's population, living mainly in low- and lower-middle-income countries, have no access to internationally controlled essential medicines to address serious health-related suffering associated with severe pain, palliative care needs, treatment of substance use disorder, and other conditions.³⁸ Lack of training of the health workforce, unduly restrictive regulations, and “fear of addiction” are the main impediments to opioid availability.³⁹

B. The “war on drugs” and the militarization of drug control

17. Punitive approaches to drug control, which in some countries include the militarization of law enforcement responses to counter the drug problem, have involved rapid escalation in the use of lethal force and continue to facilitate the commission of multiple and serious human rights violations, from unnecessary and disproportionate use of force to extrajudicial killings, with related impunity.⁴⁰ In some instances, the militarization of law enforcement in the context of the “war on drugs”, including through the deployment of military personnel, has blurred and negatively impacted accountability for abuses and violations.⁴¹ In other instances, the militarization of the “war on drugs” has been framed as counter-terrorism measures to address threats to national security posed by organized crime involved in drug trafficking.⁴²

18. Treaty bodies continued expressing concern about reports of extrajudicial killings and other human rights violations in the context of the “war on drugs”, with the majority of victims being young men from poor and marginalized communities.⁴³ They urged States to put an end to extrajudicial killings of suspected drug offenders and users; to promptly, independently and thoroughly investigate all such allegations; to bring perpetrators, including law enforcement officials, to justice; to establish independent accountability mechanisms; and to provide victims with full redress.⁴⁴

19. The Working Group on Arbitrary Detention observed that the “war on drugs”, apart from triggering multiple human rights violations, had generated a culture of corruption within law enforcement bodies.⁴⁵ It also underscored that the “war on drugs” was tantamount to a war on people, since its impact was often greatest on those who were poor, and frequently overlapped with discrimination in drug control efforts directed at vulnerable and

³⁷ Committee on Economic, Social and Cultural Rights, general comment No. 14 (2000), para. 43; Committee on the Elimination of Discrimination against Women, general recommendation No. 27 (2010), para. 45; Committee on the Rights of the Child, general comment No. 15 (2013), para. 25; https://www.oas.org/en/sla/dil/inter_american_treaties_A-70_human_rights_older_persons.asp; and Human Rights Council resolution 48/3.

³⁸ https://www.incb.org/documents/Publications/AnnualReports/AR2022/Supplement/E_INCB_2022_1_Supp_1_eng.pdf; see also submissions from UNODC and Eastern and Central European and Central Asian Commission on Drug Policy.

³⁹ https://www.incb.org/documents/Publications/AnnualReports/AR2022/Annual_Report/E_INCB_2022_1_eng.pdf; and submissions from International Association for Hospice and Palliative Care and Ambika Satkunanathan.

⁴⁰ https://www.ohchr.org/sites/default/files/Documents/Issues/Racism/A_HRC_47_CRP_1.pdf; [A/HRC/39/39](#), paras. 29–33; [A/HRC/30/65](#), para. 41; submissions from Amnesty International, African Council on Narcotics, Eastern and Central European and Central Asian Commission on Drug Policy, Mega Impact Foundation and Uganda Youth Development Link; and joint submission from Corporación Viso Mutop and Transnational Institute.

⁴¹ <http://www.oas.org/en/iachr/reports/pdfs/PoliceUseOfForceAfrosUSA.pdf>.

⁴² Submissions from Open Society Foundations and Release. See <https://apnews.com/article/86ab73d724217bf6d475e5a8e1eba527>.

⁴³ [CCPR/C/PHL/CO/5](#), para. 27.

⁴⁴ *Ibid.*, para. 28.

⁴⁵ [A/HRC/47/40](#), para. 8.

marginalized groups.⁴⁶ In 2023 and in 2022, on the International Day against Drug Abuse and Illicit Trafficking, special procedures reiterated their call to end the global “war on drugs” and called for transformative change in the international approach to drugs, focusing on health and other human rights.⁴⁷

20. In a statement to the Commission on Narcotic Drugs in March 2023, the High Commissioner stressed that decades of punitive, “war on drugs” strategies had failed to prevent an increasing range and quantity of substances from being produced and consumed. Furthermore, the “war on drugs” approach was detrimental to public health, and perpetuated existing patterns of discrimination, including against people of African descent, Indigenous Peoples, and women. He called for a stop to the “war on drugs” and instead to focus on transformative change – crafting gender-sensitive drug policies, based on evidence, which put human rights at the centre.⁴⁸

21. The International Narcotics Control Board, for its part, has reiterated that any extrajudicial action taken with drug control objectives is fundamentally contrary to the international drug control conventions and human rights norms, that all drug control actions by States should be undertaken in full respect of the rule of law and due process of law, and that violations by law enforcement personnel should be impartially and independently investigated, prosecuted and punished as appropriate.⁴⁹

22. NGOs have documented human rights violations, including arbitrary detentions, torture and other ill-treatment, enforced disappearances and extrajudicial executions, resulting from the militarization of anti-drug operations that disproportionately impact the poorest and most marginalized sectors of society.⁵⁰ Submissions also referred to the human rights impact, including on the rights to health, land and environment, of strategies such as aerial spraying to eradicate illicit crops in the context of the “war on drugs”.⁵¹ In most cases, accountability for human rights violations and access to effective remedies for victims and communities remains lacking.⁵²

C. Overincarceration and prison overcrowding

23. According to UNODC, of the 3.1 million individuals arrested for drug offences globally, an estimated 61 per cent were arrested for possession of drugs, while 78 per cent of the 2.5 million people in prison for drug offences – who account for some 20 per cent of the

⁴⁶ Ibid., para. 51.

⁴⁷ <https://www.ohchr.org/en/press-releases/2023/06/un-experts-call-end-global-war-drugs> and <https://www.ohchr.org/en/statements/2022/06/end-war-drugs-and-promote-policies-rooted-human-rights-un-experts>.

⁴⁸ <https://www.ohchr.org/en/statements-and-speeches/2023/03/drug-policies-high-commissioner-calls-transformative-changes>; and submissions from UNODC and IDPC Consortium.

⁴⁹ <https://www.incb.org/incb/en/publications/annual-reports/annual-report-2022.html> and https://unis.unvienna.org/pdf/2022/INCB/INCB_2021_Report_E.pdf.

⁵⁰ Submissions from Pompidou Group, Elementa-Mexico, Red Latinoamericana y del Caribe de Personas que Usan Drogas, México Unido contra la Delincuencia, Rise Up for Life and for Rights, Safer Drug Policies Norway and Uganda Youth Development Link. See <https://www.amnesty.org/en/documents/pol10/5670/2023/en/>, <https://www.amnesty.org/en/documents/asa23/2220/2020/en/>, <https://acleddata.com/2021/11/18/the-drug-war-rages-on-in-the-philippines-new-acleddata-on-the-civilian-toll-state-responsibility-and-shifting-geographies-of-violence/> and <https://www.cels.org.ar/informe2019/pdf/Guerra-contra-el-narcotrafico.pdf>.

⁵¹ Submissions from Dejusticia and PULS Comunitar; joint submission from Corporación Viso Mutop and Transnational Institute; and https://www.tni.org/files/publication-downloads/tni-2018_connecting_the_dots.pdf.

⁵² Submissions from Dejusticia, Fédération bruxelloise des institutions pour toxicomanes and IDPC Consortium; see also <https://idpc.net/publications/2021/04/taking-stock-of-half-a-decade-of-drug-policy-an-evaluation-of-ungass-implementation>.

total global prison population – were sentenced for drug trafficking.⁵³ In many instances, however, people were merely in possession of drugs but sentenced for drug trafficking.⁵⁴

24. Human rights mechanisms have expressed concerns over the unnecessary and disproportionate use of the criminal justice system to deal with drug-related offences, which has led to an exponential growth of prison populations. In particular, treaty bodies have expressed concerns about the criminalization of the possession of small quantities of drugs, which has led to the incarceration and marginalization of drug users;⁵⁵ the high levels of detention of persons who use drugs;⁵⁶ the prolonged use of solitary confinement and ill-treatment of those detained for drug-related offences;⁵⁷ the extensive use of prolonged pretrial detention in cases involving drug offences; persons convicted of drug-related offences facing penalties of compulsory rehabilitation or incarceration;⁵⁸ long prison sentences faced by drug users;⁵⁹ and deaths of prisoners at anti-drug units.⁶⁰

25. In its study on arbitrary detention and drug policies, the Working Group on Arbitrary Detention recalled that the absolute prohibition of arbitrary deprivation of liberty applies to everyone, including those who are arrested, detained, or charged with drug-related offences.⁶¹ The Working Group observed that punitive drug policies had resulted in a large and disproportionate increase in detention and imprisonment for drug-related offences, which had frequently resulted in widespread human rights violations leading to increased arbitrary detention.⁶² The Working Group expressed concern over a series of practices and human rights violations resulting in arbitrary detention for drug-related offences, such as drug testing without consent or a judicial warrant, failure to promptly bring arrested persons before a judge, overuse of pretrial detention, torture or ill-treatment, lack of observance of fair trial guarantees, disproportionate sentencing, and a ban on suspended sentences, parole, pardon and amnesty for persons convicted for drug-related offences.⁶³

26. During the COVID-19 pandemic, the Special Rapporteur on the right to health recommended the early release of prisoners with health vulnerabilities, including those with drug dependence, and those charged with minor and non-violent drug offences. He urged States to review the necessity and reasonableness of drug detention and to adopt effective measures and funding to ensure that those released from prisons and other detention settings had continuity of care, access to adequate housing and health care in the community.⁶⁴

27. The United Nations system's Common Position on Incarceration underscored the impact of imprisonment for drug-related offences. It noted that those detained for drug-related offences were often low-level offenders, and that in many countries, national drug laws made no or limited provision for alternatives to imprisonment. The United Nations system committed to supporting reform efforts aimed at ensuring proportionate and individualized sentencing policies and alternatives to conviction or punishment for minor drug-related offences, and to advocating for the decriminalization of acts that are protected by international human rights law.⁶⁵ The United Nations system common position on drug-related matters also committed to promoting alternatives to conviction and punishment,

⁵³ UNODC submission.

⁵⁴ https://www.ohchr.org/sites/default/files/Documents/Issues/Racism/A_HRC_47_CRP_1.pdf.

⁵⁵ E/C.12/SRB/CO/3, para. 62; E/C.12/NOR/CO/6, para. 42; and CEDAW/C/KGZ/CO/5, para. 45.

⁵⁶ E/C.12/KHM/CO/2, para. 46; E/C.12/ITA/CO/6, para. 59; E/C.12/UZB/CO/3, para. 52; and CCPR/C/PHL/CO/5, para. 33.

⁵⁷ CAT/C/PSE/CO/1, para. 36.

⁵⁸ CCPR/C/PHL/CO/5, para. 33; and CCPR/C/KHM/CO/3, para. 28.

⁵⁹ E/C.12/BLR/CO/7, para. 37; and E/C.12/BEN/CO/3, para. 41.

⁶⁰ CAT/C/BFA/CO/2, para. 21.

⁶¹ A/HRC/47/40, para. 4; and submission from World Federation against Drugs.

⁶² A/HRC/47/40, para. 8.

⁶³ *Ibid.*, paras. 8–50.

⁶⁴ <https://www.ohchr.org/en/statements/2020/04/statement-un-expert-right-health-protection-people-who-use-drugs-during-covid-19>; and UNODC submission.

⁶⁵ https://www.unodc.org/res/justice-and-prison-reform/nelsonmandelrules-GoF/UN_System_Common_Position_on_Incarceration.pdf.

including the decriminalization of drug possession for personal use, and to addressing prison overcrowding and overincarceration of people accused of drug crimes.⁶⁶

28. Submissions from civil society organizations have shown that punitive drug policies have resulted in overincarceration of marginalized groups, racial and ethnic minorities, and women.⁶⁷ Similarly, they indicate that people of African descent, Indigenous Peoples and migrants are discriminated against at all stages of the criminal justice process, being disproportionately policed and arrested, harshly sentenced, and incarcerated for drug offences.⁶⁸

29. Submissions from civil society organizations also pointed to the global drug control regime as a major contributor to the prohibitionist paradigm, particularly by prescribing criminalization as a response to the drug phenomenon.⁶⁹ Such punitive drug policies have major human rights impacts on people who use drugs, including on their rights to liberty,⁷⁰ privacy,⁷¹ health and well-being⁷² and other economic and social rights.⁷³ Despite evidence that removing sanctions against people who use drugs can reduce prison overcrowding, improve health outcomes, uphold human rights, and address stigma and discrimination, limited numbers of countries have decriminalized the use, possession, purchase and cultivation of drugs for personal use, and even when alternatives to incarceration are available, their application is rare for drug-related cases and often fails to reach marginalized people.⁷⁴

⁶⁶ CEB/2018/2, annex I.

⁶⁷ <https://doi.org/10.1186/s12954-021-00564-7>, <https://hri.global/publications/the-harms-of-incarceration-the-evidence-base-and-human-rights-framework-for-decarceration-and-harm-reduction-in-prisons>, https://www.prisonstudies.org/sites/default/files/resources/downloads/world_female_imprisonment_list_5th_edition.pdf, submission from Escola Livre de Redução de Danos; and joint submission from Harm Reduction International, Penal Reform International, Asociația Obsteasca Promo-LEX, European Prison Litigation Network and Health Without Barriers.

⁶⁸ <https://www.penalreform.org/global-prison-trends-2022/>; submissions from Drug Policy Alliance, Escola Livre de Redução de Danos, Forum Droghe Associazione Movimento per il Contenimento dei Danni and IDPC Consortium; and joint submission from HIV Legal Network and Centre on Drug Policy Evaluation.

⁶⁹ Submissions from Global Commission on Drug Policy, IDPC Consortium, Amnesty International, Centro de Estudios Legales y Sociales – Asociación Civil, Dejusticia, Eurasian Harm Reduction Association, Lembaga Bantuan Hukum Masyarakat, Helsinki Foundation for Human Rights (Poland), Attika Public Foundation, Transformative Justice Collective and Young Aspirers Helpmate International Foundation. See also submission from Pompidou Group.

⁷⁰ https://www.unodc.org/documents/commissions/CND/2019/Contributions/UN_Entities/What_we_have_learned_over_the_last_ten_years_-_14_March_2019_-_w_signature.pdf, <https://unaidsapnew.files.wordpress.com/2022/01/booklet-1-12th-jan-2022.pdf>, http://www.unaids.org/en/resources/documents/2014/20140716_UNAIDS_gap_report, https://www.unodc.org/docs/treatment/111_PRISON.pdf, and submission from Action against Drug Abuse.

⁷¹ <https://idpc.net/publications/2019/02/10-years-of-drug-policy-in-asia-how-far-have-we-come-a-civil-society-shadow-report> and <https://drive.google.com/file/d/1DBGu24ggfDEzv57QEeSf1YZ8ZYvnwUC/view>.

⁷² https://www.unaids.org/sites/default/files/media_asset/JC3032_AIDS_Data_book_2021_En.pdf, https://www.unodc.org/res/wdr2022/MS/WDR22_Booklet_2.pdf and <https://idpc.net/publications/2022/01/marginalising-the-most-marginalised-gathering-evidence-on-how-the-welfare-state-discriminates-against-people-who-use-drugs>.

⁷³ Submissions from Amnesty International and Drug Policy Alliance; and <https://idpc.net/publications/2022/01/marginalising-the-most-marginalised-gathering-evidence-on-how-the-welfare-state-discriminates-against-people-who-use-drugs>.

⁷⁴ Submissions from Amnesty International, Escola Livre de Redução de Danos, Missing Child Tanzania, Organisation pour la Promotion Agro-Pastorale et le Développement au Congo, Prison Insider and Young Aspirers Helpmate International Foundation. However, the World Federation against Drugs submission advocates for more humane drug policies without legalization of illicit substances.

D. Use of the death penalty for drug offences

30. International human rights law establishes that States that have not abolished the death penalty may impose it only for “the most serious crimes”,⁷⁵ a term that has been interpreted by the Human Rights Committee as referring to crimes of extreme gravity involving intentional killing. Drug-related offences can never serve as the basis for the imposition of the death penalty.⁷⁶

31. The Secretary-General has noted that, although considerable progress has been made in recent years towards the global abolition of the death penalty, an increased number of people were executed worldwide in 2022, especially due to a significant rise in executions for drug-related offences in several countries.⁷⁷ Furthermore, he has stressed that there is no evidence that the death penalty deters drug-related crimes more than other methods of punishment or that it affects crime reduction.⁷⁸ Pending abolition, the Secretary-General has called on retentionist States to refrain from using the death penalty for drug-related offences.⁷⁹ The International Narcotics Control Board has also reiterated its call upon all States that retain the death penalty for drug-related offences to consider abolishing it for such offences and commuting death sentences that have already been handed down.⁸⁰

32. Human rights mechanisms have consistently called for the abolition of the death penalty for drug-related offences, stressing that it is contrary to international law.⁸¹ During the 2023 Human Rights Council panel discussion on human rights violations relating to the use of the death penalty, experts recalled that crimes not resulting directly and intentionally in death, such as drug-related offences, should never be sanctioned by the death penalty, and stressed that any strategy to combat the death penalty for drug offences must be interwoven with systemic reform of drug policies.⁸²

33. Despite international norms and standards, 35 countries retain the death penalty for drug offences.⁸³ Reportedly, executions for drug offences account for one in three of all executions carried out globally.⁸⁴ The recorded number of people executed for drug-related offences more than doubled in 2022 compared to 2021, amounting to 37 per cent of all executions recorded globally.⁸⁵

34. Submissions from stakeholders highlighted multiple human rights concerns in the use of the death penalty for drug-related offences,⁸⁶ including its disproportionate impact on poor or economically vulnerable individuals, foreign nationals, minorities, and women; lack of

⁷⁵ International Covenant on Civil and Political Rights, art. 6 (2).

⁷⁶ Human Rights Committee, general comment No. 36 (2019), para. 35.

⁷⁷ A/HRC/54/33, para. 8.

⁷⁸ A/77/274, para. 24; A/HRC/48/38, para. 44; and A/73/260, para. 60. See also submission from Open Society Foundations and joint submission from Eleos Justice, Capital Punishment Justice Project and Anti-Death Penalty Asia Network.

⁷⁹ A/HRC/51/7, para. 64; and A/HRC/54/33, para. 57.

⁸⁰ https://unis.unvienna.org/pdf/2022/INCB/INCB_2021_Report_E.pdf, para. 904.

⁸¹ CCPR/C/PHL/CO/5, para. 25; CCPR/C/VNM/CO/3, para. 23; see communications SGP 2/2023, SAU 11/2022, IRN 5/2022 and LKA 4/2019. Communications are available at <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>. See also <https://www.ohchr.org/en/press-releases/2023/04/singapore-un-experts-condemn-continued-use-death-penalty-drug-related-crimes>.

⁸² <https://www.ohchr.org/en/news/2023/02/high-commissioner-human-rights-calls-states-have-not-yet-done-so-establish-moratoriums>; and A/HRC/54/46, para. 52.

⁸³ <https://hri.global/flagship-research/death-penalty/>.

⁸⁴ Joint submission from Harm Reduction International, European Saudi Organization for Human Rights, Lembaga Bantuan Hukum Masyarakat, Abdorrahman Boroumand Center for Human Rights in Iran, Anti-Death Penalty Asia Network, Capital Punishment Justice Project, Justice Project Pakistan, Iran Human Rights and Transformative Justice Collective.

⁸⁵ <https://www.amnesty.org/en/documents/act50/6548/2023/en/>, https://hri.global/wp-content/uploads/2023/03/HRI_DeathPenalty_Report2022.pdf and https://iranhr.net/media/files/Rapport_iran_2022_PirQr2V.pdf.

⁸⁶ Submissions from Austria, Australia, Czechia, Mexico, Spain, Sweden and Switzerland.

transparency; violations of the right to a fair trial, including lack of access to effective legal assistance; and conditions on death row.⁸⁷

E. Disproportionate impact on specific groups

35. Drug policies disproportionately impact the poorest and most marginalized populations.⁸⁸ Furthermore, the following specific groups experience the negative impact of drug policies.

1. Children and youth

36. Youth populations are vulnerable to using drugs and are severely affected by substance use disorders.⁸⁹ More young people are using more drugs compared with previous generations.⁹⁰

37. Treaty bodies have noted with concern the increasingly detrimental effect that drug abuse has on the health of adolescents,⁹¹ and have recommended that States strengthen measures to provide children and adolescents with information on the harmful effects of drug abuse,⁹² as well as life-skills education on preventing substance abuse;⁹³ develop accessible and youth-friendly drug dependence treatment and harm reduction services,⁹⁴ according to their age and background;⁹⁵ develop protocols for the early identification and adequate referral of adolescents requiring treatment;⁹⁶ improve the quality of rehabilitation services by developing effectiveness criteria and monitoring the quality of services;⁹⁷ and ensure that procedural safeguards, including access to the file and the provision of legal assistance, are respected for all children, including those arrested on drugs charges.⁹⁸

38. The International Narcotics Control Board has noted that young people have unique substance use patterns and treatment needs that are different from those of adults. Many activities labelled as drug prevention or drug treatment are not evidence-based, their coverage is limited, and their quality is unknown.⁹⁹ Interventions should be based on the specific

⁸⁷ Submissions from African Council on Narcotics, Amnesty International, Associazione Comunità Papa Giovanni XXIII, Eastern and Central European and Central Asian Commission on Drug Policy and Transformative Justice Collective; joint submission from Harm Reduction International and others; and see <https://www.penalreform.org/global-prison-trends-2022/death-penalty/>.

⁸⁸ Social and economic inequalities drive – and are driven by – drug challenges: see <https://www.unodc.org/unodc/en/press/releases/2023/June/unodc-world-drug-report-2023-warns-of-converging-crises-as-illicit-drug-markets-continue-to-expand.html?testme>.

⁸⁹ <https://www.unodc.org/unodc/en/press/releases/2023/June/unodc-world-drug-report-2023-warns-of-converging-crises-as-illicit-drug-markets-continue-to-expand.html?testme>; and submissions from the national human rights institution of Azerbaijan, Mauritius, Missing Child Tanzania and Fundación ProSalud.

⁹⁰ Submissions from UNODC, Active Youth Zimbabwe, Recovered Users Network, Fondazione San Patrignano, Zimbabwe Civil Liberties and Drug Network.

⁹¹ *CRC/C/MUS/CO/6-7*, para. 34 (c). See also submission from Local Education and Economic Development Organization.

⁹² *CRC/C/KHM/CO/4-6*, para. 38 (d); and *CRC/C/PHL/CO/5-6*, para. 32 (h).

⁹³ *CRC/C/POL/CO/5-6*, para. 36 (f).

⁹⁴ *CRC/C/KIR/CO/2-4*, para. 45 (d); *CRC/C/ISL/CO/5-6*, para. 33 (c); *CRC/C/ZMB/CO/5-7*, para. 33 (d); and *CRC/C/FSM/CO/2*, para. 55 (d).

⁹⁵ *CRC/C/CRI/CO/5-6*, para. 37 (e).

⁹⁶ *CRC/C/MUS/CO/6-7*, para. 35 (e); *CRC/C/CHL/CO/6-7*, para. 29 (e); and *CRC/C/ISL/CO/5-6*, para. 33 (c).

⁹⁷ *CRC/C/UKR/CO/5-6*, para. 33 (d).

⁹⁸ *CRC/C/PHL/CO/5-6*, para. 41 (c).

⁹⁹ https://www.incb.org/documents/Publications/AnnualReports/AR2019/Annual_Report_Chapters/AR2019_Chapter_I_EN.pdf, and submission from the Dalgarno Institute.

situation and should employ and expand the use of evidence-based tools.¹⁰⁰ Governments should invest more in drug prevention programmes that make use of social media.¹⁰¹

39. Submissions stated that the consequences of a criminal record for young people were life-altering; their ability to exercise their right to independent and informed decision-making on their health was limited by age of consent laws;¹⁰² harm reduction and treatment services tailored to the needs of young people were lacking; and evidence-based and human rights-compliant education on substances and substance use was very limited.¹⁰³ Drug prevention based on creating fear, random mandatory drug testing in school settings, and expulsion from education for drug use are measures that continue to raise human rights concerns.¹⁰⁴ Drug policies also often fail to address the consequences of parental substance use on children.¹⁰⁵

2. People of African descent

40. The High Commissioner has highlighted disproportionately adverse outcomes for people of African descent in contact with law enforcement authorities compared to other ethnic groups. The High Commissioner's 2021 report on the human rights of Africans and people of African descent against excessive use of force and other human rights violations by law enforcement authorities signalled disproportionate stops, arrests and incarceration, including for drug-related crimes, and harsher sentencing, including through the disproportionate imposition of the death penalty.¹⁰⁶ The High Commissioner's 2022 report on transformative change for racial justice and equality continued to point to the disproportionate impact of the death penalty, punitive drug policies, arrests, overrepresentation in prisons and other aspects of the criminal justice system on people of African descent.¹⁰⁷

41. Special procedures have noted that in various countries, the "war on drugs" has been more effective as a system of racial control than as a tool to reduce drug markets. Policing interventions based on racial profiling remain widespread, while access to evidence-based treatment and harm reduction for people of African descent remains critically low.¹⁰⁸ Furthermore, special procedures have noted that the United Nations and the international community have a historical responsibility to reverse the devastation brought about by decades of a global "war on drugs" on communities that have been marginalized and discriminated against.¹⁰⁹

3. Indigenous Peoples

42. Submissions noted that the criminalization of minor drug-related offences such as subsistence cultivation of drug crops or possession of small quantities of drugs had mostly

¹⁰⁰ https://www.incb.org/documents/Publications/AnnualReports/AR2019/Annual_Report_Chapters/AR2019_Chapter_I_EN.pdf, paras. 74, 76 and 77.

¹⁰¹ https://unis.unvienna.org/pdf/2022/INCB/INCB_2021_Report_E.pdf. See also the submissions from the Swedish Drug Policy Centre and the World Federation against Drugs.

¹⁰² Submission from Youth Resource, Information, Support, Education (Youth RISE); and <https://idpc.net/publications/2021/04/taking-stock-of-half-a-decade-of-drug-policy-an-evaluation-of-ungass-implementation> and <https://youthrise.org/resources/uhc-report/>.

¹⁰³ <https://youthrise.org/resources/harm-reduction-services-for-young-people-who-inject-drugs/>; see also submission from Mauritius.

¹⁰⁴ <https://idpc.net/publications/2021/04/taking-stock-of-half-a-decade-of-drug-policy-an-evaluation-of-ungass-implementation>.

¹⁰⁵ <https://rm.coe.int/children-whose-parents-use-drugs-promising-practices-and-recommendatio/1680ab8c92>; <https://www.dianova.org/publications/infographic-protecting-the-rights-of-children-affected-by-parental-substance-use/>; and submissions from Anhöriga Mot Droger and Dianova International.

¹⁰⁶ A/HRC/47/53, paras. 25 and 30; and submissions from É de Lei Drop-in Centre, Escola Livre de Redução de Danos, Mega Impact Foundation and Release.

¹⁰⁷ A/HRC/51/53, para. 36.

¹⁰⁸ <https://www.ohchr.org/en/press-releases/2023/06/un-experts-call-end-global-war-drugs>; A/HRC/42/59/Add.2, para. 30; and A/HRC/41/54/Add.2, para. 38.

¹⁰⁹ A/HRC/47/40, para. 51.

affected people from marginalized groups, such as Indigenous Peoples, due to stigmatization and overpolicing of them.¹¹⁰

43. The Committee on Economic, Social and Cultural Rights considered that Indigenous Peoples had the right to specific measures to improve their access to health services and care. These health services should be culturally appropriate, considering traditional preventive care, healing practices and medicines. The Committee stated that the protection of vital medicinal plants was necessary for the full enjoyment of the right to health of Indigenous Peoples. It further considered that “development-related activities that lead to the displacement of Indigenous Peoples against their will from their traditional territories and environment, denying them their sources of nutrition and breaking their symbiotic relationship with their lands, has a deleterious effect on their health”.¹¹¹

44. The 1961 Convention requires States to abolish a range of traditional practices, including traditional uses of coca leaves, the quasi-medical use of opium, and traditional and religious uses of cannabis. It also establishes the general obligation to limit the permissible use of controlled substances strictly to medical and scientific purposes, but permits flexibility to avoid criminalizing Indigenous Peoples for their possession, purchase or cultivation for personal consumption related to medicinal purposes, although it also leaves other activities involving the use of substances for traditional purposes subject to criminal sanction. The 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances also allows for “traditional licit uses”. Recent United Nations resolutions on drugs have recalled, *inter alia*, article 24 of the United Nations Declaration on the Rights of Indigenous Peoples, which states that Indigenous Peoples have the right to their traditional medicines and to maintain their health practices.¹¹²

4. Women

45. Women face higher levels of stigma and discrimination than men who use drugs. Women are disproportionately affected by criminalization and incarceration, with 35 per cent of women in prison worldwide having been convicted of a drug-related offence compared to 19 per cent of men.¹¹³

46. In a recent study, the Inter-American Commission on Human Rights noted that women accounted for 8 per cent of the prison population in the Americas, a figure that had increased by 56.1 per cent in the past 22 years, while the overall prison population had grown by 24.5 per cent. The Inter-American Commission explained this trend by the implementation of hardline drug policies entailing a prohibitionist, repressive approach that seeks to eradicate the illicit drug market by prioritizing incarceration over alternatives to prison.¹¹⁴ In an advisory opinion on differentiated approaches concerning certain groups of persons in detention, the Inter-American Court of Human Rights directed States to provide or facilitate programmes of care and specialized support in the area of the unlawful use of drugs by women.¹¹⁵

47. Women who use drugs also face significant stigma and discrimination in accessing harm reduction programmes, drug dependence treatment and basic health care.¹¹⁶ The gender

¹¹⁰ Submissions from Australia and Ecuador, and from Elementa-Colombia, International Center for Ethnobotanical Education, Research and Service, National Human Rights Commission of Mexico, Amnesty International, Canadian Drug Policy Coalition, Forum Drugs Mediterranean, Harm Reduction International, IDPC Consortium, Students for Sensible Drug Policy and Youth RISE; and joint submission from Corporación Viso Mutop and Transnational Institute.

¹¹¹ Committee on Economic, Social and Cultural Rights, general comment No. 14 (2000).

¹¹² General Assembly resolution 77/238; Human Rights Council resolution 52/24; and Commission on Narcotic Drugs, resolution 66/4.

¹¹³ <https://www.ohchr.org/en/press-releases/2023/06/un-experts-call-end-global-war-drugs>.

¹¹⁴ https://www.oas.org/en/iachr/reports/pdfs/2023/Informe-Mujeres-privadas-libertad_ENG.pdf.

¹¹⁵ https://www.corteidh.or.cr/docs/opiniones/seriea_29_eng.pdf.

¹¹⁶ <https://www.ohchr.org/en/press-releases/2023/06/un-experts-call-end-global-war-drugs>; https://hri.global/wp-content/uploads/2022/11/HRI_GSHR-2022_Full-Report_Final-1.pdf; and submissions from UNAIDS, Association de Lutte contre le Sida, Dianova International, Metzineres and Recovered Users Network.

gap in treatment is particularly acute for women who use amphetamine-type stimulants, as women account for almost one in two users of amphetamines but only one in four people in treatment for related disorders.¹¹⁷ Removing the gender barriers to addiction services is of paramount importance.¹¹⁸ Although this issue has been recognized by the Human Rights Council in its resolution 52/24 and the Commission on Narcotic Drugs in its resolution 59/5 on mainstreaming a gender perspective in drug-related policies and programmes, much remains to be done to effectively scale up gender-responsive addiction programming while pursuing robust strategies that address the root drivers of inequities.¹¹⁹

48. Special procedures have noted that the causes of women's interaction with the criminal justice system in relation to drugs are complex, are often linked to other factors such as poverty and coercion, and may reflect systemic gender inequality in society more broadly.¹²⁰

49. Submissions highlighted the failure of punitive drug policies to address multiple factors of vulnerability of women. Poverty, limited education, low-paid jobs, gender-based violence and stereotypes, and the use of women's bodies as a means of hiding narcotics, are reportedly dominant factors in women being subject to criminal proceedings for drug-related offences.¹²¹ Submissions also stressed that where harm reduction services were available, they were overwhelmingly gender-blind and did not integrate sexual and reproductive health services, leaving women underserved.¹²²

F. Persistent and emerging challenges

1. Human rights challenges in crisis settings

50. Humanitarian crises and emergencies such as conflict, displacement, pandemics and natural disasters can create an environment that facilitates drug use and abuse, compounding the already challenging circumstances that people, including children and young people, face. Addressing human rights challenges regarding drug use in humanitarian settings is complicated by several factors. These include restrictive regulations and laws, limited resources, competing priorities, and cultural and linguistic barriers. In many cases, humanitarian organizations may not have the expertise or capacity to address drug use effectively. Moreover, due to the criminalization of drug use and to stigmatization, it becomes difficult to provide services and support to those who need it, adding challenges to the realization of the human rights of people affected by emergencies and who use drugs. During emergencies, sudden shortages, the threat of interruption, and reduced doses have reportedly resulted in physical withdrawals, increased rates of overdose, higher relapse rates, and the emergence of mental health conditions due to the heightened stress experienced by Opioid Agonist Treatment service users. This situation not only compromises the continuity of care but also undermines the overall effectiveness of harm reduction efforts.¹²³

51. In addition, the existing global disparity in access to controlled substances has been exacerbated by the COVID-19 pandemic and humanitarian emergencies, which have affected access to services and disrupted supply chains. There is an increase in demand for controlled medicines in humanitarian settings and emergency responses. In responding to these humanitarian emergencies, the International Narcotics Control Board has taken active steps

¹¹⁷ https://www.unodc.org/res/WDR-2023/WDR23_Exsum_fin_SP.pdf.

¹¹⁸ <https://www.dianova.org/wp-content/uploads/2021/05/the-way-forward-en.pdf>.

¹¹⁹ <https://idpc.net/publications/2022/11/contribution-from-the-civil-society-forum-on-drugs-to-enhance-the-gender-perspective-into-eu>; see also submission from the national human rights institution of Burundi.

¹²⁰ <https://www.ohchr.org/en/press-releases/2023/06/un-experts-call-end-global-war-drugs>.

¹²¹ Submissions from Amnesty International, Dejusticia, Eurasian Harm Reduction Association, Escola Livre de Redução de Danos, Instituto RIA, Lembaga Bantuan Hukum Masyarakat, Missing Child Tanzania, SAF-Teso and Women Nest Kenya.

¹²² Submissions from Drug Policy Alliance, Harm Reduction International and Metzineres.

¹²³ Submissions from Australia, and from International Association for Hospice and Palliative Care, and Skoun Addiction Center; and see <https://www.unicef.org/serbia/media/20171/file/prevalence%20alcohol%20abuse.pdf>.

to remind all countries that, following article 21 of the 1961 Convention, simplified control procedures are permissible in exceptional cases where the Government of the exporting country is of the view that the export of the controlled substances is essential for the treatment.¹²⁴

2. Challenges related to the right to a healthy environment

52. In 2022, following the Human Rights Council, the General Assembly declared access to a clean and healthy environment as a universal human right.¹²⁵ Deforestation, monocultures, pollution of waters and soil, and the high carbon footprint of in-house cultivation are some of the most prominent environmental effects of illicit drug economies.¹²⁶ The environmental impacts of illicit drug economies differ depending upon the substance being produced.¹²⁷ Drug production and trafficking are exacerbating an array of other criminal economies in the Amazon basin that have a negative impact on the environment and on communities.¹²⁸ Furthermore, with regard to drug law enforcement measures, United Nations human rights mechanisms and other stakeholders have raised concerns about exposure to pesticides and other chemicals used for crop eradication – in particular via aerial spraying – that can have serious negative impacts on the environment and health of the affected population.¹²⁹

IV. Positive developments

53. Despite many human rights challenges in addressing and countering the world drug problem, important progress has been achieved in the past years, at the international, regional and national levels, to move from punitive to health- and human rights-based drug policies.

54. There has been an increased alignment between human rights and drug policy discussions in Geneva-based human rights mechanisms and Vienna-based drug policy bodies, which has contributed to a shift towards a human rights-centred approach to drug policies.¹³⁰ There is a general acceptance that any discussion on drug policy must take into account States' human rights obligations, and that human rights mechanisms should monitor human rights implications of drug policies.¹³¹ For instance, treaty bodies have increasingly issued recommendations to States to adjust their drug policies in light of human rights standards. Furthermore, the Committee on Economic, Social and Cultural Rights intends to prepare a general comment on drug policies and economic, social and cultural rights to provide authoritative guidance in this area.¹³² Similarly, in recent years, the Commission on Narcotic Drugs has adopted various resolutions with a focus on human rights, for example on alternative development,¹³³ on prevention and treatment – promoting voluntary treatment¹³⁴ and non-stigmatizing attitudes to ensure access to services,¹³⁵ and in relation to

¹²⁴ https://www.incb.org/documents/Publications/AnnualReports/AR2022/Annual_Report/E_INCB_2022_1_eng.pdf.

¹²⁵ In its resolution 76/300.

¹²⁶ Submission from France.

¹²⁷ <https://www.gdpd.org/en/drug-policy/drugs-and-the-environment>.
<https://www.opensocietyfoundations.org/uploads/e205c307-c17b-437b-bc35-cfb703bce4f2/impact-drug-policy-environment-20151208.pdf>.

¹²⁸ https://www.unodc.org/res/WDR-2023/WDR23_Exsum_fin_SP.pdf.

¹²⁹ E/CN.4/2005/88/Add.2, para. 82; A/HRC/4/32/Add.2; CRC/C/COL/CO/3; A/HRC/7/11/Add.3; A/HRC/30/65; A/HRC/45/12/Add.2; and E/C.12/ZAF/CO/1; see also submission from Forum Drugs Mediterranean and joint submission from Corporación Viso Mutop and Transnational Institute.

¹³⁰ https://www.unodc.org/documents/commissions/CND/CND_Sessions/CND_66/ECN72023_CRP1_2229110E.pdf. Note that in its submission, the Islamic Republic of Iran stated that “human rights platforms in Geneva are not suitable for addressing the world drug problem”.

¹³¹ <https://idpc.net/publications/2021/04/taking-stock-of-half-a-decade-of-drug-policy-an-evaluation-of-ungass-implementation>.

¹³² <https://www.ohchr.org/en/news/2022/10/committee-economic-social-and-cultural-rights-concludes-seventy-second-session-after>.

¹³³ Resolution 66/4.

¹³⁴ Resolution 64/3.

¹³⁵ Resolution 61/11.

the rights of Indigenous Peoples,¹³⁶ protection of the environment,¹³⁷ the needs of vulnerable people,¹³⁸ and mainstreaming a gender perspective in drug-related policies.¹³⁹ The participation of civil society organizations in national, regional and global decision-making processes on drugs is also a positive step.¹⁴⁰

55. Since the adoption of the United Nations system common position on drug-related matters and the creation of a United Nations system Coordination Task Team, collaboration among United Nations entities has strengthened. For example, a paper on lessons learned by the United Nations system on drug-related matters was published in 2019 to support evidence-based policy and programmes,¹⁴¹ and a human rights-based drug policy component was included in the United Nations joint programme on human rights in the Philippines.¹⁴² OHCHR, UNAIDS, UNDP and WHO, with the contribution of UNODC, and in consultation with communities and experts, launched the International Guidelines on Human Rights and Drug Policy, in 2019.¹⁴³

56. Bearing in mind the human rights impacts of punitive drug policies, international human rights mechanisms have issued progressive recommendations to States to apply a public health and human rights approach to drug policies, including by decriminalizing drug possession for personal use and providing harm reduction services.¹⁴⁴ Furthermore, the United Nations system common position on drug-related matters calls for the decriminalization of drug possession for personal use,¹⁴⁵ and the International Narcotics Control Board has concluded that decriminalization is aligned with the United Nations drug control conventions.¹⁴⁶

57. If effectively designed and implemented, decriminalization can be a powerful instrument to ensure that the rights of people who use drugs are protected. For example, in Portugal, the implementation of integrated responses within a decriminalization framework of personal consumption and possession of drugs has led to lower drug use levels, decreased drug use among adolescents, and a significant reduction of HIV infections among injecting drug users and of overdoses.¹⁴⁷

58. Recent moves towards decriminalizing drug use and possession and providing alternatives to incarceration have been made in various countries. Czechia is holding discussions on decriminalization to regulate addictive substances in relation to their harmfulness.¹⁴⁸ In Ghana, legal reforms in 2020 transformed the drug policy framework to treat drug use as a public health matter, offering alternatives to incarceration, with the development of a national plan to reduce disproportionate sentencing for drug-related offences.¹⁴⁹ In India, the Narcotic Drugs and Psychotropic Substances Act provides

¹³⁶ Resolution 66/4.

¹³⁷ Resolution 65/1.

¹³⁸ Resolution 61/7.

¹³⁹ Resolution 59/5.

¹⁴⁰ Submissions from Lithuania, Portugal, Serbia and Sweden, and from IDPC Consortium.

¹⁴¹ https://www.unodc.org/documents/commissions/CND/2019/Contributions/UN_Entities/What_we_have_learned_over_the_last_ten_years_-_14_March_2019_-_w_signature.pdf.

¹⁴² <https://www.unodc.org/roseap/philippines/2022/03/anti-drug-initiatives/story.html>.

¹⁴³ https://www.humanrights-drugpolicy.org/site/assets/files/1640/hrdp_guidelines_2020_english.pdf.

See also submission from International Centre on Human Rights and Drug Policy, University of Essex.

¹⁴⁴ E/C.12/UKR/CO/7, para. 43; E/C.12/LTU/CO/3, para. 55; E/C.12/GTM/CO/4, para. 45; E/C.12/BLR/CO/7, para. 38; E/C.12/NOR/CO/6, para. 43; and A/HRC/41/17, para. 110.156; and <https://www.ohchr.org/en/press-releases/2023/06/un-experts-call-end-global-war-drugs>.

¹⁴⁵ CEB/2018/2, annex I.

¹⁴⁶ https://www.incb.org/documents/Speeches/Speeches2020/INCB_President_statement_Norway_side_event_drug_reform.pdf and

https://www.incb.org/documents/Publications/AnnualReports/AR2022/Annual_Report/E_INCB_2022_1_eng.pdf. See also submission from Pompidou Group.

¹⁴⁷ Submission from Portugal.

¹⁴⁸ Submission from Czechia.

¹⁴⁹ Submission from Ghana.

alternatives to prosecution for offences involving small quantities of drugs.¹⁵⁰ Mexico has also developed a therapeutic justice programme to strengthen alternatives to incarceration.¹⁵¹

59. Some States have established regulatory approaches for some drugs, particularly cannabis. In Switzerland, in 2022, Parliament lifted a ban on medical cannabis, and a legislative amendment allowed pilot trials of non-medical cannabis use in adults.¹⁵² Mexico has also worked on legal reform for the responsible use of cannabis,¹⁵³ and Lithuania is discussing decriminalizing illegal possession of small amounts of cannabis.¹⁵⁴

60. Harm reduction as an integral part of the right to health, with its positive results, has not only been acknowledged by international human rights bodies¹⁵⁵ but has also been incorporated at the regional¹⁵⁶ and national levels. Australia and Chile reported the design and implementation of gender-sensitive drug policies and services.¹⁵⁷ The recent law and policy in Ghana envisaged ensuring better health-related outcomes, including through harm reduction.¹⁵⁸ In India, a National Fund for Control of Drug Abuse has been established to support initiatives related to drug abuse prevention, treatment, and rehabilitation.¹⁵⁹ In Lithuania, NGOs providing harm reduction services began receiving State funding in 2022.¹⁶⁰ In Portugal, significant investment has been made in prevention, treatment and harm reduction measures, with social benefits for all involved.¹⁶¹ In Switzerland, various centres offer supervised consumption rooms and provide injection and inhaling material, while substitution treatment and harm reduction are also available in prison settings.¹⁶² In July 2023, the Scottish government issued a paper on an evidence-based and human rights-informed drug policy with public health and harm reduction as its underlying principles.¹⁶³ UNAIDS reported positive outcomes of community-led organizations engaged in harm reduction.¹⁶⁴

61. In recent years, there has also been steady progress towards the universal abolition of the death penalty.¹⁶⁵ As part of moving away from drug policies based on punishment, global efforts to move away from the death penalty specifically for drug-related offences have been

¹⁵⁰ Submission from India.

¹⁵¹ Submission from Mexico. See also submission from Armenia regarding non-custodial sentences. For more positive initiatives at the country level, see joint submission from IDPC Consortium, Instituto RIA, Harm Reduction International, Centre on Drug Policy Evaluation and Health[e]Foundation; <https://idpc.net/blog/2021/12/thailand-reforms-drug-laws-to-reduce-impacts-of-criminal-justice-system>; https://womenanddrugs.wola.org/wp-content/uploads/2020/10/DONE-2-Costa-Rica-77bis_ENG_FINAL-.pdf; https://womenanddrugs.wola.org/wp-content/uploads/2017/12/DONE-14-Criminal-Records-in-CR_ENG_FINAL-1.pdf; https://www.brookings.edu/wp-content/uploads/2018/03/gs_032118_uruguaye28099s-cannabis-law_final.pdf; and <https://idpc.net/publications/2022/07/the-65th-session-of-the-commission-on-narcotic-drugs-report-of-proceedings>.

¹⁵² Submission from Switzerland.

¹⁵³ Submission from Mexico.

¹⁵⁴ Submission from Lithuania.

¹⁵⁵ A/HRC/39/39, para. 17; and Human Rights Council resolution 52/24; see also submissions from UNAIDS, Pompidou Group, Canadian Drug Policy Coalition and Helsinki Foundation for Human Rights (Poland).

¹⁵⁶ <https://data.consilium.europa.eu/doc/document/ST-14178-2020-INIT/en/pdf> and https://au.int/sites/default/files/newsevents/reports/36768-rp-aupa_on_drug_control_2019-2023_final_with_foreword_-_english_.pdf.

¹⁵⁷ Submissions from Australia and Chile. See also submission from Sweden.

¹⁵⁸ Submission from Ghana.

¹⁵⁹ Submission from India.

¹⁶⁰ Submission from Lithuania.

¹⁶¹ Submission from Portugal.

¹⁶² Submission from Switzerland. See also submission from France.

¹⁶³ <https://www.gov.scot/publications/caring-compassionate-human-rights-informed-drug-policy-scotland/>; and submission from Alan Miller.

¹⁶⁴ UNAIDS submission.

¹⁶⁵ General Assembly resolution 77/222; Human Rights Council resolution 48/9; A/77/274; and A/HRC/51/7. See also submissions from Australia, Czechia, Spain and Sweden.

reflected at the national level. For instance, in April 2023, the Malaysian Parliament passed a bill removing the mandatory death penalty for 11 offences, including drug-related offences, and replaced it with alternative sentences.¹⁶⁶

62. Regarding “alternative development”,¹⁶⁷ Colombia has stated its aim to develop a new drug policy while it advocates for inverting the logic of exclusively repressive and security measures and placing human rights and development at the core of drug policies.¹⁶⁸ The Final Agreement for Ending the Conflict and Building a Stable and Lasting Peace includes a chapter devoted to the “solution to the problem of illicit drugs”,¹⁶⁹ and the Truth Commission has issued recommendations to guarantee non-repetition, stressing that drug policies have been a perpetuating factor of the internal armed conflict, and drug policy reform should be part of peacebuilding efforts.¹⁷⁰ The Truth Commission has recommended the regulation of all drugs, the demilitarization of drug policies regarding crops, the establishment of spaces for dialogue on the impact of drug policies, and a change of indicators to measure the impact of drug policies.¹⁷¹ Noting that strategies should also be tailored to the needs of the global South, Colombia has called for international cooperation efforts to focus on rural and urban development to improve living conditions of communities that depend on the drug economy.¹⁷²

63. More attention is also being given to the rights of Indigenous Peoples in the design and implementation of drug policies. The International Guidelines on Human Rights and Drug Policy refer to the rights of Indigenous Peoples to be consulted and to free, prior and informed consent regarding matters affecting them, including drug control measures and agreements that may affect their lands, resources, cultures and identities. Colombia has indicated its intention to include the participation of peasants, Indigenous Peoples, and people of African descent in the design of its new drug policy.¹⁷³ In 2022–2023, the Government of Australia is providing over \$A 118 million to primary health networks to increase the availability of and access to the drug treatment sector. Of this funding, approximately \$A 20.5 million are being commissioned for First Nation-specific drug services.¹⁷⁴

V. Conclusions and recommendations

64. **The world drug problem has a major impact on the enjoyment of human rights. Responding to the harms associated with drug use and to the illicit drug trade constitutes a major public policy challenge, of which all aspects have human rights implications. The main areas of concern when addressing and countering the world drug problem are the lack of and unequal access to treatment and harm reduction, the “war on drugs” and the militarization of drug control, overincarceration and prison overcrowding, the use of the death penalty for drug-related offences, and the disproportionate impact of punitive drug policies on youth, people of African descent, Indigenous Peoples and women.**

65. **Despite these challenges, important progress has been made in recent years to move from punitive to health- and human rights-based drug policies. These developments include the increased alignment between human rights and drug policy discussions in international forums; the participation of civil society in national and global decision-making processes on drug-related issues; the strengthened**

¹⁶⁶ <https://www.ohchr.org/en/press-releases/2023/04/malaysia-un-experts-hail-parliamentary-decision-end-mandatory-death-penalty> and <https://www.ohchr.org/en/news/2023/02/high-commissioner-human-rights-calls-states-have-not-yet-done-so-establish-moratoriums>.

¹⁶⁷ General Assembly resolution 68/196.

¹⁶⁸ Submission from Colombia.

¹⁶⁹ [S/2017/272](#).

¹⁷⁰ https://www.comisiondelaverdad.co/sites/default/files/descargables/2022-08/FINAL%20CEV_HALLAZGOS_DIGITAL_2022.pdf. See also submission from Colombia.

¹⁷¹ See also submission from Dejusticia.

¹⁷² Submission from Colombia.

¹⁷³ *Ibid.*

¹⁷⁴ Submission from Australia.

collaboration among United Nations entities on human rights-compliant drug policy; recommendations to States from human rights mechanisms and drug control bodies to apply a public health and human rights approach to drug policies; global efforts to move away from the death penalty specifically for drug offences; and national initiatives to shift the paradigm from punitive approaches to health- and human rights-centred measures, by decriminalizing drug use and possession, providing alternatives to incarceration, and including harm reduction.

66. Alternative development – as a process to prevent and eliminate the illicit cultivation of narcotic plants – is also putting the focus on the needs of the global South, and improving living conditions of communities that depend on the drug economy. More attention is also being given to the rights of Indigenous Peoples in the design and implementation of drug policies.

67. Shifting away from punitive models is critical to addressing all human rights challenges that arise from or are facilitated by the implementation of punitive drug control policies. Drug control policies should be understood as a way of achieving broader objectives, including the protection of human rights, in particular the right to health, ensuring equality and non-discrimination.

68. As prescribed in the International Guidelines on Human Rights and Drug Policy, the following are key recommendations for States and relevant stakeholders to develop effective drug policies grounded in human rights:

(a) Adopt alternatives to criminalization, “zero tolerance” and elimination of drugs, by considering decriminalization of usage; and take control of illegal drug markets through responsible regulation, to eliminate profits from illegal trafficking, criminality and violence;

(b) In the case of decriminalization, review convictions and/or sentences and, where appropriate, quash, commute or reduce convictions and/or sentences;

(c) Consider developing a regulatory system for legal access to all controlled substances;

(d) In the case of continued criminalization, ensure that crimes are clearly defined in law, and that penalties are proportionate to the gravity of offences and take mitigating and aggravating factors into account;

(e) Consider the specific needs and possible vulnerabilities of women drug offenders when prosecuted and imprisoned, in line with the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders;

(f) Ensure that conditions in detention for drug offences respect the United Nations Standard Minimum Rules for the Treatment of Prisoners, including access to treatment and effective oversight;

(g) Adopt drug policies that recognize and advance the rights of people who use drugs, including by ensuring access to medical care for people who inject drugs and develop HIV, viral hepatitis and other blood-borne infectious diseases. Ensure that drug-dependent treatment is voluntary, and informed consent is a precondition for any medical treatment or intervention;

(h) Adopt gender-sensitive drug policies that respond to the specific needs of women, and remove legislation that makes drug use a justification for removing children from their parent’s custody or that aims to punish women for using drugs during pregnancy;

(i) End the disproportionate impact of discriminatory law enforcement and sentencing policies on people of African descent, who are more likely to be stopped, searched, arrested, convicted and severely sentenced for drug crimes, in many contexts;

(j) Adopt drug policies that explicitly protect against discrimination, and ensure everyone’s right to health and to be treated with respect, dignity and equality –

regardless of gender, sexual identity, race, nationality, legal status, health and other status, including drug dependency;

(k) **Meaningfully engage civil society organizations, people who use drugs, affected communities and youth in the design, implementation and evaluation of drug policies, to ensure that their knowledge and experiences are considered;**

(l) **Incorporate and fund harm reduction services, and support community-led advocacy and harm reduction services;**

(m) **Address the increased vulnerability of people who use drugs in crisis settings, including by providing health and protection services within the humanitarian response framework;**

(n) **Invest in alternative development with the participation of local communities, including farmers, women, minorities and Indigenous Peoples, and secure alternative livelihoods before removing existing livelihoods earned from the cultivation of illicit crops;**

(o) **Address the underlying socioeconomic factors that increase the risks of using drugs or that lead to engaging in the drug trade, by tackling social inequalities, promoting social justice and advancing human rights;**

(p) **Ensure that the eradication of illicit crops does not negatively affect the health of individuals in the area, and the environment; and avoid aerial spraying for crop eradication because of the harm it causes to health and the environment;**

(q) **Ensure that law enforcement in drug control efforts is fully consistent with States' human rights obligations; and ensure that drug law enforcement is primarily reserved for civilian law enforcement agencies, properly trained, and equipped to allow for a differentiated use of force in accordance with international norms and standards;**

(r) **Only resort to military force extraordinarily, temporarily, and when strictly necessary in specific circumstances. In such exceptional circumstances, the participation of the armed forces should be subordinated and complementary to civilian forces, regulated and supervised by civilian authorities, and subjected to the same rules and procedures as those established for civilian law enforcement officials;**

(s) **Universally abolish the death penalty for all crimes, including for drug-related offences;**

(t) **Ensure that any financial and technical assistance provided to countries for drug enforcement operations does not contribute, or carry a risk of contributing, to the commission of human rights violations;**

(u) **Include relevant aspects of drug policy in reports to human rights mechanisms, and Sustainable Development Goals-related reports, and implement the recommendations of these mechanisms, and ensure the consistent incorporation of human rights in the work of international drug control mechanisms;**

(v) **In view of the 2024 mid-term review of the 2019 Ministerial Declaration on persistent and emerging challenges related to the world drug problem, take stock of results to date, and look forward by planning what ground should be covered by drug policies by 2029 and how to ensure the protection of human rights and contribute effectively to the 2030 Agenda.**