

## 48<sup>th</sup> Session of the Human Rights Council

# DRUG POLICY HIGHLIGHTS

On Friday 8<sup>th</sup> October, the Human Rights Council concluded its 48<sup>th</sup> Session (13 September – 8 October 2021). Several dialogues and resources addressed drug control and its human rights impacts. Here is a review of some key moments and documents.

### THE IMPOSITION OF THE DEATH PENALTY FOR DRUG OFFENCES

The death penalty was one of the central issues of this session, with two reports submitted and a new resolution. The [annual report](#) of the Secretary-General on the question of the death penalty, focused on transparency, highlighted how "cases of drug crimes punishable by death in some States are tried in hearings that have been described by some non-governmental organizations as lacking openness and transparency"; and how "the issue of transparency was exacerbated in 2020, when collecting information about the use of the death penalty for drug offences was even more challenging than in previous years." The [report](#) was also published of the high-level panel on the question of the death penalty, focusing on deterrence. This resource reiterated how available data on drug trafficking suggested that the death penalty does not deter drug offences.

A new [Resolution](#) on the question of the death penalty was adopted, with a focus on transparency.

On 6<sup>th</sup> October, HRI convened a [side event](#) was to launch the new report of Cornell Center on the Death Penalty Worldwide 'No One Believed Me: A Global Overview of Women Facing the Death Penalty for Drug Offenses', and commemorate the [World Day](#) against the Death Penalty. Speakers, including representatives of the UN Working Group on Arbitrary Detention, the Swiss Delegation, and OHCHR, discussed the death penalty as an extreme manifestation of the unique impacts of punitive drug policies on women, and intersectional vulnerabilities.

### THE WAR ON DRUGS IN THE PHILIPPINES

The situation in the Philippines was another central topic, addressed in multiple sessions. During the Dialogue on human rights situations that require the Council's attention, 26 Member States including the EU reiterated concerns "about the enforced disappearances and death toll associated with the campaign against illegal drugs in the country and call for effective, impartial and transparent investigations." The High Commissioner also gave an [oral update on the progress and results of technical cooperation and capacity-building](#), focusing on the recent finalisation of the UN Joint Programme on human rights in the Philippines, where human rights-based approaches to drug control were identified as a key area of intervention. The High Commissioner also addressed the country's limited efforts to pursue accountability for killings in the context of drug law enforcement and pointed to "reports of continuing and severe human rights violations and abuses across the country, including killings by members of the security forces and law enforcement in counter-narcotics and counter-insurgency operations.

At the ensuing debate, [IDPC](#) and [HRI](#) intervened with oral statements highlighting the ongoing violations of fundamental rights in the country and the UN's own obligation not to contribute to human rights violations. Abuses in the context of drug control were also raised by Delegations, such as New Zealand and the EU, while Switzerland highlighted that "to achieve the objective of a drug policy compliant with human rights, it is central that all the actors concerned – law enforcement, government institutions, civil society [but also drug users](#) – are included in the Programme."

## THE WAR ON DRUGS IN SRI LANKA

The High Commissioner for Human Rights gave an [oral update](#) on the human rights situation in **Sri Lanka**, expressing concerns about “further deaths in police custody and in the context of police encounters with alleged drug criminal gangs, as well as continuing reports of torture and ill-treatment by law enforcement officials”. The High Commissioner also highlighted the risk that the new state of emergency declared in August further expands the role of the military in civilian functions. Building on the findings of our recent [report](#), HRI intervened with a joint [oral statement](#) addressing militarisation of drug control and treatment, arbitrary killings, and compulsory drug rehabilitation centres.

## DRUG-RELATED INCARCERATION

The **Working Group on Arbitrary Detention** presented [Deliberation no.12](#) on **women deprived of liberty**, detailing violations of fundamental rights in detention and clarifying relevant human rights standards. Among others, the Deliberation reiterates how “Criminal and administrative detention as a result of drug control laws and policies disproportionately affects women and can constitute arbitrary detention”, and highlights the intersectional vulnerability to arbitrary detention of women who use drugs and sex workers.

The Special Rapporteur on the situation of human rights in **Cambodia** [highlighted](#) “the need to review the Law on the Control of Drugs, as it currently leads to too much incarceration rather than to alternatives, such as community-based care and rehabilitation.” Concerns on the situation in the country were also raised by the High Commissioner, who denounced the government’s heavy reliance on law enforcement to curb the pandemic, leading to arbitrary detention and other abuses.

## OTHER RELEVANT DEVELOPMENTS

- The Council adopted a highly-debated [Resolution on the Situation of human rights in Afghanistan](#), denouncing ongoing violations and appointing a Special Rapporteur for a period of one year. Although the text builds on that of the [previous Resolution](#), adopted at the Council Special Session on Afghanistan in August 2021, attempts to include a mention of health workers among the groups that require protection and support failed. Nevertheless, the Resolution calls for the protection of medical facilities and humanitarian personnel operating in the country.
- The outcomes of the **Universal Periodic Reviews** of several countries were adopted. Most relevant to drug policy are those of **Mozambique**, which accepted recommendations to “Intensify cooperation and efforts, with support of the international community, to further enlarge programmatic interventions and investments that seek to further reduce the prevalence of HIV/AIDS and malaria”, and to “Guarantee that persons with HIV/AIDS have adequate medical assistance and medication”; and that of **Paraguay**, which accepted a recommendation to “Strengthen efforts to prevent HIV transmission, especially mother-to-child transmission, and improve the care for persons with HIV without discrimination.”
- A [panel discussion](#) was held on deepening **inequalities exacerbated by the COVID-19 pandemic** and their implications for the realization of human rights. Among others, the Special Rapporteur on the Right to Health, Dr Tlaleng Mofokeng, highlighted the interlinkages between structural and socioeconomic inequality, systemic racism and discrimination, and negative health outcomes; and how “Root causes of this inequality lies in patriarchy, slavery, colonialism, apartheid and neo-colonialism, and have a negative disproportionate impact on Women, queer people, gender diverse people, Black people and people of African descent, other persecuted racial and ethnic groups, indigenous communities, people with disabilities, migrant communities and those impacted by the climate crisis”. PRI delivered a [joint statement](#) supported by HRI and CELS on inequities in health in prisons, and the need to urgently vaccinate people in detention.

- The **new Special Rapporteur on extrajudicial, summary or arbitrary executions**, Morris Tidball-Binz, presented [his first report](#) to the UN General Assembly summarising priorities for his mandate; he committed to “continue to monitor the implementation of the norms on the death penalty. Research will be conducted on the effects of capital punishment on human dignity and rights, including the right not to be subjected to torture or other cruel, inhuman or degrading treatment.” Other research topics identified where drug control can be raised are: deaths in custody, and lessons learned from pandemics, as the Rapporteur will seek to identify “best practices and gaps... to protect the right to life in the face of epidemic and pandemic diseases.”
- At the UN General Assembly, the **Special Rapporteur on Torture** presented his [report](#) on the current torture accountability gap; highlighting the need to make accountability processes more accessible to persons in situations of vulnerability, including by taking “measures to alleviate the stigmatization and marginalization faced by many victims of torture and ill-treatment, including asylum-seekers, drug users and people living with HIV.”