

47th Session of the Human Rights Council

DRUG POLICY HIGHLIGHTS

The 47th Session of the Human Rights Council, held between 21 June and 15 July 2021, presents multiple opportunities for assessing the human rights impacts of drug control policies worldwide, and discussing pathways for reform. Here are some key sessions and events where drug policy will be addressed, and suggestions for recommendations and ways civil society can engage.

ID ON THE HIGH COMMISSIONER REPORT ON STATE RESPONSE TO PANDEMICS (RES. 44/2)

21 and 22 June, starting 10am GVA

In this first session of the Council, the High Commissioner for Human Rights will present [her report](#) on State responses to the pandemic, followed by an Interactive Dialogue. National responses to the spread of COVID-19 had significant human rights impacts, and affected people who use and engage with drugs in unique ways. Among others:

- In at least 28 countries, people detained for drug offences were excluded from amnesties and other early release schemes;
- During lockdowns, people who use drugs were over-targeted by law enforcement, particularly in states where police and military agencies were given broad contact tracing and surveillance powers;
- People who use drugs experienced obstacles to accessing harm reduction and drug treatment services, both in the community and in prison.

More broadly, in some countries the response to COVID-19 was highly militarised and securitised, characterised by a centralisation of power through States of Emergencies, and a significant expansion of the role of law enforcement. Such a securitised approach to a public health issue mirrored punitive approaches to drugs, and in some contexts (such as Sri Lanka and the Philippines) the same ‘war on drugs’ tactics were employed in the ‘war on COVID-19’.

Conversely, the pandemic provided an opportunity to introduce innovations in the delivery of harm reduction services, to ensure the fulfilment of the right to health of people who use drugs in exceptional circumstances. For example, 47 countries expanded OAT take-home capacities providing for longer periods in which people could take home medications such as methadone or buprenorphine, and 23 countries made OAT distribution more accessible.

RECOMMENDATIONS

- Highlight the negative impact of COVID-19 as well as state responses to the pandemic on people who use and engage with drugs; with a particular focus on the obstacles to accessing essential health services;
- Highlight positive developments in the provision of harm reduction services during the COVID-19 pandemic, and urge Member States to make such policies and practices permanent;
- Urge Member States to adopt a public health- and human rights-centred approach to public health emergencies, avoiding criminalisation and surveillance and focusing on health and social support of vulnerable communities;
- Urge Member States to pay specific attention to prisons and other detention settings, as high-risk environments for the spread of COVID-19 and other communicable diseases; by adopting urgent, non-discriminatory measures to reduce the intake of prisoners and ease prison overcrowding; introducing community-based, voluntary alternatives to compulsory drug detention; and, prioritising vaccination of prisoners and prison staff.

ID WITH THE SPECIAL RAPPORTEUR ON THE RIGHT TO HEALTH

23 June, 12am GVA

In this Interactive Dialogue, the Special Rapporteur will outline the strategic priorities of her mandate, as described in [her report](#). As a guide for the Rapporteur's future work, this is an essential document in developing future standards on the right to health, with significant implications for drug policy.

The Special Rapporteur highlights seven priority themes for her mandate: global health in the era of COVID-19; sexuality, gender-based violence and femicide; sexual and reproductive health rights; innovation and digital technology; racism and the right to health; health equity; and non-communicable diseases. These themes will be examined from the conceptual frames of coloniality and racism, dignity, intersectionality, accountability, their impact on the right to health, and how to move forward to substantive equality - a goal which requires addressing structural and indirect discrimination, and the elimination of power dynamics that have perpetuated the systems and patterns of privilege and disadvantage that outlived colonialism (including drug control).

In promoting accountability, a precondition to achieving the right to health, member states will be advised to mainstream a gender perspective in their health-related policies, planning, programmes, and research; health-related decision-making should take account of the 'view from below'; national laws will be examined for the protection of human rights and the abuse of it, for example, the unlawful detention and incarceration of women on drug-related charges, denial of enjoyment of sexual and reproductive health rights, the discrimination in access to primary healthcare, and more.

RECOMMENDATIONS

- Welcome the Special Rapporteur's focus and highlight the relevance of drug policies in conversations around health inequality, discrimination, coloniality, and racism;
- Encourage the Special Rapporteur to include assessments of drug policies and people who use drugs in all her future activities, including annual reports and country visits;
- In line with the focus on intersectionality, encourage the Special Rapporteur to pay specific attention to the violations of the right to health endured by women who use drugs, gender non-conforming persons who use drugs, sex workers, indigenous people, and racial and ethnic minorities in the context of drug policies.
- Urge Member States to review domestic drug laws and policies, following the Special Rapporteur's recommendations to:
 - Mainstream a gender perspective in health-related (including drug) policies, planning, programmes, and research;
 - Meaningfully involve affected groups, including people who use drugs, in all health-related decision-making;
 - Examine national drug policies through the lenses of human rights and the prohibition of discrimination;
 - Recognise the value of indigenous approaches to health, which can include the traditional therapeutic use of scheduled drugs, such as cannabis.

ID WITH WORKING GROUP ON ARBITRARY DETENTION ON ITS STUDY ON DRUG POLICIES

2 July, 10am GVA

In this Interactive Dialogue, the Working Group on Arbitrary Detention will present its new [study](#) on drug policies, which introduces important developments in the international standards on deprivation of liberty as they apply to drug policies. This is a critical issue, as an estimated 2.5 million people are incarcerated worldwide for drug offences, including approximately 470,000 people in prison merely for drug use or possession for personal use, and hundreds of thousands more are detained against their will in compulsory drug detention centres and private treatment facilities. In many cases, they are denied access to life-saving harm reduction services, and are frequently subject to torture and ill-treatment.

Amongst other findings, the study recommends states to: decriminalise drug use and possession for personal use; ensure that all drug treatment is strictly voluntary and based on evidence; reject forced treatment, including court-mandated treatment; immediately close compulsory drug detention centres and private treatment facilities that hold people against their will; ensure access to evidence-based harm reduction in places of detention; ensure access to alternatives to incarceration for people charged with drug offences, before and after sentencing; and recognise the disproportionate impact of drug laws on marginalised populations at all moments of their engagement with the criminal legal system.

RECOMMENDATIONS

- Welcome the study on arbitrary detention and drug policies, and call on the Working Group on Arbitrary Detention and the Office of the High Commissioner to disseminate it amongst relevant UN, regional, and national bodies.
- Call on UNODC to ensure the dissemination of the report amongst drug enforcement bodies at national, regional, and international level, including at the Commission on Narcotic Drugs.
- Encourage all Member States to take into consideration the findings of the study, and to align their drug policies with relevant international standards, such as the International Guidelines on Human Rights and Drug Policy;
- Emphasise that:
 - People do not forfeit their human rights when they use drugs. Drug use should be approached exclusively from a health perspective, respecting the dignity and human rights of people who use drugs.
 - Drug use is not an appropriate or sufficient cause for incarceration. States that have decriminalised drug use and possession for personal use should highlight the importance of this policy in facilitating a health-based response to drugs.
 - Drug treatment must be in all cases voluntary, evidence-based, and rights-compliant. Compulsory drug detention centres and private treatment facilities that hold people against their will must be immediately closed.
 - All criminal justice responses must be strictly proportionate, rights-compliant, and aligned with international standards such as the Nelson Mandela, Bangkok, and Tokyo Rules. Alternatives to incarceration should be made available both before and after sentencing. The death penalty for drug offences must be abolished.
- Encourage the Office of the High Commissioner, as well as special procedures and treaty bodies, to continue prioritising the human rights impacts of drug policies in their programmes of work.
- Encourage the Council to consider the adoption of a resolution on the human rights aspects of drug policies, to follow the prior resolutions of [2015](#) and [2018](#).

ID ON THE HIGH COMMISSIONER REPORT ON SYSTEMIC RACISM (RES. 43/1)

12 July, 12am GVA

In this Interactive Dialogue, the High Commissioner for Human Rights will present her report on the 'Promotion and protection of the human rights and fundamental freedoms of Africans and of people of African descent against excessive use of force and other human rights violations by law enforcement officers'.

Drug law enforcement disproportionately targets people of African descent, with heightened negative social, economic, health, and legal impacts. Black people are systematically discriminated against in all stages of the criminal justice process, being disproportionately policed, arrested, prosecuted, harshly sentenced, and incarcerated for drug offences; with distinct repercussions not only on their liberty, but also on their health, and on the health and safety of their communities. The disparity is such that in 2019 the *UN Working Group of Experts on People of African Descent* (2019) concluded, "*The war on drugs has operated more effectively as a system of racial control than as a mechanism for combating the use and trafficking of narcotics.*" Far from being unintended consequences, drug control is in fact being employed "*to justify excessive surveillance, criminalisation and the targeting of people of African descent worldwide.*"

Although clearly emerging by in-depth research, the interlinkages between drug law enforcement and discrimination against people of African descent are often invisibilised because of a lack of updated, disaggregated, and publicly available data on health and drug law enforcement (policing, arrests, prosecution, sentencing, and incarceration).

RECOMMENDATIONS

- Recommend the High Commissioner to identify punitive drug control as a policy that significantly contributes to the disproportionate policing, arrest, and incarceration of people of African descent, and accordingly endorse the decriminalisation of drug use and possession – as a first steps towards less punitive policies;
- Include the impact of drug control policies on people of African descent, and the relationship between racism, drug policy, and police violence, in any resolution or follow-up procedure or investigative mechanism adopted in reaction to the High Commissioner's report.
- Encourage Special Procedures, such as the Working Group of Experts on People of African Descent, to report on the impact of drug control policies on people of African descent, and on the relationship between racism, drug policy and police violence;
- Urge Member States to assess, evaluate, and critically review the legal, economic, social and health impacts of domestic drug law enforcement on people of African descent; including by collecting and releasing data which is updated and disaggregated by gender, race, age, and other relevant status;
- Urge Member States to prioritise public health and human rights centred approaches to drugs, and repeal drug policies that enable violations and discrimination against Africans and people of African descent;
- Recommend Member States to ensure the availability and accessibility of health services, including harm reduction services, which adequately address the needs and experiences of people of African descent, including women, LGBTQI+, and young people. This requires, among others, meaningful engagement of Black men and women who use drugs in the design, implementation, and evaluation of harm reduction and drug treatment services;
- Urge Member States to ensure that drug policy reforms, including those that decriminalise drug use, possession, cultivation and sale, integrate measures that acknowledge and redress the impact of criminalisation on specific communities, and support those communities in enjoying the economic and social benefits of those reforms.

SIDE EVENT - STRENGTHENING THE ROLE OF THE UN HUMAN RIGHTS SYSTEM IN DRUG POLICIES: THE CASE OF ARBITRARY DETENTION

2 July, 13:00 GVA

The human rights impact of drug policies will be a central issue in the 47th session of the Human Rights Council, where the Working Group on Arbitrary Detention will present its watershed [study](#) on arbitrary detention relating to drug policies.

With an estimated 2.5 million people incarcerated for drug offences worldwide, including approximately 470,000 people in prison for drug use or possession for personal use, and hundreds of thousands more detained in compulsory drug detention centres, and in privately-run drug treatment facilities, the implementation of the Working Group's recommendations is more urgent than ever.

Bringing together representatives from the UN, Member States, civil society, and affected communities, this side event will seek to start a constructive conversation on the implementation of the recommendations provided by the UN Working Group on Arbitrary Detention, and to showcase support for initiatives that strengthen the role of the UN human rights system in drug-related matters.

Sponsors: Switzerland, International Drug Policy Consortium, International Network of People who Use Drugs; Office of the High Commissioner for Human Rights; Harm Reduction International; Penal Reform International, University of Essex (International Centre for Drug Policy and Human Rights).

Opening remarks: Representative of Switzerland

Panellists:

- Elina Steinerte, Chair-Rapporteur, UN Working Group on Arbitrary Detention.
- Yatie Jonet, community representative.
- Ambika Satkunanathan, Fellow, Open Society Foundations
- Claudia Cardona, Corporación Humanas & Mujeres Libres Colombia
- Member State representative & NHRI representative (TBC)

Chair: Ann Fordham, IDPC

Registration link: https://us02web.zoom.us/webinar/register/WN_Ta-surRWThuEuKalvYv0Cg

HOW CAN YOU AND YOUR ORGANISATION PARTICIPATE?

- ✓ Engage your government contacts, in Geneva delegations and in capitals, to ensure they are aware of these opportunities to highlight the human rights impacts of drug control at this Human Rights Council.
- ✓ If you have ECOSOC status, apply to deliver an oral statement. Oral statement can be delivered remotely and must be shorter than 90 seconds. The platform to apply for statements opens on June 17th at 2PM CES (link available [here](#)).
- ✓ Follow the sessions live or on-demand on [UN WEBTV](#) and comment on social media, using the hashtag #HRC47.
- ✓ Take part in the side event.
- ✓ Share this briefing with colleagues working on human rights and on drug policy in Geneva and around the world.