

51st Session of the Human Rights Council

DRUG POLICY HIGHLIGHTS

On Friday, 7 October 2022, the Human Rights Council (HRC) concluded its [51st Session](#) (12 September – 7 October 2022). Here is a review of key debates, decisions and documents in which **drug control and its impact on human rights** were analysed and addressed.

Enhanced ID on the High Commissioner's report on the Philippines

The enhanced ID was a key moment to reflect upon developments related to the 'War on Drugs' in the Philippines, and the achievements and limitations of the UN Joint Programme of technical cooperation and capacity building for the promotion and protection of human rights in the Philippines (UNJP). The acting High Commissioner for Human Rights presented OHCHR report on the issue ([A/HRC/51/58](#)), which expresses concerns for the ongoing lack of accountability for killings related to the anti-drug campaign, new incidents of extrajudicial killings, and limited steps towards drug policy reform undertaken in the context of the UNJP. Interventions followed by newly appointed Commissioner for Human Rights Beda Egres, the UN Resident Coordinator Gustavo Gonzalez, and the Filipino Secretary of Justice Crispin Remulla; who affirmed that President Marcos "has a deeply human approach to law enforcement and the anti-illegal drug campaign" and focuses on 'the need for rehabilitation, prevention, education and assistance to victims and their families.'" A moving [intervention](#) delivered by panellist Inez Feria, Director of NoBox Philippines, highlighted the risk of institutionalising, through the UNJP, human rights violations in the context of drug control, and the need to abandon dangerous and ineffective narratives to achieve lasting change: "*If we continue with this [drug free Philippines] narrative, we will continue to violate human rights*". Ms Feria denounced an ongoing culture of surveillance, control, abuse and killing against people who use drugs and their communities: "*The message seems to be: if it's drugs, we'll fix you.. or else*", and asked the Council: "*How can we move forward and fix things, if we are not honest of what has been happening and continues to be happening, and we quibble over numbers, instead of acknowledging the wrongs that have been committed?*". And on priorities for the UNJP, she asked: "*If we are talking about a health response, why are we not urgently setting up harm reduction services, that can protect and save lives? We have the evidence, why are we ignoring that?*"

The Dialogue featured notable interventions by states; including the EU and Switzerland – which both denounced the ongoing violations and "the reluctance of the Philippines to renew the OHCHR reporting mandate it had courageously established"; and Liechtenstein, which highlighted shortcomings in UNJP implementation. A joint statement by IDPC and HRI similarly denounced ongoing abuses in the context of the war on drugs in the country, and the failure to meaningfully engage people who use drugs in UNJP implementation.

Nevertheless, the Council failed to adopt a new Resolution which would extend OHCHR monitoring and reporting mandate on the Programme, and the human rights situation in the country, attracting the [condemnation of civil society](#).

Presentation of the Secretary General's report on a moratorium on the use of the death penalty

This year's report ([A/HRC/51/7](#)) notes the resumption of executions for drug offences in Singapore, and an increase in drug-related executions in Iran, within a context of considerable increase in the application of the death penalty for drug-related offences globally in 2021. The overrepresentation of persons from vulnerable and marginalized groups, persons belonging to minorities, foreign nationals and women among people facing the death penalty for drug offences was also highlighted.

After reiterating that the death penalty for drug offences violates international standards, the report also recalls the conclusions on this matter by the Working Group on Arbitrary Detention in its [2021 thematic report](#); and the [recommendation](#) by the International Narcotics Control Board "to 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."

The Secretary General reminded that "retentionist States should impose the death penalty only for the "most serious crimes", which has been consistently interpreted as crimes of extreme gravity involving intentional killing, and refrain from using it for crimes not involving intentional killing, such as drug-related offences."

From civil society, a joint statement by ECPM highlighted the worrying developments in some retentionist countries; while HRI denounced the sharp increase in drug-related executions in 2021 and 2022, mostly due to negative developments in Singapore and Iran; and called the Secretary General and Council Member States, to take all possible steps in their engagement with retentionist countries to halt impending executions and achieve moratoria on the use of capital punishment for drug offences, as a first step towards total abolition.

ID with the Working Group on Arbitrary Detention

The Working Group presented its [annual report](#), reviewing the work carried out in 2021. A key milestone covered is the Working Group's landmark [study on arbitrary detention in the context of drug policies](#) – presented to the Council in July 2021 – and its dissemination.

The Working Group also covered [its visit to the Maldives](#), where it noted an overall punitive approach to drug control, “resulting in the incarceration of a large number of persons who could receive more effective treatment in voluntary community-based programmes.” The Group expressed concern for the stigmatisation of people who use drugs and the absence of medical treatment for withdrawal symptoms in detention facilities, among others.

A resolution to renew the Mandate for another three-year was adopted (A/HRC/51/L.12), although with no mention of, or a follow up on, the Working Group's report on drug policies.

Enhanced ID with the High Commissioner and the International Independent Expert Mechanism (IIEM) to advance racial justice and equality in law enforcement (HRC res. 47/21)

In her [July 2021 report](#), the High Commissioner concluded that the overwhelming majority of police-related fatalities occur in three key contexts, all potentially related to drug control: the policing of minor offences, law enforcement's interventions to respond to mental health crises, and the conduct of special police operations. In the [follow-up report](#), presented in this session, the High Commissioner reiterates “the disproportionate impact of [...] punitive drug policies, arrests, overrepresentation in prisons and other aspects of the criminal justice system on people of African descent.”

The [IIEM report](#), presented in this same session, focuses on the collection, publication, and analysis of disaggregated data, including in relation to policing and the criminal justice system; outlining existing gaps and challenges, and recommending steps to close such gaps. At the Dialogue, the Chair of the IIEM confirmed that in November 2022, the Mechanism will undertake consultations in South America with States, civil society and other stakeholders, as well as directly affected individuals and communities from the region; which presents opportunities for civil society to provide further input on the issue.

A joint statement by HRI, CDPE, Instituto Ria, IDPC and Release noted the lack of comprehensive data on drug policing and drug-related outcomes, impinging on evidence-based drug policy reform, and the impact of criminalisation, discrimination, and punitive policies on data gathering related to drug control.

OTHER RELEVANT DEVELOPMENTS

- The OHCHR report on **Sri Lanka** ([A/HRC/51/5](#)) detailed the militarisation of drug control in the country. However, the issue was not address in substance in the Dialogue as priority was given to economic situation in the country.
- Special Rapporteur on the situation of human rights in **Afghanistan** in [A/HRC/51/6](#) raised concerns about reports of people who use drugs being taken to rehabilitation centres escaping independent monitoring, and about the risk that “people are not treated in accordance with professional standards, with reports that they live as detainees for three months with no medical treatment and are then discharged without support.”
- The Expert Mechanism on the right to development presented a [report](#) on ‘**racism, racial discrimination and the right to development**’, which (among others) condemns the role played by racial discrimination in preventing access to health and other social services, justice, and safety. A section is dedicated to policing, pausing on the overrepresentation of racial minorities in the criminal justice system, and the over-policing,

surveillance, and racial profiling by law enforcement of minority groups. The Mechanism pauses on the need for disaggregated data and adequate indicators.

- In his [report](#), the Special Rapporteur on the human rights situation in **Cambodia** provided key benchmarks to facilitate the implementation of human rights in the country. Among others, he recommended the government to “explore more rehabilitative measures rather than retributive sanctions for drugs-related cases”, noting how the majority of detainees in the country are held for drug-related offences; with women disproportionately represented.
- PRI delivered a joint oral statement (co-signed by HRI, Amnesty International, ILF, IDPC, and OSF) at the Panel Discussion on the **negative impact of the legacies of colonialism on the enjoyment of human rights**, denouncing how “many states continue to use laws that were created by colonial powers to control local populations, which have not evolved in line with modern human rights standards”. The consequence is a substantial criminalisation of poverty, resulting in the disproportionate deployment of the criminal justice system against the most marginalised (including people who use drugs).
- On 21 September, HRI’s Executive Director Naomi Burke-Shyne spoke at a side event organised by the Permanent Missions of Ireland, Chile and Japan, with OHCHR, on **Civil Society Participation in Health Crises and Recovery Efforts**. Building on experiences from drug policy, HIV response, and COVID-19 response, the intervention focused on the importance of placing civil society and communities at the centre of health responses, but also of international policymaking processes on pandemic prevention, preparedness and response.
- On 8 September, Volker Türk was [appointed](#) as the **new High Commissioner for Human Rights**. Prior to his appointment, Mr Türk hold the position of Under-Secretary-General in the UN’s Executive Office. He held several positions within the UN, including of Assistant Secretary-General for Strategic Coordination in the UN chief’s Executive Office and Assistant High Commissioner for Protection at UN refugees.