

52nd SESSION OF THE HUMAN RIGHTS COUNCIL: DRUG POLICY HIGHLIGHTS

April 2023

On 4th April 2023, The Human Rights Council concluded its [52nd Session](#) (27 February – 4 April). This briefing highlights key debates, decisions and documents in which drug control and its impact on human rights were analysed and addressed.

RESOLUTION ON HUMAN RIGHTS AND DRUG POLICIES

On 4 April, the HRC adopted the [resolution](#) (A/HRC/52/L.22/Rev.1) on “Human Rights Council contribution with regard to the human rights implication of drug policy”, being the third resolution adopted by the HRC on this matter, after a first one in 2015 ([A/HRC/RES/28/28](#)) and a second one in 2018 ([A/HRC/RES/37/42](#)). The resolution was adopted by the Council without a vote, meaning that for most countries the text of the resolution is now an agreed language.

The resolution, which includes - for the first time - explicit reference and support to harm reduction, requests the OHCHR to prepare a report, in collaboration with the United Nations Office on Drugs and Crime (UNODC) and other relevant UN agencies, civil society and other stakeholders, on human rights challenges in addressing and countering all aspect of the drug problem, and to present it to the HRC at its fifty-fourth session and, and in the mid-term review of the 2019 Ministerial Declaration of the Commission on Narcotic Drugs (CND), the policy-making body of the UN with prime responsibility for drug control, which will take place in 2024.

The resolution reaffirms member's States commitment to uphold human rights for all on the development and implementation of drug policies and abide with international agreements on that matter, calling on UN States Members to consider alternatives of incarceration, conviction and punishment. The resolution also contains relevant commitments to address racial discrimination, gender violence and discrimination in all stages of the development, implementation, monitoring and evaluation of drug policies and programs. It consolidates the precedent set by the UNGA resolution [77/238](#) by recognising the rights of indigenous people to their traditional medicines and to maintain their health practices.

HRI and other organisations actively participated in the informal negotiations and debates on the draft resolution. More information on the resolution can be found [here](#).

BIENNIAL HIGH-LEVEL PANEL DISCUSSION ON THE QUESTION OF DEATH PENALTY

The High-Level Panel was a pivotal moment to reflect upon the human rights violations related to the use of the death penalty while exchanging best practices and reflecting on new pathways towards abolition. [Opening remarks](#) by UN High Commissioner for Human Rights, Volker Türk, and the Chairperson of the Working Group on Death Penalty, Extrajudicial or Arbitrary Killings and enforced disappearances in Africa, Idrissa Sow, reiterated the UN position on the death penalty as incompatible with human rights in all circumstances and called on States that have not yet done so to restrict the use of the death penalty, establish moratoriums and work towards its abolition; and urging governments to collect, analyse and make available public data on the use of death penalty and actual effectiveness.

Mr Türk also reiterated that working to address inhumane punishment and promoting the abolition of the death penalty is a priority for the OHCHR and the UN system. Both remarks also recognised that capital punishment continues to be used in crimes that do not meet international law's threshold, including drug-related offences, being disproportionately used against racial, ethnic, linguistic and religious minorities and the LGBTQI-plus community.

Following the opening remarks, panellists highlighted key challenges and good practices regarding the limitation of the use of the death penalty and pathways for abolition. [Azalina Othman](#), Minister of Law and Institutional Reform of Malaysia, analysed the steps taken by the country to limit the use of the mandatory death penalty and the contribution of civil society to achieve that, while [Sarah Belal](#), Executive Director of Justice Project Pakistan, highlighted Pakistan pathway towards limiting the use of death penalty in practice and making reforms towards abolition. [Jose Manuel Santos Pais](#), member of the Human Rights Committee, reflected on the need to uphold international law and principles and make a restrictive interpretation of what can be considered serious crimes for the application of death penalty, while [Mai Sato](#), Associate Professor at the Faculty of Law at Monash University, stated that out of seventy-nine retentionist countries, only two comply with international law. The panellists also raised concern about 35 countries retaining the death penalty for drug offences, which do not meet the most serious crimes threshold.

The dialogue also featured notable interventions by states, including Belgium, Australia and the EU who condemned the use of the death penalty for drug offences and other crimes that do not meet the international threshold of most serious crimes while urging retentionist states to abolish the death penalty and ratify the Second Optional Protocol of the International Covenant on Civil and Political Rights (ICCPR). From civil society, [Harm Reduction International](#) (HRI), among others, raised concerns about the alarming sharp increase in execution for drug offences, calling on states to comply with international obligations and abolish the death penalty.

ANNUAL REPORT AND ORAL UPDATE BY THE HIGH COMMISSIONER FOR HUMAN RIGHTS

During his [oral update](#) on the activities of the Office and recent human rights developments, the High Commissioner of Human Rights expressed his concern for police repression and killings in drug-related operations still happening in the Philippines, sustaining that his Office is working with actors to strengthen accountability and promote human rights in drug enforcement. While Mr Türk commended the acquittal of human rights defenders, he highlighted the need to end politically motivated charges and create a safer environment for civil society.

ID WITH THE SPECIAL RAPPORTEUR ON ISLAMIC REPUBLIC OF IRAN

The Special Rapporteur, Mr Javaid Rehman, presented his [report](#) (A/HRC/52/67) on the situation of human rights in the Islamic Republic of Iran, in which he expresses his concern for the alarming upsurge in executions in the country, with at least five hundred executions as of December 2022, the highest recorded in the past five years. Mr Rehman paid particular attention to the resumption of public executions, the continuous execution of persons sentenced to death as child offenders and the exponential increase in the number of executions of drug offenders, with at least 222 people executed in 2022. He also expressed concern for the disproportionate use of the death penalty against persons belonging to ethnic and religious minorities, with at least 147 Baluchis (who represent between 2 and 6 per cent of the total population) reportedly executed, representing 30 per cent of all executions, and more than half were executed on drug-related charges.

Among the report's recommendations, Mr Rehman calls on the concerned States to immediately abolish the death penalty for all offences and impose an immediate moratorium on executions, including for drug offenders and commute all death sentences; protect the rights of all persons belonging to ethnic, religious and sexual minorities, as well as to ensure that human rights defenders, lawyers, journalist are not threatened with or subjected to harassment, violence, arbitrary arrest, deprivation of liberty or life or other arbitrary sanctions and immediately release all those arbitrarily detained or arrested.

The Interactive Dialogue also heard statements from NGOs, including a [joint statement](#) by HRI, Abdorrahman Boroumand Center for Human Rights in Iran, Capital Punishment Justice Project (CPJP), Centre on Drug Policy Evaluation, ECPM, HIV Legal Network, IDPC and World Coalition Against Death Penalty, which highlighted the disproportionate use of the death penalty for drug offences, the limited access to information and transparency issues by the government and the failure of the international community to take meaningful actions against blatant violations of international standards.

The Special Rapporteur's mandate was extended for another year (resolution [A/HRC/52/L.3](#)), who will have to submit a report on the implementation of the mandate at the fifty-fifth session of the HRC and to the General Assembly (UNGA) at its seventy-eighth session.

GENERAL DEBATE ON THE ORAL UPDATE BY THE HIGH COMMISSIONER ON OHCHR ACTIVITIES IN COLOMBIA

The High Commissioner presented his [report](#) (A/HRC/52/25) on the Situation of Human Rights in Colombia, which welcomes the State's steps to reform rural and drug policies towards a more social, health focus and human rights-based approach in line with the Peace Agreement. The report notes that these developments could be instrumental in better protecting the rights of peasants, indigenous and Afro-Colombian communities and people who use drugs, both in Colombia and globally. Additionally, the OHCHR highlight the need to prioritise economic, social, and cultural rights, including the State's commitments in the Peace Agreement on comprehensive rural reform and drug policy. In turn, Colombia welcomed the OHCHR's report and reiterated the government's commitment to putting people at the centre of drug policies to advance their economic, social and cultural rights, which involves moving away from criminalising producers and consumers to directing enforcement efforts towards the big beneficiaries of the business, in combination with market regulation. Colombia also called on the OHCHR and the international community to support human rights-based drug policies.

The general debate also featured relevant remarks from the NHRI, [Defensoría del Pueblo Colombia](#), and NGOs such as [Peace Brigades International](#) and [Acción Colombia](#), who expressed concern for the high rates of murders and attacks against human rights defenders and the persistent impunity of perpetrators and forced displacements.

OUTCOMES OF UNIVERSAL PERIODIC REVIEWS

In light of the 47th UPR session, the outcomes of several countries were adopted, with some specific recommendations on drug policies:

- [Bahrain](#) received a recommendation (124.87) to abolish the death penalty for, among others, drug crimes.
- While [Indonesia](#) noted recommendations related to the abolition of the death penalty, including for drug offences (140.84, 140.85, 140.86), it sustained that the application of the death penalty is an attribute of sovereignty. Indonesia further recognises that, according to its new Penal Code, "the death penalty should only be imposed with alternative sentencing with a high degree of commutation."
- [India](#) noted all recommendations related to ratifying the Second Protocol of the ICCPR, the imposition of a moratorium on the death penalty and reforms towards abolition.
- [The Philippines](#) presented its final responses and actions on the 89 remaining recommendations arising from its 4th cycle UPR on 14 November 2022. Among the 15 recommendations accepted, the Philippines committed to

implementing a National Action Plan on the Safety of Journalists (146.72), National Preventive Mechanism (146.46, 146.47 and 146.49) and a human rights approach to the strategy against illegal drugs (146.52).

However, the country noted other recommendations (146.21, 146.22, 146.23, 145.29) oriented to implementing human rights-based drug policies and respecting international human rights law in efforts to combat trade in and use of the illegal drug; recommendations (145.33 to 145.44) that urge for the maintenance of the abolition of the death penalty recommendations (145.48, 145.56) calling on the compliance with international obligations under the Second Protocol to the ICCPR, and the conduction of independent, impartial and effective investigations on extrajudicial killings and torture during the so-called war on drugs.

OTHER RELEVANT DEVELOPMENTS:

- **ID on the report of the High Commissioner on ensuring equitable, affordable, timely and universal access for all countries to vaccines in response to the coronavirus disease (COVID-19) pandemic**

Although there was no specific mention to drug policies, this ID was a key moment in which the OHCHR reiterated that access to medicines and vaccines are inalienable part of the right to the highest attainable standard of health, highlighting how the unequal distribution of vaccines have affected the enjoyment of human rights and have disproportionately impacted people in low and middle-income countries.

The OHCHR is following closely the negotiations on the Pandemic Treaty, reiterating the need of integrating human rights to the future accord, emphasizing states' and private sector's obligation to ensure that vaccines are affordable for everyone, and accessible in a timely, equitable and universal manner, and that vaccine distribution is non-discriminatory. The OHCHR also urged for a more inclusive process, allowing the meaningful and effective participation of all stakeholders in all crucial stages, including civil society and those most affected by and vulnerable to health crises such as pandemics.

- **Debate in commemoration of the International Day for the Elimination of Racial Discrimination: The urgency of combating racism and racial discrimination 75 years after the adoption of the Universal Declaration of Human Rights.**

Although the [panel](#) did not touch on racism and drug policies, the debate touched upon cross-cutting issues that underpin drug policies worldwide. In its opening remarks, Mr Türk highlighted the urgent need to address systemic racism and discrimination that permeate social structures, institutions and technologies, which negatively impact equal access to justice, employment, housing, quality education and safe and affordable health care. He also called on state members to adopt and implement comprehensive national laws and policies to eliminate racism and racial discrimination and to halt the rising wave of xenophobia, to ensure effective participation of racial and ethnic groups in public decision-making, to use disaggregated data to better understand the consequences of systemic racism and discrimination and to take concrete actions to confront the enduring legacy of centuries of enslavement and colonialism and deliver reparatory justice.

Panellists also discussed the current state of play in the fight against racism and discrimination, sharing their experience, expertise and recommendations on how to advance human rights for all and combat racism in all its form of manifestation.

- On 13th March and in light of the 2024 mid-term review, [the High Commissioner addressed the CND](#), expressing the OHCHR's commitment to working closely with the CND and highlighting the mid-term review as a critical moment towards transformative changes in drug policies that are grounded in human rights, particularly the right

to health and development. He also encouraged the mid-term review to be a participative space that includes civil society -including the voices of people who use drugs- and all relevant UN bodies.

The High Commissioner also illustrated how the “war on drugs” paradigm is detrimental to public health and development and how punitive laws and policies do not protect people’s lives, highlighting that 35 countries still retain the death penalty for drug-related offences.

SIDE EVENTS

High-level panel on human rights-based drug policy

This High-level side event was co-organised by the Global Commission on Drug Policy and the Office of the High Commissioner for Human Rights and co-sponsored by Albania, Brazil, Colombia, Greece, Guatemala, Mexico, Paraguay, Portugal, Switzerland, and Uruguay.

The panellists included representative from UN agencies, as well as civil society and community member. The panel highlighted the human rights obligations in promoting national legal frameworks and practices aligned with human rights; and identified shared opportunities and responsibility to improve the international drug policy framework noting the progressive aspects of international human rights law. The UN Deputy High Commissioner, Nada Al-Nashif, called out many countries’ failure “to live up to the core tenants of international human rights law” in pursuing their drug policies. Ms. Al-Nashif highlighted the use of the death penalty for drug offences, the disproportionate impact of drug policy on women, the lack of access to controlled medicine, among other things.