



# Submission to the United Nations High Commissioner for Human Rights

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**Submitting organisation:**

The International Drug Policy Consortium is a global network of NGOs that work for drug policy reform in order to advance social justice and human rights.

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## Introduction

1. This submission argues that the global drug control regime grounded in the three international drug conventions has been a driver of serious and systemic human rights violations worldwide. **We urge the High Commissioner to call on the international community to transform its approach to drug policy, moving away from prohibition and law enforcement, and towards an international framework enshrined in human rights and health - as promoted in the UN System Common Position on drugs.**<sup>1</sup>

## The global drug control regime as a driver of human rights violations

2. The international drug control regime is the legal and institutional framework that seeks to ensure the availability of drugs considered indispensable for medical and scientific purposes, while prohibiting other uses. It is comprised of three conventions – the 1961 Single Convention on Narcotic Drugs, the 1971 Convention on Psychotropic Substances, and the 1988 Convention Against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances<sup>2</sup> – and is overseen by the Commission on Narcotic Drugs (CND), the International Narcotics Control Board (INCB), the UN Office on Drug and Crime (UNODC), and the World Health Organization (WHO). Given the almost universal ratification of the drug conventions and their binding nature, the global drug control regime has historically had a significant influence on national drug policies.
3. Prior OHCHR reports on the human rights dimension of drug policy<sup>3</sup>, as well as reporting by UN human rights mechanisms<sup>4</sup> and civil society<sup>5</sup>, provide a comprehensive review of the catastrophic human rights impacts of the punitive drug policy paradigm that has emerged since the 1961 Single Convention. UN human rights mechanisms have also underlined the role of the international drug control regime in driving human rights abuses:
  - a. ‘The UN system, the international community and individual Member States have a historical responsibility to reverse the devastation brought about by decades of a global “war on drugs”’.<sup>6</sup>

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<sup>1</sup> <https://unsceb.org/united-nations-system-common-position-supporting-implementation-international-drug-control-policy>

<sup>2</sup> [https://www.unodc.org/unodc/en/commissions/CND/Mandate\\_Functions/conventions.html](https://www.unodc.org/unodc/en/commissions/CND/Mandate_Functions/conventions.html)

<sup>3</sup> See: A/HRC/30/65 and A/HRC/39/39

<sup>4</sup> See: A/HRC/47/40

<sup>5</sup> See: <https://idpc.net/publications/2018/10/taking-stock-a-decade-of-drug-policy-a-civil-society-shadow-report> and <https://idpc.net/publications/2021/04/taking-stock-of-half-a-decade-of-drug-policy-an-evaluation-of-ungass-implementation>

<sup>6</sup> Statement by 13 UN special mandates on the occasion of 2022 World Drug Day.

- b. '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'.<sup>7</sup>
4. In its upcoming report, we urge OHCHR to acknowledge that the global drug control regime has been a major contributor to this paradigm, creating a framework in which risks of human rights violations are structural and intrinsic to the system:
- a. Promoting a 'war-on-drugs' narrative. The 1961 Single Convention, which consolidated previous drug control treaties, is the first and only international instrument to use the word 'evil', committing Member States to 'combatting' the 'evil' of both 'narcotic drugs' and 'drug addiction'. Perpetuating this narrative, language promoting a 'society free of drug abuse' remains common in CND resolutions and in UNODC statements,<sup>8</sup> even though evidence shows that achieving such a drug-free world is not feasible.
- b. Prescribing criminalisation as a response to the drug phenomenon. The 1988 Convention made it mandatory for signatories to criminalise all activities related to illegal drug supply. While the Convention allows for some flexibility for States to adopt alternatives to punishment for use and possession, its ratification has given rise to dozens of legal reforms worldwide that imposed disproportionate sentences for all drug activities, sometimes higher than for violent offences such as murder or rape.<sup>9</sup> The Global Drug Policy Index, evaluating the drug policies of 30 countries based on how well they are aligned with human rights and the recommendations from the UN System Common Position on drugs, shows the disproportionate nature of drug laws globally, with the highest ranking country (Norway) reaching a score of 74/100 and the lowest (Brazil) reaching only 26/100, with an overall median score of 48/100<sup>10</sup>.
- c. Neglect of human rights in global drug policy debates. The CND remains hesitant to refer to human rights in its debates,<sup>11</sup> with the only resolution specifically focusing on human rights dating from 2008.<sup>12</sup> While various resolutions have since then been adopted on topics that are relevant to human rights, explicit human rights language remains controversial. UNODC has also been reluctant on this topic: human rights

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<sup>7</sup> United Nations Working Group of Experts on People of African Descent (2021).

<sup>8</sup> Insert reference to WDR 2022 foreword?

<sup>9</sup> See: <https://idpc.net/publications/2017/11/drug-laws-in-west-africa-a-review-and-summary> and <https://idpc.net/publications/2021/02/punitive-drug-laws-10-years-undermining-the-bangkok-rules>

<sup>10</sup> See: [www.globaldrugpolicyindex.net](http://www.globaldrugpolicyindex.net)

<sup>11</sup> <https://idpc.net/publications/2022/12/converging-universes-20-years-of-human-rights-and-drug-policy-at-the-united-nations>

<sup>12</sup> See CND resolution 51/12

are absent from the drug-related ‘key outcomes’ section of UNODC’s strategy,<sup>13</sup> and the latest World Drug Report made no reference to human rights at all.

- d. Direct tension between the conventions and human rights. In some cases, the drug conventions directly contravene human rights. For instance, the UN Declaration on the Rights of Indigenous Peoples reaffirms their right to their traditional medicines and to maintain their health practices, while the 1961 Single Convention sets a framework for eventually banning the traditional uses of scheduled plants, a historical error that shows the colonial legacy of the global drug control regime.<sup>14</sup>
- e. International cooperation supporting human rights abuses. In other cases, international cooperation has contributed to drug policies that violate fundamental human rights. For instance, UNODC has been found to provide building materials for the expansion of a drug treatment centre in Sri Lanka where people can be interned against their will<sup>15</sup>.

### **Initiatives to reform drug policies from a human rights lens**

5. Because of the devastating impacts of punitive drug laws, various countries have moved away from prohibition and the promotion of a ‘society free of drug abuse’, towards a human rights approach. Some have scaled up and funded harm reduction interventions, while others have decriminalised drug use and possession,<sup>16</sup> moved to offer meaningful, gender-sensitive alternatives to incarceration, and removed criminal records for drug offences committed by people in situations of vulnerability (see the case of Costa Rica).<sup>17</sup>
6. Since 2012, several jurisdictions have also proposed or established regulatory approaches for some drugs, particularly cannabis. Various countries have justified this move as an attempt to better protect the health and human rights of people who use drugs, as did Uruguay in 2013,<sup>18</sup> Germany in 2022<sup>19</sup> and Malta in 2023.<sup>20</sup>

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<sup>13</sup> <https://idpc.net/publications/2021/04/supressing-coherence-the-unodc-strategy-2021-2025-and-the-un-system-common-position-on-drugs>, p. 5.

<sup>14</sup> For more information, see submission by the Transnational Institute.

<sup>15</sup> See: [https://www.hri.global/files/2021/08/03/HRI\\_Report\\_-\\_Sri\\_Lanka\\_Drug\\_Control.pdf](https://www.hri.global/files/2021/08/03/HRI_Report_-_Sri_Lanka_Drug_Control.pdf), pp. 158-159.

<sup>16</sup> See the submission by IDPC, HRI, CDPE, Instituto RIA and Health[e]Foundation on this topic for more information

<sup>17</sup> See: [https://womenanddrugs.wola.org/wp-content/uploads/2020/10/DONE-2-Costa-Rica-77bis\\_ENG\\_FINAL-.pdf](https://womenanddrugs.wola.org/wp-content/uploads/2020/10/DONE-2-Costa-Rica-77bis_ENG_FINAL-.pdf) and [https://womenanddrugs.wola.org/wp-content/uploads/2017/12/DONE-14-Criminal-Records-in-CR\\_ENG\\_FINAL-1.pdf](https://womenanddrugs.wola.org/wp-content/uploads/2017/12/DONE-14-Criminal-Records-in-CR_ENG_FINAL-1.pdf)

<sup>18</sup> See: [https://www.brookings.edu/wp-content/uploads/2018/03/gs\\_032118\\_uruguaye28099s-cannabis-law\\_final.pdf](https://www.brookings.edu/wp-content/uploads/2018/03/gs_032118_uruguaye28099s-cannabis-law_final.pdf)

<sup>19</sup> See: <https://idpc.net/publications/2022/07/the-65th-session-of-the-commission-on-narcotic-drugs-report-of-proceedings>, p. 8

<sup>20</sup> See Malta’s speech at the 66th session of the CND: [https://www.youtube.com/watch?v=QAV6\\_N60iDM](https://www.youtube.com/watch?v=QAV6_N60iDM)

7. The INCB has rightly noted that such initiatives may contravene the UN drug conventions, and that they have brought increasing fracture to the global drug control regime. While this may be the case, the move towards legal regulation in order to promote human rights should constitute a wake-up call for the international community and encourage Member States to seriously consider whether the international drug control regime should be modernised to ensure that it responds to today's realities, and to align it with the international human rights framework that has been developed in the last decades.

## **Recommendations**

8. **In light of the above, we urge the OHCHR to use its forthcoming report to promote a transformative human rights-based approach to drug policy within the UN system**, including the following elements:
  - a. Recognise that the global drug control regime, including the international drug conventions, has promoted and contributed to punitive policy frameworks that have generated serious and systematic human rights violations.
  - b. Recognise that several Member States have already proposed or adopted reforms, including the decriminalisation of drug use and related activities, harm reduction, or the legal regulation of internationally scheduled drugs, that seek to promote a human rights-based approach to drugs while discarding the prohibitionist paradigm.
  - c. Call on the UN system and Member States to initiate a process to evaluate the human rights impacts of the global drug control regime, and to propose concrete steps for its reform and modernisation. Specific attention should be paid to: the impacts of international law provisions prescribing criminalisation; the ongoing neglect of the human rights and health dimensions of drug policies in the work of both CND and UNODC; the impact of drug policies on marginalised and vulnerable groups; and the discriminatory prohibition of scheduled drugs for traditional social, cultural, and religious uses, including by Indigenous Peoples.
  - d. Call on the UN system and in particular on bodies such as WHO, UNODC, and UNAIDS to develop guidelines and minimum standards on how to implement reforms such as decriminalisation of drug use and possession for personal use, alternatives to coercive sanctions and the legal regulation of drugs.
  - e. Recommend that the CND, the UNODC, the INCB, and the WHO incorporate into their agendas and work plans a separate item on the human rights dimension of drug policies, and that they work more systematically with all relevant UN human rights entities on elevating the issue with Member States, and on providing technical assistance to eliminate human rights abuses committed in the name of drug control - on the basis of the recommendations provided in the UN System Common Position on Drugs and including via its implementation Task Team.