

HUMAN RIGHTS CHALLENGES IN ADDRESSING AND COUNTERING ALL ASPECTS OF THE WORLD DRUG PROBLEM

Report of the UN
High Commissioner
for Human Rights
SUMMARY



BACKGROUND

In 2019, Ministers and Government representatives from across the globe adopted the Ministerial Declaration to strengthen efforts to address the world drug problem.

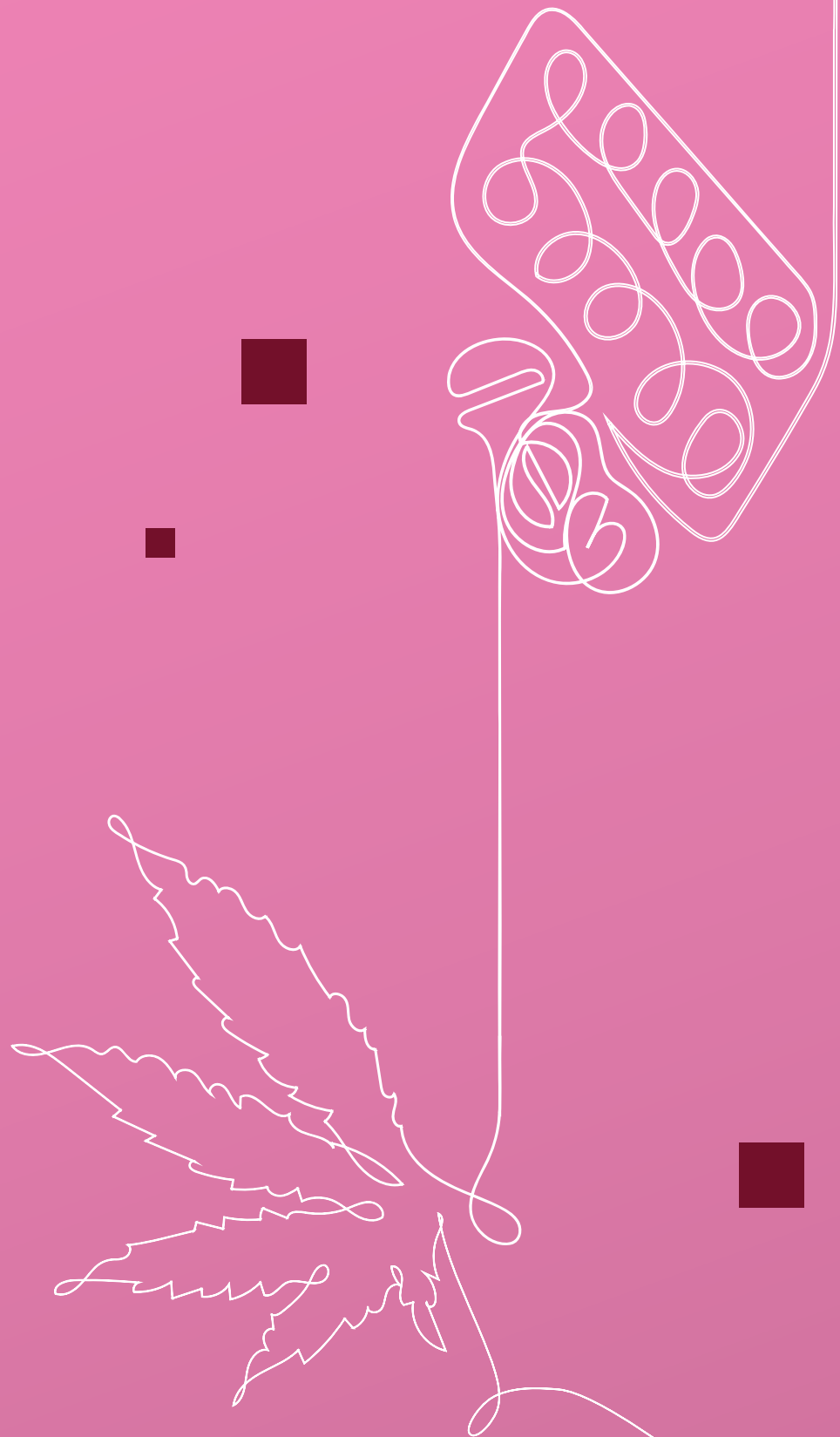
All member States of the United Nations committed to ensure that no one affected by the world drug problem was left behind. They also resolved to review the Ministerial Declaration in 2029 and committed to a mid-term review in 2024.

In 2023, the United Nations Human Rights Council requested UN Human Rights to prepare a report A/HRC/53/54 on human rights and the world drug problem as a contribution to the 2024 mid-term review.

To prepare the report, UN Human Rights consulted with States, the United Nations Office on Drugs and Crime, UN agencies, civil society and others. The report was published in August 2023.

The report tracks recent developments of the shift towards drug policies based on health and human rights and makes recommendations on the way forward in the context of the 2024 mid-term review.

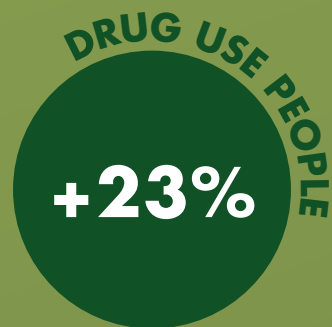
This brochure provides a summary of the main conclusions and recommendations of the report.



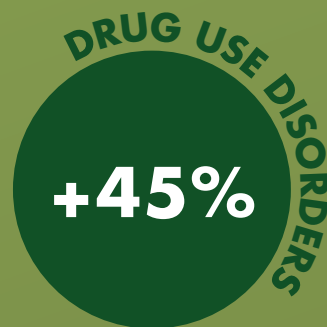
UNEQUAL ACCESS TO TREATMENT AND HARM REDUCTION

In 2021, over 296 million people used drugs, an increase of 23 per cent over the previous decade. The number of people with drug use disorders skyrocketed to 39.5 million, a 45 per cent increase over 10 years.

OVER THE PREVIOUS DECADE



= 296 million people



= 39,5 million people

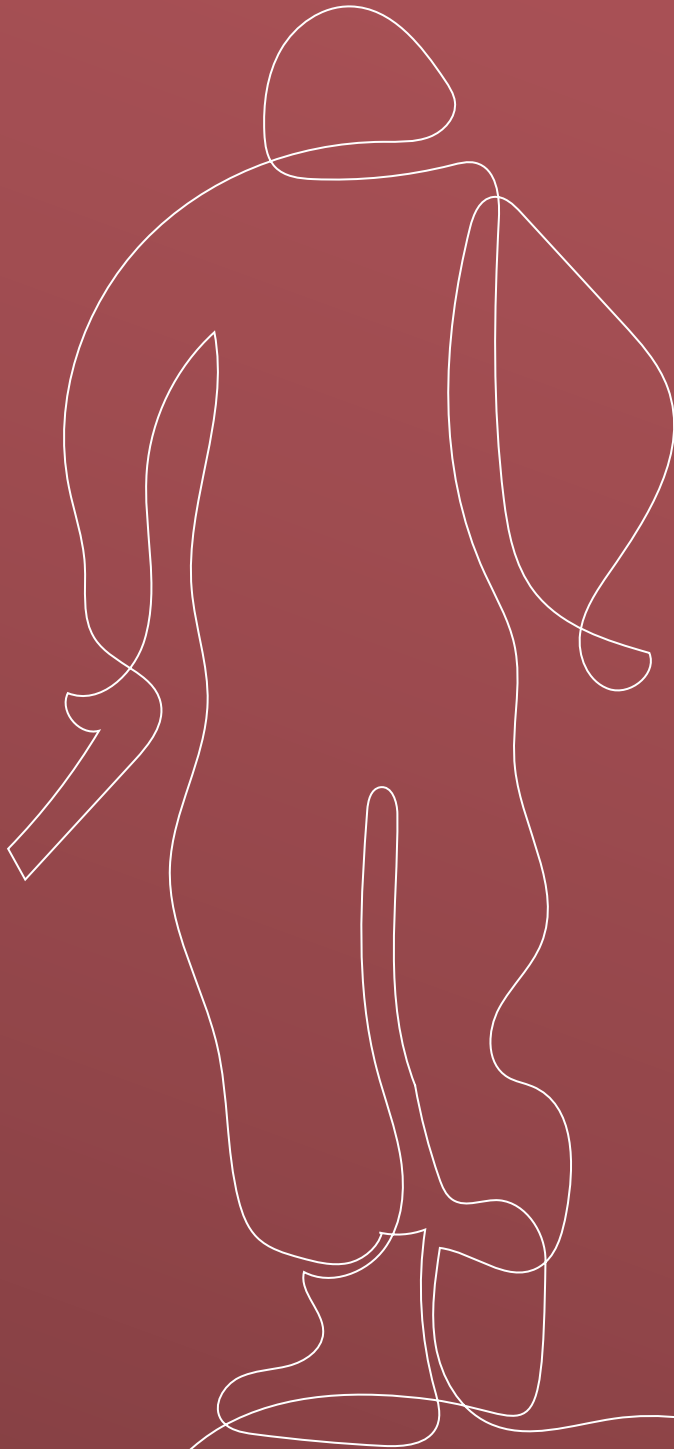
The provision of accessible drug treatment services is essential to the right to health of people who use drugs. However, the demand for treatment remains largely unmet and, in some cases, there has been a reduction in support for treatment programmes and social reintegration services.

Non-voluntary, compulsory and coercive treatments remain, posing serious threats to human dignity and rights.

Punitive drug control laws, policies and law enforcement practices are among the main obstacles to people's ability to enter drug treatment programmes. People with HIV/AIDS are at risk of being left behind in the response, including due to a lack of services.

WHAT IS NEEDED?

- The expansion of drug treatment services and harm reduction programmes and removal of the obstacles to access such services and programmes
- Drug replacement therapies for people who use drugs
- Strengthening of aftercare programmes to support sustained recovery
- Affordable access to internationally controlled essential medicines for palliative care, cancer treatment and drug dependency and other treatments
- The prohibition of compulsory drug rehabilitation
- Oversight and accountability structures of drug treatment and rehabilitation centres
- Drug withdrawal treatments in prisons
- Needle and syringe exchange programmes, including in prisons
- Training of the health workforce



THE WAR ON DRUGS

Punitive approaches to drug control, including using the military, have escalated the use of unnecessary and disproportionate force to combat the drug problem.

This has led to extrajudicial killings, arbitrary detention, torture and ill-treatment, enforced disappearance and other human rights violations. The poorest and most marginalized sectors of society have been most affected.

Investigations have been lacking or insufficient, leading to impunity for perpetrators of abuse while generating a culture of corruption in law enforcement bodies.

Victims have not received remedies.

The 'war on drugs' has failed to prevent the production and consumption of drugs.

Rather than a 'war on drugs', what is needed is a focus on transformative change: crafting drug policies which are, based on evidence, which place people and their rights at the centre, which are gender-sensitive, and which ultimately improve the lives of millions of individuals affected.

PRISON OVERCROWDING

The extensive use of the criminal justice system to deal with drug-related offences has led to an exponential growth in prison populations.

20 per cent of the global prison population have been sentenced for drug offences, including drug trafficking.

The criminalization of possession of small quantities of drugs has led to the incarceration and marginalization of, and a high level of detention of people who use drugs, often for low-level offences. This has had a series of implications including:

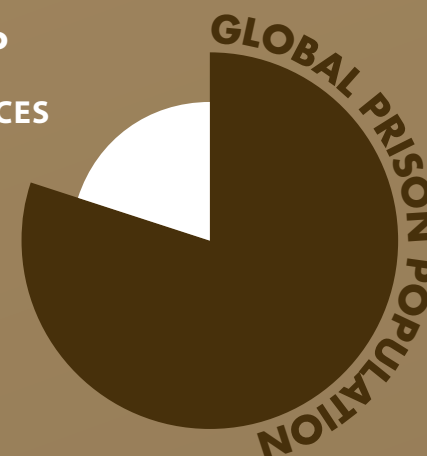
- Failure to bring arrested persons promptly before a judge
- Prolonged and overuse of pretrial detention
- Disproportionate sentencing for drug offences
- Penalties of compulsory rehabilitation
- Prolonged use of solitary confinement and ill-treatment
- Deaths of prisoners at anti-drug units
- Drug testing without consent or a judicial warrant
- A ban on suspended sentences, parole, pardon and amnesty for persons convicted of drug-related offences
- Overincarceration of marginalized groups

These implications can have major consequences for the human rights of people who use drugs, including their rights to liberty, privacy, non-discrimination, health and other economic and social rights.

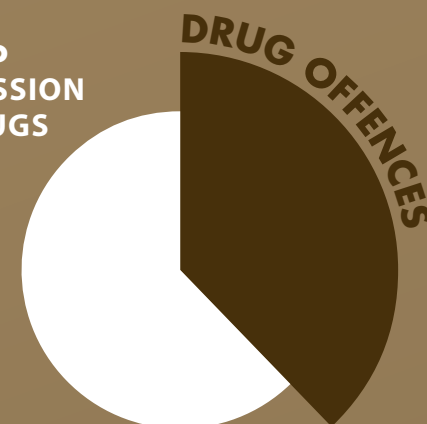
OHCHR SUPPORTS:

- Decriminalization of drug possession for personal use
- Alternatives to conviction or punishment for minor drug-related offences
- Proportionate and individualized sentencing policies
- Addressing prison overcrowding and overincarceration of people accused of drug-related crimes.

20%
DRUG
OFFENCES



61%
POSSESSION
OF DRUGS



USE OF THE DEATH PENALTY

In 2022, the number of people executed worldwide increased, particularly due to the rise in executions for drug-related offences in several countries.

Drug offences can never serve as the basis for the imposition of the death penalty. States that have not abolished the death penalty may impose it only for 'the most serious crimes'. The United Nations' Human Rights Committee has referred to 'the most serious crimes' as crimes of extreme gravity involving intentional killing.

In spite of this, 34 countries retain the death penalty for drug offences.

There is no evidence that the death penalty deters drug-related crimes more than other methods of punishment or that it affects crime reduction.

Imposing the death penalty for drug-related offences can have a disproportionate impact on the poor, foreign nationals, minorities and women. In some situations it has entailed a lack of transparency, breaches of the right to a fair trial and it has subjected individuals to ill-treatment and torture while on death row.

States that retain the death penalty should refrain from using it for drug-related offences, consider abolishing it for such offences and commute death sentences that have already been handed down.

DISPROPORTIONATE IMPACT

Drug policies disproportionately affect the poorest and most marginalized populations. They can have particularly negative impact on:

WOMEN

Hardline drug policies entailing a prohibitionist, repressive approach prioritizing incarceration over alternatives to prison correspond to the increase in the proportion of women in prison in some regions.

Women may face higher levels of stigma and discrimination than men who use drugs, including in the area of accessing harm reduction programmes, drug dependence treatment and basic health care. For example, women who use amphetamine-type stimulants account for almost one in two users but only one in four of the people in treatment for related disorders. Where available, harm reduction services are overwhelmingly gender-blind, leaving women underserved.

Punitive drug policies are not helping to address the multiple factors of women's vulnerability, including poverty, limited education, low-paid jobs, gender-based violence, stereotyping, and the use of women's bodies to hide narcotics.

STATES SHOULD:

- Adopt gender-sensitive drug policies that respond to the specific needs of women, and consider the specific needs and possible vulnerabilities of women drug offenders when prosecuted and imprisoned
- Remove legislation that makes drug use a justification for removing children from their parent's custody or that aims to punish women for using drugs during pregnancy
- Provide or facilitate programmes of care and specialized support for women using drugs
- Scale-up gender-responsive addiction programming

CHILDREN AND YOUTH

More young people are using more drugs compared with previous generations. Youth populations are vulnerable to drug use and young people are severely affected by substance use disorders. The consequences of a criminal record for young people were life-altering. Education, harm reduction and treatment services for young people are lacking. Drug prevention based on creating fear, mandatory testing in schools and expulsion from education for drug use are seriously concerning. Drug policies often fail to address the consequences of parental substance use on children.

STATES SHOULD ENSURE:

- Measures to give children and adolescents information on the harmful effects of drug use
- Life-skills education on preventing substance abuse
- Protocols for early identification and adequate referral of adolescents requiring treatment
- Accessible and youth-friendly drug dependence treatment and harm reduction services
- Quality rehabilitation services
- Legal assistance for young people affected on drug charges.

PEOPLE OF AFRICAN DESCENT

Africans and people of African descent face disproportionate stops, arrests and incarceration, harsher sentencing, including for drug-related crimes. Policing interventions based on racial profiling remain widespread. Access to evidence-based treatment and harm reduction for people of African descent remains critically low.

States and the international community have an historic responsibility to reverse the devastation brought by decades of the global 'war on drugs' on communities already marginalized.

STATES SHOULD:

- End the disproportionate impact of discriminatory law enforcement and sentencing policies on people of African descent
- Adopt drug policies that explicitly protect against discrimination, and ensure everyone's right to health and to be treated with respect, dignity and equality - regardless of gender, sexual identity, race, nationality, legal status, health and other status, including drug dependency.

INDIGENOUS PEOPLES

The criminalization of minor drug-related offences, such as subsistence cultivation of drug crops or possession of small quantities of drugs, as well as over-policing, can disproportionately affect indigenous peoples.

The United Nations Declaration on the Rights of Indigenous Peoples states that Indigenous Peoples have the right to their traditional medicines and to maintain their health practices.

STATES SHOULD:

- Introduce specific measures to improve access to health services and care, that are culturally appropriate, taking into account traditional preventive care, healing practices and medicines
- Protect vital medicinal plants necessary for the right to health of indigenous peoples.

HUMANITARIAN SETTINGS

Humanitarian crises and emergencies such as conflict, displacement, pandemics and natural disasters can facilitate drug use and abuse. Restrictive laws, limited resources and expertise, competing priorities and cultural and linguistic barriers can obstruct efforts to respond.

Sudden shortages of drugs, the threat of interruption and reduced doses during emergencies can result in physical withdrawals, overdoses, relapse, heightened stress and mental health problems.

Criminalization of drug use makes it even more difficult to provide services to those in need.

THE RIGHT TO A CLEAN, HEALTH AND SUSTAINABLE ENVIRONMENT

Deforestation, monocultures, pollution of waters and soil, high carbon footprint of in-house drug cultivation related to illicit drug economies negatively affect the environment. Exposure to pesticides and other chemicals used for drug-crop eradication – particularly via aerial spraying – negatively affect the health of neighbouring populations as well as the environment.





POSITIVE DEVELOPMENTS

Important progress has been achieved in recent years to move from a punitive to a health and human rights-based approach to drug policy.

There is growing acceptance that drug policy discussions must take into account human rights. The Commission on Narcotic Drugs has adopted resolutions focusing on human rights in several areas including alternative development, prevention and voluntary treatment, the rights of people in vulnerable situations and on gender and drug policy.

The International Narcotics Control Board has noted that approaches such as decriminalization and depenalization can be consistent with the conventions subject to certain conditions.

There have been important achievements at the national level:

- In **Portugal**, decriminalization of personal consumption and possession of drugs has lowered drug-use, overdose as well as HIV infections among drug-users
- **Czechia** is holding discussions on decriminalization to regulate certain addictive substances
- Legal reforms in **Ghana** transformed the drug policy framework to treat drug use as a public health matter
- The Narcotic Drugs and Psychotropic Substances Act in **India** provides alternatives to prosecution for offences involving small quantities of drugs
- **Mexico** has developed a therapeutic justice programme to strengthen alternatives to incarceration
- In **Switzerland**, Parliament lifted a ban on medical cannabis and allowed pilot trials of non-medical cannabis use for adults
- **Lithuania** is discussing decriminalization of possession of small amounts of cannabis
- **Australia** and **Chile** have introduced gender-sensitive drug policies
- In **Scotland**, the Government has issued a paper on evidence-based and human rights-informed drug policy, based on public health and harm reduction
- In **Malaysia**, Parliament passed a bill removing the mandatory death penalty for eleven sentences, including drug-related offences
- In **Pakistan**, Parliament passed a bill removing death penalty for drug offences.
- **Colombia** aims to develop a new drug policy replacing a repressive approach with human rights and development at its core, focusing on rural and urban development to improve living conditions of communities that depend on the drug economy.

RECOMMENDATIONS

Shifting from punitive drug policy models towards policies that promote health and human rights is crucial to dealing with the cultivation, production, sale and control of drugs. The following are some of the key recommendations to achieve this:

CRIMINAL LAW AND LAW ENFORCEMENT

- Adopt alternatives to criminalization, 'zero tolerance' and elimination of drugs by considering decriminalization of usage and responsible regulation of drugs
- In the case of decriminalization, consider quashing, commuting or reducing convictions and sentences as appropriate
- In the case of continued criminalization, define crimes clearly in law as well as penalties that are proportionate to the gravity of offences
- Reserve drug law enforcement for civilian law enforcement agencies that are properly trained and equipped
- Resort to military force extraordinarily, temporarily and when strictly necessary in specific circumstances
- Abolish the death penalty for all crimes, including drug-related offences

CONDITIONS IN DETENTION

- Consider the rights and needs of people who use drugs, including women, in prosecution and detention

TREATMENT

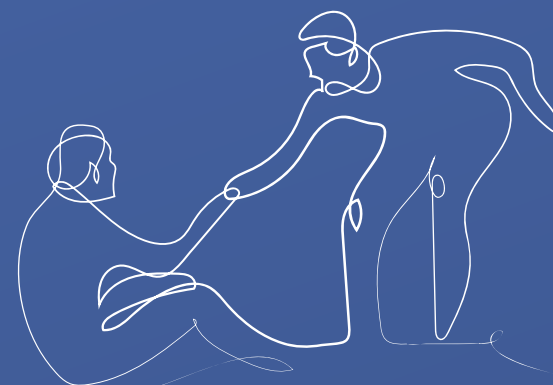
- Ensure access to medical care for people who inject drugs and develop HIV, viral hepatitis and other blood-borne infectious diseases.
- Expand drug-dependent treatment and ensure that it is voluntary
- Adopt and fund harm reduction services, including community-led services

EQUALITY AND NON-DISCRIMINATION

- Design gender-sensitive drug policies that respond to the specific needs of both women and men
- End the disproportionate impact of discriminatory law enforcement and sentencing policies, in particular in relation to people of African descent and Indigenous Peoples
- Adopt drug policies that protect against discrimination and respect everyone's right to health and to be treated with dignity
- Tackle social inequalities to address underlying factors that increase the risks of using drugs

PARTICIPATION

- Engage civil society organizations, people who use drugs, affected communities and youth in the design, implementation and evaluation of drug policies



CRISIS SETTINGS

- Address the increased vulnerability of people who use drugs in crisis settings, including through health and protection services, within the humanitarian response framework

DEVELOPMENT

- Secure alternative livelihoods for farmers, women, minorities, Indigenous Peoples and others before removing livelihoods earned from the cultivation of illicit crops
- Avoid aerial spraying for crop eradication to avoid harm to health and the environment
- Ensure that financial and technical assistance provided for drug enforcement operations does not contribute to human rights violations

2024 MID-TERM REVIEW OF THE 2019 MINISTERIAL DECLARATION

- Take stock of the world drug problem and plan for drug policies based on health and human rights for 2029.

