

# **54<sup>th</sup> SESSION OF THE HUMAN RIGHTS COUNCIL: DRUG POLICY HIGHLIGHTS**

**October 2023**

On 13 October 2023, the Human Rights Council (HRC) concluded its [54th session](#) (11/09/2023 to 13/10/2023). This briefing highlights key debates, decisions and documents in which drug control and its impact on human rights were analysed and addressed.

## **ID WITH THE WORKING GROUP ON ARBITRARY DETENTION**

The Working Group on Arbitrary Detention delivered its yearly report ([A/HRC/54/51](#)) on the activities conducted in 2022, including the country visits to Botswana ([A/HRC/54/51/Add.1](#)) and Mongolia ([A/HRC/54/51/Add.2](#)). The Chair-Rapporteur, Priya Gopalan, expressed [concern](#) about detentions in the context of healthcare in Botswana, including a lack of appropriate community-based services for individuals suffering from substance dependence.

The interactive dialogue featured a statement by [Paraguay](#) who welcomed [the study of arbitrary detention related to drug policies](#) and how it could increase the global community's awareness of this problem. Civil Society also played a relevant role, with [Justiça Global](#), drawing attention to challenges faced in Mexico, Brazil, and the Philippines in their "war on drug".

## **ID WITH THE WORKING GROUP ON ENFORCED DISAPPEARANCES**

Ms. Aua Baldé, Chair of the Working Group on Enforced or Involuntary Disappearances, [presented](#) its annual report ([A/HRC/54/22](#)), which includes her visit to Uruguay ([A/HRC/54/22/Add.1](#)), and Honduras ([A/HRC/54/22/Add.2](#)).

On her visit to Uruguay, the Working Group noted that individuals who use or have dependence to psychoactive substances are among the groups frequently targeted as victims of enforced disappearances. Similar concerns were expressed on the visit to Honduras, where the Working Group documented cases of forced disappearances related to law enforcement's operations, particularly directed at targeting persons living in marginalized neighbourhoods, minors and young adults, in the name of drug control.

The session also included pertinent interventions from [CMDPDH](#), which highlighted the negative impact of the "war on drugs" on the increasing numbers of missing people, widespread forced disappearances and limited convictions in Mexico.

## **GENERAL DEBATE ITEM 3**

During the General Debate, The Director of Thematic Engagement, Special Procedures, and Right to Development Division, OHCHR, Peggy Hicks, [presented](#) the OHCHR's report on the human rights challenges in addressing and countering all aspects of the world drug problem ([A/HRC/54/53](#)). In light of the upcoming midterm review of the [2019 Ministerial Declaration](#) and the [2030 Agenda for Sustainable Development](#), the report highlights the main human rights challenges of drug policy, outlines positive developments and makes relevant recommendations to shift from punitive models towards human rights-based policies, including by considering decriminalization of drug possession for personal use, alternatives to incarceration and access to harm reduction.

States members welcomed the OHCHR's report, including [Switzerland](#), on behalf of a group of countries, and [Bolivia](#). Strong remarks were made by the [UNAIDS](#), which highlighted the positive impacts of Needle and Syringe Programs (NSPs) and Opioid Agonist Therapy (OAT) in HIV prevention, while raising concerns about the lack of political will to advance harm reduction services and the barriers faced by people who inject drugs in HIV responses due to inequalities and discriminations. In turn, civil societies, including [Helsinki Foundation of Human Rights](#), [Open Society Foundations](#), and [Centro de Estudios Legales y Sociales](#) (CELS) congratulated the OHCHR's work and highlighted the main challenges for its implementation.

The General Debate also featured key remarks and debates regarding the Secretary General's yearly supplement to his quinquennial report on Questions of the Death Penalty ([A/HRC/54/33](#)). The report analyses the relationship between articles 6 and 14 of the ICCPR and the right to seek pardon or commutation of sentences and the right to have one's conviction reviewed by a higher tribunal according to law and the safeguards to guarantee the protection of the rights of people facing death penalty. Despite the progress made towards the abolition of the death penalty during the reported period, the Secretary General reported an alarming increase in the number of people executed worldwide, including a significant raise in executions for drug-related offenses.

States members such as [Spain](#) and [Switzerland](#), strongly opposed the use of the death penalty in all circumstances, showing disquiet about the resumption of the death penalty in some countries and the significant increase in executions.; and further calling to reduce the list of offences subject to the capital punishment to align with international law. From civil societies, HRI made a [statement](#) reiterating that drug offences do not meet the definition of 'most serious crimes', and reflected on the need to divest from punitive drug control responses and invest in rights-based policies instead.

## UNIVERSAL PERIODIC REVIEWS

No significant outcomes were adopted during the 48th UPR session.

## OTHER RELEVANT DEVELOPMENTS

## HRC RESOLUTION ON THE QUESTIONS OF THE DEATH PENALTY

The HRC adopted a resolution on the Questions of the Death Penalty ([A/HRC/RES/54/35](#)), which focuses on the States' commitment to abide with international law and standards regarding fair trial and implementation of safeguarding to protect the rights of people in death row. The resolution also urges State members that still retained the death penalty to actively work on reducing the number of offences for which it could be applied, confining it strictly to the "most serious crimes" - to which drug-related offences does not fall into the category -, as well as calling upon States that applied the mandatory death penalty to end this practice.

## GENERAL DEBATE ITEM 4 AND ITEM 10

For the General Debate under Item 4, the HRC discussed human rights violations that require special attention; while General Debate under item 10 analysed the need of technical cooperation and capacity building assistance in countries with human rights challenges. Despite drug policy not being explicitly discussed in those sessions, civil society played a key role in bringing drug policies issues to the attention of the Council. For example, [Franciscans International](#) and [Forum Asia](#) highlighted the need for monitoring and public reporting on the implementation of the UN Joint Program for Human Rights

in the Philippines, and denouncing that despite the government's commitments and after nearing the third and final year of the joint program, the country still witnesses serious human rights violations related to drug policy and law enforcement. Another issue raised by civil society during these sessions is a concern on the continued killings of human rights defenders who assist individuals arrested for drug-related charges, highlighted the need for monitoring and public reporting on the implementation of the UN Joint Program for Human Rights in the Philippines, and denouncing that despite the government's commitments and after nearing the third and final year of the joint program, the country still witnesses serious human rights violations related to drug policy and law enforcement. Another issue raised by civil society during these sessions is a concern on the continued killings of human rights defenders who assist individuals arrested for drug-related charges.

## **SIDE EVENTS**

Side Events were a useful platform for civil society and other stakeholders to discuss relevant issues regarding drug policies and the use of the Human Rights Council as a platform to advance human rights of people who use drugs.

## **HIGH LEVEL EVENT ON “HUMAN RIGHTS CHALLENGES ON ADDRESSING AND COUNTERING ALL ASPECTS OF THE WORLD DRUG PROBLEM”**

The event, organised by the OHCHR in collaboration with State members and civil society organisations, was a key platform to present in more detail the work done by the OHCHR and to discuss the challenges for the report's implementation.

Following the presentation from OHCHR, the panel counted with the participation of Haryati Binti Jonet, from Asian Network of People who Use Drugs, who reiterated the need of putting people who use drugs and their communities at the centre of any response to the world drug problem. Jose Ignacio Juárez García, Director of the Human Rights Office at the Ministry of Foreign Affairs in Mexico, reflected on the need to disseminate the report at the national level, followed by Helene Tridroudja, member of the Human Rights Committee, who highlighted the relevance of connecting the work of the OHCHR with the work carried out by other UN human rights mechanisms, calling on civil society organisation to provide information in a more systematic way to facilitate linking the drug policy issues with the work of the Human Rights Committee. In turn, Suki Beaver, UNAIDS Director of Equity and Rights for all, analysed how drug policies may impact international commitments to eradicate AIDS, recognising that there is a need to invest in harm reduction services globally. As a closing remarks, Commissioner Diego Garcia-Sayyan reiterated on why punitive approach to drugs needs to change and further provided examples on how regulations can take on different forms.

## **HIGH LEVEL EVENT ON “THE UNITED NATIONS SYSTEM COMMON POSITION ON INCARCERATION”**

The high-level event, organised by the OHCHR and moderated by Priya Gopalan, looked at the [2021 common position on incarceration](#) and the challenges for its implementation. It counted with [opening remarks](#) from Nada Al Nashif, UN Deputy High Commissioner of Human Rights, Jean Pierre Lacroix, UN Under-Secretary General for Peace Operations, and Jhon Brandolino, Director of Treaty Affairs at the UNODC. On her remarks, Ms Al Nashif reiterated that through this Common Position on Incarceration, 'the UN pledges to support reform efforts aimed at ensuring proportionate and individualised sentencing policies and alternatives to conviction of punishment in appropriate cases, including for minor drug-related offences.' She added, that 'the Common Position equally commits to advocacy for the decriminalisation of acts, such as drug possession for personal use, that are protected by international human rights law.'

The Panellist, Camilo Umana Hernández, Deputy Minister for Criminal Policy and Restorative Justice in Colombia, addressed the problem of overincarceration, recognising the many challenges the country faces in that matter and the need

to shift from punitive response to drug policies while applying alternatives to incarceration. While Catherine Heard, Director of the World Prison Program at Birkbeck University of London analysed how drug related offences has contributed to the disproportionate increase in women prison population globally, Akousa Akuffo, Co-founder of Tithandizane Comfort Home, shared her personal experience of drug use and incarceration and the multilayered discriminations she faces throughout the whole criminal process and upon released.

## **HUMAN RIGHTS VIOLATIONS IN THE CONTEXT OF THE FIGHT AGAINST DRUGS**

The event, organised by Comisión Mexicana de Defensa de los Derechos Humanos, Asociación Civil, highlighted the experiences of the family of victims of forced disappearance and arbitrary detentions conducted in the name of war on drugs in Brazil, Mexico, and Philippines. Speaking at the event, the family of the victims shared their concerns on the impunity of the state agency perpetrating such crimes of forced disappearance and arbitrary detention, and further emphasized the importance of political will to ensure justice, reparation, and non-repetition of those international crimes. OHCHR, who presented its report on the human rights impact of the war on drug, reiterated its position that war on drugs have failed to meet its objective and continue to harm the society. A representative from Mexican government expressed recognition to what happened in Mexico and reaffirmed their commitment to prevent enforced disappearances in the country.

## **THE IMPACT OF DRUG POLICIES: IT'S TIME TO LISTEN TO THE GLOBAL SOUTH**

The side event co-organised by CELS, ILEX Acción Justicia, LBHM, Street Law, POS, ADPAN, Temblores, Disentir, Dejusticia and DDHH Elementa, was a great opportunity for civil society to showcase how the Global South experience the negative impacts of the “war on drugs”.

Moderated by CELS, the panel counted with the participation of Julio Salazar from Disentir, Mexico, Cathy Alvarez from StreetLawPh, Philippines, and Jonathan Owusu, from POS Foundation, Kenya, who shared the many problems communities experience due to the war on drugs, analysing to what extent these issues have been incorporated by the UN mechanisms and how discussions at the international level can be a tool to promote change at both regional and national level.