

*For the 30th session of the Human Rights Council, Panel discussion on the impact of the world drug problem on the enjoyment of human rights
28 September 2015, 3 - 6 p.m., Palais des Nations, Room XX*

"A civil society perspective on the impact of the world drug problem in the enjoyment of civil and political rights, including the right to life"

Ann Fordham

Opening remarks:

Thank you for the invitation to address the Human Rights Council today.

It is a privilege and an honour to speak here. I am the Executive Director of the International Drug Policy Consortium – a broad global network of over 140 NGOs and networks from over 60 countries that come together to advocate for drug policies to be grounded strongly in the principles of human rights.

This discussion is critical and timely in light of the upcoming General Assembly Special Session on Drugs to take place in April 2016.

The UNGASS on drugs is a rare and important opportunity for Member States to have an open and honest debate regarding the challenges and shortcomings of the global response to drug control. It is an opportunity for States to acknowledge and address the widespread and devastating consequences of punitive laws and repressive law enforcement practices on the enjoyment of human rights for millions of people across the globe.

It is encouraging to see drugs issues being given prominence here at the Human Rights Council. Geneva and Vienna have operated in silos for too long. We have seen great improvement in human rights rhetoric within the Vienna-based drug control bodies. But there has been little commitment towards genuine, tangible operational recommendations. Meanwhile, human rights violations in the name of drug control continue unchecked – demonstrating a very serious systemic failure at the international level.

OHCHR's report is thus greatly welcomed. It starkly highlights the urgent need to address the negative impact on human rights of the current global drug policy regime.

I have been asked to focus on civil and political rights, in particular the right to life. I will highlight three critical issues: violations of the right to life, criminalization of drug use and people who use drugs, and disproportionate punishment. The punitive and damaging nature of the international drug control regime – underpinned by a treaty framework that contains some outdated elements – are key issues for many civil society organisations. As the only civil society representative on this panel, I am able to address only a fraction of these concerns. I very much hope that our moderator will their best to ensure we hear from as many of my civil society colleagues speaking from the floor as possible.

1) The violation of the right to life

Death penalty for drug offences:

It is deeply concerning that the right to life is frequently compromised by aggressive supply reduction activities that lead to death sentences for drug offenders.

Under international law, the death penalty may only be applied for the “most serious crimes”. The UN Special Rapporteur on extrajudicial, summary or arbitrary executions and the Human Rights Committee have made clear that drug offences do not fall into this category.

Despite this, the past 12 months has seen a concerning resurgence in the use of the death penalty for drug offences. A number of states have executed drug offenders in ever-increasing numbers, while others have sought to reintroduce capital punishment for drug crimes or ended longstanding moratoria on the death penalty.

Extrajudicial killings:

UN human rights experts, Member States and civil society have also raised serious concerns about extrajudicial, summary or arbitrary executions carried out in the name of drug control efforts. It has been well documented that police and military forces engage in extrajudicial killings, enforced disappearances, torture and ill-treatment, and arbitrary detention in the name of the ‘war on drugs’.

2) Criminalisation & associated violations of human rights

The negative impact of the criminalisation of drug use and therefore of people who use drugs, continues to be an area of grave concern. Individuals have a right to access lifesaving health services without fear of punishment or discrimination. But the fear of criminal sanctions drives people who use drugs away from lifesaving harm reduction services, leading to avoidable infection and premature death from HIV and hepatitis C, as UN agencies such as UNDP, UNAIDS, UNODC and the WHO have all recognized.

There are further collateral consequences, as the criminalisation of people who use drugs serves to justify additional harsh measures towards them. In many countries people who use drugs are subject to arbitrary arrest and detention, torture and ill-treatment and are often denied due process. A stark example of this is the widespread use of compulsory drug detention centres for the supposed treatment and “rehabilitation” of people who use drugs. In 2012, 12 UN agencies called on states to close these centres immediately and to provide

voluntary, human rights-based health and social services in the community. Yet today, thousands of people who use drugs are still detained in these centres.

Despite the overly punitive thrust of the drug control treaties, they do not require states to criminalise drug use or possession for personal use. Many governments have thus decriminalized drug use and possession for personal use to protect the health and other human rights of people who use drugs.

UN Secretary-General Ban Ki-moon stated on June 26th that “We must consider alternatives to criminalization and incarceration of people who use drugs.” On the same day, in over 160 cities around the world, 1000s of people took to the streets as part of the global day of action for the Support. Don’t Punish campaign to call for an end to the criminalisation of people who use drugs and for better drug policies that prioritize public health and human rights.

3) Disproportionate punishment

The burden of highly disproportionate sentences for drugs offences has largely been borne by vulnerable groups, involved in the drug trade at a low-level, often driven by basic subsistence needs. These include women involved in minor trafficking offences, subsistence farmers involved in illicit cultivation and many others who are punished for the simple possession of drugs.

According to UNODC, in 2013, offences related to drug possession comprised more than eight out of 10 of total global drug-related offences, while the vast majority of other drug offenders have committed drug crimes of a minor and non-violent nature. In many parts of the world, women are the fastest growing prison population – with between 60-80% being incarcerated for low-level drug offences.

With respect to subsistence farmers, in the absence of alternative livelihoods, forced eradication efforts deprive them of their only available means to live a life in dignity by driving them deeper into poverty.

Worldwide, millions of people are imprisoned for minor, non-violent drug-related offences. In many countries, a disproportionate share of those incarcerated is poor and from the most marginalized groups such as racial or ethnic minorities. Incarceration, in turn, fuels poverty and social exclusion because having a criminal record can impede access to future employment, education, housing, and child custody. Poor prison conditions and lack of drug dependence and other health services also pose serious threats to the health and lives of people who use drugs, among others.

Conclusion:

These are only a fraction of the widespread violations of human rights that have been documented in the context of drug control policies. The empirical evidence that underlines this point is extensive and damning.

It is encouraging that this prominent panel discussion is taking place. As civil society, we urge the Human Rights Council to view this as the start of a process to ensure human rights-based drug control.

On behalf of IDPC, I have three recommendations to help ensure that this issue can be given the continued prominence it deserves:

- We call on the Council to consider creating a Special Procedure on drug policy and human rights
- We ask that the Council mandate the existing Special Procedures to produce a comprehensive joint report on the impacts of drug policies on their mandates.
- We ask the Council to consider designating an annual thematic day of discussion on the impact of the world drug problem on the enjoyment of human rights.

Last year, former High Commissioner, Navi Pillay urged “all States to reconsider from a human rights perspective the decades-old approach to drug control based on repression.”

Let’s use today’s opportunity to address this call.

I look forward to a fruitful and productive discussion.

Thank you.

Closing remarks:

This panel clearly shows that there has been an overly narrow focus on achieving the stated global drug control goals of ‘eliminating or significantly reducing’ the illicit cultivation, production and demand for drugs has led to the prioritisation of harsh and punitive law enforcement measures...

It is time to ensure that international drug control meets the broader goals of the UN –public health, human development, human security and ultimately human rights.

The expertise to meaningfully address the complex interplay between drug policy and human rights is here in Geneva. This is the right forum to take forward this debate – both in the lead up to the UN General Assembly Special Session on Drugs and beyond. A UN system-wide coherent drug policy needs to be built on solid human rights, health and development principles, and therefore cannot be left to Vienna. The specialized drug control bodies of the UN system have operated as if Vienna were a parallel universe within the UN system for far

too long; the lack of coordination with the human rights bodies, but also with the WHO, UNAIDS or UNDP continues to be less than optimal and must be rectified.

So we therefore ask the Council to support our call to use the UNGASS 2016 to ensure more UN system-wide coherence on the drugs issue and to request the Secretary General to establish an expert advisory group to recommend how to bring that about in the years to come.

Thank you.