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**REGIONAL IMPLEMENTATION DIALOGUE:**

**INTERNATIONAL GUIDELINES ON HUMAN RIGHTS AND DRUG POLICY**

**26-27 November 2020**

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**Office of the High Commissioner for Human Rights**

On behalf of the Office of the High Commissioner for Human Rights, I take this opportunity to welcome you to the second regional dialogue on the International Guidelines on Human Rights and Drug Policy. OHCHR has been pleased to cooperate with UNDP, UNAIDS, Switzerland, Germany, ICHRDP, and HRI on the organization of this dialogue.

OHCHR continues to work with partners around the world to advance the commitments made by Member States in the Outcome Document of UNGASS 2016[[1]](#footnote-1) to respect, protect and promote human rights, to uphold the rule of law in the development and implementation of drug policies as well as the inherent dignity of all individuals.

The World Drug Report 2020 has once again shown that drugs have taken many lives, but poorly constructed policies have destroyed many more. Drug use around the world has been on the rise, both in terms of overall numbers, as well as the proportion of the world’s population that uses drugs. In 2009, the estimated 210 million users represented 4.8 percent of the global population aged 15‒64, compared with the estimated 269 million users in 2018, or 5.3 percent of the global population.[[2]](#footnote-2)

Data and experience over a number of decades have clearly shown that the many attempts across the globe to conduct “wars on drugs” have failed to eliminate the illegal drug trade and its use. The harmful, long-term consequences of these ‘wars’ are deep and far ranging, involving increased violence and a myriad of human rights violations, further undermining the ability for the public health system to effectively address the problem. Many countries in Asia have also experienced these harmful consequences of policies aimed at waging a ‘war on drugs’.

**COVID-19, drug problem and human rights concerns**

It is important to note that we are holding this virtual event in the midst of COVID-19 – a time that has made the criticality of science and evidence more important than ever – indeed a principle and practice that should also be the basis for both global as well as national drug policies.

To be effective and successful, drug policies must be rooted in evidence and shared responsibility, including upholding human rights for all. In his briefing on Human Rights and COVID-19, UN Secretary-General António Guterres recognised the vulnerability during this pandemic of people who use drugs.[[3]](#footnote-3) Millions of people have been adversely effected in accessing vital and lifesaving harm reduction programmes as health systems have become overwhelmed as they attempt to effectively save the lives of people affected by COVID. The challenge applies also for the reportedly 11 million plus people deprived of their liberty around the world. Twenty-one percent are detained for non-violent drug offences, including drug use and possession for personal use,[[4]](#footnote-4) making drug policy a significant driver of over-incarceration, including in Asia.

Such a situation constitutes an insurmountable obstacle for preventing, preparing for or responding to COVID-19[[5]](#footnote-5). Against this backdrop, OHCHR joined 12 UN entities to issue a statement urgently appealing to Member States to permanently close compulsory drug detention and rehabilitation centres and implement voluntary, evidence-informed and rights-based health and social services in the community as an important measure to curb the spread of COVID-19 and to facilitate the recovery and reintegration of those in the centres back into their communities.[[6]](#footnote-6)

**UN System Common Position on Drug Related Matters and human rights**

In 2018, thirty-one 31 principals of UN agencies and entities adopted a UN System Common Position to provide coordinated support to Member States in drug-related matters (hereafter referred to as the Common Position)[[7]](#footnote-7). In the Common Position, heads of UN entities reiterated their commitment to support Member States in developing and implementing truly balanced, comprehensive, integrated, **evidence and human rights-based**, and sustainable **responses to the world drug problem**, in the framework of the 2030 Agenda for Sustainable Development.

In the Common Position, all UN entities acknowledged that the international drug conventions and human rights treaties, the 2030 Agenda for Sustainable Development, as well as other relevant instruments are all complementary and mutually reinforcing. Its comprehensive approach includes law enforcement efforts to ensure security as well as the promotion of health and human rights.

Two key guiding principles of the Common Position are: (i) ensuring **no one is left behind**; and (ii) **speaking with one voice**. From OHCHR’s perspective, these are essential in supporting Member States in the development and implementation of human rights-based drug policies and programs.

Through a **public health and human rights** lens, the Common Position provides guidance for actions, including shifting drug policies and interventions toward a public health approach, ensuring respect for human dignity and upholding human rights for those who use drugs in all aspects of drug and social policy. Many people who use drugs are deterred from accessing treatment and other health and social services due to marginalization, stigmatization, and discrimination, which the Common Position aims to eliminate as well as to achieve universal coverage of evidence-based prevention, treatment, and rehabilitation.

With regard to **criminal justice**, the Common Position promotes alternatives to conviction and punishment through decriminalization of drug possession for personal use and promotion of the proportionality principle. It further urges effective measures to address prison overcrowding and over-incarceration. Its directions of action also include ensuring legal guarantees and due process safeguards, timely access to legal aid and the right to fair trial, as well as practical measures to prohibit arbitrary arrests, detention and torture.[[8]](#footnote-8)

One long-standing human rights concern is **the use of the death penalty** for drug-related offenses. A wide range of drug-related offenses are punishable by death in over 30 States, including 17 States and territories in the Asia Region,[[9]](#footnote-9) which is contrary to international human rights law.[[10]](#footnote-10)

Additional directions of action of the Common Position include **addressing impunity** for serious human rights violations in the context of drug control efforts. In her 2018 report to the Human Rights Council on drug policy and human rights, High Commissioner for Human Rights Michelle Bachelet recommended that States make concerted efforts to combat impunity by conducting prompt, independent, impartial and effective investigations into serious human rights violations related to drug control efforts, and bringing alleged perpetrators to justice.[[11]](#footnote-11)

The Common Position recognises the importance of the active involvement and **participation of civil society** and local communities in the development and implementation of drug policies and related programs. In this regard, it is critical to foster a secure environment for their work and ensure their protection from threat, intimidation and reprisals.

In conclusion, I would emphasize that OHCHR strongly believes that **the International Guidelines on Human Rights and Drug Policy** which will be discussed over the next two days, remain the best tool at our disposal for the implementation of a human rights based approach to the UN System Common Position on drug-related matters. All human rights issues - which are included in the Common Position - are elaborated with further guidance in the Guidelines.

We hope that State authorities, UN entities, civil society organisations and other stakeholders will use these important Guidelines for the development and implementation of drug policies so as to effectively and constructively address complex drug issues while concurrently upholding, protecting and respecting the human rights of all, including people who use drugs.

Thank you for the opportunity to be with you today, and I wish you all an excellent two days of dialogue.

1. https://www.unodc.org/documents/postungass2016/outcome/V1603301-E.pdf [↑](#footnote-ref-1)
2. https://wdr.unodc.org/wdr2020/field/WDR20\_BOOKLET\_1.pdf [↑](#footnote-ref-2)
3. <https://www.un.org/sites/un2.un.org/files/un_policy_brief_on_human_rights_and_covid_23_april_2020.pdf>. Page 12 [↑](#footnote-ref-3)
4. https://cdn.penalreform.org/wp-content/uploads/2020/05/Global-Prison-Trends-2020-Penal-Reform-International-Second-Edition.pdf [↑](#footnote-ref-4)
5. https://www.who.int/news/item/13-05-2020-unodc-who-unaids-and-ohchr-joint-statement-on-covid-19-in-prisons-and-other-closed-settings [↑](#footnote-ref-5)
6. https://unaidsapnew.files.wordpress.com/2020/05/unjointstatement1june2020.pdf [↑](#footnote-ref-6)
7. <https://www.unodc.org/documents/commissions/CND/2019/Contributions/UN_Entities/What_we_have_learned_over_the_last_ten_years_-_14_March_2019_-_w_signature.pdf> ( See Annex 1) [↑](#footnote-ref-7)
8. On the issue of arbitrary detention, in 2019, the Human Rights Council requested the UN Working Group on Arbitrary Detention to prepare a study, with the intent to ensure that the prohibition on arbitrary detention is included within a criminal justice response to drug-related crimes. (A/HRC/42/22). We hope that the Working Group will provide specific guidance on what practical measures States should consider to prohibit arbitrary arrests and detention. [↑](#footnote-ref-8)
9. <https://www.hri.global/files/2020/02/28/HRI_DeathPenaltyReport2019.pdf>, See also https://bangkok.ohchr.org/wp-content/uploads/2020/01/Drug-Related-Offences-2018.pdf [↑](#footnote-ref-9)
10. Under Article 6(2) of the International Covenant on Civil and Political Rights (ICCPR), States yet to abolish the death penalty may only impose the death penalty for the “most serious crimes.” The meaning is consistently interpreted to refer to crimes related to intentional killing. Therefore, the use of the death penalty for drug related offenses neither rises to the level of conduct encompassed within the most serious crimes under international law, nor meets the principle of proportionality. [↑](#footnote-ref-10)
11. A/HRC/39/39 [↑](#footnote-ref-11)