

TIME FOR CHANGE:

ADVANCING NEW DRUG POLICIES THAT
UPHOLD HUMAN RIGHTS



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Cover illustration: An artist's illustration of the impacts of punitive drug policies depicting an Indigenous woman making traditional use of tobacco, a person arrested by the police, militarized drug enforcement and activists calling for the end of the "war on drugs"

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TIME FOR CHANGE:
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INTRODUCTION

There is no doubt that the “war on drugs” has failed globally. Not only has this anti-drug crusade failed to achieve its own questionable objective to eradicate drugs, but the notion of prohibition and its enforcement has facilitated widespread human rights abuses and violence across the world.

Over the years, Amnesty International and many other civil society organizations and international human rights mechanisms have documented the widespread human rights violations occurring as a direct consequence of the implementation of punitive drug policies. These include police abuses, discrimination, extrajudicial executions, torture and other ill-treatment, arbitrary detentions, and violations of economic, social and cultural rights, including of the right to health. In some cases, abuses committed in the name of drug control have amounted to crimes against humanity.

Certainly, drugs involve risks depending on how they are used and by whom. But the way in which the international community has responded over recent decades to the risks and challenges posed by drugs has often done more harm than good. What was supposed to be an effort to protect public health has instead left a legacy of violence, disease, mass incarceration, suffering and abuse. Moreover, the use and availability of drugs has increased over the years alongside the risks and harms of using drugs, while violence associated with illicit markets has been exacerbated.¹

It is precisely because of the risks associated with drugs that governments need to take control and regulate how these substances are produced, sold and used to manage and minimize their potential harms. States should therefore aim to bring currently illicit drugs under government control through responsible regulations and evidence-based prevention, harm reduction and treatment services rather than pursuing failed policies based on prohibition and criminalization that facilitate human rights abuses and contribute to the existence of unregulated markets that are inherently prone to violence and detrimental to public health.

Across the world, many jurisdictions are moving away from an approach dominated by criminal justice responses with important shifts towards public health and human rights. New approaches that emphasize harm reduction, treatment and social support are gaining in popularity in recognition of the negative consequences of current models based on prohibition, criminalization and punishment.² Years of evidence from innovative policies implemented in countries from every region of the world undercut the logic of the “war on drugs” and have contributed to the ongoing evolution in understanding drug policy.

This policy paper, based on Amnesty International’s own research into the human rights implications of punitive drug policies and a years-long consultation within Amnesty International and external partners, intends to contribute to the advancement of drug policies that better uphold human rights. In developing this policy paper, Amnesty International sought the advice of external experts in a range of relevant fields, including public health, medicine, human rights, and social policy to address the complexities of drug policies, as well as civil society organizations, people who use drugs and other affected communities in order to reflect the lived experiences of those most affected by the prohibition and criminalization of drugs.

Amnesty International is calling on States to adopt new models of drug control that put the protection of people’s health and other human rights at the centre. This should include the decriminalization of the use, possession, cultivation and acquisition of drugs for personal use, and the effective regulation of drugs to provide legal and safe channels for those permitted to access them. Such policies must be accompanied by an expansion of health and other social services to address drug-related problems as well as other measures to address the underlying socio-economic causes that increase the risks of using drugs and that lead people to engage in the illicit drug trade such as poverty, discrimination, unemployment, illness, denial of education or lack of housing.

¹ According to data from the UN Office on Drugs and Crime (UNODC), the number of people aged 15-64 that used drugs globally in 2021 was estimated at 296 million, a 23% increase since 2011. See UNODC, *World Drug Report 2023*, June 2023, p.12

² For more examples of recent positive developments and best practice putting human rights at the centre of drug policy, see Report of the UN High Commissioner for Human Rights, “Human Rights Challenges in Addressing and Countering All Aspects of the World Drug Problem”, 15 August 2023, UN Doc. A/HRC/54/53

INTERNATIONAL LAW AND STANDARDS



Drug policies worldwide are based on an international legal framework embedded in three different UN Conventions to which almost all States are party.³ The Single Convention on Narcotic Drugs of 1961 ('Single Convention') – subsequently amended by a 1972 Protocol – and the Convention on Psychotropic Substances of 1971, establish a centralized control system to ban a number of substances and specify measures to eliminate their production, transport, sale and consumption. In 1988, the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances was adopted to strengthen international cooperation in anti-trafficking activities and compliance with the drug control regime.

The UN Drug Conventions are based on an underlying assumption that drugs and “drug addiction” are an “evil” that should be prevented and eradicated for the protection of humankind.⁴ The characterization of drugs as “evil”, and by implication of people who use drugs, introduced a concept into international law that morally describes drug use as a unique and exceptional form of wrongful conduct.⁵

Requirements to adopt legislation for the enforcement of the UN Drug Conventions has in many cases led to draconian national laws and highly invasive mechanisms of control, often exceeding what is required by the language of the Conventions.⁶ Even when the UN Drug Conventions provide for the consideration of alternatives to detention and measures for the prevention and treatment of drug dependence,⁷ States have generally favoured a strict interpretation of their obligations under the UN Drug Conventions when formulating domestic drug laws and policies. In some instances, countries have implemented punitive measures that go beyond treaty requirements and that violate human rights.⁸

While the UN Drug Conventions establish the protection of the health and welfare of humankind as the primary goal of the international drug control regime, they contain only a few provisions relating to access to health-related services to reduce the risks and harms of drugs and instead focus on punishment as the main way to address drug-related problems.⁹ Measures taken by States to decrease and suppress the supply and use of illicit drugs have thus been justified on the premise that the threat of criminal sanctions will reduce, and eventually eliminate, drug use and will improve public health as a result.

However, the heavy reliance on criminal laws, repressive policies and other measures implemented with the aim of prohibition has instead created numerous barriers to the effective realization of the right to health and

³ Every UN Member State is party to at least one of the Conventions. The 1961 Single Convention has been ratified by 185 States, the 1971 Convention by 183 States and the 1988 Convention has 189 parties.

⁴ The preamble of the 1961 Single Convention states that Parties recognize “that addiction to narcotic drugs constitute a serious evil for the individual and is fraught with social and economic danger to mankind” and that the Parties have “a duty to prevent and combat this evil”.

⁵ Christopher Hobson, “Challenging ‘evil’: Continuity and change in the drug prohibition regime” in *International Politics*, July 2014. Volume 51, Issue 4, pp. 528.

⁶ David Bewley-Taylor, “Challenging the UN drug control conventions: problems and possibilities”, in *The International Journal of Drug Policy*, 2003, pp. 173.

⁷ Single Convention on Narcotic Drugs, as amended by the 1972 Protocol, Articles 36(b) and 38.

⁸ International Narcotics Control Board, *State responses to drug-related criminality*, 2019, UN Doc. E/INCB/2019/Alert.12.

⁹ Damon Barrett and others, *Recalibrating the Regime: The need for a human rights-based approach to international drug policy*, The Beckley Foundation Drug Policy Programme, March 2008, pp. 19

has resulted in widespread human rights violations. In this sense, the UN Special Rapporteur on the Right to Health has long concluded that the criminalization of the use and possession of drugs is disproportionate, while at the same time fails both in its primary purpose of preventing harms to health and achieving drug control.¹⁰ Similarly, the Committee on Economic, Social and Cultural Rights has expressed concern over the criminalization of the use and possession of drugs as it hinders people in need of treatment from receiving healthcare.¹¹

In 2019, the UN published a Common Position on drugs that places human rights at the core of the international drug control regime.¹² The position notes not only the failures and limitations of the “war on drugs” on a global scale but it also recognizes that punitive drug policies have been ineffective in reducing drug trafficking or in addressing non-medical drug use and supply. The Common Position also recognizes that punitive policies undermine the human rights and well-being of people who use drugs, their families and communities, calling on governments to promote alternatives to conviction and punishment, including the decriminalization of use and possession of drugs for personal use.

Multiple human rights mechanisms have also recommended countries to decriminalize the use and possession of drugs for personal use as a means of protecting public health and human rights. Significantly, the Committee on Economic, Social and Cultural Rights,¹³ the Committee on the Elimination of Discrimination against Women,¹⁴ the Working Group on Arbitrary Detention,¹⁵ the UN Special Rapporteur on the Right to Health,¹⁶ and the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions¹⁷ have recommended the decriminalization of the use and possession of drugs as an important step towards upholding States’ human rights obligations. Additional international standards clarifying the relationship between the UN Drug Conventions and international human rights law, such as the International Guidelines on Human Rights and Drug Policy¹⁸ and the 8 March Principles,¹⁹ have clarified the relationship of international human rights law and the UN Drug Conventions making clear that States have limited discretion when prohibiting the use, possession, purchase, or cultivation of drugs for personal use.

International human rights mechanisms have also begun exploring the need to shift away from models based in prohibition as a way to better uphold human rights. In 2023, the Office of the High Commissioner for Human Rights recommended States to consider developing a regulatory system for legal access to drugs and to take control of illegal drug markets through responsible regulation to eliminate profits from illegal trafficking, criminality and violence.²⁰ Similarly, the UN Special Rapporteur on the Right to Health has called on States to develop responsible and cohesive regulatory frameworks for drugs, informed by scientific evidence and taking into account power asymmetries, as a way to reduce overall harms.²¹

¹⁰ Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 6 August 2010, UN Doc. A/65/255, para. 14

¹¹ Committee on Economic, Social and Cultural Rights, Concluding Observations: Philippines, 7 October 2016, UN Doc. E/C.12/PHL/CO/5-6, paras. 53; Committee on Economic, Social and Cultural Rights, Concluding observations: Lithuania, 30 March 2023, UN Doc. E/C.12/LTU/CO/3, paras 62-63; CESCR, Concluding observations: Uzbekistan, 31 March 2022, UN. Doc. E/C.12/UZB/CO/3, paras 52-53

¹² UN System Chief Executives Board for Coordination, *United Nations system common position supporting the implementation of the international drug control policy through effective inter-agency collaboration*, 18 January 2019, UN Doc. CEB/2018/2

¹³ Committee on Economic, Social and Cultural Rights, Concluding Observations: Philippines, 7 October 2016, UN Doc. E/C.12/PHL/CO/5-6, para. 54; Committee on Economic, Social and Cultural Rights, Concluding Observations: Benin, 27 March 2020, UN Doc. E/C.12/BEN/CO/3, para. 42; Committee on Economic, Social and Cultural Rights, Concluding Observations: Serbia, 6 April 2022 UN Doc. E/C.12/SRB/CO/3, para.63.

¹⁴ Committee on the Elimination of Discrimination against Women, Concluding Observations: Kyrgyzstan, 29 November 2021, UN Doc. CEDAW/C/KGZ/CO/5, para. 46.a

¹⁵ Working Group on Arbitrary Detention (WGAD), *Study on arbitrary detention relating to drug policies*, 18 May 2021, UN Doc. A/HRC/47/40

¹⁶ Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 6 August 2010, UN Doc. A/65/255, para. 49, 62.

¹⁷ Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, *Deaths in Prison*, 18 April 2023, UN Doc. A/HRC/53/29, para. 22

¹⁸ United Nations Development Program and International Centre on Human Rights and Drug Policy (University of Essex), *International Guidelines on Human Rights and Drug Policy*, March 2019

¹⁹ International Commission of Jurists, *The 8 March Principles for a Human Rights-Based Approach to Criminal Law Proscribing Conduct Associated with Sex, Reproduction, Drug Use, HIV, Homelessness and Poverty*, 8 March 2023

²⁰ Report of the UN High Commissioner for Human Rights, *Human Rights Challenges in Addressing and Countering All Aspects of the World Drug Problem*, 15 August 2023, UN Doc. A/HRC/54/53, paras. 68(a) and 68(c)

²¹ Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 30 April 2024, UN Doc. A/HRC/56/52, paras. 56, 85(f)

GENERAL PRINCIPLES TO GUIDE DRUG POLICY REFORM



States must refrain from implementing repressive policies that harm rather than protect people.

The “war on drugs” has effectively been a war on people, in particular the poorest and most marginalised sectors of society that has undermined the rights of millions.

Drugs can pose certain risks to individuals and societies, creating an obligation for States to adopt adequate measures to protect people from the harmful effects of drugs.²² However, the heavy reliance on criminal laws, anti-drug operations and other repressive measures based on prohibition has resulted in widespread human rights violations and abuses.²³

People who use drugs do not forfeit their human rights.

States are obliged to respect, protect and fulfil the human rights of people who use drugs and other communities affected by drug laws, policies and their enforcement.²⁴ The actual or suspected use of drugs cannot constitute grounds for violating the rights of individuals, irrespective of whether drug dependence has been developed or whether the applicable drug control regime allows for imprisonment or other sanctions.²⁵

²² Committee on Economic, Social and Cultural Rights, General Comment 14: The right to the highest attainable standard of health (Art. 12), 11 August 2000, UN Doc. E/C.12/2000/4, para. 15; Human Rights Committee, General Comment 36 on Article 6: Right to Life, UN Doc. CCPR/C/GC/36, para.35

²³ Report of the UN High Commissioner for Human Rights, *Human Rights Challenges in Addressing and Countering All Aspects of the World Drug Problem*, 15 August 2023, UN Doc. A/HRC/54/53

²⁴ Human Rights Council, *Contribution of the Human Rights Council with regard to the human rights implications of drug policy*, Res. 52/24, UN Doc. A/HRC/RES/52/24, para. 1

²⁵ Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 6 August 2010, UN Doc. A/65/255, para. 8

Drug control must not be used to justify human rights violations and should serve instead as a means to realize the right to health and other human rights.

Drug control policies should be understood as a means to achieve broader objectives, including the protection of the right to the highest attainable level of health, ensuring equality and non-discrimination, and avoiding the violence associated with illicit markets.²⁶

Drug laws and policies should address the historically disproportionate effects on the poorest and most marginalized sectors of society, including communities living in areas identified with drug cultivation and trade. These effects are often compounded by intersecting forms of discrimination against women and girls, children and young people, racial, ethnic and other minorities, Indigenous Peoples, people living with HIV, LGBTI people, sex workers, people living in poverty, those who are homeless, people with disabilities and people deprived of their liberty, among others.

The paradigm shift that has begun towards public health- and human rights-based policies needs to be sustained and deepened.

The heavy reliance on criminal law and repressive policies has failed to decrease the use and availability of drugs over the years and has exacerbated the risks and harms of using drugs and the violence associated with illicit markets.²⁷ New drug policies should put human rights and public health at the centre and not rely on punitive approaches.

States should put in place mechanisms to ensure that all drug laws, policies and practices are consistent with international human rights law and standards.²⁸

Lessons must be drawn from alternative models of state regulation.

While shifting away from prohibition models, authorities should draw key lessons from alternatives that have proven more effective in protecting and respecting human rights and that have provided evidence of the positive impact of such reforms on public health and human rights, as well as evidence of where problems have arisen.

Evidence and good practice from international examples to regulate illicit drugs aimed at reducing the individual, social and public health harms of drugs and drug markets should be looked into, such as the regulation of cannabis for medical and non-medical purposes, medical assisted therapy programmes for people who use opioids, the decriminalization of all drugs, or the regulation of the cultivation of illicit crops.

Experiences and lessons from the regulation of currently legal drugs, such as alcohol and tobacco, should also inform the development of new policies. For example, some provisions of the WHO Framework Convention on Tobacco Control (an evidence-based compilation of good practices to regulate various activities in relation to a high-risk substance) are aimed at reducing the social, environmental and public health harms of tobacco including through, among other measures, restrictions on advertising and measures to prevent the interference of the tobacco industry with tobacco control policies.²⁹

²⁶ Report of the UN High Commissioner for Human Rights, *Human Rights Challenges in Addressing and Countering All Aspects of the World Drug Problem*, 15 August 2023, UN Doc. A/HRC/54/53, para. 67

²⁷ UNODC, *World Drug Report 2023*, June 2023, p.12

²⁸ United Nations Development Program and International Centre on Human Rights and Drug Policy (University of Essex), *International Guidelines on Human Rights and Drug Policy*, March 2019, p. 23

²⁹ WHO Framework Convention on Tobacco Control (FCTC), available at www.fctc.who.int/who-fctc/overview; Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 6 August 2010, UN Doc. A/65/255, para. 74

There is no “one size fits all” solution, therefore policies must be adapted to specific drugs and to the social realities of groups at risk, based on health and scientific considerations and consistently with human rights.

New policies and regulatory models for drugs should be flexible enough to respond to the different drugs, consumption behaviours, groups and needs that are seen in distinct contexts and regions.

The implementation of new policies or regulatory models may, where warranted under international human rights law, be phased in over a period of time particularly where evidence from existing policy is limited to allow for the close monitoring and evaluation of policy outcomes, and to manage and minimize any potential risks and harms of new policies. New policies or regulatory models need to be adapted and tailored to the specific needs of the country and to its institutional capacities in a way that complies with international human rights law and standards. This includes using means available to achieve legitimate aims that have the least restrictive impact possible on human rights.

HUMAN RIGHTS IMPERATIVES FOR DRUG POLICY REFORM

1. PUT THE PROTECTION OF PEOPLE'S HEALTH AND RIGHTS AT THE CENTRE OF DRUG POLICY.



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a. Respect the right to health and increase access to health and social services to reduce the risks and harms associated with drug use.

Governments must put their obligations to guarantee the right to health at the centre of drug policies.³⁰ They must ensure access to evidence-based and gender-sensitive health and social services at the individual, family and community level.³¹ Services must comply with human rights law and standards, and should include prevention, information, harm reduction, voluntary treatment and rehabilitation services where medically indicated and on a non-discriminatory basis, including in prisons and other situations where people are deprived of their liberty.³²

States must ensure such services are available, acceptable and easily accessible to everyone on a non-discriminatory basis, and of good quality.³³ This means paying particular attention to the needs of the most marginalized and to the specific needs of women, children and adolescents.³⁴ Harm reduction and treatment services must provide suitable environments for women who use drugs and be respondent to gender-specific needs, including by providing integrated sexual and reproductive healthcare, information and services, and childcare facilities.³⁵

States must ensure the provision of a wide array of harm reduction services to reduce the risks of different types and ways of using drugs,³⁶ including needle and syringe programmes, prescription of substitute medications and naloxone distribution (a medicine that counters the effects of an opioid overdose). In addition, States must expand the range of harm reduction services that have proven to reduce the risks and harms associated with other type of drugs such as drug-checking services, supervised drug-consumption rooms, distribution of safer smoking kits, integration of harm reduction into nightlife settings (for example chill-out spaces and hydration points), peer-led information sharing and the promotion of non-injecting routes for the administration of drugs.³⁷

Where treatment and rehabilitation services are operated by private providers, States must put in place laws and policies to guarantee their effective regulation and supervision to ensure they do not undermine or threaten the right to health and to prevent other human rights abuses.³⁸

³⁰ International Covenant on Economic, Social and Cultural Rights, Art. 12; Convention on the Elimination of all forms of Discrimination Against Women, Art. 12; Convention on the Rights of the Child, Art. 24; European Social Charter, Art. 11; Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, Art. 10; African Charter on Human and Peoples' Rights, Art. 16

³¹ World Health Organization (WHO) and UNODC, *International Standards for the Treatment of Drug Use Disorders: Revised Edition Incorporating Results of Field-Testing*, 31 March 2020, available at www.who.int/publications/i/item/international-standards-for-the-treatment-of-drug-use-disorders

³² Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 4 April 2016, UN Doc. A/HRC/32/32, para. 100

³³ Committee on Economic, Social and Cultural Rights, General Comment 14: The right to the highest attainable standard of health (Art. 12), 11 August 2000, UN Doc. E/C.12/2000/4, para. 12; Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 30 April 2024, UN Doc. A/HRC/56/52, para. 17

³⁴ UN Working Group on the issue of discrimination against women in law and in practice, "Women's rights must be central in drug policies, say UN experts at the Commission on Narcotic Drugs", 13 March 2019, available at www.ohchr.org/en/news/2019/03/womens-rights-must-be-central-drug-policies-say-un-experts-commission-narcotics-drugs?LangID=E&NewsID=24330; Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 4 April 2016, UN Doc. A/HRC/32/32, para. 103

³⁵ Committee on the Elimination of Discrimination against Women, Communication No. 129/2018: *Oksana Shpagina v. Russian Federation*, UN Doc. CEDAW/C/84/D/129/2018 (2023), para. 11(b)(ii)

³⁶ Commission on Narcotic Drugs, Resolution 67/5: Preventing and responding to drug overdose through prevention, treatment, care and recovery measures, as well as other public health interventions, to address the harm associated with illicit drug use as part of a balanced, comprehensive, scientific evidence-based approach, in accordance with domestic law and circumstances, para. 1

³⁷ Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 30 April 2024, UN Doc. A/HRC/56/52, paras. 59-66

³⁸ Committee Against Torture, Concluding Observations: Tajikistan, 18 June 2018, UN Doc. CAT/C/TJK/CO/3, para. 28; Committee on the Elimination of Discrimination against Women, Communication No. 17/2008: *Maria de Lourdes da Silva Pimentel v. Brazil*, UN Doc. CEDAW/C/49/D/17/2008 (2011), para. 7.5

b. Carry out education and awareness campaigns to prevent or delay children’s first use of drugs for non-medical purposes and to avert drug dependence or other harms that may arise from the use of drugs.

States must expand evidence-based prevention programmes in accordance with international good practice to fulfil their obligations under the right to health,³⁹ which can help children and young people to prevent or delay their first use of drugs for non-medical purposes and, for all people who use drugs, to avert the development of drug dependence and reduce other drug-related harms.

Prevention interventions should include public educational programmes and information campaigns that incorporate harm reduction information and are based on scientific evidence that accurately describe the effects of drugs, including the risks both to people who use drugs and to others, without stigma. Such programmes should include efforts specifically tailored for children and adolescents both in educational settings and in environments outside of school, such as street and party scenes, aimed at empowering them to make informed decisions about their own conduct and provide them with information about where to find help if they require it.⁴⁰

c. Ensure adequate availability of drugs for medical and scientific purposes.

States need to ensure access to medicines, including those that contain controlled substances often used for the relief of pain, anaesthesia, drug dependence, harm reduction, treatment of mental health and neurological disorders and other medical uses, and remove any domestic and international obstacles that unduly restrict access to them.⁴¹

States must ensure that the UN Drug Conventions are not interpreted or applied in a way that prevents or obstructs the use and distribution of controlled substances for medical and scientific purposes, taking particular steps to reduce the disparity in accessibility and availability between and within countries.⁴² When considering imposing controls over a new substance at the national or international level, States must ensure that the impact on the availability of medicines does not disproportionately affect people who have a medical need for them.⁴³

d. Address the root causes that increase the risks of using drugs or that lead people to engage in the illicit drug trade.

Drug policies should address the underlying socio-economic factors that may increase the risks of using drugs or that lead people to engage in the illicit drug trade, including illness, denial of education, unemployment, lack of housing, poverty and discrimination.⁴⁴

States must put in place a wide set of gender-sensitive and holistic socio-economic protection measures, in line with their obligation to fulfil economic, social and cultural rights, to address marginalization and inequality.⁴⁵ In particular, authorities must ensure that drug laws and policies seek to overcome structural drivers of vulnerability, stigma and discrimination that affect people who engage in the drug trade,

³⁹ International Covenant on Economic, Social and Cultural Rights, Art. 12(c); Committee on Economic, Social and Cultural Rights, General Comment 14: The right to the highest attainable standard of health (Art. 12), 11 August 2000, UN Doc. E/C.12/2000/4, para. 16; WHO and UNODC, *International Standards on drug use prevention: Second updated edition*, 2018

⁴⁰ WHO and UNODC, *International Standards on Drug Use Prevention: Second Updated Edition*, 2018.

⁴¹ International Covenant on Economic, Social and Cultural Rights, Art. 12(d); Committee on Economic, Social and Cultural Rights, General Comment 14: The right to the highest attainable standard of health (Art. 12), 11 August 2000, UN Doc. E/C.12/2000/4, para. 43; Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 6 August 2010, UN Doc. A/65/255, para. 40

⁴² International Narcotic Control Board, *Availability Report of the International Narcotics Control Board (INCB)*, 3 February 2016.

⁴³ International Narcotics Control Board, *No Patient Left Behind: Progress in Ensuring Adequate Access to Internationally Controlled Substances for Medical and Scientific Purposes*, 2023, p.5

⁴⁴ Report of the UN High Commissioner for Human Rights, *Human Rights Challenges in Addressing and Countering All Aspects of the World Drug Problem*, 15 August 2023, UN Doc. A/HRC/54/53, para. 68(o)

⁴⁵ International Covenant on Economic, Social and Cultural Rights, Art. 2; International Covenant on Civil and Political Rights, Arts. 2 and 26; Convention on the Elimination of all forms of Racial Discrimination, Art. 5; Convention on the Elimination of all forms of Discrimination Against Women, rt. 2; Convention on the Rights of the Child, Art. 2; European Convention on Human Rights, Art. 14; American Convention on Human Rights, Art. 1; African Charter on Human and People’s Rights, Art. 2.

especially women and those belonging to marginalized and disadvantaged communities.⁴⁶

States must ensure that efforts to prevent the illicit cultivation of drugs or to eradicate crops cultivated for illicit purposes do not adversely impact rural farmers and communities who depend on this cultivation for their livelihood.⁴⁷ Efforts to address illicit cultivation, including through financial and technical assistance provided to third countries, should address the underlying socio-economic causes of such cultivation and must take care to not entrench poverty and deprivation, including by guaranteeing that rural farmers have adequate access to markets once a regulated model comes into effect.⁴⁸ Where States destroy illicit crops, they should ensure that the rural farmers who depend on this have the necessary support to develop economically viable and sustainable alternatives and realize their rights to work and to an adequate standard of living.

e. Apply a children's rights perspective and ensure the best interests of the child in any drug policy.

States have a particular obligation to protect children and adolescents from the risks and harms of drugs and drug control policies, including those stemming from the use of drugs by children and/or their parents, and from policing and other law enforcement efforts.⁴⁹ The best interests of the child must be a primary consideration when designing, implementing and monitoring drug control policies.⁵⁰

States must ensure the adequate availability and accessibility of prevention, harm reduction and treatment services specifically tailored to the needs of children and adolescents, including youth-led interventions and peer-to-peer strategies.⁵¹ Drug-related programmes for children and adolescents should be objective and evidence-based, taking into consideration the types of drugs they use and the socio-economic factors that drive its use. States should provide children and adolescents with information in an accessible manner, including on minimizing drug-related risks and harms and about where to find help if they require it.⁵² States should eliminate age barriers and parental consent requirements that limit access to HIV testing, harm reduction services and drug dependence treatment.⁵³

Treatment and rehabilitation of children for drug dependence must be voluntary and safeguarded by informed consent.⁵⁴ Decisions for children to undergo treatment or rehabilitation for drug dependence should always ensure the meaningful participation of the child and their right to give or withhold consent in line with their evolving capacities.⁵⁵

No child should be imprisoned or otherwise deprived of liberty solely for using or possessing drugs.⁵⁶ The

⁴⁶ Committee on the Elimination of Discrimination against Women, General Recommendation 33 on women's access to justice, 3 August 2015, UN Doc. CEDAW/GC/33, para. 26; Report of the Special Rapporteur on the independence of judges and lawyers, 29 April 2011, UN Doc. A/HRC/17/30, para. 28

⁴⁷ United Nations Development Programme, *Addressing the development dimensions of drug policy*, 2015, p.15; Report of the UN High Commissioner for Human Rights, *Human Rights Challenges in Addressing and Countering All Aspects of the World Drug Problem*, 15 August 2023, UN Doc. A/HRC/54/53, para. 66

⁴⁸ Report of the UN High Commissioner for Human Rights, *Human Rights Challenges in Addressing and Countering All Aspects of the World Drug Problem*, 15 August 2023, UN Doc. A/HRC/54/53, para. 68(n)

⁴⁹ Convention on the Rights of the Child, Art. 33

⁵⁰ Convention on the Rights of the Child, Arts. 3(1) and 40(2)(b)(iii).

⁵¹ Committee on the Rights of the Child, General Comment 20 on the implementation of the right of the child during adolescence, 6 December 2016, UN Doc. CRC/C/GC/20, para. 64; Committee on the Rights of the Child, General Comment 15: The Right of the Child to the Highest Attainable Standard of Health, UN Doc. CRC/C/GC/15, para 66; Committee on the Rights of the Child, General Comment 3: HIV/AIDS and the rights of the child, UN Doc. CRC/GC/2003/3, para 39

⁵² Committee on the Rights of the Child, Concluding Observations: Andorra, 17 October 2023, UN Doc. CRC/C/AND/CO/3-5, para. 33 (d); Committee on the Rights of the Child, Concluding Observations: Kyrgyzstan, 18 October 2023, UN Doc. CRC/C/KGZ/CO/5-6, para. 37 (d); Report of the UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 4 April 2016, UN Doc. A/HRC/32/32, para. 101

⁵³ Report of the UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 4 April 2016, UN Doc. A/HRC/32/32, para. 104

⁵⁴ Report of the UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 4 April 2016, UN Doc. A/HRC/32/32, para. 103; WHO and UNODC, *International Standards for the Treatment of Drug Use Disorders: Revised Edition Incorporating Results of Field-Testing*, 31 March 2020, p. 88

⁵⁵ Convention on the Rights of the Child, Art. 5

⁵⁶ Committee on the Rights of the Child, Concluding Observations: Ukraine, 21 April 2011, UN Doc. CRC/C/UKR/CO/4, para. 61(b); Committee on the Rights of the Child, Concluding Observations: Armenia, 26 February 2004, UN Doc. CRC/C/15/ADD.225, para. 63; Committee on the Rights of the Child, Concluding Observations: Norway, 21 September 2005, UN Doc. CRC/C/15/Add.263, para. 44(b).

deprivation of a child's liberty for drug-related offences should be a last resort and for the shortest appropriate period of time, and must be in a facility especially suited to their needs.⁵⁷ States should also consider non-custodial sentences for pregnant women and for parents or caregivers with dependent children, taking into account the best interests of the child.⁵⁸

States have an obligation to provide appropriate assistance to parents in carrying out their childcare responsibilities if needed.⁵⁹ This includes a duty to support parents who use drugs by guaranteeing a safe environment including through, as appropriate, adequate housing, education and healthcare. States should ensure that the use of drugs is never the sole justification for the separation of a child from parental care, for preventing reunification or for removing custody, and must ensure that the best interests of the child is a primary consideration in every decision regarding their care.⁶⁰ In such considerations, authorities must ensure that the use of drugs or dependence to drugs is not equated with neglect or abuse.

f. Avoid misperceptions and promote non-stereotyped views of drugs and people who use drugs.

Drug policies must not reflect or reinforce misconceptions about drugs that stigmatize and demonize people who use them and their families, such as considering people who use drugs to be sick, mentally ill, criminal, deviant or immoral.⁶¹ States should develop and implement campaigns, in consultation with people who use drugs, to counter negative stereotypes and to raise awareness throughout society of the rights of people who use drugs.⁶²

Drug policies should distinguish between use of drugs and dependence on drugs, avoiding the misguided presumption that all drug use is inherently dangerous and inevitably leads to dependence.⁶³ Fear and misinformation about the effects of drugs and widespread stereotypes deepen general misconceptions about people who use drugs, perpetuate stigma and discrimination against them and facilitate other human rights violations.

States must pay specific attention to the stereotyped and gender-biased views about drugs that disproportionately affect women and girls. States must promote gender-sensitive policies that respond to the differentiated needs, risks and harms to women and girls, transgender people and non-binary individuals.⁶⁴

g. Ensure the participation of people who use drugs and other affected communities, and protect human rights defenders and civil society organizations.

People who use drugs and other affected communities, as well as civil society organizations and experts in health, social services and other relevant fields, should be involved in the design, implementation,

⁵⁷ Convention on the Rights of the Child, Art. 37; Committee on the Rights of the Child, General Comment 10: Children's rights in juvenile justice, UN Doc. CRC/C/GC/10, para. 11

⁵⁸ United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders, ECOSOC resolution 2010/16, December 2010

⁵⁹ Convention on the Rights of the Child, Art. 18

⁶⁰ Report of the UN High Commissioner for Human Rights, *Human Rights Challenges in Addressing and Countering All Aspects of the World Drug Problem*, 15 August 2023, UN Doc. A/HRC/54/53, para. 68(h)

⁶¹ Report of the UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 15 April 2020, UN Doc. A/HRC/44/48, para. 27.

⁶² Commission on Narcotic Drugs, Resolution 61/11: Promoting Non-stigmatizing attitudes to ensure the availability, access and delivery of healthcare and social services for drug users, 2018; Committee on Economic, Social and Cultural Rights, Concluding observations: Uzbekistan, 31 March 2022, UN Doc. E/C.12/UZB/CO/3, paras 52-53

⁶³ Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 6 August 2010, UN Doc. A/65/255, para. 37

⁶⁴ Open Letter by the Special Rapporteur on the right of everyone to the highest attainable standard of mental and physical health, Dainius Pūras, in the context of the preparations for the UN General Assembly Special Session on the Drug Problem (UNGASS), which will take place in New York in April 2016, 7 December 2015; Committee on the Elimination of all forms of Discrimination Against Women, Concluding Observations: Russian Federation, 30 November 2021, UN Doc. CEDAW/C/RUS/CO/9, para. 41(b)

monitoring and evaluation of drug laws and policies that affect them.⁶⁵ This should also include an analysis of the need to remove legal barriers that unduly restrict or prevent the participation of affected individuals and communities, including the criminalization of drug-related conduct.⁶⁶

In some cases, States must meet their additional human rights obligations to consult with Indigenous Peoples in order to obtain their free, prior and informed consent for the development of new drug laws or policies, for example when drugs form part of the cultural traditions of those peoples.⁶⁷

States must also guarantee a safe and enabling environment for drug policy activists and other human rights defenders that challenge punitive drug policies.⁶⁸ This includes providing an adequate legal framework for the establishment of civil society organizations and ensuring an environment that enables them to carry out their work without undue interference by state officials or third parties, as well as refraining from imposing undue restrictions on the right to association of those working in the context of drug policy due to the criminalization of drug-related conduct.⁶⁹

h. Guarantee the rights of Indigenous peoples and other minorities.

States must implement adequate measures to ensure that Indigenous Peoples and members of ethnic, religious or linguistic minorities are able to use and cultivate drugs to exercise their right to practise their cultural traditions and customs and to manifest, practise and develop their spiritual traditions, customs and ceremonies that include seeds, plants and medicines that may be prohibited under national or international law, without fear of criminal or other sanctions.⁷⁰

Forced crop eradication programmes that take place in or near Indigenous and minority communities, their sources of provisions and sacred sites, including by aerial spraying and manual eradication, should never be implemented.⁷¹ Voluntary crop eradication should only be carried out where expressly requested by an Indigenous or minority community which has been fully apprised of the implications. States must respect the right of Indigenous Peoples to give or withhold their free, prior and informed consent in such cases.

States need to take measures to respect and protect the rights of Indigenous peoples to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, including when drugs form part of their cultural traditions.⁷² Such measures should incorporate the prevention of the appropriation and commodification of Indigenous knowledge and traditional medicine by State and non-State actors without their free, prior and informed consent.

i. Prevent human rights violations in other countries facilitated by drug laws and policies, including producer and transit countries.

States have a duty to ensure that their drug laws, policies and practices do not lead to violations of human rights, either directly or indirectly, for people living in other countries.⁷³

⁶⁵ Committee on Economic, Social and Cultural Rights, General Comment No. 14, The Right to the Highest Attainable Standard of Health (Article 12), UN Doc. E/C.12/2000/4, paras. 11 and 64.

⁶⁶ Office of the High Commissioner on Human Rights, *Guidelines for States on the effective implementation of the right to participate in public affairs*, 20 July 2018, UN Doc. A/HRC/39/28, para. 36

⁶⁷ International Labour Organization (ILO), *Indigenous and Tribal Peoples Convention No. 169* (1989), Art. 6

⁶⁸ UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, Art. 1

⁶⁹ UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, Arts. 6-8; Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, 14 April 2014, UN Doc. A/HRC/26/29, para. 74(a).

⁷⁰ United Nations Declaration on the Rights of Indigenous Peoples, Arts. 12 and 24; Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, Art. 2; ILO Convention 169, Art. 5

⁷¹ Report by the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people: Mission to Colombia. 10 November 2004. UN Doc. E/CN.4/2005/88/Add.2; Report by the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people: Mission to Ecuador, 28 December 2006, UN Doc. A/HRC/4/32/Add.2, para. 86

⁷² United Nations Declaration on the Rights of Indigenous Peoples, Arts. 12 and 24

⁷³ Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights, 2011, principle 13 and 14.

All States and intergovernmental organizations that engage in international assistance and cooperation, including in the area of drug control and law enforcement, must ensure that they do so in a manner consistent with their extraterritorial human rights obligations.⁷⁴ This should include the prioritization of the most marginalized sectors of society and the realization of minimum essential levels of economic, social and cultural rights, respecting the principle of non-discrimination and advancing equality.

The lack of international consensus on the reform of drug policies should not stop individual countries from reforming their own laws and policies to protect human rights.



⁷⁴ Report of the UN High Commissioner for Human Rights, *Human Rights Challenges in Addressing and Countering All Aspects of the World Drug Problem*, 15 August 2023, UN Doc. A/HRC/54/53, para. 68(t)

2. ADDRESS DEEP-ROOTED INJUSTICES IN THE CRIMINAL JUSTICE SYSTEM.



a. End the death penalty for drug-related offences.

States that still retain the death penalty must put an end to death sentences and executions for drug-related offences as a first step towards the full abolition of the death penalty, as these do not meet the threshold of the “most serious crimes” and are therefore in violation of international law.⁷⁵

All States and intergovernmental organizations must ensure that they do not contribute to the use of the death penalty through international cooperation and assistance, including in relation to law enforcement.⁷⁶

b. Cease arbitrary detentions for compulsory or coerced treatment of people who use drugs.

Compulsory detention regimes for the purposes of drug “rehabilitation” through confinement or forced labour, including those based on the perceived danger of persons to themselves or to others or on arguments of “medical necessity”, are inherently arbitrary and should be eliminated, and such institutions closed, without delay.⁷⁷ People detained therein must be immediately released with sufficient provisions of health and social services available to them, as required.

Drug treatment and rehabilitation programmes for people who use drugs must be evidence-based, voluntary and safeguarded by informed consent.⁷⁸ Such programmes must provide measures to protect the rights of

⁷⁵ Human Rights Committee, General Comment 36 on Article 6: Right to Life, UN Doc. CCPR/C/GC/36, para.35; Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, 9 August 2012, UN Doc. A/67/275, para. 122

⁷⁶ Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, 7 August 2015, UN doc. A/70/304, paras. 95-98; Report of the Secretary-General to the Human Rights Council, 2 July 2012, UN doc. A/HRC/21/29, para. 27

⁷⁷ WGAD, *Study on arbitrary detention relating to drug policies*, 18 May 2021, UN Doc. A/HRC/47/40, para. 84 and 126(e); Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health: Mission to Viet Nam, 4 June 2012, UN Doc. A/HRC/20/15/Add.2, para. 64

⁷⁸ World Health Organization and UNODC, *International Standards for the Treatment of Drug Use Disorders: Revised Edition Incorporating Results of Field-Testing*, p. 9; Report of the UN High Commissioner for Human Rights, *Human rights challenges in addressing and*

any person who is unable to provide consent in order to assist them to do so and to respect their wishes. States should prioritize health care and social support in community settings for the treatment and rehabilitation of drug dependence, rather than in institutions.⁷⁹

Programmes that mandate treatment in the course of a court proceeding, including in so-called “drug-courts” or other diversion programmes, should be discontinued as they inherently coerce people into undergoing medical treatment under threat of punishment. States should ensure that neither drug courts nor regular courts use the threat of imprisonment or other punishment as a means to coercively influence an individual into drug treatment as this would infringe on the right to choose one’s treatment freely, to refuse treatment or to discontinue it at any time.⁸⁰

c. Tackle the disproportionate impact of drug control policies on marginalized groups and their discriminatory implementation.

States must ensure that drug law enforcement does not lead to disparate outcomes, paying particular attention to the disproportionate impact that drug policies have on marginalized groups and people who face discrimination, including women and girls, racial, ethnic and other minorities, Indigenous Peoples, children and young people, people living in poverty, rural farmers, sex workers and LGBTI people.⁸¹

States have a duty to address the structural factors that contribute to disproportionate impacts of drug laws and policies on women and girls, including stereotyping, gender bias and other discriminatory practices in the judicial system.⁸² Laws and policies that criminalize women for their use of drugs during pregnancy are discriminatory and should be repealed.⁸³

States must prevent questioning, arrests and searches by law enforcement and other security forces based solely on the physical appearance of a person, their colour or other physical features, their clothing, their real or perceived membership of a racial or ethnic group or Indigenous people, or any profiling which exposes individuals to greater suspicion.⁸⁴

d. Respect the right to privacy and private life.

The criminalization of the use and possession of drugs for personal use directly interferes with the right to privacy and personal life, particularly with an individual’s personal autonomy.⁸⁵ States should use the wide range of policy options at their disposal distinct from the criminal justice system to develop policies intended to protect the health of individuals and reduce the risks of drugs through less intrusive means,

countering all aspects of the world drug problem, 15 August 2023, UN Doc. A/HRC/54/53, para. 68(g); Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, 1 February 2013, UN Doc. A/HRC/22/53, para. 87; WGAD, *Study on arbitrary detention relating to drug policies*, 18 May 2021, UN Doc. A/HRC/47/40, para. 126(g)

⁷⁹ Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 6 August 2010, UN Doc. A/HRC/38/36, para. 98(d)

⁸⁰ Working Group on Arbitrary Detention, *Study on arbitrary detention relating to drug policies*, 18 May 2021, UN Doc. A/HRC/47/40, para. 83.

⁸¹ International Covenant on Civil and Political Rights, Arts. 2 and 26; International Covenant on Economic, Social and Cultural Rights, Art. 2; Convention on the Elimination of all forms of Racial Discrimination, Art. 5; Convention on the Elimination of all forms of Discrimination Against Women, Art. 2; Convention on the Rights of the Child, Art. 2; Convention on the Rights of Persons with Disabilities, Art. 5; European Convention on Human Rights, Art. 14; American Convention on Human Rights, Art. 1; African Charter on Human and People’s Rights, Art. 2.

⁸² Committee on the Elimination of Discrimination against Women, General Recommendation 33 on women’s access to justice, 3 August 2015, UN Doc. CEDAW/C/GC/33, para. 26; Report of the Special Rapporteur on the independence of judges and lawyers, 29 April 2011, UN Doc. A/HRC/17/30, para. 28

⁸³ Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 3 August 2011, UN Doc. A/66/254, para 41; Report of the Working Group on the issue of discrimination against women in law and in practice, 8 April 2016, UN Doc. A/HRC/32/44, para. 39

⁸⁴ Committee on the Elimination of Racial Discrimination, General Recommendation 36, 17 December 2020, UN Doc. CERD/C/GC/36, para. 42; WGAD, *Study on arbitrary detention relating to drug policies*, 18 May 2021, UN Doc. A/HRC/47/40, para. 11

⁸⁵ Domestic courts in several countries have ruled that the criminalization of drug possession and cultivation for personal use violates the right to privacy. Among others, see Arriola, Sebastián y otros s/ causa n° 9080 (A. 891. XLIV), Corte Suprema de Justicia de la Nación (Argentina), 25 August 2009; Sentencia C-574/2011, 22 July 2011, Corte Constitucional (Colombia); Amparo en Revisión 237/2014, 4 November 2015, Suprema Corte de Justicia de la Nación (Mexico); Minister of Justice and Constitutional Development and Others v. Prince [2018] ZACC 30 (South Africa).

including health and education policies as well as information campaigns, without infringing on the right to privacy and private life of those who decide to use drugs.⁸⁶

Random or mandatory drug testing without due justification should not be permitted as it would be an arbitrary interference with an individual's privacy and is counterproductive from a right to health perspective.⁸⁷ Drug testing must be conducted only after informed consent has been given and carried out in a non-discriminatory, transparent and inclusive way.⁸⁸ Testing should be intended to encourage counselling and treatment, if appropriate, and not used for judicial proceedings.⁸⁹

Medical professionals and healthcare providers must not be compelled to report to the authorities on an individual's use of drugs as this may amount to a violation of their right to privacy, breaches patient confidentiality and medical ethics, and compromises access to health services.⁹⁰

e. Decriminalize the use, possession, cultivation and acquisition of drugs for personal use.

States should stop criminalizing and punishing the use, possession, cultivation and acquisition of all drugs for personal use.⁹¹ States should not impose criminal sanctions for using or possessing drugs for personal use, including where this is done in a public space where individuals are not intentionally causing harm to others. States should take particular attention to the disproportionate impact on marginalized groups that are affected by the prohibition of the use of drugs in public spaces, including people who are homeless.

Threshold quantities to determine what is considered as "possession for personal use", intended to distinguish personal possession from other offences such as trafficking, should only be used to set minimum quantities below which a person cannot be prosecuted. If a person is found with a quantity that exceeds the threshold, it should not be assumed that a person can be charged with an offence for distribution or trafficking unless the intent to sell or distribute is proven. Thresholds should be meaningful enough to ensure that these are not so low that people continue to be prosecuted merely for their use of drugs and be based on the realities and meaningful participation of people who use drugs.

States should also ensure a process to review convictions and sentences for such offences and, where appropriate, quash, commute or reduce existing convictions and/or sentences.⁹²

Decriminalization policies must be accompanied by an expansion of health and other social services to address the risks related to drug use, which has demonstrated to have beneficial impacts on public health, public security and human rights.⁹³ Law enforcement and judicial authorities should be adequately trained about new regulations to ensure people who use drugs are not arbitrarily detained simply for their use, possession, cultivation or acquisition of drugs for personal use.

⁸⁶ Committee on Economic, Social and Cultural Rights, General Comment 14: The right to the highest attainable standard of health (Art. 12), 11 August 2000, UN Doc. E/C.12/2000/4, para. 37

⁸⁷ Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, August 2009, UN Doc. A/64/272, para. 32; WGAD, *Study on arbitrary detention relating to drug policies*, 18 May 2021, UN Doc. A/HRC/47/40, para. 10

⁸⁸ Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, 14 January 2009, UN Doc. A/HRC/10/44, para. 63

⁸⁹ Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 6 August 2010, UN Doc. A/65/255, para. 20

⁹⁰ Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 6 August 2010, UN Doc. A/65/255, para. 20; Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 30 April 2024, UN Doc. A/HRC/56/52, para. 32

⁹¹ UN System Chief Executives Board for Coordination, *United Nations system common position supporting the implementation of the international drug control policy through effective inter-agency collaboration*, 18 January 2019, UN Doc. CEB/2018/2

⁹² Report of the UN High Commissioner for Human Rights, *Human Rights Challenges in Addressing and Countering All Aspects of the World Drug Problem*, 15 August 2023, UN Doc. A/HRC/54/53, para. 68(b)

⁹³ Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 10 April 2018, UN Doc. A/HRC/38/36, para. 12

f. Implement alternatives to the criminalization of other minor, non-violent drug-related offences that do not cause harm to others.

States should implement alternatives to the criminalization of other minor, non-violent drug-related offences that, when they pose little to no risk of harm to others, has proven to be unnecessary and disproportionate to any legitimate aim.⁹⁴ Acts such as subsistence cultivation of drug crops, transportation of small quantities of drugs (drug couriers), social sharing of drugs with no financial gain or sale of small amounts of drugs that a person previously owned for the purpose of supporting their personal use of drugs (also known as “user-dealer”) do not, in themselves, cause a direct harm to public health and their criminalization targets behaviour that generally poses little to no risk of harm to others.

When determining whether to make or maintain a specific drug-related conduct as a criminal offence, States must ensure that the crime is clearly defined in law, that the proscribed conduct is aimed at addressing a specific problem directly associated with the possible harmful use of a particular drug and that the conduct puts others at risk of sufficiently serious harm, for example spiking, selling drugs to children or coercing others to use, transport or sell drugs.

The criminalization of minor, non-violent drug-related offences has mostly affected people living in poverty or from marginalized groups, often women and people from racial, ethnic or other minorities or Indigenous Peoples, due to over-policing around their communities and false perceptions that they use drugs at higher rates than the general population.⁹⁵ States should take specific measures to reverse the disproportionate impact that the criminalization of such acts has had on marginalized communities and ensure they are not discriminated against as a result of the nature or implementation of drug policies.⁹⁶

The decriminalization of minor, non-violent drug-related offences should not be interpreted to include the decriminalization of recognizable criminal offences, such as robbery, theft or violence when committed under the influence or in relation to drugs.

⁹⁴ WGAD, *Study on arbitrary detention relating to drug policies*, 18 May 2021, UN Doc. A/HRC/47/40, paras. 126(l) and 126(m)

⁹⁵ Report of the UN High Commissioner for Human Rights, *Human Rights Challenges in Addressing and Countering All Aspects of the World Drug Problem*, 15 August 2023, UN Doc. A/HRC/54/53, para. 42

⁹⁶ Report of the UN High Commissioner for Human Rights, *Human Rights Challenges in Addressing and Countering All Aspects of the World Drug Problem*, 15 August 2023, UN Doc. A/HRC/54/53, para. 68(j)

3. REDUCE VIOLENCE AND THE IMPACT OF ORGANIZED CRIME BY ENSURING ADEQUATE REGULATIONS AND POLICIES TO PROTECT PEOPLE.



a. Avoid militarized approaches to drug enforcement.

States must ensure that the maintenance of public order, including in the area of drug control, is primarily reserved for civilian police forces who should be properly trained and equipped to allow for a differentiated use of force in accordance with the principles of necessity and proportionality.⁹⁷ States should only resort to military forces extraordinarily, temporarily and restricted to what is strictly necessary in the specific circumstances, in which the participation of the armed forces must be subordinated and complementary to civilian forces and be regulated and supervised by civilian authorities.⁹⁸

Militarized equipment, such as high-power and/or fully automatic firearms, should be avoided in anti-drug operations as it is not normally suitable for law enforcement.⁹⁹ Military personnel should not be tasked with law enforcement if the authorities are not in a position to ensure that this is done in full compliance with international human rights law and standards.

States must conduct prompt, thorough, independent and impartial investigations into human rights violations committed by the security forces during anti-drug operations, including those with command responsibility, bring all those suspected of criminal responsibility before ordinary courts and guarantee adequate reparations for the victims.¹⁰⁰

⁹⁷ Report of the UN High Commissioner for Human Rights, *Human Rights Challenges in Addressing and Countering All Aspects of the World Drug Problem*, 15 August 2023, UN Doc. A/HRC/54/53, para. 68(q); Inter-American Court of Human Rights, *Alvarado Espinoza and others v. Mexico*, 28 November 2018, para. 182

⁹⁸ Commentary to the UN Code of Conduct for Law Enforcement Officials, n. 2 to Article 1.

⁹⁹ Report of the UN High Commissioner for Human Rights, *Human Rights Challenges in Addressing and Countering All Aspects of the World Drug Problem*, 15 August 2023, UN Doc. A/HRC/54/53, para. 68(q)

¹⁰⁰ Human Rights Committee, General Comment 36 on Article 6: Right to Life, UN Doc. CCPR/C/GC/36, paras. 27-28

States and intergovernmental organizations must ensure that any financial and technical assistance provided to third countries for drug-enforcement operations does not contribute, or carry a real risk of contributing, to the commission of human rights violations. Any such cooperation, including training or technical advice, must be halted if used (or if there is a real risk of it being used), either directly or indirectly, to commit human rights abuses.¹⁰¹

b. Reframe policing and other law enforcement efforts to promote public health and human rights.

Law enforcement agencies can play a crucial role in promoting individual and public health when strategies are designed to prevent the harms of drugs and drug markets to individuals and communities rather than simply aiming to reduce or eradicate drug markets.¹⁰² In that sense, drug policies should promote constructive engagement and partnerships between law enforcement officials and health providers around health and other human rights issues, including approaches to law enforcement that support the effective operation of harm reduction services (such as needle and syringe programmes, supervised consumption rooms or drug checking services), “Good Samaritan” laws that exclude from prosecution people who witness or report an overdose to emergency services, equipping and training police agencies for the provision and distribution of naloxone, and other harm reduction measures.

Law enforcement agencies should be trained in harm reduction and should not target health facilities, supervised drug-consumption rooms, drug checking services, or needle and syringe programmes as a strategy for anti-drug operations and should desist from practices that hamper the right to health, including the seizure or destruction of drug use equipment and the prosecution of healthcare and harm reduction service providers.¹⁰³

c. Regain control by moving towards the state regulation of drugs, based on a scientific and ethical assessment of the risks and harms of each drug, to effectively control substances and provide legal channels for those permitted to access them.

States should aim to bring illicit drug markets under their control through effective enforcement of regulatory frameworks, rather than pursuing the prohibition and forceful eradication of drug markets that foster the existence of unregulated criminal markets.¹⁰⁴ Each State should pay particular attention to the drugs with higher prevalence of use or associated with the higher health and social harms in their national context, and consider to what extent, to whom, by what means and in what preparations such drugs should be accessible within its jurisdiction. This process should take into account available scientific evidence about the risks associated with each drug and their possible mitigation, whether it has the capacity to establish and enforce adequate regulations for that drug, and whether permitting and regulating such access would reduce overall harms.

Moving away from a blanket prohibitionist approach would allow flexibility for States to take control away from illicit markets that are inherently prone to violence and detrimental to public health. Regulatory models should aim to enhance the control of institutions, improve security and public health, foster sustainable development, strengthen the rule of law and reduce crime and human rights violations.

Regulations should ensure access to drugs required for scientific or medical purposes, including access to medicines such as methadone and buprenorphine prescribed as part of treatment programmes for drug

¹⁰¹ Report of the UN High Commissioner for Human Rights, *Human Rights Challenges in Addressing and Countering All Aspects of the World Drug Problem*, 15 August 2023, UN Doc. A/HRC/54/53, para. 68(t)

¹⁰² Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 6 August 2010, UN Doc. A/65/255, para. 27

¹⁰³ Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 6 August 2010, UN Doc. A/65/255, para. 76

¹⁰⁴ Report of the UN High Commissioner for Human Rights, *Human Rights Challenges in Addressing and Countering All Aspects of the World Drug Problem*, 15 August 2023, UN Doc. A/HRC/54/53, para. 68(c)

dependence.¹⁰⁵ The denial of opioid substitution therapy and other harm reduction services, including in prison settings, violates the right to health and in certain circumstances may amount to torture or other ill-treatment.¹⁰⁶

State regulation should not be interpreted as allowing for the unrestricted access for all people to all drugs; rather, it sets out rules to allow for the adequate control of specific substances and provide the legal channels for those permitted to access them. Under a responsible regulatory framework, certain activities could remain prohibited due to their harmful impact, such as the sale of certain high-risk drugs or preparations. The term “legalization” refers only to the process of legal reform to end or repeal the absolute prohibition or criminalization of a drug, rather than a policy to control and regulate the drug or its market. The nature of the regulatory model follows the legislative process and needs to be specified separately.

d. Impose adequate controls and restrictions on the production, distribution and sale of drugs.

When moving towards the state regulation of drugs, States must consider different tools to impose distinct controls and restrictions depending on the risks and harms associated with each drug and the different environments in which regulation will apply. These tools may include, for example, restrictions and regulations that control the purity, dosage and potency of the product; its price and taxation; licensing of growers and producers; licensing and vetting of vendors; restrictions on marketing, advertising, branding and promotion of products; regulations on location, capacity and appearance of retail outlets; restrictions on the use of drugs in public spaces; and access controls such as age limits, rationed sales, membership-based associations and medical prescriptions.¹⁰⁷

States must ensure that regulatory frameworks adequately protect the right to health and address barriers that prevent medical providers from prescribing required medications, including for fear of prosecution.¹⁰⁸ At the same time, regulatory frameworks should ensure that medical providers do not have financial or other incentives to unduly prescribe drugs and provide for adequate professional regulation, monitoring and sanctions for malpractice.¹⁰⁹

States should consider a series of measures to repair the damage caused by decades of prohibition as part of new regulatory frameworks and ensure a diverse and equitable market that is not dominated by corporate interests that can distort policies away from the protection of public health and human rights. This can involve prioritizing communities that have been affected by punitive drug laws and policies such as rural farmers and those who have been imprisoned for non-violent drug offences.¹¹⁰ States must ensure that affected communities have adequate opportunities to participate in the newly regulated market and that regulatory processes are insulated from any undue influence by businesses with a stake either in the drug trade or in its regulation.

Regulations should ensure that marketing, advertising, branding and promotion of products is strictly delimited and, if permitted, include adequate warnings about health-related risks. Regulations should prohibit any promotion of drug products that target or otherwise seek to reach out to children.

¹⁰⁵ Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 6 August 2010, UN Doc. A/65/255, para. 76

¹⁰⁶ Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 6 August 2010, UN Doc. A/65/255, para. 40; Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, 1 February 2013, UN Doc. A/HRC/22/53, para. 54

¹⁰⁷ For a comprehensive analysis of the various policy models and what a legally regulated systems of drug control could look like in practice, see Transform Drug Policy Foundation, *After the War on Drugs: Blueprint for Regulation*, July 2009, available at <http://transformdrugs.org/product/after-the-war-on-drugs-blueprint-for-regulation>

¹⁰⁸ International Narcotics Control Board, *Availability of Internationally Controlled Drugs: Ensuring Adequate Access for Medical and Scientific Purposes*, January 2016, UN Doc. E/INCB/2015/Supp. 1, para. 269

¹⁰⁹ Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 30 April 2024, UN Doc. A/HRC/56/52, para. 47

¹¹⁰ UN General Assembly, *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Violations of International Human Rights and Humanitarian Law*, 21 March 2006, UN Doc. A/RES/60/147, para. 15; Human Rights Committee, General Comment 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, 26 May 2004, UN Doc. CCPR/C/21/Rev.1/Add.13, para. 16

States must put in place effective mechanisms to monitor compliance with the regulations and impose adequate sanctions for activities that take place beyond the established parameters, for example through the imposition of fines, production or retail license revocation, or criminal penalties.

e. Strengthen the rule of law and improve States' capacities for the effective administration of justice to reduce the power of organized crime and its effect on all forms of corruption.

States must dedicate sufficient resources to strengthen the rule of law and adopt effective anti-corruption measures, including to effectively prevent, investigate and prosecute human rights abuses committed by organized crime groups and those committed with the authorization, support or acquiescence of State officials, which are facilitated by the infiltration of organized crime groups into State institutions and the enormous corrupting power of illicit drug markets.¹¹¹ This must include measures to stem the illicit flow of firearms through effective firearm regulation and reduction plans, as well as disarmament initiatives, programmes to tackle firearms violence and investment in long-term, evidence-based violence reduction programmes.¹¹²

Banks and other financial institutions have a responsibility to ensure that their operations and services do not contribute to human rights abuses related to the illicit trafficking in drugs and the financing of organized criminal groups, including through money-laundering. Like all other companies, banks and other financial institutions have a responsibility to respect human rights, which requires adopting and implementing ongoing and proactive human rights due diligence processes to identify, prevent and mitigate risks to human rights resulting from their operations, services or business relationships and accounting for negative human rights impacts.¹¹³ In the context of the illicit trafficking in drugs, adequate due diligence measures include procedures to strengthen knowledge of clients ("know your client" also known as KYC procedures), identify and verify the owners, and detect risky clients, relationships and transactions.

¹¹¹ UN Convention Against Corruption, General Assembly resolution 58/4, October 2003

¹¹² Human Rights Committee, General Comment 35: Article 9 (Liberty and security of person), 16 December 2014, UN Doc. CCPR/C/GC/35, para. 9; Human Rights Committee, General Comment 36 on Article 6: Right to Life, UN Doc. CCPR/C/GC/36, para. 20

¹¹³ Human Rights Council, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*, Report of the Special Representative of the Secretary General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie, 21 March 2011, UN Doc. A/HRC/17/31

4. REFORM THE INTERNATIONAL DRUG CONTROL REGIME.



a. Ensure international and national drug policies comply with international human rights law and standards.

The international drug control regime should ensure that human rights are a baseline for scrutinizing the legitimacy and impact of drug laws, policies and their enforcement, and should establish mechanisms for ensuring that appropriate remedies are available when such laws, policies and practices are found to be inconsistent with international human rights law and standards.¹¹⁴

b. Promote wider engagement of human rights mechanisms with drug control bodies.

States and intergovernmental organizations should promote wider engagement of international and regional human rights mechanisms, including UN Special Procedures, UN Treaty Bodies, and UN agencies (such as WHO and OHCHR) with drug control bodies, including the UN Commission on Narcotic Drugs (CND), United Nations Office on Drugs and Crime (UNODC) and the International Narcotics Control Board (INCB), to ensure that drug policies are compliant with international human rights law and standards.¹¹⁵

Human rights bodies should continue and increase their attention to address drug-related issues in a systematic way, providing structural recommendations that address the root causes of the problem and challenge the prohibition and criminalization of drugs.

c. Adapt indicators used to evaluate the success of drug policies and focus on their impact on people and communities.

Metrics and indicators to evaluate drug policies should focus on the reduction of drug-related harms and the enjoyment of human rights, for example on access to drug treatment, rehabilitation and social support, reduction of overdose deaths or HIV transmission, and rates of crime, violence and human rights violations.

¹¹⁴ Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 6 August 2010, UN Doc. A/65/255, para. 77

¹¹⁵ Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 6 August 2010, UN Doc. A/65/255, para. 77

Historically prioritized enforcement indicators that have ignored harms to individuals and communities, such as hectares of crops eradicated, amounts of drugs seized or number of people arrested, prosecuted and imprisoned for drug-related offences, should be abandoned.¹¹⁶

d. Reform the UN Drug Conventions.

Mismanaged tensions and conflicts between obligations under the UN Drug Conventions and international human rights law risk numerous human rights violations resulting from or facilitated by drug policies. It may also affect international law in general due to contradictions between these two bodies of law.

States should therefore explore individual and collective options for reforming or altering their relationship with the UN Drug Conventions to ensure these do not hinder States in any way from adopting new drug control policies enabling them to fulfil their human rights obligations and reduce drug-related harms, including state regulation of drugs which is currently not allowed under the UN Drug Conventions.¹¹⁷ Such steps may involve, for example, proposing amendments, making reservations, understandings or declarations, or denouncing the relevant treaties.¹¹⁸

When confronted with conflicting obligations, States should interpret and implement the UN Drug Conventions consistently with their human rights obligations with a view of ensuring the adoption of laws and policies consistent with their human rights obligations.¹¹⁹

¹¹⁶ Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 6 August 2010, UN Doc. A/65/255, para. 77

¹¹⁷ Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 6 August 2010, UN Doc. A/65/255, para. 77

¹¹⁸ For an analysis on different options for States to modify their relationship to the UN Drug Conventions, see Dave Bewley-Taylor, *Towards revision of the UN drug control conventions: The logic and dilemmas of like-minded groups*. Series of Legislative Reform of Drug Policies No. 19. Transnational Institute and IDPC, March 2012

¹¹⁹ United Nations Development Program and International Centre on Human Rights and Drug Policy (University of Essex), *International Guidelines on Human Rights and Drug Policy*, March 2019, p. 23

TIME FOR CHANGE: ADVANCING NEW DRUG POLICIES THAT UPHOLD HUMAN RIGHTS

AMNESTY INTERNATIONAL POLICY PAPER

To mark “World Drugs Day” on 26 June as activists worldwide are joining together under the [#SupportDontPunish](#) campaign, Amnesty International is launching this new policy paper to contribute to the advancement of drug policies that better uphold human rights.

Amnesty International is calling on States to adopt new models of drug control that put the protection of people’s health and other human rights at the centre, including the decriminalization of the use, possession, cultivation and acquisition of drugs for personal use, and the effective regulation of drugs to provide legal and safe channels for those permitted to access them. Such policies must be accompanied by an expansion of health and other social services to address drug-related problems as well as other measures to address the underlying socio-economic causes that increase the risks of using drugs and that lead people to engage in the illicit drug trade such as poverty, discrimination, unemployment, illness, denial of education or lack of housing.