

## Side event: World Drug Problem on Human Rights

16 June 2014

Excellencies,  
Ladies and Gentlemen,

I want to thank the Governments of Colombia, Guatemala, Mexico and Switzerland, as well as to the Global Commission on Drug Policy, for organising this side event on the impact of the international drug control regime on human rights, and for inviting me to speak. The topic is particularly timely as we prepare for the upcoming General Assembly Special Session on the world drug problem in 2016.

I have advocated on several occasions for human rights to be taken into account in international drug control policy.

The subject has also been addressed by human rights mechanisms, notably the Special Rapporteur on the right to health and the Committee on the Rights of the Child.

Other UN entities have concluded that human rights should be integral to drug control policy. The Commission on Narcotic Drugs recognised, in its resolution 51/12 of 2008, that the world drug problem should be addressed in a multilateral setting, in full conformity with human rights.

Moreover, the 1961 Single Convention on Narcotic Drugs emphasizes that drug control policy seeks to protect the health and welfare of humankind. Clearly, implementation of this laudable goal should not violate human rights, which would contravene the objective.

However, human rights violations continue to occur in the context of States' implementation of drug control policies.

Violations of the right to life; the right to health; the prohibition of torture and other forms of ill treatment; the prohibition of arbitrary detention; the right to equality and non-discrimination; the rights of indigenous peoples; and the rights of children are all sources of serious concern.

Also of concern are some unintended consequences of drug control policies, since their focus on repression may actually contribute to excessively high levels of violence in some communities.

### ***Right to life***

Concerning the right to life, Article 6 of the International Covenant on Civil and Political Rights indicates that in States which have not yet abolished the death penalty, the sentence of death may be imposed only for the "most serious crimes." The Human Rights Committee has determined that the concept of "most serious crimes" applies only to the intentional taking of another life, and that the death penalty cannot be applied solely for drug offences. In spite of this, a significant number of States continue to sentence persons to death solely for issues relating to drugs.

### ***Right to health***

Violations of the right to health, as set out in the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child, continue to occur in a many States. Criminalization of drug use has considerable impact on drug users' right to health. Users of illegal drugs may be reluctant to seek out health information, advice or treatment because they fear that information about their drug use could be shared with authorities, leading to possible arrest, imprisonment or treatment against their will. Use of drug registries in which people who use drugs are identified and listed may also deter individuals from seeking treatment. They also violate medical confidentiality.

In many States, access to proven harm-reduction measures – including syringe exchange programmes and opiate substitution therapy – is extremely limited, non-existent or banned. Failure to provide healthcare and harm-reduction programmes for drug injecting users facilitates transmission of diseases such as HIV and hepatitis C. In some States, laws prohibit carrying injecting paraphernalia, and this creates additional health risks for people who inject drugs.

A predominant focus on criminalizing drug use has also resulted in severely limited access to, or a complete lack of, opiates in some States, because of concerns they may be diverted for illicit uses. Opiates can be used in harm-reduction treatment. But they also

provide much-needed relief for pain in illnesses unrelated to drug use. Failure to offer access to opiates for legitimate medical treatment is a violation of the right to health, and needs to be addressed as such in States that have eliminated, or severely limited, their use.

### ***Arbitrary detention, torture and other forms of ill-treatment***

In many States, large numbers of persons are arrested and held in prolonged periods of pre-trial detention for minor drug offences. Denial of opiate substitution treatment during custody has been used by some authorities as a way of eliciting confessions, by inducing painful withdrawal effects. Beatings and other forms of corporal punishment during custody have also been reported.

The use by some States of compulsory drug detention and rehabilitation centres, sometimes referred to as “re-education through labour” centres or camps, is also a source of concern. The so-called ‘treatment’ in such centres is frequently not based on individualized assessment and evidence-based medical practice. Instead they feature disciplinary-type interventions such as prolonged physical drills. Other disturbing practices include forced labour, corporal punishment, un-medicated withdrawal, sexual abuse, solitary confinement and experimental treatments administered without the consent of the individual concerned.

### ***Indigenous peoples***

Some traditional practices of indigenous peoples involve the use of substances subject to international drug control treaties. In many cases these are centuries-old practices, and arguably may be protected by the Declaration on the Rights of Indigenous Peoples and the International Covenant on Economic, Social and Cultural Rights. In situations of competing legal obligations, States should seek solutions – including through interpretation of the existing international legal framework; by entering reservations when ratifying a treaty; or by denouncing an applicable treaty and re-ratifying it with the appropriate reservation.

### ***Discrimination and the right to equality***

National laws that stigmatize and marginalize drug users also need to be addressed. Known drug use or convictions for even minor use of drugs may deprive a person of a range of parental rights, including custody, as well as other legal rights, and may inalterably modify future opportunities, including employment. In some States, ethnic minorities and marginalized groups living in poverty are disproportionately targeted by drug enforcement efforts.

### ***The rights of the child***

Minors face particular challenges in relation to drug use. The Committee on the Rights of the Child has called for children who use drugs not to be subject to criminal proceedings. They should receive accurate and objective information on drugs, and appropriate harm reduction and drug treatment services should be available for them. However, the Committee has found that in practice, drug-using children in most States are subject to criminal prosecution and often have no access to such services. The Committee has also criticized the use of aerial spraying for eradication of drug crops, because of its effects on children, and it has condemned the placement of children in compulsory drug detention and rehabilitation centres in numerous States.

### ***Unintended human rights consequences of international drug control policies***

Extremely violent drug gangs and organized criminal groups have emerged in communities in a significant number of States, resulting in widespread murder, torture and mutilation of rival drug gang members, and law enforcement and government officials. Organized crime and drug gangs have succeeded in corrupting significant State institutions in some countries, creating a climate of impunity, and establishing vast illegal economies that significantly weaken the State. Organized criminal groups have also used drugs to engage in illegal arms transactions and to fund other types of trafficking.

The response of States has not always been measured. Violent repression and extra-judicial executions have occurred in some States. Innocent civilians are sometimes caught in the crossfire, and the population in some communities – often very poor and marginalized – may find themselves stereotyped as likely drug gang members, leading to pervasive discrimination by officials.

I urge all States to reconsider from a human rights perspective the decades-old approach to drug control based on repression. A number of States no longer incarcerate persons for minor drug offences, and some have de-criminalized minor drug offences. It is also possible, and consistent with current international drug control treaties, to re-frame some drug-related conduct as administrative offences, followed with a social and medical response. These are all avenues for further reflection.

I trust that Member States will cooperate with civil society on these challenging topics, in order to explore ways to improve respect for human rights in the context of drug control policies. My Office is eager to assist these important discussions.

Thank you.