**Human Rights Council Intersessional Panel Discussion - *“Human rights challenges in addressing and countering all aspects of the world drug problem”***

**TALKING POINTS**

***Commissioner Kamarulzaman***

1. **Time + location:**  10:00-12:00 on Monday, 05 February (Room XX, Palais des Nations, Geneva)
2. **Speakers:**
   * Ms. Christine Stegling, Deputy Executive Director, Policy, Advocacy and Knowledge, UNAIDS
   * Mr. Jean-Luc Lemahieu, Director, Division of Policy Analysis and Public Affairs, UNODC
   * Ms. Ann Fordham, Executive Director, IDPC
   * Ms. Adeeba Kamarulzaman, Commissioner, Global Commission on Drug Policy
3. **Objective:** Discussion informed by the OHCHR report A/HRC/54/53
4. **Suggested talking points:**

Ladies and gentlemen, excellences.

I am honoured to speak at this panel discussion today as member of the Global Commission on Drug Policy.

I would like to sincerely thank the Human Rights Council for organizing this panel discussion, and – moreover – for delivering an exceptional and pragmatic report on the issue of drug policy.

The Global Commission commends the OHCHR for this report and remains a strong supporter in its work in this regard moving forward.

The Global Commission on Drug Policy was founded in 2011 and now gathers twenty-nine global leaders from the political, economic and cultural arenas. The Global Commission, through each of its Commissioners, advocates for drug policies based on scientific evidence, human rights, public health, and security that leave no one behind.

The Global Commission calls for such policy reform mainly by means of “the five pathways”[[1]](#footnote-1) – namely:

1. Putting people’s health and safety first
2. Ensuring access to essential medicines and pain control
3. Ending the criminalization and incarceration of people who use drugs
4. Refocusing law enforcement responses to drug trafficking and organized crime
5. Legally regulating drug markets to put governments in control

The report of the High Commissioner, around which we are convening today, elucidates a number of ways in which drug policies and human rights are inextricably intertwined. In particular, it demonstrates ways in which policies characterized by drug prohibition, criminalization, and militarization negatively impact the realization of a wide range of human rights protected by international law, and under which member States have obligations.

Drug prohibition has failed to achieve its intended goal of a “drug-free world”. On the contrary, it has put people at even more risk by further entrenching discrimination and marginalizing populations that already face exclusion and subjugation.

Counter to the intention of drug prohibition, the actual number of people who used drugs has increased. Over the past decade, this population has increased by 23 percent, to an estimated 296 million people in 2021[[2]](#footnote-2) - a population that would be the fourth-largest in the world if it were a country, behind only India, China, and the United States. By 2030, demographic factors project the number of people using drugs around the world to rise by 11 per cent.[[3]](#footnote-3) At the same time, there has been a general increase in the production of illicit drugs.[[4]](#footnote-4)

Punitive drug laws - stemming from drug prohibition - impose disproportionate criminal justice responses, which are the main driver of incarceration. In 2022, an estimated 2.2 million people worldwide were in prison for drug offences[[5]](#footnote-5) - 22 percent of whom were imprisoned for drug possession for personal use.[[6]](#footnote-6)

Such disproportionate responses are also reflected in the continued deployment of compulsory treatment services as a purported alternative to incarceration for drug-related offences. Although numerous UN bodies have clearly stated that compulsory drug treatment is not based in scientific evidence and violates an array of human rights, these centres and programmes continue to operate in many parts of the world.

Drug courts can also fall into this paradigm. Mandatory treatment may be presented as an alternative sentence to incarceration, but this treatment is not necessarily evidence-based and may not include the provision of evidence-based drug dependence medications. Meanwhile, relapses or failed drug tests, a normal part of efforts to overcome drug dependence, can force a person sentenced under a drug court procedure back into prison.

Furthermore, prohibitive, punitive and criminalizing policies have fuelled, and continue to fuel, epidemics of HIV and hepatitis C among people who inject drugs. In 2021, one in every eight people who inject drugs were living with HIV, while nearly half were living with hepatitis C.[[7]](#footnote-7)

Yet globally, harm reduction services are not available at the level and scale required to end AIDS, with only 2% of people who inject drugs living in countries that fall within the UN-recommended levels for access to clean needles and syringes, and to opioid substitution therapy.[[8]](#footnote-8) In too many countries, there are no harm reduction services at all.[[9]](#footnote-9)

And yet all of this happens while access to, and availability of, essential medicine for pain relief and palliative care is further restricted by the international drug control system, leading to the unnecessary suffering of millions of people (including children) in pain with inadequate medical treatment[[10]](#footnote-10), thus violating their universal and inalienable right to health – established very clearly in the Universal Declaration for Human Rights 75 years ago.

**States must acknowledge that drug prohibition is counterproductive and generally not based on human rights or scientific evidence. The international drug policy regime requires human rights-based reform.**

The Global Commission emphatically echoes the call made in the High Commissioner’s report to shift away from a punitive paradigm and centre drug policies around health, human rights, development, and communities. In this sense, the expansion and robust funding of harm reduction, as well as the decriminalization of drug use and possession for personal use, are essential and urgent reforms.

However, considering that the number of people using drugs globally is projected to rise by 11 percent by 2030[[11]](#footnote-11), the most effective way to reduce the extensive harms of prohibitionist drug policies and to advance the goals of public health and safety is ultimately for States to bring drugs under control through responsible legal regulation. **States must consider the legal regulation of drugs as a sound and effective pathway to undermine organized crime[[12]](#footnote-12) which can subsequently liberate resources to counter its root causes, as well as mitigate any anticipated changes in organized crime activity.[[13]](#footnote-13)**

**States should pursue the responsible legal regulation of drugs.** Without legal regulation, control and enforcement, the drug trade will remain in the hands of organized criminal groups. There is also a public health imperative to legally regulate drugs – not because drugs are safe but because they are risky. The regulation and thereby management of risky behaviours and products is a key function of all government authorities – governments regulate everything from alcohol and cigarette consumption to medicines, seatbelts, the use of fireworks, etc. If the potential risks of drugs are to be contained and minimized, governments must apply the same regulatory logic to the development of effective drug policies.

This can be done by means of incremental regulation of lower-potency drugs which is evidence-based in a process guided by the principles of human rights, public health, sustainable development, and peace and security.[[14]](#footnote-14) In this sense,much can be learned from successes and failures in regulating alcohol, tobacco, and pharmaceutical drugs, thus mitigating the threats of over-commercialization.[[15]](#footnote-15)

**There is no “one size fits all”** approach to the transition from drug prohibition to legal regulation: each country or jurisdiction will have to design a strategy fit to its own circumstances.[[16]](#footnote-16) Regulatory approaches can also be informed by and tailored to the particular harms, risks, or potential benefits of the substance in question. In practice, this can range from state monopoly control of part or all of the market; to limiting the market to personal cultivation, not-for-profit models, or social enterprises; or limiting the size of businesses allowed to participate in a market as a means of preventing regulatory capture and industry lobbying.[[17]](#footnote-17)

When legally regulating drug markets, policy makers must open local and national participatory processes to shape such reforms, and not exclude people and communities most affected by drug prohibition,[[18]](#footnote-18) including people who use drugs, young people, and small-scale actors in the illegal market.

**In conclusion –**

It is clear that our deliberations in addressing all aspects of the world drug situation cannot take place without putting human rights considerations at the center.**We need to operationalize a human rights based approach to drug control.** The report of the High Commissioner, and our discussion here today, is part of a growing recognition of this within international fora.

**The drug control regime and the human rights based regime need to cease to behave as though they operate in parallel yet separate universes.** This calls for us to go further in cementing the link between human rights and drug policy, by making drug policy a standing item on the Human Rights Council agenda, and even giving the topic a specific mechanism of its own – for instance, a special mandate holder on Human Rights and Drug Policy.

Furthermore, the current state of drug prohibition, without legal regulation and control, has quite clearly not only failed to achieve its intended goals of reducing drug use, but has also had catastrophic human rights consequences. The way forward must see States take the lead not only by scaling up harm reduction, expanding access to essential medicines, and decriminalizing drug use and possession for personal use, but also exploring the legal regulation of drugs as the path that puts control back in the hands of governments rather than criminal groups.

Thank you for your attention.

1. <https://www.globalcommissionondrugs.org/the-five-pathways-to-drug-policies-that-work> [↑](#footnote-ref-1)
2. <https://www.unodc.org/res/WDR-2023/Special_Points_WDR2023_web_DP.pdf> [↑](#footnote-ref-2)
3. <https://www.unodc.org/res/wdr2021/field/WDR21_Booklet_1.pdf> [↑](#footnote-ref-3)
4. <https://www.unodc.org/res/wdr2022/MS/WDR22_Booklet_1.pdf> [↑](#footnote-ref-4)
5. <https://cdn.penalreform.org/wp-content/uploads/2022/05/GPT2022-Exec-summary-EN.pdf> [↑](#footnote-ref-5)
6. <https://www.penalreform.org/global-prison-trends-2022/drug-policies/> [↑](#footnote-ref-6)
7. <https://www.unodc.org/res/WDR-2023/Special_Points_WDR2023_web_DP.pdf> [↑](#footnote-ref-7)
8. <https://www.sciencedirect.com/science/article/pii/S2214109X2300058X?via%3Dihub> [↑](#footnote-ref-8)
9. <https://hri.global/wp-content/uploads/2022/11/HRI_GSHR-2022_Full-Report_Final-1.pdf> [↑](#footnote-ref-9)
10. <https://www.globalcommissionondrugs.org/wp-content/uploads/2021/12/Time_to_end_prohibition_EN_2021_report.pdf> [↑](#footnote-ref-10)
11. <https://www.unodc.org/res/wdr2021/field/WDR21_Booklet_1.pdf> [↑](#footnote-ref-11)
12. <https://www.globalcommissionondrugs.org/wp-content/uploads/2020/06/2020report_EN_web_100620.pdf> [↑](#footnote-ref-12)
13. <http://www.globalcommissionondrugs.org/wp-content/uploads/2018/09/ENG-2018_Regulation_Report_WEB-FINAL.pdf> [↑](#footnote-ref-13)
14. <http://www.globalcommissionondrugs.org/wp-content/uploads/2018/09/ENG-2018_Regulation_Report_WEB-FINAL.pdf> [↑](#footnote-ref-14)
15. <https://www.globalcommissionondrugs.org/wp-content/uploads/2016/03/GCDP_2014_taking-control_EN.pdf> [↑](#footnote-ref-15)
16. <http://www.globalcommissionondrugs.org/wp-content/uploads/2018/09/ENG-2018_Regulation_Report_WEB-FINAL.pdf> [↑](#footnote-ref-16)
17. <http://www.globalcommissionondrugs.org/wp-content/uploads/2018/09/ENG-2018_Regulation_Report_WEB-FINAL.pdf> [↑](#footnote-ref-17)
18. <http://www.globalcommissionondrugs.org/wp-content/uploads/2018/09/ENG-2018_Regulation_Report_WEB-FINAL.pdf> [↑](#footnote-ref-18)