

Contribution by the Republic of Ghana to the report on the Human Rights challenges in addressing the world drug situation by the United Nations High Commissioner for Human Rights

1. Introduction

The Republic of Ghana welcomes Human Rights Council Resolution 52/24, adopted by consensus, which requests a report of the UN High Commissioner for Human Rights, on challenges in relation to human rights, in addressing the world drug situation. This report is an important opportunity to gather good practices in aligning drug policies with human rights, and to ensure that this receives due attention during the mid-term review of the 2019 Ministerial Declaration on drugs at the UN Commission on Narcotic Drugs.

This report seeks to contribute to the information requested by the UN High Commissioner for Human Rights by presenting recent developments in Ghana that ought to be considered as good practice in aligning drug policies with human rights. These are Ghana's year 2020 legal reforms to treat drug use and drug dependence as a public health matter, and the country's 2022 National Dialogue on the International Guidelines on Human Rights and Drug Policy.

2. The adoption of the Narcotics Control Act (Act 1019)

In 2020, Ghana adopted the Narcotics Control Act (Act 1019) to transform its drug policy framework in order to treat drug use and drug dependence as a public health matter. While the Narcotics Control Act (Act 1019) is very broad, we would like to highlight three aspects of that law that are relevant to efforts to align drug policy with human rights.

- First of all, the Narcotics Control Act (Act 1109) reformed criminal law by converting prison terms for drug possession for personal use into a fine of between 200-500 penalty units (translating to GHC 2,400.00 – GHC6,000.00), thus availing itself of the flexibilities envisaged in the international drug conventions. Instead of sending people to prison for up to 10 years for simple possession of drugs for personal use, the new legal framework offers alternatives to incarceration. This is in line with current programs and policies to decongest prisons in Ghana.
- Secondly, the Narcotics Control Act (Act 1019) envisages further regulatory development through legislative instruments on two critical issues that are also central to the intersection on drug policy and human rights, namely harm reduction and alternative development.
- Lastly, the law also transforms the former Narcotics Control Board (NACOB) to an independent Narcotics Control Commission (NACOC), providing it with law enforcement powers.

Ghana is currently developing a National Drug Control Master Plan (NDCMP) as a follow up to Act 1019, to ensure drug policies are comprehensive, integrated and multidisciplinary. The Master Plan is meant to help reduce disproportionate sentencing for drug-related offences and ensure better health-related outcomes.

These notable milestones in the development of drug related policy in Ghana are consistent with the recommendations of the United Nations General Assembly Special Session (UNGASS) Outcome Document adopted in 2016, thus showing how international and national drug policy developments can reinforce each other.

3. The 2022 National Dialogue on the International Guidelines on Human Rights and Drug Policy

On the 12th and 13th December 2022, Ghana hosted the first ever National Dialogue on the International Guidelines on Human Rights and Drug Policy, co-organized by the Ministry of Foreign Affairs and Regional Integration the Ministry of the Interior and the Narcotics Control Commission, in partnership with the UN Joint Program on HIV and AIDS, the UN Office of the High Commissioner for Human Rights, the United Nations Development Program, the International Centre on Human Rights and Drug Policy, and the International Drug Policy Consortium.

The dialogue was the first of its kind at national level in Africa, and it is submitted that it could be taken as an example of best practice for other States. What follows is a short summary of the proceedings as follows :

The National Dialogue was opened by the Minister of the Interior Hon. Ambrose Dery, who emphasized that in the year 2020, Ghana adopted the Narcotics Control Act (Act 1019) in order to treat drug use and drug dependence as a health matter. In line with that, the National Dialogue aimed to create space for a broad range of stakeholders to discuss drug related issues from a human rights perspective, and to develop key recommendations for the way forward.

The United Nations Resident Coordinator Mr. Charles Abani, noted that, a human rights approach to drug policy is crucial if Member States of the United Nations are to achieve the Sustainable Development Goals, and expressed the support of the United Nations for initiatives to align drug policies with the International Guidelines.

The keynote speaker by Mr. Yaw Akraasi Sarpong, the former Executive Secretary of Ghana's Narcotics Control Board (NACOB), now Narcotics Control Commission (NACOC), highlighted that

the International Guidelines could be used to develop the year 2020 reforms in four dimensions: to ensure that the depenalization of drug use and drug dependence is effective in removing prison and arbitrary detention for people who use drugs; to guarantee access to drug treatment and harm reduction services; to develop medicinal cannabis regulations that improve the general welfare as well as that of small scale farmers and communities involved in illicit farming; and to establish gender-sensitive services and policies that address the specific needs of women.

The opening session was followed by a series of panels and plenary interventions that highlighted the challenges and opportunities for drug policy reform aligned with the International Guidelines on Human Rights and Drug Policy, with the participation of a wide range of stakeholders including NACOC, the Ministry of the Interior and the Ghana AIDS Commission, UN agencies, as well as from the Judiciary and civil society.

A keynote speech on the second day of the National Dialogue by Ms. Hilary Gbedemah, member and former Chair of the UN Committee on the Elimination of Discrimination Against Women (CEDAW), reflected on the different outstanding challenges to develop a gender-sensitive approach to drug policies, including on lack of drug services for women and lack of gender-sensitive data collection, and she highlighted the support and guidance that international expert bodies like CEDAW could provide in addressing them.

For the rest of the National Dialogue, participants were divided in breakout groups to discuss key issues and provide recommendations. The following recommendations can be highlighted, noting that they reflect the view of the participants.

- a. On drug policy and health, participants agreed on the need to develop drug treatment and harm reduction services that are accessible and affordable for people who use drugs. Training community experts and establishment of community-based services was recommended, as well as creating communications materials to address stigma against people who use drugs, and to promote better knowledge of the International Guidelines. The importance of adopting a legislative instrument on harm reduction was highlighted.
- b. On drug policy and criminal justice, key issues included: the need for drug services related to drug use in prisons and places of detention; the need to increase access to legal aid for people charged with drug offences, as in some cases it is currently not available; and the need to implement the depenalisation of drug use as envisaged in the year 2020 Act, including exploring ways to extend its application retroactively.

- c. On drug policy and development, participants emphasized a number of challenges for the development of hemp and low-THC cannabis markets, including recommendations on facilitating access to legal market for small-scale farmers, the importance of providing realistic alternative legal livelihoods for those involved with illicit cultivation, and the need to explore economic opportunities throughout the cannabis value chain.
- d. On drug policy and gender, participants recommended the development of specific drug treatment and harm reduction services for women, as well as taking into consideration the gender perspective for women who are caught in the criminal justice system, particularly in plea bargaining situations, and when it comes to access to legal aid. There were also recommendations on data collection disaggregated by gender, and on ensuring the participation of women in the development of drug policies.

After a fruitful exchange at the plenary, Hon Seth Kwame Acheampong, the Eastern Regional Minister, who chaired the session together with his Lordship Professor Justice Sir Dennis Dominic Adjei, closed the National Dialogue by welcoming these two days of discussion, and highlighting the need of continuing these positive policy discussions to bring the International Guidelines into a domestic perspective.