

Human Rights Council resolution ‘Contribution of the Human Rights Council with regard to the human rights implications of drug policy’: Analysis and implications

Introduction

On 4 April 2023, the Human Rights Council adopted a resolution under the title ‘Human Rights Council contribution with regard to the human rights implications of drug policy’.¹ The key objective of the resolution was to ensure that UN human rights entities engaged meaningfully in the mid-term review of the 2019 Ministerial Declaration on drugs,² set to be held at the 67th session of the UN Commission on Narcotic Drugs (CND) in Vienna in March 2024.³

The 2024 mid-term review is the next key moment for the international community to take stock of progress made in international drug policy and pave the way forward for the next five years. Ensuring that the human rights dimension of drug policy is as prominent as possible will therefore be critical in this regard. The Human Rights Council resolution sets the framework for the contribution of the UN human rights system

to the mid-term review by requesting the Office of the United Nations High Commissioner for Human Rights (OHCHR) to produce a report on the human rights implications of drug policy, and calling for a panel discussion on the issue at the Human Rights Council.

The resolution also represents the most ambitious UN political document on the human rights dimension of drug policy to date. It contains a number of significant gains in terms of progress on UN agreed language, demonstrating that UN bodies in Geneva and New York are becoming spaces for a more productive and constructive conversation on drug policies.

An ambitious strategy for the OHCHR report and for the thematic Human Rights Council panel discussion on the human rights implications of drug policy is now necessary to ensure that they have an impact on the mid-term review.



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Session of the Human Rights Council

Key gains from the resolution

Racial discrimination and drug policy

The resolution contains the strongest commitment to date on addressing the discriminatory impact of drug policy, particularly in terms of racial discrimination. In particular, the resolutions urges States to ‘adopt a systemic approach to preventing and eliminating racial discrimination at all stages of the development, implementation, monitoring and evaluation of drug policies and programmes’ (OP9) and underlines that states should reform ‘drug-related policies, laws and practices with discriminatory outcomes’, including ‘discriminatory practices in the arrest and detention of members of vulnerable and marginalized groups’ (a clear reference to drug-related stop and search).

Explicit support for harm reduction

The resolution includes for the first time an explicit and supportive reference to ‘harm reduction’ in a UN political document on drug policy. So far, the only documents that included the terms ‘harm reduction’ were the Political Declarations on HIV and AIDS, as well as the 2021 Human Rights Council resolution 47/14 on human rights in the context of HIV and AIDS.⁴ The gain here is triple: 1- it is the first time that the term is included outside the context of HIV and AIDS; 2- it is the first time that the term is mentioned within the framework of the right to health, alongside other health responses; and 3- support for harm reduction is not qualified by subjecting it to national legislation, or to clauses such as ‘as appropriate’.

Asserting the role of the UN human rights system in drug policy debates

The resolution renews the interest of the UN human rights system in global drug policy debates, particularly by giving the OHCHR a mandate to produce a report on the human rights challenges of the world drug situation, and by including a thematic intersessional panel that will be held at the Human Rights Council between October 2023 and February 2024. The OHCHR have requested a budget of approximately USD 140,000 to conduct

these activities. The modalities resolution for the mid-term review adopted by CND in March 2023 encourages the contributions of ‘relevant United Nations entities’ in the process, without mentioning any one in particular. The Human Rights Council is the first institution to take the CND by its word and claim a role in the review for itself – a sign of the growing importance of human rights in global drug policy debates. It is essential that like-minded Member States, civil society and community organisations set up a strategy to ensure that the report and panel are a catalysing moment for the involvement of the human rights system with drug policies, and an influential contribution to the mid-term review of the 2019 Ministerial Declaration.

Protecting traditional uses by Indigenous Peoples

The resolution consolidates the precedent set by the UN General Assembly resolution 77/238⁵ by recognising that Indigenous Peoples have the right to their traditional medicines and to maintain their health practices within the context of a drug resolution. The difference is that this time the language is adopted by consensus and no delegation called for a vote on this paragraph.

Encouraging further contributions by the UN human rights system

The resolution acknowledges the contributions of the UN human rights system to drug policy, including the latest reports by the OHCHR and the Working Group on Arbitrary Detention,⁶ and encourages them to continue their work on the human rights implications of drug policy including engaging with the Commission on Narcotic Drugs. The International Guidelines on Human Rights and Drug Policy⁷ are also acknowledged, reinforcing their status as the international human rights standard on drug policy, and hopefully boosting their use in regional and national debates.

Focus on the human rights impacts of drug policies

The title of the resolution departs from precedents at the UN General Assembly and the Human Rights Council by placing the focus on the

human rights implications of drug policies, rather than on the ‘world drug problem’. This is a recognition that drug policies themselves can have an impact on human rights, and that the UN system and particularly the human rights bodies have a mandate to address them.

Limitations of the resolution

No standing mandate for the OHCHR

The resolution has achieved the main aim of the core group, which was to progress UN agreed language on human rights and drug policy, and mandate a contribute by the OHCHR to the mid-term review of the 2019 Ministerial Declaration. However, the original goal of civil society was to provide the OHCHR with a standing request to report periodically on the human rights impacts of drug policy. While it is not disputed that the human rights impacts of drug policy fall clearly within the mandate of the OHCHR, this would have given political and financial stability to the Office’s work on this topic, and would have cemented drug policy as a thematic focus of the Human Rights Council. This goal still remains to be achieved.

Reintroduction of language on a ‘society free of drug abuse’

In the process of adopting the resolution, two paragraphs tabled respectively by Saudi Arabia and Egypt were inserted in the text. One concerns the role of state sovereignty in international law, and the other – concerningly – introduces, again, the goal of achieving a ‘society free of drug abuse’. Removing this language was one of the key achievements of the UN General Assembly resolution 77/238, so it is regrettable that this gain was not consolidated in the Human Rights Council resolution. However, the vote on the amendment revealed a divided Council, with 25 votes in favour of the amendment, 18 against, and 4 abstentions.

Use of stigmatising terminology

The first version of the resolution included significant gains in terminology referring to the hu-

man rights dimension of human rights, including person-centred language and the use of the term ‘world drug situation’ (instead of the traditional ‘world drug problem’). These were discarded in negotiations throughout the text, and replaced with standard but stigmatising UN language such as ‘world drug problem’ and ‘drug abuse’. Constant references to the ‘principal role’ of CND on drug-related matters are scattered throughout the resolution, as is a reference to the eradication targets of the 2009 Political Declaration.⁸

Status of the resolution

Adopted without a vote

The resolution was adopted by the Human Rights Council without a vote. This is particularly positive because the last Human Rights Council resolution in 2018⁹ was adopted with a vote, even though it was less ambitious than this one in both substantive and operative terms. This means that the resolution now constitutes agreed language on drugs. However, a few delegations took the floor to dissociate themselves from the final text, arguing that they are not bound by it. These include China, Egypt, and the Gulf Cooperation Council countries (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates). Given this caveat, we will need to wait and see whether the progressive language included in the resolution can be brought forth and accepted by all delegates as consensus-based in future negotiations.

Vote on amendments

A number of delegations including the Russian Federation and mostly Arab and Asian countries submitted amendments to the text tabled by the core group. Members of the Council voted separately on each of these amendments, in some cases changing the sense of the vote depending on the content of the amendment. This brought about a substantive debate on drug policy and revealed nuanced positions, as the examples below show. In future years, the drug policy movement would do well to build relationships with a broader and more diverse range of delegations in Geneva.

Vote on amendment L.50, seeking to remove the explicit support for harm reduction

A/HRC/52/L.50 - Amendment to A/HRC/52/L.22/Rev.1 (as orally revised)

ABST	ALGERIA	ABST	GABON	ABST	NEPAL
NO	ARGENTINA	NO	GAMBIA	YES	PAKISTAN
YES	BANGLADESH	NO	GEORGIA	NO	PARAGUAY
NO	BELGIUM	NO	GERMANY	YES	QATAR
ABST	BENIN	NO	HONDURAS	NO	ROMANIA
	BOLIVIA (PLURINATIONAL STATE OF)	ABST	INDIA	ABST	SENEGAL
ABST	CAMEROON	YES	KAZAKHSTAN	YES	SOMALIA
NO	CHILE	YES	KYRGYZSTAN	NO	SOUTH AFRICA
YES	CHINA	NO	LITHUANIA	YES	SUDAN
NO	COSTA RICA	NO	LUXEMBOURG	NO	UKRAINE
ABST	COTE D'IVOIRE	NO	MALAWI	YES	UNITED ARAB EMIRATES
YES	CUBA	ABST	MALAYSIA	NO	UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND
NO	CZECHIA	ABST	MALDIVES	NO	UNITED STATES OF AMERICA
YES	ERITREA	NO	MEXICO	YES	UZBEKISTAN
NO	FINLAND	NO	MONTENEGRO	YES	VIET NAM
NO	FRANCE	ABST	MOROCCO		

Vote on amendment L.59, seeking to introduce language on a 'society free of drug abuse'

A/HRC/52/L.59 - Amendment to A/HRC/52/L.22/Rev.1 (as orally revised and amended)

YES	ALGERIA	ABST	GABON	YES	NEPAL
NO	ARGENTINA	YES	GAMBIA	YES	PAKISTAN
YES	BANGLADESH	NO	GEORGIA	NO	PARAGUAY
NO	BELGIUM	NO	GERMANY	YES	QATAR
YES	BENIN	ABST	HONDURAS	NO	ROMANIA
YES	BOLIVIA (PLURINATIONAL STATE OF)	YES	INDIA	YES	SENEGAL
YES	CAMEROON	YES	KAZAKHSTAN	YES	SOMALIA
ABST	CHILE	YES	KYRGYZSTAN	NO	SOUTH AFRICA
YES	CHINA	NO	LITHUANIA	YES	SUDAN
NO	COSTA RICA	NO	LUXEMBOURG	NO	UKRAINE
YES	COTE D'IVOIRE	ABST	MALAWI	YES	UNITED ARAB EMIRATES
YES	CUBA	YES	MALAYSIA	NO	UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND
NO	CZECHIA	YES	MALDIVES	NO	UNITED STATES OF AMERICA
YES	ERITREA	NO	MEXICO	YES	UZBEKISTAN
NO	FINLAND	NO	MONTENEGRO	YES	VIET NAM
NO	FRANCE	YES	MOROCCO		

Vote on amendment L.60, seeking to eliminate the thematic intersessional panel

Welcome to the United Nations

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A/HRC/52/L.60 - Amendment to A/HRC/52/L.22/Rev.1 (as orally revised and amended)

YES	ALGERIA	ABST	GABON	ABST	NEPAL
NO	ARGENTINA	YES	GAMBIA	YES	PAKISTAN
YES	BANGLADESH	NO	GEORGIA	NO	PARAGUAY
NO	BELGIUM	NO	GERMANY	YES	QATAR
ABST	BENIN	NO	HONDURAS	NO	ROMANIA
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YES	CAMEROON	ABST	KAZAKHSTAN	YES	SOMALIA
NO	CHILE	ABST	KYRGYZSTAN	NO	SOUTH AFRICA
YES	CHINA	NO	LITHUANIA	YES	SUDAN
NO	COSTA RICA	NO	LUXEMBOURG	NO	UKRAINE
ABST	COTE d'IVOIRE	ABST	MALAWI	YES	UNITED ARAB EMIRATES
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NO	CZECHIA	YES	MALDIVES	NO	UNITED STATES OF AMERICA
YES	ERITREA	NO	MEXICO	ABST	UZBEKISTAN
NO	FINLAND	NO	MONTENEGRO	YES	VIET NAM
NO	FRANCE	YES	MOROCCO		

Acknowledgements

This advocacy note was drafted by Adria Cots Fernandez with comments and contributions from Ann Fordham and Marie Nougier.

Endnotes

- Available here: https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/52/L.22/Rev.1
- Available here: Commission on Narcotic Drugs (2019), Ministerial declaration on strengthening our actions at the national, regional and international levels to accelerate the implementation of our joint commitments to address and counter the world drug problem, https://www.unodc.org/documents/commissions/CND/2019/Ministerial_Declaration.pdf
- For more information, see the modalities resolution here: Commission on Narcotic Drugs (2023), Preparations for the midterm review to be held during the sixty-seventh session of the Commission on Narcotic Drugs, in 2024, E/CN.7/2023/L.2/Rev.1, <https://undocs.org/Home/Mobile?FinalSymbol=E%2FCN.7%2F2023%2FL.2%2FRev.1&Language=E&DeviceType=Desktop&LangRequested=False>
- Available here: Human Rights Council (July 2021), Resolution 47/14. Human rights in the context of HIV and AIDS, A/HRC/RES/47/14, <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2FRES%2F47%2F14&Language=E&DeviceType=Desktop&LangRequested=False>
- Available here: UN General Assembly (December 2022), Addressing and countering the world drug problem through a comprehensive, integrated and balanced approach, A/RES/77/238, <https://www.undocs.org/Home/Mobile?FinalSymbol=A%2FRES%2F77%2F238&Language=E&DeviceType=Desktop&LangRequested=False>
- See: Working Group on Arbitrary Detention (2021), Study on arbitrary detention relating to drug policies, A/HRC/47/40, <https://www.ohchr.org/en/calls-for-input/study-arbitrary-detention-relating-drug-policies>
- Available here: United Nations Human Rights Office of the High Commissioner, UNAIDS, World Health Organization, United Nations Development Programme & International Centre on Human Rights and Drug Policy (2019), International guidelines on human rights and drug policy, <https://www.humanrights-drugpolicy.org>
- See: Commission on Narcotic Drugs (March 2009), Political declaration and plan of action on international cooperation towards an integrated and balanced strategy to counter the world drug problem, https://www.unodc.org/documents/drug-prevention-and-treatment/High-level_segment_Commission_on_Narcotic_Drugs_11-12_March_2209.pdf
- Available here: Human Rights Council (2018), Contribution to the implementation of the joint commitment to effectively addressing and countering the world drug problem with regard to human rights, A/HRC/RES/37/42, https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/37/42

About this advocacy note

In this advocacy note, IDPC highlights the major gains from the adoption of the Human Rights Council resolution on human rights and drugs in April 2023, and its implications for UN drug policy processes going forward.

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About IDPC

The International Drug Policy Consortium is a global network of NGOs that come together to promote drug policies that advance social justice and human rights. IDPC's mission is to amplify and strengthen a diverse global movement to repair the harms caused by punitive drug policies, and to promote just responses.

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Report design by Mathew Birch - mathew@mathewbirch.com

Funded, in part, by:



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