

International Drug Control and Human Right-The Laws, the Rhetoric, and the Policies

Part I-The Too Great Expectations or Knocking at the wrong door? The Office of the High Commissioner for Human Rights

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Summary

Human rights language has become a commonplace occurrence of the political and legal discourses, a *lingua franca* used for diverse purposes from “expressing the most basic demands of justice”¹ to paradoxical ends like contesting moral. An inherent question is if the overuse of the human rights language by activists, politicians, media, and sometimes legal professionals is counting on the apparent indeterminacy of an otherwise quite well-defined legal concept. Overwhelmed by the multitude of issues presented as human rights, one might ask what exactly are human rights? If clarification is searched in dictionaries, the definitions encountered there are describing human rights as “basic rights...”² or “Rights possessed by humans; The set of entitlements held to belong to every person as a condition of being human”.³ As such descriptions are more confusing than illuminating, not to mention that human rights in their contemporary denotation are not just entitlements, one might resort for clarification to the most visible and natural authorities in the domain, namely the UN. More specifically, the most credible sources of explanations should be the Office of the High Commissioner for Human Rights (OHCHR), the UN human rights treaty-based bodies and the Charter-based bodies.

The substantial question is how to react and where to search for further elucidation in relation to human rights provisions, their interpretation, their implementation, and their application to other legal regimes, when some of the perceived highest authorities have assumed agendas and positions contradicting the foundational UN documents and their own mandates. How to proceed if these sources’ jurisprudence and communications contain obvious legal and logical errors? How to implement recommendations conflicting with the conventions defining the human rights legal framework and with the basic principles of international law?

As such errors and paradoxical situations became routine in the involvement of various UN human rights entities in international control matters, we decided to identify and ask the sources, the UN human rights entities, which is the mechanism behind their recent but long-overdue involvement with drug control matters? We also wanted to find out what is the logic behind their recommendations in Concluding Observations, their documents and their statements issued in relation to the international drug control regime. For these purposes, we invited the Chairs or the focal points on drug control for a set of interviews.

The object of this report is the Office of the High Commissioner for Human Rights (OHCHR), the leading and the most visible UN entity on human rights. OHCHR has lately been the most active, and the most vocal UN human rights participant of the drug control debate. The perplexing OHCHR present crusade towards so-called “transformative approach”⁴ or “responsible regulation,”⁵ some

¹ Tasioulas, J. (2017). Are human rights anything more than legal conventions? Aeon Media Group Ltd. <https://aeon.co/ideas/are-human-rights-anything-more-than-legal-conventions>

² <https://dictionary.cambridge.org/dictionary/english/human-rights>

³ <https://www.oed.com/search/advanced/Meanings?textTermText0=human+rights&textTermOpt0=WordPhrase>

⁴ OHCH, HC Türk on “The international pursuit of sensible regulation of drugs”, 04 December 2024

<https://www.ohchr.org/en/statements-and-speeches/2024/12/hc-turk-international-pursuit-sensible-regulation-drugs>

⁵ Statements Office of the High Commissioner for Human Rights , *Drug policies will be more effective with a human rights approach*, Türk says 22 November 2023, Delivered by Volker Türk, UN High Commissioner for Human Rights at 8th Brandenburg Forum on Drugs and Development Policies,

undefined and unexplained solutions requiring by default the demolition of the international drug control regime, came after almost three decades of High Commissioner's apathy or at best and post 2009, sketchy interventions in the area of drug control. As the present OHCHR campaign contradicts legal, procedural, and common logic, we tried to find out which are the sources of these positions by asking the OHCHR itself and by trying to connect the existent dots.

This report tries to answer how the High Commissioner went from "*impartial, objective, non-selective and effective performance of the duties*"⁶ and the requirements to "*Function within the framework of the Charter of the United Nations, the Universal Declaration of Human Rights, other international instruments of human rights and international law*"⁷ to representing partisan interest and functioning against the spirit of the UN Charter, of other basic UN documents, of the human rights and international law and of some fundamental legal principles.

The present report is less about the relation between the international human rights and drug control *per se* and is more concerned more with basic international legal principles and concepts such as accountability, transparency and legitimacy within the UN and its components which are essential for the overall international legal architecture.

Project description

In an era where fact-checking is abandoned under the pretext of public's own interest, we⁸ decided to go against this grain and verify with their sources several positions, treaty bodies jurisprudence, and public statements issued by a number of United Nations (UN) entities in relation to nexus between the international human rights and drug control regimes. The first stage of this project deals with some of the relevant UN's human rights entities.

Based on the intention to offer our readership the most objective perspective, filtered through the least of our subjective interpretation, we tried to identify the focal points on drug policy of three UN entities and invite them for interviews. We selected, for the first stage of this project, the UN human rights entities that have got involved the most into the recent drug control debate, or the ones that, due to their mandates are of greatest relevance for the subject. On this background, we approached the Office of the High Commissioner for Human Rights (OHCHR), the Committee on the Rights of the Child (CRC Committee) and the Committee on Economic, Social and Cultural Rights (CESCR Committee).

We decided for the friendliest possible format for the interviewee that could optimise the chances that the representatives of these offices or bodies will answer our questions. We proposed a set of maximum ten questions which were sent in written form. The chosen format allowed for consultation and reflection, and we offered the interviewees the time they needed. The questions were focused on the mandate of each entity, on procedural matters, and, if applicable, on certain provisions stipulated by the instrument they monitor, and on the Concluding Observations and recommendations issued in the context of States Parties' Reports. The questions also referred to these three entities' relation to other UN bodies, and to statements they issued in relation to drug control related matters. We even offered to change a maximum of

<https://idpc.net/news/2023/11/drug-policies-will-be-more-effective-with-a-human-rights-approach-un-human-rights-chief-says>

See also *On drugs, Türk calls for human rights based policy, not repression*, Video message by Volker Türk, UN High Commissioner for Human Rights At International Drug Policy Reform Conference, Phoenix, Arizona, 19 October 2023.

<https://www.ohchr.org/en/statements-and-speeches/2023/10/drugs-turk-calls-human-rights-based-policy-not-repression>

⁶ RESOLUTION ADOPTED BY THE GENERAL ASSEMBLY [on the report of the Third Committee (A/48/632/Add.4)] 48/141. High Commissioner for the promotion and protection of all human rights, January 1994. and

https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/a_res_48_141.pdf

⁷ Ibid.

⁸ "We" stands for Roxana Stere- human rights and drug control researcher and project manager, Peter Moilanen, Head of Drug Policy Centre in Sweden (NPC) and Regina Mattsson, Secretary General of World Federation Against Drugs (WFAD). However, the views expressed in this article are of the author.

two questions if the subject matter was considered too complicated, too controversial, or uncomfortable.

The first part of the assessment of the interviewing process discusses the overall involvement of the UN into drug control and human rights relation and, the recently, most active, and most vocal of the three human rights entities, the Office of the High Commissioner for Human Rights (OHCHR).

When formulating the questions, consideration was given, among others, to the founding document of the United Nations, namely the UN Charter and to the *Repertory of Practice of United Nations Organs*. Other relevant instruments as the Universal Declaration of Human Rights, the treaties and optional protocols defining the legal frameworks of the international human rights and drug control, and the mandates of the respective UN human rights entities were taken into account. Furthermore, of relevance were considered the principle of *pacta sunt servanda*⁹ and the treaty interpretation rules as codified by Vienna Convention on the Law of the Treaties (VCLT), basic principles of international law as the rule of law,¹⁰ and the interlinked concepts such as legitimacy, institutional/organizational transparency, and accountability¹¹ as defined and promoted by the UN.

The questions sent to the OHCHR for approval are attached *in verbatim* in the Annex.

The Project's justification- The not so "parallel universes"

Human rights and drug control regimes influence almost all aspects of human existence. The two areas of international law's aims partly coincide in their attempt to protect people's health/wellbeing and welfare. The two regimes have multiple intersection points. Both are provided by the same UN Charter articles, namely Article 1 and Articles 55 and 56,¹² and that both regimes fall under the

⁹ The principle of *pacta sunt servanda*, translated as "agreements must be kept", *according to...* is arguably the oldest principle of international law. Without such a rule, no international agreement would be binding or enforceable. *Pacta sunt servanda* is directly referred to in many international agreements governing treaties, including the Vienna Convention on the Law of the treaties (VCLT) Art 26. <https://www.britannica.com/topic/pacta-sunt-servanda>

Few rules for the ordering of Society have such a deep moral and religious influence as the principle of the sanctity of contracts As codified by Article 26. "PACTA SUNT SERVANDA" Every treaty in force is binding upon the parties to it and must be performed by them in good faith.

<https://treaties.un.org/doc/publication/unts/volume%201155/volume-1155-i-18232-english.pdf>

¹⁰ "For the United Nations (UN) system, the rule of law is a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires measures to ensure adherence to the principles of supremacy of the law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness, and procedural and legal transparency.

The rule of law is fundamental to international peace and security and political stability; to achieve economic and social progress and development; and to protect people's rights and fundamental freedoms. "United Nations and the Rule of Law. *What is the Rule of Law?*"

<https://www.un.org/ruleoflaw/what-is-the-rule-of-law/>

¹¹ "Accountability is the obligation of the Secretariat and its staff members to be answerable for all decisions made and actions taken by them, and to be responsible for honouring their commitments, without qualification or exception. Accountability includes achieving objectives and high-quality results in a timely and cost-effective manner, in fully implementing and delivering on all mandates to the Secretariat approved by the United Nations intergovernmental bodies and other subsidiary organs established by them in compliance with all resolutions, regulations, rules and ethical standards; truthful, objective, accurate and timely reporting on performance results; responsible stewardship of funds and resources; all aspects of performance, including a clearly defined system of rewards and sanctions; and with due recognition to the important role of the oversight bodies and in full compliance with accepted recommendations." Accountability frameworks in the United Nations system, JIU/REP/2011/5, M. Mounir Zahran Joint Inspection Unit, Geneva 2011.

https://www.unjiu.org/sites/www.unjiu.org/files/jiu_document_files/products/en/reports-notes/JIU%20Products/JIU_REP_2011_5_English.pdf

According to UNSG António Guterres, (the ninth Secretary-General of the United Nations, took office on 1st January 2017) "Accountability is an end in itself, because it fosters transparency, improves results, and holds our institutions to agreed standards and commitments."

<https://open.un.org/>.

¹² Drug control falls under the international economic, social, health, and related problems, Chapter IX: International Economic and Social Cooperation of the UN Charter.

mandate of same UN entities, the General Assembly and the Economic and Social Council (ECOSOC).¹³ The instruments which define the international human rights and international drug control legal frameworks are monitored by similarly functioning treaty or quasi-judicial expert bodies. Most of human rights and drug control treaties were developed and adopted under the auspices of the UN during the same three decades, the 1960s, the '70s and the '80s.¹⁴ On this background, it is expected that the two regimes synergism has been an inevitable fact.

The UN has a clear mandate on making "recommendations for the co-ordination of the policies and activities of the specialized agencies"¹⁵ under Chapter IX UN Charter.¹⁶ Chapter IX includes Articles 55 and 56 and covers among others human rights and the international economic, social, health, and related problems that drug control belongs to. Again, this specific authority raises one's expectations in relation to an extensive co-ordination effort on the UN side. Such symbiosis among the UN system's components and such an UN endeavour would undeniably benefit us "the people of United Nations."¹⁷ These would certainly aid both regimes' apparatuses in providing appropriate interpretation and implementation recommendations to their States Parties and in producing legally coherent approaches that would facilitate mutual compliance with both regimes.

Regrettably, the reality is a far cry from these or any expectations and from the vision expressed in the UN founding document.¹⁸ The bare truth is that the two international legal regimes and their respective UN machineries hardly interacted. Their lack of involvement, and the absence of the UN coordination, led to their description as "parallel universes".¹⁹ This leitmotif of the drug control reform literature is used to describe and decry the situation. The "parallel universes" metaphor is further employed to suggest that this estranged inter-regime dynamic is unique and distinctive only to the relation of international drug control and human rights, and to conclude the inappropriateness of the former. Some authors associated with the drug policy reform went even further than hinting towards an institutional detachment of the two legal areas and they pointed out to fundamental contradictions and normative conflicts between the two regimes on grounds of their inherent distinctive natures.²⁰

However, it is critical to note that the claimed normative conflict assessed by the drug control reform affiliated authors evades any legal definition used in international law to describe or identify a normative conflict. Moreover, it should also be mentioned that there is no provision in the three UN

¹³ Responsibility for the discharge of the functions of the Organization set forth in Chapter IX „shall be vested in the General Assembly and, under the authority of the General Assembly, in the Economic and Social Council.“ Article 60, Chapter IX: International Economic and Social Cooperation of the UN Charter.

¹⁴ The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, was adopted two years after the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988, in December 1990, the Convention on the Rights of Persons with Disabilities was adopted in December 2006, and the International Convention for the Protection of All Persons from Enforced Disappearance was also adopted in December 2006.
<https://www.ohchr.org/en/instruments-listings>

¹⁵ Article 58 UN Charter.

¹⁶ United Nations Charter, Chapter IX: International Economic and Social Cooperation.

¹⁷ The preamble of the Charter of the UN states "We the people of UN determine to..."

As Kofi A. Annan stated, "For even though the United Nations is an organization of states, the Charter is written in the name of "we the peoples". It reaffirms the dignity and worth of the human person, respect for human rights and the equal rights of men and women, and a commitment to social progress as measured by better standards of life, in freedom from want and fear alike. Ultimately, then, the United Nations exists for, and must serve, the needs and hopes of people everywhere." Kofi A. Annan, Secretary-General of the United Nations, *We the Peoples of United Nations. The Role of the United Nations in the 21st Century*. 2000 United Nations

¹⁸ "The Charter of the United Nations is the founding document of the United Nations. It was signed on 26 June 1945, in San Francisco, at the conclusion of the United Nations Conference on International Organization and came into force on 24 October 1945. The United Nations can take action on a wide variety of issues due to its unique international character and the powers vested in its Charter, which is considered an international treaty. As such, the UN Charter is an instrument of international law, and UN Member States are bound by it. The UN Charter codifies the major principles of international relations, from sovereign equality of States to the prohibition of the use of force in international relations.

Since the UN's founding in 1945, the mission and work of the Organization have been guided by the purposes and principles contained in its founding Charter, which has been [amended three times](#) in 1963, 1965, and 1973."

<https://www.un.org/en/about-us/un-charter>

It should be noted that none of the three amendments altered or modified the provisions relevant for the present discussion.

¹⁹ Paul Hunt, *Human Rights, Health and Harm Reduction: States' Amnesia and Parallel Universes*, International Harm Reduction Association (2008), <https://www.hr-dp.org/contents/952>

²⁰ Roxana Stere, *Throwing Everybody Including the Child Out with the Bathwater*. The demise of consent and rule of law in the quest for transformative changes in drug control, 2023.

<https://www.fmr.no/aa-kaste-barnet-ut-med-badevannet.6638631-605588.html>

drug conventions that precludes such inter-regimes cooperation, or impede the UN coordination, on the contrary. Furthermore, the UN human rights treaties literally encourage such synergies meant to foster the effective implementation of the respective instruments, e.g., Article 45 of the Convention on the Rights of the Child, Article 22 of the International Covenant on Economic, Social and Cultural Rights, etc. And finally, despite the progress made in few areas, the human rights informed legal frameworks, policies and programmes are rather isolated incidents than a norm in many fields falling under UN's mandate.

The stark truth is that the somehow recent interest in the drug control-human rights regimes cooperation, or the lack of it, did not originate within the UN system but rather, it was initiated and mainly pursued by a, originally, small number of civil society organisations (NGOs) engaged in drug policy reform. Since the purposes of these NGOs have been either decriminalization of illicit drug possession/use or legalization/regulation of controlled substances, expressed directly or in more subtle forms, and as such aspirations initially seemed rather difficult to accomplish if the legally established paths are followed, these organizations gradually resorted to the trump card of international political discourse, namely the human rights language. Ultimately, the reformist NGOs constructed a discourse that became more and more confusing and increasingly reliant on human rights language and undefine terminology. A normative conflict was declared between the two legal regimes and the prevalence of the human rights language was proclaimed. This article is not going to elaborate, due to editorial space, on how unsubstantiated the normative conflict or the prevalence of the human rights language claims are. However, it should be noted that there is a fundamental difference between human rights law and human rights language. The first is limited to the core legal instruments adopted and accepted, approved, or ratified.²¹ The latter belongs to political rhetoric and the wishes, dreams and aspirations listing realms. Even the prevalence of human rights law over other regimes, that some scholars and activists claim, is unfortunately difficult to demonstrate in the context of the UN Charter.

It is undeniable that these drug control reform NGOs' campaigns have been successful and their persistence eventually has paid off. Most of this triumph has relied on the ability of the reformist organizations' discursive construct to induce guilt by association and to use it as a bullying tool. However, the contribution of UN complacency to this NGO's success and its vulnerability to the bullying campaigns should not be underestimated. The reformist civil society's multi layered wrapped arguments resorting on human rights language and their black-and-white thinking and communication allow no critical evaluation or alternative view. This is obvious on the way these NGOs describe and present their agenda aimed at establishing a right to use illicit substance versus any version of drug control. The language and terms used often leaves almost no choice. In the attempt to challenge or reveal certain inaccuracies in the narrative of these reformist NGOs, one thinks twice at assuming such an endeavour. Once assumed, the author of such attempt feels defensive and prone to restate and reconfirm the fact that a different position does not automatically involve any support or tolerance for human rights abuses, or lack of human rights concerns.

Another peculiarity of this new field of drug control and human rights is that if the subject at stake is international legal regimes' interactions within the UN system, the activity of a certain segment of the civil society should not feature so prominently as it ends up being the case in the nexus between human rights and drug control. NGOs' accountability has always been a controversial topic, and it is not making the subject of the present discussion. Ultimately, civil society organizations are accountable only to their sponsors, to their members' conscience, and to the public opprobrium, and therefore they can use whatever communication strategy they wish to engage in achieving their goals. This statement is not meant to minimize the invaluable contribution of many grassroots support and civil society organizations to society, to the human rights agenda and to the overall UN structure but indicates a simple fact that cannot be overlooked. As for the UN, the concept of accountability should,

²¹ See OHCHR, International Human Rights Law. <https://www.ohchr.org/en/instruments-and-mechanisms/international-human-rights-law>

theoretically, have different connotations and consequences. However, in the international drug control-human rights connexion case the relation between the civil society and the UN became something resembling subservience in favour of the former. Consequently, this component of the equation, the drug control reformist NGOs, is almost impossible to circumvent.

The bitter truth is that due to the above mentioned “parallelism”, or more precisely in the absence of substantial operational or systematic conceptual interactions between the international drug control and human rights regimes, the UN developed no “in house” expertise or knowledge capable of dealing with both areas. Confronted with the drastic choice of being either against drug control or against human rights, and under the threat of revealing its complicity to “the most grotesque of abuses,”²² practiced by some States in the name of drug control, the UN panicked! In a fight or flight response, some UN entities gradually swallowed most of the reformist civil society’s logic, arguments, and their communication strategy undigested. Consequently, these UN entities start relying exclusively on the NGOs’ expertise and authorship when discussing drug control related matters.

Of course, this is an oversimplification. Some of the way of the reformist civil society organizations to the heart and the mind of the UN has been paved by the special procedures of the Human Rights Council, notably the Special Rapporteurs on the right to health from Paul Hunt to the present mandate holder²³, via Anand Grover²⁴ who issued the first report that put *mot a mot* the reformist civil society’s logic and arguments into a UN document.²⁵

All roads lead to University of Essex

Repressing some of its foundational instruments and abandoning some of its solemn pledges stated in relation to the very relation of the human rights and drug control in archives, the UN moved from the General Assembly’s annually reiterated mantra: “*Countering the world drug problem must be carried out in particular, with full respect for and for all human rights and fundamental freedoms*”, and insertions of CRC Article 33 verbatim text,²⁶ without further explanations, with the notable exception of the Human Rights Committee’s clarification that the death penalty can only be applied to the “*most serious crimes*” and that *drug-related offences do not meet the threshold of “most serious crimes,”*²⁷ and a few less remarkable exceptions,²⁸ to the 2009 High Commissioner Navy Pillay’s statement focused on illicit drug users and the undefined concept of “harm reduction.”²⁹ The UNODC’s 2008 Executive Director Report “*Making drug control ‘fit for purpose’: Building on the UNGASS*

²² See for example Barrett, *The war on drugs: A human rights indictment*, Keynote speech delivered at the Mexico City Human Rights Commission, ‘International Forum on Drugs and Human Rights’, 7-9 August 2013. Damon Barrett Deputy Director, Harm Reduction International Director, International Centre on Human Rights and Drug Policy
https://www.academia.edu/10669664/The_war_on_drugs_A_human_rights_indictment_Keynote_speech_delivered_at_the_Mexico_City_Human_Rights_Commission_International_Forum_on_Drugs_and_Human_Rights_7_9_August_2013?email_work_card=view-paper.

²³ At present the Special Rapporteurs on the right to health is Tlaleng Mofokeng.

<https://www.ohchr.org/en/special-procedures/sr-health/tlaleng-mofokeng>

²⁴ Anand Grover, Human rights activist, former UN Special Rapporteur on the Right to Health and Senior Advocate, Supreme Court of India, at present commissioner of The Global Commission on Drug Policy.

<http://www.globalcommissionondrugs.org/commissioner/anand-grover>

See also Robert DuPont and Roxana Stere, *The UN Health Rapporteur’s Shocking New Clothes*, 2011.

<https://wfad.se/latest-news/articles/the-un-health-rapporteurs-shocking-new-clothes/>

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

<https://www.hr-dp.org/contents/122>

²⁶ See for example A/RES/67/193 Resolution adopted by the General Assembly 67/193. International cooperation against the world drug problem 23 April 2013, https://www.unodc.org/documents/commissions/CND/Drug_Resolutions/2010-2019/2012/GA_Res-67-193.pdf

²⁷ CCPR/C/GC/36, Human Rights Committee General Comment No. 36 Article 6: Right to life, para 35.

²⁸ Stephan Dahlgren and Roxana Stere, *The Protection of Children from Illicit Drugs – A Minimum Human Rights Standard*, Chapter 3, Fri Forlag, Sweden, May 2012.

<https://www.wfad.se/images/articles/Protectionfromdrugs2012.pdf>

See also Roxana Stere, *Throwing Everybody Including the Child Out with the Bathwater*. The demise of consent and rule of law in the quest for transformative changes in drug control, 2023.

<https://www.fmr.no/aa-kaste-barnet-ut-med-badevannet.6638631-605588.html>

²⁹ OHCHR, *UN human rights chief calls for international drugs policy to include focus on human rights and harm reduction*, 10 March 2009.
<https://www.ohchr.org/en/press-releases/2009/10/un-human-rights-chief-calls-international-drugs-policy-include-focus-human>

*decade*³⁰ was probably the first of the UN's penitential exercises³¹ and the initial entry point for legal inaccuracies into UN documents.³²

The preparation process for UNGASS 2016 stimulated a new momentum and several UN human rights entities eventually became involved with drug control matters.³³ A somewhat similar awakening can be seen among several human rights treaty bodies in their Concluding Observations on States Parties Reports. The UN treaty bodies involvement will be discussed in separate reports.

In normal circumstances such an implication should be considered instrumental. Nevertheless, the dependence the UN developed on the reformist civil society expertise became toxic. This trend was already obvious 15 years ago,³⁴ and it accelerated recently. It is easily traceable in the way the UN's entities discourse is constructed in terms of legal logic, communication strategy, and more recently conclusions. Where the UN's complicity with human rights abused committed in the name of drug control is not necessarily fictional, as it is the case of UN complacency, the result of the recent UN's entities engagement into human rights and drug control and the conclusions drawn are the surprising element. These conclusions are astonishing taking in consideration basic principles and procedures of international law and the mandates of the UN itself and of the various UN entities involved.

A notorious example is the case of the International Guidelines on Human Rights and Drug Policy, hereafter the Guidelines, launched in 2019³⁵ and published with the logo of three UN entities, namely Joint United Nations Programme on HIV/AIDS (UNAIDS), the United Nations Development Programme (UNDP), the World Health Organization (WHO). The document also carries the logo of the International Centre for Human Rights and Drug Policy (HRDP).³⁶ HRDP is a branching of Harm Reduction International,³⁷ that "has made its home at the Human Rights Centre at the University of Essex."³⁸ As stated on its website, "*The work of the HRDP is generously supported by the Open Society Foundation's Global Drug Policy Programme.*"³⁹ The Guidelines were developed without any

³⁰ *Making drug control 'fit for purpose': Building on the UNGASS decade Report* by the Executive Director of the United Nations Office on Drugs and Crime as a contribution to the review of the twentieth special session of the General Assembly, E/CN.7/2008/CRP.17, May 2008, https://www.unodc.org/documents/commissions/CND/CND_Sessions/CND_51/1_CRPs/E-CN7-2008-CRP17_E.pdf

³¹ A possible question is if the author of this report could be Steven Malby who I met in 2009 in his capacity of human rights focal point of UNODC. At present, Malby is also associated with the University of Essex.

<https://www.essex.ac.uk/people/MALBY82603/Steven-Malby>

³² Stephan Dahlgren and Roxana Stere, *The Protection of Children from Illicit Drugs – A Minimum Human Rights Standard*, Chapter 3, Fri Forlag, Sweden, May 2012, p.70.

<https://www.wfad.se/images/articles/Protectionfromdrugs2012.pdf>

³³ The positions considered in this article are the following: the statement by Navi Pillay, the High Commissioner for Human Rights in Vienna 2014 in the context of the preparation process for UNGASS 2016, Human Rights Council resolution A/HRC/28/28 of 2015 and the subsequent study prepared by the Office of the High Commissioner for Human Rights (OHCHR) A/HRC/30/65 presented at the thirtieth session of the Human Rights Council in 2015, Human Rights Council resolution A/HRC/RES/37/42 of 2018, the International Guidelines on Human Rights and Drug Policy issued in 2019, the more recent call of the High Commissioner for Human Rights for "*transformative changes*" in his speech at the Commission on Narcotic Drugs 2023; the UN experts call for end to the global 'war on drugs' 2023; the Human Rights Council resolution A/HRC/RES/52/24 of 2023, and its following OHCHR Report A/HRC/54/53 Human rights challenges in addressing and countering all aspects of the world drug problem and the public statements and involvements of HC Volker Türk with international drug control matters, etc. .

³⁴ S. Dahlgren and R. Stere, *The Protection of Children from Illicit Drugs – A Minimum Human Rights Standard*, Chapter 3, Fri Forlag, Sweden, May 2012.

<https://www.wfad.se/images/articles/Protectionfromdrugs2012.pdf>

³⁵ The Guidelines were launched at the United Nations Commission on Narcotic Drugs (CND) in Vienna

https://www.unaids.org/en/resources/presscentre/pressreleaseandstatementarchive/2019/march/20190315_guidelines-human-rights-drug-policy.

³⁶ "Established in 2009, the International Centre on Human Rights and Drug Policy (HRDP) is dedicated to developing and promoting innovative and high quality legal and human rights [research](#) and [teaching](#) on issues related to drug laws, policy and enforcement. Since 2011, the HRDP has made its home at the [Human Rights Centre](#) at the University of Essex.... Outside of University of Essex, the HRDP team delivers teaching at National University of Ireland, Galway, the University of Vienna, Stockholm University, and the University of Gothenburg. This teaching is done across law, human rights, social work and medical programmes. New teaching partnerships have also been forged with the Rene Cassin Institute and Bangor University."

<https://www.hr-dp.org/about>

³⁷ Previously the International Harm Reduction Association.

³⁸ International Centre on Human Rights and Drug Policy

<https://www.essex.ac.uk/research-projects/international-centre-on-human-rights-and-drug-policy>

³⁹ International Centre on Human Rights and Drug Policy (HRDP). About the Centre.

<https://www.hr-dp.org/about>

democratic representation of States Parties of NGOs, or of the academic expertise' positions. The Guidelines contain a disclaimer stating that "The views expressed in this publication do not necessarily represent those of the United Nations, including the Joint United Nations Programme on HIV/AIDS (UNAIDS), the United Nations Development Programme (UNDP), the World Health Organization (WHO), or their Member States."⁴⁰ However, they are presented as "a worldwide innovation in that they define human rights obligations in drug policies. They provide governments, UN agencies, development actors and civil society with information on how to implement drug policies that are in line with human rights in the areas of health, development, and criminal justice. The Guidelines are not legally binding but are intended to provide guidance."⁴¹ This statement, as is the case with the actors that proliferate this document, do not specifying that these Guidelines promote a certain agenda, proliferate a human rights language that do not necessarily reflect human rights law, and "represent a model based on" selective quotation of international law. However, the UN entities that put their logo/blessing on it and the OHCHR promote these Guidelines in their documents⁴² and officials' public positions advising States Parties⁴³ to guide their policies based on this document. The even more dangerous pattern is that this document having no legal force is becoming gradually jurisprudential.⁴⁴

However, this is not the only jurisprudential intrusion these reformist civil society organizations. The aim to produce jurisprudence and, eventually, subsequent state practice became a *modus operandi* of these drug control reform agenda. It is also worth noting that the authorship, the same "leading human rights experts", involved with the Guidelines is the same as the University of Essex's International Centre on Human Rights and Drug Policy that "*worked with the Committee on Economic, Social, and Cultural Rights to develop their assessment of States compliance with the International Convention on Economic Social and Cultural Rights throughout the reporting period. Critically, the Committee used the work produced by the HRDP to engage the governments.*"⁴⁵ HRDP

⁴⁰ <https://www.undp.org/publications/international-guidelines-human-rights-and-drug-policy>

⁴¹ Global Partnership on Drug Policies and Development (GDPDP), Achievements after two years of the International Guidelines on Human Rights and Drug Policy,

<https://www.gdpdp.org/en/drug-policy/human-rights-and-drug-policy/achievements-after-two-years-of-the-international-guidelines-on-human-rights-and-drug-policy>

⁴² See OHCHR and UNDP- "A milestone was reached in Albania in April 2021. Using concrete legal cases, local judges learned how to integrate the International Guidelines on Human Rights and Drug Policy into their daily work. The training, organised by the University of Essex, the UNDP, the Forum of Women Judges in Albania, and the GDPDP on behalf of the German Federal Ministry for Economic Cooperation and Development (BMZ), was the first of its kind. Similar training courses are planned for other regions and contexts.

<https://www.gdpdp.org/en/drug-policy/human-rights-and-drug-policy/achievements-after-two-years-of-the-international-guidelines-on-human-rights-and-drug-policy>

⁴³ Global Partnership on Drug Policies and Development (GDPDP), Achievements after two years of the International Guidelines on Human Rights and Drug Policy, Numerous institutions now welcome or cite the International Guidelines on Human Rights and Drug Policy, including the [Parliamentary Assembly of the Council of Europe](#) and the [UN High Commissioner for Human Rights](#). In addition, the Guidelines will be presented to the [UN Committee against Torture](#) and the [UN Committee on Economic, Social and Cultural Rights](#) in 2021.

<https://www.gdpdp.org/en/drug-policy/human-rights-and-drug-policy/achievements-after-two-years-of-the-international-guidelines-on-human-rights-and-drug-policy>

⁴⁴Global Partnership on Drug Policies and Development (GDPDP), *Achievements after two years of the International Guidelines on Human Rights and Drug Policy*, "A milestone was reached in Albania in April 2021. Using concrete legal cases, local judges learned how to integrate the International Guidelines on Human Rights and Drug Policy into their daily work. The training, organised by the University of Essex, the UNDP, the Forum of Women Judges in Albania, and the GDPDP on behalf of the German Federal Ministry for Economic Cooperation and Development (BMZ), was the first of its kind. Similar training courses are planned for other regions and contexts.

The Constitutional Court in Colombia cited the International Guidelines on Human Rights and Drug Policy in two rulings on drug use (June 2019) and the use of glyphosate to destroy illicit drug crops (February 2020): In the first case, the court referred to the need to better reconcile international human rights standards and obligations to combat drug use and organised crime. In the second case, reference was made to the paradigm shift in international drug policy brought by [UNGASS 2016](#) (United Nations General Assembly Special Session on the World Drug Problem 2016). The court cited the Guidelines to point out the link between the protection of human rights and the environment in the fight against illicit drug crop cultivation."

<https://www.gdpdp.org/en/drug-policy/human-rights-and-drug-policy/achievements-after-two-years-of-the-international-guidelines-on-human-rights-and-drug-policy>

⁴⁵ "Critically, the Committee used the work produced by the HRDP to engage the governments of the Philippines, Australia, and the Russian Federation on issues related to drug control. During the reporting period, the Committee made its first public recommendation for decriminalization as a means to fulfil obligations under the Covenant. This follows the Committee's earlier recommendation on decriminalization to Mauritius, making the recommendation far more explicit."

<https://www.essex.ac.uk/research-projects/international-centre-on-human-rights-and-drug-policy>

Co-Director Damien Barrett,⁴⁶ “engaged in a constructive dialogue with the Committee on the Rights of the Child. The HRDP hosted a roundtable with the (entire) Committee in Geneva in March 2017, which raised the need for the Committee to adopt a more critical approach to drug laws and policies and highlighted the need for careful attention to Canada’s report following the legalisation of cannabis.”⁴⁷ The relation between the University of Essex’s experts and the two human rights monitoring bodies is the subject of our next reports.

As nobody wants to lose their trumping card, the drug control reformist camp built, as soon as the UN was bullied into compliance, a narrative that washes out any culpability of the UN human rights apparatus while demonizing the drug control. Roughly, the international drug control-human rights story as narrated by the reformist camp and as assumed and proliferated by some of the UN entities, reminds us of the *Sleeping Beauty* fairy tale. In this fantasy, the human rights machinery fell asleep for several decades under a malignant spell of the drug control and it was set back in motion, whiter than snow, by the reformist faction of the civil society’s kiss. As fairy tales are not created with the purpose of reflecting reality but “sparking imagination”⁴⁸ and teaching a moral, this particular fairy tale does not inspire credibility, might spark some imagination, and might project an undesirable moral for the rule of law, for the international law structure, and for the society at large.

The Office of the High Commissioner for Human Rights (OHCHR). Laws, mandates, and other “details”

The Office of the High Commissioner for Human Rights (OHCHR) is the leading and most visible UN entity on human rights. It is also the UN entity that has grown most involved in the drug control debate since 2009. The OHCHR is one of the most activistic UN entity in promoting the *de facto* demolition of the international drug control legal framework and its structure, by advocating for so-called “transformative approach”⁴⁹ or “responsible regulation.”⁵⁰ It is worth noting that the High Commissioner’s mandate does not stipulate either restructuring of international legal architecture or the type of activism that OHCHR got involved in. Amendments of, termination of, withdrawal from or suspending the operation of a treaty, or eventually the tearing down of certain legal regimes, are attributes of the Parties to the treaties involved by the respective regime and should follow certain legal procedures.⁵¹ UN’s activism is expected to be more constructive and related to calls “upon Member States to accelerate action to ratify and implement international and regional conventions, and implement laws.”⁵² The inappropriateness of the OHCHR’s interventions in relation to drug

⁴⁶ Same as Damon Barrett of International Harm Reduction Association, today’s Harm Reduction International.

<https://www.theguardian.com/profile/damon-barrett>

⁴⁷ International Centre on Human Rights and Drug Policy (HRDP), work with the UN Committees.

<https://www.essex.ac.uk/research-projects/international-centre-on-human-rights-and-drug-policy>

⁴⁸ The Importance of Fairy Tales to Preschool Development

<https://www.fairfaxcounty.gov/library/branch-out/importance-fairy-tales-preschool-development>

⁴⁹ OHCHR, HC Türk on “The international pursuit of sensible regulation of drugs”, 04 December 2024

<https://www.ohchr.org/en/statements-and-speeches/2024/12/hc-turk-international-pursuit-sensible-regulation-drugs>

⁵⁰ Statements Office of the High Commissioner for Human Rights, *Drug policies will be more effective with a human rights approach*, Türk says 22 November 2023, Delivered by Volker Türk, UN High Commissioner for Human Rights At

8th Brandenburg Forum on Drugs and Development Policies, Statement delivered by Volker Türk, UN High Commissioner for Human

Rights at the 8th Brandenburg Forum on Drugs and Development Policies, organised by the Global Partnership on Drug Policies and

Development (GPDPD) (commissioned by the German Federal Ministry for Economic Cooperation and Development - BMZ, and

implemented under political patronage of the Commissioner of the Federal Government for Drug and Addiction Policy) and co-hosted by the Government of the Netherlands, the Norwegian Ministry of Health and Care Services, the Transnational Institute (TNI), and the International Drug Policy Consortium (IDPC).

<https://idpc.net/news/2023/11/drug-policies-will-be-more-effective-with-a-human-rights-approach-un-human-rights-chief-says>

See also OHCHR, *On drugs, Türk calls for human rights based policy, not repression*, Video message by Volker Türk, UN High Commissioner for Human Rights At International Drug Policy Reform Conference, Phoenix, Arizona, 19 October 2023.

<https://www.ohchr.org/en/statements-and-speeches/2023/10/drugs-turk-calls-human-rights-based-policy-not-repression>

⁵¹ See Vienna Convention on the Law of Treaties, 1969.

⁵² See for example “The 16 Days of Activism Against Gender-Based Violence is a global campaign that raises awareness and galvanizes action to end violence against women and girls.”

https://www.unwomen.org/sites/default/files/2024-10/unite_16_days_2024_concept_note_final_oct4.pdf

control, and to international law in general, can be easily seen in the differences between the requirements of the Resolution adopted by the Human Rights Council “*Contribution of the Human Rights Council with regard to the human rights implications of drug policy*” and the final products, the Reports produced by the OHCHR.

As the founding instruments of the UN⁵³ and of human rights regime stipulate,⁵⁴ and as the mandate of the High Commissioner for Human Rights,⁵⁵ in accordance with General Assembly resolution 48/141⁵⁶ and subsequent resolutions of policy-making bodies state,⁵⁷ the aim of promotion and protection of all human rights should “be guided by the principles of impartiality, objectivity and non-selectivity, in the spirit of constructive international dialogue and cooperation.”⁵⁸ And it is exactly the “protection of all human rights” and the “principles of impartiality, objectivity and non-selectivity, in the spirit of constructive international dialogue and cooperation” that the High Commissioner sacrificed on his crusade towards “transformative drug policy.”⁵⁹

The OHCHR issued three reports⁶⁰ focused on “impact of the world drug problem on the enjoyment of human rights”⁶¹, “addressing and countering the world drug problem with regard to human rights”⁶², and the “human rights challenges in addressing and countering all aspects of the world drug problem.”⁶³ All these contributions and all the statements of the High Commissioner focus mostly on the drug users while “leaving behind”⁶⁴ not “one” but the general population, the no-drug users, which represent approximately 96,5% of the world population.⁶⁵ In essence, the OHCHR’s positions “leave behind” the majority of “we the people of United Nations”, of which 2.415.319.658⁶⁶ are children. To the latter 96 UN States Parties,⁶⁷ the international community, and the UN

⁵³ Recalling also the determination expressed in the Preamble of the Charter of the United Nations to save succeeding generations from the scourge of war, to establish conditions under which justice and respect for obligations arising from treaties and other sources of international law can be maintained, to promote social progress and better standards of life in larger freedom, to practice tolerance and good neighbourliness, and to employ international machinery for the promotion of the economic and social advancement of all peoples, <https://www.ohchr.org/en/instruments-mechanisms/instruments/vienna-declaration-and-programme-action>

⁵⁴ Commitment contained in Article 56 of the Charter of the United Nations to take joint and separate action, placing proper emphasis on developing effective international cooperation for the realization of the purposes set out in Article 55, including universal respect for, and observance of, human rights and fundamental freedoms for all, <https://www.ohchr.org/en/instruments-mechanisms/instruments/vienna-declaration-and-programme-action>

⁵⁵ This position is called the “High Commissioner for the promotion and protection of all human rights”, Resolution adopted by the General Assembly [on the report of the Third Committee (A/48/632/Add.4)] 48/141. High Commissioner for the promotion and protection of all human rights A/RES/48/141, January 1994, p.2 https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/a_res_48_141.pdf

⁵⁶ Adopted on 20 December 1993.

⁵⁸ Resolution adopted by the General Assembly [on the report of the Third Committee (A/48/632/Add.4)] 48/141. High Commissioner for the promotion and protection of all human rights A/RES/48/141, January 1994, p.2 https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/a_res_48_141.pdf

⁵⁹ OHCH, HC Türk on “The international pursuit of sensible regulation of drugs”, 04 December 2024

<https://www.ohchr.org/en/statements-and-speeches/2024/12/hc-turk-international-pursuit-sensible-regulation-drugs>

⁶⁰ Study on the impact of the world drug problem on the enjoyment of human rights. Report of the United Nations High Commissioner for Human Rights, A/HRC/30/65, September 2015.

Implementation of the joint commitment to effectively addressing and countering the world drug problem with regard to human rights, Report of the Office of the United Nations High Commissioner for Human Rights, Follow-up to and implementation of the Vienna Declaration and Programme of Action, A/HRC/39/39, September 2018.

Human rights challenges in addressing and countering all aspects of the world drug problem, Report of the Office of the United Nations High Commissioner for Human Rights, A/HRC/54/53, August 2023

⁶¹ A/HRC/30/65.

⁶² A/HRC/39/39.

⁶³ A/HRC/54/53.

⁶⁴ “Leave no one behind (LNOB) is the central, transformative promise of the 2030 Agenda for Sustainable Development and its Sustainable Development Goals (SDGs).”

⁶⁵ The figure is established by subtracting the figure reported in the UNODC’s World Drug Report 2024 as “almost 292 million, or 1 in 18 people, had used a drug in the past year”,

https://www.unodc.org/documents/data-and-analysis/WDR_2024/WDR_2024_SPI.pdf

out of 8 billion people reported as the world population in 2022. According to the UN and UNFPA, “On 15 November 2022, the world’s population reached 8 billion people, a milestone in human development.”

<https://www.un.org/en/global-issues/population> and

<https://www.unfpa.org/sites/default/files/swop23/SWOP2023-ENGLISH-230329-web.pdf>.

⁶⁶ UNICEF, How many children are there in the world? The figure represents the world population under age 18 in 2023.

<https://data.unicef.org/how-many/how-many-children-under-18-are-in-the-world/>

⁶⁷ Meaning all UN States Parties minus the United States.

apparatuses are legally obliged to ensure protection from illicit drug use and prevention of their involvement in illicit drug supply side as enshrined in the most ratified international convention, the Convention on the Rights of the Child.⁶⁸ The same obligation stems from other instruments with similar ratification rates: the 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances⁶⁹ that mirrors in its second preambular paragraph CRC Article 33⁷⁰ and reflects similar concerns in Article 3(5) sub-paragraphs f and g, and the ILO Convention 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms Of Child Labour (1999) which is universally ratified.⁷¹ To both illicit drugs non-users and illicit drug users the States Parties, the international community and the UN pledged to protect, respect and fulfil their human rights as stipulated by the Universal Declaration of Human Rights (UDHR) and by the nine core international conventions and to protect their health and welfare by limiting the use of controlled substances to medical and scientific use under the three international drug conventions⁷² which are also almost universally ratified. No such pledge has been made to either “transformative approach”, “responsible regulation” or to the right to use illicit drugs that these approaches wish to bring about.

As above mentioned, the position of High Commissioner for Human Rights (HC), “the principal human rights official of the United Nations,”⁷³ was created in 1994 for the promotion and protection of all human rights, as proposed by Vienna Declaration and Programme of Action (VDPA),⁷⁴ adopted in June 1993.⁷⁵ VDPA established that “Recognizing that the activities of the United Nations in the field of human rights should be rationalized and enhanced in order to strengthen the United Nations machinery in this field and to further the objectives of universal respect for observance of international human rights standards.”⁷⁶ According to General Assembly resolution 48/141 the High Commissioner is supposed to “(a) Be a person of high moral standing and personal integrity and shall possess expertise, including in the field of human rights, and the general knowledge and understanding of diverse cultures necessary for impartial, objective, non-selective and effective

https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&clang=en

⁶⁸ Article 33 Convention on the Rights of the Child. CRC has 196 States Parties.

https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&clang=en

⁶⁹ The UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988 has 191 States Parties,

https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=VI-19&chapter=6&clang=en

⁷⁰ It states a deep concern for the fact that “children are used in many parts of the world as an illicit drug consumers market and for purposes of illicit production, distribution and trade in narcotic drugs and psychotropic substances, which entails a danger of incalculable gravity.”

https://www.unodc.org/pdf/convention_1988_en.pdf

⁷¹ILO Child Labour Convention achieves universal ratification

All 187 member States of the International Labour Organization (ILO) have ratified the ILO Convention on the Worst Forms of Child Labour, 1999 (No. 182).

https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_749858/lang-en/index.htm

⁷² Single Convention on Narcotic Drugs, 1961, as amended by the 1972 Protocol Amending the Single Convention on Narcotic Drugs, 1961; the Convention on Psychotropic Substances of 1971; and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988.

⁷³ OHCHR, High Commissioner.

<https://www.ohchr.org/en/about-us/high-commissioner>

⁷⁴ Considering that the promotion and protection of human rights is a matter of priority for the international community, and that the Conference affords a unique opportunity to carry out a comprehensive analysis of the international human rights system and of the machinery for the protection of human rights, in order to enhance and thus promote a fuller observance of those rights, in a just and balanced manner,

Recognizing and affirming that all human rights derive from the dignity and worth inherent in the human person, and that the human person is the central subject of human rights and fundamental freedoms, and consequently should be the principal beneficiary and should participate actively in the realization of these rights and freedoms,

Reaffirming their commitment to the purposes and principles contained in the Charter of the United Nations and the Universal Declaration of Human Rights, Vienna Declaration and Programme of Action Adopted by the World Conference on Human Rights in Vienna on 25 June 1993

<https://www.ohchr.org/en/instruments-mechanisms/instruments/vienna-declaration-and-programme-action>

⁷⁵ Recommendation contained in paragraph 18 of section II of the Vienna Declaration and Programme of Action. The World Conference on Human Rights, held in 1993, adopted by consensus the Vienna Declaration and Programme of Action (VDPA) in which it called for a review of the progress made in the implementation of the Declaration in five years on the occasion of the 50th Anniversary of the Universal Declaration of Human Rights.

<https://www.ohchr.org/en/about-us/history/vienna-declaration/five-year-review-implementation-vienna-declaration-and-programme-action>

⁷⁶ibid.

performance of the duties of the High Commissioner;” “3 (a) Function within the framework of the Charter of the United Nations, the Universal Declaration of Human Rights, 1/ other international instruments of human rights and international law, including the obligations, within this framework, to respect the sovereignty, territorial integrity and domestic jurisdiction of States and to promote the universal respect for and observance of all human rights, in the recognition that, in the framework of the purposes and principles of the Charter, the promotion and protection of all human rights is a legitimate concern of the international community; the High Commissioner’s responsibilities shall be:(a) To promote and protect the effective enjoyment by all of all civil, cultural, economic, political and social rights; (b) To carry out the tasks assigned to him/her by the competent bodies of the United Nations system in the field of human rights and to make recommendations to them with a view to improving the promotion and protection of all human rights;...(f) To play an active role in removing the current obstacles and in meeting the challenges to the full realization of all human rights and in preventing the continuation of human rights violations throughout the world, as reflected in the Vienna Declaration and Programme of Action; (g) To engage in a dialogue with all Governments in the implementation of his/her mandate with a view to securing respect for all human rights;(h) To enhance international cooperation for the promotion and protection of all human rights;”⁷⁷ The same Resolution establishing the High Commissioner’s mandate stipulates that he or she is responsible among others to “ coordinate the human rights promotion and protection activities throughout the United Nations system; (j) To rationalize, adapt, strengthen and streamline the United Nations machinery in the field of human rights with a view to improving its efficiency and effectiveness;”⁷⁸ etc., etc.

The creation of this HC position came six years after the adoption of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988 (the ‘88 Convention), and four years after its entry into force.⁷⁹ The ‘88 Convention is the instrument deemed by the reformist camp, and implicitly by part of the UN human rights apparatus, as draconic and the “most prescriptive and punitive of the three drug conventions.”⁸⁰This is probably because the ‘88 Convention goes further than the previous two treaties and it criminalizes in Article 3 (2) “*Subject to its constitutional principles and the basic concepts of its legal system, each Party shall adopt such measures as may be necessary to establish as a criminal offence under its domestic law, when committed intentionally, the possession, purchase or cultivation of narcotic drugs or psychotropic substances for personal consumption contrary to the provisions of the 1961 Convention, the 1961 Convention as amended or the 1971 Convention.*”⁸¹

In this context, it is worth noting that some details, actually quite many, about the drug conventions went lost in the communication between the “leading human rights experts” associated with reformist NGOs and the International Guidelines on Human Rights and Drug Policy and the OHCHR. It is not only that the ‘88 Convention seventh preambular paragraph mirrors Article 33 of the Convention on the Rights of the Child, but the same Convention also refers in Article 14 (2) to the fact that the measures adopted to eradicate illicit cultivation of narcotic plants and to eliminate illicit demand for narcotic drugs and psychotropic substances “*shall respect fundamental human rights.*” This provision is relevant for various human rights topics – from right to health, children rights, the rights of indigenous people, to the right to development and protection of the environment and so on. Article 14 (2) specifically invites a clarification of human rights States Parties obligations and cooperation with human rights mechanisms. However, this provision has never been clarified or

⁷⁷ Resolution Adopted by the General Assembly [on the report of the Third Committee (A/48/632/Add.4)] 48/141. High Commissioner for the promotion and protection of all human rights, January 1994.and https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/a_res_48_141.pdf

⁷⁸ Resolution adopted by the General Assembly, on the report of the Third Committee (A/48/632/Add.4)] 48/141. High Commissioner for the promotion and protection of all human rights, para 4 (i and j). https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/a_res_48_141.pdf

⁷⁹ UNTC, https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=VI-19&chapter=6&clang=en

⁸⁰ D. Barrett and P. E. Veerman, A Commentary on the United Nations Convention on the Rights of the Child, Article 33: Protection from Narcotic Drugs and Psychotropic Substances, Martinus Nijhoff Publishers 2012, p. 13.

⁸¹ United Nations Convention Against Illicit Traffic In Narcotic Drugs And Psychotropic Substances,1988

discussed by either the UN drug control or human rights entities. The Office of the High Commissioner for Human Rights not only historically ignored this provision and its potential for ensuring human rights centered approach to drug control, but OHCHR even denied its existence. One of the three reports produced by the OHCHR literally nullifies the existence of this provision, while going on to state that *“human rights are not specifically addressed in these treaties”*,⁸² in specific reference here to the drug control treaties.

Possible human rights risks associated with the application of various provisions of the drug conventions were discussed in the process of adoption of these instruments, and specifically addressed during the preparatory works of the '88 Convention. Moreover, the need of a human rights overseeing was always obvious. An manifest indication is also the fact that the UN Secretary General Kofi A Anan, the father of the 1998 Special Session of the General Assembly Devoted to Countering the World Drug Problem Together's call for saying *“Yes to the challenge of working towards a drug-free world,”*⁸³ involved in the preparation of the Commentary on the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988⁸⁴ Henri Mazaud, former Assistant Director of the Division of Human Rights of the United Nations Secretariat in charge of international instruments and procedures.⁸⁵ The Commentaries are not legally binding documents, but they were issued at the request of the Economic and Social Council with the aim of *“furthering a mutual understanding of the contents and objectives of the conventions.”*⁸⁶

The 1988 Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances also refers in its preamble to the adverse effect of illicit drugs on economic, cultural, and political foundations of society and the determination to *“eliminate the root causes of the problem of abuse of illicit drugs, including the illicit demand for such drugs and substances and the enormous profits derived from illicit traffic.”*⁸⁷ Article 14 (4) of the same Convention also provides that *“The Parties shall adopt appropriate measures aimed at eliminating or reducing illicit demand for narcotic drugs and psychotropic substances, with a view to reducing human suffering and eliminating financial incentives for illicit traffic. These measures may be based, inter alia, on the recommendations of the United Nations, specialized agencies of the United Nations such as the World Health Organization, and other competent international organizations...as it pertains to govern mental and non-governmental*

⁸² Study on the impact of the world drug problem on the enjoyment of human rights Report of the United Nations High Commissioner for Human Rights, A/HRC/30/65, 2015, Introduction, para. 3,

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/199/48/PDF/G1519948.pdf?OpenElement>

⁸³ SECRETARY-GENERAL CALLS ON ALL NATIONS TO SAY 'YES' TO CHALLENGE OF WORKING TOWARDS DRUG-FREE WORLD, (“The proliferation of drugs over the past 30 years is an example of the previously unimaginable becoming a tragic reality. Hopefully, the special session will mark the first in time when the international community finds common ground in creating momentum towards a drug-free world in the twenty-first century.”) 8 June 1998, Press Release, GA/9411, The Twentieth Special Session of the General Assembly on the World Drug Problem,

<https://press.un.org/en/1998/19980608.ga9411.html>

⁸⁴ The present Commentary on the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988, was prepared at the request of the Economic and Social Council and comes at a most appropriate time. The tenth anniversary of the adoption of the Convention-the latest in a continuum of drug abuse control treaties-falls in the same year as the General Assembly's special session devoted to international efforts to fight drug abuse and drug trafficking.

https://www.unodc.org/documents/treaties/organized_crime/Drug%20Convention/Commentary_on_the_united_nations_convention_1988_E.pdf

⁸⁵ The body of most of the text was first prepared by four principal drafters: Henri Mazaud, former Assistant Director of the Division of Human Rights of the United Nations Secretariat in charge of international instruments and procedures, and John F. Scott, former Director of the Office of Legal Counsel and Deputy Director to the Under-Secretary-General for Legal Affairs of the United Nations Secretariat, both of whom had acted as legal consultants to the plenipotentiary conference that adopted the Convention, William C. Gilmore, Professor of International Criminal Law at the University of Edinburgh, and David McClean, Q.C., Professor, Department of Law of the University of Sheffield. Their invaluable contribution to this Commentary is hereby acknowledged with thanks... The multidisciplinary approach adopted, required by the very nature of the contents of the Convention, was further enhanced at a number of expert review groups that were convened by the Legal Affairs Section of the United Nations International Drug Control Programme, which constantly revised and completed the manuscript. The Legal Affairs Section also liaised throughout the drafting process with the Treaty Section of the Office of Legal Affairs of the United Nations Secretariat. p.iv,

https://www.unodc.org/documents/treaties/organized_crime/Drug%20Convention/Commentary_on_the_united_nations_convention_1988_E.pdf

⁸⁶ Ibid.

⁸⁷ United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988,

https://www.unodc.org/pdf/convention_1988_en.pdf

agencies and private efforts in the fields of prevention, treatment, and rehabilitation.”⁸⁸Walking up in 2024 from its beauty sleep, the High Commissioner Türk stated “the need to address the underlying socioeconomic factors that increase the risks of using drugs, and the drug trade, by tackling social inequalities, promoting social justice and advancing human rights.”⁸⁹ Why were these needs not previously addressed it is just a rhetorical question.

Taking in consideration these non-exhaustive points, the drug control conventions as stipulated and “in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose”⁹⁰, not necessarily as implemented, it can be easily state that drug control regime offered plenty of coordination and cooperation opportunities. A further analysis of the provisions stipulated by these conventions, as written not as applied, could lead to the conclusion that these instruments not only asked but begged for human rights approach.

The simple question arising in this context is what were the High Commissioners for Human Rights doing for three decades of mandate and what gives to the OHCHR the moral ground to assume no responsibility in these matters?

The Office of the High Commissioner for Human Rights (OHCHR), the rhetoric, the Brotherhood, and the law

The OHCHR, Brandenburg, Essex ,IDPC, Global Commission, etc., "Group of Friends"⁹¹

The communication strategy of the High Commissioner permeating from his statements, and unfortunately from the three reports issued by OHCHR, is straightforward and based on oversimplifications, scapegoating and misquotations. These OHCHR’s positions proliferate several of the drug control reformist camp soundbites and leitmotifs without adding anything in terms of substance or refinement of the arguments. They also apply the same logic and reach the same conclusions.

The OHCHR’s communication strategy is weaved around the same backbone that the reformist discourse launched and benefited of, namely the idea that the drug conventions criminalize people. This postulate was launched by one of the “leading human rights experts” associated with Essex University together with the former United Nations Special Rapporteur on Torture, Manfred Nowak, in 2009.⁹² The authors state “Unlike human rights law, which focuses to a large extent on the protection of the most vulnerable, the drug conventions criminalise specifically vulnerable groups. They criminalise people who use drugs...”⁹³ This hypothesis is explicitly or implicitly the nucleus of the human rights language-centred reformist campaigns that define the illicit drug users as the “most vulnerable” groups in society. It has become the core and the focus of the OHCHR’s drug control thinking since the 2009 intervention of Navy Pillay.⁹⁴ The OHCHR’s communications do not express verbatim this idea, but this message clearly permeates all these OHCHR’s outputs. Some other UN entities also embrace this postulate and propagate it. This idea also filters through the 2019 Guidelines on Human Rights and Drug Policy.

⁸⁸United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988, https://www.unodc.org/pdf/convention_1988_en.pdf

⁸⁹ OHCHR, On drugs, Türk calls for human rights based policy, not repression, 19 October 2023. <https://www.ohchr.org/en/statements-and-speeches/2023/10/drugs-turk-calls-human-rights-based-policy-not-repression>

⁹⁰ Vienna Convention on the Law of Treaties, 1969, Art 31 (1).

⁹¹ IDPC, 4th Brandenburg Forum in Geneva “Towards Transformative Change in Human Rights-Based Drug Policy”, p. 9. <https://idpc.net/publications/2024/09/4th-brandenburg-forum-in-geneva-towards-transformative-change-in-human-rights-based-drug-policy>

⁹² Barrett, Damon and Nowak, Manfred, The United Nations and Drug Policy: Towards a Human Rights-Based Approach (August 25, 2009). THE DIVERSITY OF INTERNATIONAL LAW: ESSAYS IN HONOUR OF PROFESSOR KALLIOPI K. KOUFA, pp. 449-477, Aristotle Constantinides and Nikos Zaikos, eds., Brill/Martinus Nijhoff, 2009, Available at SSRN: <https://ssrn.com/abstract=1461445>

⁹³Ibid.

⁹⁴ OHCHR, High Commissioner calls for focus on human rights and harm reduction in international drug policy, 10 March 2009, <http://www.ohchr.org/en/newsevents/pages/DisplayNews.aspx?NewsID=8554&LangID=E>.

Even though this idea is legally inaccurate, it had a triple effect in terms of communication: it victimises all illicit drug users, it demonizes the international drug conventions and it delimitate and qualifies the two regimes. According to this white and black thinking the human rights regime is good while the drug control regime is plainly bad. As a matter of fact, the drug conventions as any other similar international instruments having penal provisions criminalize certain **conducts**, when committed **intentionally**. **They do not criminalize people!** For example, the United Nations Convention against Transnational Organized Crime of 2000, and its Protocols prohibit and penalize certain intentional conducts as: participation in an organized criminal group,⁹⁵ laundering of proceeds of crime,⁹⁶ corruption,⁹⁷ or trafficking in persons, especially women and children,⁹⁸ etc. Some of the human rights conventions contain penal provisions for example Article 3 Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography criminalize “offering, delivering or accepting, by whatever means, a child for the purpose of: a. Sexual exploitation of the child; b. Transfer of organs of the child for profit; c. Engagement of the child in forced labour... (ii) (b) Offering, obtaining, procuring or providing a child for child prostitution...”⁹⁹ Same legal logic of defining an undesirable conduct and establishing intentionality was applied in relation to the three drug conventions Art 36 of the Single Convention,¹⁰⁰ Convention on Psychotropic Substances, 1971 Art 22,¹⁰¹ and Article 3 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988.¹⁰²

Other leitmotifs of the reformist civil society are taken word by word. For example, the High Commissioner Türk uses almost compulsively the syntagma “so-called war on drugs”¹⁰³ to assert that that something, unclear what as it is never defined, probably the UN system of substance control has failed “completely and utterly.”¹⁰⁴ For example, the High Commissioner Türk states: “The evidence is clear. The so-called War on Drugs has failed, completely and utterly.”¹⁰⁵ It is long past time for a new approach.”¹⁰⁶ “Our report, [A/HRC/54/53](#), identifies several policy areas of serious concern. They include so-called “war on drugs” policies”¹⁰⁷ Criminalization and the so called ‘war on drugs’ approach have failed to curb drug use. And they have not deterred drug-related crime.¹⁰⁸ “Morally and

⁹⁵ United Nations Convention against Transnational Organized Crime, Art 5

<https://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf>

⁹⁶ United Nations Convention against Transnational Organized Crime, Art 6

<https://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf>

⁹⁷ United Nations Convention against Transnational Organized Crime, Art 8

<https://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf>

⁹⁸ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, ART 5,

<https://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf>

⁹⁹Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, Art. 3.

¹⁰⁰ “Cultivation, production, manufacture, extraction, preparation, possession, offering, offering for sale, distribution, purchase, sale, delivery on any terms whatsoever, brokerage, dispatch, dispatch in transit, transport, importation and exportation of drugs contrary to the provisions of this Convention, and any other action which in the opinion of such Party may be contrary to the provisions of this Convention, shall be punishable offences when committed intentionally”, Single Convention on Narcotic Drugs, 1961.

¹⁰¹ Art 22 1. (a) Subject to its constitutional limitations, each Party shall treat as a

punishable offence, when committed intentionally, any action contrary to a law

or regulation adopted in pursuance of its obligations under this Convention” Convention on Psychotropic Substances, 1971

¹⁰² Art 3 (1. Each Party shall adopt such measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally:

¹⁰³ The “war on drugs” is either capitalized or not.

¹⁰⁴ UN News, Global perspectives Human stories., ‘*War on drugs has failed, completely and utterly: UN human rights chief*’

<https://news.un.org/en/story/2024/12/1157836>

¹⁰⁵ OHCHR, HC Türk on “*The international pursuit of sensible regulation of drugs*”, Dealing With Drugs II “The international pursuit of sensible regulation”, 04 December 2024

<https://www.ohchr.org/en/statements-and-speeches/2024/12/hc-turk-international-pursuit-sensible-regulation-drugs>

¹⁰⁶ Ibid.

¹⁰⁷ OHCHR, “*Policies on drugs must advance rights, including to health*”, Türk says

Human rights challenges in addressing and countering all aspects of the world drug problem

05 February 2024, At Human Rights Council Intersessional panel discussion,

<https://www.ohchr.org/en/statements-and-speeches/2024/02/policies-drugs-must-advance-rights-including-health-turk-says>

¹⁰⁸ OHCHR, “*Drug policies will be more effective with a human rights approach*”, Türk says, 22 November 2023

<https://www.ohchr.org/en/statements/2023/11/drug-policies-will-be-more-effective-human-rights-approach-turk-says#:~:text=Volker%20%C3%BCrk%2C%20UN%20High%20Commissioner%20for%20Human%20Rights,on%20Drugs%20and%20Development%20Policies%20Location%20Brandenburg%2C%20Germany>

practically, as our report demonstrated, the ‘war on drugs’ approach has failed. The world drug situation remains very concerning but treating people who use drugs as criminals is not the solution.”¹⁰⁹As mentioned, as it is the case for the drug control NGOs reformist camp, in OHCHR’s communications the concept of “war on drugs” is never defined. We know the “war on drugs” or the “so-called War on Drugs” is something, but we are never told what it is, we are just repeatedly reminded that it failed “utterly”, miserably” etc. The associated adjective list with this failure and with this concept is beyond impressive. Most probably, the simple principle behind the usage of this central concept of the UN and civil society drug control reform campaigns undefined, or of undefined terminology in general is: why restricting the meaning of a concept if it can mean anything and its political profitability could be maximized? Why should it mean something when it can mean anything?

The High Commissioner Türk’s tone and the ganging element of us the Enlightened, the promoters of “transformative approach”¹¹⁰ or “responsible regulation”¹¹¹ versus the retrogrades/ the believers in drug control in whatever form, belongs to a sort of activism that is not compatible with his position’s mandate and among others the “guided by the principles of impartiality, objectivity and non-selectivity, in the spirit of constructive international dialogue and cooperation”¹¹² part. The misappropriates of this type of activism is especially conspicuous given that the result is recommendation of solutions which circumvent legal routes and the basic principle of rule of law. Same it can be said about his zealous participation to the Brandenburg Forum on Drugs and Development Policies (BBF) events and similar drug control reformist gatherings, i.e., the International Drug Policy Reform Conference, Phoenix, Arizona in 2023.¹¹³ Apparently, the OHCHR participated at least seven out of nine Brandenburg Forums on Drugs and Development Policies.¹¹⁴ The Brandenburg Forums are “organised by the Global Partnership on Drug Policies and Development (GPPD)¹ – commissioned by the German Federal Ministry for Economic Cooperation and Development (BMZ) and implemented under political patronage of the Commissioner of the Federal Government for Drug and Addiction Policy. The meeting was co-hosted by the Government of the Netherlands, the Norwegian Ministry of Health and Care Services, the Transnational Institute (TNI), and the International Drug Policy Consortium (IDPC)”¹¹⁵ and gather the essence of the drug reformist

¹⁰⁹OHCHR, *Drug policies will be more effective with a human rights approach*, Türk says, 22 November 2023

<https://www.ohchr.org/en/statements/2023/11/drug-policies-will-be-more-effective-human-rights-approach-turk-says#:~:text=Volker%20T%C3%BCrk%2C%20UN%20High%20Commissioner%20for%20Human%20Rights,on%20Drugs%20and%20Development%20Policies%20Location%20Brandenburg%2C%20Germany>

¹¹⁰OHCHR, HC Türk on “The international pursuit of sensible regulation of drugs”, 04 December 2024.

<https://www.ohchr.org/en/statements-and-speeches/2024/12/hc-turk-international-pursuit-sensible-regulation-drugs>

¹¹¹ OHCHR, HC Türk on “*The international pursuit of sensible regulation of drugs*”, *Dealing With Drugs II*

“*The international pursuit of sensible regulation*”, 04 December 2024

<https://www.ohchr.org/en/statements-and-speeches/2024/12/hc-turk-international-pursuit-sensible-regulation-drugs>

¹¹² Resolution adopted by the General Assembly [on the report of the Third Committee (A/48/632/Add.4)]

48/141. High Commissioner for the promotion and protection of all human rights A/RES/48/141, January 1994, p.2

https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/a_res_48_141.pdf

¹¹³ The Reform Conference is the premier gathering of the growing and dynamic drug policy reform movement. Every other year, the *Drug Policy Alliance* hosts this event, bringing together people working on the full range of drug policy issues from across the United States and around the world to listen, learn, and strategize.

<https://idpc.net/events/2025/01/international-drug-policy-reform-conference-2025>

2009 The Drug Policy Alliance convenes the Reform Conference every two years, to bring together drug policy reformers from across the United States and around the world.

The International Harm Reduction Development Program of the Open Society Institute will fund scholarships in order to support the participation of our international partners.

<https://www.opensocietyfoundations.org/events/international-drug-policy-reform-conference>

¹¹⁴ The International Drug Policy Consortium (IDPC)’s website <https://idpc.net/> offers a comprehensive reporting on the Brandenburg Forums participants and contend. For example, 9th Brandenburg Forum on Drugs and Development Policies report - ‘Boosting transformative change in global drug policies: Promoting human-centred approaches to cocaine markets and beyond’, 12 February 2025, <https://idpc.net/publications/2025/02/9th-brandenburg-forum-on-drugs-and-development-policies-report-boosting-transformative-change-in>

¹¹⁵ The International Drug Policy Consortium (IDPC), 4th Brandenburg Forum in Geneva: Towards transformative change in human rights-based drug policy - Meeting report, <https://idpc.net/publications/2024/09/4th-brandenburg-forum-in-geneva-towards-transformative-change-in-human-rights-based-drug-policy>

movement¹¹⁶ and representative of mind-like States representatives. Around these circles the “so-called harm reduction” another concept that mostly evades definition is called “the harm reduction axiom.”¹¹⁷ In the same vein of maximizing terminological profitability, the need of definition of this concept is also debatable inside these groups.¹¹⁸ The High Commissioner Türk states “*Brandenburg Forum is a leading force in the global movement to ensure that drug policies promote more effective solutions... Together, we can work to encourage all countries to take decisive steps in this direction.*”¹¹⁹

In essence, in a “let’s burn the house down” spirit, we are told that “*The evidence is clear. The so-called War on Drugs has failed, completely and utterly. It is long past time for a new approach.*”¹²⁰ The insistence/almost obsessive repetition of the term “so called” might stand as an excuse for the lack of definition of the concept of “war on drugs” and it also give a sense of cabal communication, namely “we the coterie know what it is talked about.” The OHCHR might need to be reminded that the HC’s mandate mentions “*the principles of impartiality, objectivity and non-selectivity, in the spirit of constructive international dialogue and cooperation*”¹²¹ that is quite far from this undemocratic affiliation and the “we”, brotherhood/” group of friends”¹²² communication.

The reductionist process follows the same logic found in one of the University of Essex “leading human rights experts” conclusion “*But the drug conventions, unfortunately, are not good laws.*”¹²³ which reminds us of Donald Trump’s utterance “*We have some bad hombres here, and we’re gonna get ‘em out,*”¹²⁴ In between point A the introductory statement “*the drug conventions...are not good laws*” and “*Morally and practically, the ‘war on drugs’ approach has failed*”¹²⁵ or its multiple variations, and the point B conclusion: “*we’re gonna get ‘em out,*” or the more elegant formulation “*It is long past time for a new approach.*”¹²⁶, which stands for it is high time for “transformative approach” or “responsible regulation”, there are the fundamental legal details and elements that are not mentioned and which evade any elaboration. As expected, the “transformative approach” and the “sensible” or “responsible regulation” are not defined leaving the door open for whatever it is wished. Anyway, the devil is in international law details, including in the drug conventions.

These inconvenient legal details remain out of site, the High Commissioner sees as the guiding light towards the undefined “transformative approach” as stated “We need a transformative

¹¹⁶ For example, the International Drug Policy Consortium (IDPC), the Transnational Institute (TNI), Global Commission on Drug Policy (GCDDP), etc.

¹¹⁷ IDPC, 4th Brandenburg Forum in Geneva “Towards Transformative Change in Human Rights-Based Drug Policy”, p. 2.
<https://idpc.net/publications/2024/09/4th-brandenburg-forum-in-geneva-towards-transformative-change-in-human-rights-based-drug-policy>

¹¹⁸IDPC, 4th Brandenburg Forum in Geneva “Towards Transformative Change in Human Rights-Based Drug Policy”, p.8.
<https://idpc.net/publications/2024/09/4th-brandenburg-forum-in-geneva-towards-transformative-change-in-human-rights-based-drug-policy>

¹¹⁹ IDPC, *Statement delivered by Volker Türk, UN High Commissioner for Human Rights at the 8th Brandenburg Forum on Drugs and Development Policies*, November 2023,
<https://idpc.net/news/2023/11/drug-policies-will-be-more-effective-with-a-human-rights-approach-un-human-rights-chief-says>.

¹²⁰ HC Türk on “The international pursuit of sensible regulation of drugs”, Dealing With Drugs II “The international pursuit of sensible regulation”, 04 December 2024

<https://www.ohchr.org/en/statements-and-speeches/2024/12/hc-turk-international-pursuit-sensible-regulation-drugs>

¹²¹ Resolution adopted by the General Assembly [on the report of the Third Committee (A/48/632/Add.4)]

48/141. High Commissioner for the promotion and protection of all human rights A/RES/48/141, January 1994, p.2

https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/a_res_48_141.pdf

¹²² IDPC, 4th Brandenburg Forum in Geneva “Towards Transformative Change in Human Rights-Based Drug Policy”, p. 9.

<https://idpc.net/publications/2024/09/4th-brandenburg-forum-in-geneva-towards-transformative-change-in-human-rights-based-drug-policy>

¹²³ Damon Barrett, *The war on drugs: A human rights indictment*, Keynote speech delivered at the Mexico City Human Rights Commission, ‘International Forum on Drugs and Human Rights’, 7-9 August 2013. Damon Barrett Deputy Director, Harm Reduction International Director, International Centre on Human Rights and Drug Policy
https://www.academia.edu/10669664/The_war_on_drugs_A_human_rights_indictment_Keynote_speech_delivered_at_the_Mexico_City_Human_Rights_Commission_International_Forum_on_Drugs_and_Human_Rights_7_9_August_2013?email_work_card=view-paper.

¹²⁴ Ioan Grillo, *Immigration and the Meaning of Trumpism*, the New York times

<https://www.nytimes.com/interactive/projects/cp/opinion/clinton-trump-third-debate-election-2016/bad-hombres-and-the-meaning-of-trumpism>

¹²⁵ <https://www.ohchr.org/en/statements-and-speeches/2023/10/drugs-turk-calls-human-rights-based-policy-not-repression>

¹²⁶ OHCHR, HC Türk on “The international pursuit of sensible regulation of drugs”, Dealing With Drugs II

“The international pursuit of sensible regulation”, 04 December 2024

<https://www.ohchr.org/en/statements-and-speeches/2024/12/hc-turk-international-pursuit-sensible-regulation-drugs>

approach, and the International Guidelines on Human Rights and Drug Policy provide a framework for developing human rights-based approaches.”¹²⁷ As above indicated, this guiding light points in one direction and fails to reveal the full spectrum of details.

Due to editorial space restrictions, this is not the time and the space to further elaborate on the organizational and logical incoherencies of the OHCHR’s communications and interventions into drug control. We did not even wish to speculate about these incoherencies and inconsistencies at all. This is the very reason why we tried to get the explanations, at least for some of them, from the source, the OHCHR, and repeatedly attempted to obtain an interview with this Office.

We tried to understand some of these issues related to the OHCHR’s involvement with drug control and repeatedly approached the Office. We initially received a positive answer from OHCHR’s Human Rights and Drug Policy Advisor after the questions were sent to him. However, this positive answer never materialised, we never got the answers on our interview questions despite of the numerous reminders. The questions sent to the OHCHR’s expert is attached in the Annex to this report.

The OHCHR’s Answer to our questions

Conclusions

Should all roads lead to University of Essex?

Did we knock on the wrong door?

In terms of communication, leaving a blank space on the above section, might not be clear enough. In black and white, the OHCHR’s focal point on drug control decided not to do the interview we proposed, despite his promise to do so. We got no further explanations.

In the absence of any answers from OHCHR, one can only speculate about the vision of the most visible UN human rights entity, its compliance with its mandate and of its activist involvement with the civil society drug control reformist camp.

As above mentioned, when considering the drug control field, it is obvious that despite a clear mandate in coordinating the human rights promotion and protection throughout the United Nations system, the position of High Commissioner for Human rights was largely vacant. Moreover, since 2009 when Navy Pillay start addressing drug control related issues and initiated the exclusive focus of her office on the illicit drug users and on “harm reduction”,¹²⁸ the discourse of the OHCHR remained focused on this category and concept. The OHCHR involvement has “evolved” to the present bashing of the drug control regime whose human rights failure is completely divorced from the over 30 years of human rights mandate of the OHCHR. The OHCHR came to the blunt call for legalization called

¹²⁷ OHCHR, HC Türk on “The international pursuit of sensible regulation of drugs”, Dealing With Drugs II “The international pursuit of sensible regulation”, 04 December 2024

<https://www.ohchr.org/en/statements-and-speeches/2024/12/hc-turk-international-pursuit-sensible-regulation-drugs>

¹²⁸ High Commissioner calls for focus on human rights and harm reduction in international drug policy, 10 March 2009, <http://www.ohchr.org/en/newsevents/pages/DisplayNews.aspx?NewsID=8554&LangID=E>.

“transformative approach”¹²⁹ or “responsible regulation”¹³⁰ of control substances or more recently “sensible regulation of drugs”¹³¹ that we have under the present High Commissioner for Human Rights Volker Türk.

And again, as the devil is in details, the drug conventions/laws *per se* are not “*bad laws*”/ “*bad hombres*” as suggested by the University of Essex “leading human rights experts” involved with the Guidelines. The fact Single Convention calls addiction to drugs as an “evil” that States must combat does not make this instrument draconic. Simple research into the usage of word “evil” in the UN documents and speeches and the way language was used few decades ago, even in relation to human rights, would make the UN communication rather scary.

In relation to the UN drug conventions and human rights, the truth is in the eye of the beholder and the universes are not so parallel. They become so due to the UN complacency. These treaties are actually quite well conceived instruments, they are rather flexible and able to stand the time test. They also allow quite much in terms of “humanistic” approach and provide for approaches compatible with a human rights approach and with the concept of “dignity”. What they do not provide for or allow is a right to take illicit drugs. Maybe instead of “*getting ‘em out*” we should revisit their text and see their utility for the society.

Maybe, we knocked at the wrong door while trying to clarify the OHCHR’s mandate, positions, and statements in relation to the drug control. Maybe the OHCHR’s Human Rights and Drug Policy Advisor was the wrong expert to address. Maybe the right address to direct our questions is International Centre for Human Rights and Drug Policy (HRDP) that that “has made its home at the Human Rights Centre at the University of Essex.”¹³²

Annex

International drug control and human right-the laws, the policies, and the rhetoric

1. When talking about international human rights, the Office of the High Commissioner for Human Rights (OHCHR) is the most visible UN entity. The post of High Commissioner for Human Rights was

¹²⁹ OHCHR, HC Türk on “The international pursuit of sensible regulation of drugs”, 04 December 2024.

<https://www.ohchr.org/en/statements-and-speeches/2024/12/hc-turk-international-pursuit-sensible-regulation-drugs>

¹³⁰ Statements Office of the High Commissioner for Human Rights , *Drug policies will be more effective with a human rights approach*, Türk says 22 November 2023, Delivered by Volker Türk, UN High Commissioner for Human Rights At 8th Brandenburg Forum on Drugs and Development Policies, Statement delivered by Volker Türk, UN High Commissioner for Human Rights at the 8th Brandenburg Forum on Drugs and Development Policies, organised by the Global Partnership on Drug Policies and Development (GPPD) (commissioned by the German Federal Ministry for Economic Cooperation and Development - BMZ, and implemented under political patronage of the Commissioner of the Federal Government for Drug and Addiction Policy) and co-hosted by the Government of the Netherlands, the Norwegian Ministry of Health and Care Services, the Transnational Institute (TNI), and the International Drug Policy Consortium (IDPC).

<https://idpc.net/news/2023/11/drug-policies-will-be-more-effective-with-a-human-rights-approach-un-human-rights-chief-says>

See also OHCHR, *On drugs, Türk calls for human rights based policy, not repression*, Video message by Volker Türk, UN High Commissioner for Human Rights At International Drug Policy Reform Conference, Phoenix, Arizona, 19 October 2023.

<https://www.ohchr.org/en/statements-and-speeches/2023/10/drugs-turk-calls-human-rights-based-policy-not-repression>

¹³¹ OHCHR, HC Türk on “*The international pursuit of sensible regulation of drugs*”, Dealing With Drugs II

“The international pursuit of sensible regulation”, 04 December 2024

<https://www.ohchr.org/en/statements-and-speeches/2024/12/hc-turk-international-pursuit-sensible-regulation-drugs>

“warm greeting to this gathering and I welcome the initiative of the Mayor of Amsterdam to mobilize global city leaders on the sensible regulation of drugs.”

¹³²International Centre for Human Rights and Drug Policy (HRDP)

<https://www.essex.ac.uk/research-projects/international-centre-on-human-rights-and-drug-policy>

established, shortly after the adoption of the Vienna Declaration and Programme of Action, in 1993 by General Assembly resolution 48/141 with the mandate of “promotion and protection of all human rights to be guided by the principles of impartiality, objectivity and non-selectivity.” However, some uncertainties persist in relation to the UNHCHR’s mandate and its relation to the other UN human rights mechanisms and entities.

Could you clarify the High Commissioner’s mandate in promoting and encouraging respect for all human rights?

2. The international drug control and human rights regimes coexisted under the auspices of the UN for over half a century in their legally binding form. Despite their multiple convergence points, and their partly coincidental aims, the human rights and drug control’s UN machineries regrettably seldom interacted or cooperated to provide appropriate interpretation and implementation recommendations to States Parties and to generate legally coherent approaches that would facilitate mutual compliance with both regimes. The involvement of the OHCHR with drug control is relatively recent.

Why do you think the Office of the High Commissioner for Human Rights did not intervene earlier in this area, and what event or development, if any, ignited the recent involvement of the High Commissioner in drug control matters?

3. The 2016 Human Rights Council Resolution A/HRC/RES/28/28 requested the OHCHR “to prepare a study, in consultation with States, United Nations agencies and other relevant stakeholders, to be presented to the Human Rights Council at its thirtieth session, on the impact of the world drug problem on the enjoyment of human rights, and recommendations on respect for and the protection and promotion of human rights in the context of the world drug problem, with particular consideration for the needs of persons affected and persons in vulnerable situations.”

How did the Office of the High Commissioner for Human Rights define the two categories, namely persons affected and persons in vulnerable situations, in relation to the world drug problem?

4. The most comprehensive interventions of the OHCHR in drug control matters are the 2015 OHCHR *Study on the impact of the world drug problem on the enjoyment of human rights* and the 2023 Report *Human rights challenges in addressing and countering all aspects of the world drug problem*. Both reports focused on the human rights of people who use drugs, people who are affected by drug addiction and on people who are involved into the production and trafficking of narcotic drugs and psychotropic substances.

Given the complexity and the ramifications of the world drug problem, how would drug policy approaches that are inclusive, gender and age sensitive, and health- and rights-centred be constructed if the target is the world population that is not using drugs or that is involved into the supply side of the illicit drugs equation?

5. In the 2023 OHCHR Report *Human rights challenges in addressing and countering all aspects of the world drug problem*, Section V Conclusions and recommendations quotes the *International Guidelines on Human Rights and Drug Policy*’s key recommendation to “develop effective drug policies grounded in human rights” and with this end in view to “Consider developing a regulatory system for legal access

to all controlled substances". The same message or suggestion permeates several of the High Commissioner's 2023 speeches and positions.

How is such recommendation consistent with the UN reiterated commitment to the goals and objectives of the three international drug control conventions, that prohibit production, supply, trafficking and use of narcotic drugs and psychotropic substances except for medical treatment and scientific research purposes?

6. Several recent OHCHR's documents assert that references to human rights are absent in the drug conventions. Article 14 of the 1988 Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances deals with measures to eradicate illicit cultivation and to eliminate illicit demand for controlled substance. It refers in paragraph 2 to the fact that the measures adopted to prevent illicit cultivation of and to eradicate plants containing narcotic or psychotropic substances cultivated illicitly in a State Parties' territory, "shall respect fundamental human rights and shall take due account of traditional licit uses." This paragraph is directly related to various human rights topics – from right to health, children rights, the rights of indigenous people, to the right to development and protection of the environment and therefore it is of high relevance on the present debates.

Why do you think this provision has received so little attention from the UN human rights and drug control entities leading to the OHCHR's conclusion that "human rights are not specifically addressed in these treaties"?

7. Several speeches of the UN High Commissioner for Human Rights Volker Türk and reports/studies of the OHCHR addressing illicit drugs refer repeatedly to "war on drugs". For example, in the March 2023 High Commissioner's speech *Drug policies: High Commissioner calls for transformative changes*, the High Commissioner stated that the "'war on drugs' paradigm is detrimental to public health" or that is perpetuating "existing patterns of discrimination" and that it is "not working".¹³³

How does the Office of the High Commissioner for Human Rights define "war on drugs"? What is the "war on drugs"?

8. The UN High Commissioner for Human Rights' address at the High-Level Segment of the 2024 United Nations Commission on Narcotic Drugs starts by referring to the metrics proving the failure of the international drug control.

Are metrics the right tool for assessing the success or failure of any international regime?

¹³³ <https://www.ohchr.org/en/statements-and-speeches/2023/03/drug-policies-high-commissioner-calls-transformative-changes>.