

Drug Control and Human Rights: From Parallel Universes to Universal Parallels

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Abstract: This chapter examines the engagement and progress on human rights by the United Nations drug control regime from 2008-2018 through a comparative qualitative assessment of the official work of four principle political and normative institutions: the Commission on Narcotic Drugs, the International Narcotics Control Board, the Human Rights Council and the UN human rights treaty bodies. Breaking this ten year period into three distinct stages, and using the 2016 UNGASS as a benchmark, this chapter demonstrates how human rights and drug policy has achieved significant attention within these institutions, and provides a summary interpretation of these official records that can enable scholars, policymakers, and other students to better understand how this issue has evolved across each fora

Keywords: human rights, drug policy, death penalty, harm reduction, Universal Periodic Review, Commission on Narcotic Drugs

1. Introduction

Cooperation in the field of drug control has long been a focus of the international community.¹ However, drug control in the modern United Nations era differs from those that came before in at least three significant ways.² The first is the increased use of criminal law and penal sanctions as tools for drug suppression, a development cemented by the adoption of the 1988 Convention against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances.³ The second is the near universal ratification of the core UN drug control treaties, making a criminalisation, enforcement-centred approach the norm in every country of the world. The third is that this increasingly punitive system evolved in parallel to a new and increasingly robust system of international human rights law, a body of law that in many instances engages directly with drug control obligations.⁴

Despite the contemporaneous development of new UN instruments on both drug control and human rights over the decades, the two regimes evolved largely in isolation from one another. Sixty years after the adoption of the Universal Declaration of Human Rights, the former Special

¹ *The Shanghai Opium Commission*, 2009; *the International Opium Convention*, 1912; the League of Nations, 1920; and the broth of the United Nations, 1946

² Lines, R. (2018). *Drug control and human rights in international law*. Cambridge, Cambridge University Press.

³ *United Nations Convention against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances*, 1998

⁴ *Supra*, fn 2

Rapporteur on the Right to Health, Paul Hunt, noted ‘It is imperative that the international drug control system...and the complex international human rights system that has evolved since 1948, cease to behave as though they exist in parallel universes.’⁵ The Special Rapporteur’s statement came just a year after his official mission to Sweden, during which he criticised the government’s failure to provide harm reduction programmes for people who use drugs, on the basis that this constituted an infringement on their right to health. At the time his report was released in 2007,⁶ such an explicit connection between restrictive drug control policies and their impact on human rights was a rarity in the United Nations system, which since its foundations had shown a remarkable indifference to examining the engagement between the two regimes. In practice, the UN drug control institutions in Vienna were not interested in human rights, while the UN human rights bodies in Geneva showed little interest in drug control.⁷ It was this lack of engagement that Hunt challenged in his speech, recognising that each system must grapple with the sometimes difficult and uncomfortable challenges that emerge when a human rights lens is applied to drug laws and enforcement activities.

Interestingly, Hunt’s speech came only two months after the United Nations Commission on Narcotic Drugs adopted its first ever resolution on human rights.⁸ Once adopted, if in watered down form, the resolution marked the first time in its fifty-year history that the Commission passed a statement on human rights. The following year, in 2009, the Office of the UN High Commissioner on Human Rights would issue its first ever statement on the human rights impacts of drug control. In the decade that followed, work to bridge these ‘parallel universes’ continued apace, largely driven by civil society organisations and key Member States.⁹ These efforts culminated several years later in the first ever high-level session of the UN Human

⁵ Hunt, P., (2008). ‘*Human Rights, Health and Harm Reduction: States’ Amnesia and Parallel Universes*’. International Harm Reduction Association, pp. 9.

⁶ UN Human Rights Council, ‘Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Paul Hunt, Mission to Sweden’ (28 February 2007) UN Doc No A/HRC/4/28/Add.2, para 60.

⁷ Barrett, D. and Nowak, M. (2019). The United Nations and drug policy: Towards a human rights based approach. In: A. Constantinides and N. Zaikos, ed., *The Diversity of International Law: Essays in Honour of Professor Kalliopi K. Koufa*. Martinus Nijhoff

⁸ UN Commission on Narcotic Drugs (2008) ‘*Strengthening cooperation between the United Nations Office on Drugs and Crime and other United Nations entities for the promotion of human rights in the implementation of the international drug control treaties*’ Resolution 51/12

⁹ United Nations Human Rights Council (2015) *Contribution of the Human Rights Council to the special session of the General Assembly on the world drug problem of 2016*. Resolution A/HRC/RES/28/28; United Nations Human Rights Council (2015) Study on the impact of the world drug problem on the enjoyment of human rights. Resolution A/HRC/30/65; International Drug Policy Consortium, (2018) *Taking Stock: A decade of drug policy – a civil society shadow report*; Barrett, D., Lines, R., Schleifer, R., Elliott, R. and Bewley-Taylor, DR (2008) *Recalibrating the Regime: The need for the human rights-based approach to international drug policy*. The Beckley Foundation Drug Policy Programme; Lines, R. (2018). *Drug control and human rights in international law*. Cambridge, Cambridge University Press

Rights Council on drug control issues in 2015, and the inclusion of human rights as one of four ‘cross-cutting themes’ examined within the United Nations General Assembly on the world drug problem in 2016.¹⁰

Despite this important progress on human rights and drug control over the past decade, it would be incorrect to suggest that this has been the result of sustained focus on this issue in any UN forum. Rather, this period is one marked by ebbs and flows in attention to this topic within various UN bodies. Perhaps unsurprisingly, peaks of activity have coalesced around key political moments within global drug policy discussions, such as the Political Declaration and Plan of Action on Drugs in 2009 and the interim review of the Political Declaration and Plan of Action on Drugs in 2014. However, the most significant moment in this period was the UN General Assembly Special Session (UNGASS) on the world drug problem in April 2016. As the first such meeting to be held since 1998, and coming on the heels of progress on human rights made at the 2009 and 2014 meetings,¹¹ the UNGASS offered an opportunity to re-examine the existing approaches to drug control, and move beyond what the UN Office on Drugs and Crime had called in 2008 the negative ‘unintended consequences’ of the regime.¹² Using the UNGASS as a milestone, this chapter will examine engagement and progress on human rights by the UN drug control regime over three distinct stages. The first stage is the ‘pre-UNGASS period’, beginning with the 2008 Commission on Narcotic Drugs human rights resolution and ending in early 2015, as the preparatory work for the UNGASS began in earnest. The second ‘UNGASS period’ will cover the year of activities beginning in March 2015, leading into the UNGASS meeting in April 2016. The final stage examined will be ‘post-UNGASS’, and will explore the legacy of the Special Session’s outcomes on this debate.

This chapter will draw on qualitative research undertaken from four principle political and normative institutions within the United Nations between 2008 and 2018: the Commission on Narcotic Drugs, the International Narcotics Control Board, the Human Rights Council, and the United Nations human rights treaty bodies. The sources consulted for this chapter include the Official Records of the UN Commission on Narcotic Drugs, the official reports issued by the

¹⁰ UNGASS (2016) *Special session of the United Nations General Assembly on the world drug problem* Resolution A/RES/A-30/1; International Drug Policy Consortium, (2016) *the UNGASS special session on the world drug problem: Report of proceedings*; Lines, R. and Barret, D. (2016) ‘The human rights ‘win’ at the UNGASS on drugs that no one is talking about, and how we can use it’, *Human Rights Centre Blog*, 9 May; TNI (2016). *UNGASS 2016: A broken or b-r-o-a-d consensus?* Drug Policy Briefing.

¹¹ See Section 2

¹² UN Commission on Narcotic Drugs (2008) *Making drug control ‘fit for purpose’: Building on the UNGASS decade*. UN Doc No. E/CN.7/2008/CRP.17*.

International Narcotics Control Board, official reports and statements of the United Nations Office on Drugs and Crime, official country reports of the Universal Periodic Review, and concluding observations and individual communications from a selection of UN human rights treaty bodies.¹³ Although representing the official records of the proceedings of these bodies, and a useful resource in that regard, it is important to highlight the limitations of relying on these accounts exclusively. Despite their authority as sources, official records can never represent the entirety of events or debates occurring at any given meeting, nor reflect the nuance of the debates. Capturing a fuller account of that type would also require consulting civil society records and reports, and interviewing key participants, both of which are beyond the scope of this chapter.¹⁴

Despite recent attention to the disconnect between human rights and drug policy in both academic and civil society discourse¹⁵, there has been little analysis of the historical evolution and convergence of the relevant global governance machinery.¹⁶ This chapter provides a ten-year comparative qualitative assessment of the official work of key United Nations bodies on the issue of human rights and drug control, which does not exist elsewhere. In providing a comparative assessment of these governance institutions, this chapter enables a unique means to identify how normative and political debates on the issue of human rights and drug policy have converged in some respects and the institutional challenges presented by shifting discourses. By isolating the interpretive analysis into three discrete time frames, this chapter demonstrates how human rights and drug policy has achieved significant attention within these institutions, and provides a summary interpretation of these official records that can enable scholars, policymakers, and other students to better understand how this issue has evolved across each fora. While this chapter does not suggest such an analysis provides a

¹³ Thanks to our colleagues at the International Centre on Human Rights and Drug Policy, University of Essex and the United Nations Development Program who also contributed to this data collection process

¹⁴ [Collins, J.](#) (2017). 'Losing UNGASS? Lessons from civil society, past and present', *Drugs and Alcohol Today*, 17 (2), pp. 88-97. doi: 10.1108/DAT-02-2017-0006; CND Blog: Live reporting from the UN Commission on Narcotic Drugs (2019)

¹⁵ Tupper, K. and Labate, B. (2012). 'Plants, Psychoactive Substances and the International Narcotics Control Board: The Control of Nature and the Nature of Control', *Human Rights and Drugs*, 2 (1); Bewley-Taylor, D. and Trace, M. (2006) 'The International Narcotics Control Board: Watchdog or guardian of the UN Drug Control Conventions', The Beckley Foundation; Bewley Taylor, D. (2003) 'Challenging the UN drug control conventions: problems and possibilities'. *International Journal of Drug Policy*, 14 (2), pp. 171-179; Golichenko, M., Stolz, S. and Ezer, T. (2018) 'Addressing human rights abuses against people who use drugs: A critical role for Human Rights Treaty Bodies and Special Procedures', *Journal of Human Rights Practice*, 10 (1), pp. 83 – 102; Barret, D. (2018) *Drugs and the Convention on the Rights of the Child*. PhD thesis. Stockholm University; International Centre on Human Rights and Drug Policy, United Nations Development Programme, UNAIDS and World Health Organization, International Guidelines on Human Rights and Drug Policy (2019) (Guidelines)

¹⁶ While Lines's monograph, *Drug control and human rights in international law*, provides an important overview of the human rights/drug policy nexus, it has an explicit focus on treaty interpretation from an international law perspective.

framework for bridging the human rights and drug policy discourse, it does offer unique insight into how global governance mechanisms currently engage on the issue and presents a novel, unified approach for policymakers, advocates and scholars to interrogate and advance this critical human rights debate moving forward.

2. The ‘pre-UNGASS’ Period (2008—2014)

In examining the influence of human rights on drug control debates within the United Nations post 2016, it is surprising to realise that such discourse has only emerged in the past ten years. Prior to 2008, discussions of human rights were almost unthinkable within UN drug control fora, just as discussions of drugs were almost invisible in the UN human rights system. As recently as 2009, human rights was such an alien concept within the work of the Commission on Narcotic Drugs that a group of three civil society organisations attending the meeting distributed leaflets entitled 'Ten Ways Drug Policy Affects Human Rights' and 'Ten Reasons Why Human Rights is an Issue for CND'.¹⁷ A few months later, these same three organisations circulated a similar leaflet, ‘Ten Reasons Why the UN Human Rights Council must Address Drug Policy’, at the meeting of the Council.¹⁸ The simplistic nature of the message illustrates the level of basic education required in both systems at the time about the interlocking nature of their mandates.

2.1 Vienna: the Commission on Narcotic Drugs

In human rights terms, 2008 was a watershed year for the Commission on Narcotic Drugs, with a number of key moments opening up the potential for new thinking on drug control and enforcement. The 51st session that year saw the adoption of the Commission’s first ever resolution on the promotion and protection of human rights.¹⁹ While the negotiation of the resolution was contentious,²⁰ its adoption by the United Nation’s policy-making body on drug control established fresh political space for cooperation on human rights across the United Nations system, including with the human rights machinery in Geneva. In addition to some general language on the importance of ensuring drug control is conducted in conformity with

¹⁷ International Harm Reduction Association, Open Society Institute, Human Rights Watch (2009) *Ten Ways Drug Policy Affects Human Rights*; International Harm Reduction Association, Open Society Institute, Human Rights Watch (2009) *Ten Reasons Why Human Rights is an Issue for CND*.

¹⁸ International Harm Reduction Association, Open Society Institute, Human Rights Watch (2009) *Ten Reasons Why the UN Human Rights Council must Address Drug Policy*

¹⁹ UN Commission on Narcotic Drugs (2008) *Strengthening cooperation between the United Nations Office on Drugs and Crime and other United Nations entities for the promotion of human rights in the implementation of the international drug control treaties* Resolution 51/12.

²⁰ Lines, *supra* fn 2

the Charter of the United Nations and other principles of international law, including human rights law, the resolution contained two significant operational paragraphs. The first ‘Request[ed] the United Nations Office on Drugs and Crime to continue...to work closely with the competent United Nations entities, including the United Nations human rights agencies’. The other ‘Request[ed] the Executive Director of the United Nations Office on Drugs and Crime to report to the Commission at its fifty-third session on the implementation of the present resolution.’²¹ These two paragraphs opened the door for further work on this topic, creating a mandate for UNODC to work directly with the High Commissioner’s Office, and ensuring the issue of human rights would again be brought before the Commission in a more detailed fashion in two years’ time.

This resolution was adopted at the same time that a new interest in the human rights impacts of drug control was emerging on the part of UN Office on Drugs and Crime, and the 51st session was the platform for some significant human rights statements from UNODC. The first was the publication of a ground-breaking report from the Executive Director, “Making drug control ‘fit for purpose’: Building on the UNGASS decade”.²² The conference room paper presented to Member States outlined a series of what it identified as the negative ‘unintended consequences’ of the global drug regime,²³ which included its negative impacts on human rights. The paper argued that making drug control ‘fit for purpose’ in the modern era meant bringing drug enforcement into alignment with State obligations under the Charter of the United Nations to promote human rights and fundamental freedoms.²⁴

In his speech before the Commission plenary session that year, then UNODC Executive Director, Antonio Maria Costa, highlighted some of the issues raised in the paper, including the need for drug control to begin to embrace human rights, as well as for States to reconsider the use of the death penalty for drug offences.

In Article 25 of the *Universal Declaration*, health is listed as a basic human right. As we emphasize the health aspects of drug control, it stands to reason that

²¹ UN Commission on Narcotic Drugs (2008) ‘*Strengthening cooperation between the United Nations Office on Drugs and Crime and other United Nations entities for the promotion of human rights in the implementation of the international drug control treaties*’ Resolution 51/12.

²² UN Commission on Narcotic Drugs (2008) *Making drug control ‘fit for purpose’: Building on the UNGASS decade*. Report E/CN.7/2008/CRP.17*, pp. 19

²³ *Ibid.*, 21.

²⁴ *Ibid.*, 21.

implementation of the drug Conventions must proceed with due regard to human rights. Thus far, there has been little attention paid to this aspect of our work. This definitely needs to be amended. Although drugs kill, I don't believe we need to kill because of drugs. The UN drug conventions have left it to individual states to deal with health care and crime retribution, in relation with the specific cultural and judicial contexts. Mindful of this, today I propose that Member States extend the concept of harm reduction to include the need to give serious consideration to whether the imposition of capital punishment for drug-related crimes is a best practice.²⁵

The carefully chosen words and the equivocal nature of the language used should not diminish the significance of these statements, as they represented the first time that the Office had questioned the human rights impacts of drug control, and suggested the need for States to rethink their own domestic laws as a consequence. This, in parallel with the Commission resolution, played a major role in legitimatising what was, prior to 2008, a topic largely seen as illegitimate with both the drug control and human rights regimes.

A review of Commission meetings over the following few years reveals a slow yet observable shift in the way in which drug control measures were framed, and an increasing awareness of the need to at least be seen to include human rights language in the proceedings. The 52nd session of the Commission in 2009, for example, adopted a resolution highlighting the importance of human rights in the context of alternative development²⁶ as well as the adoption of the 2009 Political Declaration and Plan of Action, setting the tone for the next 10 years of work for the Commission and UN Member States.²⁷ The official records for that year further reveal calls for alternative and proportionate sentencing, as well as the need to take more steps

²⁵ Costa, A.M. (2008) Plenary Speech at the 51st Session of the United Nations Commission on Narcotic Drugs, Vienna.

²⁶ Alternative development programmes aim to encourage farmers involved in illicit cultivation to switch to licit crop cultivation, see <https://www.unodc.org/unodc/en/alternative-development/index.html?ref=menuside> and Jelsma, M. (2018). Connecting the dots: Human rights, illicit cultivation and alternative development. Amsterdam: TNI

²⁷ United Nations Commission on Narcotic Drugs (2009), '*Promoting best practices and lessons learned for the sustainability and integrity of alternative development programmes*' Resolution 52/6; United Nations Office on Drugs and Crime (2009), '*Political declaration and plan of action on international cooperation towards an integrated and balanced strategy to counter the world drug problem*': see para 1: "Reaffirm our unwavering commitment to ensure that all aspects of demand reduction, supply reduction and international cooperation are addressed in full conformity with the purposes and the principles of the Charter of the United Nations, international law and the Universal Declaration of Human Rights and, in particular, with full respect for the sovereignty and territorial integrity of States, the principle of non-intervention in the internal affairs of States, all human rights, fundamental freedoms, the inherent dignity of all individuals and the principles of equal rights and mutual respect among States"

to safeguard people who use drugs from discriminatory measures,²⁸ both of which indicate a growing recognition and confidence of some Member States to engage with human rights concerns in this forum.

At the 53rd session, four resolutions made note of the importance of human rights (in the context of HIV, drug trafficking offenses, alternative development and drug use prevention).²⁹ Two more resolutions followed in relation to human rights at 54th session, one on rehabilitation and the role of civil society.³⁰ From the official records, the human rights discourse focussed on HIV and harm reduction,³¹ gender-perspectives³² and a conference paper from the UNODC on ensuring availability of controlled medicines.³³ Four resolutions followed at the 55th session, with discussions on human rights more limited than the year before, and maintaining the focus on harm reduction seen in previous years.³⁴ The 56th session in 2013 was a relatively quiet year for human rights discussions and resolutions, with the adoption of only two resolutions with human rights reference as well as the draft resolution on the Guiding Principles on Alternative Development.³⁵

28 Commission on Narcotic Drugs Report on the fifty-second session (14 March 2008 and 11-20 March 2009) Economic and Social Council Official Records, 2009 Supplement No. 8 E/CN.7/2009/12, see paras 48, 58, 72 and 86

29 United Nations Commission on Narcotic Drugs (2010), '*Achieving universal access to prevention, treatment, care and support for drug users and people living with or affected by HIV*' Resolution 53/9; United Nations Commission on Narcotic Drugs (2010), '*Strengthening international cooperation in countering the world drug problem focusing on illicit drug trafficking and related offences*' Resolution 53/8; United Nations Commission on Narcotic Drugs (2010), '*Follow-up to the promotion of best practices and lessons learned for the sustainability and integrality of alternative development programmes and the proposal to organize an international workshop and conference on alternative development*' Resolution 53/6; United Nations Commission on Narcotic Drugs (2010), '*Preventing the use of illicit drugs within Member States and strengthening international cooperation on policies of drug abuse prevention*'

30 United Nations Commission on Narcotic Drugs (2011), '*Promoting rehabilitation- and reintegration-oriented strategies in response to drug use disorders and their consequences that are directed at promoting health and social well-being among individuals, families and communities*' Resolution 54/5; United Nations Commission on Narcotic Drugs (2011), '*Improving the participatory role of civil society in addressing the world drug problem*' Resolution 54/11.

31 Commission on Narcotic Drugs Report on the fifty-third session (2 December 2009 and 8-12 March 2010) Economic and Social Council Official Records, 2010 Supplement No. 8, E/CN.7/2010/18, see paras 77-78

32 Ibid, para 15

33 United Nations Office on Drugs and Crime (2011), '*Ensuring availability of controlled medications for the relief of pain and preventing diversion and abuse: A discussion paper*', para 14.

34 United Nations Commission on Narcotic Drugs (2012), '*One hundredth anniversary of the International Opium Convention*' Resolution 55/3 (para 3); United Nations Commission on Narcotic Drugs (2012), '*Follow-up on the proposal to organize an international workshop and conference on alternative development*' Resolution 55/4 (preamble); United Nations Commission on Narcotic Drugs (2012), '*Promoting strategies and measures addressing specific needs of women in the context of comprehensive and integrated drug demand reduction programmes and strategies*' Resolution 55/5 (para 13); United Nations Commission on Narcotic Drugs (2012), '*Alternatives to imprisonment for certain offences as demand reduction strategies that promote public health and public safety*' Resolution 55/12; Commission on Narcotic Drugs Report on the fifty-fifth session (13 December 2011 and 12-16 March 2012) E/CN.7/2012/18, para 48

35 United Nations Commission on Narcotic Drugs (2013), '*Strengthening international cooperation in combating illicit opiates originating in Afghanistan through continuous and reinforced support to the Paris Pact initiative*' Resolution 56/3; United Nations Commission on Narcotic Drugs (2013), '*Enhancing international cooperation to strengthen efforts in West Africa to counter illicit drug trafficking*' Resolution 56/16.

The 57th session in 2014, however, saw human rights issues again coming to the fore, both at the high-level review of the political declaration taking place that year, as well as the promise of an advanced General Assembly Special Session on the world drug problem on the horizon. Four resolutions were adopted with reference to human rights, including on drug-related health service provision during economic downturns, promoting drug use prevention as a means to protect the child, and implementation on the Guiding Principles on Alternative Development in addition to the introduction of a drug resolution for the forthcoming Special Session.³⁶ The 2014 session was particularly notable for fierce debates on the question of the death penalty for drug offences. Over the course of several years, the death penalty for drug offences emerged as a key human rights wedge issue within the Commission meetings.³⁷

In the months leading up to the 2014 high level meeting, abolitionist Member States led by Switzerland proposed that the Joint Ministerial Statement on the world drug problem to be released include opposition to the death penalty for drug offences.³⁸ This proposal met with fierce opposition from retentionist governments, and eventually the language on the death penalty was withdrawn.³⁹ However, while ultimately unsuccessful, this process illustrated the degree to which human rights issues generally, and the death penalty specifically, were beginning to have political impact on the global drug control debate. For example, speaking in reaction to the Joint Ministerial Statement that presented the three UN drug control conventions as the only framework for analysing and responding to drugs, the representative of Ecuador ‘reiterated her delegation’s position that the drug policy implemented under the auspices of the United Nations needed to be revised, as it had been created without considering the historical and cultural particularities of the different regions of the world, which had led to the implementation of a model with high costs, especially in terms of human rights’.⁴⁰

³⁶ United Nations Commission on Narcotic Drugs (2014), ‘*Strengthening and expanding international cooperation to counter the threats posed by illicit production and manufacturing, trafficking and abuse of drugs in the Greater Mekong subregion*’ Resolution 57/11; Resolution 57/7 United Nations Commission on Narcotic Drugs, ‘*Providing sufficient health services to individuals affected by substance use disorders during long-term and sustained economic downturns*’; United Nations Commission on Narcotic Drugs (2016), ‘*Special session of the General Assembly on the world drug problem to be held in 2016*’ Resolution 57/5; United Nations Commission on Narcotic Drugs (date unknown), ‘*Promoting prevention of drug abuse based on scientific evidence as an investment in the well-being of children, adolescents, youth, families and communities*’ Resolution 57/3; United Nations Commission on Narcotic Drugs (2014), ‘*Promoting the implementation of the United Nations Guiding Principles on Alternative Development and proposal to organize an international seminar/workshop on the implementation of the Guiding Principles*’ Resolution 57/11.

³⁷ Gallahue, P. and Lines, R. (2015) ‘*The Death Penalty for Drug Offences: Global Overview 2015*’ International Harm Reduction Association, pp. 10.

³⁸ UN Office on Drug and Crime (2014). ‘*Joint Ministerial Statement*’

³⁹ *Ibid.*, 11.

⁴⁰ United Nations Commission on Narcotic Drugs Report on the fifty-seventh session (13 December 2013 and 13-21 March 2014) Economic and Social Council Official Records, 2014 Supplement No. 8, E/CN.7/2014/16, para 20

2.2 Vienna: United Nations Office on Drugs and Crime

Alongside the work of the Commission, the UN Office on Drugs and Crime also continued to expand its engagement with human rights. The 53rd Commission session in 2010 saw the publication of the Executive Director's conference paper on human rights and drug control, as requested in the 2008 Commission resolution.⁴¹ In 2012, UNODC published its own guidance document 'intended to articulate UNODC's perspective on promotion and protection of human rights as part of the work of the Office', and give direction to its own staff on ensuring human rights protections within the context of their work.⁴² While the operational impact of this guidance document is unclear,⁴³ the fact that UNODC committed time and resources to its development suggest an increased debate on human rights issues within the agency itself.

It is important to mention that during this pre-UNGASS period, the UNODC was continually vocal on the issue of the death penalty for drug offences, and that the clarity of the Office's public statements increased significantly from the tenuous and careful language first unveiled at the 2008 CND session. By the time the Executive Director's conference room paper on human rights was published at the 2010 Commission session, the UNODC position had evolved significantly. 'As an entity of the United Nations system, UNODC advocates the abolition of the death penalty and calls upon Member States to follow international standards concerning prohibition of the death penalty for offences of a drug-related or purely economic nature.'⁴⁴

These examples illustrate the degree to which the Office on Drugs and Crime was beginning to embrace the broader international law and human rights context in which its drug control mandate sits, and shows significant evolution over the course of only two years.

2.3 Vienna: The International Narcotics Control Board

While human rights progress was steady, if slow, at the Commission and UNODC, the third UN drug control body, the International Narcotics Control Board, was an outlier. Originally

⁴¹ UN Office on Drugs and Crime (2010) '*Drug control, crime prevention and criminal justice: A Human Rights perspective*****', Note by the Executive Director, Reports E/CN.7/2010/CRP.6*-E/CN.15/2010/CRP.1*, see also Official Records, para 141.

⁴² UN Office on Drugs and Crime (2012) '*UNODC and the Promotion and Protection of Human Rights: A Position Paper*', para. 2.

⁴³ For example, 'Despite the positive recommendations contained in its 2012 human rights guidance paper, the UN Office on Drugs and Crime has yet to operationalise its key recommendations, and the report has largely disappeared within the agency.' Lines, *Supra* n 2, p. 174

⁴⁴ UN Office on Drugs and Crime (2012) '*UNODC and the Promotion and Protection of Human Rights: A Position Paper*', para. 26.

established under the 1961 drug convention as a body of independent experts with a mandate to monitor the implementation of the treaty by States Parties, the Board's role had expanded over time to include monitoring all three drug treaties. Yet the Board's own perception of its role was tightly confined to drug control, and for much of this pre-UNGASS period, the Board was notable for denying that it had any human rights responsibility whatsoever.⁴⁵ The institutional vacuum created resulted in some rather problematic moments, such as the Board's praising of countries for drug control activities that other UN agencies had criticised on human rights grounds. For example, in 2012 the INCB uncritically noted a 'significant increase' in the population of China's compulsory drug detention centres to 360,000 people.⁴⁶ That same year, the Board 'welcome[d]' Vietnam's approach to drug treatment, which like China includes widespread use of compulsory detention. The Board went further in 'encourag[ing] the Government to reinforce and support existing facilities'.⁴⁷ Significantly, the same month that the INCB's report was released, a Joint Statement of twelve United Nations agencies, including the Office on Drugs and Crime, was published that called for the end of the use of compulsory detention in the name of 'drug treatment', using human rights as a foundational argument.⁴⁸ During this same period, the Board displayed open hostility towards governments that implemented harm reduction programmes, which were widely supported by other United Nations agencies on both health and human rights grounds.⁴⁹

That is not to say that the mention of human rights was completely absent from the Board's work in the pre-UNGASS period. In 2008, for example, the Board's annual report acknowledged that the World Health Organization recognised the link between human rights and drug control. The INCB stated that "access to narcotic drugs such as morphine and codeine, both on the WHO Model List of Essential Medicines, is considered by WHO to be a human right as defined by the International Covenant on Economic, Social and Cultural

⁴⁵ for example: Csete, J., 'Overhauling Oversight: Human Rights at the INCB' in Collins, J., (ed) *Governing The Global Drug Wars: Special Report* (LSE Ideas, 2012)

⁴⁶ International Narcotics Control Board (2012), 'Report of the International Narcotics Control Board for 2011' UN Doc No E/INCB/2011/1, para 583

⁴⁷ Ibid, para 117.

⁴⁸ International Labour Organization (ILO); UN Office of the High Commissioner for Human Rights (OHCHR); United Nations Development Programme (UNDP); United Nations Educational, Scientific and Cultural Organisation (UNESCO); United Nations Population Fund (UNPF); United Nations High Commissioner for Refugees (UNHCR); United Nations Children's Fund (UNICEF); United Nations Office on Drugs and Crime (UNODC); United Nations Entity for Gender Equality and the Empowerment of Women (UN Women); World Food Programme (WFP); World Health Organization (WHO); and Joint United Nations Programme on HIV/AIDS (UNAIDS) (2012), '*Joint Statement: Compulsory drug detention and rehabilitation centres*'.

⁴⁹ See, for example, International Narcotics Control Board (2011), '*Report of the International Narcotics Control Board for 2010*' UN Doc No E/INCB/2010/1, para123; International Narcotics Control Board (2009), '*Report of the International Narcotics Control Board for 2008*' UN Doc No E/INCB/2008/1, para 430.

Rights.”⁵⁰ Later in the report, the INCB noted the impasse between the drug conventions and traditional practices of indigenous peoples in respect to coca.

Interestingly, the Board was cognisant of the growing human rights discourse being applied to drug control, and in the report showed the beginning of some direct push back. The Board stated that ‘the international drug control conventions do not accept the existence of a “right” to possess narcotic drugs or psychotropic substances unless they are to be used for medical or scientific purposes’.⁵¹ While this refuted a position that was not made by human rights advocates, it is an indication of the Board’s growing awareness and discomfort with the emerging human rights debate within the UN drug regime. This perspective was consistent with the Board’s advocacy for the one human rights position with which it could agree at the time, even though the right in question was not a right defined in any legal instrument--the human right to be drug-free. Ten years earlier, the INCB President began making the case in United Nations fora that ‘[t]he right to be free of drug abuse and the right to be protected from drug abuse...should be respected by all people’.⁵² In its 2011 annual report, the INCB President repeated this claim ‘that being free from drug addiction is a human right’.⁵³

The Board’s difficulty in integrating human rights within its mandate was also evident in more subtle ways in this period. In its 2012 report, the chapter on access to medicines contains an awkward rights and disease model statement that “(l)ack of availability of narcotic drugs and psychotropic substances may deprive patients of their fundamental rights and the opportunity to have relief from physical pain and from suffering due to mental illness”.⁵⁴ While the 2011 thematic focus of the INCB’s reporting was on social cohesion, social disorganisation and illegal drugs, there was no reference to the human rights dimensions of poverty, development, or inequality. This despite the robust work happening in Geneva at the time that culminated in the adoption of the guiding principles on extreme poverty and human rights just one year later.⁵⁵ In both 2012 and 2013, the INCB made only tacit acknowledgement to the human

⁵⁰ International Narcotics Control Board (2009), ‘*Report of the International Narcotics Control Board 2008*’ UN Doc No. E/INCB/2008/1, para. 19.

⁵¹ *Ibid*, para 31

⁵² ‘Statement by Professor Hamid Ghodse, President of the International Narcotics Control Board’ delivered at the Economic and Social Council (28 July 1998). See also Statement by Professor Hamid Ghodse, President of the International Narcotics Control Board’, Statement delivered at the 20th Special Session of the General Assembly on the World Drug Problem, 8–10 June 1998.

⁵³ International Narcotics Control Board (2012), ‘*Report of the International Narcotics Control Board for 2011*’ UN Doc No E/INCB/2011/1, p iii.

⁵⁴ *Ibid*, para 103

⁵⁵ United Nations Human Rights Office of the High Commissioner (2012), ‘Guiding Principles on Extreme Poverty and Human Rights’, Geneva: UN

rights dimensions of their work and in their thematic exploration of the economic consequences of drug abuse.

However, as the pre-UNGASS period drew to a close, the INCB eventually began showing the influence of the growing human rights discourse in the drug control regime. Beginning in 2014, human rights became a more visible part of its reporting. At the Commission on Narcotic Drugs meeting that year, the Board made its first public statement against the death penalty for drug offences,⁵⁶ once again demonstrating that the issue of capital punishment was the opening in the UN drug control regime through which issues of human right could be introduced. In an opening paragraph of its annual report, within a new thematic focus on an “integrated and balanced approach” to addressing the world drug problem, the INCB stated clearly that the obligations contained within the drug conventions do not “condone the repression of human rights”.⁵⁷ The 2014 report dedicated an entire chapter that promoted human rights as an integral element of a balanced approach to the world drug problem. The INCB for the first time acknowledged the Geneva human rights machinery and recommended that States should “if necessary, seek out the advice of human rights treaty bodies for the implementation of such norms”.⁵⁸

While it is significant to see the growing influence of human rights on the Board, its engagement with human rights principles remained complicated. For example, while the INCB encouraged Member States to integrate human rights throughout their drug policies, this was in the context of encouraging governments to “make full use of the complex international legal framework in order to protect children from the illicit use of narcotic drugs and psychotropic substances.” In effect, the primary objective of the INCB remained confined to drug prevention, rather than the broader promotion of human rights within drug control. This was explicitly stated in its 2015 report, which said that ‘while reducing health related and social harms of drug use, the “primordial” objective of government action should be prevention of drug abuse across society, especially with children’.⁵⁹

⁵⁶ United Nations Information Service (2014), ‘International Narcotics Control Board encourages States to consider the abolition of the death penalty for drug-related offences’, UN Doc No UNIS/NAR/1199.

⁵⁷ International Narcotics Control Board (2015), ‘*Report of the International Narcotics Control Board for 2014*’, UN Doc No. E/INCB/2014/1, para. 2.

⁵⁸ Ibid, para 38

⁵⁹ Ibid, para 44; While prevention of harmful drug use for children is an important human rights objective, the implementation of this objective has created an environment of human rights risk. Concurrently, a narrow focus on prevention ignores the entitlement to harm reduction for those children actively using drugs. For further insight see: Barrett, D. (2017). ‘The Child’s right to protection from drugs: Understanding history to move forward’, *Health and Human Rights Journal*, 19 (1), pp. 263 – 268.

2.4 Geneva: Human Rights Mechanisms

For a broader systemic context, it is important to note that alongside these developments within the UN drug control regime, the human rights system began dedicating more attention to the negative impacts of drug enforcement. In January 2009, the UN Special Rapporteur on Torture released his annual report containing a thematic section on the link between drug control and torture and other forms of cruel, inhuman and degrading treatment and punishment, the first time a UN Special Procedure has dedicated such attention to drug policy.⁶⁰ Two months later in March, the Office of the UN High Commissioner for Human Rights released its first ever statement calling for a focus on ‘human rights and harm reduction in international drug policy’.⁶¹ Over the coming years, drug control as a human rights issue became increasingly visible in Geneva. In 2010, the Special Rapporteur on the Right to Health dedicated his entire annual report to the negative impacts of drugs laws and policies on health.⁶² The Special Rapporteur on Torture’s annual report again addressed drug policy in 2013, identifying people who use drugs as a specific group vulnerable to ill treatment.⁶³ Throughout this pre-UNGASS period, more and more human rights treaty bodies were including comment on drug policy within their Concluding Observations.

The Human Rights Committee addressed the issue of drug policy in several periodic reviews of States Parties’ compliance with the International Covenant on Civil and Political Rights during this pre-UNGASS period. This included pressing Kuwait and Indonesia to eliminate the death penalty for drug offenses⁶⁴ and acknowledging the challenges a zero tolerance drug policy presents to fulfilling Covenant obligations in Georgia.⁶⁵ In its recommendations to Georgia in 2014, the Committee recommended the government “Adopt a human rights-based approach in addressing the problem of drug use, with a focus on appropriate health care, psychological support services and rehabilitation for drug users, including drug dependence

⁶⁰ UN Human Rights Council (2009), *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*. UN Doc No A/HRC/10/44.

⁶¹ Office of the United Nations High Commissioner for Human Rights (2009), ‘High Commissioner calls for focus on human rights and harm reduction in international drug policy’, statement of 10 March 2009

⁶² Human Rights Council (2010), *Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health*. UN Doc No A/65/255.

⁶³ Human Rights Council (2013), *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*. UN Doc No A/HRC/22/53.

⁶⁴ UN Human Rights Committee (HRC), (2011). ‘Concluding observations of the Human Rights Committee for Kuwait’, CCPR/C/KWT/CO/2; UN Human Rights Committee (HRC) (2013). ‘Concluding observation of the Human Rights Committee on the initial report of Indonesia’, CCPR/C/IDN/CO/1.

⁶⁵ UN Human Rights Committee (HRC) (2014). ‘Concluding observation of the Human Rights Committee on the fourth periodic report of Georgia, CCPR/C/GEO/CO/4

treatment such as opioid substitution therapy and harm reduction programmes.”⁶⁶ Concurrently, the Committee on Economic, Social and Cultural Rights began to emerge as an important forum for examining the health and social impacts of not just drug use, but also government policies and practices towards drugs. While the majority of the Committee’s engagement with the issue was limited to expressing concern over high or increasing rates of drug use,⁶⁷ the Committee also began a more detailed examination of the impact repressive drug control policies can have on rights enshrined by the Covenant. This included expressing concern over forced treatment in detention centres in Belarus, Cambodia, and Indonesia.⁶⁸ Likewise, the Committee began critiquing the accessibility of harm reduction measures including availability of opioid substitution treatment in countries such as Ukraine, Russia, Lithuania, and Turkey.⁶⁹

2.5 Geneva: Human Rights Council and the Universal Periodic Review

⁶⁶ Ibid

⁶⁷ UN Committee on Economic, Social and Cultural Rights (CESCR), (2008), ‘Concluding Observations of the Committee on Economic, Social and Cultural Rights on Latvia’ E/C.12/LVA/CO/1; UN Committee on Economic, Social and Cultural Rights (CESCR), (2008), Concluding Observations of the Committee on Economic, Social and Cultural Rights on Finland’, E/C.12/FIN/CO/5; UN Committee on Economic, Social and Cultural Rights (CESCR), (2008), ‘Concluding Observations of the Committee on Economic, Social and Cultural Rights on Costa Rica’, E/C.12/CRI/CO/4/Corr.1; (UN Committee on Economic, Social and Cultural Rights (CESCR), (2008), ‘Concluding Observations of the Committee on Economic, Social and Cultural Rights on Hungary’, E/C.12/HUN/CO/3; UN Committee on Economic, Social and Cultural Rights (CESCR) , (2008), Concluding Observations of the Committee on Economic, Social and Cultural Rights on the fourth periodic report of France’, E/C.12/FRA/CO/3; UN Committee on Economic, Social and Cultural Rights (CESCR), (2010), Concluding Observations of the Committee on Economic, Social and Cultural Rights on Afghanistan’, E/C.12/AFG/CO/2-4; UN Committee on Economic, Social and Cultural Rights (CESCR), (2010), ‘Concluding Observations of the Committee on Economic, Social and Cultural Rights on the Kingdom of the Netherlands’, E/C.12/NL/CO/4-5; UN Committee on Economic, Social and Cultural Rights (CESCR), (2018), ‘Concluding Observations of the Committee on Economic, Social and Cultural Rights on the sixth periodic report of Germany’, E/C.12/DEU/CO/5; UN Committee on Economic, Social and Cultural Rights (CESCR), (2011), Concluding Observations of the Committee on Economic, Social and Cultural Rights on Estonia, E/C.12/EST/CO/2; UN Committee on Economic, Social and Cultural Rights (CESCR), (2011), ‘Concluding Observations of the Committee on Economic, Social and Cultural Rights on Spain’, E/C.12/ESP/CO/5; UN Committee on Economic, Social and Cultural Rights (CESCR), (2014), ‘Concluding Observations of the Committee on Economic, Social and Cultural Rights on the sixth periodic report of Finland’, E/C.12/FIN/CO/6.

⁶⁸ UN Committee on Economic, Social and Cultural Rights (CESCR), (2015), Concluding Observations of the Committee on Economic, Social and Cultural Rights on the combined initial and second periodic reports of Thailand’, E/C.12/THA/CO/1; UN Committee on Economic, Social and Cultural Rights (CESCR), (2014), ;Concluding Observations of the Committee on Economic, Social and Cultural Rights on the initial report of Indonesia’, E/C.12/IDN/CO/1; (UN Committee on Economic, Social and Cultural Rights (CESCR), (201e), Concluding Observations of the Committee on Economic, Social and Cultural Rights on the combined fourth to sixth periodic reports of Belarus’, E/C.12/BLR/CO/4-6; UN Committee on Economic, Social and Cultural Rights (CESCR), (2009), ‘Concluding Observations of the Committee on Economic, Social and Cultural Rights on Cambodia’, E/C.12/KHM/CO/1.

⁶⁹ UN Committee on Economic, Social and Cultural Rights (CESCR), (2011), ‘Concluding Observations of the Committee on Economic, Social and Cultural Rights on Turkey’, E/C.12/TUR/CO/1; UN Committee on Economic, Social and Cultural Rights (CESCR), (2011), Concluding Observations of the Committee on Economic, Social and Cultural Rights on the Russian Federation’, E/C.12/RUS/CO/5; UN Committee on Economic, Social and Cultural Rights (CESCR), (2014), ‘Concluding Observations of the Committee on Economic, Social and Cultural Rights on the sixth periodic report of Ukraine’, E/C.12/UKR/CO/6; UN Committee on Economic, Social and Cultural Rights (CESCR), (2014), ‘Concluding Observations of the Committee on Economic, Social and Cultural Rights on the second periodic report of Lithuania’, E/C.12/LTU/CO/2.

As the primary political forum for human rights engagement on global issues, the Human Rights Council utilizes the Universal Periodic Review (UPR) as its primary political accountability tool. The UPR is a State-led, peer review mechanism that reviews the human rights record of each UN Member State across the full range of civil, political, economic, social and cultural rights. In 2006, the UPR began its first cycle as mandated by the UN General Assembly resolution 60/25.

Since 2006, two full cycles of the UPR have been completed. The third cycle of reviews is currently underway. As part of the research for this chapter, the authors undertook a qualitative assessment of State engagement on the issue of drug policy in the official recommendations for each cycle of the UPR.⁷⁰

It is important to note the enormity of this State-led process. During the first cycle of the UPR, 193 countries were reviewed and 17,638 recommendations were made. Of those recommendations, only 27 were related to the issue of drugs or drug policy, which represents .015%. Of the drug-related recommendations during the first cycle, countries from the Asia region dominated the discourse in their recommendations, with Malaysia, Pakistan and Qatar making more than one recommendation. The dominant narrative in this cycle's recommendations was to "intensify", "combat", "fight", "step up", "tackle" the problem of the illicit drug trade and illicit drug use. In essence, even in Geneva, a punitive narrative dominated the reporting cycle from 2008-2012. However, a less dominant narrative also emerged with States recommending action on the underlying drivers of drug use including strengthening the family, addressing poverty, as well as access to education in an effort to prevent illicit drug use, particularly for children. Of these two clusters of recommendations, the core narrative was one of prevention or the elimination of the illicit drug trade. Of the seven remaining recommendations from that cycle, the narrative focus shifted to strengthening human rights protections in relation to drug use as well as in the State responses. Two countries, Turkey and Czechia, called for the abolition of the death penalty, especially for drug offenses. Norway and Peru both called for strengthened freedom of expression protections, including for those (eg. journalists) speaking out against government officials or those involved in the drug trade

⁷⁰ The authors will be undertaking a comprehensive qualitative content analysis of this original research and produce their summary findings in a future publication. Statistics and information was generated utilizing the database of recommendations housed at the Universal Periodic Review Info: <https://www.upr-info.org/database/>

in both Guinea Bissau and Mexico. The final two recommendations focused on HIV/AIDS prevention through supporting human rights protections of people who use drugs.

As can be seen, this period was a particularly vibrant one in terms of the engagement of drug policy and human rights issues among key UN bodies. Prior to 2008, human rights and drug control was simply not an issue of legitimacy or attention within the United Nations or most Member States. Yet by the time the preparatory period for the UNGASS began in 2015, all three drug control bodies had pivoted to reflect human rights discourse to some degree in their work, and there was a growing list of human rights opinion from key Geneva bodies, with the rights-based political discourse from the Human Rights Council trailing further behind. This became the foundation of work that led into the twelve-month UNGASS period from March 2015 to April 2016.

3. The UNGASS Period

By 2014, the promise of a forthcoming General Assembly Special Session on the world drug problem reignited human rights debates during the 57th session of the Commission on Narcotic Drugs in Vienna. These debates reached perhaps their most heated political moment behind closed doors, as Member States debated the inclusion of the death penalty in the Joint Ministerial Statement. Substantive preparatory work for the General Assembly Special Session began in earnest in early 2015. While the official records of the 58th session of the Commission on Narcotic Drugs in March 2015 suggest a relatively quiet year for engagement on human rights,⁷¹ the real significance of the 58th session was the role it played in setting the stage for the UNGASS the following year.

The Commission meeting that year contained a special segment dedicated to preparing for the Special Session. In the preparatory background document from UNODC circulated to Member States as part of that special segment,⁷² human rights features prominently throughout. The document stated that ‘Protecting and fulfilling the right to health and safety of individuals and

⁷¹ United Nations Commission on Narcotic Drugs (2015), ‘Promoting the implementation of the United Nations Guiding Principles on Alternative Development. Resolution 58/4; United Nations Commission on Narcotic Drugs (2015), ‘Promoting the role of drug analysis laboratories worldwide and reaffirming the importance of the quality of the analysis and results of such laboratories’. Resolution 58/4; Commission on Narcotic Drugs Report on the fifty-eighth session (5 December 2014 and 9-17 March 2015) Economic and Social Council Official Records, 2015 Supplement No. 8, E/CN.7/2015/15, paras 18 and 85.

⁷² UN Commission on Narcotic Drugs (2015), ‘Background documentation for the interactive discussions on high-level segments to be held during the special session of the General Assembly on the world drug problem in 2016’. UN Doc No E/CN.7/2015/CRP.4.

communities is a key purpose of States' obligations under the drug control conventions and international human rights law.⁷³ It calls for health and human rights centered prevention and treatment programmes,⁷⁴ a 'health and human rights centered drug control system' [sic],⁷⁵ 'public health and human rights-focused HIV/AIDS policies and services',⁷⁶ access to essential medicines as a human right⁷⁷ and 'human rights in the administration of justice'.⁷⁸ It further identifies human rights as one of a small number of 'cross-cutting issues' to be addressed within the UNGASS.⁷⁹ The proposal to have human rights as a 'cross-cutting issue' was also supported by the Chair of the Commission in his background document to the meeting, including it officially in the proposed agenda.⁸⁰ Given that only seven years earlier, the notion that the UN drug control system should consider human rights within its work at all was a matter of heated debate, the integration of human rights discourse within the key preparatory documents and draft agenda of the forthcoming Special Session illustrates the degree to which progress, at least on a symbolic level, had been made.

3.2 Geneva: Human Rights Council and the Office of the High Commissioner for Human Rights

However, it was not only the UN drug control system that was in an active preparatory phase for the UNGASS. For the first time ever, the UN human rights system was also undertaking its own programme of work to feed into the Special Session. A month after the Commission on Narcotics Drugs session in Vienna, the UN Human Rights Council convened in Geneva. At that meeting the Council adopted its first ever resolution on drug control, 'Contribution of the Human Rights Council to the special session of the General Assembly on the world drug problem of 2016', led by Albania, Brazil, Colombia, Greece, Guatemala, Mexico, Norway, Paraguay, Uruguay, Switzerland.⁸¹ The resolution instructed the Office of the High Commissioner for Human Rights to prepare a study 'on the impact of the world drug problem on the enjoyment of human rights, and recommendations on respect for and the protection and

⁷³ Ibid, p. 16.

⁷⁴ Ibid, p. 2.

⁷⁵ Ibid, p. 3.

⁷⁶ Ibid, p 5.

⁷⁷ Ibid, p. 7.

⁷⁸ Ibid, p. 17.

⁷⁹ Ibid, p. 16.

⁸⁰ UN Commission on Narcotic Drugs (2014), *'Special segment: proposals by the Chair of the fifty-seventh session of the Commission on Narcotic Drugs relating to the special session of the General Assembly on the world drug problem to be held in 2016 for consideration by the Commission'*. UN Doc No E/CN.7/2014/CRP.15.

⁸¹ UN Human Rights Council (2015), 'Contribution of the Human Rights Council to the special session of the General Assembly on the world drug problem of 2016' (2 April 2015) UN Doc No A/HRC/RES/28/28.

promotion of human rights in the context of the world drug problem'.⁸² It went on to invite the General Assembly to consider the perspective of the Human Rights Council as part of the UNGASS process.⁸³

Based upon this resolution, the Office of the High Commissioner for Human Rights prepared a detailed and comprehensive report, 'Study on the impact of the world drug problem on the enjoyment of human rights',⁸⁴ which was released in September as part of the Human Rights Council's first ever thematic day examining drug control. Over twenty Member States and over forty non-governmental organisations made formal submissions to the High Commissioner's Office as part of the preparation of the report, a far cry from 2009 when just three NGOs were circulating the leaflet 'Ten Reasons Why the UN Human Rights Council must Address Drug Policy' at the Council session.

3.3 Geneva: Human Rights Machinery

Elsewhere in Geneva, under the leadership of the UN Special Rapporteur on the right to health, the UN Special Procedures and treaty bodies made two substantive contributions to the UNGASS process. This began with an open letter to the Executive Director of UNODC coinciding with the Commission's intersessional preparation for the UNGASS. In the days prior to the General Assembly Special Session, the Special Rapporteur on the right to health alongside the Special Rapporteurs on summary, arbitrary or extrajudicial executions, torture or other forms of inhuman or degrading treatment or punishment, the Working Group on Arbitrary Detention, and the Committee on the Rights of the Child submitted a follow up statement to the President of the General Assembly.⁸⁵ Capturing the evolving normative substance of the human rights treaty bodies and special procedures on the human rights dimensions of drug control, these statements touched on a range of key policy issues including harm reduction, access to essential controlled medicines, criminalization, arbitrary detention, children and drugs prevention, as well as the death penalty. Much of which, as noted in the below paragraphs, would remain absent from the final Outcome document of the special session.

⁸² Ibid, p. 3.

⁸³ Ibid, p. 3.

⁸⁴ Office of the High Commissioner for Human Rights (2015), 'Study on the impact of the world drug problem on the enjoyment of human rights'. UN Doc No A/HRC/30/65.

⁸⁵ Joint Open Letter by the UN Working Group on Arbitrary Detention; the Special Rapporteurs on extrajudicial, summary or arbitrary executions; torture and other cruel, inhuman or degrading treatment or punishment; the right of everyone to the highest attainable standard of mental and physical health; and the Committee on the Rights of the Child, on the occasion of the United Nations General Assembly Special Session on Drugs (2016), New York: UN

Likewise, the treaty body machinery continued to develop their normative work on the issue of drug control during this period. The Committee on Economic, Social, and Cultural Rights engaged with Member States during their periodic reviews, focusing its attention to health-related issues such as compulsory drug detention centers and HIV prevalence amongst injecting drug users.⁸⁶ The Committee on the Rights of the Child had a history of limited engagement on the issue of drug control previously limiting considerations during periodic State review to monitoring drug prevalence and encouraging scaled up efforts in the area of drug use prevention.⁸⁷ During this period, the Committee began to rebalance and develop its engagement on State party compliance with the Convention, highlighting the importance of promoting the rights of children involved in the drug trade or using drugs through rights-based responses, including harm reduction.⁸⁸ This attention to supporting the rights of the child in the context of access to drug treatment services was echoed by the Human Rights Committee during this same period.⁸⁹ In addition, the Human Rights Committee issued a handful of concluding observations that sharpened the links between drug control and civil and political rights, including how zero-tolerance approaches undermine fair trial standards⁹⁰, the use of

⁸⁶ UN Committee on Economic Social and Cultural Rights (CESCR), (2015), ‘Concluding observations on the combined second and third periodic reports of Tajikistan’, E/C.12/TJK/CO/2-3; UN Committee on Economic Social and Cultural Rights (CESCR), (2015), ‘Concluding Observations of the Committee on Economic, Social and Cultural Rights on the combined initial and second periodic reports of Thailand’, E/C.12/THA/CO/1; UN Committee on Economic Social and Cultural Rights (CESCR), (2015), ‘Concluding Observations of the Committee on Economic, Social and Cultural Rights on the second periodic report of Greece’, E/C.12/GRC/CO/2; UN Committee on Economic Social and Cultural Rights (CESCR), (2016), ‘Concluding Observations of the Committee on Economic, Social and Cultural Rights on the sixth periodic report of Poland’, E/C.12/POL/CO/6.

⁸⁷ see D. Barrett, thesis

⁸⁸ A majority of recommendations around drug use made by the Committee during this period include references to harm reduction in addition to evidence-informed treatment and other prevention programs, see for example: UN Committee on the Rights of the Child (CRC), (2014), ‘Concluding observations on the combined second to fourth periodic report of Samoa’, CRC/C/WSM/CO/2-4; UN Committee on the Rights of the Child (CRC), (2015), ‘Concluding observations on the combined fourth and fifth periodic reports of Mexico’, CRC/C/MEX/CO/4-5; UN Committee on the Rights of the Child (CRC), (2015), ‘Concluding observations on the combined fourth and fifth periodic reports of Ethiopia’, CRC/C/ETH/CO/4-5; UN Committee on the Rights of the Child (CRC), (2015), ‘Concluding observations on the fourth periodic report of the Netherlands’, CRC/C/NLD/CO/4; UN Committee on the Rights of the Child (CRC), (2015), ‘Concluding observations on the fifth periodic report of Bangladesh’, CRC/C/BGD/CO/5; UN Committee on the Rights of the Child (CRC), (2013), ‘Concluding observations on the combined second to fourth periodic reports of Guinea-Bissau, adopted by the Committee at its sixty-third session’, CRC/C/BRA/CO/2-4; UN Committee on the Rights of the Child (CRC), (2015), ‘Concluding observations on the second periodic report of the United Arab Emirates’, CRC/C/ARE/CO/2; UN Committee on the Rights of the Child (CRC), (2016), ‘Concluding observations on the fifth periodic report of France’, CRC/C/FRA/CO/5; UN Committee on the Rights of the Child (CRC), (2016), ‘Concluding observations on the combined second and third report of Haiti’, CRC/C/HTI/CO/2-3; UN Committee on the Rights of the Child (CRC), (2016), ‘Concluding observations on the combined third to fifth periodic reports of Bulgaria’, CRC/C/BGR/CO/3-5; UN Committee on the Rights of the Child (CRC), (2016), ‘Concluding observations on the combined third and fourth periodic reports of Suriname’, CRC/C/SUR/CO/3-4.

⁸⁹ UN Human Rights Committee (HRC), (2015), ‘Concluding observation on the third periodic report of the former Yugoslave Republic of Macedonia’, CCPR/C/MKD/CO/3;

⁹⁰ UN Human Rights Committee (HRC), (2015), ‘Concluding observation on the third periodic report of Suriname’, CCPR/C/SUR/CO/3

withdrawal in coercing confessions as a form of torture⁹¹, and also reiterated calls for the abolition of the death penalty for drug offenses.⁹²

3.4 Geneva: Human Rights Council & the University Periodic Review

The UNGASS period coincided with the conclusion of the second cycle of the Universal Periodic Review of the Human Rights Council. Despite being the leading human rights political body of the United Nations system a decidedly punitive narrative emerged from Member States when the issue of drug policy was raised. At the completion of the second cycle, 36,331 recommendations were made. Of those recommendations, 55 were related to the issue of drugs, which equals the same percentage as the first cycle--0.15%.

In its review of Mexico, Cuba recommended it “increase efforts in the war on drugs at all levels.” The Russian Federation recommended to Kyrgyzstan that it “continue efforts to combat drug trafficking/trade and corruption.” Botswana recommended to Norway that it “strengthen efforts to reduce drug abuse, as recommended by the Committee on the Rights of the Child.” With 18 human rights-focused recommendations, the punitive narrative was certainly challenged during this cycle. However, the majority of these recommendations related to abolishing the death penalty for drug offenses, particularly in Malaysia, Thailand, Iran, Vietnam, and Yemen. Promoting and protecting civil and political rights in the context of countering the illicit drug trade such as press freedom, deprivation of liberty, and fair trial standards made up the majority of the remaining recommendations. The right to health, including harm reduction, which was first introduced into the UPR by Colombia in 2016 rounded out the remaining three rights-focused recommendations.

3.5 Vienna: International Narcotics Control Board

The growing human rights interest from the normative machinery of the United Nations was also reflected in the work of the International Narcotics Control Board in this period. Its 2015 annual report contained a thematic chapter focused on ‘The health and welfare of mankind: challenges and opportunities for the international control of drugs’, the INCB made a formal statement calling for the abolition of the death penalty for drug offenses and made explicit that

⁹¹ UN Human Rights Committee (HRC), (2015), ‘Concluding observation on the seventh periodic report of the Russian Federation’, CCPR/C/RUS/CO/7

⁹² UN Human Rights Committee (HRC), (2015), ‘Concluding observation on the third periodic report of Kuwait’, CCPR/C/KWT/CO/3

drug-related violence and corruption undermines the full enjoyment of human rights.⁹³ In 2016, the INCB's thematic attention turned to women, with a focus on the right to health and non-discrimination in the provision of drug-related health services. Further, the INCB called for the prevention of inhuman or degrading forms of treatment of people who use drugs and called for the elimination of compulsory drug detention centers.⁹⁴ As referenced earlier, the INCB's annual report in 2016 condemned the practice of extrajudicial killings in the context of drug enforcement activities as both a "breach of the three international drug control conventions" as well as human rights.⁹⁵

3.6 Vienna: Commission on Narcotic Drugs

While not reflected in official records and documentation, human rights debates featured prominently behind closed doors throughout the period leading up to UNGASS as Member States engaged in 'tough negotiations' to prepare an agreed text of the Outcome Document to be ratified in the UNGASS in 2016.⁹⁶ Civil society organisations expressed concerns from the beginning of this process about the lack of transparency in the drafting of the Outcome Document,⁹⁷ and the atmosphere of the negotiations was marked by trade-offs between more liberal and more conservative States. As described by one observer of the process, 'difficult negotiations took place over harm reduction, access to controlled medicines, the death penalty, proportionality of sentences, alternative development, traditional use and indigenous rights, and UN system-wide coherence. When negotiations got stuck, a package had to be bargained in which concessions on certain issues from one side were traded off against concessions from the other side of the drug policy spectrum.'⁹⁸ The first draft in January 2016 was generally received with disappointment by civil society organisations. This was magnified as subsequent drafts stripped out specific references to the right to health and to informed consent to treatment. A request for regular reporting on human rights at the UN Commission on Narcotic Drugs also disappeared. At the same time, provisions making the interpretation of human rights issues subject to domestic law multiplied. Text on the abolition of the death penalty for drug offences never materialised, nor did explicit reference to harm reduction.

⁹³ International Narcotics Control Board (2016), '*Report of the International Narcotics Control Board for 2015*', UN Doc No. E/INCB/2015/1 para. 36-37.

⁹⁴ Ibid, para 55

⁹⁵ Ibid, para 317

⁹⁶ Bewley-Taylor, D. and Jelsma, M. (2016), 'UNGASS 2016: A Broken or B-r-o-a-d Consensus?' Drug Policy Briefing 45, Transnational Institute and Global Drug Policy Observatory, p. 2.

⁹⁷ See International Drug Policy Consortium (2016), 'The United Nations General Assembly Special Session (UNGASS) on the World Drug Problem: Report of the Proceedings', p. 1.

⁹⁸ Jelsma, M. (2016), 'UNGASS 2016: Watershed event or wasted opportunity?' TNI.

The 59th session of the Commission on Narcotic Drugs in 2016 came one month prior to the General Assembly Special Session, and the final language of the UNGASS outcome document was negotiated at this meeting. While many were disappointed that that explicit language on harm reduction or the death penalty again failed to materialise, surprisingly the final Outcome Document included the strongest ever operational paragraph on human rights ever adopted in a UN drug control resolution. It stated that governments will

Promote and implement effective criminal justice responses to drug-related crimes to bring perpetrators to justice that ensure legal guarantees and due process safeguards pertaining to criminal justice proceedings, including practical measures to uphold the prohibition of arbitrary arrest and detention and of torture and other cruel, inhuman or degrading treatment or punishment and to eliminate impunity, in accordance with relevant and applicable international law and taking into account United Nations standards and norms on crime prevention and criminal justice, and ensure timely access to legal aid and the right to a fair trial.⁹⁹

While mentions of human rights had become increasingly common in UN drug control resolutions post-2008, the agreed language tended to be vague, aspirational or caveated by making the commitment subject to national sovereignty. Unlike those previous instruments, this paragraph of the UNGASS Outcome creates operational commitments for governments. Operational language requesting States to ‘implement effective...responses’ that must include ‘practical measures to uphold’ these human rights had never been adopted before by a UN drug control body. This operational language is linked to fulfilling specific obligations in international human rights law.

Elsewhere in the Outcome Document, caveats are included in key provisions either making domestic law the legal frame of reference, thereby allowing States a loophole to avoid or minimise their international legal obligations, or stating that international standards only be implemented ‘where appropriate’. Both are absent here, making this paragraph stand out from the rest of the document. Instead, the context for interpreting the provision is specifically the ‘relevant and applicable international law...[and] United Nations standards and norms on

⁹⁹ UNODC (2016), ‘Outcome document of the 2016 United Nations General Assembly Special Session on the World Drug Problem’, New York: UN.

crime prevention and criminal justice’, meaning States have therefore agreed a broad commitment to ensure human rights abuses are reduced or eliminated in the context of ‘criminal justice responses to drug-related crimes’.

The third significant element is that meeting the provision’s commitments requires ongoing and transparent monitoring of progress towards its objectives. As a General Assembly resolution adopted by consensus, the UNGASS document creates a mandate for UN Charter-based human rights bodies to continue work on drug issues. It invites the Human Rights Council, the Special Procedures and the Universal Periodic Reporting process to engage on drug policy issues in a sustained manner. Their findings are reported back the General Assembly.

4. Post-UNGASS

Despite these positive steps, the UN drug control bodies still struggle to fully embrace a human rights perspective in their deliberations. The more common appearance of the term ‘human rights’ in resolutions of the Commission on Narcotic Drugs has not resulted in concrete operational commitments to ensure rights are considered within, let alone at the centre of, drug control efforts.

4.1 Vienna: Commission on Narcotic Drugs

In 2017, during the 60th session of the Commission on Narcotic Drugs, three resolutions were passed with reference to human rights: two related to capacity building and investment in law enforcement and one related to promoting science and evidence for the purposes of drug prevention amongst children and adolescents.¹⁰⁰ In both instances, human rights is provided rhetorical significance within the ever-dominant threat narrative¹⁰¹ that prioritises the fight against drug use through law enforcement and prevention as the core objective of inter-state cooperation on the drugs issue. The resolution on capacity strengthening for law enforcement failed to incorporate the robust, operational human rights language concerning the

¹⁰⁰ United Nations Commission on Narcotic Drugs (2017), ‘Strengthening international cooperation to assist the States most affected by the illicit transit of drugs, especially developing countries, based on the principle of common and shared responsibility’. Resolution 60/2; United Nations Commission on Narcotic Drugs (2017), ‘Promoting scientific evidence-based community, family and school programmes and strategies for the purpose of preventing drug use among children and adolescents’. Resolution 60/7.

¹⁰¹ Supra n7. *The good enemy*. 3rd ed. Oslo: Universitetsforlaget; Crick, E. (2012). Drugs as an existential threat: An analysis of the international securitization of drugs. *International Journal of Drug Policy*, 23(5), pp.407-414.

administration of justice adopted in the UNGASS outcome document. The particular focus on prioritising investment in law enforcement for countering the world drug problem directly contradicts the UNGASS contribution from UN human rights treaty bodies and special procedures, which dedicated an entire thematic chapter to the inappropriate funding of law-enforcement responses “that place communities at increased risk of human rights abuses”.¹⁰²

At the start of the 60th session, both the Chair of the INCB and the Executive Director of UNODC made strong statements condemning the practice of extrajudicial executions in the name of drug control, while not naming any country. This occurred in parallel with the Philippines government’s anti-drugs campaign as numbers of extrajudicial killings were reaching 10,000 individuals. The open debates during the plenary meetings of the Commission included support from several Member States for the INCB/UNODC position. Human rights were discussed by many Member States during the segment on UNGASS follow up as the “cornerstone of the international drug control system”, but with no particular focus.¹⁰³

The 61st session included the adoption of a divisive, but welcome in terms of human rights commitments, resolution on promoting non-stigmatising attitudes to ensure the availability of, access to and delivery of health, care and social services for people who use drugs.¹⁰⁴ Publicly and behind closed doors, the resolution reflected an increasingly divided Commission in relation to efforts to fight stigma and discrimination of people who use drugs, including in healthcare settings. The way in which human rights continues to be a flashpoint in political negotiations was also apparent in the public and private negotiations amongst member States on another resolution that year on protecting children from the illicit drug challenge.¹⁰⁵

4.2 Vienna: International Narcotics Control Board & the United Nations Office on Drugs and Crime

¹⁰² Joint Open Letter by the UN Working Group on Arbitrary Detention; the Special Rapporteurs on extrajudicial, summary or arbitrary executions; torture and other cruel, inhuman or degrading treatment or punishment; the right of everyone to the highest attainable standard of mental and physical health; and the Committee on the Rights of the Child, on the occasion of the United Nations General Assembly Special Session on Drugs (2016), New York: UN

¹⁰³ Commission on Narcotic Drugs Report on the sixtieth session (2 December 2016 and 13-17 March 2017) Economic and Social Council Official Records, 2017 Supplement No. 8, E/CN.7/2017/11, para 63

¹⁰⁴ United Nations Commission on Narcotic Drugs (2018), ‘Promoting non-stigmatizing attitudes to ensure the availability of, access to and delivery of health, care and social services for drug users’. Resolution 61/11

¹⁰⁵ United Nations Commission on Narcotic Drugs (2018), ‘Protecting children from the illicit drug challenge’. Resolution 61/9; see also Barrett, D. ‘Canada, cannabis and the relationship between UN child rights and drug control treaties’ *International Journal of Drug Policy*, [volume 71](#), September 2019, 29-35

The INCB published their first post-UNGASS annual report with a thematic focus on drug dependence treatment, framing the issue as a human right. A sub-chapter engaged in detail with the right to health framework and the Board called on governments to remove structural barriers—in both law and policy—to access. The Board articulated this view as a harmonious interpretation of both human rights—in particular, the past 10 years of normative development around the right to health—and the international drug control conventions.¹⁰⁶

The 2017 INCB report also coincided with the 70th anniversary of the Universal Declaration of Human Rights, and the Board dedicated a special section in their report articulating how human rights can and should contribute to the object and purposes of international drug control. Importantly, the INCB welcomed the joint United Nations statement on the elimination of discrimination in healthcare settings, which included calls for decriminalisation. In further steps towards harmonisation of the human rights/drug control universes, the UNODC published its three-year strategy on gender equality and gender empowerment with a strong human rights frame.¹⁰⁷ Likewise in 2018, the UNODC in their coordinating role on inter-agency cooperation on the world drug problem, published its post-UNGASS implementation agency strategy: *People At The Centre: UNODC Support For UNGASS 2016 On The World Drug Problem*. This document provided further depth and clarity in some of the ways human rights guides its collaborative and technical assistance work.

4.3 Geneva: Office of the High Commissioner for Human Rights

The technical arms of the UN drug control machinery made significant steps towards bringing the parallel universes together. These efforts were complemented by continued engagement from the technical branches of the human rights machinery in Geneva. The OHCHR released a second report in an effort to develop a further framework for understanding UNGASS implementation. Importantly, the presence of OHCHR became more consistent during the Commission on Narcotic Drugs, including a High Level Expert Panel on the implementation of UNGASS 2016 commitments from a human rights perspective during the 2018 CND intersessional.

4.4 Geneva: Human Rights Machinery

¹⁰⁶ International Narcotics Control Board (2016), *Report of the International Narcotics Control Board for 2015*, UN Doc No. E/INCB/2015/1, para. 36.

¹⁰⁷ United Nations Office on Drugs and Crime (2018), *Strategy for gender equality and the empowerment of women*. Vienna: UN

The UN human rights treaty bodies continued to develop their normative analysis of drug policies and practices, including the adoption of the Human Rights Committee General Comment 36 on the right to life, which clearly states that drug offenses do not meet the threshold of most serious crimes.¹⁰⁸ The deliberations of treaty bodies reflect a significant increase on issues related to drug policies and practices. The Committee Against Torture, oftentimes limiting consideration of drug control to conditions of and practices in closed settings, further expanded its elaboration to include how punitive drug offenses create concerning preconditions for increased incarceration rates for women.¹⁰⁹ The Committee on Economic, Social, and Cultural Rights raised concerns related to drugs in almost every country review for the past two years—expanding its examination of drug control from the silo of the right to health to that of economic development: including the access of traditional South African farmers to the licit medical cannabis markets, cautioning against welfare conditionality on drug testing in Australia,¹¹⁰ the abolition of aerial spraying of drug crops¹¹¹, and the impacts of punitive responses to drugs on the poor, including violence towards peasant farmers of Colombia to people living in extreme poverty in the Philippines.¹¹²

4.5 Geneva: Human Rights Council & the Universal Periodic Review

While the Human Rights Council adopted its second resolution on human rights in an effort to develop a baseline for mapping UNGASS implementation, the political engagement from the Council regarding the world drug problem remains limited. The current third cycle of the universal periodic review included interactive dialogue with both the Philippines and Indonesia, where very vocal, cross-regional calls for an end to extrajudicial executions and numerous calls for the abolition of capital drug crimes hit an atypically vocal tone. While only at the beginning of the third cycle, more than 6,478 recommendations have been issued, with only 39 focused on human rights and drugs issues, the majority of which focused on the death penalty and extrajudicial executions, representing a continued, but narrow political engagement on the expansive ways in which human rights and drug policy intersect. It is also

¹⁰⁸ UN Human Rights Committee (October 2018) ‘General Comment No. 36 on article 6 of the International Covenant on Civil and Political Rights, on the right to life’. CCPR/C/GC/36

¹⁰⁹ Committee Against Torture (2017), ‘The Concluding observations of the combined fifth and sixth periodic reports of Argentina’, UN Doc No CAT/C/ARG/CO/5-6

¹¹⁰ UN Committee on Economic, Social and Cultural Rights (CESCR), (2018), ‘Concluding observations on the initial report of South Africa’. E/C.12/ZAF/CO/1, paras 68-69; UN Committee on Economic, Social and Cultural Rights (CESCR), (2019), ‘Concluding observations on the fifth periodic report of Australia’, E/C.12/AUS/CO/5

¹¹¹ *Supra* n 114

¹¹² UN Committee on Economic, Social and Cultural Rights (CESCR), (2016), ‘Sixth periodic reports of States parties due in 2015 Colombia’, E/C.12/COL/CO/6; UN Committee on Economic, Social and Cultural Rights (CESCR), (2016), ‘Concluding observation on the combined fifth and sixth periodic reports of the Philippines’, E/C.12/PHL/CO/5-6

important that some of the drug policy-related recommendations from Members of the Human Rights Council were framed within traditional punitive narratives, including a recommendation from Venezuela to the Philippines to “strengthen its campaign against illegal drugs”. These kinds of recommendations are thus far a minority in this cycle, but it remains to be seen if such punitive narratives will continue to dominate this mechanism as did in the previous two cycles.

4.6 Towards system-wide coherence

A heated item of debate during the UNGASS negotiation process, the subsequent operational commitment to UN system-wide coherence has precipitated engaged and strong leadership the office of the United Nations Secretary General to enable transparent coordination of agency-specific work on drug policy across the three pillars of the United Nations: peace and security, development, and human rights. Importantly, the recent development of a UN common position on drug policy was published in early 2019, which is the first, inter-agency articulation of a shared approach to the world drug problem, which includes a shared aim to support the development and implementation of policies that put people, health and human rights at the centre, a shared commitment to cooperate to ensure human rights-based drug control, and also includes policy-level calls for decriminalisation.¹¹³

In leading these common, shared commitments to strengthening human rights and placing people at the centre of drug policy and practice, the United Nations Development Programme has been the leading agency in the development of robust, concrete human rights guidance to assist governments and other stakeholders in more clearly and holistically understanding the human rights dimensions of drug control, both in the context of what States should and should not be doing. The three-year process of developing the guidelines has been an inclusive collaboration with Member States, civil society, and UN agencies, including the WHO, UNAIDS, the UNODC and OHCHR.¹¹⁴

5. Conclusion

What remains clear in this post-UNGASS era is that the parallel universes are shifting—with the technical arms and normative arms of the drug control and human rights machinery

¹¹³ United Nations System Chief Executives Board for Coordination, Summary of Deliberations, UN Doc. CEB/2018/2 (2019), annex 1

¹¹⁴ *Supra* 14

becoming more harmonious and neighbourly in their engagement on the human rights dimensions of international drug control. It remains to be seen how the political machinery will advance, with common positions and consensus fracturing around human rights flashpoints, including harm reduction and the death penalty.

Existing work on the progress made towards integrating human rights into international drug control are important, but have, to date, not examined the full complexity of the debate from a unified perspective of global governance that captures the political and normative convergences taking shape. This chapter has presented a more unified approach to examining this international discourse to enable stakeholders to more accurately pinpoint points of convergence around reform and gaps still requiring sustained attention from scholars, advocates, and governments. The discussion presented in this chapter has demonstrated that the dichotomous relationship between human rights and drug control within global governance is no longer binary: the United Nations technical agencies are slowly converging and the normative machinery of the United Nations including the human rights treaty bodies, special procedures, and the International Narcotics Control Board are more directly integrating human rights and drug policy in their standard setting work. Instead, this chapter has shown parallel universes of Geneva and Vienna are slowly transforming, while the international political discourse from the Human Rights Council and the Commission on Narcotic Drugs remain slower to shift orbit.

As stated from the outset, this chapter is intended to facilitate this discussion and point to opportunities to build more robust alliances in forging rights-based discourse within international drug control. As the human rights law dimensions of drug control continues to evolve, a broader set of actors across the United Nations machinery from Vienna, Geneva, and from government capitals are poised to play an important role in this shifting discourse.