

Commission on Narcotic Drugs

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Statement by Robert Husbands

Rule of Law and Democracy Section

**Office of the United Nations High Commissioner for Human Rights
(OHCHR)**

Mr. Facilitator,

In my remarks today I will be using a rights-based approach in discussing implementation of the UNGASS outcome document.

Let me begin with the right to life, which is without doubt the most fundamental of all human rights. The outcome document calls for the implementation of effective criminal justice responses to drug-related crimes and, in this regard, for the elimination of impunity for human rights violations.

The report of the High Commissioner for Human Rights on the world drug problem in 2015 also called for an end to impunity, including in particular for summary or extra-judicial executions that have been

reported to have occurred in some States during drug enforcement operations. States should take effective action to prevent summary or extra-judicial executions, and also to reinforce the principle that no one is above the law. And when summary or extra-judicial executions do occur, there should be a prompt investigation of such offences by an independent and impartial body with a view to bringing perpetrators to justice.

Again concerning the right to life, the outcome document calls for measures to prevent and treat opioid overdoses, notably by the increased use of the medication naxalone which has been demonstrated to be effective in preventing overdose-related deaths. Although the use of naxalone is commonly thought of as part of the right to health for drug users - and it most certainly is - its important potential to save lives also makes it a right to life issue. It has been estimated that more widespread use of naxalone could potentially save tens of thousands of lives. States should ensure naxalone is widely available and accessible at a reasonable cost.

Concerning the imposition of the death penalty for drug-related offences, the Human Rights Committee and other human rights mechanisms have determined that this is a violation of the right to life. While we acknowledge that there was no consensus on this issue at UNGASS, we nevertheless continue to urge States to eliminate the death penalty for such offences.

In terms of the outcome document's call for respecting the prohibition of arbitrary arrest or detention, it is useful to recall some of the abuses cited in the High Commissioner's report. These include the targeting of drug users in areas at or near drug treatment centres and the targeting of drug users to meet arbitrarily determined arrest quotas. In addition, abusive practices include the harassment of drug

users for money, or in the case of women, for money or sexual relations, in exchange for not being arrested. States should take steps to prevent such practices and, when they do occur, to hold those responsible accountable.

The High Commissioner's report also indicates that in some States there has been a practice of automatic pre-trial detention for persons subject to drug-related charges, without examining the circumstances of each case individually. Similarly the report notes that in some States, persons arrested or detained for drug-related offences are not brought promptly before a judge to have their arrest or detention reviewed. These practices are a violation of the prohibition of arbitrary detention and should be changed.

Concerning the outcome document's call for the prohibition of torture and other forms of ill treatment, it should be emphasized that drug dependent persons in custodial settings should never be denied medication assisted therapy as a means of eliciting confessions or for obtaining other information. Physical violence against persons in custody on suspicion of drug-related offences should be prohibited, as well as acts intended to cause mental suffering or pain.

Concerning the right to fair trial, persons charged with drug-related offences should in principle be tried in the ordinary courts and not in military or special drug courts. Some States do not allow persons convicted of drug-related offences to be considered for suspended sentence, parole, pardon or amnesty, measures that are available to those convicted for other crimes. This has been criticized by the Working Group on Arbitrary Detention, which has called on States having such measures to eliminate them.

In regard to the outcome document's appeal for the use of alternative measures to conviction or punishment in cases of an appropriate nature, States should take steps to ensure that persons who are arrested for personal use or possession of drugs are not imprisoned.

Concerning the right to the health, the outcome document recognizes that medication assisted therapy and injecting equipment programmes, more commonly known as opioid substitution therapy and needle and syringe programmes, are effective measures at minimizing adverse public health and social consequences of drug use, and that such programmes should also be made available to those in prisons and other custodial settings. For States that do not presently use medication assisted therapy or injecting equipment programmes, they should seek technical assistance from States that have such programmes or from international or civil society organizations with the required expertise.

The outcome document calls for non-discriminatory access to health care and services by drug users, including those individuals in prison or pre-trial detention. The High Commissioner's report found that drug users have sometimes been denied access to medical treatment based on their past or current drug use. It also found that the use of drug registries to identify drug users has had the effect in practice of discouraging drug users from accessing health care. These practices should be discontinued.

The outcome document recognizes that individuals with drug use disorders should only participate in treatment programmes on a voluntary basis and on the basis of informed consent. States should closely monitor drug treatment programmes to ensure that there is

no element of coerciveness in efforts to encourage drug users to participate in such programmes.

In terms of the prohibition of discrimination in implementing drug policies, efforts should be made to not disproportionately target ethnic minorities and women in law enforcement actions. Training should be provided to law enforcement, health personnel and social service workers who come into contact with drug users to help eliminate discrimination. It is positive that the outcome document calls for a gender perspective and the involvement of women in developing, implementing and monitoring drug policies.

With regard to the rights of the child, and consistent with the recommendations of the Committee on the Rights of the Child, children should not be subject to criminal prosecution for drug use or possession, and responses should be focused on health education, treatment and social integration.

And finally, concerning the rights of indigenous peoples, States should amend their laws to provide a clear and unambiguous legal framework for indigenous peoples to use drugs in their traditional, cultural or religious practices or ceremonies.

Thank you.

