

MAKING THE MOST OF CIVIL SOCIETY PARTICIPATION IN THE DEVELOPMENT OF A GENERAL COMMENT ON “IMPACTS OF DRUG POLICIES ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS”

5 December

In October 2022, the Committee on Economic, Social and Cultural Rights (CESCR) [decided to](#) initiate work on a new General comment on “impacts of drug policies on economic, social and cultural rights.”

This briefing includes an overview of likely next steps in the drafting process and suggested themes that the Comment may address.

WHAT IS A GENERAL COMMENT?

“General comments” are authoritative interpretations by treaty bodies of thematic issues or provisions of human rights treaties - in this case, the [International Covenant on Economic, Social and Cultural Rights](#), which is one of the core international human rights treaties and has been [ratified](#) by 171 countries.

The aim of general comments is to clarify the duties of countries that have ratified the treaties with respect to specific provisions, in this way helping State parties better implement the rights enshrined in the treaties. For civil society, a general comment is a powerful tool to advocate for reform and hold authorities accountable.

HOW WILL THE GENERAL COMMENT BE DRAFTED?

Each Committee sets up the process for drafting a General Comment, and no official timeline has been published yet for the discussion of this particular one. The only confirmed element is that CESCR Member Dr Seree Nonthasoot, from Thailand, was appointed by the Committee as lead rapporteur for this General Comment.

Based on CESCR practice, the drafting process for this new Comment could include some of the following steps, but take into consideration that the final times and elements of the process will be decided by the Committee and the rapporteur.

- Call for written inputs on the situation of human rights impact to drug policies, topics or issues to be covered by the Comment, and any other relevant information;
- Development of a CESCR Working Paper as the basis for discussing the content of the Comment;
- Regional and/or global consultations with communities and civil society, experts, and academia;
- Publication of a first draft of the Comment;
- Day of General Discussion. These Days normally include panel discussions on specific themes and/or questions and are preceded by written contributions;
- In-depth discussion of the text and potential call for written inputs on the first draft;
- Publication of revised draft;
- Call for written contributions, and possibly more consultations, on the revised draft;
- Publication of a second revised draft;
- Deliberation and adoption by the Committee.

It is our understanding that the General Comment would likely be finalised by the end of 2024, subject to confirmation by the CESCR Secretariat.

WHICH TOPICS MAY BE COVERED BY THE GENERAL COMMENT?

The Comment can cover a broad spectrum of issues related to the rights recognised in ICESCR, as applicable to drug policies. By participating in consultations and submitting information, civil society can suggest topics, themes, or specific angles that the Comment should cover. Below are some examples of relevant issues, and more can be found in the [International Guidelines on Human Rights and Drug Policy](#) and *UN Common Position on Drug Policy*

- Non-discrimination and equality in the design and implementation of drug policies, including disproportionate impacts on marginalised and racialised groups; as well as in the enjoyment of rights enshrined in the ICESCR.
- Participation, consultation, and transparency, including the right of people who use drugs, subsistence farmers involved in illegal crop cultivation, people currently or formerly incarcerated for drug offences, people who lost a family member to the ‘war on drugs’, and other affected communities to meaningfully participate in the design, implementation and monitoring of drug policies; and, states duties’ to collect and publish comprehensive and disaggregated data on the impacts of drug policies on economic, social and cultural rights.
- Right to social security for people who use drugs, subsistence farmers, people formerly incarcerated, and others negatively impacted by drug policies, covering issues such as benefits, income protection, or family support.
- Right to an adequate standard of living for communities involved in the cultivation of crops destined for the illegal market, particularly with regard to the impact of forced eradication and often militarised drug control.
- Right to and at work, including the right to everyone to the opportunity to gain his living, the protection from exploitation in illegal drug economies, and limits on access to employment due to prior involvement with drugs, including due to criminal records. An important part of the people involved in drug markets has been excluded from entering the formal work market due to social and economic factors. In order to gain their living (too often in basic surviving mode), they are forced into informal economies, including illegal economies related to drugs. In many cases, this leads to the criminalization and incarceration of these populations. Particularly affected by this exclusion are women, transgender, peasants, and their dependents, among others.
- Right to housing, as the right to live somewhere in security, peace and dignity. It requires the availability, accessibility, affordability, adequacy, and habitability of housing and shelter, as well as services/benefits to support adequate housing which is non-discriminatory, including on the basis of drug use or drug dependence.
- Right to health, including availability, accessibility, acceptability and quality of evidence-based and gender-sensitive prevention, harm reduction and drug treatment services (in detention and in the broader community, and vis a vis specific groups); access to controlled substances for medical purposes; and, direct harm of punitive drug policies on the right to health, including overdose, the transmission of HIV, viral hepatitis and other diseases and the exacerbation of other potential

harms. This also includes the right for farmers not to be subjected to aerial fumigation with chemicals that would be harmful for their health.

- Right to education, which entails the right of people who use drugs to enjoy education in an enabling environment and the right to evidence-based drug education.
- The protection of cultural practices involving controlled substances, such as the traditional or religious cultivation, manufacturing and use of substances now under control by Indigenous peoples.
- Thematic issues such as drug control and environmental justice/right to a safe and healthy environment, impacts of drug policies on women, children, and people discriminated against based on their sexual orientation or gender identity, international cooperation in drug control and responsibilities of non-state actors, drug policies and the realisation of the SDGs, impact of drug law enforcement and drug-related detention on economic, social and cultural rights, State obligations to protect ESC rights where drug markets have been regulated, the role of community-led networks in the realisation of economic, social and cultural rights for people who use drugs.

MORE INFO

For more information and updates on the process, visit the page of the Committee at <https://www.ohchr.org/en/treaty-bodies/cescr>.

Our organisations will continue to produce and disseminate updates. For more information, see the contact details below.

International Guidelines on Human Rights and Drug Policy, <https://www.humanrights-drugpolicy.org/>

United Nations system common position supporting the implementation of the international drug control policy through effective inter-agency collaboration, <https://unsceb.org/sites/default/files/2021-01/2018%20Nov%20-%20UN%20system%20common%20position%20on%20drug%20policy.pdf>

End 'war on drugs' and promote policies rooted in human rights: UN experts, International Day Against Drug Abuse and Illicit Trafficking, 26 June 2022, <https://www.ohchr.org/en/statements/2022/06/end-war-drugs-and-promote-policies-rooted-human-rights-un-experts>

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