

Joint Contribution of the Cannabis Embassy to the Annotated outline of the Draft General Comment on the impacts of drug policies on economic, social and cultural rights of the Committee on Economic, Social and Cultural Rights

15 February 2024

The Cannabis Embassy is an horizontal advocacy, knowledge, and support coalition of grassroots non-profit organizations from all continents. Composed of consultative status observers to different intergovernmental organizations, the Cannabis Embassy relays the concerns of communities with an interest in any of the natural plants and fungi under international drug control.

Our vision is a world where humankind lives in harmony with *Cannabis sativa* L. – in its versatile uses, across all ecosystems, histories and cultures – thereby contributing to the wellbeing of all life. We aim to achieve this by enabling informed, respectful, just societies where *Cannabis sativa* L. is normal, by fostering solidarity and amplifying voices in international drug policy, actively contributing to ongoing reforms.

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I. Introduction

1. The definition for “drug policy” proposed by [the Committee in its Annotated Outline for a Draft General Comment](#) is on point. However, our comments relate to this statement: “drug policy is not static, as evidence of the harms or benefits of substances and drug control interventions has evolved over time.”
2. We believe it is important to keep in mind the impact of changing moral judgements and cultural views in societies around the world. In many aspects, in recent human history, drug policy has evolved under the influence of moral dogma more often than as a result of evidence.
3. The text falls short when stating that multilateral treaties impose the obligation of “preventing the non-medical use” of drugs. This is incorrect, as the Conventions are actually intended only to prevent “abuse and ill effects” (and “addiction” in the preamble). This is very distinct from non-medical use. UNODC, in its World Drug Report, explains that about 10% of drug use can be qualified as “use disorder” (current terminology for “abuse and ill effects” or “addiction”).¹
4. In the endnote, the Committee is using a partial, incomplete quote from the 1961 Single Convention on Narcotic Drugs: the endnote refers to Article 4(c) as follows:

“to limit exclusively to medical and scientific purposes the production, manufacture, export, import, distribution of, trade in, use and possession of drugs.”
5. However, this is not the entire Article 4(c). The full article reads:

“**subject to the provisions of this Convention**, to limit exclusively to medical and scientific purposes the production, manufacture, export, import, distribution of, trade in, use and possession of drugs.”
6. This article starts with the expression “subject to” which invokes a conditionality or dependence upon other textual elements within the Convention, indicating to readers that they should cross reference the current clause they are reading with another clause elsewhere. Textually, this means that the Convention establishes as a general obligation to limit activities exclusively to medical and scientific purposes, but subject to exceptions present elsewhere. The Commentary of the Single Convention explains what are these exceptions to the general limitation (i.e. the clauses to cross-reference):

“the provisions to which paragraph (c) is ‘subject’, i.e. which are excepted from its application, are article 49, article 2, paragraph 9 [...].
Article 4, paragraph (c) [requires] Parties, subject to the exceptions expressly permitted by the Single Convention[1], to limit exclusively to medical and scientific purposes the possession of drugs.
[1] Article 2, paragraph 9, [...] and article 49”²

¹ See p. 49 in: UNODC (2021), “[Booklet 1: executive summary, policy implications](#)”, in: *World Drug Report 2021*, Vienna: UN.

² UN Secretary-General (1973), [Commentary on the Single Convention on Narcotic Drugs, 1961](#), United Nations publication Sales (No. E.73.XI.1), pp. 110 & 402. Note: there are other important clauses (*e.g.*, specific exemption for some products derived from coca leaf in Article 27) but our contribution focuses on *Cannabis*, our specific area of expertise.

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7. Importantly, some of the provisions mentioned by the Commentary (to which the “exclusive limitation” is “subject to”) contain the legal regime for non-medical purposes. Notably, both Article 49 and 2(9) reference “other than medical and scientific purposes”:
 - Article 49 used to allow countries a temporary reservation allowing continued traditional use for non-medical purposes during a certain period,
 - Article 2(9) allows nowadays countries to exempt drugs “commonly used in industry” for non-medical purposes. The Commentary (pp. 113–114) mentions “**Article 4, para. (c) together with article 2, para. 9**” as examples of “**cases in which non-medical consumption or industrial use is exceptionally permitted by the Single Convention.**”³
 8. In the Committee’s text, it is mentioned that “The conventions, together with international human rights treaties and other relevant international instruments, are the framework for domestic drug laws.” It is important to consider that the Conventions have **different places in national legal orders**. For instance, in South Africa, the Constitution of the Republic supersedes international treaties in aspects related to human rights and the country’s Bill of Rights. This has had a direct impact on domestic drug laws in the past.⁴
 9. The importance of “other relevant international instruments” is also critical. In this regard, the sentence may be more correct if it reads: “are an important part of the framework for domestic drug laws.”
 10. Regarding the Committee’s statement: “The International Narcotics Control Board, the World Health Organization, and the UN Commission on Narcotic Drugs are also responsible for making and implementing drug policy at the international level” is important to include Secretary-General/UNODC (S-G is mandated under the three conventions, and delegates its mandate to the UNODC). There are four treaty-mandated bodies in total.
 11. We also note that these bodies do not “implement” the conventions but merely assist Member States. The INCB in particular has had a tendency to overstep its mandate, which remains that of an extremely limited monitoring entity. For decades, NGOs and scholars have explained that INCB is *not* the “international drugs police” that it is sometimes presented as. Analysts have also pointed out that INCB is the most secretive of all international organizations, even less transparent and accountable than the UN Security Council.⁵

³ Riboulet-Zemouli, K. (2022). [*High compliance, a lex lata legalization for the non-medical cannabis industry: How to regulate recreational cannabis in accordance with the Single Convention on narcotic drugs, 1961*](#). Paris and Washington, DC: FAAAT editions.

⁴ See the judgement of the [Constitutional Court of South Africa](#); and a civil society analysis of the outcome [on the blog of Fields of Green for ALL](#). Similar cases of Supreme or Constitutional Courts overruling part of the drug legislation happened, for instance in Georgia and Mexico. As explained by the EU Drugs Agency/European Monitoring Centre for Drugs and Drug Addiction, “In 2018 the highest courts in countries across three continents have asserted that state intervention in the private life of their citizens who wish to (grow and) use cannabis is not always justified”: “[Cannabis control and the right to privacy](#)”. *EMCDDA’s Cannabis drug policy news*.

⁵ In 2012, Joanne Csete in [Governing the Global Drug Wars](#), LSE, made an analysis of the INCB mandate and functions, and stated: “In recent decades the United Nations has opened its procedures significantly to civil society participation. [...] Even the UN Security Council, historically one of the UN’s most secretive bodies, has opened up its proceedings. [...] In

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12. The Committee mentions five “areas of public and private life relevant to economic, social and cultural rights” but one important area seems to be missing: **Cultures and cultural heritage, traditional knowledge and cultural practices, including indigenous knowledge systems.** These are areas of both public and private life relevant to ESC rights which would deserve additional attention to the five other areas identified.
13. In the next paragraph, the Committee lists a series of ESC rights:
- Regarding the right to health, it is also important to emphasize the right to traditional medicines mentioned in the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) Article 24 and the UN Declaration on the Rights of Peasants and people living in rural areas (UNDROP) Article 23(2), and also aligned with Article 25 of the CESCR.
 - In relation to the rights to take part in cultural life and to enjoy the benefits of scientific progress and its applications, we would like to emphasize that, for *Cannabis*⁶ and other natural drugs, it also covers the right to seeds, plants and genetic resources, including the right to a free prior and informed consent for access to natural heritage, genetic resources (GR), and traditional knowledge (TK) and broader cultural heritage.⁷ This is relevant because access to traditional medicinal and non-medicinal plant-based products remain restricted under drug laws, but additional risks exist such as ongoing biopiracy and misappropriation of traditional knowledge, including healer’s and farmers’ know-hows and local varieties.
 - Additionally, it seems that the right to the enjoyment of a safe, clean, healthy and sustainably managed environment,⁸ and the right to the conservation of biodiversity and ecosystems,⁹ is

spite of such observations, **the INCB remains perhaps the most closed and least transparent of any entity** supported by the United Nations. There are no minutes or public reports on the deliberations of the INCB. The INCB’s proceedings are closed not only to NGOs but also to member states. [...] INCB officials have repeatedly cited security concerns and the need for confidentiality associated with sensitive drug control measures. Can it be impossible, however, for the INCB to engage with civil society if the Security Council can do so with the delicate and potentially explosive issues that it considers?” **A decade later**, a coalition of 181 NGOs noted that **no improvement had been made in transparency and accountability at the INCB**; the coalition asked Secretary-General to take action, see: [Open Letter to Secretary-General “need for transparency and accountability in the INCB \(2021\)](#), and the [Voluntary contribution to INCB on transparency and accountability \(2021\)](#). The question of “due diligence” is also important for the Committee to consider: International organizations (including the INCB) have a legal responsibility to show due diligence with respect to the international legal order (including human and environmental rights) while performing their treaty mandates. Omission or failure to do so –negligence– can lead States to breach compliance in other areas of international law and/or hinder the work of other intergovernmental organizations. On this topic, see: Riboulet-Zemouli & Krawitz (2020), [Voluntary Contribution to INCB Guidelines on Medical Cannabis – Due Diligence, Good Faith, & Technical Concerns](#), Vienna: FAAAT editions.

⁶ Cannabis is hemp. This is a single genus and species. The binary distinction between the “good” hemp and the “bad” psychoactive marijuana is only a modern Western artificial social construct. On the planet, most people ignore that distinction and evolve with plants that are simultaneously “marijuana” and “hemp” and yield multiple types of products. See for instance: Duvall, CS (2019), *The African Roots of Marijuana*, Duke University Press, pp. 35, 213, 346; David A Guba (2020), *Taming Cannabis: Drugs and Empire in Nineteenth-Century France*, McGill-Queen’s University Press, pp. 3–21.

⁷ ICESCR Art. 1(2), 11, 15, 25. See also ICCPR Art. 1, 47; ICERD Art. 5(e); Convention on Biological Diversity Art. 8(j), 10, 15; International Treaty on Plant Genetic Resources for Food and Agriculture Art. 9. And: UNDRIP Art. 8, 11, 19, 24, 28, 29, 31, and UNDROP Art. 2(6)(c), 5, 18, 19, 23(2), 25, 26.

⁸ UN. (1973). [Report of the United Nations Conference on the Human Environment, Stockholm, 5-16 June 1972](#); See Human Rights Council (HRC) Resolutions [7/23](#), [10/4](#), [16/11](#), [18/22](#), [19/10](#), [28/11](#), [31/8](#), [34/20](#), [37/8](#), [40/11](#);

⁹ Former Special Rapporteur John Knox stated: “the full enjoyment of human rights [...] depends on biodiversity, and the degradation and loss of biodiversity undermine the ability of human beings to enjoy their human rights.” See: Human Rights Council. (2017). *Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment* ([A/HRC/34/49](#)).

missing from the list. Indeed, not only prohibition and eradication policies, but also legal regulations disconnected from the realities of affected populations and traditional and small-scale knowledge-holders, have disastrous impacts on the environment.¹⁰ These environmental rights are strongly linked with the conservation of controversial drugs as an integral part of ecosystems and the rights of indigenous peoples and local communities to maintain their traditional cultures, practices, and knowledge.¹¹

International instruments influencing national drug control in relation to some ESC rights

A series of normative instruments relevant to cannabis, coca, opium poppy, and other plants or fungi under international controls (and people associated with them) appeared after the 1992 Rio Earth Conference, which are today an integral part of the framework for domestic drug policies alongside drug control conventions.

*With regards to biodiversity: The **Convention on Biological Diversity** and its **Nagoya Protocol on Access and Benefit-sharing of genetic resources** (respectively 193 and 129 States Parties) are good examples of international dispositions on environmental rights directly related to plants and fungi under control.*

*The World Intellectual Property Organization (WIPO) recalls that “traditional medical knowledge, such as the medicinal use of herbs, is often associated with genetic resources [...] subject to access and benefit-sharing regulations under international agreements.”¹² In addition, “some genetic resources are linked to traditional knowledge and traditional practices **through their use and conservation by indigenous peoples and local communities, often over generations.**”¹³*

*In this respect, another relevant instrument is FAO’s **International Treaty on Plant Genetic Resources for Food and Agriculture** (or “Plant Treaty,” 148 State Parties) that recognizes “**farmers’ rights.**”¹⁴ **Local communities, farmers, peasants, and indigenous peoples have used, conserved, bred, maintained, and preserved the biological diversity of Cannabis and other natural drugs within local ecosystems, over generations.***

***This entails rights:** not only to continue conservation efforts, but also to moral recognition for the service to humankind and ecosystems, and the right to be free from the threat of biopiracy and other forms of misappropriation of GR protected by and for these communities, and associated TK. This also entails protection from crop and culture eradications in the name of drug control.¹⁵*

The Committee should also be aware that WIPO is currently negotiating a new future treaty on patent disclosure for GR and associated TK, expected to be concluded in May 2024.¹⁶

¹⁰ See for example: Kay, S. (2021) *Cannabis & Climate*, TNI. See also *Sustainable Cannabis Policy Toolkit (2021)*.

¹¹ We invite the Committee to consider the and the 2021–2030 United Nations Decade on Ecosystem Restoration (A/RES/73/284).

¹² WIPO. (2015a). *Intellectual Property and Traditional Medical Knowledge* (Background Brief No. 6).

¹³ WIPO. (2019). *Intellectual Property and Genetic Resources* (Background Brief No. 10).

¹⁴ The FAO *Plant Treaty*’s **Article 9** recognizes “the enormous contribution that the local and indigenous communities and farmers of all regions of the world, particularly those in the centres of origin and crop diversity, have made and will continue to make for the conservation and development of plant genetic resources which constitute the basis of food and agriculture production throughout the world.” Food and Agriculture Organization of the UN. (2009). *International Treaty on Plant Genetic Resources for Food and Agriculture*.

¹⁵ As your Committee already noted in relation to “aerial spraying of cannabis crops to control the illicit cultivation of cannabis” p.12 in: CESCR (2018), *Concluding observations on the initial report of South Africa*, but other forms of eradication exist.

¹⁶ For more information on the interactions of this future treaty with cannabis and other drugs, see: *Position Paper of the Cannabis Embassy on the negotiations of the future Treaty on GRs and Associated TK (GRATK)*.

II. General obligations of States parties under the Covenant

14. It is key to note that, in essence, **the Single Convention represents a retrogression of rights:** rights that were previously afforded to people were taken away by the Convention. This is particularly explicit in Article 49, which obliges States to discontinue countless rights of indigenous peoples and local communities related to their traditional use, cultivation, trade in controlled natural drugs, while passing over their TK and cultural heritage.
15. There is a reason why many cannabis policy reform advocates refer to “re-legalization”: indeed, cannabis –like other traditional drugs– was legally accessible and part of livelihoods across continents for centuries. When the Covenant on Economic, Social and Cultural Rights was adopted, people had rights that were taken away after the Single Convention entered into force, and as the clauses of Article 49 arrived at their term by the end of the twentieth century.

Participation, consultation, transparency

16. Fundamentally, any participation and consultation of all the affected populations and groups listed in the text will remain an illusion as long as criminalization and stigmatization continues. Decriminalization is a quintessential prerequisite to any participation of those who most need to be heard.
17. Regarding what is mentioned in the Committee’s text, we would like to highlight that all patient advocates must be heard, not only “palliative care” patient advocates. Likewise, the reference to “drug-treatment” seems limiting, since the concept of abstinence and need for “drug-treatment” as understood classically is under question.
18. We praise the Committee’s intention to make a helpful contribution in framing the current status and scope of the right to consultation and participation. In line with this we suggest:
 - The different specific recommendations outlined (on funding, on free prior and informed consent, etc.) should be equally applied to all stakeholders: women who use or cultivate drugs, Indigenous Peoples and local communities, peasants and rural people, youth, the elderly, displaced populations, marginalized urban communities, patients, peoples with disabilities and other health conditions, and other disenfranchised populations.
 - A progressive framework for funding, monitoring, and evaluation should extend to all these interested parties and consider that funding streams already exist for specific topics (*e.g.* HIV/AIDS and other communicable diseases) but are entirely lacking for other areas and stakeholders.

Non-discrimination, equality, and groups or persons requiring particular attention

19. The Committee should pay special attention to the biases of colonial heritage associated with some drugs in some countries (and not others) and, in this respect, should look at drug policies on a broad

basis, looking at all addictive substances and not only those listed in the three international drug control conventions. For example, alcohol is banned in some Member States but not others.

Respect, protect, fulfill: the obligation to respect

20. When the text mentions that “people who use drugs must register as drug users as a requirement of state-sponsored treatment” it is interesting to note that some countries, like Uruguay, have included a similar requirement for people wanting to access legal cannabis. Other projects of cannabis legalization have reportedly been exploring a similar mechanism. The reliance on such intrusive and non-human rights compliant dispositions in both prohibition and legalization frameworks is a concern.
21. People who use, grow, trade drugs are disproportionately affected by police violence and brutality, having their rights extinguished in the name of counter-narcotics. States should have an obligation to implement strong ethical guidelines for law enforcement and the police, including specific training on drug (evidence-based) information, against stigmatization, sensibilization and awareness of non-problematic drug use, drug use disorders, and mental health. Law enforcement authorities should also receive guidance, training, and strict guidelines in the following areas:
 - International and domestic human rights standards and general legal principles;
 - Rigorous training in nonviolent conflict resolution and de-escalation techniques (including use of non-lethal tools);
 - Development of negotiation skills to peacefully resolve conflicts and manage challenging situations, including the utilization of diplomatic tools for effective communication and relationship-building within communities;
 - Cultural competence and sensitizing (including ensure respectful and unbiased interactions with individuals from diverse ethnic, linguistic, and cultural backgrounds, training to human biases, and education on the culture and history of the geographical area of operation to enhance contextual understanding and sensitivity);
 - Crisis intervention techniques, including mental health awareness, in collaboration with the health and social sectors;
 - Community policing strategies;
 - Ethical decision-making, including on integrity and accountability;
 - Basic language proficiency to facilitate effective communication (including languages commonly used by residents & visitors, and characteristics of youth communication);
 - Victim support (non-discriminatory).

Permitted limitations

22. Drug prohibition *per se* is a limitation to ESC and other human rights. Instead of taking prohibition policies for granted as serving the “greater good”, discussing only epiphenomena (however devastating for people and the environment), the Committee needs to question prohibition as a whole, and evaluate whether prohibiting certain drugs is a “permitted limitation” to human rights or not, and if so, under what conditions.

23. Repeated studies comparing the relative harms of different drugs have shown no correlation between actual harms and legal status.¹⁷
24. In addition, countless evidence shows that the devastating impact of prohibition is superior by several orders of magnitude to the harms of drugs themselves. Worst, we know how to reduce harms from drugs (a policy called harm reduction, often itself prohibited) but there is no way to reduce the harms of prohibition, except to repeal it.
25. We invite the Committee not only to question the unintended consequences of drug control, but the validity and legitimacy of drug control itself as a human rights-compliant response to harms that some drugs can cause to an estimated 10% of those who may use them.¹⁸
26. It is our firm belief that any serious consideration of a “test ... to determine whether specific drug policy interventions that affect ESC rights are permissible or not” would show that prohibition and related measures are only legitimate in theoretical thinking, but inevitably contradict the enjoyment of human rights in practice. From as early in history as “drugs” entered into contact with human societies, their prohibition became untenable.

III. Drug policy and ESC rights - substantive sections/Specific obligations of States parties under the Covenant

Determining the scope of drug control applicability (scheduling substances)

27. In addition to the lack of coherence and meaning in which drugs are scheduled and which are not, as mentioned just above and earlier (in relation to alcohol and disparities in what are considered drugs in different countries), it is important to underline that the drug control system has been built around three “pillar drugs” that are traditional (sometimes sacred) plants: coca, poppy, and cannabis. None of these plants and their derived products had been scientifically evaluated when they were placed under international control,¹⁹ and the international scientific assessment of some of them is still overdue:
 - Cannabis was assessed internationally for the first time in 2018-2019, and the results showed that the scheduling in place since 1961 had no justification.²⁰
 - Coca is currently in the process of being reviewed by the WHO.²¹
 - Opium remains the only substance which has never been scientifically assessed, besides being the origin of the entire international treaty system.²²

¹⁷ See most notably: Nutt, D., King, L. A., Saulsbury, W., & Blakemore, C. (2007). “Development of a rational scale to assess the harm of drugs of potential misuse.” *Lancet* 369(9566): 1047–1053.

¹⁸ See footnote 1.

¹⁹ Danenberg, E., Sorge, L.A., Wieniawski, W., Elliott, S., Amato, L., and Scholten, W. K. (2013). “Modernizing methodology for the WHO assessment of substances for the international drug control conventions.” *Drug and alcohol dependence* 131(3): 175–181. See also the references in the footnote to §30 in this contribution.

²⁰ For a history of international cannabis scheduling, see: [The Crimson Digest: Briefing on the international scientific assessment of Cannabis: Processes, stakeholders and history](#). And for different contributions and analysis of the WHO cannabis assessment outcome and subsequent treaty scheduling changes, see: Riboulet-Zemouli (2022) [CND Monitor, UN cannabis scheduling vote: history & outcome](#).

²¹ See the [website on coca review](#) launched by the government of Bolivia.

²² Danenberg et al. (mentioned in a footnote above)

28. In addition to the lack of scientific backing, historians have shown that the initial motives behind the international control of these drugs was often rooted in colonial, racist, or other politically and morally motivated State endeavors.²³
29. Regrettably, it is on this biased, unscientific foundation that the treaty system has been built. And “narcotic drugs” are only defined by their “similarity” to coca, cannabis and opium. A circular and biased definition.
30. On top of that, the treaties’ criteria for substance scheduling, under which the ECDD has to frame its reviews, are all but scientifically sound and base the addition of new drugs to the Schedules on their similarity to CCDs.²⁴
31. All of this similarly suggests that a sound, evidence-based and comprehensive revisiting of drug scheduling would ultimately justify the continued scheduling of only a few of the drugs currently controlled - the most novel, least used, and most harmful substances having no therapeutic potential whatsoever. These constitute a relatively small subset of internationally-controlled substances.
32. There is a critical element to consider: The 1961 Single Convention contains an explicit discrimination against the three “pillar drugs”, contained in its Article 2 paragraph 6, which states:

“In addition to the measures of control applicable to all drugs in Schedule I, opium is subject to the provisions of article 19, paragraph 1, subparagraph (f), and of articles 21 bis, 23 and 24, the coca leaf to those of articles 26 and 27 and cannabis to those of article 28.”
33. *De facto*, this submits coca leaf, cannabis, and opium to a number of legal provisions. But most importantly, this means that the measures of Schedule I apply to these 3 natural products regardless of their actual status in the schedules. Even if the WHO recommended a lower schedule based on evidence, and the recommendation was adopted, this Article 2(6) would remain in force, and therefore leave evidence-informed descheduling without effect.

²³ See for instance: Stensrud, A. (2022), [*The Racist Roots of International Cannabis Regulation: An analysis of the Second Geneva Opium Conference*](#), University of Oslo; Carstairs, C. (1999), [*Deporting “Ah Sin” to Save the White Race: Moral Panic, Racialization, and the Extension of Canadian Drug Laws in the 1920s*](#), University of Toronto Press Journals; Manderson, D. (1999), [*Symbolism and Racism in Drug History and Policy*](#), US Department of Justice; Adams, C. (2021), [*America Treated Addiction as Medical Problem – Until People of Color Were Addicted*](#), National Press Foundation; the WHO’s cannabis scheduling recommendation prior to the 1961 Convention was based on no more information than a report from the South African police stating “the feeling among the South African police of a relationship between cannabis addiction and crime” and “evidence that, as in other parts of the world, cannabis abuse is likely to be a forerunner of addiction to opiates” (see [*Crimson Digest*](#), footnote above, pp. 8, 36–38), arguments that have been proven false on many occasions. On the bias and influence of the South African regime on national and global drug policy, see: Fields of Green for ALL (2021), [*Cannabis in South Africa. The people’s plant: A Full-Spectrum Manifesto For Policy Reform*](#).

²⁴ See: Danenberg et al., 2013 (see above); Hallam, C., et al. (2014), “Scheduling in the international drug control system” *Series on legislative reform of drug policies*, 25; Lohman, D., & Barrett, D. (2020). “Scheduling medicines as controlled substances: addressing normative and democratic gaps through human rights-based analysis.” *BMC international health and human rights* 20(1):10; Riboulet-Zemouli, Kenzi, Krawitz, Michael A., and Ghehiouèche, Farid (2021), [*History, science, and politics of international cannabis scheduling, 2015–2021*](#). Vienna: FAAAT editions, pp. 18–19.

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34. While the descheduling/rescheduling of all drugs only requires WHO's scientific recommendation and UN approval, the descheduling/rescheduling of these 3 specific traditional, herbal "pillar drugs" requires, in addition, a prior amendment of Article 2(6).²⁵
 35. In addition to the scarcity of evidence underlying the treaties, Article 2(6) poses serious concerns as to possible discrimination, enshrined in the Single Convention, for these 3 particular drugs.²⁶

Health, social and other services for people who use controlled substances

36. We expect allied organisations and networks of people who use drugs to submit substantial inputs in this regard, that we fully support.
37. We would like to emphasise that all people who use drugs are certainly not criminals, but also that not all people who use drugs are "patients in need of treatment." The overwhelming majority of people who use drugs are perfectly healthy individuals integrated into society, for whom moderate and harmless drug use represents a practice whose only negative experiences relate to risks of repression and other drug policy consequences. While we share in the concern for the health of the 10% of people with drug use disorders and call for support for their difficulties, the 90% should never be excluded from drug policy considerations.

Cultivation, production, distribution, of controlled substances

38. While institutions across the UN are mindful of representation across geographical areas, genders and age groups, the representation of small-scale communities associated with illicit crops cultivation, trade, and use, encounters several barriers to entry - notably, education and funding (as discussed earlier in § 16 to 18). Existing monetary income related to drug policies (including the proceeds from drug seizures where drugs are illegal, or funds from taxes where drugs are legal) should be redirected towards facilitating the active participation and involvement of all civil society stakeholders, including indigenous peoples, peasant farmers, people who use drugs, and people living in communities where illicit crops are cultivated.
39. It is also important to consider that *Cannabis sativa* L. and other plants with a psychoactive effect are GRs their own with biodiverse environmental, traditional, cultural, and indigenous ties on different continents. All of these elements relate to ESC rights. The Committee should consider that human communities associated with these plants and fungi, are subject to high risks, which are multiple:
 - The general lack of protection from abusive bioprospecting (biopiracy) for Indigenous Peoples & Local Communities with regard to their GRs, their traditions, and their right related to

²⁵ Riboulet-Zemouli, K. and Krawitz, M.A. (2022), "WHO's first scientific review of medicinal Cannabis: from global struggle to patient implications," *Drugs, Habits and Social Policy*, 23(1): 5-21. Notably, amending the Single Convention is much more formally complex and less likely to happen than descheduling.

²⁶ Note also that Article 49 specifically addresses these three traditional drugs, submitting them to a harsher treatment than others.

access and benefit sharing²⁷ (exacerbated by the new issue of intellectual property misappropriation of Digital Sequence Information);

- The lack of conservation strategies for natural and human ecosystems;
- The additional prohibition of psychoactive plants and fungi, and criminalization of associated Traditional Knowledge (TK) by international and domestic prohibition laws, including explicit treaty provision and UN declarations calling governments to eradicate some controlled plants and their indigenous uses.

40. Meaningful reparations are a long way off for IPLC victims of this double edged sword wielded against their cultural inheritance and traditions. However, this journey starts with an international legal environment that is fair and just, not designed to maintain the current imbalance of power in favour of large companies and academic institutions over the rights and dignity of Indigenous peoples, local communities, and small farmers around the world.
41. Informal, legacy Cannabis markets are, to a large extent, dominated by local cultivation and consumption. Yet, Cannabis crops grown mostly by small-scale and family farmers are largely curtailed and exploited by criminal organizations, jeopardizing most of the revenue generated. The economic model of unregulated Cannabis markets is diametrically opposed to fair trade practices: highly hierarchized, full of middlemen between growers and consumers, and relying on elements of exploitation.
42. Unfortunately, licit markets sometimes also display negative characteristics. In practice, as drug policy reforms bring controlled traditional drugs into legal markets, a monitoring of economic rights is required to prevent small-scale farming and traditional craft production from disappearing under unfair competition from multinational companies.²⁸
 - Some developed countries have gained an advantage (through their vast resources) by regulating some drugs, like cannabis and psychedelics, earlier than the developing countries that are the origin of these drugs.
 - Where developing countries have made legal provision for production, it is invariably foreign countries who move in under the guise of “development” or “aid” or “investment” while these countries continue to criminalise their own citizens for the very same drugs. Some extreme developments in this area should be monitored by the Committee, like the reported risks of contemporary forms of slavery in large-scale licit cannabis markets.²⁹

²⁷ Duvall, CS (2016), “[Drug laws, bioprospecting and the agricultural heritage of Cannabis in Africa](#),” *Space and Polity*, 20(1): 10–25; Duvall, CS (2019), “[A brief agricultural history of cannabis in Africa, from prehistory to canna-colony](#),” *EchoGeo* [Online]; Wyse & Luria (2021), “[Trends in intellectual property rights protection for medical cannabis and related products](#)”, *Journal of Cannabis Research*.

²⁸ See for instance this recent report analysing how “current licensing systems favor a select few corporations, sidelining traditional small-scale farmers. Urgent policy reforms are imperative to address this inequality, protect legacy farmers, and preserve regional strains, ensuring a socially just and economically sustainable cannabis landscape.” Tijmen Grooten (2023), *Seeds of Inequality : Contrasting Realities in South Africa's Cannabis Industry*.

²⁹ Cannabis Education Guild (2022), *Input to the Special Rapporteur on Trafficking, Ms. Siobhan Mullay*.

- This is particularly prevalent in Africa and Asia where some countries³⁰ have sanctioned a medical Cannabis sector while keeping adult use, and as a consequence, traditional uses, illegal. This is known in civil society circles as the “neo-colonialist capture of our Cannabis”.
43. Fair trade approaches to nascent licit economies of controlled plants are imperative to correct this imbalance. Policy reforms ought to reduce the number of middlemen or their profits compared to those of growers and retailers, and implement a reasonable redistribution of profits along the production chain to end poverty among small-scale and traditional Cannabis farmers. A key aspect to future fair trade, in particular in licit cannabis, is the recognition of “terroirs”³¹ including through local collective intellectual property rights, for example in the form of Appellations of Origins.³² This is one of the ways to avoid licit drug markets to fall into over-commercialization, and risks of neo-colonial capture, and achieve a licit market resembling the coffee’s “barista” model rather than the mainstream large-scale coffee market (that WIPO describes respectively as the third wave and first wave market segments³³).
 44. Fair trade via measures like Appellations of Origins, but also Access and Benefit Sharing in compliance with the Nagoya protocol and other instruments, are extremely important because they place free, prior, full informed consent of local communities at the center of monetary and non-monetary decisions relating to cultivation, production, and trade. This is critical because most of the areas of origin of coca, poppy, and cannabis continue to suffer from dramatic under development in terms of infrastructure, education, and other economic areas.³⁴
 45. On many of these aspects, the Committee could take inspiration in the Annex of the Nagoya protocol.³⁵ We would also like to suggest the Committee consider the corpus of documentation and guidelines

³⁰ For instance Ghana and Zimbabwe, or Pakistan and India. For example, India lists *Cannabis* in its national Traditional Knowledge DataBase, and the plant is feral in many parts of the country, people are still repressed for using it.

³¹ Chouvy, PA (2022), “[Why the concept of terroir matters for drug cannabis production](#)”, *GeoJournal*. See also: Duvall, CS (2019), *The African Roots of Marijuana*, Duke University Press.

³² Stoa, R. B. (2017), “Marijuana appellations: The case for cannabicultural designations of origin,” *Harvard Law and Policy Review*, 11(2), 513–539; Krawitz, M.A (2018), [The Importance of Appellations of Origin to the Successful Therapeutic Model of Whole Plant Cannabis. Follow-up on Civil Society Cannabis pre-review input](#). Geneva: FAAAT.

³³ See the chapter “Coffee: how consumer choices are reshaping the global value chain” in [WIPO Report 2017: Intangible Capital in Global Value Chains](#), pp. 43 and following.

³⁴ In Morocco, the demands from indigenous Ghomara and Senhaja rural cannabis farmers in the traditional cultivating areas of the Moroccan Rif are also importantly focused around locally-decided sustainable development investments to counter poverty and miserable life conditions, unlock administrative red-tape, resolve road network, public transportation, and other infrastructure problems, water management planning and supply in electricity, as well as the conservation of natural areas and parks, and biodiversity management plans (see: Forum Drugs Mediterranean (2017), [Morocco & cannabis: civil society gets organized to prepare the post-prohibition \[online\]](#)).

Another example, in the remote areas of South Africa where traditional plant varieties are cultivated, Cannabis is the only viable crop, given the climate and terrain. However, the main concern of the local communities is infrastructure as they need to cross rivers to access education and health care services. Ambitious projects to support these communities have faltered, not because of Cannabis, but because of infrastructure. Barriers to entry for small scale rural farmers in South Africa’s “sunrise” cannabis sector are stark and real. See: [Harvesting Hope: exploring the untapped potential of smallholder cannabis farming in South Africa. A case for inclusion of the ancestral landrace farmers in Mpondoland](#)

³⁵ Convention on Biological Diversity (2011), [Nagoya Protocol: Annex. Monetary and Non-monetary Benefits](#).

created in the context of the 2019–2028 UN Decade on Family Farming.³⁶ The Committee could also look into country best practices with regards to traditional knowledge systems.³⁷

46. We also call the attention of the Committee to Alternative Development programmes: While these programs are positive in theory, practice has shown they often exacerbate tensions or poor standards of living, while serving as a pretext to unacceptable eradication.³⁸ Alternative Development programmes could represent a very useful enabler of ESC rights if they helped farmers transition their crops from illicit to licit, instead of changing the type of crop.³⁹ The Committee should draw on its previous statement that governments should “offer alternative development programmes to the affected communities to encourage them to abandon the illicit cultivation of cannabis, including the possibility of participating in the medical cannabis market through a licensing programme for small-scale community farmers.”⁴⁰ While this, in essence, describes ‘Regulation-oriented Alternative development’, the Committee should not frame its recommendations so narrowly and adopt a general approach to all plant-based drugs and all their uses and purposes (not only medicinal, which may be regulated under less-accessible conditions than other crop outputs like non-medical and other industrial purposes).
47. In some places where drugs are legally regulated, limitations to access to banking have continued⁴¹, and been shown to disproportionately affect key populations. These restrictions to banking practices raise questions as to economic rights and discrimination.⁴²
48. Finally, we would like to bring to the attention of the Committee a relatively-new socio-economic industry model for “recreational cannabis” that appeared as a user- and farmer-led social innovation in Spain three decades ago. “Cannabis Social Clubs” (CSCs), also known locally under other names,

³⁶ FAO, [Introducing the UN Decade of Family Farming](#). See also: Stoa, R.B. (2018), *Craft weed. Family farming and the future of the marijuana industry*. Massachusetts Institute of Technology; Read also Afsahi, K. (2015), “[No Cannabis Cultivation without Women. The Case of Rif in Morocco](#),” *Déviante et Sociétés*, 39: 73–97, which also highlights the **key role of women in Morocco traditional cannabis cultivation** “Through studying the place of visibility and invisibility of these women in the cannabis cultivation culture, the article analyses the role of women, from that point on a major one, given they produce certain strategies which ensure the maintenance of cultivation.”.

³⁷ For example: The South African Department of Science and Technology, together with all of its stakeholders, adopted the [Indigenous Knowledge Systems \(IKS\) Policy](#). It brings together important factors that function as catalysts for the growth and financial viability of stakeholders and IKS practitioners. The majority of South Africans’ survival and welfare have always depended heavily on indigenous knowledge, and this hasn’t changed. The goal of the policy is to acknowledge this, affirm it, further develop it, promote it, and safeguard the keepers and practitioners of this knowledge. See an [analysis related to cannabis on the blog of Fields of Green for ALL](#).

³⁸ See for instance: TNI (2018), [Connecting the dots... Human rights, illicit cultivation and alternative development](#), TransNational Institute; Alimi, D. (2018), “[Drogues et développement : vers de nouvelles perspectives ?](#)”, *Observatoire Français Drogues Tendances addictives*; German Federal Ministry for Economic Cooperation and Development (2013) [Rethinking the Approach of Alternative Development Principles and Standards of Rural Development in Drug Producing Areas](#), Eschborn: Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ).

³⁹ See for instance a proposal for opium poppy for Afghanistan: Senlis Council (2007), [Poppy for Medicine Licensing poppy for the production of essential medicines: an integrated counter-narcotics, development, and counter-insurgency model for Afghanistan](#). London: The Senlis Council. Notably, in December 2017, the Cannabis Licensing Authority of Jamaica launched the first pilot ROAD project to “[include] the small traditional ganja farmers in the regulated space” with Alternative Development programs “geared towards transitioning current illicit ganja farmers into the legal regulated industry.” ([Cannabis Licensing Authority, Alternative Development Project presentation](#)).

⁴⁰ E/C.12/ZAF/CO/1

⁴¹ Marks, G. (2023), [“Cannabis firms are cut off from the US financial system, but relief is in sight”](#)

⁴² “The Cannabis Industry in South Africa must be supported by local financial institutions in order to develop cannabis entrepreneurs and create employment in the process.” Fields of Green for ALL (2021), [Cannabis in South Africa. The people’s plant: A Full-Spectrum Manifesto For Policy Reform](#).

are a model of small-scale business (mostly non-profit), that has gathered attention from neighbors' collectives, scholars, local and national policymakers, and other persons interested in drug policy for various reasons that relate to ESC rights:

- With regards to health, researchers have shown the unprecedented potential that CSCs represent for the effective implementation of harm reduction policies, in particular through peer-led prevention and harm mitigation practices,⁴³
- Because they are designed by the will of their members, those clubs add positive value to local communities by enabling people who use cannabis to take part in cultural and social life, ensuring safe spaces for them, their culture and knowledge. Modern urban cannabis and other drug-related cultures (*e.g.* psychedelics) are valuable and legitimate cultures that have notably contributed to societies, arts and science during the past Century. CSCs offer refuge for people of all ages - victims of repression and criminalization, including migrants originating from repressed traditional cannabis cultivating communities.
- CSCs have also shown to efficiently generate licit working alternatives for people involved in small-scale non-problematic cannabis-related activities otherwise considered unlawful. By providing licit employment to people who otherwise exert a similar activity outside of the labour system, the CSCs have helped provide an adequate standard of living for many.⁴⁴
- We appreciate the Committee's mention of urban alternative development, a concept indeed not sufficiently discussed, that we have been interested in for its potential to divert vulnerable populations towards fair and stable licit opportunities such as CSCs and other forms of regulated context.

⁴³ See for instance: Obradors-Pineda, A., Bouso, J.-C. C., Pares-Franquero, O., et al. (2021), "Harm reduction and cannabis social clubs: Exploring their true potential." *International Journal of Drug Policy*, 97, 103358; Vendula Belackova et al. (2016) "Qualitative research in Spanish cannabis social clubs: "The moment you enter the door, you are minimising the risks."” *International Journal of Drug Policy*, 34: 49-57; Vendula Belackova et al. (2018). Consumer agency in cannabis supply - Exploring auto-regulatory documents of the CSCs in Spain. *International Journal of Drug Policy*, 54: 26-34; Òscar Parés-Franquero et al. (2019). Use and habits of the protagonists of the story: CSCs in Barcelona. *Journal of Drugs Issues*, 49(4); Tom Decorte et Mafalda Pardal (2020). Insights for the design of Cannabis Social Club regulation. In: *Legalizing Cannabis*. Londres : Routledge; Obradors-Pineda et al. (2024) "Who is in, for How Long and What for. Exploring the Social Dimension of Cannabis Social Clubs in Barcelona, 2017-2020" *Journal of Drug Issues* (published online).

⁴⁴ See for instance: Tom Decorte et al. (2017). "Regulating CSC: A comparative analysis of legal and self-regulatory practices in Spain, Belgium and Uruguay." *International Journal of Drug Policy*, 43: 44-56; Tom Decorte & Mafalda Pardal (2018). "Cannabis Use and Supply Patterns Among Belgian Cannabis Social Club Members." *Journal of Drugs Issues*, 48(4); Mafalda Pardal (2018), "'The difference is in the tomato at the end": Understanding the motivations and practices of cannabis growers operating within Belgian CSCs", *International Journal of Drug Policy*; Mafalda Pardal et al. (2020), "Mapping Cannabis Social Clubs in Europe", *European Journal of Criminology*, 19(5); Òscar Parés-Franquero et José-Carlos Bouso (2015), *Innovation Born of Necessity: Pioneering Drug Policy in Catalonia*. New-York : Open Society Foundations; ConFAC (2020), *Informe macroeconómico: fiscalidad de las asociaciones de personas consumidoras de cannabis*. Madrid: ConFAC; David Pere Martínez Oró (2018). "[Las oportunidades económicas de la legalización del cannabis](#)," *Cáñamo España*, N° 250; Sandro Cattacin et al. (2013). [Pour plus de sécurité dans la ville. Les Associations de consommateurs de Cannabis : un modèle efficace de réglementation de l'accès au Cannabis](#). Genève : Groupe de réflexion interpartis du Canton de Genève.

Health and other ESC impacts of administrative and criminal sanctions related to controlled substances

49. We appreciate the comprehensive approach adopted in the outline. In support and furtherance of the work of the Committee, we have some comments on the text contained in the outline:
- We are conscious of the specific burden carried by many people of African descent living outside Africa. However, the mention of this specific subset of people also invites consideration of the disproportionate harms (of incarceration, among others) for people on the African continent. We would also like to remind the Committee that all discrimination should be strongly opposed, and everywhere around the world migrants and people from foreign origins are disproportionate victims of discrimination, marginalization and repression. In recent years, many people have been forced into migration, on all continents. Lessons learnt from the defense of the rights of people from African descent must benefit all vulnerable groups.
 - When the Committee mentions “sentence reduction, suspension, early release, parole, pardons and amnesty” it would be interesting to connect these measures with the right to remedy and reparations for victims of human rights violations and take into consideration the 5 UN basic principles and guidelines on the right to a remedy and reparation: restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition.⁴⁵

Therapeutic uses

50. In addition, we would like to contribute on the therapeutic aspects of health and ESC rights, in particular the rights of people with disabilities as they relate to equality and non-discrimination concerning the use of all forms of controlled medicines fit for the improvement of their health. As a first step, it is important to recall that decriminalisation is a matter of urgency because, among the victims of the “wars on drugs” are the disabled, the sick, and the dying who are being denied treatment that is defined in the preamble of the Single Convention as relieving suffering.⁴⁶
51. Herbal, plant-based medicinal preparations have been successfully applied in traditional or complementary treatment protocols for centuries. The emergence of a proprietary pharmaceutical chemical-based model to prescription medicine is a relatively recent phenomenon, that remains marginal in many developing countries where informal and traditional medicine prevail. While modern pharmaceuticals offer great benefits for specific medical conditions, the right to health encompasses and protects the age-old use of plant-based medicines; it grants it explicitly to indigenous peoples and local communities under the UNDRIP (Art. 24) and UNDROP (Art. 23(2)).

⁴⁵ See [A/RES/60/147](#). Note that “restitution should, whenever possible, restore the victim to the original situation before the gross violations of international human rights law [...] occurred. Restitution includes, as appropriate: restoration of liberty, enjoyment of human rights, identity, family life and citizenship, return to one’s place of residence, restoration of employment and return of property” but it also has meaning for lost and repressed traditions and cultures. We also recommend to the Committee UNODC’s (2020), [Handbook on Restorative Justice Programmes](#).

⁴⁶ [Written statement delivered by 193 NGOs "Patients access to medical cannabis"](#) for Agenda-item-5, reconvened 63rd Commission on Narcotic Drugs (2020); and [Written statement delivered by 55 NGO "Science-based scheduling for cannabis and other herbal medicines"](#) at the same session.

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52. Today, many patients suffer in part because of economic difficulties to pay for expensive pharmaceuticals, while world financial resources are often applied in the very same region to eradicate drug-producing plants which could have supplied affordable raw medicinal ingredients and herbal products to cover part of patients' demands, mitigate costs, and reduce environmental footprint of international trade in medicines. While access to traditional and herbal medicine in countries where it is traditional is important, the Committee should also consider the rights of people to access these forms of medicine elsewhere:
- The world today has led many indigenous people and members of local communities to be displaced and migrate, limiting their access to their medicines;
 - In addition, the rights of all people everywhere should be recognized to benefit from traditional medical science, as long as free, prior informed consent of TK holders is respected;
53. The risks of biopiracy, and corporate and neo-colonial capture, are exacerbated in the field of medicine and pharmaceuticals, calling for special attention.
54. As a result of prohibition and the ensuing stigma surrounding herbal medicines under control, these (often safer) treatments are left as options of last resort when they should have been accessible as safer first lines of treatment. Regrettably, this relegation to "last recourse" treatments continues with no other justification besides moral judgment, and despite the existence of numerous efficient clinical guidelines for both practitioners (including traditional) and patients on the safe use of herbal medicines liable to produce dependence.⁴⁷

Non-medical uses

55. ESC rights related to health and well-being also directly relate to the non-medical use of drugs. Although some authors have spent crazy efforts to attempt proving that "there is no human right to use drugs" the fact is that there is no reason for human right to either include such a right or exclude non-medical use from the individual rights of people and agency upon their own life.
56. The concern for the safety and well-being of children and youth is justifiable but the prohibition of drugs has created a certain moral panic and this has resulted in the criminalisation of many under the age of 18 years, particularly in developing countries. The advancement of human rights globally has led countries like South Africa⁴⁸ to amend their laws to come into line with the fundamental rights of children and youth.
57. We suggest the Committee to consider studying the provisions of Article 2(9) of the Single Convention, which requires countries, in a slightly antiquated treaty language, to mitigate harms from their legal non-medical industries (in addition to the requirement for data reporting to INCB discussed below in the section "Measuring the impact/effectiveness of drug policies"). The specific

⁴⁷ For instance, the Catalan Department of Health edited [Guidelines on Safer Use of Ayahuasca](#) for traditional healers. See: ICEERS (2019), [The Story Behind the First Ayahuasca Guide Published by a Governmental Health Agency](#).

⁴⁸ South African [Constitutional Court judgement](#) declaring the criminalisation of children for Cannabis offenses unconstitutional. Centre For Child Law (2022) [For The Decriminalisation Of Children's Possession And Use Of Cannabis](#); Fields of Green for ALL (2022) [Constitutional Court Rules Minors Cannot Be Criminalised for Cannabis](#) [online].

harm reduction measures derived from this provision may also have a relevance, when read together with the goal to protect health and welfare, in the compliance and *pacta sunt servanda* when countries legalize non-medical use of drugs under Article 2(9).⁴⁹

58. International drug policy is centered around the “world drug problem” and the concept of harm reduction has historically been biased to the harms of drugs. However, the harms of drugs need to be relativised, as the vast majority of people who use drugs suffer no adverse health consequences. The discussion around drug harms also need to be mitigated by that of the vastly-superior harms of prohibition. While harm reduction is quintessential, it should not be another tree that hides the large forest of **millions of non-problematic adult users who have freely decided to use a drug without harming themselves, others or the environment**. This simple but powerful reality, not even mentioned once in 78 years of sessions of the Commission on Narcotic Drugs, should not be overlooked by the Committee on ESC rights.

International cooperation and assistance

59. Regarding mention of “eradication efforts”: the use of this term should stop. No eradication of traditional plants or fungi can ever be justified, under any circumstances, ever.

Image: A child carries branches from Cannabis plants to use as goat bedding, photo taken during an aerial eradication campaign⁵⁰ by the South African Police Service in the Pondoland region of the Eastern Cape province, 2015. Credit: Myrtle Clarke Fields of Green for ALL NPC.




IV. Implementation

Measuring the impact/effectiveness of drug policies

60. We support new metrics that can meaningfully enhance knowledge of grassroots realities. The recommendations of the 2015 United Nations Development Programme (UNDP)⁵¹ are a useful basis

⁴⁹ This provision is interesting because, essentially, it invites signatories to the Single Convention to undertake a risk/benefit assessment in order to determine, for each particular substance under international control, if harms (“abuse and ill effects”) can be reduced in such a way that non-medical markets are the best legitimate policy solution for public health and welfare. See: Riboulet-Zemouli, K. (2022). *High compliance* p. 116.

⁵⁰  Dagga: Police in Helicopters 2015

⁵¹ In its report, the UNDP calls for “a comprehensive set of metrics to measure the full spectrum of drug-related health issues, as well as the broader impact of drug control policies on human rights, security and development” Schleifer R., et al, (2015) *Addressing the Development Dimension of Drug Policy*, UNDP HIV, Health and Development.

in providing specific guidance for drug policy metrics. In addition, we consider that measuring instruments should be particularly sensitive to data on human rights violations and abuses against affected populations, in particular, when committed in the name of drug control; public health, harm reduction, well-being, and access to controlled medicines (and not only essential medicines; not only for palliative care) particularly in low and middle-income countries; violence and insecurity generated or exacerbated by repression and prohibition policies; environmental impacts and sustainability of policies and programmes; loss of biodiversity, conservation measures, including metrics on traditional plant varieties and associated TK; remedies and reparations for victims of human rights violations associated with drug policies.

61. Metrics on “adult use”/“recreational use” of controlled drugs like cannabis can be articulated around the requirement of data reporting to the INCB contained in article 2(9) of the 1961 Single Convention (as discussed in § 7)⁵² but this requires prior modernization efforts from the INCB (discussed in § 11).
62. We also suggest the Committee consults the work of an international group of experts on the interrelations of cannabis and hemp with the 2030 Sustainable Development Agenda which address specific Goals and targets,⁵³ and link them with specific recommendations from the 2016 UNGASS outcome document.⁵⁴

V. The future of drug control

63. The Committee mentions that: “It is also worth noting that while the drug conventions are almost universally accepted, they were developed by North American and European countries with very limited input from low- and middle-income countries, and no input from communities most negatively affected by them.”
64. The statement is mostly true, but it is anachronistic to blame North America for early drug control:
 - In recent decades, the academic world has witnessed the emergence of new, burgeoning, transnational historiographies of global drug control that have untapped a genesis of the current legal framework more complex than what may often be commonly perceived.⁵⁵ An

⁵² See [High compliance \(2022\)](#)

⁵³ SDG goals and targets and UNGASS2016 recommendations are addressed specifically in: [Cannabis & sustainable development: Paving the way for the next decade in Cannabis and hemp policy](#) (2019).

⁵⁴ UNGASS2016 recommendations are addressed in: [Sustainable Cannabis Policy Toolkit \(2021\)](#) (list at the end)

⁵⁵ An insight to this renewed approach to the history of the early drug treaties and the way the international legal system unfolded with respect to drugs, and Cannabis drugs in particular, can be found in: Campos, I. (2012), *Home Grown: Marijuana and the Origins of Mexico's War on Drugs*, University of North Carolina Press; Collins, J. (2015), [Regulations and prohibitions: Anglo-American relations and international drug control, 1939-1964](#), PhD thesis, London School of Economics and Political Science; Collins, J. (2020), “[A Brief History of Cannabis and the Drug Conventions: Symposium on drug decriminalization, legalization, and international law](#)”, *AJIL Unbound* 114; Collins, J. (2021), “[Evaluating trends and stakeholders in the international drug control regime complex](#)” *International Journal of Drug Policy* 90:103060; Colson (2019) *supra* note 5; Duvall, C. S. (2019), *The African Roots of Marijuana*, Duke University Press; Framke, M. (2013), “Internationalizing the Indian War on Opium: colonial policy, the nationalist movement and the League of Nations”, In: Fischer-Tiné, H. and Tschurennev, J. (Ed.s), *A History of Alcohol and Drugs in Modern South Asia: Intoxicating Affairs* (pp. 155–171), Routledge; Gootenberg, P., and Campos, I. (2015), “[Toward a New Drug History of Latin America: A Research Frontier at the Center of Debates](#)”, *Hispanic American Historical Review*, 95(1):1–35; Kendell, R: (2003),

unforeseen aspect of this revisited history has been to deepen our awareness of several such commonly shared misunderstandings about the current Conventions.

- Among these: while the US has led international drug-related relations in prominent positions in the last decades, their geopolitical supremacy in this domain started fairly late in the 20th Century, mostly with the Nixon administration in 1971. Although the US initiated the Shanghai Opium Commission in 1909, they were not leaders in the field of international opium policy as Europeans were. The US did not join many of the pre-world war II drug treaties. In 1961, during the Conference of Plenipotentiaries that concluded the Single Convention on narcotic drugs, the members of the US delegation, led by Harry J. Anslinger, had a weaker voice than they had hoped. The US disliked the final text of the treaty⁵⁶ and put off ratification until 1967 after over 50 other countries had already done so.⁵⁷ The US federal government lasted three more years in transposing the non-self-executing provisions of the Single Convention into domestic law.⁵⁸ The influence of developing countries in building the early international drug control system alongside mostly-European colonial powers is critical. This tendency continued even after 1961, as Latin American countries were among the most fervent supporters of the harsher criminal regime of the 1988 Convention.

65. With respect to Cannabis, inclusion under international control came mostly under pressure from Egypt and later South Africa.⁵⁹ In the first half of the century, the isolationist US had been a passive

[“Cannabis condemned: the proscription of Indian hemp”](#), *Addiction* 98(2):143–151; Kingsberg, M. (2013), *Moral nation: Modern Japan and Narcotics in Global History*, University of California Press; Kozma, L. (2011a). [“Cannabis Prohibition in Egypt, 1880—1939: From Local Ban to League of Nations Diplomacy”](#), *Middle Eastern Studies*, 47(3):443–460; Kozma, L. (2011b), [“The League of Nations and the debate over cannabis prohibition”](#), *History Compass*, 9(1):61–70; McAllister, W. B. (2000), *Drug Diplomacy in the Twentieth Century*, Routledge; Mills, J. H. (2003), *Cannabis Britannica, Empire, trade, and prohibition*, Oxford University Press; Mills, J. H. (2016), [“The IHO as Actor: The case of cannabis and the Single Convention on Narcotic Drugs 1961”](#), *Hygiea Internationalis*, 13(1):95–115; Molano Cruz, G. (2017), [“A View from the South: The Global Creation of the War on Drugs”](#), *Contexto Internacional*, 39(3):633–653; Richardson-Little, N. (2019), [“The Drug War in a Land Without Drugs: East Germany and the Socialist Embrace of International Narcotics Law”](#), *Journal of the History of International Law*, 21(2):270–298; Scheerer, S. (1997), [“North-American Bias and non American roots of cannabis prohibition”](#), In: Böllinger, L. (Ed.), *Cannabis Science: From Prohibition to Human Right* (pp. 31–36), Peter Lang; Unterman, K. (2020), [“A History of U.S. International Policing”](#) In: Dietrich, C. R. W. (Ed.), *A Companion to U.S. Foreign Relations: Colonial Era to the Present* (pp. 528–546), Wiley Press; Windle, J. (2013), [“How the East Influenced Drug Prohibition”](#), *International History Review*, 35(5):1185–1199. In addition, the author of the present essay has conducted historical research (currently in press) on the international discussions, politics, relations, and law related to *Cannabis* between 1925 and 1961 (understudied period), witnessing first-hand the complexity of the topic, and documenting a forgotten episode (1935-1938 assessments of medical cannabis preparations) and controversial roles of players like Egypt or the *Office International d’Hygiène Publique* (International Office of Public Health).

⁵⁶ McAllister (2000) pp. 204–210, see footnote above.

⁵⁷ McAllister (2000) pp. 215–218. It is not uninteresting to see what countries joined the Single Convention before the US did, on 25 May 1967: Afghanistan, Algeria, Argentina, Benin (Dahomey), Brazil, Byelorussian SSR, Cameroon, Canada, Chad, Ivory Coast, Cuba, Denmark, Ecuador, Egypt, Ethiopia, Finland, Ghana, Hungary, India, Iraq, Israel, Jamaica, Japan, Jordan, Kenya, Republic of Korea, Kuwait, Lebanon, Malawi, Mali, Mexico, Morocco, Myanmar (Burma), the Netherlands, New Zealand, Niger, Pakistan, Panama, Peru, Poland, Senegal, Spain, Sri Lanka, Sweden, Syria, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, the UK, Ukrainian SSR, USSR, and Zambia had all ratified the Single Convention, which entered into force in 1964; see: United Nations. (2021a), [“Single Convention on Narcotic Drugs, 1961: New York, 30 March 1961”](#), In: *United Nations Treaty Collection; Chapter VI, Narcotic Drugs and Psychotropic Substances*. United Nations.

⁵⁸ Specifically with the adoption of the Comprehensive Drug Abuse Prevention and Control Act, 1970 (Leinwand, 1971, pp. 413n1, 415n10; see note above)

⁵⁹ On South Africa, see: Paterson, C. (2009), [“Prohibition & Resistance: A Socio-Political Exploration of the Changing Dynamics of the Southern African Cannabis Trade, c. 1850 – the present”](#), Rhodes University. On Egypt, see the two

observer of the debates at the League of Nations –the predecessor of the United Nations (UN). Before 1967, the US was not a Party to any international legal instrument which included provisions on the Cannabis plant or its products.⁶⁰

66. While the USA has been the leader of the global war on some people and traditions (i.e. “war on drugs”) in the past few decades, the genesis comes from Europe and from its conservative and moralist allies in colonized or independent countries of “the Global South.”
67. For the future of drug control, the world would be well-advised to get back to the essence of the text of the drug control treaties, which place particular focus on agreements pertaining to the handling of pharmaceutical products, and whose provisions almost entirely relate to a specific subset of medical uses (i.e. prescription use of certain formula) and illicit criminal activities, while not addressing at all non-medical and non-illicit activities even though they may not lead to “abuse and ill effects.”



Image: Solidarity between cannabis activists and the South African indigenous King Khoi, occupying, living, and cultivating cannabis in the gardens of the country’s parliament in Pretoria since 2021 in protest for the recognition of their language and of their rights to Cannabis.

Credit: Fields of Green for ALL NPC.

articles by Kozma (2011) cited in the footnote above. See also Stensrud, A. (2022), [The Racist Roots of International Cannabis Regulation](#) (cited earlier)

⁶⁰ In fact, there was only one multilateral legal instrument mentioning cannabis at all: the Second International Opium Convention concluded at Geneva on 19 February 1925, that the US never ratified (p. 415, in: Leinwand, M.A. (1971), “The International Law of Treaties and United States Legalization of Marijuana”, *Columbia Journal of Transnational Law*, 10(2):413–441).

Conclusion

68. For decades, drug policy has created violence, mayhem and lawlessness. Focusing on human rights, harm reduction, immediate decriminalization, and policy reform in full cooperation with local populations and affected stakeholders are the only interventions that will benefit public health.. Outdated and racist policies perpetuate a system that affects the health and safety of marginalized communities the world over.
69. What would have happened if herbal drugs, used by humankind for millennia, had not been banned 100 years ago? Would young people use synthetic neo-cannabinoids if Cannabis access had not been destroyed? Who would use fentanyl today if opium was available? Look back at what 100 years of prohibition did: it fuelled the replacement of moderately-harmful traditional and indigenous drugs with always newer, increasingly more harmful substances. People who use drugs are terrified of the next unintended consequence of these policies.
70. This repression also affects grassroots activists and collectives – the very people who are formulating and experimenting with sustainable drug policy alternatives for the future of ALL. Prohibition and stigma keep these activist organizations away from most sources of funding. This censoring & uprooting hampers the possibilities for future change. Continued criminalisation also seriously threatens the valuable cultures and traditional knowledge of indigenous peoples and local communities working with cannabis, coca, opium, a multitude of fungi, kratom, iboga, etc., in both rural and urban areas.
71. In conclusion, we would like to point out, to the Committee, an often overlooked anomaly: The UN area of work around drugs is called the United Nations Office on Drugs and Crime. This concept of “Drugs and Crime” reflects a fundamental bias whereby drugs can hardly be considered as non-crime-related. The Committee has to question how the UN’s foundational “crime-based approach” conflicts with and creates bias against any “health and human rights-based approaches” to drug policy.
72. We reiterate our deep appreciation for the work of the Committee and it is our wish that other Human Rights Treaty bodies will follow this lead and engage in similar reviews soon.