

350 Fifth Avenue, 34<sup>th</sup> Floor  
New York, NY 10118-3299  
Tel: +1-212-290-4700  
Fax: +1-212-736-1300; 917-591-3452

Kenneth Roth, *Executive Director*

**DEPUTY EXECUTIVE DIRECTORS**

Michele Alexander, *Development and Global Initiatives*  
Nicholas Dawes, *Media*  
Iain Levine, *Program*  
Chuck Lustig, *Operations*  
Bruno Stagno Ugarte, *Advocacy*

Emma Daly, *Communications Director*  
Dinah PoKempner, *General Counsel*  
James Ross, *Legal and Policy Director*

**DIVISION AND PROGRAM DIRECTORS**

Brad Adams, *Asia*  
Daniel Bekele, *Africa*  
Maria McFarland Sánchez-Moreno, *United States*  
Alison Parker, *United States*  
José Miguel Vivanco, *Americas*  
Sarah Leah Whitson, *Middle East and North Africa*  
Hugh Williamson, *Europe and Central Asia*

Shantha Rau Barriga, *Disability Rights*  
Peter Bouckaert, *Emergencies*  
Zama Neff, *Children's Rights*  
Richard Dicker, *International Justice*  
Bill Frelick, *Refugees' Rights*  
Arvind Ganesan, *Business and Human Rights*  
Liesel Gerntholtz, *Women's Rights*  
Steve Goose, *Arms*  
Diederik Lohman, *acting, Health and Human Rights*  
Marcos Orellana, *Environment and Human Rights*  
Graeme Reid, *Lesbian, Gay, Bisexual, and Transgender Rights*

**ADVOCACY DIRECTORS**

Maria Laura Canineu, *Brazil*  
Louis Charbonneau, *United Nations, New York*  
Kanae Doi, *Japan*  
John Fisher, *United Nations, Geneva*  
Meenakshi Ganguly, *South Asia*  
Bénédicte Jeannerod, *France*  
Lotte Leicht, *European Union*  
Sarah Margon, *Washington, DC*  
David Mepham, *United Kingdom*  
Wenzel Michalski, *Germany*  
Elaine Pearson, *Australia*

**BOARD OF DIRECTORS**

Hassan Elmasry, *Co-Chair*  
Robert Kissane, *Co-Chair*  
Michael Fisch, *Vice-Chair*  
Oki Matsumoto, *Vice-Chair*  
Amy Rao, *Vice-Chair*  
Amy Towers, *Vice-Chair*  
Catherine Zennström, *Vice-Chair*  
Michael Fisch, *Treasurer*  
Bruce Rabb, *Secretary*  
Karen Herskovitz Ackman  
Akwas Aidoo  
Jorge Castañeda  
Michael E. Gellert  
Leslie Gilbert-Lurie  
Paul Gray  
Betsy Karel  
David Lakhdir  
Kimberly Marteau Emerson  
Alicia Miñana  
Joan R. Platt  
Neil Rimer  
Shelley Frost Rubin  
Ambassador Robin Sanders  
Jean-Louis Servan-Schreiber  
Sidney Sheinberg  
Bruce Simpson  
Joseph Skrzynski  
Donna Slaight  
Siri Stolt-Nielsen  
Darian W. Swig  
Makoto Takano  
Marie Warburg  
Jan Weidner

May 17, 2018

Office of the United Nations High  
Commissioner for Human Rights  
United Nations Office at Geneva (c/o Zaved  
Mahmood)  
CH 1211 Geneva 10  
Switzerland



**Re: Report of the Office of the High Commissioner for Human Rights on  
the implementation of the UNGASS joint commitment to effectively  
addressing and countering the world drug problem with regard to human  
rights**

To the Office of the High Commissioner for Human Rights:

Thank you for the opportunity to submit our comments to feed into your upcoming report on the implementation of the outcome document of the UN General Assembly Special Session (UNGASS) on Drugs, adopted by the General Assembly in April 2016. We believe that respect for human rights needs to be a central element of national and global drug strategies and that your contribution to the UNGASS is of critical importance. For there to be an effective policy to tackle the world drug problem, there should be a stronger engagement of Geneva health mandate-holders, including the WHO and UNAIDS, together with the human rights expertise of the Human Rights Council, and civil society organizations.

Below, we draw on recent Human Rights Watch work on drug policy issues in several countries to highlight challenges and some progress with the implementation of the UNGASS outcome document.

**Re: Operational recommendations on ensuring the availability of and  
access to controlled substances exclusively for medical and scientific  
purposes, while preventing their diversion**

In its 2016 outcome document, UNGASS called on countries to consider reviewing “unduly restrictive” regulations governing access to controlled substances for medical and scientific purposes. Human Rights Watch has repeatedly documented how needlessly restrictive national drug policies make it difficult for people needing palliative care, pain treatment, and drug treatment to access morphine, methadone, and other medicines.

In 2017, Armenia took significant steps to address the limited availability of palliative care medicines, in line with the UNGASS recommendation. In February, it adopted a national palliative care strategy;<sup>1</sup> in March, it registered two forms of liquid oral morphine, considered by WHO to be fundamental to cancer pain treatment;<sup>2</sup> and in November, it adopted new drug regulations that remove many barriers to access to morphine for patients with pain.

However, many countries have yet to implement the UNGASS recommendation. In Guatemala, for example, Human Rights Watch found that at least 5,000 Guatemalans with cancer and HIV/AIDS live and die in pain per year because they cannot get morphine or other opioid analgesics due to regulatory barriers.<sup>3</sup> To prescribe an opioid analgesic, physicians must use a special prescription pad that only contains 25 scripts and can only be purchased one at a time at one location in the country. Physicians can only prescribe a maximum eight-day supply of morphine. For a longer supply, the physician must issue a second prescription form with a special stamp that they can only buy at one location in Guatemala City. Only 50 to 60 of the 14,000 doctors in Guatemala have special prescription pads, all in Guatemala City. Patients also need to get their prescription authorized in-person by the Ministry of Health, which can only be done at one office in Guatemala City. Only three pharmacies in the country, all in Guatemala City, consistently carry opioid analgesics.

### **Re: Operational recommendations on drugs and human rights**

The 2016 UNGASS outcome document also recommended that states promote “proportionate national sentencing policies, practices and guidelines for drug-related offences”; enhance “access to treatment of drug use disorders for those incarcerated”; and promote effective responses to drug-related crimes that “ensure legal guarantees and due process safeguards.” Yet, our work in the Philippines has found that the government continues to pursue “war on drugs” policies that have resulted in numerous extrajudicial executions. Our work in Georgia has found that the government continues to prioritize arrest and incarceration over human rights and a public health-based approach to drugs.

#### *Philippines*

Since taking office on June 30, 2016, Philippine President Rodrigo Duterte has carried out a “war on drugs” resulting in the deaths of more than 12,000 suspected drug dealers

---

<sup>1</sup> Human Rights Watch, “Armenia Has New Strategy to Help Terminally Ill: Legal Changes Are Next Step to Get Treatment to Those in Need,” October 12, 2017, <https://www.hrw.org/news/2017/10/12/armenia-has-new-strategy-help-terminally-ill>.

<sup>2</sup> Human Rights Watch, “*All I can Do Is Cry*”: Cancer and the Struggle for Palliative Care in Armenia, July 2015, <https://www.hrw.org/report/2015/07/14/all-i-can-do-cry/cancer-and-struggle-palliative-care-armenia>.

<sup>3</sup> Human Rights Watch, “*Punishing the Patient*”: Ensuring Access to Pain Treatment in Guatemala, May 2017, <https://www.hrw.org/report/2017/05/17/punishing-patient/ensuring-access-pain-treatment-guatemala>.

and users by January 2018.<sup>4</sup> The government has attributed an estimated 4,000 killings to the Philippine National Police, and the remainder to “unidentified gunmen.”<sup>5</sup> Media and rights groups investigations have determined that many of these killings were unlawful executions by police or agents of the police acting as “death squads.”<sup>6</sup>

Authorities have likewise used “drug watch lists” not only to target alleged drug suspects but, by releasing these to the media without charges filed in court, also to demonize local politicians they accused – without presenting evidence – of involvement in illegal drugs.<sup>7</sup> So-called “drop boxes” have also been set up in communities and police stations to encourage residents to report alleged drug suspects.<sup>8</sup> These boxes are prone to abuse as anyone can potentially be listed and put at risk.<sup>9</sup>

The government, with China’s assistance, has built so-called “mega rehab centers,” where alleged drug users are arbitrarily detained, ostensibly for drug treatment.<sup>10</sup> It has also initiated a police-run drug rehabilitation program, also detention-based.<sup>11</sup> These programs are not in accordance with internationally accepted standards on drug rehabilitation. More recently, the government has agreed to consider UN-backed programs that are community-based and voluntary.<sup>12</sup>

Poor conditions of detention facilities are also an issue, particularly in police precincts where most of those arrested or surrendered spent a considerable amount of time before being transferred to regular jails for trial or drug rehabilitation facilities.<sup>13</sup>

## *Georgia*

Georgia’s fight against the use and sale of illicit drugs prioritizes arrest and incarceration over drug prevention and treatment. Georgian authorities aggressively pursue drug prosecutions, which often lead to long sentences and prohibitive fines. People convicted

---

<sup>4</sup> Human Rights Watch, “Philippines: Duterte’s ‘Drug War’ Claims 12,000+ Lives,” January 18, 2018, <https://www.hrw.org/news/2018/01/18/philippines-dutertes-drug-war-claims-12000-lives>.

<sup>5</sup> ABS-CBN News, “Drug war death toll nears 4,000,” says PNP, January 23, 2018, <http://news.abs-cbn.com/news/01/23/18/drug-war-death-toll-nears-4000-says-pnp>.

<sup>6</sup> Reuters, “Duterte’s War: Inside the bloody drug crackdown in the Philippines,” June 2017, <https://www.reuters.com/investigates/section/philippines-drugs/>.

<sup>7</sup> Rappler, “PDEA drug list: More than 200 barangay officials linked to illegal drugs,” April 30, 2018, <https://www.rappler.com/nation/201401-list-names-barangay-officials-linked-illegal-drugs>.

<sup>8</sup> Philippine Daily Inquirer, “‘Drop boxes’ help gather intel for Duterte’s drug war,” Jul 30, 2017, <http://newsinfo.inquirer.net/918727/drop-boxes-help-gather-intel-for-dutertes-drug-war>

<sup>9</sup> Human Rights Watch, “Deadly Drop Boxes Fuel Philippine’s ‘War on Drugs’,” September 25, 2017, <https://www.hrw.org/news/2017/09/25/deadly-drop-boxes-fuel-philippines-war-drugs>

<sup>10</sup> Human Rights Watch, “Japan: Don’t Fund Abusive Philippine Drug Rehab Services,” May 17, 2017, <https://www.hrw.org/news/2017/05/17/japan-dont-fund-abusive-philippine-drug-rehab-services>

<sup>11</sup> ABS-CBN, “PNP chief ‘Bato’ opens Laguna drug rehab center,” January 14, 2017, <http://news.abs-cbn.com/video/news/01/14/17/pnp-chief-bato-opens-laguna-drug-rehab-center>

<sup>12</sup> BusinessWorld, “UN offers assistance to Philippines’ rehab program for drug users,” April 3, 2018, <http://bworldonline.com/un-offers-assistance-to-philippines-rehab-program-for-drug-users/>

<sup>13</sup> Human Rights Watch, “Philippines’ ‘War on Drugs’ Worsens Jail Miseries,” August 2, 2016, <https://www.hrw.org/news/2016/08/02/dispatches-philippines-war-drugs-worsens-jail-miseries>.

for drug-related felonies often are deprived of several civil rights after they have served their sentences, including the rights to operate motor vehicles and to work in certain professions for certain periods, depriving many of their livelihoods and contributing to further stigmatization of drug users.

Drug users are vulnerable to police abuse, including ill-treatment and forced drug testing. Police have and use broad powers to stop individuals in the street and compel them to undergo drug testing, so long as there are “sufficient grounds” for assuming they are under the influence of drugs.<sup>14</sup> Police can detain a person who refuses a drug test for up to 12 hours in a forensic lab, during which time they can be deprived of fundamental rights afforded to a detainee in a criminal case.

First-time illegal drug consumption or possession of small quantity for personal use is a misdemeanor offense, but repeated use or possession within a year of a first offense results in criminal liability.<sup>15</sup> Approximately three-quarters of controlled substances – including commonly used substances like amphetamine, methamphetamine, and desomorphine – do not have established thresholds for small and medium quantities.<sup>16</sup> Thus, possession of any amount of those substances automatically qualifies as a large quantity, triggering criminal liability and prison terms ranging from five to eight years. Possession of more than one gram of these substances is considered an “extremely large amount” and can result in life imprisonment.<sup>17</sup>

Georgia imposes mandatory minimum sentences for drug-related offenses. As a result, a person charged with a drug-related offense are essentially compelled to agree to a plea deal to avoid long prison terms.<sup>18</sup> Plea bargaining in drug-related offenses often lead not only to prison sentences but also to prohibitive fines, which can financially devastate the accused and his/her family.

---

<sup>14</sup> Police intelligence is considered “sufficient grounds.” See Joint order No1244–No278/n of the Minister of Internal Affairs and of the Minister of Labour, Health and Social Affairs of Georgia “On Approval of Rule of Determination of Administrative Offences Related to Consumption of Narcotic drugs and psychotropic substances”, October 24, 2006.

<sup>15</sup> Article 45 of Administrative Offences Code of Georgia.

<sup>16</sup> Georgian Law on Drugs, Psychotropic Substances, Precursors and Narcological aids, Annex 2. Out of 203 illegal drugs/psychotropic listed by the law, 156 do not have determined small amounts, and amounts enough to start criminal prosecution.

<sup>17</sup> Criminal Code of Georgia, Article 260.

<sup>18</sup> According to data provided by the Georgia’s Supreme Court, 60 percent of all drug-related cases heard by first instant courts in 2016 ended in a plea deal. Letter of Supreme Court of Georgia Np-42-17, February 2, 2017, in response to Human Rights Watch’s request of public information.