



Bogota, August, 2025

Secretariat of the Committee on Economic, Social and Cultural Rights

Office of the United Nations High Commissioner for Human Rights

Palais Wilson

52, Rue des Pâquis

CH-1201 Geneva, Switzerland

**Re: Independent information for Colombia's
Periodic Review for the 78th session of the
Committee with regards to impacts of drug policy
to economic, social and cultural rights.**

Distinguished Members of the Committee on Economic, Social and Cultural Rights,

Elementa is a Colombian-Mexican organization that works from a socio-legal and political approach, to contribute to the construction and regional strengthening of human rights, including the transformation of drug policy to move towards the design and implementation of legislation and public policies on production and consumption of psychoactive substances under a human rights and social justice approach. **The Center for Law, Justice and Society, Dejusticia**, is a Colombia-based research and advocacy organization dedicated to the strengthening of the rule of law and the promotion of social justice and human rights in Colombia and the Global South, and drug policy reform is one of our key areas of research and advocacy, pursuing socio-legal change to incorporate evidence and human rights into drug policy.

I. Rights of the populations whose livelihoods depends from plants deemed illicit with regards to the adequate standard of living (article 11)

1. By November 2024, there was a progress of implementation of 34% of the commitments from the Final Peace Agreement signed in 2016 between the Colombian State and the guerrilla group FARC-EP. At the same time, the KROC Institute determined that 47% of the provisions of the Agreement lack sufficient evidence to determine that they will be fulfilled within the established timeframe¹. Specifically, Chapter 4 of the Final Peace Agreement, titled “*Solution to the problem of illicit drugs*” which consists mainly of the National Comprehensive Program for the Substitution of Illicit Crops (hereinafter PNIS, for its acronym in Spanish), showed that 51% of the initiatives had been fulfilled to a minimal degree or not at all by November 2024².
2. While this chapter of the Peace Agreement had an original vision to transform local contexts and promote the necessary conditions for rural development and transition to legal economies, eight years later, the PNIS “*turned out to be a precarious version of substitution, institutionally, financially, and politically limited to compliance with the Immediate Action Plan (PAI), and even almost exclusively to compliance with only its family component.*”³ This implies that the crop substitution program limited its application to the temporary transfer of subsidies to families in exchange for the eradication of crops, but did not implement projects to ensure the transition of the coca-growing populations to legal economic activities. Moreover, the program's temporary transfers were made on an intermittent basis, which ultimately placed greater pressure on families who eradicated their crops and depended exclusively on them⁴.
3. Additionally, commitments related to long-term projects, including access to employment, community projects, and environmental sustainability interventions remain at minimum implementation levels compared to the previous year. This stagnation can be explained by the multiple changes made by the entity in charge of the program's implementation⁵. Even in those places where the program completed some of these components, the objective of improving the

¹ Echavarría, J., Gómez Vásquez, M., Forero Linares, B., Álvarez Giraldo, E., Astaíza Bravo, J., Balen Giancola, M., Campos Cáceres, P., Córdoba Ponce, E. M., Bazan, R. G., Gutiérrez Pulido, E., Hernández Morales, L., Peralta, C. H., Joshi, M., Kielhold, A., Márquez Díaz, J., Menjura Roldán, T., Mosquera Martínez, R., Mosquera Sánchez, E., Quinn, L., ... Zúñiga García, I. (2025). *Navegando las aguas de la paz: avances, retos y oportunidades en el octavo año de implementación diciembre 2023 a noviembre 2024* (Versión 1). University of Notre Dame. <https://doi.org/10.7274/28706174.v1>, p. 66

² Ibid, p. 328.

³ Cruz-Olivera, L., León-Marín, M. (2024). *Una sustitución precaria: política de drogas y conservación sin el campesinado*. Dejusticia, p. 69. <https://www.dejusticia.org/wp-content/uploads/2024/11/Docs93-SustitucionPrecaria-Web.pdf>

⁴ Centro de Estudios sobre Seguridad y Drogas (CESED). Universidad de los Andes. (2024). *Comentario de política nro. 17. Resumen de la Evaluación Institucional, de Resultados y de Impacto del PNIS. Recomendaciones para un Nuevo Programa de Transformación Territorial en Zonas Cocalleras*, p. 12. <https://cesed.uniandes.edu.co/resumen-de-la-evaluacion-institucional-de-resultados-y-de-impacto-del-pnis-recomendaciones-para-un-nuevo-programa-de-transformacion-territorial-en-zonas-cocalleras/>

⁵ Echavarría, J., Gómez Vásquez, M., Forero Linares, B., Álvarez Giraldo, E., Astaíza Bravo, J., Balen Giancola, M., Campos Cáceres, P., Córdoba Ponce, E. M., Bazan, R. G., Gutiérrez Pulido, E., Hernández Morales, L., Peralta, C. H., Joshi, M., Kielhold, A., Márquez Díaz, J., Menjura Roldán, T., Mosquera Martínez, R., Mosquera Sánchez, E., Quinn, L., ... Zúñiga García, I. (2025). *Navegando las aguas de la paz: avances, retos y oportunidades en el octavo año de implementación diciembre 2023 a noviembre 2024* (Versión 1). University of Notre Dame. <https://doi.org/10.7274/28706174.v1>, p. 330.

quality of life of these families was not achieved, due to cost overruns in deliveries, delays, poor product quality, and the imposition of projects to be developed⁶.

4. The PNIS is a program with flaws in its design, implementation, and development, which has led to its judicialization amidst multiple complaints from beneficiaries. In the last two years, the Constitutional Court has studied multiple cases specific to this program, resulting in three rulings: SU-0545 of 2023, T-146 of 2024, and T-172 of 2024. These court rulings have highlighted three structural problems of the program and also given specific orders to the Government to overcome them: (i) unjustified exclusion of beneficiaries without due process; (ii) failure to comply with program commitments; and (iii) forced crop eradication procedures against families participating in the program.
 - a. As of November 2024, the program had 99,097 families enrolled⁷, of which more than 12,000 families had been suspended or withdrawn⁸. The suspension or withdrawal of these families from the program by the relevant authorities has been carried out in a disorderly manner, with administrative errors, and without a clear set of criteria. An example of this is that between November 2023 and November 2024, the number of families withdrawn from the program decreased from 14,053 families to 12,630 families, which demonstrates atypical behavior in a public policy⁹. The expulsion or suspension of beneficiaries from the program is a critical issue, given the conditions of poverty they face, threatening their right to a minimum standard of living¹⁰. Therefore, the Court ordered the government to respect the binding nature and enforceability of the collective agreements signed between the Government and the communities¹¹, as well as to respect due process in the procedure for removing or suspending beneficiaries¹².
 - b. There have been significant complaints from beneficiaries about the poor quality of goods and services received from program implementers, which directly impacts the livelihoods of these peasant communities¹³. Delays in the delivery of goods and services within the PNIS represented a serious violation of the right to a minimum standard of living for peasant families who depend on this illicit economy and have manifested their willingness to transition to a legal economy. This is explained by the fact that when it was agreed to eradicate all illicit crops, families in many cases were left without their main economic activity and waiting for the State to fulfill its promises¹⁴. In addition to this, there are shortcomings in implementing a gender and

⁶ Centro de Estudios sobre Seguridad y Drogas (CESED). Universidad de los Andes. (2024). *Comentario de política nro. 17. Resumen de la Evaluación Institucional, de Resultados y de Impacto del PNIS. Recomendaciones para un Nuevo Programa de Transformación Territorial en Zonas Cocaleras*, p. 12.

⁷ Ibid, p. 336.

⁸ Cruz-Olivera, L., León-Marín, M. (2024). *Una sustitución precaria: política de drogas y conservación sin el campesinado*. Dejusticia, p. 94.

⁹ Echavarría, J., Gómez Vásquez, M., Forero Linares, B., Álvarez Giraldo, E., Astaíza Bravo, J., Balen Giancola, M., Campos Cáceres, P., Córdoba Ponce, E. M., Bazan, R. G., Gutiérrez Pulido, E., Hernández Morales, L., Peralta, C. H., Joshi, M., Kielhold, A., Márquez Díaz, J., Menjura Roldán, T., Mosquera Martínez, R., Mosquera Sánchez, E., Quinn, L., ... Zúñiga García, I. (2025). *Navegando las aguas de la paz: avances, retos y oportunidades en el octavo año de implementación diciembre 2023 a noviembre 2024* (Versión 1). University of Notre Dame. <https://doi.org/10.7274/28706174.v1>, p. 337.

¹⁰ Cruz-Olivera, L., León-Marín, M. (2024). *Una sustitución precaria: política de drogas y conservación sin el campesinado*. Dejusticia, p. 78.

¹¹ Corte Constitucional, sentencia SU-545 de 2023, M. P. Antonio José Lizarazo Ocampo, Cristina Pardo Schlesinger y José Fernando Reyes Cuartas.

¹² Corte Constitucional, sentencia T-172 de 2024, M. P. Diana Fajardo Rivera.

¹³ Corte Constitucional, sentencia T-146 de 2024, M. P. Paola Andrea Meneses Mosquera.

¹⁴ Cruz-Olivera, L., León-Marín, M. (2024). *Una sustitución precaria: política de drogas y conservación sin el campesinado*. Dejusticia, p. 69.

ethnic approach that adapts the program to the specific needs of these populations. The Court ordered the government to implement a differential ethnic approach when dealing with indigenous or Afro-Colombian communities¹⁵. In July 2024, the government modified the implementation route of the family plan component of the program, which, intended to resolve administrative problems, has been criticized by communities for not guaranteeing their effective participation and not responding to territorial needs¹⁶.

- c. Lastly, it is crucial to alert on the use of forced eradication to reduce illicit crops, a practice that does not comply with Constitutional Court standards on sequencing, nor on international standards regarding the adequate standard of living for rural populations that depend on these economies. In 2020, rural communities reported that the Colombian national army continued to carry out forced eradication operations of illicit crops, despite the fact that these same communities had joined the voluntary substitution program. These operations continued even during the COVID-19 pandemic. In ruling SU-545 of 2023, the Constitutional Court studied a number of cases that demonstrated this practice and determined that forced eradication violated the rights of the communities that filed the complaints. The Court established that, when it comes to illicit crop reduction programs, the national government is obligated to comply with the rule of hierarchy among means, which implies that voluntary crop substitution must be prioritized first, and forced eradication may only proceed when there is sufficient evidence that voluntary substitution programs have failed. Given the degree of failure on the side of the Colombian government to fulfill its obligations under the Peace Agreement, it can hardly be argued that forced eradication could take place, as there have been systematic breaches in the implementation of the PNIS.
5. In 2019 the Constitutional Court issued a ruling outlining the criteria to be met by any government that intends to resume glyphosate spraying in Colombia. After several legal actions that demonstrated the serious impacts on the right to health and a healthy environment caused by aerial spraying with glyphosate, the Court required the government to develop independent regulations, based on objective and conclusive evidence, demonstrating the absence of harm to health and the environment, if it wishes to resume this practice. This regulation must also provide guarantees for complaint and evaluation procedures. Although this regulation has not yet been issued and there is no objective evidence to show that glyphosate does not cause damage to health and the environment, in recent months it has become known that the national government has signed a contract to reactivate manual eradication with glyphosate in more than 15 departments of the country¹⁷. This clearly disregards the available scientific evidence on the effects of this herbicide on human health and the environment.
6. According to the 2023 UNODC-SIMCI report, 48% of illicit crops in Colombia are located in environmentally protected areas, such as national parks, forest reserves, and collective territories¹⁸. These areas are home to peasant, Indigenous, and Afro-descendant communities

¹⁵ Corte Constitucional, sentencia T-172 de 2024, M. P. Diana Fajardo Rivera.

¹⁶ Echavarría, J., Gómez Vásquez, M., Forero Linares, B., Álvarez Giraldo, E., Astaíza Bravo, J., Balen Giancola, M., Campos Cáceres, P., Córdoba Ponce, E. M., Bazan, R. G., Gutiérrez Pulido, E., Hernández Morales, L., Peralta, C. H., Joshi, M., Kielhold, A., Márquez Díaz, J., Menjura Roldán, T., Mosquera Martínez, R., Mosquera Sánchez, E., Quinn, L., ... Zúñiga García, I. (2025). *Navegando las aguas de la paz: avances, retos y oportunidades en el octavo año de implementación diciembre 2023 a noviembre 2024* (Versión 1). University of Notre Dame. <https://doi.org/10.7274/28706174.v1>, p. 342.

¹⁷ Cambio Colombia (2025). *Gobierno adjudicó millonario contrato para reactivar la aspersión terrestre con glifosato*. <https://cambiocolombia.com/pais/gobierno-adjudica-millonario-contrato-para-reactivar-la-aspersion-glifosato>

¹⁸ UNODC (2024). *Colombia: Monitoreo de territorios afectados por cultivos ilícitos 2023*. Sistema Integrado de Monitoreo de Cultivos Ilícitos – SIMCI. Julio 2024.

who face environmental restrictions without viable economic alternatives. The PNIS has excluded many of these communities, worsening their poverty and vulnerability. The State's response has favored forced eradication over sustainable, territorial approaches, undermining both the right to an adequate standard of living and environmental protection.

Suggested questions for the Colombian State:

- Describe the measures taken by relevant authorities to ensure that all communities who manifest their willingness to transition to a licit livelihood have an opportunity to do so, and the measures by which forced eradication is adequately used.
- What concrete measures is the State adopting to guarantee the right to an adequate standard of living for the more than 12,000 families suspended or removed from the National Comprehensive Program for the Substitution of Illicit Crops (PNIS), especially in light of their economic dependence on these crops and the lack of due process in their exclusion?
- In light of the absence of independent and science-based regulation on the use of glyphosate, how does the State justify the reactivation of eradication operations using this herbicide, given the Constitutional Court's requirements to protect the rights to health and a healthy environment?
- What specific steps is the State taking to ensure the inclusion of peasant, Indigenous, and Afro-descendant communities living in special environmental management zones—where nearly 48% of illicit crops are located—into sustainable crop substitution programs, in line with the obligations to ensure a differential and territorial approach to the right to an adequate standard of living?

II. The right to health of people who use drugs, and the legal and funding landscape for harm reduction services (Article 12), the principles of progressivity (article 2.1) and non-discrimination (article 2.2)

7. The enjoyment of the right to health for all people who use illicit drugs and/or are dependent on drugs is applicable, and their drug use should not be a deterrent to access health services. These services include, but are not limited to, treatment for drug dependence, as well as harm reduction services.
8. Access to harm reduction services is largely dependent on the legal framework that enables people who use drugs to seek services without fear of persecution, incarceration, or other legal or administrative consequences. In this regard, decriminalization of personal drug use constitutes a necessary pre-requisite to better protect the right to health of people who use drugs.
9. Colombia decriminalized personal drug use in 1994 via a Constitutional Court decision¹⁹. The decision, based on arguments of free development of personality, autonomy, and freedom, declared that existing sanctions for personal drug use in the National Narcotics Law (incarceration, forced treatment, and fines) were unconstitutional. This decision allowed for people who use drugs to be kept out of prison and addressed drug use as a health issue, allowing for experimentation with harm reduction models, something that Colombia has developed much more than its peers in the region.
10. Colombia's decriminalization model has dealt with significant tensions over the years that have impacted the rights of people who use drugs. Specifically, Police Code regulations that sanction fines, and seizing of the substances. There is a clear tension between the constitutionally protected rights of people who use drugs, and the administrative sanctions enforced by Police officials, that generally target young and socioeconomically vulnerable people.

¹⁹ Corte Constitucional, 1994, C-221. <https://www.corteconstitucional.gov.co/relatoria/1994/c-221-94.htm>

11. Data on the enforcement of Police Code restrictions shows that it targets young people, and it even persecutes quantities lower than the personal dose, which is legally protected. According to data from the Colombian NGO *Temblores*, between 2017 and 2022 the Police have imposed a total of **1,188,906** fines for possession and use in public space. 99.6% of marijuana seizures were for quantities below the minimum dose (20 grams). The search for substances by police officers is concentrated in the young citizens of the country. 71.4% of the sanctions between 2017 and 2022 were imposed on people between the ages of 16 and 30²⁰.
12. The context of Police persecution, searches, and sanctions, can have a deterrent effect on people who want or need to access health services, including information to promote safer drug use practices. Moreover, the economic burden of the fines has negative effects on already marginalized populations.
13. Colombia's new National Drug Policy (2023–2033), adopted under the administration of President Gustavo Petro, represents a significant shift in the country's drug policy narrative²¹. It introduces a human rights based approach, incorporates harm reduction as a central element of public health strategies, and prioritizes the dismantling of stigma against people who use drugs through a transversal axis of narrative transformation. These policy commitments were reaffirmed at the international level when Colombia co-sponsored and facilitated the adoption of the first-ever resolution on harm reduction at the UN Commission on Narcotic Drugs in March 2024²².
14. Despite these progressive commitments, concrete implementation has been limited. The policy has yet to secure sustained funding or institutional mechanisms to ensure nationwide access to harm reduction services. While Bogotá opened the country's first supervised consumption room in April 2024²³, these efforts remain fragmented, localized, and vulnerable to political shifts. Meanwhile, people who use drugs continue to face high levels of stigma, administrative criminalization, and inadequate health responses throughout the country, undermining their right to health and non-discrimination.
15. The UN Special Rapporteur on extreme poverty and human rights has emphasized the need for a renewed global dialogue involving producer, transit, and consumer countries to evaluate the human rights impacts of current drug control regimes and explore alternative approaches²⁴. Colombia's new drug policy explicitly sets out to advance this conversation by linking national reform to international advocacy, aiming to position health, dignity, and rights at the center of global drug policy. This creates a critical opportunity to align domestic efforts to guarantee health services for people who use drugs with a broader shift toward non-discriminatory, evidence-based frameworks at the international level.
16. Besides the legal framework to enable the protection of the right to health for people who use drugs, another key component is the adequate funding of such services, crucial to ensure that

²⁰ Temblores, 2025. *Por menos de un gramo*.

<https://tembloresong.gumroad.com/l/pormenosdeungramo?layout=profile>

²¹ Government of Colombia, *Política Nacional de Drogas 2023–2033: Sembrando vida, desterramos el narcotráfico*, Ministerio de Justicia y del Derecho, September 2023.

²² Commission on Narcotic Drugs, Resolution 67/9: *Promoting evidence-based, comprehensive and inclusive policies and programmes for the implementation of harm reduction interventions related to drug use*, adopted with Colombia as main sponsor, March 2024

²³ El Espectador (2024). *Heroína en Bogotá. Así es la primera sala de consumo supervisado de Suramérica*. <https://www.elespectador.com/investigacion/heroina-en-bogota-asi-es-la-primera-sala-de-consumo-supervisado-de-bogota/>

²⁴ United Nations, *Report of the Special Rapporteur on extreme poverty and human rights – Visit to Colombia*. (A/HRC/59/51/Add.1). 22 April 2025, para. 71.

services are available and accessible to all people who need them, as per the core elements of the right to health outlined by the CESCR in its General Comment No. 14²⁵.

17. In Colombia, harm reduction continues to lack adequate and continued funding. Drug checking services, peer distribution of syringes and naloxone, and supervised consumption rooms, are services often funded by a combination of private funding and international cooperation. These services save people's lives by reducing the risk of overdoses and other potential adverse effects from drug use such as HIV, and hepatitis infections, contributing to the enjoyment of the right to health for people who use drugs. The State's discontinued funding to such services increases risks and preventable harms for these populations.
18. We note with concern that while the National Drug Policy adopted in 2023 includes harm reduction as part of their objectives, there is no progress in adopting regulatory frameworks to both ensure legal certainty for the delivery of harm reduction services, as well as clear and stable funding streams.

Suggested questions for the Colombian State:

- What percentage of the total budget allocated to drug policy is directed towards harm reduction programs and health services for people who use drugs? Please describe the trend over the past 10 years.
- What steps is the State taking to ensure the progressive realization of harm reduction services nationwide, as required under Article 2.1 of the Covenant, particularly in light of the limited implementation and lack of sustained funding for Colombia's 2023–2033 National Drug Policy?
- How does the State plan to institutionalize harm reduction services, such as supervised consumption rooms, in a way that guarantees long-term availability across regions and prevents regression due to political changes?
- What specific measures is the State taking to combat the stigma and criminalization of people who use drugs, in accordance with its obligations under Article 2.2 to eliminate discrimination in access to health services?

III. Situation of incarceration and detention conditions, with regards to equality and non-discrimination (article 2.2), the right to the protection of family, mothers and their children (article 10), the right to water (articles 11 and 12), and the right to health (article 12).

19. As of July 3, 2025, Colombia has 104,635 people deprived of their liberty in prisons. Of these, 93.6% are men and 5.8% are women. Overcrowding in prisons and temporary detention centers used for the same purposes stands at 28.9%, with an estimated prison overpopulation of 23,496 people²⁶.
20. In 2013, the Colombian Constitutional Court declared a state of unconstitutional affairs in the prison and penitentiary, in ruling T-388. A Civil Society Monitoring Commission (hereinafter the Commission) was created to monitor the implementation of this court ruling. However, in its most recent report (2025), the Commission reiterated that to date there has been no

²⁵ Committee on Economic, Social and Cultural Rights, General Comment No. 14: *The Right to Health*, UN Doc. E/C.12/2000/4 (2000), para. 12.

²⁶ Información extraída del tablero estadístico del Instituto Nacional Penitenciario y Carcelario (INPEC). Disponible en: <https://www.inpec.gov.co/atencion-y-servicio-a-la-ciudadania/estadisticas/tableros-estadisticos>

significant progress in guaranteeing the rights of persons deprived of liberty²⁷. The prison situation has worsened, as the problem has spread to temporary detention centers²⁸.

21. Although the proportion of women in prison is lower than that of men, the conditions by which women enter and stay in the criminal system are particularly aggressive to the rights of this population. The growth of the female prison population over the last thirty years has been estimated at 333.33%²⁹. The crimes committed by women are often related to poverty, associated with a lack of education and employment opportunities. Proof of this is that the main cause of incarceration for this population are non-violent crimes, as 34.8% of incarcerated women are in prison for drug trafficking, most of which involve small quantities³⁰. This contrasts with the causes of incarceration among men, whose three main crimes are violent crimes such as homicide, theft, and conspiracy³¹.
22. Imprisonment has different effects on women because prisons are not designed for them and their specific needs, which in turn impacts the right to health. For example, women's prisons in Colombia do not have a constant and safe supply of drinking water; with a provision that is intermittent and of poor quality³², which clearly violates the standards regarding the right to water as an essential human right as developed by the Committee on its General Comment No. 15³³.
23. The Commission has even pointed out that the conditions of imprisonment increase the likelihood of women suffering violence. Currently, there is underreporting of violence suffered by women in prisons. According to the Commission's most recent report on the matter, there is a total absence of public data on reports of violence filed by women, reflected in the lack of consistency in the information provided by the public entities responsible for investigating these incidents.
24. Violations of women's sexual and reproductive rights within prisons and detention centers have also been documented. These violations are related to the lack of goods and services for menstrual health, intimate visits, and family planning. The Commission has shown that health care and menstrual management within prisons is deficient, as the State does not designate enough resources to meet these needs. In this regard, prisons do not have sufficient medical staff or the necessary equipment and drugs to meet women's health needs³⁴. Regarding menstrual management, despite the approval of Law 2261 of 2022, "which guarantees the free, timely, and sufficient delivery of menstrual hygiene and health products to women and menstruating persons deprived of liberty and establishes other provisions," this is not fully complied with, as there are constant reports of delays or incomplete deliveries of the hygiene materials required by women.
25. With regard to conjugal visits, it has been reported that the time allowed is insufficient and that there is no adequate infrastructure to fulfill their purpose in a dignified manner. Women have

²⁷ Comisión de Seguimiento a la Vida en Prisión (2025). *XII Informe general de Seguimiento a la vida en prisión*. Abril 2025. Disponible en: <https://www.dejusticia.org/crisis-carcelaria-en-colombia/>

²⁸ Ibid, p. 64.

²⁹ Comisión de Seguimiento a la Vida en Prisión (2024). *Mujeres en prisión: Violencias que atraviesan muros*. Octubre 2024. Available at: [https://www.dejusticia.org/wp-content/uploads/2024/11/Mujeres-en-Prision - Violencias-que-atraviesan-muros-FINAL-1.pdf](https://www.dejusticia.org/wp-content/uploads/2024/11/Mujeres-en-Prision-Violencias-que-atraviesan-muros-FINAL-1.pdf)

³⁰ Información extraída del tablero estadístico del Instituto Nacional Penitenciario y Carcelario (INPEC). Disponible en: <https://www.inpec.gov.co/atencion-y-servicio-a-la-ciudadania/estadisticas/tableros-estadisticos>

³¹ Ibid.

³² Corporación Mujeres Libres (2024). *Cicatrices del silencio. Vulneración a derechos sexuales y reproductivos de las mujeres, hombres trans y personas no binarias privadas de la libertad en las cárceles de Colombia*, pp. 58-63. Available at: https://www.mujereslibres.co/files/ugd/0d7919_556a4c2b6191443098a737b6e9555ce7.pdf

³³ Committee on Economic, Social and Cultural Rights, General Comment No. 15: *The Right to Water*, UN Doc. E_C-12_2002_11-EN, (2002).

³⁴ Ibid, pp. 43.

reported that, unlike practices in male prisons, they face greater restrictions in terms of time and practices³⁵. Thus, the time allowed is insufficient and does not allow women to address issues other than sexual practices, such as family or relationship matters. This situation is exacerbated in the case of same-sex couples, as there have been reports of degrading and humiliating treatment by guards against them; even worse, when two people deprived of their liberty are in the same facility, they are often victims of persecution by the guards and are forced to separate³⁶.

26. In Colombian prisons, women face difficulties in managing their reproductive health. Women have irregular and discontinuous access to gynecological services, which prevents the prevention, treatment, and monitoring of diseases or infections, such as cervical or breast cancer³⁷. Women cannot choose the family planning method they want, as there are limited options. There is no adequate and sufficient information in prisons about each family planning method, which means that women sometimes face emergencies and health problems resulting from unwanted side effects that are not addressed by health personnel³⁸.
27. The full range of the situations experienced by women within the prison systems with regards to their sexual and reproductive health, clearly disregard the commitments of State Parties to the Covenant in accordance with General Comment No. 22 on the scope and content of the right to sexual and reproductive health under Article 12³⁹.
28. In 2023, the Colombian Congress passed Law 2292, which created an alternative to prison for female heads of household who committed crimes while in a situation of socioeconomic vulnerability; most of these crimes are drug-related. This alternative allows them to serve their sentence by delivering a social service, known as public utility service. This measure of release from prison would alleviate the problems of overcrowding in women's prisons.
29. However, two years after the adoption of this law, the implementation of this mechanism has been slow. Proof of this is that only 172 women have benefited from this measure⁴⁰, representing 2.11% of the total number of women convicted of a crime in the country⁴¹. This last figure is merely an estimate, because the implementation of this law faces the initial difficulty that there is no information on the population that meets the criteria for this benefit, which prevents adequate monitoring of the progress of this law. Therefore, in its most recent report, the Commission recommended that the Colombian government strengthen the information system with all the actions of state entities, which would allow for measuring progress in the implementation of the law⁴².
30. Although the public utility law improves the living conditions of women who have been in prison and their families, it does not in itself solve the problems of socioeconomic marginalization that led women to become involved in illegal activities. Thus, one of the main

³⁵ Ibid, pp. 33.

³⁶ Ibid, pp. 30-32.

³⁷ Ibid, pp. 43-50.

³⁸ Comisión de Seguimiento a la Vida en Prisión (2024). *Mujeres en prisión: Violencias que atraviesan muros*. Octubre 2024. Disponible en: https://www.dejusticia.org/wp-content/uploads/2024/11/Mujeres-en-Prision_-_Violencias-que-atraviesan-muros-FINAL-1.pdf

³⁹ Committee on Economic, Social and Cultural Rights, *General Comment No. 22 on the Right to Sexual and Reproductive Health*. UN Doc. E_C.12_GC_22-EN, (2016).

⁴⁰ Información con corte al 09 de julio de 2025, extraída del tablero estadístico de seguimiento Implementación de la Ley de Utilidad pública del Ministerio de Justicia y del Derecho de Colombia. Disponible en: <https://www.minjusticia.gov.co/programas-co/politica-criminal/Paginas/Seguimiento-implementacion-ley-utilidad-publica.aspx>

⁴¹ Cálculos propios, de acuerdo con las cifras de mujeres condenadas del del tablero estadístico del Instituto Nacional Penitenciario y Carcelario (INPEC). Disponible en: <https://www.inpec.gov.co/atencion-y-servicio-a-la-ciudadania/estadisticas/tableros-estadisticos>

⁴² Comisión de Seguimiento a la Vida en Prisión (2025). *XII Informe general de Seguimiento a la vida en prisión*. Abril 2025. Disponible en: <https://www.dejusticia.org/crisis-carcelaria-en-colombia/>, p. 131.

problems faced by women benefiting from this release measure is that neither the State nor society provides them with opportunities to enter the workforce and improve their socioeconomic situation, and their right to an adequate standard of living continues to be violated. For this reason, the Commission recommended that the government take specific actions to counteract the conditions of poverty and socioeconomic inequality of women who perform community service, in order to achieve their effective social reintegration and prevent recidivism⁴³.

Suggested questions for the Colombian State:

- What concrete measures are being taken to guarantee the sexual and reproductive health of women deprived of liberty in Colombian prisons and detention centers?
- What concrete measures are being taken to guarantee the right to water for women deprived of liberty in Colombian prisons and detention centers?
- How does the State plan to address the socioeconomic vulnerability of women beneficiaries of the Public Utility Law and protect their right to an adequate standard of living as well as prevent recidivism?

IV. Coca leaf, international legal framework and tensions with cultural rights (article 15)

1. The international drug control conventions, particularly the 1961 Single Convention on Narcotic Drugs, have a complex and conflicting relationship with the protection of cultural rights, especially concerning the traditional use of the coca leaf by indigenous peoples in the Andean-Amazonian region.
2. The 1961 Single Convention on Narcotic Drugs classified coca leaf in Schedule I, which includes substances that are understood to be highly addictive and highly susceptible to abuse, or may be transformed into substances that are equally addictive and susceptible to abuse⁴⁴. Substances included in this list are subject to strict controls due to their potential to affect public health, although medical and scientific uses are permitted.
3. Additionally, the Convention required signatory states to abolish traditional practices like coca leaf chewing within 25 years. This effectively criminalized a millennia-old practice central to the cultural, spiritual, and medicinal traditions of many indigenous communities across the Andean-Amazon region, including in Colombia where indigenous communities hold the coca leaf as part of their religious and cultural practices. The prohibition on traditional coca use directly clashes with indigenous peoples' rights to maintain their cultural identity, traditions, and health practices, as recognized in instruments like the UN Declaration on the Rights of Indigenous Peoples, and as protected by Article 15 of the Covenant.
4. The decision to classify the coca leaf as a narcotic drug is a scientific error, as the plant itself does not meet the characteristics attributed to this definition. This classification was based on a report of questionable scientific ground that considered coca leaf chewing as a habit that causes addiction and damages to health⁴⁵.

⁴³ Comisión de Seguimiento a la Vida en Prisión (2025). *XII Informe general de Seguimiento a la vida en prisión*. Abril 2025. Disponible en: <https://www.dejusticia.org/crisis-carcelaria-en-colombia/>, p. 132.

⁴⁴ United Nations Office on Drugs and Crime (UNODC). (s.f.). *1961 Single Convention on Narcotic Drugs*. <https://syntheticdrugs.unodc.org/syntheticdrugs/es/legal/system/1961.html>.

⁴⁵ Consejo Social y Económico de las Naciones Unidas – ECOSOC (1950). *Informe de la Comisión de Investigación sobre la Hoja de Coca*. <https://www.tni.org/es/publicaci%C3%B3n/informe-de-la-comision-de-investigacion-sobre-la-hoja-de-coca>

5. While Colombia has ratified all international drug control treaties, it declared that the criminalization of cultivation, as enshrined in the 1961 Convention, should be aligned with the rights of indigenous communities and the protection of the environment, in accordance with the Colombian Constitution (1991) and the rights to cultural identity and self-determination of indigenous peoples. However, this has not resulted in the implementation of a specific regulation. In the same ruling, the Court acknowledged the distinction between the coca plant and the licit and legitimate applications that have been made and can be made of it, and the use of the same as raw material for cocaine production⁴⁶.
6. In parallel, the National Narcotics Law (1986), gave powers to the National Narcotics Council, (CNE, according to its Spanish acronym) to regulate the cultivation of these plants and their traditional and cultural use by indigenous communities⁴⁷. The CNE has never taken action to regulate traditional and cultural cultivation and use by indigenous communities. Nor has the CNE, or other government entities with regulatory authority under Law 30 of 1986 over cultivation, production, manufacture, export, import, distribution, trade, use, and possession of coca leaf exercised this authority.
7. Colombia's National Drug Policy (2023)⁴⁸, includes a specific component on "fair and responsible regulation" looking to promote research and regulation of the non-psychoactive uses of the coca plant. The National Government has set out to identify potential uses for the plant to pave the way for the production of legal supplies such as fertilizers, compost, polymers, fabrics, food, medicines, among others, in order to disconnect rural Colombian families from the illicit drug market, replacing illegal use with a licit one. At the same time, the policy promotes the recognition and protection of the practices and knowledge of ethnic communities associated with controlled plants.
8. The current administration has presented two drafts for regulatory decrees on the scientific uses of coca leaf, however none have been adopted by regulatory agencies. Both draft decrees sought to regulate the medical, scientific, and industrial uses of the coca leaf, which were restricted exclusively under the control of public entities. The overall purpose of these regulatory projects was to promote the lawful uses of the coca leaf, particularly its research.
9. The draft decrees established a level of protection for the traditional and medicinal uses of coca leaves by indigenous communities, through prior consultation for the adoption of each project. This protection was aimed at guaranteeing the intellectual property rights that indigenous communities should enjoy over their traditional knowledge of these plants, in accordance with General Comment No. 25 of the Committee on Economic, Social and Cultural Rights. However, none of these regulations has been adopted to date.
10. Colombia, as well as other countries, face significant challenges to research on plants and substances under the control of the international treaties, as was highlighted by the Committee's General Comment No. 25 on science, and economic, social and cultural rights⁴⁹. Current scheduling of the coca leaf impacts not only scientific research itself, but also the possibility to benefit from scientific progress.
11. In order to overcome this decades long error, Bolivia, together with Colombia, requested the WHO to conduct a critical review of the coca leaf. The findings, to be made public in September 2025 by the Expert Committee on Drug Dependence (ECDD), and then communicate its recommendations to the UN Commission on Narcotic Drugs (CND), with voting likely in 2026.

⁴⁶ Sentencia C-176 de 1994. M.P. Alejandro Martínez Caballero.

⁴⁷ Article 7 Law 30 of 1986.

⁴⁸ Government of Colombia, *Política Nacional de Drogas 2023–2033: Sembrando vida, desterramos el narcotráfico*, Ministerio de Justicia y del Derecho, September 2023.

⁴⁹ Committee on Economic, Social and Cultural Rights, *General Comment No. 25 on science and economic, social and cultural rights (article 15 (1) (b), (2), (3) and (4) of the International Covenant on Economic, Social and Cultural Rights)* UN Doc. E/C.12/GC/25, (2020), para 68.

Based on the findings regarding a number of scientific elements, the WHO may recommend changes to the current scheduling of the coca leaf⁵⁰.

12. While the critical review that is being conducted represents a historic opportunity to better align drug control with indigenous and cultural rights, the process itself is still framed under exclusionary visions of what constitutes knowledge and scientific evidence, with the risk of leaving out traditional knowledge of Andean communities. There is an urgent need to align the UN system's critical review process with broader concepts of science and scientific knowledge, in order to effectively incorporate evidence from local peasant and indigenous communities that substantiates the safety of coca leaf for human consumption.

Suggested questions for the Colombian State:

- What concrete measures are being taken to protect indigenous and cultural rights with regards to coca leaf?
- What measures is the State taking to operationalize the commitments of the 2023–2033 National Drug Policy regarding the promotion of non-psychoactive and industrial uses of the coca leaf, and how will it ensure that such regulatory development benefits rural communities and respects their cultural practices?
- What legal or administrative reforms is the State considering to ensure that researchers and academic institutions can access coca leaf for scientific purposes without facing disproportionate regulatory barriers, in accordance with Article 15(3) of the Covenant?

⁵⁰ TNI and WOLA. Coca Chronicles: Monitoring the UN Coca Review. Issue #1: Bolivia Challenges UN Coca Leaf Ban. 2023. <https://www.tni.org/en/article/coca-chronicles-monitoring-the-un-coca-review>