



## **Submission to the Committee on Economic, Social and Cultural Rights responding to the call for civil society contributions on the impact of drug policy on ESC rights: Farmers' communities that grow opium poppy, coca and cannabis**

### **A submission from Corporación Viso Mutop and Transnational Institute (TNI)**

- Viso Mutop is a Colombian NGO that monitors the effects of drug policies on fundamental rights of vulnerable rural population, accompanying local communities that grow coca, opium poppy and cannabis.
- Transnational Institute is an NGO based in the Netherlands working on international advocacy related to the functioning of the UN Drug Control Conventions.

### **Introduction**

With the purpose of contributing to the preparation of a General Comment of the ESCR Committee, and convinced this contribution concerns a vast and seriously affected population, often overseen, we present the results obtained in meetings in September 2023 in Colombia, where in Santa Marta delegations of cannabis growers from Jamaica, Saint Lucia, Dominica, Antigua and Barbuda, Saint Kitts and Nevis, Guadeloupe, Barbados, Mexico and Colombia have met. In Medellin, representatives of farmer and indigenous coca growing communities from Bolivia, Peru, Colombia met to address the effects of drug policies on their ESC rights. This document also integrates results from two other consultations organized in January 2024 by TNI and partners in Morocco (cannabis farmers from the Northern provinces) and Myanmar (Shan State opium farmers), with information regarding the impacts of drug policy on the ESC rights of the cannabis and poppy-growing farmers.

In total, the consultations involved around 100 people. Both three days meetings were accompanied by a representative from the Colombian OHCHR Office. Separately an ex commissioner from the CESR, and an official from the Medellin OHCHR office offered introductions to the participants. Local Human Rights organisations facilitated the workshops and provided local context, both in Santa Marta and in Medellin.

### **Methodology**

The consultations applied the World Cafe Method, allowing all participants equal opportunity to contribute to the discussions. Each group turned tables: from economic rights, to social rights, and to cultural rights. Three groups were formed with similar geographic and gender representation, also taking into account language differences. Each table designated a spokesperson who was in charge of presenting the main conclusions to the next group and then a randomly appointed rapporteur presented the groups' conclusions in plenary. All were invited to write their comments on a piece of paper, which then provided the joint result.

### **Rational**

The UN drug control treaties define that the cultivation of cannabis, coca and opium poppy is limited to medical and scientific purposes. Medical uses are furthermore limited to strict pharmacological applications, and do not apply to widespread and ancestral traditional use and medical practices of these plants. However, many communities around the world have continued to cultivate and use these plants, and global demand has been ever increasing, for the plants and its derivatives. Coca and opium poppy are also grown to obtain cocaine and heroine respectively. The consultations discussed the excessive use of punitive approaches in drug control at the level of small scale farmers and its negative effect on ESC rights, with disproportionate impacts on people living in rural areas with high levels of poverty, marginalized communities, including peasant farmers, Afro-descendants and indigenous people.

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## **Affectations of ESC according to articles of the Covenant**

### **Preamble**

Participants in our consultations were rather surprised to learn about the rights enshrined in the Covenant. The consensus was that instead of creating conditions for the enjoyment of Economic, Social and Cultural rights, States themselves have been violating them. Drug policies have increased military presence, high rates of arrest and imprisonment and overall creating insecurity and affecting dignity for those living in rural areas.

*“In our community, families dedicated to coca cultivation were forcibly displaced after the forced eradication, as a consequence of the loss of their income and the damage caused to their food security” (Putumayo, Colombia)*

### **Article 1, Paragraph 2**

Eradication of crops deprives peoples of their livelihoods. Toxic spraying caused damage to people, livelihoods and natural resources. Several governments have used chemical agents to destroy crops. In one case this still happening (Colombia)

*"The damage caused to collective territories, in their natural resources, has led to the reduction of fishing, as well as native fruit trees, depriving communities of livelihoods". (Guaviare, Colombia)*

*"Forced eradication puts an end to the livelihood that coca offers to those of us who live in remote areas and who have no social protection. This right is guaranteed by the family with its own resources, despite the informal and illegal conditions in which we work. We have no other way of subsisting or paying for social security. (Antioquia, Colombia)"*

### **Article 2, Paragraph 2**

Discrimination towards ancestral and cultural consumption continues against indigenous peoples who use coca, opium and cannabis on a daily basis.

*"The Police are prone to enforce the law against natives who grow and consume cannabis".(Accompong, Jamaica)*

This was reported to be the case in almost all Caribbean islands, despite the deeply rooted cultural relation to the cannabis plant.

On the other hand, discrimination also finds expressions in violence.

*“Stereotypes and prejudices based on appearance and behaviour lead to tragic consequences, such as persecution and murder. This perpetuates a cycle of marginalisation and discrimination that negatively affects the social integration and well-being of young people". (Cordoba, Colombia)*

### **Article 3.**

In areas where agriculture is considered illegal, women do not usually own land, economic dependence and machismo of male partners persists. States should protect and promote women's rights, but as many participants confirmed, this is usually not the case:

*"Official crop substitution programmes do not take into account a gender approach, despite the fact that various norms oblige them to do so. Women's organisations have presented initiatives for greater participation and guaranteed access to rural property and legal markets". (Bolívar, Colombia)*



## **Article 6. The Right to Work:**

All those present and affected by forced eradication without support for access to development and alternative sources of labour agreed this right has been affected:

*A family living in remote mountains where there are no roads, no utilities, no access to basic infrastructure has too many constraints to have a livelihood and often the only opportunity to work is opium cultivation. Also, unfair beneficiary selection criteria for state or UNODC crop substitution programmes exclude poor people from receiving support and working in licit activities. (Shan State, Myanmar)*

Similarly, many participants claimed that the place they lived offered no labour opportunities for living from the land, and growing illicit crops provided the only option to generate an income, as a result of a combination of environmental, infrastructural and economic limitations.

*“In the Rif Mountains of the North of Morocco there is little water and few crops that will render results, but cannabis. We have been isolated for a long time, and the government never helped us. Extreme poverty is still prominent in our region” (Issaguen, Morocco)*

*Various initiatives, among communities within their own country or between countries, to establish licit markets for medicinal, therapeutic, food and industrial uses, based on coca, continue to face limitations and prohibitions by the drug treaties. In Peru, the State Company ENACO in charge of buying the leaf, pays very low prices and never enough to buy all the coca supply that the farmers have.” (Cuzco, Peru)*

Additionally, in countries where progress has been made in cannabis regulation, limitations of the financial system persist, particularly for those involved in the agriculture with limited resources:

*“Banks prevent growers and their entrepreneurial initiatives - even licit ones - from benefiting from credit and from engaging in commercial activities, as well as from the movement of cannabis revenues.” (Barbados)*

## **Article 7. Enjoyment of just and favourable conditions of work:**

*"The recent legislation regulating medical uses of cannabis have left out the existing grower communities, closing opportunities to native families and in general to small producers, due to the restrictions imposed and the lack of technical assistance to make the reconversion of their productive systems, with which the opportunity to work and improve their income in a licit market remains blocked." (Cauca, Colombia)*

*"In general, drug traffickers abuse farmers and pay them little for coca paste, but there is also little money to be made from coca leaf. That is why it is necessary to diversify crops. But there is also little money paid for the products of alternative development. Working conditions are precarious in these areas, and so is their very existence” (Ucayali, Peru)*

## **Article 8. Freedom of Labour Association:**

Legal limitations arising from the UN Drug Treaties form an obstacle for coca, poppy and marijuana growers to organise. In Morocco, Mexico and Myanmar, it is forbidden to form trade unions of this nature, despite the fact that they are farmers. Cultivation of these plants is criminalised in criminal codes of all countries. In Colombia, Peru and Bolivia, there are limitations on the functioning of coca farmers' unions and stigmatisation of them by various state institutions.

*“Our government has compromised the independence and functioning of our coca farmers organisation. It has prosecuted leadership and uses repressive means to control unions by the governing political party ”. (La Paz, Bolivia)*

*“Coca growers unions who oppose forced eradication are often attacked by police or military forces with gunfire resulting in killings.” (North Santander, Colombia)*

*"In the case of Mexico, the violent context surrounding drugs does not allow communities to come together as a population unit and raise their voices." (Michoacan, Mexico)*



## Articles 9 y 12:

Among the rights violated in these communities is **the right to health and social security**. The informality and illegality of the labour of the growers of these plants prevents access to health insurance or any kind of labour protection. The illegal nature of growing these plants impedes growers to provide their workers with social security conditions in accordance with labour standards, and therefore does not allow for a dignified, entrepreneurial and competent support in the processes of remuneration for work.

*"The lack of regulation generates a high lack of protection for those who cultivate or live from coca cultivation," (Alto Huallaga, Peru)*

*In Colombia, it is believed that those who have the right to social security are people employed by companies, with a permanent job and a monthly salary. I don't know of any area where peasants have social security" (Catatumbo, Colombia)*

Given the illegality of the crops, those who work in these tasks do not do so in accordance with national regulatory frameworks, nor do they have access to health or pension systems. In cities such as Michoacan in Mexico, the illegal status of growers limit their rights and forces them to pay for services that should be provided by the state. The same happens in Guadalupe, where cannabis growers are treated like drug traffickers. This situation is exploited to their advantage, sometimes by illegal armed actors in the territory who, given the lack of employment for young people, recruit or persuade them to join their groups.

The constant persecution by the authorities, as well as forced eradication operations, leads many coca-growing families, for example, to establish their crops in areas far from urban centres or health centres, which complicates access to medicines and medical treatment.

*"Apart from the fact that you are from a vulnerable community, these prohibitionist policies exacerbate the situation. Aerial spraying turns our crops into a plague, where nothing grows. And that favours the appearance of diseases that worsen your health in a health system that is already weak" (Chocó, Colombia)*

*"The stigmatization of coca-growing territories and where coca is grown prevents the arrival of hospitals or medical services, since growers are accused of being drug traffickers, as a result of what drug policies define. This means that even medical personnel do not want to go to our territories because they consider them unsafe and risky for their lives, and to this is added the indiscriminate use of states of emergency in coca-growing territories, as is the case in Peru." (Alto Huallaga, Peru)*

Fumigation with chemicals such as glyphosate has had devastating consequences, as in the case of Cauca, Colombia, triggering diseases and genetic deformities in the local population. In addition, the use of herbicides contaminates local water sources that communities use for their crops and for human and animal consumption.

The social stigmatisation of growers causes limits in access to health care, hinders employment and education, and erodes the principles of equality and non-discrimination. This stigmatisation translates into various forms of repression that undermine the fundamental rights of young people in Colombia and elsewhere. Stereotypes and prejudices based on appearance and behaviour can lead to tragic consequences, such as persecution and violence against young cannabis users, which is a clear violation of human rights. The situation is worse with mental health, due to the lack of



professionals to deal with traumatic situations of generations of people and communities, due to violence, conflict and lack of opportunities in the territory.

*"We live in remote areas due to the lack of suitable land. Often these lands are protected areas for environmental reasons or indigenous peoples, generating conflict between communities. Unequal distribution of land is a general problem in Colombia, where few have ownership of large quantities of land, while many don't have access. As a consequence of Free Trade Agreements small food producers cannot compete and have moved to grow illicit crops."* **(Meta, Colombia)**

"For many of us, these sacred plants have become a refuge to deal with stress and trauma. However, the tragic reality is that those who use them, especially young people, are often victims of violence and repression". **(Cauca, Colombia)**

#### **Art. 10**

Drug policies have had a rather negative effect on the formation and consolidation of farming families. The punitive approach has led to the incarceration of people who are mostly the economic breadwinners of the household, either the father or the mother, creating a rift in the family. Likewise, many young people choose to work from an early age because they see an option for the future there:

*"Some children and young people drop out of school because they are linked to crops and produce resources for their families. When a child sees the coca economy, they realize that the study is not profitable,"* **(Loreto, Peru)**

*"Drug policy is not responsible for child labour, but drug policy does affect the children by removing the major bread winner (the father), and as a result, finances are badly affected, preventing children from attending school. Jail is breaking family stability"* **(Antigua y Barbuda)**

Clashes between armies and illegal armed groups have increased harassment and forced recruitment of children and young people. This increases school dropout, affects the person, the family, and breaks the emotional and psychological bond. Community organizing, which is common among peasant or indigenous populations, is intimidated by armed or political groups.

*"Our indigenous community suffers from incursions by armed organized groups that want to take our lands to grow coca for cocaine. Our children suffer because they cant go to school because of the insecurity"* **(Chapare, Bolivia)**

In addition, some minors are used for micro-trafficking by some of the gangs. This exposure to violence has had a profound psychological impact on the children, as mentioned by the participants from Mexico and Colombia, when they narrate how military presence and helicopter flights during interdiction spraying have generated traumas in some children of the growing regions.

*"Enclaves of production of illicit crops generate violence against women and children, as well as sexual exploitation of children by armed actors,"* **(Northeast Antioquia, Colombia)**.

Women have perhaps been the most affected in this illegality imposed by the prohibitionist paradigm. Many of the growers have to continue their work during pregnancy, and they do not have maternity leave. In Colombia, more and more women are part of the growing list of leaders murdered due to the community leadership roles they have assumed, in territories that are in perennial dispute by legal and illegal armed actors that include drug trafficking mafias.

**Art. 11** The rights to housing, food and clothing have also suffered the effects of drug policies. The displacement generated by the fighting between the army and the armed groups, as well as the eradications, do not allow the consolidation of formal and stable housing.



*“War on drugs does not allow the state to guarantee rights and resources for housing, health and food. All the money is spent on war” (Barbados)*

In the Cauca region of Colombia, most of the inhabitants are dedicated to the cultivation of cannabis and coca in territories that often have the status of natural reserves. Due to the scarcity of available land and its status as environmentally protected areas, tensions and difficulties are generated for food production. While plants such as cannabis and coca, persecuted under the Drug Conventions, are part of the daily diet for some Rastafarian communities in the Caribbean and indigenous communities in the Amazon.

*“We drink and eat cannabis. Drug policies do not recognise the nutritional value of our ancestral crops, and suppress the education of cannabis as food with nutritional and medical benefits” (Dominica)*

Traditional forms of agriculture have been affected in regions of Jamaica but also in areas of large coca cultivation in Colombia. In the absence of regulation of the use of chemicals and fertilizers for cannabis and coca crops, these are used without greater control to obtain greater production, which can result in soil degradation and greater difficulty for agricultural production in general. In addition, current drug regulation processes also do not take into account the right to conservation of seeds originating in these territories.

Alternative development is carried out without the participation of the peasant, as is the case in the Valle Rios Apurimac, Ene y Mantaro (VRAEM) in Peru, where there is no support for the coca leaf grower.

*“In the Valley we are smallholders, and social and productive projects do not reach us or there is no market for alternative development crops. Our economy has declined instead of increased. The government only gives seeds and inefficient training,” (VRAEM, Peru)*

### **Art. 13**

In general, the participants state that in their territories the right to education is not guaranteed and this is manifested in the words of several participants:

*“the poor conditions of the educational infrastructure and its endowments, as well as in the scarcity and even poor quality of teachers. The children of coca leaf growers are stigmatized and excluded, and the chair is not in accordance with the cultural characteristics and territorial contexts of the population. The distances to available educational institutions, including higher education institutions, are very long and the costs to be borne are high”. (Narino, Colombia)*

*“The areas where coca and marijuana are grown are militarized, and that is why the budgets are allocated to the armed forces, military presence affects minors psychologically, creates traumas and leaves them without tools to access higher education. The State also discriminates against our adolescents and young people, stigmatizes them and treats them as delinquents even though they are in school studying.” (Putumayo, Peru)*

### **Article 15: Cultural Rights**

Our consultations showed that the implementation of supply control measures by the States towards cannabis, coca and opium poppy growers and users are perceived to negatively affect **the right to participate in cultural life:**



Caribbean Rastafari and Maroon communities stress the deprivation of their cultural right to enjoy their plants and natural medicines in their daily lives. The cannabis plant, known as “Ganja” in the Caribbean, is part of the cultural heritage of the Maroon communities, and an intrinsic part of Rastafari religious and cultural practices. It is linked to their identity and spirituality and not distinguished from other plants, either as food or as medicine. Similarly, for some Amazigh tribes, indigenous to the Northern part of Morocco, the use of the plant has a long tradition, reserved mainly to elder men, and used in a setting of community meetings. The land race Beldia, grown there for over one thousand years, is part of the local medicinal plant reserves. Participants who do not see themselves as members of a specific culture, also maintain that cannabis control prevents them from defining their own cultural practices, that have developed over many decades.

*“Drug policies continues to prevent our (Rastafari and Maroon) communities from enjoying their cultural rights and freedom of conscience rights, especially the use of cannabis. It is a direct attack on Rastafari culture as it deprives its membership of its food and medicine, used in everyday life” (St Kitts and Nevis)*

*“Our traditional cannabis use by elders is being slowly replaced since it suffered decades of stigma”  
(Al Hoceima, Morocco)*

*“I cannot imagine cannabis to ever disappear from my cultural activities and family life”  
(Michoacan, Mexico)*

Likewise, coca is an essential part of the pharmacopoeia of the Andean Amazon region and is inseparable from the culture of several indigenous peoples of Bolivia, Colombia and Peru, while its use has spread to Argentina, Chile and Ecuador over the centuries. Its ancestral uses have been evidenced by archaeological investigations since pre-Columbian times, and it still belongs intrinsically to the daily spirituality of indigenous peoples, who identify coca as part of their culture, and use coca in ceremonies and community events. The plant is also part of the daily diet of non-indigenous, as a food complement, a health product, or simply as tea.

*“Our community celebrations are often disturbed by police seizures of our coca leaves, preventing us from using them in our ceremonies” (Puno, Peru)*

*“We feel stigmatized as coca growers and consumers since our culture has been ignored and ridiculed by the authorities, and the sale of simple things like coca tea, banned” (Santa Marta, Colombia)*

*“Our coca cultivation and cultural expressions are recognized and protected by law, but we cannot sell our coca abroad” (Cochabamba, Bolivia)*

In Myanmar the use of derivatives of the opium poppy by local doctors and communities that grow the plant to attend health problems has never ceased to exist, and are still common practice. Access to medical services are limited for people living in isolated areas, and local doctors use derivatives of the plant to treat patients. It is also common practice to apply the plants in household settings in case of illness. Opium use and possession of small quantities is criminalized in the Myanmar Drug Control Law.

*In our village we have no hospital, and the nearest one is 8 hours drive. If someone is in pain or high fever, we give them some opium extract. That is common in all neighbouring villages” (Mong Sart Township, Shan State, Myanmar)*



Another dimension of the protection under the Covenant on Cultural rights refers to ensuring **the full realization of this right shall include those necessary for the conservation, the development and the diffusion of science and culture.** This has particularly affected the use of these plants as legal medicine, and the recognition of the (ancestral) medical practice by traditional doctors. In daily life people with scarce access to health services are inclined to use these medical services.

*“Understand that traditional knowledge is valid. This requires that in Western (medical) settings there is greater participation of ancestral knowledge without discrimination.” (Cauca, Colombia)*

Regarding all scientific and cultural development and its spread, many participants of our consultations remarked that the illegal nature of cannabis, coca and opium poppy poses **limits on how their knowledge is conserved and protected** that are hard to overcome. Particularly the issue of the genetic makeup of cannabis was raised, since many of the farmers have lost access and control over the land race varieties they have grown for generations. The proscription of these plants implicate a loss of **access to scientific research and creative activity**, a freedom that is not respected by their governments, as a consequence of the obligations States have committed themselves to through the international drug control conventions.

*“People should be allowed, should have the right to benefit from their intellectual property, their work with genetics through out the years.”(Saint Lucia)*

*“Our cultural heritage of cannabis seeds, and thus varieties suited for our lands, are in danger of being extinct” (Dominica)*

## **Drug Policy Interventions causing ESC Rights Affections**

We asked the participants of our consultations to identify the Drug Policy Measures responsible for the affectations of the Economic, Social and Cultural Rights, in their local contexts. We have extracted from these conversations the drug policy measures that mostly interfere and cause the aforementioned affectations, **in a direct way**:

- The prohibition of the plant and its traditional uses.
- Crop eradication, physically removing the plants, often with -disproportionate- use of force by law enforcement agencies, particularly the use of chemical agents.
- Seizures of stock, either during transport or through police or military operations, invading villages, houses and warehouses.
- Arrest and legal prosecution of people found in possession of the plants, meant for use in ceremonial or community events.
- Military and police troop presence as part of drug control operations.
- Incarceration of farmers and indigenous people.
- Decision making without previous consultation, particularly with indigenous peoples.