

### **Drug Crop Cultivation, Development and Human Rights: Understanding the cultural rights dimensions of rural cannabis production in the Upper Rif (Morocco)**

**Project Partners: The International Centre on Human Rights and Drug Policy and the Transnational Institute**

#### **Project Overview**

##### *Background*

Across the globe, communities that have historically cultivated plant-based controlled drugs including cannabis, coca, and opium have borne the brunt of international and domestic efforts to stem supply. International political pressure, in combination with binding legal obligations enshrined in three international drug control treaties, has resulted in intensive law enforcement and development efforts aimed at the eradication of the illicit production of controlled plants throughout the twentieth century to the present day. A large body of evidence has illustrated the significant human rights impacts on rural farming communities, including their development prospects and the preservation of their cultural practices, with no aggregate effect on global rates of production. As individual governments and the international community deliberate on how to overcome the failed efforts of drug prohibition, the protection and promotion of the human rights and livelihoods of rural farming communities is often an under-examined issue.

Morocco remains one of the world's leading producers of cannabis resin. The Rif mountain region in Northern Morocco has a centuries-long history of cannabis production and traditional use. The people of this region have struggled with great resilience throughout the 20<sup>th</sup> and into the 21<sup>st</sup> century to maintain their cultural traditions, to secure the only viable livelihood available, and to respond to the growing challenges and demands of the international (licit and illicit) markets. After decades of failed attempts to eradicate the cultivation of cannabis in the region through criminalisation and manual eradication, the government of Morocco has tacitly accepted cultivation within a confined traditional area through a policy of containment. As demand grows, particularly for the licit, medicinal cannabis market, tensions continue between a policy of criminalisation and the community's desire for meaningful and legitimate livelihoods.

The Moroccan National Human Rights Commission has been mandated to undertake a study on the impact of current national drug laws and policies on the human rights of affected communities, including the farmers of the Rif. Likewise, the government policy apparatus is starting to open dialogues on possible cultivation scenarios that support the human rights and development of the Rif farming

communities within the international licit cannabis market (medicinal and industrial uses). Importantly, the farming communities themselves are organised and actively seeking guidance on how to best formulate their case for legitimacy, equitable development, and the promotion and protection of their cultural practices.

The answers to several key human rights questions, using the case study of Morocco and the Rif valley communities, cut across various other geographies of drug crop cultivators the world over. They have applicability beyond the national context and, to date, represent an under-researched area within human rights scholarship. At the policy level, as governments begin to consider post-prohibition scenarios for controlled plants, having clear normative guidance based on the rich body of international human rights law, particular standards elaborated on the protection of cultural practices and the right to development, and what this means for crop cultivators, is essential.

### *Partners and project objectives*

The Transnational Institute has been a leading global actor in facilitating dialogues and policy discussions between rural farming communities and governments to support the preservation of cultural practices and to promote the equitable and meaningful development of these underserved communities. They have been working closely with a range of stakeholders in Morocco. The International Centre on Human Rights and Drug Policy has played a leading role in advocating for the use and implementation of human rights standards in the design, development and enforcement of drug laws and policies, currently leading with the UNDP a project to establish international guidelines on human rights and drug policy. The area around human rights and drug crop cultivation is a gap in their current research.

Using the case study of Morocco, this project will map out the historical origins, and existing jurisprudence that underpin cultural rights in relation to plants (including, where possible, discussions around psychoactive plants) and how these standards are relevant to the case of rural drug crop cultivation. Importantly, researchers will provide a clear framework for the assessment of cultural practices that are recognised and fall under international protection to enable an analysis of drug crop cultivation in Morocco. This will require an historical survey of the cultivation practices and legal regulation of cannabis production in Morocco since French rule.

The project output will serve as an important scoping document for project partners, including the community of cultivators, as each actor currently considers ways forward on this important international issue. The project output has important uses outside of the immediate project partnership, as it will further clarify State human rights/drug control obligations informing both advice provided to government actors and by UN technical agencies and reviews undertaken by UN human rights

monitors. At the same time, this document can be used as an advocacy tool for farmers organisations, grassroots social movements, national human rights institutions, and as a diplomatic resource for member States in this emerging area of international debate.

Inside Morocco, key collaborators for this research are likely to include: the Confédération des associations de sanhaja du Rif, the Association pour le développement du haut Rif central, the National Human Rights Commission, and the Institut National de la Recherche Agronomique (*INRA*)

### Project Output:

The project output will consist of a 20 page research briefing, which should be structured to include the following:

- Historical overview and place of plants in international human rights law (eradication of internationally controlled crops cultivated illicitly)
  - Did plants, particularly psychoactive plants, enter the historical records (travaux préparatoires) when relevant UN treaty articles on cultural rights were negotiated?
- What is the analytical framework established for assessing the presence of a cultural practice under international human rights law, (including the African Charter of Human and Peoples' Rights)? How can this be applied to drug crop cultivation and what relevant jurisprudence around agricultural practices exist?
- At the domestic level: mapping out the human rights impact
  - What is the historical origin of cannabis and cultivation in the Rif region of the country?
  - Using historical records—what were prior regulatory mechanisms in place under French rule in relation to cannabis cultivation?
  - What is the policy approach of the government and human rights impact on the farming communities of the Rif?
  - How do these supply reduction activities affect the rights of poor farmers and those living in communities where crops are grown?
  - Are there cultural rights protections available to these communities?
- Advocacy at the international level
  - Identify key advocacy pathways for rural cultivating communities within the UN human rights machinery and beyond (World Intellectual Property Organization, UNESCO, etc), based on a survey of international instruments and jurisprudence undertaken through the course of this project. These pathways can be specific to Morocco, but should also be useful to any groups in a similar context.
- Include a gender perspective, particularly as it relates to the role of women in the Sanhaja communities and more broadly in the cultivation and production of illicit crops.

### **Project Outline:**

This project is centered around key research and learning goals and one briefing paper deliverable.

*Project Phase 1 (November-December 2017): Building effective research plans*

Clinic participants will:

- Acquire basic legal and human rights research skills
- Undertake research of drug control law and international policy and apply a human rights critique of its implementation
- Acquire skills to design and implement a research project timeline and strategy
- Complete a research project work plan
- Understand the Moroccan context on cannabis production as well as institutional and political challenges to the effective implementation of human rights in this area
- Attend an introductory lecture on why human rights matters in drug control at Essex
- Participate in a project partner discussion with the Transnational Institute and representative of the Rif community
- Understand various human rights standard setting documentation and their uses to promote and strengthen human rights
- Produce a draft project outline by December 2017
- Draft and submit ethical consent forms by December 2017

*Project Phase 2 (January-June 2018): Researching and drafting a research-based advocacy briefing paper*

- Attend a two-day intensive course on human rights and drug policy hosted by the HRDP
- Complete comprehensive research for briefing paper
- Develop writing skills through regular supervisory and peer review exercises
- Collaborate regularly with team on research and writing tasks through team meetings and/or collaborative writing engagements
- Submit regular writing drafts of research and a full provisional draft to project partners for review
- Participate in a closed policy discussion with project partners and representatives of the Moroccan National Human Rights Commission, the Sanhaja community, and potentially, the Moroccan drug policy commission to discuss the status of the Clinic research and engage in future scenarios planning.
- Complete a final, high quality academic briefing paper. The draft final report will be submitted no later than 30 April 2018 for review by the project partner. The final paper will be submitted by 30 June 2018.
- Potentially prepare and deliver an oral intervention on the promotion and protection of human rights in the implementation of supply reduction strategies at the March 2018 Commission on Narcotic Drugs in Vienna, Austria.

## Project Bibliography:

### Legal Sources

Single Convention on Narcotic Drugs 1961 <http://www.hr-dp.org/contents/735>  
Convention on Psychotropic Substances 1971 <http://www.hr-dp.org/contents/736>  
Convention Against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988 <http://www.hr-dp.org/contents/737>  
Universal Declaration of Human Rights 1948  
International Covenant on Economic, Social and Cultural Rights 1966  
International Covenant on Civil and Political Rights 1966  
Convention on Biological Diversity 1992  
International Convention on the Elimination of Racial Discrimination 1965  
UN Declaration on the Rights of Indigenous Peoples 2007  
ILO Convention 169-Indigenous and Tribal Peoples Convention 1989  
UNESCO Convention for the Safeguarding of Intangible Cultural Heritage 2003

### Historical Records

See above project specifications around review of relevant travaux preparatoires and Moroccan legal systems review

### Key Jurisprudence (not at all exhaustive)

Human Rights Committee, *Ilmari Lämsman et al. v. Finland* (Communication 511/1992)

*Saramaka People v. Suriname*, Preliminary Objections, Merits, Reparations, and Cost, Inter-Am. Ct. H.R. (ser. C) No. 174, paras 131 and 136 (Nov. 28, 2007)

ICJ *Colombia v Ecuador* (written proceedings)—look here for more sources and jurisprudence

### Background Reading on Morocco and Cannabis

Tom Blickman, *Morocco and Cannabis: Reduction, Containment or Acceptance* (March 2017, Transnational Institute) [https://www.tni.org/files/publication-downloads/dpb\\_49\\_eng\\_web.pdf](https://www.tni.org/files/publication-downloads/dpb_49_eng_web.pdf)

Pages 22-24 of the above document are an excellent starting part for background reading

### Background Reading on Drug Policy & Development

Special Section: Drugs and Human Rights, Health and Human Rights Journal (Rick Lines & Julie Hannah, eds) <https://www.hhrjournal.org/#drugs>

Julian Burger and Mary Kapron, Drug Policy and Indigenous Peoples (HHRJ, 2017)  
<http://cdn2.sph.harvard.edu/wp-content/uploads/sites/13/2017/06/Burger.pdf>

Richard Lines, Drug Control and Human Rights in International Law (CUP, 2017)

B.C. Labate and C. Cavnar (eds.), Prohibition, Religious Freedom, and Human Rights: Regulating Traditional Drug Use, DOI 10.1007/978-3-642-40957-8\_1, © Springer-Verlag Berlin Heidelberg 2014

'Perspectives on the development dimensions of drug control policy', UNDP (2015) <http://www.hr-dp.org/contents/1124>

Buxton, J. (2015). Drugs and development: The great disconnect (Policy Report 2 ed.), Global Drug Policy Observatory, Swansea University

Keefer, P., & Loayza, L. eds. (2010). Innocent bystanders: Developing countries and the war on drugs. New York and Washington, D.C.: The World Bank and Palgrave Macmillan

Mannava, P., Zegenhagen, S., and Crofts, N. (2010). Dependent on development: The interrelationships between illicit drugs and socioeconomic development Nossal Institute for Global Health and Family Health International

United Nations. (2014). The Road to Dignity by 2030: Ending Poverty, Transforming All Lives and Protecting the Planet. Synthesis Report of the Secretary-General on the Post-2015 Agenda

UN Women. (2014). A Gender Perspective On The Impact of Drug Use, the Drug Trade, and Drug Control Regimes

D Barrett, R Lines, R Schleifer, R Elliott, D. R. Bewley-Taylor, 'Recalibrating the Regime: The need for the human rights-based approach to international drug policy' <http://www.hr-dp.org/contents/169>

Harm Reduction International, Human Rights Watch, Open Society Foundations, Canadian HIV/AIDS Legal Network, 'Human Rights and Drug Policy: Briefing No. 6 - Crop eradication' <http://www.ihra.net/contents/804>

'Bolivia's concurrent drug control and other international legal obligations' International Centre on Human Rights and Drug Policy, 2011 <http://www.hr-dp.org/contents/90>

D. Barrett and M. Nowak 'The United Nations and Drug Policy: Towards a human rights-based approach' in The Diversity of International Law: Essays in Honour of Professor Kalliopi K. Koufa, pp. 449-477, Aristotle Constantinides and Nikos Zaikos, eds., Brill/Martinus Nijhoff, 2009

[http://www.ihra.net/files/2010/07/01/The\\_United\\_Nations\\_and\\_Drug\\_Policy\\_%28with\\_Manfred\\_Nowak%29.pdf](http://www.ihra.net/files/2010/07/01/The_United_Nations_and_Drug_Policy_%28with_Manfred_Nowak%29.pdf)

UN Office on Drugs and Crime, 'UNODC and the Promotion of Human Rights', 2012 <http://www.hr-dp.org/contents/709>

Review reports produced by UN Special Procedures & Treaty Bodies: available to easily search and filter at the HRDP e-library (through 2015): <http://www.hr-dp.org/e-library>