HUMAN RIGHTS AND DRUG POLICY: A PARADIGM SHIFT

NOTE PREPARED FOR THE COMMITTEE ON LEGAL AFFAIRS AND HUMAN RIGHTS OF THE COUNCIL OF EUROPE'S PARLIAMENTARY ASSEMBLY

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AMNESTY INTERNATIONAL

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1. INTRODUCTION

Amnesty International appreciates the opportunity to provide comments on the Introductory Memorandum published by the Committee of Legal Affairs and Human Rights of the Council of Europe's Parliamentary Assembly, in preparation of the forthcoming baseline study on drug policy and human rights in Europe. The current document presents human rights standards relevant to the several issues covered in the Memorandum and recommends additional topics that the organization considers to be crucial to be included in any future draft of the study.

The organization would like to express at the outset its strong support for this initiative, including the adoption of a resolution and recommendation on this matter. As pointed out in the Memorandum, halting human rights violations related to drug control requires a reform of drug laws and policies that, for more than 50 years, have been based on prohibition and criminalization. The baseline study provides a key opportunity for the Council of Europe to deepen the paradigm shift towards policies that better protect public health and human rights and ensure that drug policies at the national and regional level are in line with States obligations under international human rights law.

Lastly, Amnesty International would like to encourage the Committee to continue the engagement and consultation with people who use drugs and other communities that have been affected by drug policies, as well as civil society organizations and experts in health,

social services and other relevant fields throughout the process, including for the drafting of the resolution and recommendation.

2. GENERAL OBSERVATIONS

PROMOTING A SUSTAINED PARADIGM SHIFT

Amnesty International welcomes the view reflected in the introductory memorandum of the need to promote a sustained paradigm shift towards drug control policies grounded on the protection of public health and human rights. Shifting away from prohibition models is critical to address the widespread human rights violations that arise from or are facilitated by the implementation of drug control policies and drug enforcement operations.

Over the years, multiple national, regional and international human rights mechanisms and civil society organizations, including Amnesty International, have documented numerous human rights violations taking place across the world as a direct consequence of the implementation of repressive drug control policies.[1] Such violations include the use of the death penalty for drug-related offences, police abuses, discrimination, extrajudicial executions, torture and other ill-treatment, arbitrary detentions, inhumane conditions of detention and violations of economic, social and cultural rights, including of the right to health.[2] In some occasions, as documented by Amnesty International, certain abuses committed as part of the "war on drugs" amount to crimes against humanity.[3]

While drugs can pose risks to individuals and societies, the heavy reliance on criminal laws, repressive policies and other measures based on prohibition has resulted in widespread human rights violations and abuses. As the memorandum rightly points out, the "war on drugs" has effectively been a war on people, in particular against the poorest and most marginalised sectors of society, and has undermined the rights of millions.

Moreover, the heavy reliance on criminal law and repressive policies has failed to decrease the use and availability of drugs over the years, and has exacerbated the risks and harms of using drugs and the violence associated with illicit markets.[4] In particular, the prohibition

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[1] United Nations Development Program and International Centre on Human Rights and Drug Policy (University of Essex), "International guidelines on human rights and drug policy", March 2019. *See also,* International Drug Policy Consortium, *"Taking stock: A decade of drug policy",* April 2016.

[2] Amnesty International, "They just kill: Ongoing extrajudicial executions and other violations in the Philippines' 'war on drugs'", (ASA 35/0578/2019), 8 July 2019; Amnesty International, "If you are poor, you are killed: Extrajudicial executions in the Philippines' 'war on drugs'"" (ASA 35/5517/2017), 31 January April 2017; Amnesty International, "Criminalizing pregnancy: Policing pregnant women who use drugs in the USA" (AMR 51/6203/2017), 23 May 2017; Amnesty International, "You killed my son: Homicides by military police in the city of Rio de Janeiro" (AMR 19/2068/2015), 3 August 2015; Amnesty International, "Make him speak by tomorrow: torture and other ill-treatment in Thailand" (ASA 39/4747/2016), 28 September 2016; Amnesty International, "Out of control: torture and other ill-treatment in Mexico" (AMR 41/020/2014), 4 September 2014; Amnesty International: "Shadow of impunity: torture in Morocco and Western Sahara" (MDE 29/001/2015), 19 May 2015; Amnesty International, "Treated with indolence: the state's response to disappearances in Mexico" (AMR 41/3150/2016), 14 January 2016; Amnesty International, "Changing the soup but not the medicine?: Abolishing re-education through labour in China" (ASA 17/042/2013), 17 December 2013; Amnesty International, "World Day Against Death Penalty: Not the solution to drug-related crime" (ACT 50/2634/2015), 10 October 2015

[3] Amnesty International, "If you are poor, you are killed: Extrajudicial executions in the Philippines' 'war on drugs'" (ASA 35/5517/2017), 31 January April 2017; Amnesty International, "They just kill: Ongoing extrajudicial executions and other violations in the Philippines' 'war on drugs'", (ASA 35/0578/2019), 8 July 2019

[4] United Nations Office on Drugs and Crime. *World Drug Report 2018.* New York, 2018; Joanne Csete *et al.* "Public Health and international drug policy" in *The Lancet.* April, 2016

and criminalization of drugs has led to more harmful drugs of unknown quality being sold and riskier methods of drug use being sought, which has contributed to significant increases in transmissions of HIV, hepatitis C and other blood-borne diseases.[5] At the same time, violence and corruption are rife as a direct result of the expansion of illicit markets, having a particular dire impact on children and young people who are easily exposed to organized crime, armed violence and drug enforcement operations.[6]

New drug control policies should therefore be based on human rights and public health, instead of relying on punitive approaches intended to supress the use and availability of drugs. **In order to further expand the paradigm shift away from prohibition, the baseline study should address the need for countries to put in place mechanisms to ensure that all drug control laws, policies and practices are consistent with international human rights law and standards and that these contemplate appropriate remedies when this is not the case.**

ENABLING THE PARTICIPATION OF AFFECTED PEOPLE AND COMMUNITIES

The prohibition and criminalization of drugs has disenfranchised and excluded those most affected by drug control policies, who are often left out from the design and implementation of such policies.[7] In 2016, the UN General Assembly Special Session on drugs specifically recognised the right of those affected by drug laws and policies to be involved in their formulation and implementation.[8] In some cases, States have additional obligations to consult with Indigenous peoples in order to obtain their free, prior and informed consent for the development and implementation of new drug laws or policies, for example when drugs form part of the cultural traditions of those peoples.[9]

In order to effectively guarantee the meaningful participation of affected people and communities in the design, implementation, monitoring and evaluation of drug control laws and policies, **Amnesty International considers that the baseline study should further explore and elaborate on the mechanisms and proceedings that States need to guarantee in order to involve people who use drugs and other affected communities,** as well as civil society organizations and experts in health, social services and other relevant fields. This should also include an analysis of the need to remove legal barriers that unduly restrict or prevent the participation of affected individuals and communities.[10]

PROTECTING HUMAN RIGHTS DEFENDERS

Amnesty International also urges the consideration in the baseline study of the consequences that the "war on drugs" has had on human rights defenders and civil society

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[5] Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 6 August 2010, UN Doc. A/65/255, para. 26; Office of the High Commissioner on Human Rights, "Study on the impact of the world drug problem on the enjoyment of human rights", 4 September 2015, UN Doc. A/HRC/30/65, para. 26

[6] Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 4 April 2016, UN Doc. A/HRC/32/32, para. 97

[7] Report of the Working Group of Experts on People of African Descent, Visit to the United States of America, UN Doc. A/HRC/15/18 (2010), para. 47; Committee on the Elimination of Racial Discrimination, Concluding Observations: United States of America, UN Doc. CERD/C/USA/CO/7-9 (2014), paras. 11, 20

[8] UN General Assembly, Resolution S-30/1: Our Joint Commitment to Effectively Addressing and Countering the World Drug Problem, UN Doc. A/RES/S-30/1 (2016), preamble, para. 1(q).

[9] International Labour Organization, *Indigenous and Tribal Peoples Convention (No. 169);* United Nations Declaration on the Rights of Indigenous Peoples, art. 11

[10] Office of the High Commissioner on Human Rights, "Guidelines for States on the effective implementation of the right to participate in public affairs", 20 July 2018, UN Doc. A/HRC/39/28, para. 36

organizations. For decades, repressive drug policies have become a particular driver of threats and attacks against human rights defenders.[11] From journalists who have revealed the collusion between authorities and organized crime, to human rights defenders exposing abuses committed by the security forces, health care and harm reduction service providers and drug policy reform activists, all are facing increasing risks and challenges driven by prohibition.

The increase in armed non-State actors and rising levels of violence have created an increasingly complex context for human rights defenders, at a time when States are imposing more restrictions on civil society.[12] Organized crime poses a particular risk to human rights defenders, as criminal groups often use violent methods to retaliate against anyone interfering with their interests.[13] Likewise, State attempts at clamping down on such criminal networks, particularly when military-style policing is adopted, or when officials act in collusion with criminal groups, can also create a dangerous environment in which human rights defenders risk being targeted both by state actors and non-state actors.[14] In other countries, restrictions on the right to association, including the right to seek and receive funds, are hindering the ability of civil society organizations to support the marginalized communities which they work for, including people who use drugs.[15]

ADDRESSING HUMAN RIGHTS VIOLATIONS IN THE SUPPLY CHAIN

Drug control policies should be understood as a means to achieve broader objectives, including the protection of the right to the highest attainable standard of health, ensuring equality and non-discrimination, and avoiding the violence associated with illicit markets. In doing so, drug policies should address the underlying socio-economic factors that increase the risks that lead people to engage in the drug trade, including ill-health, denial of education, unemployment, lack of housing, poverty and discrimination.

Addressing the root causes of drug-related harm requires States to put in place a wide set of gender-sensitive and holistic socio-economic protection measures tackling the different stages of the drug trade, from cultivation and production to distribution and use. While historically there has been more analysis and policy development to reduce harms related to the use of drugs, it is also fundamental to integrate human rights into policies concerning the supply of drugs, including the cultivation and distribution of drugs.

As will be described in the chapters below, it has been particularly the poorest and most marginalized sectors of society that have been most affected by punitive and repressive policies intended to suppress the supply of drugs. For example, peasant farmers and Indigenous peoples have faced multiple human rights violations stemming from policies

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[11] Amnesty International, "Deadly but preventable attacks: Killings and enforced disappearances of those who defend human rights" (ACT 30/7270/2017), 5 December 2017

[12] Amnesty International, "Laws designed to silence: The global crackdown on civil society organizations" (ACT 30/9647/2019), 21 February 2019

[13] Amnesty International, "Human rights defenders under threat: A shrinking space for civil society" (ACT 30/6011/2017), 16 May 2017

[14] Amnesty International, "Human rights defenders under threat: A shrinking space for civil society" (ACT 30/6011/2017), 16 May 2017; Amnesty International, "Deadly but preventable attacks: Killings and enforced disappearances of those who defend human rights" (ACT 30/7270/2017), 5 December 2017

[15] Amnesty International, "Agents of the people: Four years of 'foreign agents' law in Russia" (EUR 46/5147/2016), 18 November 2016; Amnesty International, "Hungary: NGO law a vicious and calculated assault on civil society", 13 June 2017;

intended to eliminate the cultivation of drugs, including forced crop eradication programmes.[16] Women, and especially those who belong to ethnic minorities or those who live in poverty, have disproportionately engaged in the drug trade as couriers or other low-ranking, low-paying, high-risk positions in the drug trade supply chain.[17] Children and young people have been recruited by armed groups involved in drug trafficking, forced to engage in a wide range of criminal activities such as transport and sale of drugs, surveillance, and participation in clashes with State security forces, among others.[18] Girls are also recruited by organized criminal groups, mostly to act as drug couriers, and in many cases have been sexually abused, forced to marry members of the criminal groups, trafficked or exploited.[19]

Amnesty International recommends ensuring that the baseline study analyses as well the human rights implications of drug control policies intended to supress the supply of drugs. In order to address the root causes that increase the risks of using drugs and lead people to engage in the drug trade, States should put in place measures to tackle social inequalities by promoting a social justice perspective and advancing economic, social and cultural rights. In particular, authorities must ensure that drug control laws and policies seek to overcome structural sources of vulnerability, stigma and discrimination that affect people who engage in the drug trade, especially women and those belonging to marginalized and disadvantaged communities.

AVOIDING HUMAN RIGHTS VIOLATIONS IN OTHER COUNTRIES

States and intergovernmental organizations which engage in international assistance and cooperation, including in the area of drug control and law enforcement, must ensure that they do so in a manner consistent with their extraterritorial human rights obligations.[20]

The use of the death penalty for drug-related offences has been one particular area that has highlighted how international cooperation in the area of drug control can lead to human rights violations and extend the responsibility for the outcome of death penalty cases to a State other than the one in which the death penalty is imposed and implemented.[21] As pointed out by the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, abolitionist countries and intergovernmental organizations may be held responsible for the imposition of the death penalty in other countries due to cooperation over law enforcement programmes, the provision of technical assistance and mutual legal assistance, as well as

[16] Report by the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people: Mission to Colombia, 10 November 2004. UN Doc. E/CN.4/2005/88/Add.2; Report of the Representative of the Secretary-General on the human rights of internally displaced persons: Mission to Colombia, 24 January 2007, UN Doc. A/HRC/4/38/Add.3, para. 19

[17] Report of the Special Rapporteur on violence against women, its causes and consequences, 'Pathways to, conditions and consequences of incarceration for women', 21 August 2013,UN Doc. A/68/340, para 23-24; Report of the Special Rapporteur on violence against women, its causes and consequences: Mission to the United States of America, 6 June 2011, UN Doc. A/HRC/17/26/Add.5, para. 45

[18] Amnesty International, "Belarus: Protect the rights of juvenile prisoners Emile Ostrovko and Vasily Sauchankau" (EUR 49/0100/2019), 21 March 2019; *See also* Inter-American Commission on Human Rights, Violence, *Violence, Children and Organized Crime,* 11 November 2015, OEA/Ser.L/V/II. Doc. 40/15, para. 460

[19] Inter-American Commission on Human Rights, Violence, *Violence, Children and Organized Crime,* 11 November 2015, OEA/Ser.L/V/II. Doc. 40/15, para. 8

[20] *See* Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights

[21] Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, 7 August 2015, UN doc. A/70/304, paras. 95-98

the extradition of defendants to countries where the death penalty is still imposed for drug-related offences without seeking assurances that the death penalty would not be imposed.[22] Similarly, complicity of funding States in violations of the right to life has also been argued for training projects funded by governments or led by intergovernmental organizations for drug enforcement operations, such as aiding sniffer dog programmes, that have resulted in an increase of drug seizures in countries that also reported an increase in the number of executions carried out, including for drug-related offences.[23]

More broadly, States may be held responsible for their failure to take reasonable steps to prevent or stop human rights abuses committed as part of their international assistance and cooperation in the area of law enforcement, including the sale and transfer of arms used during drug enforcement operations.[24] Governments are subject to different international, regional and domestic legal obligations and arms control regimes, including the Arms Trade Treaty, which require States parties to deny authorization of transfers of arms where there is an overriding risk that they could be used to commit or facilitate serious violations of international human rights or humanitarian law.

In this sense, **Amnesty International recommends that the baseline study incorporates an analysis into States' obligations to ensure that their drug control laws, policies and practices do not lead to violations of human rights, either directly or indirectly, for people living in other countries.** Moreover, States and intergovernmental organizations must ensure that any financial and technical assistance provided to third countries for drug-enforcement operations does not contribute, or carries a real risk of contributing, to the commission of human rights violations. Any such cooperation, including training or technical advice, must be halted if used (or if there is a real risk of it being used), either directly or indirectly, to commit human rights abuses or violations.

3. PUTTING THE PROTECTION OF HEALTH AND HUMAN RIGHTS AT THE CENTRE

States must put their obligations to guarantee the right to health at the centre of drug control policies and redirect them towards the realization of human rights, including to ensure the right to the highest attainable standard of health of people who use drugs and the rights of other groups that have been affected by punitive drug control policies.[25]

As acknowledged in the introductory memorandum, health and social services available for people who use drugs must be evidence-based and gender-sensitive. As recommended by the World Health Organization and the UN Office on Drugs and Crime, these services must

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[22] Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, 7 August 2015, UN doc. A/70/304; Report of the Secretary-General to the Human Rights Council, 2 July 2012, UN doc. A/HRC/21/29

[23] Amnesty International, "Addicted to death: Executions for drugs offences in Iran" (MDE 13/090/2011), 15 December 2011. *See also* Rick Lines *et al. Complicity or abolition? The death penalty and international support for drug enforcement.* International Harm Reduction Association, London, 2010.

[24] Report of the Office of the United Nations High Commissioner for Human Rights, "Impact of arms transfers on the enjoyment of human rights", 3 May 2017, UN Doc. A/HRC/35/8

[25] Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 6 August 2010, UN Doc. A/65/255;

comply with human rights law and standards, and should include prevention, information, harm reduction, voluntary treatment and rehabilitation services where medically indicated and on a non-discriminatory basis, including in prisons and other situations where people are deprived of their liberty.[26]

States must ensure such services are available, acceptable and easily accessible to everyone on a non-discriminatory basis, and of good quality.[27] This requires paying particular attention to the needs of the most marginalized and to the specific needs of women, children and adolescents.[28] In this sense, harm reduction and treatment services must provide suitable environments for women and girls who use drugs, including by providing integrated sexual and reproductive healthcare, information and services, childcare facilities and should be respondent to other gender-specific needs.[29]

CARRYING OUT PREVENTION CAMPAIGNS

Amnesty International welcomes the emphasis put in the introductory memorandum on the need for States to implement effective preventive measures to address drug-related problems, particularly highlighting the need to provide accurate information and education through non-stigmatising language and attitudes, which are important elements to fulfil States' obligations under the right to health.[30]

However, the organization is concerned about the reference to prevention campaigns intended to "keep drugs away from children" as good practice, since such campaigns have proven to be ineffective at curbing the levels of drug use and may have created barriers to the provision of healthcare by exacerbating the social stigmatisation and demonization of people who use drugs.[31] Worryingly, according to UNODC data, the majority of countries continue to favour the implementation of this type of campaigns over family and community-based campaigns that have proven to be more effective.[32]

As recommended by the WHO and UNODC, prevention campaigns should include a range of different interventions and policies based on the age of the target group, the level of risk, and the environment in which the campaign will be implemented.[33] In this sense, it is

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[26] World Health Organization and United Nations Office on Drugs and Crime, *International Standards for the treatment of drug use disorders.* UN Doc. E/CN.7/2016/CRP.4. March, 2017

[27] Committee on Economic, Social and Cultural Rights, General Comment 14: The right to the highest attainable standard of health (Art. 12), 11 August 2000, UN Doc. E/C.12/2000/4, para. 12

[28] Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 3 August 2011, UN Doc. A/66/254; Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 4 April 2016, UN Doc. A/HRC/32/32

[29] Open Letter by the Special Rapporteur on the right of everyone to the highest attainable standard of mental and physical health, Dainius Pūras, in the context of the preparations for the UN General Assembly Special Session on the Drug Problem (UNGASS), which will take place in New York in April 2016, 7 December 2015

[30] Committee on Economic, Social and Cultural Rights, General Comment 14: The right to the highest attainable standard of health (Art. 12), 11 August 2000, UN Doc. E/C.12/2000/4, para. 16

[31] Dan Werb, *et al.* (2011), 'The effectiveness of anti-illicit-drug public-service announcements: A systematic review and meta-analysis', *Journal of Epidemiology & Community Health*, October 2011.

[32] Commission on Narcotic Drugs (20 December 2017), Action taken by Member States to implement the Political Declaration and Plan of Action on International Cooperation towards an Integrated and Balanced Strategy to Counter the World Drug Problem, Report of the Executive Director. UN Doc. E/CN.7/2018/6

[33] World Health Organization and United Nations Office on Drugs and Crime, *International Standards on drug use prevention.* Second updated edition, 2015, pp. 50-51

important that efforts towards preventing drug-related harms incorporate evidence-based campaigns to prevent or delay children's first use of drugs for non-medical purposes, but also campaigns for all people who already use drugs to avert drug dependence and other harms that may arise from the use of drugs, which require different strategies and approaches.

Amnesty International therefore recommends expanding section 5.1 on prevention to reflect as well on the need of States to implement public educational programmes and information campaigns that incorporate harm reduction information and are based on scientific evidence that accurately describe the effects of drugs, including the risks both to people who use drugs and to others. Furthermore, such programmes should contemplate efforts specifically tailored for children and adolescents both in educational settings and in environments outside of school, such as street and party scenes, aimed at empowering them to make informed decisions about their own conduct and provide them with information about where to find help if they require it.[34]

ENSURING COMPREHENSIVE HARM REDUCTION INTERVENTIONS

Harm reduction is a broad term that refers to policies, programmes and practices that aim primarily to reduce the adverse health, social and economic consequences of the use of licit and illicit drugs without necessarily reducing an individual's level of use. Importantly, harm reduction services have been developed for different types of drugs, not only for opioids.

While Drug Consumption Rooms (DCRs), Opioid Substitution Therapy (OST) and Needle and Syringe Programmes (NSP), mentioned in section 5.2 of the introductory memorandum, remain crucial for the protection of the right to health of people who inject drugs, **Amnesty International considers important for the baseline study to make reference to other harm reduction services that have equally proven to be successful in reducing the risks and harms associated with other type of drugs,** such as drug-checking services, distribution of safer smoking kits, integration of harm reduction into nightlife settings (for example chill-out spaces and hydration points), peer-led information sharing and the promotion of non-injecting routes for the administration of drugs and other overdose prevention practices.[35]

Amnesty International would also recommend discussing in section 5.2 the crucial role that law enforcement agencies can play in promoting individual and public health when strategies are designed to prevent the harms of drugs and drug markets to individuals and communities, rather than simply aiming to reduce or eradicate drug markets. It is important to note that the criminalization of drug-related conduct has led some countries to prohibit harm reduction programmes or impose barriers to users accessing them, arguing that they encourage the use of drugs.[36] Some countries have criminal laws that prohibit carrying needles, syringes or other injecting equipment and these items have also been used as evidence of drug use or possession in court.[37] Such laws can have a chilling effect,

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[34] Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 4 April 2016, UN Doc. A/HRC/32/32, para 101-102

[35] *See for example* Harm Reduction International, "Harm reduction for stimulant use", April 2019. Available at https://www.hri.global/files/2019/04/28/harm-reduction-stimulants-coact.pdf

[36] Committee on Economic, Social and Cultural Rights (11 June 2014), Concluding Observations: Ukraine, UN Doc. E/C.12/UKR/CO/6, para. 24; Committee on Economic, Social and Cultural Rights (1 June 2011), Concluding Observations: Russian Federation, UN Doc. E/C.12/RUS/CO/5, para. 29; Committee on Economic, Social and Cultural Rights (24 June 2014), Concluding Observations: Lithuania, UN Doc. E/C.12/LTU/CO/2, para. 21

[37] Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of

preventing people who use drugs from seeking healthcare, information or tools that may help them to avoid infection and other serious health consequences. Policing in the surroundings of facilities that provide health and harm reduction services to people who use drugs has become an additional barrier to the effective realization of the right to health.[38]

Civil society organizations have documented the positive impact of drug policies designed to promote constructive engagement and partnerships between law enforcement officials and health providers around health and other human rights issues.[39] Such policies should include approaches to law enforcement that support the effective operation of harm reduction services (such as needle and syringe programmes or drug checking services), "Good Samaritan" laws that exclude from prosecution people who witness or report an overdose to emergency services, equipping police agencies for the provision and distribution of naloxone (a medicine that counters the effects of an opioid overdose), and other harm reduction measures.[40] Law enforcement agencies should also be trained in harm reduction and should not target health facilities, supervised drug-consumption rooms or needle and syringe programmes as a strategy for drug enforcement operations and should desist from practices that hamper the right to health, including the seizure or destruction of injection equipment and prosecution of health-care and harm reduction service providers.[41]

INCREASING ACCESS TO TREATMENT AND REHABILITATION SERVICES

As section 5.3 rightfully points out, treatment should always involve the voluntary participation of individuals with informed consent as it would otherwise contravene the right to health.[42] According to WHO guidelines, drug treatment should not be compulsory and should only be undertaken with informed consent.[43] Importantly, drug control policies should distinguish the use of drugs from the dependence on drugs and avoid the misguided presumption that all drug use is inherently dangerous and leads to dependence to ensure that treatment is only provided when medically indicated.[44] According to the UN, only 10% of all people who use drugs develops a drug dependence that could require medical treatment.[45]

The baseline study should also explore further the human rights compromised when people who use drugs are forced or coerced into undergoing drug treatment. As stated by several human rights mechanisms, compulsory detention regimes for the purposes of drug "rehabilitation" through confinement or forced labour, including those based on the perceived danger of persons to themselves or to others or on arguments of "medical

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physical and mental health, 6 August 2010, UN Doc. A/65/255, para. 21; International Harm Reduction Association, *The Global State of Harm Reduction: Towards an integrated response.* July, 2012.

[38] Joanne Csete *et al.,* "Public Health and international drug policy" in *The Lancet*. April, 2016, pp. 1442

[39] Marc Krupanski, "Police & Harm Reduction: How law enforcement can advance public safety, public health, and public confidence", Open Society Foundations. July, 2018. Available at

[40] Joanne Csete *et al.* "Public Health and international drug policy" in *The Lancet*. April 2016, pp. 1441-1442

[41] Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 6 August 2010, UN Doc. A/65/255, paras. 69, 76

[42] Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 4 April 2016, UN Doc. A/HRC/64/272, para. 93

[43] World Health Organization, "Guidelines for the Psychosocially Assisted Pharmacological Treatment of Opioid Dependence", 2009, p. 10, 14.

[44] Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 6 August 2010, UN Doc. A/65/255, para. 37

[45] United Nations Office on Drugs and Crime. *World Drug Report 2018.* New York, 2018, p. 7

necessity", are inherently arbitrary and should be eliminated, and such institutions closed, without delay.[46] Similarly, both the WHO and UNODC have stated that neither detention nor forced labour are to be used as forms of treatment for drug dependence and have urged States to ensure that their legal framework guarantees compliance with human rights within drug dependence treatment and rehabilitation services.[47]

The UN Special Rapporteur on the right to health and the UN Special Rapporteur on torture and other ill-treatment have further analysed the egregious human rights violations that have occurred in the context of "treatment" services, and urged states to put an end to compulsory treatment programmes that are ineffective and contrary to human rights.[48] Moreover, the Special Rapporteur has recommended States to prioritise health care and social support in community settings for the treatment and rehabilitation of drug dependence, rather than in institutions.[49]

The baseline study should also pay particular attention to the need to uphold children's right to informed consent if they require drug treatment and rehabilitation. Any medical treatment for children, including treatment and rehabilitation for a drug dependence, must be based on their informed consent, in line with their evolving capacities and giving due weight to the child's views according to their age and maturity.[50] Decisions for children to undergo treatment or rehabilitation for drug dependence should always ensure their meaningful participation and their right to give or withhold consent in line with their evolving capacities.[51]

Finally, with regards to the provision of treatment, **Amnesty International would recommend the baseline study to pay attention to the operation of drug treatment and rehabilitation services by private providers.** Around the world, many private drug detention centres are run by religious groups and other non-governmental organizations, with little or no supervision by State authorities.[52] Under the right to health and other international standards, States have an obligation to put in place laws and policies to guarantee the effective regulation and supervision of health care provided by private actors to ensure they do not undermine

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[46] Report of the Working Group on Arbitrary Detention, 10 July 2015, UN Doc. A/HRC/30/36, para. 74; Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 6 August 2010, UN Doc. A/65/255, para. 32; Committee Against Torture (20 January 2011), Concluding observations: Cambodia, UN Doc. CAT/C/KHM/CO/2, para. 20; ILO, OHCHR, UNDP, UNESCO, UNFPA, UNHCR, UNICEF, UNODC, UN Women, WFP, WHO and UNAIDS, "Joint statement on compulsory drug detention and rehabilitation centres", March, 2012

[47] World Health Organization and United Nations Office on Drugs and Crime, *International Standards for the treatment of drug use disorders (draft for field testing).* UN Doc. E/CN.7/2016/CRP.4. March, 2016

[48] Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 6 August 2010, UN Doc. A/65/255, para. 30-39; Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, 1 February 2013, UN Doc. A/HRC/22/53, para. 40-44

[49] Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 6 August 2010, UN Doc. A/HRC/38/36, para. 98(d);

[50] *See* articles 5 and 12(1), Convention on the Rights of the Child.

[51] Committee on the Rights of the Child, General Comment 12: The right of the child to be heard, 1 July 2009, UN Doc. CRC/C/GC/12, para. 98-100

[52] Open Society Foundations, *No health, no help: Abuse as drug rehabilitation in Latin America and the Caribbean.* New York, 2016; Human Rights Watch, *Torture in the name of treatment: Human rights abuses in Vietnam, China, Cambodia and Lao PDR.* New York, July 2012; Richard Elliott *et al. Treatment or torture? Applying international human rights standards to drug detention centers.* Open Society Foundations. June, 2011.

or threaten the right to health and to prevent other human rights abuses.[53]

STOPPING STIGMA AND DISCRIMINATION

Current drug policies have exacerbated and justified discriminatory practices against people who use drugs, including in the fields of health, housing, education and employment, and can become a particular deterrent effect for people who use drugs to seek medical attention.[54] Repressive policies have also promoted a stigmatized approach towards people who use drugs, usually considered to be sick, mentally ill, criminal or immoral, which has segregated and further marginalized this sector of the population.[55]

Drug control laws and policies have also had a disproportionate impact on the poorest and most marginalized sectors of society, often intersecting with other forms of discrimination against women and girls, children and young people, racial, ethnic and other minorities, Indigenous peoples, people living with HIV, LGBTI people, sex workers, people living in poverty, those who are homeless, people with disabilities and people deprived of their liberty, among others.[56]

States have an obligation to address all forms of discrimination, by amending laws and policies that make unjustified distinctions and discriminate against people who use drugs, and monitoring the impact of laws and policies to identify and eliminate indirect discrimination.[57] In particular, the Commission on Narcotic Drugs (CND) has encouraged States to promote "non-stigmatizing attitudes in the development and implementation of scientific evidence-based policies related to the availability of, access to and delivery of health, care and social services for drug users".[58]

Amnesty International recommends the baseline study to address the specific impact that stigma and discrimination has on people who use drugs. In particular, the study could encourage States to develop and implement campaigns, in consultation with people who use drugs, to counter current stereotypes and to raise awareness throughout society of the rights of people who use drugs. States should pay specific attention to the stereotyped and gender-biased views about drugs that disproportionately affect women and girls, and promote gender-sensitive policies that respond to the differentiated needs, risks and harms to women and girls, transgender people and non-binary individuals.

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[53] Committee on Economic, Social and Cultural Rights, General Comment 14: The right to the highest attainable standard of health (Art. 12), 11 August 2000, UN Doc. E/C.12/2000/4, para. 35

[54] Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 6 August 2010, UN Doc. A/65/255, para. 19

[55] Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health: Mission to Viet Nam, 4 June 2012, UN Doc. A/HRC/20/15/Add.2, para. 45

[56] Committee on the Elimination of Discrimination against Women, General Recommendation No. 28, UN Doc. CEDAW/C/GC/28, 16 August 2010, para. 18

[57] *See* article 2 and 26 of the International Covenant on Civil and Political Rights; article 2 of the International Covenant on Economic, Social and Cultural Rights; article 5 of the Convention on the Elimination of all forms of Racial Discrimination; article 2 of the Convention on the Elimination of all forms of Discrimination Against Women; article 2 of the Convention on the Rights of the Child; article 5 of the Convention on the Rights of Persons with Disabilities; article 14 of the European Convention on Human Rights; article 1 of the American Convention on Human Rights; article 2 of the African Charter on Human and People's Rights.

[58] Commission on Narcotic Drugs, Resolution 61/11: Promoting Non-stigmatizing attitudes to ensure the availability, access and delivery of healthcare and social services for drug users (2018).

GUARANTEEING ADEQUATE AVAILABILITY OF DRUGS FOR MEDICAL PURPOSES

The strict measures imposed by the international drug control regime and restrictive national drug regulations have obstructed the effective distribution of controlled substances for medical purposes, in particular for pain treatment and palliative care,[59] which has resulted in further harm and suffering for millions of patients who require such medicines.[60] It is estimated that over 75% of the global population have low to non-existent access to opioid analgesics,[61] and that 92% the world's supply of morphine, one of the most vital analgesics for treating moderate to severe pain, is consumed by just 17% of the world's population primarily concentrated in the global north.[62] Denial of drugs such as morphine and other medications essential for the relief of pain and suffering are contrary to the obligations of States under the right to health and could amount to torture or other ill-treatment.[63]

Access to medicines is a core element of the right to health, which imposes a particular obligation on States to ensure the availability of essential medicines, including those that contain controlled substances often used for the relief of pain, anaesthesia, drug dependence, harm reduction, treatment of mental health and neurological disorders and other medical uses, and remove any domestic and international obstacles that unduly restrict access to them.[64]

Amnesty International recommends that the baseline study looks into laws and policies that States have put in place to guarantee adequate access and availability of essential medicines, including those that contain controlled substances under international law. In this sense, States must ensure that the UN Drug Conventions are not interpreted or applied so as to prevent or obstruct the use and distribution of controlled substances for medical and scientific purposes, taking particular steps to reduce the accessibility and availability disparities between and within countries. When considering at the national or international level to schedule or control a new substance, States must ensure that the impact on the availability of medicines does not disproportionately affect people who have a medical need for them.

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[59] The Special Rapporteur on Torture has documented several instances in which access to morphine and other palliative medications has been unnecessarily hampered due to overly restrictive drug control regulations, deficiency in drug supply management, inadequate infrastructure, lack of prioritization of palliative care and ingrained prejudices about using opioids for medical purposes.

[60] World Health Organization, *Improving access to medications controlled under international drug conventions.* Access to Controlled Medications Programme, WHO. February 2009, pp. 1

[61] International Narcotics Control Board. *Report 2014.* New York, 2013, pp. 3

[62] The Global Commission on Drug Policy. *The negative impact of the war on drugs on Public Health: The global crisis of avoidable pain*. October, 2015, pp. 8

[63] Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 6 August 2010, UN Doc. A/65/255, para. 40; Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, 1 February 2013, UN Doc. A/HRC/22/53, para. 54

[64] Committee on Economic, Social and Cultural Rights, General Comment 14: The right to the highest attainable standard of health (Art. 12), 11 August 2000, UN Doc. E/C.12/2000/4, para. 43

4. ADDRESSING DEEP-ROOTED INJUSTICES IN LAW ENFORCEMENT AND THE CRIMINAL JUSTICE SYSTEM

ADVANCING THE DECRIMINALIZATION OF DRUGS

Around the world, the blanket prohibition of drugs has led governments to deliberately punish, violently attack, stigmatize and demonize millions of people with the aim of stopping them and deterring others from using drugs. As evidence has shown, the criminalization of the use and possession of drugs for personal use has posed a direct threat to a person's health and wellbeing, has led to widespread human rights violations and has failed to decrease the use and availability of drugs.[65] People who have been convicted for a drug-related offence have faced particular obstacles arising from a criminal record in obtaining employment and pursuing education, as well as adverse effects on the custody of children or visitation rights, losing government benefits, including access to public housing, food assistance or student financial aid, or unreasonable restrictions in traveling abroad.[66]

Several international human rights mechanisms and other UN agencies have expressed their concern over the unnecessary and disproportionate use of the criminal justice system to deal with drug-related offences.[67] In particular, the UN Working Group on Arbitrary Detention has analysed the use of criminal law for drug-related offences, finding disturbing evidence of instances of arbitrary detention due to an overuse of detention being imposed on people who either use or are suspected of using drugs, the disproportionality of the penalties imposed and the reduced judicial safeguards when dealing with such offences.[68]

As a consequence, multiple human rights mechanisms and UN agencies have recommended countries to decriminalize the use and possession of drugs for personal use as a means of protecting public health and human rights. Among others, the Committee on Economic, Social and Cultural Rights, the UN Special Rapporteur on the right to health, and the Office of the United Nations High Commissioner for Human Rights have recommended the

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[65] Office of the High Commissioner on Human Rights, "Study on the impact of the world drug problem on the enjoyment of human rights", 4 September 2015, UN Doc. A/HRC/30/65, para. 30

[66] Office of the High Commissioner on Human Rights, "Study on the impact of the world drug problem on the enjoyment of human rights", 4 September 2015, UN Doc. A/HRC/30/65, para. 50

[67] Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 6 August 2010, UN Doc. A/65/255, para. 62; Human Rights Committee, General Comment 35: Article 9 (Liberty and security of person), 16 December 2014, UN Doc. CCPR/C/GC/35, para. 40; Report of the Working Group on Arbitrary Detention, 30 June 2014, UN Doc. A/HRC/27/48, para. 72-73; Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, 14 January 2009, UN Doc. A/HRC/10/44, para. 55; World Health Organization. *Consolidated guidelines on HIV prevention, diagnosis, treatment and care for key populations*. Geneva, 2014, pp. 91; UNAIDS. *HIV prevention among injecting drug users.* Geneva, 2009, pp. 183

[68] Report of the Working Group on Arbitrary Detention: Mission to Brazil, 24 June 2014, UN Doc. A/HRC/27/48/Add.3, para. 111-112; Report of the Working Group on Arbitrary Detention: Mission to Malaysia, 8 February 2011, UN Doc. A/HRC/16/47/Add.2, para. 27, 38-39

decriminalisation of drug use and possession for personal use as an important step towards fulfilling the right to health.[69]

Nonetheless, despite increasing evidence that removing criminal sanctions against people who use drugs can reduce prison overcrowding, improve health outcomes, and address drug use-related stigma and discrimination,[70] the number of countries that have advanced the decriminalisation of drug use and possession for personal use is still low.[71]

Amnesty International therefore recommends deepening the analysis contained in the introductory memorandum of decriminalization models as a way to prevent and address the human rights impact of prohibition, including the need to accompany such reforms with an expansion of health and other social services to address the risks related to drug use.[72] Amnesty International believes that States should end the criminalization of, and punishment for, the use, possession and cultivation of all drugs for personal use, including when this is done in a public space. This reform should also ensure a process to review convictions and sentences for such offences and, where appropriate, quash, commute or reduce existing convictions and/or sentences.

Additionally, decriminalization has also been applied in some jurisdictions to other minor drug offences, such as subsistence cultivation of drug crops, transportation of small quantities of drugs (drug couriers), social-sharing of drugs with no financial gain, or selling small amounts of drugs that a person previously owned for the purpose of supporting their personal use of drugs (also known as "user-dealer").[73] The criminalization of minor, non-violent drug-related offences has mostly affected people from poor or marginalized groups, often women and people from racial, ethnic or other minorities or Indigenous peoples, due to over-policing around their communities and their stigmatisation as people who use drugs disproportionately in comparison to the general population.[74]

Amnesty International considers that these acts, in themselves, do not cause a direct harm to public health and their criminalization targets behaviour that generally poses little to no risk of harm to others. Therefore, **the organization recommends that the baseline study looks into alternatives to the criminalization of other minor, non-violent drug-related offences that, when they pose little to no risk of harm to others, has proven to be unnecessary and disproportionate to any legitimate aim.**

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[69] Committee on Economic, Social and Cultural Rights (7 October 2016), Concluding Observations: Philippines, UN Doc. E/C.12/PHL/CO/5-6, paras. 54; Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 6 August 2010, UN Doc. A/65/255, para. 49, 62; OHCHR. *Study on the impact of the world drug problem on the enjoyment of human rights.* 4 September 2015. UN Doc. A/HRC/30/65, para. 61

[70] Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 6 August 2010, UN Doc. A/65/255, para. 62-69

[71] International Drug Policy Consortium, *"Taking stock: A decade of drug policy",* April 2016, pp. 51.

[72] European Monitoring Centre for Drugs and Drug Addiction, *Portugal drug report 2018*, http://www.emcdda.europa.eu/system/files/publications/8890/portugal-cdr-2018.pdf

[73] The Global Commission on Drug Policy, *Advancing drug policy reform: A new approach to decriminalization.* September, 2016

[74] Office of the High Commissioner on Human Rights, *Study on the impact of the world drug problem on the enjoyment of human rights.* 4 September 2015. UN Doc. A/HRC/30/65, para. 51; *See also* Niamh Eastwood *et. al*, "*The colour of injustice: 'Race', drugs and law enforcement in England and Wales",* Stop Watch, Release and LSE. October, 2018.

REFRAMING POLICING AND LAW ENFORCEMENT

Drug enforcement operations have often favoured the use of force by law enforcement officials and other state agents based on the premise that national security or public safety is at stake. Several countries have even relied on the armed forces to undertake tasks relating to public safety or have adopted military techniques, training and equipment for use by the police and other law enforcement agencies.

The militarized nature of drug enforcement operations has led to human rights violations committed by the security forces, including arbitrary detentions, torture and other ill-treatment, enforced disappearances and extrajudicial executions.[75] Moreover, the heavy weaponry and the use of lethal force chosen as a first option have increased alarmingly over the years and has become the primary form of control of illicit drug markets and combatting organized crime in too many places.[76] In some instances, militarized policing operations repeatedly target whole communities, disrupting the provision of local services, resulting in violations of a range of economic, social and cultural rights, including the rights to health, education and food.[77]

The focus on policing and militarised drug enforcement operations has also diverted often scarce resources away from health and development programmes towards the police and the military.[78] As stated above, law enforcement agencies can play a crucial role in promoting individual and public health when strategies are designed to prevent the harms of drugs and drug markets rather than simply aiming to reduce or eradicate them.[79]

Amnesty International recommends the baseline study to include an analysis of current policing practices that are moving towards the militarization of public security, in contravention of international standards on the use of force. According to international human rights law and standards, States should not use the military to carry out policing functions, including drug enforcement operations, except as a temporary measure in exceptionally serious circumstances in which it is impossible for the authorities to rely solely on law enforcement agencies.[80] **The baseline study should address the need for States to ensure that all drug enforcement operations comply with international law and standards on the use of force**, including by ensuring that when the armed forces are deployed they are always under the command of civilian authorities and subject to international human rights law and standards, especially on the use of force and firearms, and are provided with the necessary instructions, training and equipment to act in full respect of such standards.

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[75] Amnesty International, "If you are poor, you are killed: Extrajudicial executions in the Philippines' 'war on drugs'"" (ASA 35/5517/2017), 31 January April 2017; Amnesty International, "You killed my son: Homicides by military police in the city of Rio de Janeiro" (AMR 19/2068/2015), 3 August 2015; Amnesty International, "Out of control: torture and other ill-treatment in Mexico" (AMR 41/020/2014), 4 September 2014.

[76] Dan Werb *et al.* "Effect of drug law enforcement on drug market violence: A systematic review". International Journal of Drug Policy (2011)

[77] Office of the High Commissioner on Human Rights, "Human rights and the regulation of civilian acquisition, possession and use of firearms", 15 April 2016, UN Doc. A/HRC/32/21, para. 10

[78] Alex Stevens, "Applying harm reduction principles to the policing of retail drug markets", *Modernising drug law enforcement.* International Drug Policy Consortium, March 2013.

[79] Geoffrey Monaghan and Dave Bewley-Taylor, "Police support for harm reduction policies and practices towards people who inject drugs", *Modernising drug law enforcement.* International Drug Policy Consortium, February 2013.

[80] Code of Conduct for Law Enforcement Officials; UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. *See also* Amnesty International, "Use of Force: Guidelines for implementation of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials", September 2015

Militarised equipment such as high-power and/or fully automatic firearms should be avoided in drug enforcement operations as it is normally not suitable for law enforcement.

5. TACKLING THE DISPROPORTIONATE IMPACT ON GROUPS AT RISK

The implementation of drug laws and drug enforcement operations has produced profoundly unequal outcomes across marginalised communities, even when rates of drug use and sales are broadly similar across groups.[81] Amnesty International welcomes the analysis in the introductory memorandum of the impacts of drug policies on specific groups at risk, and would like to recommend additional elements to be considered in the baseline study.

In particular, Amnesty International would like to recommend the introduction into section 6 of the introductory memorandum an analysis of how multiple and intersecting forms of discrimination have an impact on the lives of people who use drugs and can play a role in an individual's decision to engage in the drug trade. Direct and indirect discrimination against people who use drugs and/or on the basis of their identity, including gender, age, race, ethnicity, sexual orientation, gender identity, Indigenous identity, migrant or other status, intersect to deny affected groups resources and opportunities resulting in multiple barriers to the full enjoyment of their human rights.

States must therefore ensure that drug law enforcement does not lead to disparate outcomes, paying particular attention to the disproportionate impact that drug control policies have had on marginalized groups and people who face multiple and intersecting forms of discrimination, including women and girls, racial, ethnic and other minorities, Indigenous peoples, children and young people, people living in poverty, rural farmers, sex workers and LGBTI people.

WOMEN AND GIRLS

As the introductory memorandum recognizes, women are facing particular risks and challenges in the context of drug control. Addressing the discriminatory and disproportionate impact that women and girls face by criminal drug law enforcement requires an analysis of women's participation at the different stages of the drug trade, from cultivation and production to distribution and use.

Women who use drugs are facing particular challenges due to their gender, including high levels of stigmatization in the family and the community and specific forms of gender-based violence. In addition, there is a big gap of gender-sensitive harm reduction and treatment services.[82] Women who use drugs are at particular risk of criminalization if they become pregnant, and face losing custody of their children without justification, forced or coerced sterilization, forced abortion or criminal penalties for using drugs during pregnancy.[83] In

[81] UNDP, *Addressing the Development Dimensions of Drug Policy.* New York, 2015, p. 7
[82] International Narcotics Control Board. *Report 2016.* New York, 2013, para. 3
[83] Office of the High Commissioner on Human Rights, "Study on the impact of the world drug problem on the enjoyment of human rights", 4 September 2015, UN Doc. A/HRC/30/65, para. 53.

certain jurisdictions, women who use drugs during pregnancy may be subject to detention or criminal liability for exposure of the fetus to a controlled substance.[84]

The UN Special Rapporteur on the right to health has found that criminalization of conduct during pregnancy – such as drug use – impedes access to health-care goods and services, infringing the right to health of pregnant women by deterring them from seeking health care and undermining the promotion of public health and human rights.[85] Moreover, the UN Working Group on the issue of discrimination against women in law and in practice has considered such practices to be discriminatory.[86]

On the other hand, the participation of women in the drug trade is on the rise, especially among those who lack education and economic opportunities or have been victims of abuse.[87] Women, and especially those who belong to ethnic minorities or those who live in poverty, disproportionately engage in the drug trade as couriers or other low-ranking, low-paying, high-risk positions in the drug trade supply chain.[88] According to UN-Women, women's involvement in the drug trade is a result of their poor economic opportunities and lower political status.[89]

While fewer women are incarcerated than men globally, their number is increasing at an alarming rate due to the more visible and risky positions women often take in criminal organizations, whereas those profiting from the illicit trade, usually men, are rarely detained.[90] Moreover, women usually do not have information about those higher in the hierarchy of criminal drug networks with which they can bargain with prosecutors, leading to harsher legal repercussions.[91] The vast majority of women arrested and detained for drug-related offenses have not committed a violent crime or are first-time offenders.[92]

The right to equality and non-discrimination is protected under different international human rights treaties, from which several obligations arise. Under the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) and other human rights law and standards, States are obliged to ensure equal rights to men and women in all respects, including equal access to health care services for women that are equivalent to

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[84] Amnesty International, "Criminalizing pregnancy: Policing pregnant women who use drugs in the USA" (AMR 51/6203/2017), 23 May 2017; Office of the High Commissioner on Human Rights, "Study on the impact of the world drug problem on the enjoyment of human rights", 4 September 2015, UN Doc. A/HRC/30/65, para. 53.
[85] Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 3 August 2011, UN Doc. A/66/254, para 41.
[86] Report of the Working Group on the issue of discrimination against women in law and in practice, 8 April 2016, UN Doc. A/HRC/32/44, para. 39
[87] UN Women, "A Gender Perspective on the Impact of Drug Use, the Drug Trade and Drug Control Regimes (policy brief)", 2014
[88] Report of the Special Rapporteur on violence against women, its causes and consequences, 'Pathways to, conditions and consequences of incarceration for women', 21 August 2013,UN Doc. A/68/340, para 23-24; Report of the Special Rapporteur on violence against women, its causes and consequences: Mission to the United States of America, 6 June 2011, UN Doc. A/HRC/17/26/Add.5, para. 45
[89] UN Women, "A Gender Perspective on the Impact of Drug Use, the Drug Trade and Drug Control Regimes (policy brief)", 2014
[90] UN Women, "A Gender Perspective on the Impact of Drug Use, the Drug Trade and Drug Control Regimes (policy brief)", 2014
[91] Committee on the Elimination of Discrimination against Women (23 February 2012), Concluding observations: Brazil, UN Doc. CEDAW/C/BRA/CO/7, para 32; Committee on the Elimination of Discrimination against Women (2 February 2007), Concluding observations: Colombia, UN Doc. CEDAW/C/COL/CO/6, para 20
[92] UNODC, UN-Women, WHO and INPUD, Policy Brief: Women Who Inject Drugs and HIV, p. 7.

those available to men.[93] The principle of non-discrimination requires as well that States take into account and address any disparate impact of criminal drug law enforcement.[94] Additionally, the UN Rules for the Treatment of Women Prisoners (Bangkok Rules) recognize that the principle of non-discrimination requires States to address the particular challenges that women confront in the criminal justice and penitentiary systems, which includes the need to provide adequate services for women who use drugs in prison or other forms of detention.[95] Guidelines produced by the WHO, UNAIDS and UNODC, reinforced by CND's resolution 55/5 of 2012, have emphasized the need to ensure comprehensive health and reproductive services for women who use drugs, including HIV-related services.[96]

The baseline study should underpin States obligation to address the structural factors that contribute to women's incarceration on drug-related offences, including stereotyping, gender bias and discriminatory practices in the judicial system.[97] The UN Special Rapporteur on violence against women has specifically called upon States to develop gender-specific sentencing alternatives and promote a paradigm shift from incarceration to community-based sentencing for female offenders.[98] Additionally, **the baseline study should scrutinise the availability of harm reduction and treatment services that provide suitable environments for women who use drugs, including by providing integrated sexual and reproductive healthcare, information and services, childcare facilities that are respondent to other gender-specific needs.**

CHILDREN AND YOUNG PEOPLE

The protection of children's rights has also been compromised by repressive drug control policies. Children and young people have been engaged at all stages of the drugs supply chain, exposed to organised crime, sexual exploitation, violence and drug enforcement operations.[99] Children and young people have been injured or killed in the context of drug enforcement operations, confronted increased health risks for using drugs and faced greater detrimental effects stemming from a criminal record.[100] Young people living in poverty are at greater risk of being recruited by criminal gangs and apprehended by drug law enforcement.[101]

Children and adolescents are at higher risk of drug-related health harms, while use of drugs

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[93] Convention on the Elimination of all forms of Discrimination Against Women, articles 12 and 2

[94] Report of the Special Rapporteur on violence against women, 'Pathways to, conditions and consequences of incarceration for women', 21 August 2013,UN Doc. A/68/340, para. 81

[95] United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders. ECOSOC resolution 2010/16, December 2010.

[96] UNODC, UN-Women, WHO and INPUD, Policy Brief: Women Who Inject Drugs and HIV

[97] Committee on the Elimination of Discrimination against Women, General Recommendation 33 on women's access to justice, 3 August 2015, UN Doc. CEDAW/C/GC/33, para. 26; Report of the Special Rapporteur on the independence of judges and lawyers, 29 April 2011, UN Doc. A/HRC/17/30, para. 28

[98] Report of the Special Rapporteur on violence against women, 'Pathways to, conditions and consequences of incarceration for women', 21 August 2013,UN Doc. A/68/340, para. 85

[99] Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 4 April 2016, UN Doc. A/HRC/32/32, para 97

[100] Office of the High Commissioner on Human Rights, "Study on the impact of the world drug problem on the enjoyment of human rights", 4 September 2015, UN Doc. A/HRC/30/65, para. 50, 52; Report of the Special Rapporteur on the Independence of judges and lawyers: Mission to Maldives, 2 May 2007, UN Doc. A/HRC/4/25/Add.2;

[101] Office of the High Commissioner on Human Rights, "Study on the impact of the world drug problem on the enjoyment of human rights", 4 September 2015, UN Doc. A/HRC/30/65, para. 51

initiated in adolescence can more often lead to dependence than during adulthood.[102] However, while data relating to the use of drugs by children and young people is poor in many countries, evidence suggests that punitive responses to drugs do not deter them from using drugs, nor does it significantly restrict their access to them. [103] Instead, such policies have produced additional and particular harms to them, including physical and mental health consequences.[104]

The criminalization of drug use and possession has led to increasing numbers of children in detention, even for minor offences.[105] While the total number of children deprived of their liberty is unknown, UNICEF has estimated that up to 1 million children may be in detention worldwide,[106] and in many countries the majority of children in detention are reported to have committed drug-related offences.[107] This appears to be in stark contradiction to international human rights law and standards that establish that the arrest or detention of children must be a measure of last resort, including for drug treatment,[108] and must be for the shortest appropriate period of time.[109] Under the CRC, States have an obligation to ensure the best interest of the child is observed in all actions concerning children, including in the context of criminal justice.[110]

While article 33 of the Convention on the Rights of the Child provides that State parties shall take all appropriate measures to protect children from the illicit use of drugs and to prevent the use of children in the illicit production and trafficking of drugs, this must be read in conjunction with other protections afforded by the Convention and other human rights obligations. This must include the need to implement preventive and treatment programmes accessible for children,[111] the production and dissemination of accurate and objective information with regards to the use of drugs,[112] and the establishment of

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[102] Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 4 April 2016, UN Doc. A/HRC/32/32, para. 95. *See also* Catherine Cook and Adam Fletcher, "Youth drug-use research and the missing pieces in the puzzle: how can researchers support the next generation of harm reduction approaches?" in *Children of the drug war: Perspectives on the impact of drug policies on young people,* International Debate Education Association, iDebate Press.

[103] European Monitoring Centre for Drugs and Drug Addiction, "Looking for a relationship between penalties and cannabis use", 15 November 2011, available at www.emcdda.europa.eu/online/annual-report/2011/boxes/p45; Louisa Degenhardt *et al.*, "Toward a Global View of Alcohol, Tobacco, Cannabis, and Cocaine Use: Findings from the WHO World Mental Health Surveys", in *PLoS Medicine*, July 2008; Organization of American States, "The Drug Problem in the Americas", 2013, OEA/Ser.D/XXV.4

[104] Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 4 April 2016, UN Doc. A/HRC/32/32, para. 97

[105] Inter-American Commission on Human Rights, Violence, *Violence, Children and Organized Crime,* 11 November 2015, OEA/Ser.L/V/II. Doc. 40/15, para. 462

[106] UNICEF, *Progress for Children: A report card on child protection.* United Nations Children's Fund, New York, 2009 http://www.unicef.org/publications/files/Progress_for_Children-No.8_EN_081309.pdf

[107] UNODC, *UNGASS Background Papers 'Roundtable 3 Cross-cutting issues: drugs and human rights, youth, women, children and communities*', pp. 7; Inter-American Commission on Human Rights, Violence, *Violence, Children and Organized Crime,* 11 November 2015, OEA/Ser.L/V/II. Doc. 40/15, para. 463

[108] Committee on the Rights of the Child, General Comment 10: Children's rights in juvenile justice, UN Doc. CRC/C/GC/10, para 11

[109] Convention on the Rights of the Child, Art. 37

[110] Convention on the Rights of the Child, Arts. 3(1), and 40(2)(b)(iii).

[111] Committee on the Rights of the Child, General Comment 20 on the implementation of the right of the child during adolescence, 6 December 2016, UN Doc. CRC/C/GC/20, para. 64; Committee on the Rights of the Child (19 June 2005), Concluding Observations: Kazakhstan, UN Doc. CRC/C/ KAZ/CO/3, para 52; Committee on the Rights of the Child (21 February 2001), Concluding Observations: Lithuania, CRC/C/15/Add146, para 50.

[112] Committee on the Rights of the Child, General Comment 20 on the implementation of the right of the child

appropriate harm reduction services accessible for children and young people.[113]

The implications of laws that criminalize the use and possession of drugs for personal use have long been analysed by the Committee on the Rights of the Child and several other human rights mechanisms, showing its particularly severe impact on the health and other human rights of children and young people.[114] As noted by the UN Special Rapporteur on the right to health, the criminalization of drug use and possession, as well as drug user registries and police violence, drive children and young people from healthcare services, producing a health-deterrent effect.[115]

More broadly, the prosecution of children and young people for drug-related activities creates additional challenges for them if they are incarcerated. The Office of the High Commissioner for Human Rights (OHCHR) has particularly emphasised the increased obstacles that children and young people may face after conviction for a drug-related offence, including in the areas of employment, housing, education and welfare.[116] The Committee on the Rights of the Child has consistently called on States to avoid the treatment of children as criminals for their use or possession of drugs,[117] and has recommended States not to subject children who use drugs to criminal proceedings.[118] Moreover, the Committee has recommended States to consider alternatives to criminalization when dealing with children accused of having committed minor, non-violent drug-related offences.

Amnesty International recommends that the baseline study expands on the required measures that States need to put in place to protect children from the risks and harms of

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during adolescence, 6 December 2016, UN Doc. CRC/C/GC/20, para. 64; Committee on the Rights of the Child (7 December 2012), Concluding Observations: Albania, UN Doc. CRC/C/ALB/CO/2-4, para 63(b); Committee on the Rights of the Child (30 June 2009), Concluding Observations: Romania, UN Doc. CRC/C/ROM/CO/4, para 71.

[113] Committee on the Rights of the Child, General Comment 15: The Right of the Child to the Highest Attainable Standard of Health, UN Doc. CRC/C/GC/ 15, para 66; Committee on the Rights of the Child, General Comment 3: HIV/AIDS and the rights of the child, UN Doc. CRC/GC/2003/3, para 39; Committee on the Rights of the Child (21 April 2011), Concluding Observations: Ukraine, UN Doc. CRC/C/UKR/ CO/3-4, para 61; Committee on the Rights of the Child (3 December 2012), Concluding Observations: Austria, UN Doc. CRC/C/AUT/CO/3-4, para 51; Committee on the Rights of the Child (7 December 2012), Concluding Observations: Albania, UN Doc. CRC/C/ALB/CO/2-4, para 63(b); Committee on the Rights of the Child (13 June 2013), Concluding Observations: Guinea, UN Doc. CRC/C/GIN/ CO/2, para 68.

[114] Committee on the Rights of the Child, General Comment 20 on the implementation of the right of the child during adolescence, 6 December 2016, UN Doc. CRC/C/GC/20, para. 64; Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 4 April 2016, UN Doc. A/HRC/32/32, para. 98, 103; Office of the High Commissioner on Human Rights, "Study on the impact of the world drug problem on the enjoyment of human rights", 4 September 2015, UN Doc. A/HRC/30/65, para. 50; UNODC, *UNGASS Background Papers 'Roundtable 3 Cross-cutting issues: drugs and human rights, youth, women, children and communities',* pp. 9

[115] Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 4 April 2016, UN Doc. A/HRC/32/32, para. 98

[116] Office of the High Commissioner on Human Rights, "Study on the impact of the world drug problem on the enjoyment of human rights", 4 September 2015, UN Doc. A/HRC/30/65, para. 50

[117] Committee on the Rights of the Child (21 April 2011), Concluding Observations: Ukraine, UN Doc. CRC/C/UKR/ CO/4, para 61(b); Committee on the Rights of the Child (26 February 2004), Concluding Observations: Armenia, UN Doc. CRC/C/15/ADD.225, para 63; Committee on the Rights of the Child (21 September 2005), Concluding Observations: Norway, UN Doc. CRC/C/15/Add.263, para 44(b).

[118] Committee on the Rights of the Child (21 April 2011), Concluding Observations: Ukraine, UN Doc. CRC/C/UKR/CO/3-4, paras. 59-60; Committee on the Rights of the Child (7 April 2011), Concluding Observations: Mexico, UN Doc. CRC/C/OPAC/MEX/CO/1, para. 29.

drugs and drug control policies, including those stemming from the use of drugs by children and/or their parents, and from policing and other law enforcement efforts. First, States must ensure the adequate availability and accessibility of prevention, harm reduction and treatment services specifically tailored to the needs of children and adolescents, including youth-led interventions and peer-to-peer strategies. Drug-related programs for children and adolescents should be objective and evidence-based, taking into consideration the types of drugs they use and the socio-economic factors that drive its use.

Furthermore, States should provide children and adolescents with information in an accessible manner, including on minimizing drug-related risks and harms and about where to find help if they require it. States should eliminate age barriers and parental consent requirements that limit access to HIV testing, harm reduction services and drug dependence treatment and care.

The baseline study should also address the human rights concerns arising from the use of drugs of parents. In order to guarantee the best interests of the child, States have an obligation to provide appropriate assistance to parents in carrying out their childcare responsibilities when needed.[119] This includes the duty to support parents who use drugs or have a dependence on drugs by guaranteeing a safe environment including through, as appropriate, adequate housing, education and healthcare. States should ensure that the use of drugs is never the sole justification for the separation of a child from parental care, for preventing reunification or for removing custody, and must ensure that the best interests of the child is a primary consideration in every decision regarding their care. In such considerations, authorities must ensure that the use of drugs or dependence to drugs is not equated with neglect or abuse.

INDIGENOUS PEOPLES

The prohibition and criminalization of drugs has also had a particular impact on the rights of Indigenous peoples, which should also be analysed in the baseline study. Traditional use and cultivation of drugs for cultural, spiritual or medicinal purposes have been prosecuted and prohibited in accordance with the UN Drug Conventions, contrary to the rights of Indigenous Peoples. Provisions in the 1961 Single Convention on Narcotic Drugs appear to be at odds with the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), in particular with the rights of Indigenous Peoples to manifest, practice or develop their cultural and spiritual traditions, customs and ceremonies.[120]

The right of Indigenous Peoples to practice their customs and traditions is firmly established in international law and standards. As one of the key objectives of the international legal regime of the rights of Indigenous Peoples, the UNDRIP enshrines the right to manifest, practice or develop their spiritual traditions, customs and ceremonies,[121] as well as their right to traditional medicines and health practices, including the conservation of their vital medicinal plants.[122] The Convention on the Elimination of Racial Discrimination requires that States parties fight discrimination against Indigenous Peoples, including by recognizing and respecting their distinct culture and way of life and by ensuring that Indigenous communities can exercise their rights to practice and revitalize their cultural customs and

[119] Article 18 of the Convention on the Rights of the Child
[120] Article 12 of the United Nations Declaration on the Rights of Indigenous Peoples
[121] Article 12 of the United Nations Declaration on the Rights of Indigenous Peoples
[122] Article 24 of the United Nations Declaration on the Rights of Indigenous Peoples.

traditions.[123] The right to take part in cultural life, enshrined in Article 15 of the ICESCR also embodies the protection of the ways of life and the cultural identity of Indigenous peoples. The right of Indigenous peoples to practice their cultural traditions and customs is also protected by the International Labour Organization Convention No. 169, which requires States to protect "the social, cultural, religious and spiritual values and practices", as well as "the integrity of the practices of indigenous peoples".[124]

Therefore, **the baseline study should reflect on States' efforts to implement adequate measures to ensure that Indigenous peoples are able to use and cultivate drugs for the exercise of their right to practice their cultural traditions and customs and to manifest, practice and develop their spiritual traditions, customs and ceremonies that include seeds, plants and medicines that may be prohibited under national or international law, without fear of criminal or other sanctions.** Importantly, it should also be addressed the need to take measures to respect and protect the rights of Indigenous peoples to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, including when drugs form part of their cultural traditions. Such measures should incorporate the prevention of the appropriation and commodification of Indigenous knowledge and traditional medicine by State and non-State actors without their free, prior and informed consent.

6. RECOMMENDATIONS

Amnesty International calls on States to adopt new models of drug control that put the protection of people's health and other human rights at the centre and ensure that all drug laws and policies are compliant with international human rights law and standards. In particular, States should:

DOMESTIC DRUG LAWS AND POLICIES

- Refrain from implementing repressive drug laws and policies that harm rather than protect people, and repeal or substantially amend such laws.
- Put in place mechanisms to ensure that all drug control laws, policies and practices are consistent with international human rights law and standards, and ensure that these contemplate appropriate remedies when this is not the case.
- Include people who use drugs and other affected communities, as well as civil society organizations and experts in health, social services and other relevant fields, in the design, implementation, monitoring and evaluation of drug control laws and policies that affect them.
- Guarantee a safe and enabling environment for human rights defenders who advocate reforming drug laws and policies, in which they are able to conduct their activities without fear of punishment, reprisal or intimidation.
- Take all necessary steps to ensure that drug control laws, policies and practices do

[123] Committee on the Elimination of Racial Discrimination, General recommendation XXIII on the rights of indigenous peoples, para. 4
[124] ILO Convention 169, article 5

not lead to violations of human rights, either directly or indirectly, for people living in other countries.

PREVENTION

- Follow international best practice for the design and implementation of prevention campaigns to introduce a range of different evidence-based interventions and policies based on the age of the target group, the level of risk, and the environment in which the campaign will be implemented.
- Carry out awareness campaigns that can help children prevent or delay their first use of drugs for non-medical purposes and, for all people who use drugs, to avert the development of a dependence and reduce drug-related harms. Prevention interventions should include public educational programmes and information campaigns that incorporate harm reduction information and are based on scientific evidence that accurately describe the effects of drugs, including the risks both to people who use drugs and to others, without stigma.
- Develop targeted prevention campaigns specifically tailored for children and adolescents both in educational settings and in environments outside of school, such as street and party scenes, aimed at empowering them to make informed decisions about their own conduct and provide them with information about where to find help if they require it.

HARM REDUCTION, TREATMENT AND REHABILITATION

- Increase access to health and social services to reduce the risks and harms associated with the use of drugs, including prevention, information, harm reduction, voluntary treatment and rehabilitation services where medically indicated and on a non-discriminatory basis, including in prisons and other situations where people are deprived of their liberty.
- Ensure harm reduction, treatment and rehabilitation services are available, acceptable and easily accessible to everyone on a non-discriminatory basis, and of good quality. This means paying particular attention to the needs of the most marginalized and to the specific needs of women, children and adolescents.
- Guarantee that drug treatment and rehabilitation programmes for people who use drugs are evidence-based, voluntary and safeguarded by informed consent. Such programmes must provide measures to protect the rights of any person who – temporarily or permanently – is unable to provide consent in order to assist them to do so and to respect their wishes.
- Prioritise health care and social support in community settings for the treatment and rehabilitation of drug dependence, rather than in institutions.
- Cease the compulsory and coerced treatment of people who use drugs by immediately closing all institutions where people who use drugs are held against their will, including those based on arguments of "medical necessity" or on the perceived danger of persons to themselves or to others, and release people detained therein with sufficient provisions of health and social services available to them, as required.
- Adopt and implement laws and policies to guarantee the effective regulation and supervision of treatment and rehabilitation services operated by private providers to

ensure they do not undermine or threaten the right to health and to prevent other human rights abuses.

STIGMA AND DISCRIMINATION

- Address the root causes and socio-economic factors that may increase the risks of using drugs or that lead people to engage in the drug trade, including ill-health, denial of education, unemployment, lack of housing, poverty and discrimination.
- Put in place a wide set of gender-sensitive and holistic socio-economic protection measures to ensure that drug control laws and policies contribute to overcome structural sources of vulnerability, stigma and discrimination that affect people who use drugs or who engage in the drug trade, especially women and those belonging to marginalized and disadvantaged communities.
- Develop and implement campaigns, in consultation with people who use drugs, to counter current stereotypes and to raise awareness throughout society of the rights of people who use drugs.

ACCESS TO MEDICINES

- Ensure access to medicines, including those that contain controlled substances often used for the relief of pain, anaesthesia, drug dependence, harm reduction, treatment of mental health and neurological disorders and other medical uses, and remove any domestic and international obstacles that unduly restrict access to them.
- Ensure that the UN Drug Conventions are not interpreted or applied so as to prevent or obstruct the use and distribution of controlled substances for medical and scientific purposes, taking particular steps to reduce the accessibility and availability disparities between and within countries.
- If considering making a new substance a controlled substance under national or international legislation, ensure that the impact on the availability of medicines does not disproportionately affect people who have a medical need for them.

DECRIMINALIZATION

- Decriminalize the use, possession and cultivation of all drugs for personal use. Decriminalization policies must be accompanied by an expansion of health and other social services to address the risks related to drug use.
- If considering implementing threshold quantities to determine what is considered as 'possession for personal use', intended to distinguish personal possession from other offences such as trafficking, make sure that these are only used to set minimum quantities below which a person cannot be prosecuted. If a person is found with a quantity that exceeds the threshold, it should not be assumed that a person can be charged with an offence for distribution or trafficking unless the intent to sell or distribute is proven. Thresholds should be meaningful enough to ensure that these are not so low that people continue to be prosecuted merely for their use of drugs, and be based on the realities and meaningful participation of people who use drugs.
- Ensure a process to review convictions and sentences for offences related to the use, possession and cultivation of drugs for personal use and, where appropriate, quash, commute or reduce existing convictions and/or sentences.
- Implement alternatives to the criminalization of other minor, non-violent drug-related

offences that do not cause harm to others. When determining whether to make or maintain a specific drug-related conduct as a criminal offence, ensure that the crime is clearly defined in law, that the proscribed conduct is aimed at addressing a specific problem directly associated with the possible harmful use of a particular drug and that the conduct puts others at risk of sufficiently serious harm.

POLICING

- Reframe policing and other law enforcement efforts to promote public health and human rights, including by building a constructive engagement and partnership between law enforcement officials and health providers around health and other human rights issues. Such policies should include approaches to law enforcement that support the effective operation of harm reduction services (such as needle and syringe programmes or drug checking services), "Good Samaritan" laws that exclude from prosecution people who witness or report an overdose to emergency services, equipping police agencies for the provision and distribution of naloxone (a medicine that counters the effects of an opioid overdose), and other harm reduction measures.
- Train law enforcement agencies in harm reduction and ensure they do not target health facilities, supervised drug-consumption rooms or needle and syringe programmes as a strategy for drug enforcement operations.
- Desist from law enforcement practices that hamper the right to health, including the seizure or destruction of injection equipment and prosecution of health-care and harm reduction service providers.
- Prevent medical professionals and health care providers from being compelled to report to the authorities on an individual's use of drugs, as this may amount to a violation of their right to privacy, breaches patient confidentiality and medical ethics, and compromises access to health services.
- Refrain from using the military to carry out policing functions, including drug enforcement operations, except as a temporary measure in exceptionally serious circumstances in which it is impossible for the authorities to rely solely on law enforcement agencies.
- Ensure that all drug enforcement operations comply with international law and standards on the use of force, including by ensuring that when the armed forces are deployed they are always under the command of civilian authorities and subject to international human rights law and standards, especially on the use of force and firearms, and are provided with the necessary instructions, training and equipment to act in full respect of such standards.
- Avoid militarised equipment such as high-power and/or fully automatic firearms in drug enforcement operations, as it is not normally suitable for law enforcement.
- Conduct prompt, thorough, independent and impartial investigations into human rights violations committed by the security forces during drug-enforcement operations, including those with command responsibility, bring all those suspected of criminal responsibility before ordinary tribunals and guarantee adequate reparations for the victims.
- Ensure that any financial and technical assistance provided to third countries for drug-enforcement operations does not contribute, or carries a real risk of contributing, to the

commission of human rights violations. Any such cooperation, including training or technical advice, must be halted if used (or if there is a real risk of it being used), either directly or indirectly, to commit human rights abuses or violations.

WOMEN AND GIRLS

- Address the structural factors that contribute to disproportionate impacts of drug laws and policies on women and girls, including stereotyping, gender bias and other discriminatory practices in the judicial system.
- Pay specific attention to the stereotyped and gender-biased views about drugs that disproportionately affect women and girls, and promote gender-sensitive policies that respond to the differentiated needs, risks and harms of women and girls, transgender people and non-binary individuals (people who identify neither as men nor women).
- Provide harm reduction, treatment and rehabilitation services in suitable environments for women and girls who use drugs, including by providing integrated sexual and reproductive healthcare, information and services, childcare facilities and should be respondent to other gender-specific needs.
- Repeal laws and policies that criminalize women and girls for their use of drugs during pregnancy.

CHILDREN AND YOUNG PEOPLE

- Guarantee the adequate availability and accessibility of prevention, harm reduction and treatment services specifically tailored to the needs of children and adolescents, including youth-led interventions and peer-to-peer strategies. Drug-related programs for children and adolescents should be objective and evidence-based, taking into consideration the types of drugs they use and the socio-economic factors that drive its use.
- Provide children and adolescents with drug-related information in an accessible manner, including on minimizing drug-related risks and harms and about where to find help if they require it.
- Eliminate age barriers and parental consent requirements that limit access to HIV testing, harm reduction services and drug dependence treatment and care.
- Ensure that treatment and rehabilitation of children for a drug dependence is voluntary and safeguarded by informed consent. Decisions for children to undergo treatment or rehabilitation for drug dependence should always ensure the meaningful participation of the child and their right to give or withhold consent in line with their evolving capacities.
- Avoid children's imprisonment or other forms of deprivation of liberty solely for their use or possession of drugs. The deprivation of a child's liberty for drug-related offences should be a last resort and for the shortest appropriate period of time, and must be in a facility especially suited to their needs.
- Provide appropriate assistance to parents who use drugs or have a dependence on drugs in carrying out their childcare responsibilities when needed, and guarantee a safe environment including through, as appropriate, adequate housing, education and healthcare. Make sure that the use of drugs is never the sole justification for the separation of a child from parental care, for preventing reunification or for removing

custody, and ensure that the best interests of the child is a primary consideration in every decision regarding their care. In such considerations, authorities must ensure that the use of drugs or dependence to drugs is not equated with neglect or abuse.

- Consider implementing non-custodial sentences for parents or caregivers with dependent children, taking into account the best interests of the child, and for pregnant women and girls.

INDIGENOUS PEOPLES

- Implement adequate measures to ensure that Indigenous peoples are able to use and cultivate drugs for the exercise of their right to practice their cultural traditions and customs and to manifest, practice and develop their spiritual traditions, customs and ceremonies that include seeds, plants and medicines that may be prohibited under national or international law, without fear of criminal or other sanctions.
- Ensure that efforts to prevent the illicit cultivation of drugs or to eradicate crops cultivated for illicit purposes do not adversely impact rural farmers and communities who depend on this cultivation for their livelihood. Efforts to address illicit cultivation, including through financial and technical assistance provided to third countries, should address the underlying socio-economic causes of such cultivation and must take care to not entrench poverty and deprivation, including by guaranteeing that rural farmers have adequate access to markets once a regulated model comes into effect.
- Halt and prohibit forced crop eradication programmes that take place in or near Indigenous, their sources of provisions and sacred sites, including by aerial spraying and manual eradication. Voluntary crop eradication should only be carried out where expressly requested by an Indigenous community which has been fully apprised of the implications, in line with the right of Indigenous peoples to give or withhold their free, prior and informed consent in such cases.
- Take measures to respect and protect the rights of Indigenous peoples to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, including when drugs form part of their cultural traditions. Such measures should incorporate the prevention of the appropriation and commodification of Indigenous knowledge and traditional medicine by State and non-State actors without their free, prior and informed consent.