

UNGASS 2016 Side Event
“A public health approach as a base for drugs policy:
the Portuguese case”

20 April 2016, 11:30 - 12:30, Conference Room 11

Alternatives to imprisonment from a health perspective: Aldo Lale-Demoz

I would like to join previous speakers and warmly thank the Government of Portugal for organizing this Side Event, and for inviting UNODC to contribute.

One of the most important features of this UNGASS is the growing recognition that drug policy can only be effective, humane, and in line with international obligations, if it includes a strong health-centred approach. Health is at the core of the international drug control system, and it is essential to recognize that non-medical drug use, but also drug use disorders and its consequences, as well as HIV, hepatitis C, tuberculosis and drug overdose, are public health issues that should be addressed by public health policies. The protection of the health of individuals and society from the ill-effects of drugs is the ultimate aim of the international drug control conventions. For this reason, they envisage a comprehensive set of measures to ensure that controlled drugs are used only for medical and scientific purposes, and promoting prevention, treatment and rehabilitation for people who use drugs.

The right to the highest attainable standard of health is enshrined in numerous international and regional human rights treaties, as well as national constitutions throughout the world. The right to health applies to all people with drug use disorders, irrespective of the legal status of a person.

From a public health perspective, the recommended approach is not conviction or punishment, but effective and compassionate treatment and care for people with health disorders, including people who use drugs for non-medical purposes, or have drug use disorders. After all, they are members of our communities, living with a chronic and relapsing disease, in need of support and treatment.

We know from science that the onset of drug use disorders is associated with a great number of risk factors, and a small number of protective factors. People who developed drug dependence usually have been through a range of adverse life events, and many have already experienced marginalization and stigmatization earlier in their lives.

The public health response to the drug problem should therefore consider alternatives to conviction or punishment for drug-related offences of a minor nature and, in general, in appropriate cases, for people with drug use disorders. In line with the international drug control conventions, people affected by drug use disorders do not need to be punished for their disorder. Policies and laws designed to respond to drug use must not cause more harm to communities. This applies especially for children and adolescents involved in drug-related offences, who should be diverted from the criminal justice system, or offered alternatives to conviction or punishment that are in the best interests of youth, fully reflecting their right to health and rights in the administration of justice.

Persons with drug use disorders need to have easy and equal access to evidence-based drug dependence treatment, health care and a wide range of social services. This should not be different when the criminal justice system intervenes. What constitutes a problem is that often treatment services are not widely or sufficiently available in the

community. Investments are necessary to make treatment and care services more available throughout the healthcare system, and alternative health treatment modalities must be designed specifically in collaboration with the criminal justice system.

Imprisonment of people solely for drug use should be avoided, as it increases their vulnerability to drug use disorders and other health risks, including HIV, tuberculosis and viral hepatitis.

We must always bear in mind that for people who use drugs, the fear of being arrested and criminally punished is a major barrier to access essential evidence-based psychosocial and pharmacological drug dependence treatment, as well as HIV prevention, treatment and care services, including needle and syringe programmes, opioid substitution therapy, and antiretroviral treatment. Removing these barriers is essential to deliver efficient and human rights-based drug treatment programmes, as well as the HIV response to end AIDS by 2030, to which Member States have committed themselves by endorsing both the SDGs and the UNAIDS fast track strategy.

The provision of evidence-based drug dependence treatment and HIV services is an effective strategy to achieve both public health and public safety objectives. This year at the Commission on Narcotic Drugs, UNODC and WHO presented the *“International Standards on the Treatment of Drug Use Disorders”* as a *draft for field testing*. This document will provide Member States and practitioners further guidance on what evidence-based treatment means, and how best to implement them.

We also encourage Member States to implement all relevant standards and norms. The *United Nations Standard Minimum Rules for Non-*

custodial Measures (the “Tokyo rules”), for example, proscribe various treatment interventions among a range of non-custodial measures that need to be available to meet the needs of suspected, accused or sentenced offenders, including those with drug use disorders.

Further, the *United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders* (the “Bangkok rules”) contain specific standards relating to female offenders, taking into account gender-specific vulnerabilities in the application of non-custodial measures.

According to these Rules, offenders with drug use disorders may be referred to treatment or other non-custodial measures at all stages of criminal proceedings, from pre-trial to post-sentencing, including the possibility of diversion from the criminal justice system.

Even in cases when people with drug use disorders have committed a crime for which no alternative measure can be considered, and for which imprisonment is required, it is also essential that effective drug dependence treatment as well as HIV, hepatitis, tuberculosis prevention and treatment services should be provided, and this also in prison settings. In line with the principle of equal access, all detained persons have the right to access the same healthcare and professional standards that are available to the community in general, as emphasized in the recently adopted revised *United Nations Minimum Rules for the Treatment of Prisoners* (the “Nelson Mandela Rules”). Comprehensive strategies that make prisons a safer and healthier environment will largely impact prison health and overall public health strategies.

In this regard, there needs to be a close coordination of community health services and prison health services, in order to ensure continuity

for the treatment of drug use disorders, HIV, hepatitis or tuberculosis. Upon release from prison, people who inject drugs are at high risk of overdose. Therefore, effective strategies for overdose prevention should be in place.

In the Portuguese model, introduced since legislative changes took effect in 2001, there is a complete diversion from the criminal justice to an administrative system for specific offences, or misdemeanours, involving the consumption, purchase or possession of limited amounts of narcotic drugs or psychotropic substances for personal consumption. This system is coupled with comprehensive measures, aimed at improving the health and social protection of persons who consume those drugs for non-medical purposes.

The Portuguese model is an excellent example of what can be achieved when you attach importance to public health when shaping a comprehensive and balanced drug control policy.

We should like to highlight the following features of the model followed by Portugal:

While the State continues to be committed to drug control, and considers as unlawful the behaviour of persons using drugs for non-medical purposes, the consequences of such behaviour are administrative – not criminal – focussing on pragmatic and humane actions to improve the health of people and communities. This also reduces the stigmatisation of people who use drugs;

The State increased its investments in prevention, treatment and care, whilst also strengthening its system of administrative control;

Portugal ensured that authorities dealing with people who use drugs were indeed well qualified and well trained;

Criminal justice resources, including law enforcement, are targeted more effectively to address and counter serious crime, including drug trafficking, organized crime and related money-laundering;

Equally impressive, the Portuguese Model has significantly reduction new HIV infections among people who inject drugs, which is an excellent illustration of how public health approaches to drug policy, including alternatives to conviction or punishment, can deliver tangible results.

Last though not least, the Portuguese Model provides evidence that the international drug control conventions --far from promoting a one size fits all approach-- offer States the possibility to continually evaluate their domestic policies, measure progress, and implement informed decisions regarding alternatives to imprisonment, in ways which best suit its legislative, cultural, social and health circumstances.

We firmly believe that Member States can benefit greatly from sharing their experiences on policies and strategies that prioritize public health, and the technical assistance work of UNODC is fundamentally geared toward the international dissemination and advocacy of best practices. Let us all ensure that this UNGASS on the World Drug Problem is remembered as the milestone for decision-making based on evidence, and for drug control policies that are effective, humane and gender-specific. Only with this mind set can we possibly achieve tangible progress under all relevant SDGs.

Thank you for your attention.