

Prepared by WHRIN for the 62nd session of the Commission on Narcotic Drugs and its High Level Ministerial Segment. With this opportunity for UN Member States to take stock of progress achieved over the past ten years, WHRIN asks governments to ensure that the resulting Ministerial Declaration includes a thorough 'stocktake' of the effects of drug control measures on the lives of women, with strident language to uphold and protect the human rights of women who use drugs and those involved in the drug trade. WHRIN offer this report to contribute to a responsible forward moving outcome.



### **Women and Harm Reduction International Network:**

*WHRIN is a global platform to reduce harms for women who use drugs and works to develop an enabling environment for the implementation and expansion of harm reduction resources for women*

*Our membership is comprised of women who use drugs (WUD), health service providers, harm reduction advocates and gender specialists. WHRIN has historically held a strong working relationship with International Network of Women who use Drugs (INWUD)*

*Women who use drugs are highly vulnerable to the effects of the current prohibitionist response to the world drug issues, and particular considerations for their needs and empowerment are critical*

## **Introduction**

The negative consequences of the current prohibitionist drug control regime on health, human rights and development have been the subject of growing international attention. Former UN Special Rapporteur on the Right to the Highest Attainable Standard of Physical and Mental Health, Paul Hunt, has described the co-existence of human rights law and drug control law as being situated in 'parallel universes'.<sup>1</sup> That is, we find ourselves in the untenable situation where global drug control laws are in direct conflict with human rights law, where the application of one systemically breaches the norms and imperatives of the other. Less attention however, has generally been paid to the ways in which the international drug control regime specifically impacts women. Women's rights and gender equality too rarely feature in discussions about the 'world drug problem'. For example, only 2% of all resolutions adopted since 2009 address the issues faced by women who use drugs.<sup>2</sup> While the 2016 UNGASS Outcome Document adds some overdue attention to gender issues, it remains vital that governments maintain and build on such forward momentum during the Commission on Narcotic Drugs and its High Level Ministerial Segment. This report accordingly examines the particular impacts of drug control on women to serve as a background briefing to 2019 CND and HLMS deliberations.

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<sup>1</sup> Hunt, Paul, (2008) Human Rights, Health and Harm Reduction – States' Amnesia and parallel universes. London: International Harm Reduction Association.

<sup>2</sup> Nougier M. (2018). Taking Stock. A Decade of Drug Policy. A Civil Society Shadow Report. International Drug Policy Consortium (IDPC). [http://fileserver.idpc.net/library/Shadow\\_Report\\_FINAL\\_ENGLISH.pdf](http://fileserver.idpc.net/library/Shadow_Report_FINAL_ENGLISH.pdf)

The Charter of the United Nations (UN) identifies security, development and human rights as the key policy ‘pillars’ of global governance systems.<sup>3</sup> These pillars are enshrined in high-level agreements and together form the essential basis for international wellbeing and security.<sup>4</sup> Women’s rights are given specific protection in a number of key international documents, including the Convention on the Elimination of Discrimination Against Women (CEDAW) and the 1995 Beijing Declaration, which aims to promote peace, development and equality for all women.<sup>5</sup> However these are not sufficiently recognized by the UN drug control agencies, nor are they incorporated into the current international drug control regime. While both the policy making and monitoring bodies, the Commission on Narcotic Drugs (CND) and International Narcotics Control Board (INCB), are beginning to demonstrate regard to these obligations with some effort since 2016 towards addressing the omission of gender issues within UN drug control efforts, these have been slow to mitigate the negative impacts and consequences of drug control strategies on women lives and their capacity to access health and social services at the national level.

This brief report outlines how global drug control regimes and policies intersect and impede on gender equality and women’s empowerment. It documents some of the ways in which the international drug control system affects women in specific and disproportionate ways and recommends remedial actions.

We take the position that the negative consequences of the world drug problem are the result of, and are being exacerbated by global and national responses to drug use rather than drugs and drug use in and of themselves. Drug policies directly contribute to the problems currently being attributed towards the ‘world drug problem’ and this deserves due recognition.

#### **Number of Women who use Drugs:**

Global population size estimates and national level data on the number of women who use drugs is difficult to source, given the critical lack of gender-disaggregated data. It is estimated however that women represent roughly one third of people who use drugs worldwide<sup>6</sup> including 40 per cent of people who use drugs in parts of Europe and the United States, 20 per cent in Eastern Europe, Central Asia and Latin American, between 17 and 40 per cent in China, and at least 10 per cent in other parts of Asia. In recent years there has been a rapid increase in the number of women who use drugs, particularly in Asia and Eastern Europe<sup>7</sup>

#### **Drug Policy Effects on Women**

The current prohibitionist approach not only criminalises a proportion of the population, but the transnational organised crime that fuels the drug trade results in violence, inequality, threats to public health, and undermines gender equality and women’s empowerment.

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<sup>3</sup> Barrett, D. (2010), ‘Security, development and human rights: Normative, legal and policy challenges for the international drug control system’, *International Journal of Drug Policy*, 21(2): 140-144, doi: 10.1016/j.drugpo.2010.01.005

<sup>4</sup> Kensity J, Stengel C, Nougier M, Birgin R. (2012). IDPC Briefing Paper Drug Policy and Women: Addressing the Negative Consequences of Harmful Drug Control, <http://www.grea.ch/sites/default/files/drug-policy-and-women-addressing-the-consequences-of-control.pdf>

<sup>5</sup> ibid

<sup>6</sup> Women and Drugs. Drug use, drug supply and their consequences. World Drug Report 2018. UNODC. [https://www.unodc.org/wdr2018/prelaunch/WDR18\\_Booklet\\_5\\_WOMEN.pdf](https://www.unodc.org/wdr2018/prelaunch/WDR18_Booklet_5_WOMEN.pdf)

<sup>7</sup> Harm Reduction International (2012), The global state of harm reduction: Towards an integrated response’, [http://www.ihra.net/files/2012/07/24/GlobalState2012\\_Web.pdf](http://www.ihra.net/files/2012/07/24/GlobalState2012_Web.pdf)

National level legal and policy barriers that affect the basic human rights of women, including access to health and freedom from violence and discrimination are constructed through the normative framework of the international drug control regime. The direct and indirect effects of punitive approaches to drug use on the availability and accessibility of health services has been well documented. However this approach also has specific impacts and effects on women. Women who use drugs face increased criminal and social stigma – sometimes due to the intersections of drug use and sex work – from health professionals, law enforcement and the wider community. Other laws and policies that affect women are those where drug use is applied as a criterion for loss of child custody, forced or coerced sterilization, abortion, and criminalization of drug use during pregnancy. Policies in some countries require the registration of people who use drugs, further discouraging women from accessing services, as their registration can lead to loss of child custody and other forms of discrimination. In some countries, laws and policies require women to have permission from family members or spouses to access health services<sup>8</sup> with obvious attendant barriers to health and social service access.

Women who use drugs are particularly vulnerable to gender based violence, both from law enforcement and due to intimate partner violence.<sup>9</sup> The illicit nature of the drug trade fuels violence and abuse, and is linked to higher rates of sexual violence and sex trafficking, where women's bodies are collateral damage in the profitable drug trade.<sup>10</sup> It is clear that deeply flawed responses to the world drug problem are undermining gender equality, and that a gender perspective is needed in all forums.

## **Gender, Drug use and the Right to Health**

### **Selected international standards, agreements and human rights mechanisms**

Promoting measures for the prevention of mother-to-child transmission of HIV, hepatitis B and C and syphilis among women who use drugs, 2018. CND Resolution 61/4.

Mainstreaming a gender perspective in drug-related policies and programmes, 2016. CND Resolution 59/5.

Report to the Human Rights Council, Report of the Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health, Anand Grover, Addendum, Mission to Viet Nam, 4 June 2012, A/HRC/20/15/Add.2 (para. 63 (b))

Committee on the Elimination of Discrimination against Women, Concluding observations on the State report of Brazil, 23 March 2012, CEDAW/C/ BRA/CO/7 (para. 32)

Committee on Discrimination against Women, Concluding observations on the State report of the United Kingdom of Great Britain and Northern Ireland, 10 June 1999, CEDAW/C/UK/3 and CEDAW/C/UK/4 (para. 313)

Promoting strategies and measures addressing specific needs of women in the context of comprehensive and integrated drug demand reduction programmes and strategies, 2012, CND

<sup>8</sup> INPUD, UNODC, UNWomen, WHO (2014). Policy Brief: Women who inject drugs and HIV: Addressing Specific Needs, [http://www.unodc.org/documents/hiv-aids/publications/WOMEN\\_POLICY\\_BRIEF2014.pdf](http://www.unodc.org/documents/hiv-aids/publications/WOMEN_POLICY_BRIEF2014.pdf)

<sup>9</sup> ibid

<sup>10</sup> UN Women. (2014). Policy Brief: A gender perspective on the impact of drug use, the drug trade and drug control regimes, [http://www.unodc.org/documents/ungass2016/Contributions/UN/Gender\\_and\\_Drugs\\_-\\_UN\\_Women\\_Policy\\_Brief.pdf](http://www.unodc.org/documents/ungass2016/Contributions/UN/Gender_and_Drugs_-_UN_Women_Policy_Brief.pdf)

Resolution 55/5 (para. 4)

Para 106(b):

Calls on Governments to 'Reaffirm the right to the enjoyment of the highest attainable standards of physical and mental health, protect and promote the attainment of this right for women and girls and incorporate it in national legislation, for example; review existing legislation, including health legislation, as well as policies, where necessary, to reflect a commitment to women's health and to ensure that they meet the changing roles and responsibilities of women wherever they reside.' The Platform for Action, adopted at the Fourth World Conference on Women in Beijing, 1995

'Address the needs of women at higher risk of HIV infection, including female sex workers and women who inject drugs, through enabling legislation, policies, and comprehensive packages of woman-friendly services.'

Standing up, Speaking out: Women and HIV in the Middle East and North Africa, Issues Brief 2012

Para 95:

'UNAIDS and partners should support countries to expand understanding of the HIV epidemic, context and response, in particular on the linkages between gender inequality and HIV vulnerabilities of women from key populations.'

UNAIDS, Programme Coordinating Board, Thirty First Meeting, Agenda item 2, UNAIDS Agenda for Accelerated Country Action for Women, Girls, Gender Equality and HIV Mid-Term review - Final report, 29 November 2012, UNAIDS/PCB(31)/12.20

Para 73(e):

'Urge Member States to renew their efforts to increase the coverage of interventions to prevent drug use and to increase access to services for the treatment, care and rehabilitation of people suffering from drug dependence that are based on scientific evidence, gender-responsiveness, human rights and the dignity of the patients'

Report of the Secretary-General, International cooperation against the world drug problem, GA Sixty-seventh session, 21 June 2012, A/67/157

Action 14(a): 'Ensure that a broad range of drug demand reduction services, including those in the areas of prevention, treatment, rehabilitation and related support services, provide approaches that serve the needs of vulnerable groups and are differentiated on the basis of scientific evidence so that they respond best to the needs of those groups, taking into account gender considerations and cultural background'. 2009 Political Declaration and Plan of Action

Action 14(c): 'Provide specialized training for those who work with vulnerable groups, such as patients with psychiatric co-morbidities, minors and women, including pregnant women'. 2009 Political Declaration and Plan of Action

The international drug control agenda and its application at the national level breach the right to the highest attainable standard of health for all. For instance, national legal frameworks impede and obstruct the provision of services for people who inject drugs (PWID), where they face the risk of arrest outside health service and harm reduction centres.<sup>11</sup> The lack of

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<sup>11</sup> Lohiniva A.-L., Benkirane M. Women injecting drug users in the Middle East and North Africa region: Context, service needs and factors influencing service uptake – Operational research, PowerPoint presentation delivered at a MENAHRA conference (2013). Available at [www.menahraconference.org/data/\\_uploaded/presentations/Day%201/9%20Concurrent%20Session%206/Women%20injecting%20drugs%20in%20the%20MENA%20region-%20Anna%20Leena%20Lohiniva.pdf](http://www.menahraconference.org/data/_uploaded/presentations/Day%201/9%20Concurrent%20Session%206/Women%20injecting%20drugs%20in%20the%20MENA%20region-%20Anna%20Leena%20Lohiniva.pdf)

funding for harm reduction services, especially in low and middle income countries, means that evidence based interventions are not scaled up to a level sufficient to impact on HIV and hepatitis epidemics, nor meet the health and social needs of women who use drugs.

There is a pressing challenge to develop ways to protect women who use drugs from HIV transmission. Studies across several countries have found that HIV prevalence among women who inject drugs is significantly higher than in men.<sup>12</sup> In Europe a study of nine countries found that HIV prevalence was over 50 per cent higher among women who inject drugs than their male counterparts.<sup>13</sup> This disparity is reflected in countries where harm reduction services are not widely available, such as in several African countries.<sup>14</sup> One study found that in Mombasa, Kenya, HIV infection was prevalent among 50 per cent of all PWID, but this figure reached 85 percent among women who inject drugs.<sup>15</sup>

As mentioned, harm reduction coverage is insufficient to reduce the prevalence of HIV and viral hepatitis epidemics, and the level of access for women is particularly limited. Women are disproportionately underrepresented in opiate substitution programs. One study in Europe showed that the male to female ratio of drug users in treatment was 4:1 in 2010, higher than the ratio between male and female drug users.<sup>16</sup> In Eastern Europe, only 0.003 per cent of women who inject drugs are estimated to have access to opiate substitution therapy (OST).<sup>17</sup> In 2017 the INCB noted that women make up only 4% of those in treatment in Afghanistan and 13% in Pakistan.<sup>18</sup> Furthermore, women have poor access to sterile injecting equipment and condoms, as well as limited access to sexual and reproductive health services and programmes that prevent mother-to-child transmission of HIV. Therefore the vertical transmission of HIV amongst women who use drugs is significantly higher than among other women living with HIV.<sup>19</sup>

This deficit in women's access to treatment can be directly attributed to and associated with criminalized and punitive responses to drugs, the lack of political support and leadership towards scaling up public health based responses, the lack of gender sensitive harm reduction policies, programming and services and the increased stigma and discrimination that women who use drugs experience.

## **Women in Prison for Drug offences**

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<sup>12</sup> Leung J, Peacock J, Colledge S, Grebely E, Van J, Cunningham B, Hickman M, Vickerman P, Stone J et al. (2019). A global meta-analysis on HIV, hepatitis C and hepatitis B among people who inject drugs – do gender differences vary by country-level indicators? *The Journal of Infectious Diseases*, jiz058, <https://doi.org/10.1093/infdis/jiz058>

<sup>13</sup> European Monitoring Centre for Drugs and Drug Addiction. (2006). Annual report 2006: the state of the drugs problem in Europe. <http://ar2006.emcdda.europa.eu/en/home-en.html>

<sup>14</sup> For instance in Senegal, a 21.1 per cent HIV prevalence was reported amongst women, versus 7.5% for men. In Tanzania this was 72% of women who injected heroin are HIV positive, compared to 45% of men (UN Women 2014)

<sup>15</sup> Open Society Institute Public Health Program (2007), Women, harm reduction, and HIV, [http://www.soros.org/sites/default/files/women\\_20070920.pdf](http://www.soros.org/sites/default/files/women_20070920.pdf)

<sup>16</sup> UN Women. (2014). Policy Brief: A gender perspective on the impact of drug use, the drug trade and drug control regimes, [http://www.unodc.org/documents/ungass2016/Contributions/UN/Gender\\_and\\_Drugs\\_-\\_UN\\_Women\\_Policy\\_Brief.pdf](http://www.unodc.org/documents/ungass2016/Contributions/UN/Gender_and_Drugs_-_UN_Women_Policy_Brief.pdf)

<sup>17</sup> INPUD, UNODC, UN Women, WHO (2014). Policy Brief: Women who inject drugs and HIV: Addressing Specific Needs, [http://www.unodc.org/documents/hiv-aids/publications/WOMEN\\_POLICY\\_BRIEF2014.pdf](http://www.unodc.org/documents/hiv-aids/publications/WOMEN_POLICY_BRIEF2014.pdf)

<sup>18</sup> International Narcotics Control Board (2016), Report 2016, [https://www.inc.org/documents/Publications/AnnualReports/AR2016/English/AR2016\\_E\\_ebook.pdf](https://www.inc.org/documents/Publications/AnnualReports/AR2016/English/AR2016_E_ebook.pdf)

<sup>19</sup> Thorne C., Semenenko I., Pilipenko T., Malyuta R. and the Ukraine European Collaborative Study Group. "Progress in prevention of mother-to-child transmission of HIV infection in Ukraine: results from a birth cohort study" (*BMC Infectious Diseases*, 2009), 9:40, doi: 10.1186/1471-2334-9-40

Draconian drug laws are one of the main reasons why women enter the prison system, and their numbers are increasing worldwide. In several Latin American countries, between 60 and 80 per cent of women who are incarcerated are jailed for drug related offences.<sup>20</sup> In Europe and Central Asia, more than 25 per cent (and up to 70 per cent in Tajikistan) of women prisoners were convicted of drug-related offences. There is a gender disparity amongst prisoners in the US. In 2012, a study found that 1 in 3 women were admitted for drug offences, compared with 1 in 7 men.<sup>21</sup> In Thailand over 80% of the 47,000 women in prison,<sup>22</sup> and over 90% of women in prison in Indonesia and the Philippines are incarcerated for drug related offences.<sup>23</sup>

The prevalence of blood borne virus infections, including HIV and STIs and other health problems, is often higher among women in prison than in the community. However harm reduction and drug treatment including OST are rarely available in women's prisons.<sup>24</sup> Women in prisons experience a variety of other harms, including the loss of custody of their children and physical and sexual violence.<sup>26</sup> In some countries, women are discriminated against and unable to return to their communities after being released from prison. This system where women are separated from their children temporarily or permanently is destabilizing and devastating in the long term. Parents in the US, once released from prison may be barred from public assistance and housing, and face diminished employment opportunities. Children with a parent in prison are several times more likely to end up in foster care, to drop out of school and to become involved in the criminal justice system.<sup>27</sup> Further, women who are detained in the network of mandatory detention centres are especially vulnerable to gender based violence.<sup>28</sup>

The heightened vulnerability of women due to the particular effects of gender inequality and disparity is reproduced as women come into contact with the transnational illicit drug trade. Women who are involved in the drug trade and drug trafficking are often delegated to low ranking, low paying, and high-risk positions. Women, and especially those from ethnic minorities, disproportionately act as drug couriers. Drug couriers are often coerced into carrying larger quantities of the drugs, or misled about the nature or quantity of drugs they are carrying, and thus receive much harsher legal repercussions (up to and including capital punishment) than the 'invisible' actors at the upper rungs of the drug trade.<sup>29</sup>

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<sup>20</sup> Giacomello C. (2013). Women, drug offenses and penitentiary systems in Latin America (International Drug Policy Consortium (IDPC), [http://dl.dropboxusercontent.com/u/64663568/library/IDPC-Briefing-Paper\\_Women-in-Latin-America\\_ENGLISH.pdf](http://dl.dropboxusercontent.com/u/64663568/library/IDPC-Briefing-Paper_Women-in-Latin-America_ENGLISH.pdf))

<sup>21</sup> Bureau of Justice Statistics. National Prisoner Statistics Program, National Corrections Reporting Program. (2014) Survey of Inmates in State Correctional Facilities, <http://www.bjs.gov/datacollection.cfm>

<sup>22</sup> Nougier M. (2018). Taking Stock. A Decade of Drug Policy. A Civil Society Shadow Report. International Drug Policy Consortium (IDPC). [http://fileserv.idpc.net/library/Shadow\\_Report\\_FINAL\\_ENGLISH.pdf](http://fileserv.idpc.net/library/Shadow_Report_FINAL_ENGLISH.pdf)

<sup>23</sup> Stone K, Shirley-Bevan S, (2018) The Global State of Harm Reduction 2018. Harm Reduction International

<sup>24</sup> Jurgens R. Out of sight, out of mind: harm reduction in prisons and other places of detention. In: Cook C, ed. The Global State of Harm Reduction: Key Issues for Broadening the Response: International Harm Reduction Association; 2010:105–112. Available at: <http://www.ihra.net/globalstate-of-harm-reduction-2010>.

<sup>25</sup> WHRIN (2018) Global State of Harm Reduction 2018 survey response.

<sup>26</sup> INPUD, UNODC, UNWomen, WHO (2014). Policy Brief: Women who inject drugs and HIV: Addressing Specific Needs, [http://www.unodc.org/documents/hiv-aids/publications/WOMEN\\_POLICY\\_BRIEF2014.pdf](http://www.unodc.org/documents/hiv-aids/publications/WOMEN_POLICY_BRIEF2014.pdf)

<sup>27</sup> Drug Policy Alliance (2014) Women and Gender in the Drug War <http://www.drugpolicy.org/women-and-gender-drug-war>

<sup>28</sup> INPUD, UNODC, UNWomen, WHO (2014). Policy Brief: Women who inject drugs and HIV: Addressing Specific Needs, [http://www.unodc.org/documents/hiv-aids/publications/WOMEN\\_POLICY\\_BRIEF2014.pdf](http://www.unodc.org/documents/hiv-aids/publications/WOMEN_POLICY_BRIEF2014.pdf)

<sup>29</sup> UNWomen. (2014). Policy Brief: A gender perspective on the impact of drug use, the drug trade and drug control regimes, [http://www.unodc.org/documents/ungass2016/Contributions/UN/Gender\\_and\\_Drugs\\_-\\_UN\\_Women\\_Policy\\_Brief.pdf](http://www.unodc.org/documents/ungass2016/Contributions/UN/Gender_and_Drugs_-_UN_Women_Policy_Brief.pdf)

Most women convicted of drug offences could be dealt with more effectively by alternatives to imprisonment. The United Nations Standards for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (“The Bangkok Rules”) promote alternatives to prison sentences for women and emphasize the importance of appropriate health care, humane treatment, preserving dignity during searches, protection from violence and provisions for children of incarcerated women.

The introduction of harm reduction services and drug treatment in both prison settings and the community is only a small part of what it would take to reduce the harms caused by current policy approaches to the world drug problem and its impacts on women. It requires a closer and more realistic consideration of how the human rights of both women who use drugs and their families, are being breached by an overarching framework and mechanisms generated from harsh and punitive drug laws. Clearly social, health and economic outcomes would improve if fewer women who use drugs were incarcerated, and further improvements would certainly result from more humane responses such as the decriminalisation and regulated supply of drugs.<sup>30</sup>

### **Drug Policy, Sexual and Reproductive Health Rights and the Criminalisation of Pregnant Women**

#### **Selected international standards, agreements and human rights mechanisms**

Article 12 of the Universal Declaration of Human Rights articulates the right to be free from arbitrary interference with the family

Article 17 of the International Covenant on Civil and Political Rights also declares that ‘no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence’

Special Rapporteur on the Right of Everyone to the Highest Attainable Standard of Physical and Mental Health, *Addendum Mission to Romania*, U.N. Doc. E/CN.4/2005/51/Add.4 (Feb. 21, 2005) (by Paul Hunt) at para 42. ‘Ensuring non-discrimination in the provision of health care settings is an essential component to the right to health. Marginalized populations face particular obstacles when seeking access to reproductive health services. The stigma associated with commercial sex work and injecting drug use, for example, affects how people engaged in these services are often treated by health-care workers’

The sexual and reproductive health rights of women who use drugs are being breached and violated by compliance with the international drug control regime, and national laws and policies. Pregnant women who use drugs are uniquely affected and particularly vulnerable to criminal justice involvement. Laws and policies in a number of countries indicate drug use as a criterion for loss of child custody, and coerced sterilization or abortion. Policies such a drug user registration may also deter women from accessing health services, for fear of notification and loss of child custody. The disclosure of women’s drug use results in notification to child protection authorities and removal of care.<sup>31 32</sup> Social workers in Norway have the right to

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<sup>30</sup> Global Commission on Drug policy (2011). War on Drugs: Report of the Global Commission on Drug Policy [http://www.globalcommissionondrugs.org/wp-content/themes/gcdp\\_v1/pdf/Global\\_Commission\\_Report\\_English.pdf](http://www.globalcommissionondrugs.org/wp-content/themes/gcdp_v1/pdf/Global_Commission_Report_English.pdf)

<sup>31</sup> *ibid*

<sup>32</sup> UNODC, UNAIDS. Women and HIV in Prison Settings. (2008). Available at: [http://www.unodc.org/documents/hiv-aids/Women\\_in\\_prisons.pdf](http://www.unodc.org/documents/hiv-aids/Women_in_prisons.pdf).

incarcerate pregnant women who use drugs during the term of their pregnancy.<sup>33</sup> Sterilization campaigns run by organizations such as Project Prevention in the US and the UK offer monetary incentives to women who use drugs to be sterilized or to use long term contraception. These approaches are coercive and represent clear violations of the reproductive health rights and choices of women.<sup>34</sup>

In the US, a particularly problematic trend has been observed across states where prosecutors have targeted pregnant women accused of drug use. In the US states of Tennessee and Alabama, attempts to create separate rights for fertilized eggs have not only led to the punishment and incarceration of pregnant women but have also created gender based barriers to health and health care such that women fear punishment for drug use and pregnancy outcomes. This trend of discriminatory and invasive surveillance of pregnant women in hospital and prenatal settings is an infringement of a woman's right to non-discrimination in health care services.<sup>35</sup>

The criminalization of pregnant women is not only an attack on women's sexual and reproductive health rights and choices, but both the mother and fetus are being placed at greater risk as further barriers are erected around drug treatment and prenatal care access. The phenomenon of criminalizing mothers and pregnant women for drug dependence and pregnancy outcomes, precipitated by the war on drugs, harsh sentencing and efforts to recriminalize abortion, is wreaking havoc on the lives of marginalized women.<sup>36</sup>

## **Drug Policy and Gender Based Violence**

### **Selected international standards, agreements and human rights mechanisms**

Resolution 55/5 of the Commission on Narcotic Drugs (CND) in 2012 states the following: 'Also recommends that Member States, in designing, implementing and evaluating integrated drug prevention and treatment and HIV prevention programmes, take into account the needs of women who have experienced sexual and other violent trauma related to drug abuse'

General Recommendation 19 on Violence against women, adopted by the Committee on the Elimination of Discrimination against Women (CEDAW) (1992) states 'violence that is directed at a woman because she is a woman or that affects women disproportionately (is discrimination)'. It further states that nations participating in the CEDAW must take all the necessary measures to eliminate violence, including legal sanctions, civil remedies, preventative measures, (such as public information and education campaigns) and protective measures (such as support services for victims)

Declaration on the Elimination of Violence Against Women (DEVAW) (1993) states that 'violence against women constitutes a violation of the rights and fundamental freedoms of women and impairs or nullifies their enjoyment of those rights and freedoms...' All measures need to be taken to 'abolish existing laws, custom regulations and practices that are discriminatory against women, and to establish adequate legal protection for equal rights of

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<sup>33</sup> Kensy, J., Stengel, C., Nougier, M., and R. Birgin. (2012). IDPC Briefing Paper Drug Policy and Women: Addressing the Negative Consequences of Harmful Drug Control, <http://www.grea.ch/sites/default/files/drug-policy-and-women-addressing-the-consequences-of-control.pdf>

<sup>34</sup> Davidson, B., Guterman, L. (2011), what's wrong with paying women to use long-term birth control?(Open Society Foundations), <http://www.opensocietyfoundations.org/voices/whats-wrong-paying-women-use-long-term-birthcontrol>

<sup>35</sup> INWUD, WHRIN, NAPW et al. (2015). Joint submission to the Universal Periodic Review of United States of America 22nd Session

<sup>36</sup> ibid



men and women' (Article 2)

Violence against women who use drugs is worthy of emphasis as it is a particularly devastating consequence of current responses to the 'world drug problem'. Prohibition creates illicit drug markets where women suffer the negative effects disproportionately. Empirical evidence from Myanmar reveals that proximity to drugs and illicit drug markets and trade make women more vulnerable to physical and sexual violence, exploitation and sexual abuse.<sup>37</sup>

Punitive approaches to drugs are closely associated with police abuses, including physical and sexual violence against women who use drugs. Gender-based violence of this kind, makes women reluctant to access harm reduction services even if they are available, due to fears of further harassment or abuse.<sup>38</sup> For the globally estimated one in three women who inject drugs and who engage in sex work, there is a further risk of physical violence from clients and law enforcement officers.<sup>39</sup> Due to the criminalization of both drug use and sex work, women involved in these practices are offered few legal protections from physical and sexual violence.

Gender-based violence is a significant contributor to HIV and HCV risk behaviors, as it undermines women's ability to practice safer sex with intimate partners and clients, as well as their capacity for safer drug use. Gender related violence has been linked to increased and heightened risk of receptive sharing of needles and syringes, and is a factor in affecting women's uptake of harm reduction services where available.<sup>40 41</sup>

The international drug control regime has directly led to the growth of transnational crime networks and militarized counter trafficking measures, heightening the vulnerability of women to physical and sexual violence. Approximately six out of ten Mexican migrant women are victims of rape or other sexualized violence as they come into contact with drug smugglers. At the peak of the militarized response to the war on drugs in Mexico, complaints of human rights violations against the military rose by 900%. Sexual violence against women was one of the most frequently reported abuses.<sup>42</sup>

Women's rights and considerations and respect of gender equality very rarely factor into

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<sup>37</sup> UNWomen. (2014). Policy Brief: A gender perspective on the impact of drug use, the drug trade and drug control regimes, [http://www.unodc.org/documents/ungass2016/Contributions/UN/Gender\\_and\\_Drugs\\_-\\_UN\\_Women\\_Policy\\_Brief.pdf](http://www.unodc.org/documents/ungass2016/Contributions/UN/Gender_and_Drugs_-_UN_Women_Policy_Brief.pdf)

<sup>38</sup> Ataiants J., Merkinaite S., Ocheret D. Policing people who inject drugs: Evidence from Eurasia, International Drug Policy Consortium (IDPC) Briefing Paper (2012). Available at [http://dl.dropbox.com/u/64663568/library/IDPC-briefing-paper\\_Policing-people-who-inject-drugs-evidence-from-Eurasia.pdf](http://dl.dropbox.com/u/64663568/library/IDPC-briefing-paper_Policing-people-who-inject-drugs-evidence-from-Eurasia.pdf)

<sup>39</sup> Iverson, J. et al. (2015) JAIDS Supplement Article (in print)

<sup>40</sup> INPUD, UNODC, UNWomen, WHO (2014). Policy Brief: Women who inject drugs and HIV: Addressing Specific Needs, [http://www.unodc.org/documents/hiv-aids/publications/WOMEN\\_POLICY\\_BRIEF2014.pdf](http://www.unodc.org/documents/hiv-aids/publications/WOMEN_POLICY_BRIEF2014.pdf)

<sup>41</sup> Azim T, Bontell I, Strathdee SA. Women, drugs and HIV. International Journal of Drug Policy. 2015;26 (suppl 1): S16-21

<sup>42</sup> UNWomen. (2014). Policy Brief: A gender perspective on the impact of drug use, the drug trade and drug control regimes, [http://www.unodc.org/documents/ungass2016/Contributions/UN/Gender\\_and\\_Drugs\\_-\\_UN\\_Women\\_Policy\\_Brief.pdf](http://www.unodc.org/documents/ungass2016/Contributions/UN/Gender_and_Drugs_-_UN_Women_Policy_Brief.pdf)

discussions on the ‘world’s drug problem’. It is clear and evident that current prohibitionist and punitive responses are severely undermining gender equality and women’s empowerment. A gender perspective needs to be applied to all efforts and responses, with mechanisms, forums and channels created for gender to be a key issue in upcoming debates on the continuing value and legitimacy of the current approach to the ‘world’s drug problem’.

### **Recommendations:**

Apart from a more humane and balanced approach to international drug control efforts, centred on human rights and emphasizing the public health dimensions of this crisis, an improved approach must also be gender-responsive.

1. The 2019 political declaration and plan of action must feature inclusion of language to uphold and protect the human rights of women who use drugs, matched with clear indicators<sup>43</sup> and reporting requirements.
2. Renovation of the current prohibitionist approach to drug use. At the very minimum, there should be a strong consideration on the possibility of decriminalizing drug use and low-level, non-violent drug offenses
3. Greater emphasis on the public health dimensions and socio-economic consequences of drug policy
  - i) There is need to collect and use sex-disaggregated data and country specific information on how punitive drug policy affects women’s security and experience in accessing justice for drug related crimes and/or social and medical services
  - ii) Greater investments in the scale up of harm reduction, including efforts to ensure relevance to both women and men who use drugs. Increased funding and resource commitment is required to develop a greater range of gender-focused policy and guidance documents, and to ensure that implementation is possible and actioned
4. Where punitive approaches persist, avoid counter trafficking measures that criminalise the most vulnerable in the chain of drug production and drug trafficking. Support and encourage legal systems that take into account the differentiated needs and circumstances of men and women. This should involve reform of laws on prison sentencing (see Bangkok rules)<sup>44</sup>
5. All assessments of transnational organized crime, and all actions planned to address it, should take into account indicators of gender-based discrimination or violence
6. Women who use drugs must be meaningfully engaged in the formulation and implementation of policies impacting on them
7. Greater investments in women’s empowerment in all facets of life, aligned with the SDGs, would be a first line of defence at the family and community levels in mitigating the negative impacts of drugs, drug use and drug policies

Research and experience equip the Women and Harm Reduction International Network (WHRIN) with immense confidence in stating that world drug issues can be addressed in a more balanced and humane way. The international drug conventions must be rights and health centred, evidence-based and gender sensitive. They should also reflect a unified voice across the UN system. The Conventions were constructed before the emergence of HIV and before

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<sup>43</sup> See for example, proposed indicators set out by IDPC in shadow report: 3.4 Chapter 4: Human rights, youth, children, women and communities. Nougier M. (2018). Taking Stock. A Decade of Drug Policy. A Civil Society Shadow Report. International Drug Policy Consortium (IDPC). [http://fileserv.idpc.net/library/Shadow\\_Report\\_FINAL\\_ENGLISH.pdf](http://fileserv.idpc.net/library/Shadow_Report_FINAL_ENGLISH.pdf)

<sup>44</sup> General Assembly Resolution 65/229 of 21 December 2010, annex

the impacts could be adequately understood. By any measure they have failed in their stated goal to guard the health and welfare of mankind. To create an environment where gender equality and attainment of human rights can be a reality for women, including women who use drugs, WHRIN respectfully remind governments of the need to urgently address the unintended consequences of drug prohibition for women who use drugs and who are involved in the drug trade. Without such reform, the human rights of women who use drugs will continue to be violated, debasing the human rights and security of society at large.