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Alternatives to imprisonment for certain offences as Demand Reduction strategies that promote Public Health and Public Safety



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Content

- Imprisonment rates in relation to drug offences
- Rationale for proposing alternatives to incarceration
- Substance use disorders: nature and treatment
- UNODC-WHO Initiative: Handbook on treatment and care of people with drug use disorders in contact with the criminal justice system
- Examples of measures implemented around the world
- Conclusions



High imprisonment rates related to drug offences

- > 10.35 million people are being held in penal institutions throughout the world.
- The world prison population rate is 144 per 100,000 (*).
- Drug-related crimes refers to those:
 - related to drug possession for personal consumption and
 - drug trafficking.
- Offences related to drug possession comprised 83 per cent of total global drug-related offences in 2005.

(*). United Nations estimates of national population levels



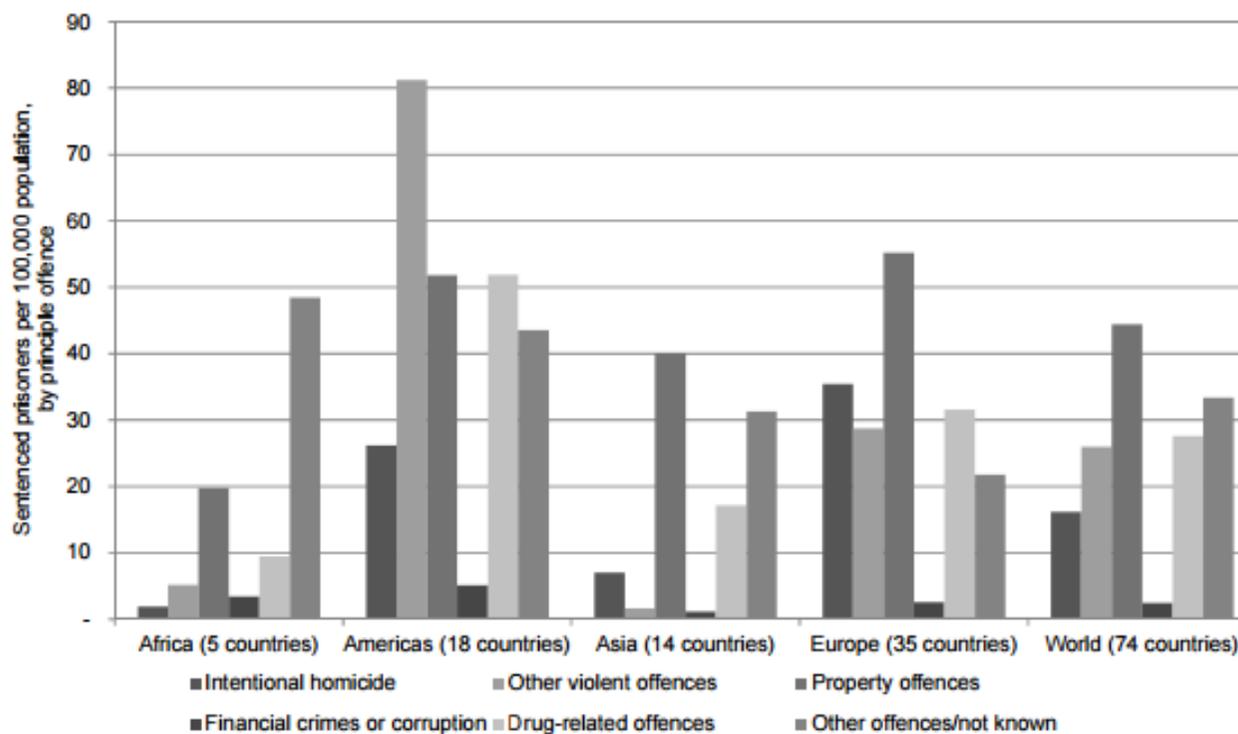
High imprisonment rates

- Prisoners convicted with drug-related offences account for 18% of all prisoners.
- Higher rate of persons in prison for drug-related offences in the Americas than in Europe or Asia.
- 29 countries worldwide indicated that (2016):
 - > 75% of all persons held in prison for drug related offences are convicted for drug trafficking
 - < 25% for drug possession
 - This pattern holds for all regions, except for Asia.



High imprisonment rates

Figure 15
Sentenced prisoners, by principle offence of final sentence, 2014 or latest year





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Notable Trends

People Who Inject Drugs & People in Prisons: Why Prioritize in HIV-Related Activities?

- Injecting drug use involves greater risk of **overdose** and **infection**, including the transmission of blood-borne viruses (HIV and hepatitis C) VS. smoking, swallowing, snorting or inhaling drugs
- People who inject drugs (PWID) are **24 x more likely** to acquire HIV than adults in the general population
- Prisoners are **5 x more likely** to be living with HIV than adults in the general population
- While # of new HIV infections among adolescents and adults have generally stabilized in recent years, the **# of new HIV infections among PWID increased by 33% (reaching over 150,000 new infections/year) between 2011-2015**



Rationale for alternatives to incarceration for drug offenders

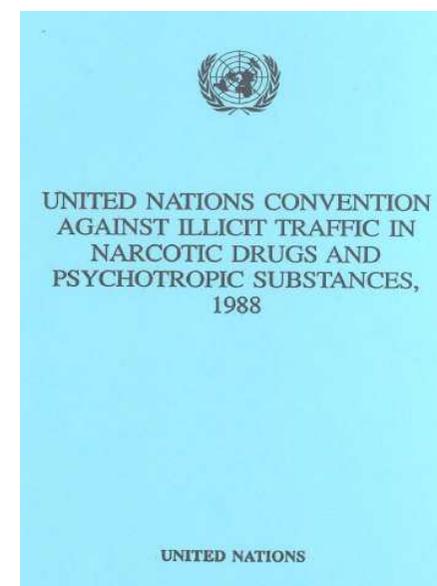
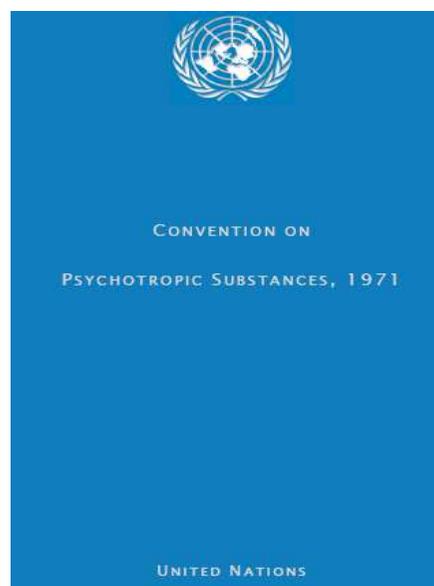
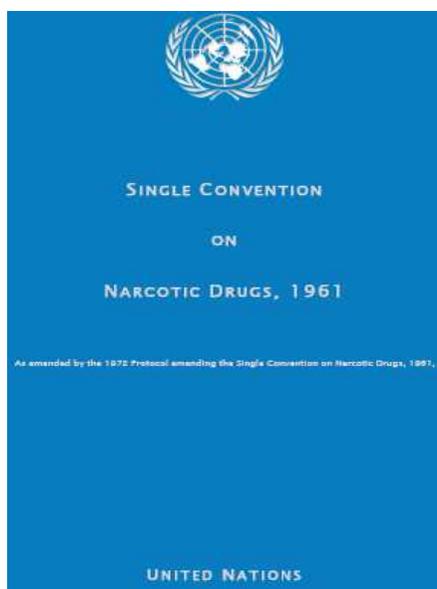
- International drug control Conventions include provisions for Alternatives to conviction and punishment
- Conviction of minor drug offences does not prevent drug use.
- Conviction and punishment of minor drug offenders is often disproportionate.
- Conviction and punishment are expensive and cause harm.
- Treatment and social reintegration reduce both: drug use and drug related crime.



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Mandate from the International Drug Control Conventions



The United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988.

“Notwithstanding the preceding subparagraphs, in appropriate cases of a minor nature, the Parties may provide, as **alternatives to conviction or punishment**, measures such as education, rehabilitation or social reintegration, as well as, when the offender is a drug abuser, treatment and aftercare”.



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Challenges



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**A history of suffering, distress, neglect,
loneliness, hopelessness often before using drugs**

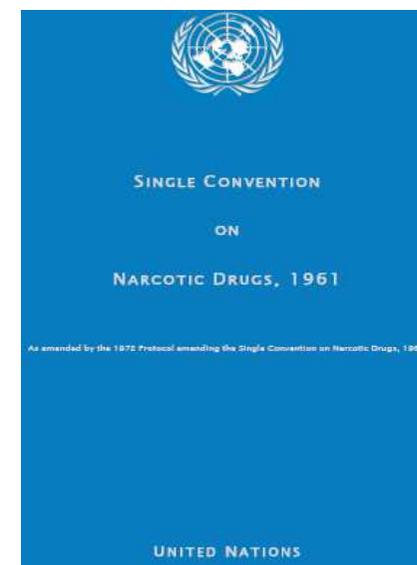


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Drug **addiction** is often the result of an **unwholesome social atmosphere** in which those who are most exposed to the danger of drug abuse live

Resolution III, 1972
(amendments to 1961 Convention)



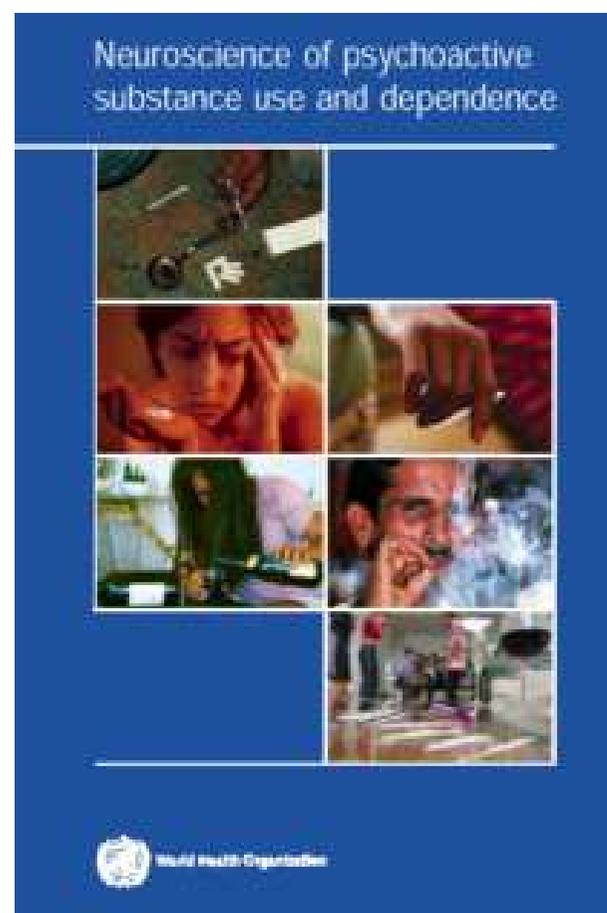


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Substance use disorders are a health issue

"Substance dependence is not a failure of will or of strength of character but a medical disorder that could affect any human being. Dependence is a chronic and relapsing disorder, often co-occurring with other physical and mental conditions" (WHO, 2004)





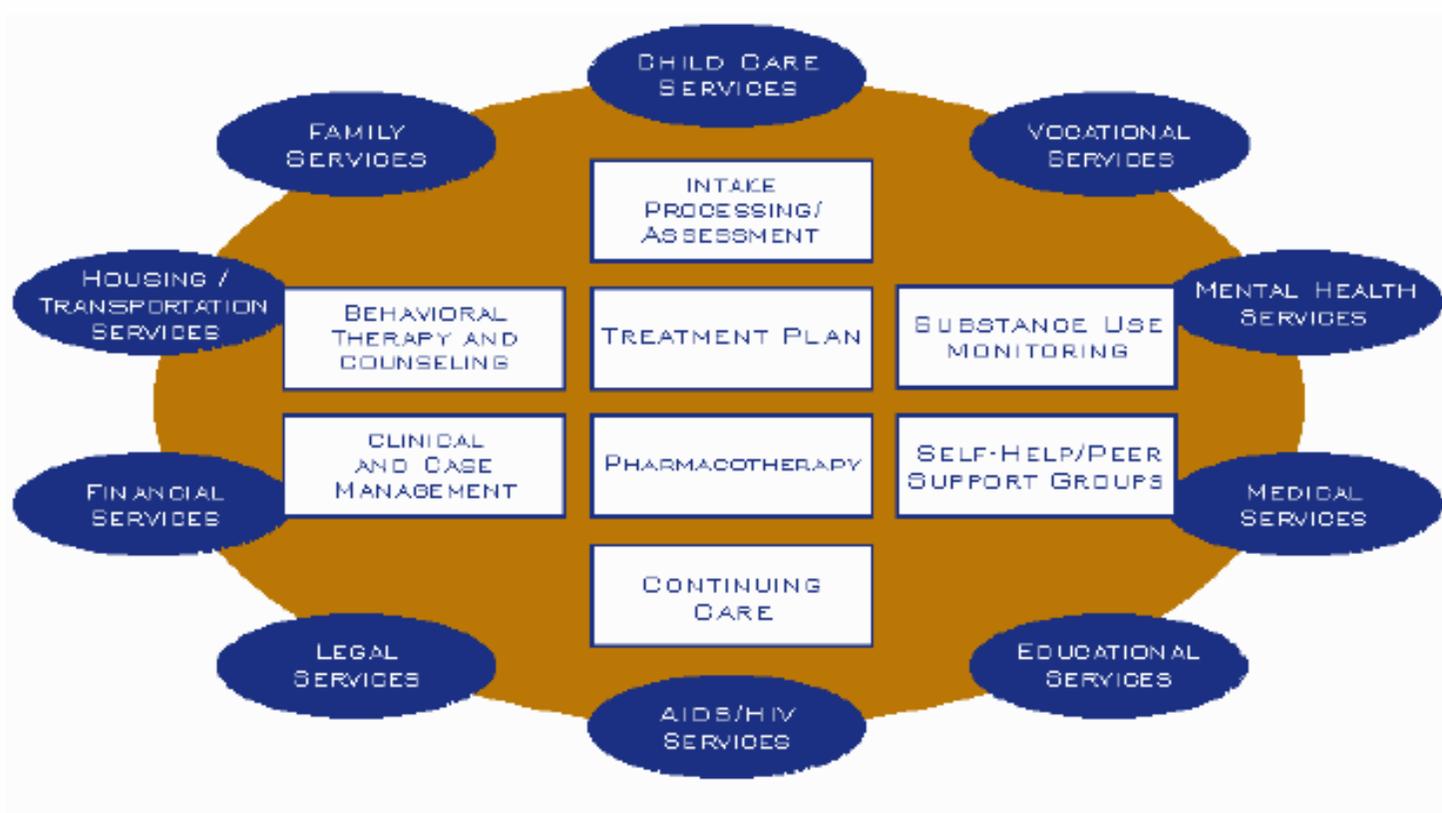
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Drug dependence is a multifactorial health disorder



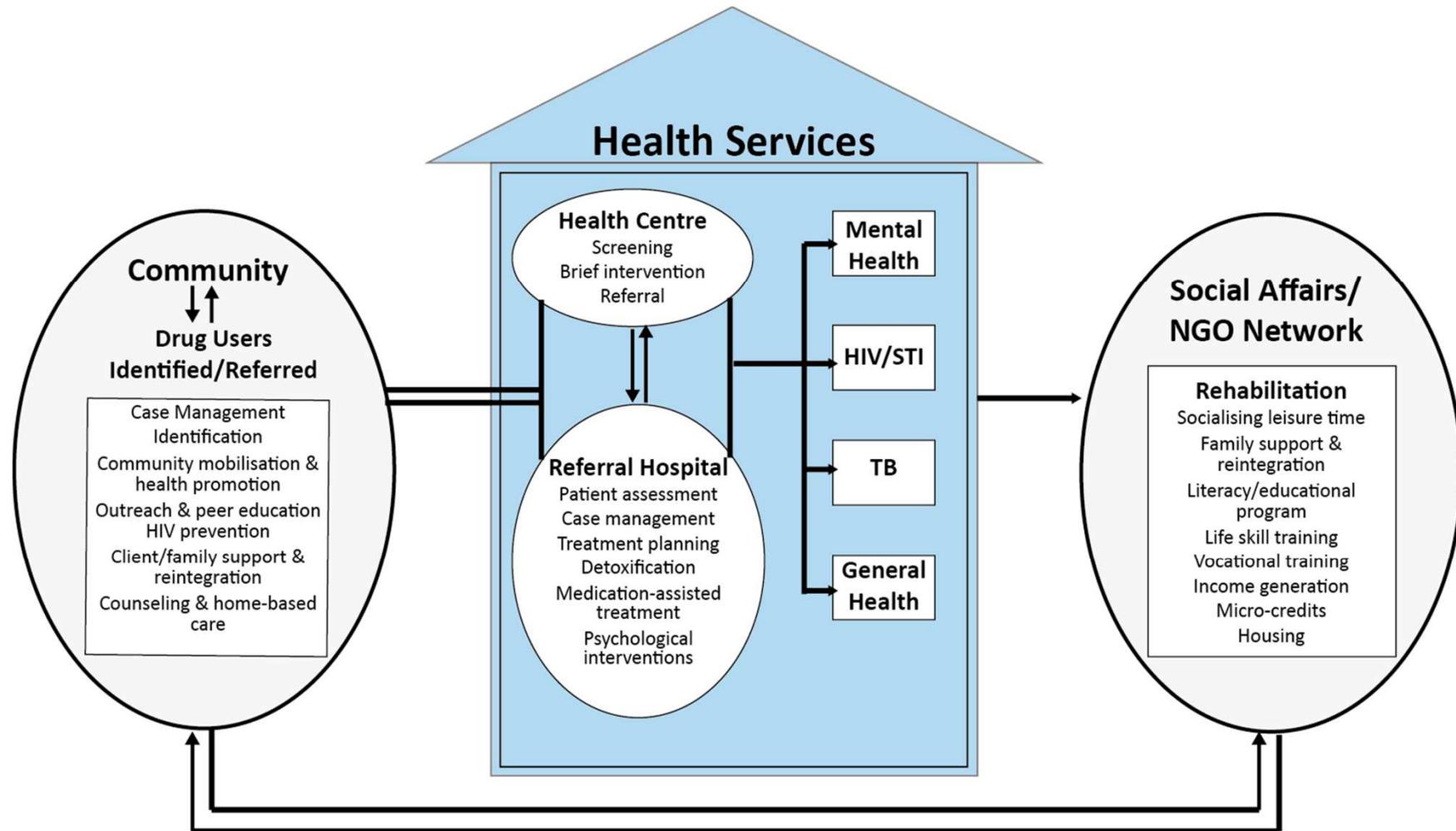
...a multidisciplinary response



NIDA (1999) Principles of Drug Addiction Treatment: A Research Based Guidewww.nida.nih.gov/podat/PODAT4.html



Community-Based Treatment and Care Network of services





What works?

Psychosocial treatment

- Brief intervention
- Motivational therapy
- Cognitive-behavioural therapy
- Contingency management
- Family therapy
- Self help 12 step
- Vocational training

Pharmacological treatment

- Opioid-agonists
- Opioid-antagonists

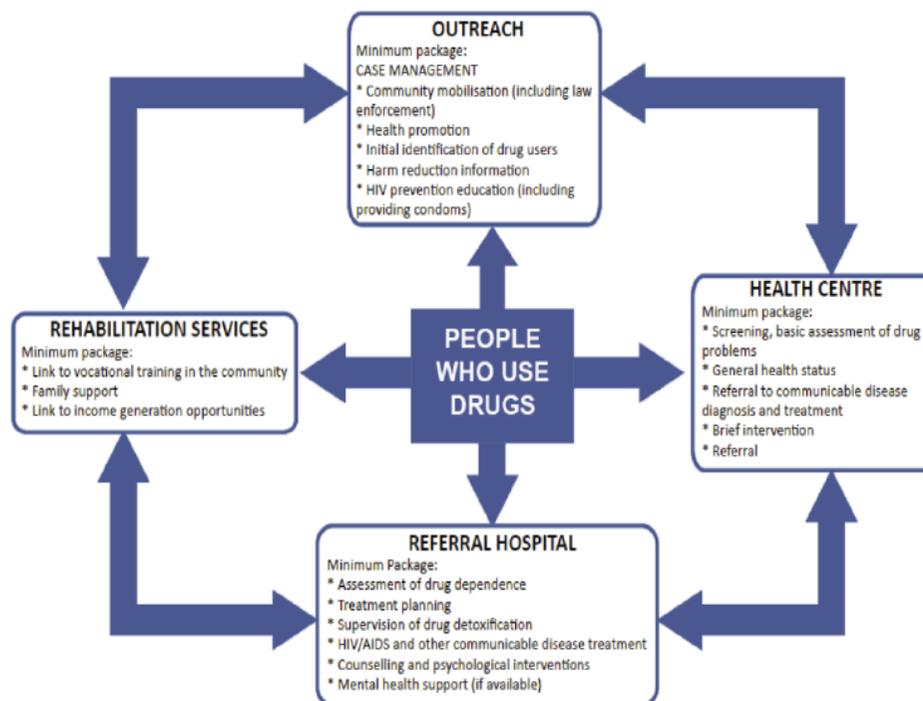
Not one size fits all



Effective treatment systems

Treatment needs to be:

- Available
- Accessible
- Affordable
- Evidence-based
- Diversified





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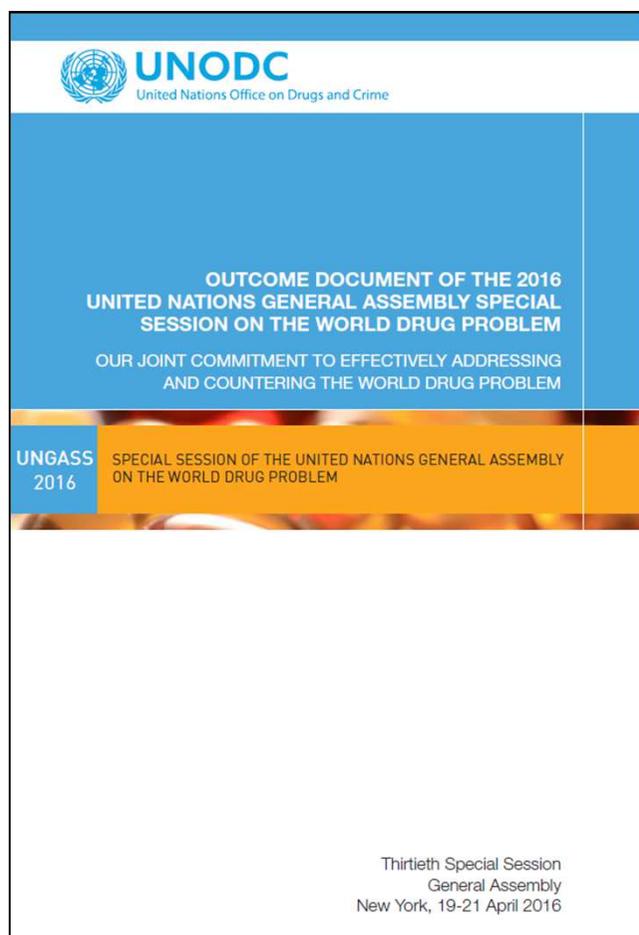
Way forward



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UNGASS 2016 Outcome Document



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**OUTCOME DOCUMENT OF THE 2016
UNITED NATIONS GENERAL ASSEMBLY SPECIAL
SESSION ON THE WORLD DRUG PROBLEM**

OUR JOINT COMMITMENT TO EFFECTIVELY ADDRESSING
AND COUNTERING THE WORLD DRUG PROBLEM

**UNGASS
2016**

SPECIAL SESSION OF THE UNITED NATIONS GENERAL ASSEMBLY
ON THE WORLD DRUG PROBLEM

Thirtieth Special Session
General Assembly
New York, 19-21 April 2016



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UNGASS 2016 outcome document

We recognize drug dependence as a **complex, multifactorial health disorder characterized by chronic and relapsing nature** with social causes and consequences that can be **prevented and treated...**

(General Assembly Resolution 19-04-2016, page 6, i)



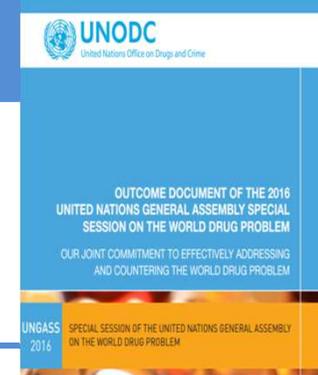


Broad recommendations

- Change attitude of policy makers, health professionals and population at large
- Reduce the underlying causes of social marginalization
- Reduce factors that limit access to treatment
- Increase availability of drug treatment services:
 - Outreach programs
 - Community-based treatment
 - Long-term recovery



Proportionate & Effective Response (UNGASS)



Promote and implement effective criminal justice responses to *drug-related crimes* to bring perpetrators to justice that ensure legal guarantees and due process safeguards pertaining to criminal justice proceedings, including practical measures to *uphold the prohibition of arbitrary arrest and detention and of torture and other cruel, inhuman or degrading treatment or punishment and to eliminate impunity*, in accordance with relevant and applicable international law and taking into account United Nations standards and norms on crime prevention and criminal justice, and ensure *timely access to legal aid* and the *right to a fair trial*;

Enhance *access to treatment of drug use disorders* for those *incarcerated* and promote effective oversight and encourage, as appropriate, self-assessments of confinement facilities, taking into consideration the United Nations standards and norms on crime prevention and criminal justice, including the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), implement, where appropriate, measures aimed at addressing and *eliminating prison overcrowding and violence*, and provide *capacity-building to relevant national authorities*;

Ending AIDS
among PWUD &
prisoners
(SDG 3.3)

Reduced
inequalities
within & among
countries
(SDG 10)

Increased
access to justice
(SDG 16)



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UNODC-WHO Initiative: Handbook on treatment and care of people with drug use disorders in contact with the criminal justice system

- This publication is part of a **series of tools** on responses to drug use disorders.
- Interface between criminal justice system and essential health care and social services
- Elements to promote appropriate intervention for all people under all stages of criminal justice, who also suffers from drug use disorders.



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Coordination between Health and Criminal Justice System



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UNODC-WHO Initiative: Handbook on treatment and care of people with drug use disorders in contact with the criminal justice system

- To develop a model that is suitable to each country, in respect to cultural, health, social care, financial and legislative framework.
- Establishment of alternatives to imprisonment for people with drug use disorders that come in contact with the criminal justice system, with examples of different options and relevant criteria.
- It aims to illustrate to criminal justice officials, options to referring offenders with drug use disorders to appropriate treatment and care services.



Phases of the criminal justice process and possibilities of diversion:

- **Investigation and pre-trial stage:** people with drug use disorders enter in contact with the criminal justice system. Police diversion could be considered.
- **Trial and sentencing stage:** judges may consider several options to use treatment as an alternative to conviction or punishment. **Before sentencing**, judges may have the option to either continue criminal proceedings or conditionally suspend them until the completion of a treatment.
- **Post-sentencing stage:** designing alternative programs for post sentencing stage is necessary to cover those still in need of treatment and care after trial.



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Practical examples of some alternatives (pre-trial)



Practical examples of some alternatives (pre-trial)

- The United States, in the State of Washington, operates a Law Enforcement Assisted Diversion (LEAD), since 2011, with the aim of diverting at the pre-booking arrestees engaged in low level drug offences.
- After an initial screening, case managers perform an assessment and link participants to treatment and community services as well as to legal advocacy, housing and vocational opportunities.



Practical examples of these alternatives (pre-trial)

- In some jurisdictions of the United States, “Pre-booking diversion programs” divert offenders with co-occurring disorders, who are initially screened, to treatment centers, which terminates any further criminal justice process.
- After booking, “Post-booking Diversion Programs” are available to divert such offenders allowing their charges to be waived after completion of the treatment program.





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Practical examples of these alternatives (pre-trial)

- In Italy, if a person with substance use disorders, who is in pre-trial detention, is willing to initiate a rehabilitation program in a public facility for the assistance of drug addicts, or in an authorized private facility, the pre-trial detention is substituted with the house arrests in case precautionary measures of exceptional relevance do not subsist.



Practical examples of these alternatives (pre-trial)

- In Guyana, Legislative reform in 1999 allowed courts to exercise discretion in imposing fines and community service for possession of small quantities of marijuana for personal use, instead of sentences of up to 10 years imprisonment, which had led to high rates of imprisonment (especially of young people and women).



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Practical examples of these alternatives (pre-trial)

- Australia (Tasmania): possession of small quantities of cannabis: police may refer suspects (with their consent) to drug education and, if necessary, treatment programs. Offenders must admit the offence, and may be called upon to contribute financially to their treatment. Non-compliance results in prosecution.



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UNODC Response

Since 2013

• Across **23 High Priority Countries:**

- Built partnerships between **Law Enforcement** , **Civil Society** and **Community-Based Organizations** of **people who use drugs (PWUD)** to support **HIV harm reduction services**
- Plays critical convening role to bring **> 2100 police officers**, **600 CSO** and **CBO representatives**, and **300 health, education and social sector staff**
- Facilitated partnerships to jointly discuss, and devise plans to facilitate **(i) access to HIV harm reduction services for PWID**, and **(ii) how to introduce referrals as alternatives to imprisonment for drug use**
- Promoted **access to justice** for **PWUD** through legal literacy and legal aid





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Practical Examples

Police referral schemes in Russia (2009 – 2011) and Ukraine (2016) piloted & successfully functioning.

Introductory phase of police referral schemes in Kazakhstan, Tajikistan, Belarus, & Moldova

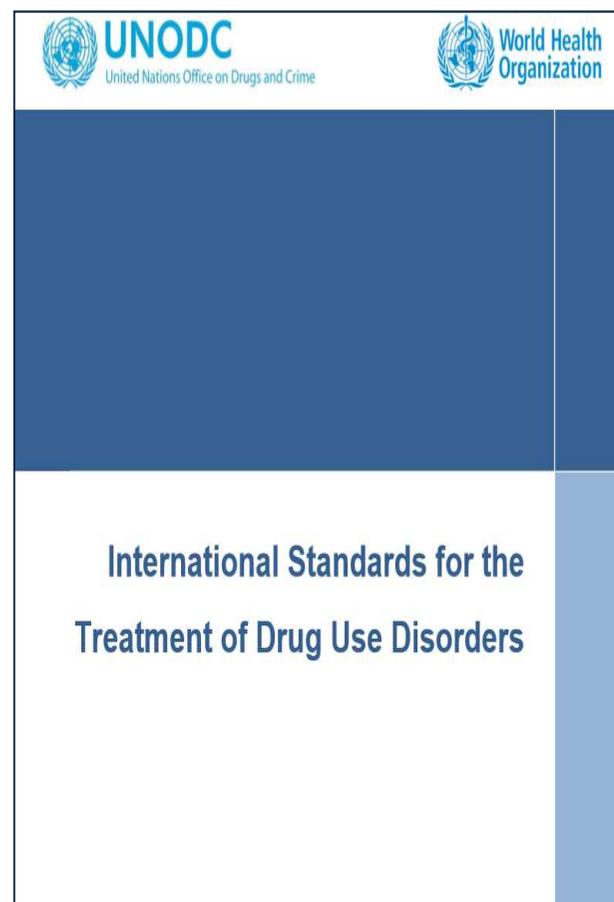


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International Standards for the Treatment of Drug Use Disorders

- Support Member States in the development and expansion of treatment services that offer effective and ethical treatment.
- The goal is to reverse the negative impact that persisting drug use disorders have on the individual and to help individuals achieve a recovery from the disorder as fully as possible and help them to entirely participate in society as a member of their community.





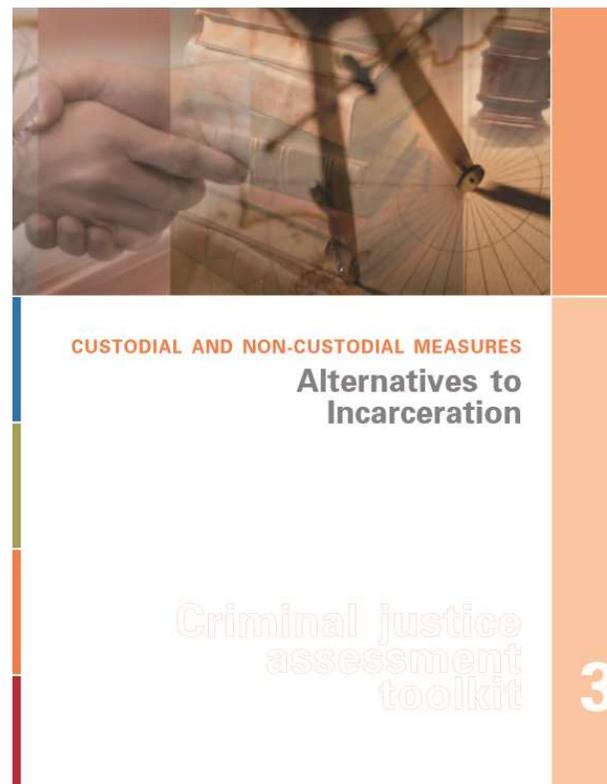
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Custodial and non-custodial measures: alternatives to incarceration

- Guides the assessment of systems of alternatives to imprisonment, including their legal basis, management, effectiveness, and opportunities for improvement.

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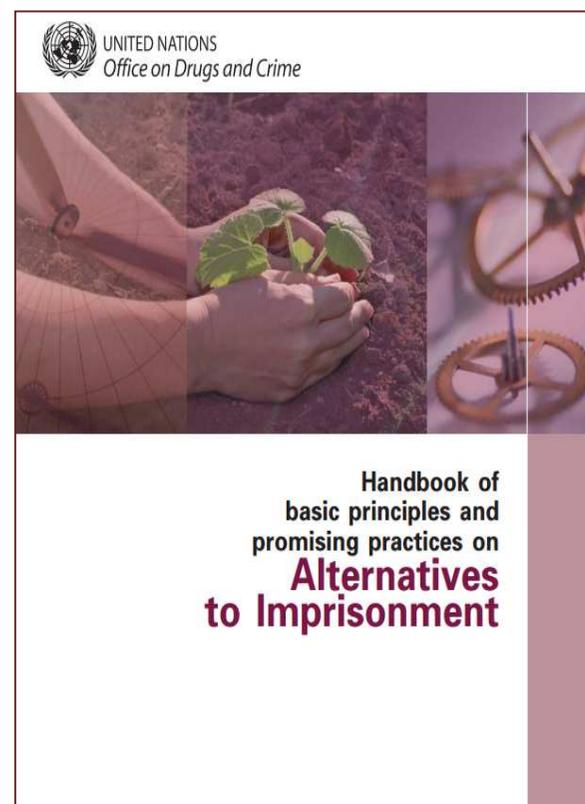


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Handbook of basic principles and promising practices on Alternatives to Imprisonment.

- Offers easily accessible information about alternatives to imprisonment at every stage of the criminal justice process.
- Important considerations for the implementation of alternatives, including what various actors must do to ensure its success; and examples of systems that have reduced imprisonment.



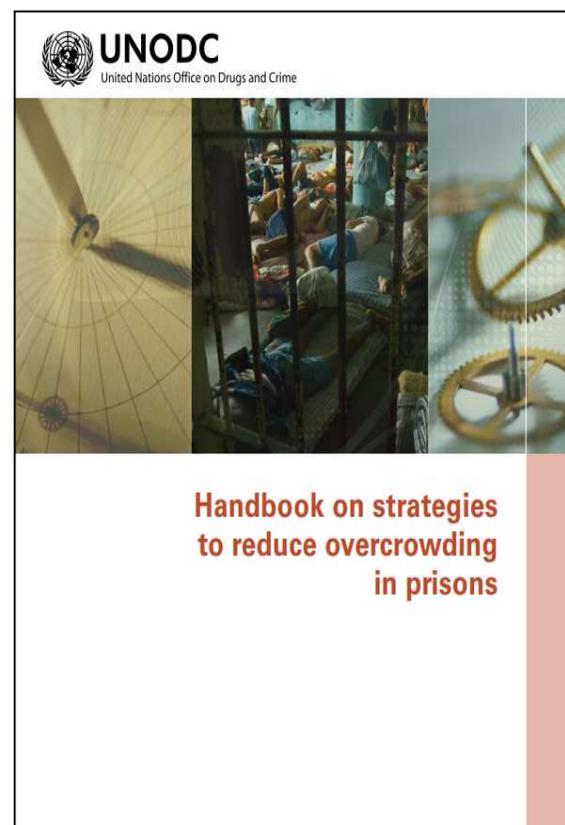


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Handbook on strategies to reduce overcrowding in prisons

- Provides an overview of prison overcrowding worldwide and its impact, as well as a possible overview of the possible causes.
- Developing strategies, policies and programmes to reduce overcrowding in prison facilities.





United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) - 1990.

- Basic principles to promote the use of non-custodial measures, as well as minimum safeguards for persons subject to alternatives to imprisonment.
- Shall be applied to all persons subject to prosecution, trial or the execution of a sentence, at all stages of the administration of criminal justice.

III. Alternatives to imprisonment and restorative justice

12. United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules)*

I. GENERAL PRINCIPLES

1. *Fundamental aims*

1.1 The present Standard Minimum Rules provide a set of basic principles to promote the use of non-custodial measures, as well as minimum safeguards for persons subject to alternatives to imprisonment.

1.2 The Rules are intended to promote greater community involvement in the management of criminal justice, specifically in the treatment of offenders, as well as to promote among offenders a sense of responsibility towards society.

1.3 The Rules shall be implemented taking into account the political, economic, social and cultural conditions of each country and the aims and objectives of its criminal justice system.

1.4 When implementing the Rules, Member States shall endeavour to ensure a proper balance between the rights of individual offenders, the rights of victims, and the concern of society for public safety and crime prevention.

1.5 Member States shall develop non-custodial measures within their legal systems to provide other options, thus reducing the use of imprisonment, and to rationalize criminal justice policies, taking into account the observance of human rights, the requirements of social justice and the rehabilitation needs of the offender.

2. *The scope of non-custodial measures*

2.1 The relevant provisions of the present Rules shall be applied to all persons subject to prosecution, trial or the execution of a sentence, at all stages of

*General Assembly resolution 45/110, annex.



Summary

- Punishment has limited impact upon reducing illicit drug use, relapse and recidivism, therefore a variety of alternatives to imprisonment have been developed to deal with offenders affected by drug use.
- Drug dependence is a complex multifactorial health disorder characterized by chronic and relapsing nature that can be treated.
- The goal is to implement alternatives to imprisonment in order to provide drug treatment thus:
 - reducing relapse
 - decreasing recidivism
 - reducing crime rates
- Technical tools are available to guide Member States in their efforts to develop policies, strategies and programs aimed at offering alternatives to incarceration to people affected by Drug Use Disorders who come in contact with the criminal justice system.



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Thank you!

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