

9 September 2019

English only

**Twenty-ninth Meeting of Heads of National
Drug Law Enforcement Agencies, Africa**

Balaclava, Republic of Mauritius

16–20 September 2019

Item 5 (d) of the provisional agenda*

**Consideration of topics by working groups: Specific
needs of children and youth in contact with the justice
for drug-related offences****Working group on specific needs of children and youth in
contact with the justice for drug-related offences****Background note by the Secretariat**

The working group will examine the needs of children and youth in contact with the justice system and discuss measures to prevent both drug use and involvement in criminal activities, alternatives to conviction or punishment and other measures to mitigate the harms experienced by children and young people, including those who use drugs, as well as the role of law enforcement and the health sector in this context.

I. Introduction and framework

Under the United Nations Convention on the Rights of the Child (CRC), all individuals under 18 years are “children” in terms of legal status. “Child” means any person aged under 18 years, including child victims, witnesses, and perpetrators of crime and violence. From a child and adolescent development perspective however, many interventions and programmes, including health-based programmes, do differentiate between young children and adolescents. It is estimated that globally up to 1 billion children are subject to violence each year. Violence against children has strong, long-lasting effects on brain function, mental health, health risk behaviours, noncommunicable diseases, infectious diseases such as HIV and sexually transmitted diseases, and social functioning. The direct and indirect economic costs of these effects are substantial, and violence against children undermines the potential of both individuals and societies.

The goal of the justice for children approach is to ensure that children, defined by the Convention on the Rights of the Child as all persons under the age of eighteen, are better served and protected by justice systems, including the security and social welfare sectors. It specifically aims to ensure the full application of international norms and standards for all children who come into contact with justice systems as victims, witnesses and alleged offenders, or for other reasons where judicial, state

* UNODC/HONLAF/29/1.

administrative or non-state adjudicatory intervention is needed, for example regarding care, custody or protection.

In many countries in Africa, more than 50 per cent of the population is under 18 years of age and further large proportions of the population are under 25. Given such significant child and youth populations, it is important to invest in preventing drug use, and responding appropriately to the exploitation of children by drug traffickers and to treat children in accordance with the Convention on the Rights of the Child and other relevant United Nations standards and norms. In particular, children who use drugs should not be criminalized and children who are exploited by criminal groups should be considered primarily as victims.

The primary goals of juvenile justice are to reintegrate child offenders into society and to prevent them from entering, or to divert them from, the justice system. When the detention of children is undertaken, it should be a measure of last resort and for the shortest duration possible, and the children should be held in specialized institutions separate from adults. Children in detention should have access to prevention and treatment services for any drug use disorders or other mental health conditions, as relevant.

In the context of children and youth in contact with the justice system for drug-related offences who also use drugs, addressing the health and social consequences for children of such contact is of great importance. In that connection, diverting children from entering the justice system is key, and focusing on the treatment of drug dependence, facilitating their reintegration into and contribution to the larger community and investing in prevention remain at the core of the response.

Children are vulnerable to become victims of crime and to be involved in the commission of crimes themselves. Frequently, they are exploited by gangs and organized criminal groups in the illicit drug market.

In chapter 4 of the UNGASS outcome document¹ on “drug and human rights, youth, women, children and other vulnerable members of society”, Member States committed to promote the effective coordination among the justice, education and law enforcement sectors and social services to ensure that the specific needs of underage drug offenders and children are appropriately considered, including in criminal justice proceedings. This also entails providing those in need with drug treatment and related support services. This coordination between the services is often times missing.

They also committed to implementing age-appropriate practical measures, tailored to the specific needs of children and youth in economic, cultural and educational sectors, including measures to provide them with opportunities for healthy and self-sustained lives.

This commitment relates to opportunities to get an education, a job, participate in sports activities etc., and is meant to prevent their abuse of narcotic drugs and psychotropic substances, and address their involvement, use and exploitation in drug production and trafficking and the related violence and crime.

The second part of the rights chapter focuses on proportionate and effective policies and responses, as well as legal guarantees and safeguards pertaining to criminal justice proceedings and the justice sector. It encourages the development, adoption and implementation of alternative or additional measures with regard to conviction or punishment. Those alternatives are to be developed in accordance with the three international drug control conventions² and taking into account relevant United Nations standards and rules, such as the United Nations Standard Minimum Rules for Noncustodial Measures (the Tokyo Rules). In addition, Member States are encouraged to use the Commission on Narcotic Drugs as a forum of exchange on information of

¹ <https://www.unodc.org/documents/postungass2016/outcome/V1603301-E.pdf>. Negotiated by the Commission on Narcotic Drugs and adopted by the General Assembly of the United Nations.

² <https://www.unodc.org/documents/postungass2016/outcome/V1603301-E.pdf>. Negotiated by the Commission on Narcotic Drugs and adopted by the General Assembly of the United Nations.

national criminal justice policies, and to include in this exchange information on domestic practices on proportional sentencing, related to the implementation of the three international drug control conventions, including article 3 of the 1988 Convention – which addresses the offences and sanctions under the 1988 Convention.

Member States further committed to promote proportionate national sentencing policies, practices and guidelines for drug-related offences whereby the severity of penalties is proportionate to the gravity of offences and whereby both mitigating and aggravating factors are taken into account, including the circumstances enumerated in article 3 of the 1988 Convention.

When children are concerned, Member States shall “seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law” (Article 40.3 of the CRC). The specialized system established should aim at administering measures in proportion not only to the gravity of the offence, but also the circumstances and needs of the child (Rule 17.1 (a) of the Beijing Rules).

Pursuant to the Convention on the Rights of the Child, States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures to protect children from illicit drug use and prevent the use of children in the illicit production and trafficking of such substances.

Research demonstrates that early non-medical drug use contributes to higher likelihood of future drug use disorder incidents in those children. Of particular concern are children living with an adult who illicitly uses drugs or has a drug use disorder, children living and working on the street, orphans, children in conflict areas, and children in contact with the justice system. It is also very difficult to collect reliable data on children in those situations, and to provide tailored drug prevention and drug treatment services.

Within the justice system, children are vulnerable to become victims of crime and to be involved in the commission of crimes themselves, while still in a formative age. Frequently, they are exploited by gangs and organized criminal groups in the illicit drug market. In many countries, the majority of children in detention either have substance abuse problems or have committed drug-related offences. Overreliance on depriving children of liberty is still common in many countries, despite the fact that the Convention on the Rights of the Child states that “arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time”.

The Convention on the Rights of the Child foresees that for children in conflict with the law “a variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence”. However, many countries still lack adequate drug prevention and child protection laws, policies and measures. Specialized institutions and professionals are often missing, and inter-institutional communication and cooperation are common challenges. In many countries, gaps persist in the engagement of the family, community, media and civil society, as well as with regard to available data and statistics on the extent of the problem and the performance of the child protection, health, education and the justice systems in dealing with children with drug use problems.

For adults, including young adults, the United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules) 21 foresee that, in appropriate cases, various schemes such as case-work, group therapy, residential programmes and specialized treatment, conducted by professionals with suitable training and practical experience, should be among the range of non-custodial measures available to effectively meet the needs of offenders. These Rules also foresee that the failure of a non-custodial measure should not automatically lead to the imposition of a custodial

measure. The increased application of non-custodial measures to persons affected by drug use disorders who have committed offences, requires that public health and justice authorities actively and routinely collaborate with a view to promoting the rehabilitation and reintegration into society of those persons.

When the criminal justice system comes into play, offenders with drug use disorders retain their right to access the services described above. These services can also not be denied to those imprisoned for more serious drug offences or other types of offences, who should enjoy the same standards of health care that are available in the community, and should receive continuity of treatment and care, including for HIV and drug dependence.

In Kenya, the National Authority for the Campaign against Alcohol and Drug Abuse (NACADA) recently released data on the status of drugs and substance abuse among primary school pupils. In general, a larger proportion of pupils indicated that the drugs/substances were not readily available in or around their school environment. Relative to urban pupils, a larger proportion of pupils in rural primary schools perceived that some drugs and substances of abuse such as alcohol, bhang, tobacco and cocaine were readily available. Prescription drugs were perceived as the most available with 16% in rural and almost 20% in urban areas³. With 10% of reporting on having ever used drugs, prescription drugs had the highest prevalence for reported current use by primary school pupils⁴.

Therefore, prevention strategies based on scientific evidence working with families, schools, and communities can ensure that children and youth, especially the most marginalized and poor, grow and stay healthy and safe into adulthood and old age. For every dollar spent on prevention, at least ten can be saved in future health, social and crime costs. Effective prevention of drug use addresses the vulnerabilities that put children and young people at risk of starting to use drugs or other risky behaviours. Families can be one of the strongest protective factors in the lives of children and early adolescence. Responsive parenting and monitoring are among the strongest protective factors, even in poor and marginalized communities, and family skills training programmes have been shown to be effective and cost-effective in preventing drug use, substance abuse, and other risky behaviours, including violence.

II. Technical cooperation to prevent youth drug abuse and their involvement in drug-related crime.

In 2018, the UNODC/WHO International Standards on Drug Use Prevention have been revised and this second updated edition of the Standards and has been published jointly with the World Health Organisation. As in the case of the first edition, the Standards summarize the currently available scientific evidence, describing interventions and policies that have been found to result in positive prevention outcomes and their characteristics. Concurrently, the document identifies the major components and features of an effective national drug prevention system. It is our hope that the International Standards will assist policy makers worldwide to develop programmes, policies and systems that are a truly effective investment in the future of children, youth, families and communities. This work builds on and recognizes the work of many other organizations (e.g. EMCDDA, CCSA, CICAD, Mentor, NIDA, WHO) which have previously developed standards and guidelines on various aspects of drug prevention.

The International Prevention Standards have been recognized by Member States as a useful tool to promote evidence-based prevention.

³ <https://www.unodc.org/documents/postungass2016/outcome/V1603301-E.pdf>. Negotiated by the Commission on Narcotic Drugs and adopted by the General Assembly of the United Nations.

⁴ <https://www.unodc.org/documents/postungass2016/outcome/V1603301-E.pdf>. Negotiated by the Commission on Narcotic Drugs and adopted by the General Assembly of the United Nations.

For a long time, schools have been an important setting for UNODC to reach many children and adolescents with prevention activities. Evidence-based drug education based on life skills that offer personal, social, resistance and communication skills, normative education about how many of the peers in the adolescent age group actually have tried alcohol, tobacco and illicit drugs (which typically is a lot less than adolescents think it is!), as well as information about the short-term effects of drugs through a series of session offered by trained teachers who use interactive techniques to engage the young people are very effective. It is important that schools have a written policy on alcohol, tobacco and substance use that covers all students and staff working in schools.

In the region, Mauritius has implemented a school-based drug use prevention programme for 12-14-year olds in 24 schools on the island with the support of UNODC and the private sector in 2018. The Prime Minister and Minister of Finance has announced in the 2019-2020 Budget the national scale-up of the programme in all 145 secondary schools in the country. Two teachers per school, 290 in total, are planned be trained to implement the programme to start in January 2020.

Prevention of drug use, HIV/AIDS and crime amongst youth through family skills training programmes in low- and middle-income countries. "Strengthening Families Programme" is directed at parents with children between the ages of 10 and 14. The programme consists of a curriculum of skills development for parents, adolescents and the family, divided into seven sessions which employ the use of videos, analysis workshops, educational games and family activities.

This programme is being implemented in accordance with the UNODC International Standards on Drug Use Prevention in Panama, Honduras, Guatemala, Nicaragua and the Dominican Republic with satisfactory results.

The Strong Families (SF) Programme is a family skills programme for challenged settings, that provides an evidence-informed prevention response building family skill that benefits the health and safe development of children from both genders. It can be easily adapted to serve families in challenged settings in different contexts. SF helps caregivers and children, living in such settings, to deal with difficulties and daily stresses and challenges. A main component of this program is to strengthen the family structure and functions to help as such families prevent drug use, violence and other negative social consequences in their children. It is a universal within this selective subgroup of families and is best suited for families with children aged between 8 and 15 years. The Strong Families Programme was developed by UNODC and currently implemented in Afghanistan, Serbia, Uzbekistan, Panama, Cote d'Ivoire, Senegal, and Zanzibar.

In 2016, 10 global agencies including the UNODC, collaborated to produce INSPIRE: Seven strategies for ending violence against children, the first-ever global technical package for preventing and responding to violence against children. The INSPIRE package is anchored by the recognition in the Convention on the Rights of the Child (CRC) that all children have the right to be free from all forms of violence, and sets out evidence that clearly shows that preventing violence against children is critical to ensuring sound neurological development, enhancing early childhood development, interrupting the intergenerational cycle of violence, reducing crime, and laying the foundations for lifelong health, well-being and productivity. The Handbook includes a Handbook and an indicators guidance document. In July 2019 the first INSPIRE Jamboree took place in Kampala, Uganda which allowed almost 150 participants, mostly from Africa to exchange experience and knowledge on implementing the INSPIRE package⁵.

⁵ <https://www.unodc.org/documents/postungass2016/outcome/V1603301-E.pdf>. Negotiated by the Commission on Narcotic Drugs and adopted by the General Assembly of the United Nations.

Reference:

See article 40.3 of the Convention on the Rights of the Child.

See rule 17.1 (a) of the Beijing Rules.

Article 33 of the Convention on the Rights of the Child.

Convention on the Rights of the Child, article 37. See also Rules 13 and 19 of the Beijing Rules.

See inter alia article 40 of the Convention on the Rights of the Child.

[Convention on the Rights of the Child](#)

[UN Standard Minimum Rules for the Administration of Juvenile Justice \(Beijing Rules\)](#)

[UN Guidelines for the Prevention of Juvenile Delinquency \(Riyadh Guidelines\)](#)

[UN Rules for the Protection of Juveniles Deprived of their Liberty \(Havana Rules\)](#)

[Guidelines for Action on Children in the Criminal Justice System \(Vienna Guidelines\)](#)

[Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime](#)

National Authority for the Campaign against Alcohol and Drug Abuse (NACADA) and Kenya Institute for Public Policy Research and Analysis (KIPPRA) (2019): Status of Drugs and Substance Abuse among Primary School Pupils in Kenya.

[UN Standard Minimum Rules for the Treatment of Prisoners](#)

[UN Standard Minimum Rules for Non-custodial Measures \(Tokyo Rules\)](#)

[UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders \(Bangkok Rules\)](#)

[Child Justice Reform \(Report of the Secretary-General on Support of National Efforts for Child Justice Reform, in particular through Technical Assistance and Improved United Nations System-wide Coordination \(E/CN.15/2009/12\)\)](#)

[Guidelines on Child Victims and Witnesses \(Report of the Secretary-General on Implementation of the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime \(E/CN.15/2008/11\)\)](#)

[UNICEF and UNODC partner to promote justice for children](#)
