(c) Cross-cutting issues: drugs and human rights, youth, women, children and communities

   (i) Addressing drugs-related issues in full conformity with the purposes and the principles of the Charter of the United Nations, international law and the Universal Declaration of Human Rights and other relevant international law, including the three drug control conventions

The right to health and safety: importance of prevention, treatment and care

Protecting and fulfilling the right to health and safety of individuals and communities is a key purpose of States’ obligations under the drug control conventions and international human rights law. The Single Convention on Narcotic Drugs of 1961 as amended by the 1972 Protocol1 and the Convention on Psychotropic Substances of 19712 aim at ensuring adequate availability of narcotic drugs and psychotropic substances for medical and scientific purposes and contain guidance on the prevention of drug use and the treatment and social reintegration of drug users. In order to meet those international obligations and related political commitments to address the world drug problem, there is a need to recognize that drug use and its consequences such as HIV, hepatitis C or overdoses, are a public health issue that can be prevented and should be dealt with by the appropriate institutions, and that efforts should be made towards the prevention of drug use and drug-related crime.

Most people who use drugs or suffer from drug dependence start during adolescence. As described in the UNODC International Standards on Drug Use Prevention, effective prevention of drug use that is based on science supports the healthy and safe development of children and youth in a variety of settings, particularly families and schools, but also communities, workplace and media. This is evidenced by interventions focusing on family skills. Such programmes support caregivers in being better parents and strengthen positive age-specific and age-appropriate family functioning and interactions in general. This science-based strategy, focusing on one of the most powerful protective forces in the lives of children and youth - the family -, has proven effective not only in reducing drug use among adolescents but also in protecting children from a wide spectrum of risky behaviours.

2 Ibid., vol. 1019, No. 14956.
including violence patterns and involvement in crime\(^3\) and carries an impact that spans over a long duration.\(^4\)

UNODC has been supporting family skills programmes in communities with different levels of vulnerabilities in different regions in Central America, South America, Central and West Asia, Eastern Africa and South East Europe. Experience shows that strong coordination between relevant institutions and collaboration with other stakeholders is of key importance and that the best results can be achieved through integrated efforts between governmental institutions and non-governmental organizations. For example, in Honduras, in collaboration with UNODC, the National Prevention Programme of the Ministry of the Presidency together with the National Antidrug Commission (CNCN) and the National Prevention, Rehabilitation and Reinsertion Programme (PNPRR) are scaling up the family skills programme (Familias Fuertes) that has shown positive impact to meet the violence prevention governmental strategy. In Serbia, the Ministry of Education and Ministry of Health together with the Municipality of New Belgrade are the governmental counterparts implementing the family skills programme.

A continuum of prevention and care in the health and social services is needed to reduce the adverse consequences of drug use. However, many people who use drugs face obstacles, including legal ones, that impede access to the services that they need. Stigma and violence constitute major barriers, especially for people who inject drugs to access essential HIV prevention services such as needle and syringe programmes. UNODC assists requesting countries in reviewing their legal and policy framework to ensure that drug users have access to evidence-based and human rights based health services. The Office also promotes and provides technical assistance to increase the access of people who use drugs to evidence-based services as described in the WHO/UNODC/UNAIDS comprehensive package of HIV prevention, treatment and care for people who inject drugs\(^5\) in the community and in prisons and other closed settings.\(^6\) UNODC advocates and supports countries in reducing stigma by law enforcement officers and within the health sector. Gender-related violence makes women reluctant to access relevant services, often because they fear being harassed or abused simply for trying to enter facilities. Examples of UNODC assistance include a survey on stigma against people who inject drugs in the health sector in Argentina, workshops for police and civil society to reduce stigma and violence against people who inject drugs and

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\(^3\) Maalouf W, Campello G. The influence of family skills programmes on violence indicators: Experience from a multi-site project of the United Nations Office on Drugs and Crime in low and middle income countries. Aggression and Violent Behavior 19 (2014); 616-624.


support to civil society organisations in Central Asia and Eastern Europe to address violence against women who inject drugs in law enforcement settings.

**Human rights in the administration of justice**

Besides the crucial adoption of preventive measures and the provision of health-care services, treatment and care for drug dependence and other related health conditions, drug control also implies the involvement of law enforcement and of the criminal justice system.

In line with the international drug control conventions, countries have established as criminal offences a number of drug-related activities, in particular drug trafficking, and have provided for corresponding sanctions and various law enforcement powers and international cooperation measures. The drug control conventions, in particular the 1988 Convention, have a clear focus on serious drug offences that warrant international cooperation. However in many countries, a large portion of the national prison population comprises people in pre-trial detention or imprisoned for minor drug-related offences, many of them being dependent on drugs themselves or used by organized criminal groups. This situation is in many jurisdictions a factor contributing to prison overcrowding, which negatively affects the security and safety of inmates and prison staff, the health of prisoners and their families, as well as prospects of prisoners to benefit from drug dependence treatment and other assistance to facilitate their rehabilitation and social reintegration upon release. In this regard, it is worth noting that many countries are not giving full effect to the Conventions’ provisions on alternatives to conviction or punishment, which include treatment, education, aftercare, rehabilitation or social reintegration.

The issue of drug dependence also affects an increasing number of offenders who are in contact with the criminal justice system for other offences, such as property crimes to support their drug habit. They all need drug dependence therapy or HIV prevention or treatment and face a high likelihood of relapse to drug use, drug overdose, HIV or hepatitis C and recidivism where this need is not met, especially if there are no linkages to community services and continuum of care.

In addition to being the guardian of the drug control and crime conventions, UNODC is also mandated to support the development and implementation of a set of Standards and Norms on Crime Prevention and Criminal Justice, aiming at ensuring an effective, fair and human-rights compliant administration of justice. Those standards include the Standard Minimum Rules for the Treatment of Prisoners (currently undergoing a revision), the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) and the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems. On that basis, UNODC supports countries in

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7 UNODC Handbook on Alternatives to Imprisonment, p. 63.
8 See 1988 Convention, article 3(4).
protecting and promoting the rights of vulnerable groups, including people who have drug use problems through technical assistance.\textsuperscript{12}

The Office promotes meaningful access to legal aid for drug users and other groups with special needs, which should be taken into account in the design of nationwide legal aid schemes.\textsuperscript{13} For example, UNODC supported a non-governmental organization in Morocco to provide access to legal aid services to clients from drug drop-in centres.

In order to enhance the response by law enforcement and increase cooperation with the health sector, UNODC provides technical assistance to law enforcement agencies to foster attitudes and practices supportive of public health. The Office promotes community policing and other promising practices to facilitate access of vulnerable people who inject drugs to comprehensive HIV services to prevent HIV, hepatitis C and fatal overdoses. The Office promotes the use of alternatives to formal judicial proceedings, detention and punishment for drug offenders in cases of a minor nature, such as possession, purchase or cultivation for personal use,\textsuperscript{14} as well as in appropriate cases of other offences where drug use or dependence played a role.\textsuperscript{15}

A wide range of non-custodial measures, such as verbal or economic sanctions, conditional discharge, probation or community service, may be made available, at all stages of the criminal justice process.\textsuperscript{16}

UNODC provides legislative advice toward ensuring that punishment is proportionate to the offence, avoiding mandatory minimum sentences and allowing courts to consider relevant factors in sentencing, such as the criminal history of the offender and the seriousness and nature of the criminal conduct.\textsuperscript{17} The Office, as part of the United Nations secretariat, also advocates the abolition of the death penalty,\textsuperscript{18} which should not be imposed for drug offences or other crimes that have no lethal or other extremely grave consequences.\textsuperscript{19}

The range of non-custodial alternative or additional measures for offenders who use or are dependent on drugs is not limited to treatment. It is important to note that not all offenders who use drugs are necessarily drug dependent. Choosing the appropriate measure requires therefore a proper assessment and diagnosis of the offender. Where treatment is necessary, it should be provided by a multi-professional team of practitioners under the auspice of the health-care system.\textsuperscript{20} Appropriate coordination of the criminal justice system and

\textsuperscript{13} United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, paras. 32 and 57.
\textsuperscript{14} See 1988 Convention, article 3(4)(c)-(d).
\textsuperscript{15} UNODC, From coercion to cohesion, p. 5.
\textsuperscript{17} See Tokyo Rules 7.1 and 8.1.
\textsuperscript{18} In line with General Assembly resolutions calling for the establishment of a moratorium on executions with a view to abolishing the death penalty, see, e.g., A/RES/69/186.
\textsuperscript{19} Safeguards guaranteeing protection of the rights of those facing the death penalty, ECOSOC resolution 1984/50, annex, para. 2.
\textsuperscript{20} UNODC From coercion to cohesion, p. 5.
treatment system should be in place, with due consideration for medical confidentiality, and criminal justice personnel should be trained in the specificities of drug use and the needs of drug dependent offenders.

UNODC assists requesting countries in reviewing their legal and policy framework to ensure that drug users have access to evidence-based and human rights based health services in prison, including drug dependence treatment and HIV prevention and treatment services. These services should be equivalent to the ones available within the community.\(^{21}\) UNODC provides guidance to assist countries in implementing HIV services for drug users in prisons,\(^{22}\) including on needle and syringe programmes. UNODC also addresses the needs of drug users in its broader technical assistance activities to address prison overcrowding and poor prison conditions,\(^{23}\) and supports efforts to reintegrate prisoners after release and to reduce reoffending,\(^{24}\) by promoting continuity of drug dependence treatment in the community and opportunities for education and vocational training in prison and post release support.

Major concerns encountered in the course of providing technical assistance include forcible drug dependence treatment and the detention without due process of people suspected of using or being dependent on drugs in compulsory detention and rehabilitation centres. Together with other United Nations entities, UNODC advocates the closure of such centres and assists States in implementing voluntary, evidence-informed and rights-based health and social services in the community.\(^{25}\) Evidence demonstrates that the most effective responses to drug dependence and the health-related harms associated with it, such as HIV infection, engagement in self-inflicted or interpersonal violence, require treating drug dependence as a health condition. As all health care interventions, such treatment requires a voluntary basis with informed consent. Only in exceptional crisis situations of high risk to self or others can compulsory treatment be mandated for specific conditions and for a limited period of days that is not longer than strictly clinically necessary, provided there is an appropriate legal basis and a judicial review.\(^{26}\) Treatment that is offered or ordered as an alternative to conviction or punishment also involves a degree of coercion, but the patient is entitled to reject treatment and to choose the penal measure instead. In such cases, the access to drug dependence treatment should be guaranteed and the ensuing punishment should be proportionate and

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\(^{26}\) UNODC From coercion to cohesion, pp. 7-8.
not more severe than the punishment would have been in the absence of the alternative.27

(ii) Drugs and youth, women, children and communities

Rights and needs of women and children

The international legal framework requires specific attention to the rights of women and children, including those who have drug use problems or are in contact with the justice system for drug-related offences. The Convention on the Elimination of All Forms of Discrimination Against Women envisages special measures to remove persisting inequalities and differences in the treatment of women that result in discrimination. The Convention on the Rights of the Child obliges States to protect children from drug use and from being used in drug trafficking,28 from violence29 and to ensure appropriate treatment of children in the criminal justice system.30 The right to health is enshrined in both conventions.

27 Ibid., pp. 5-6.
28 Art. 33
29 Art. 19.
30 Art. 40.
Women

Women drug users are much more prone to entering the criminal justice system than male drug users or women in the general public. In many countries women offenders who are imprisoned for drug-related offences make up a large proportion of the female prison population. Specialized treatment programmes that take into account prior victimization and the special needs of pregnant women and women with children are often unavailable. A study conducted by UNODC found that comprehensive programming that acknowledges gender differences, which provides women-only services and gives attention to pre-natal and childcare, parenting skills, relationships, mental health problems and practical needs could improve treatment outcomes.

The involvement of women and girls in drug trafficking as couriers has been recognized as a danger to the well-being and development of children, families and communities, and the Commission on Narcotic Drugs has urged Member States to implement broad-based programmes aimed at preventing women and girls from being used as couriers for trafficking in drugs. Available data is limited but suggests that a significant number of women are used as drug couriers to smuggle drugs across borders for small sums of money. These women are usually minor players and often become involved in drug trafficking as a result of manipulation, coercion, poverty or their own drug addiction.

UNODC's developed technical assistance tools to facilitate the implementation of the Bangkok Rules, including as regards the availability of specialized treatment programmes for women drug users in prison and in the community, and organized several regional meetings, bringing together criminal justice practitioners from different countries to take stock of the situation of women offenders, exchange good practices on the treatment of women prisoners and create political momentum for change.

UNODC also advanced global dialogue and advocacy for gender-responsive HIV programmes and more equitable access to HIV/AIDS prevention, treatment and care services for women, for example through production and dissemination of a policy brief “Women who inject drugs and HIV: Addressing specific needs (2014)” developed in partnership with UN Women, WHO and the International Network of People Who Use Drugs (INPUD), and by supporting the establishment of evidence-informed, gender-specific HIV services for

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31 A/68/340, paras. 5-8.
33 UNODC Handbook on Women and Imprisonment, pp. 13-14, 115-118.
35 Resolution 52/1 (2009).
36 UNODC Handbook on Women and Imprisonment, p. 114.
37 Bangkok Rules 15 and 62.
women who inject drugs, including in prisons, through its HIV field projects in several countries.

39 UNODC/UNAIDS Publication on Women and HIV in Prison Settings.
Children

There are indications that girls and boys start to use drugs and progress to drug use disorders due to different vulnerabilities. Moreover, although research is scant, there are indications that girls and boys benefit differently from evidence-based drug prevention programmes. In particular, girls appear to benefit less from school and community-based prevention and more from family-based prevention. It would be crucial for drug prevention strategies not only to document their impact in general, but also specifically with regard to girls and boys, to strengthen the base of evidence in this field.

Many children with drug use problems who do not receive adequate treatment are dealt with exclusively by the criminal justice system rather than by the health and child protection systems. The majority of children drug offenders are charged with petty crimes, are first-time offenders, or awaiting trial, and many of them have drug use problems. Research shows that such children are more prone to become victims of crime and to commit crimes themselves. Frequently, they are used by gangs and organized crime groups and end up being involved in the drug market. The probability of committing a crime is between 2.8 and 3.8 times higher among those who use drugs with a likelihood of recidivism rate that is six times higher in the case of crack, three times higher in the case of heroin and 2.5 times higher in the case of cocaine.

The access of children who inject drugs to effective HIV prevention services is even more challenging considering the high levels of stigma, fear and the age-related barriers and parent/guardian consent requirements that impede access to HIV testing, to needle and syringe programmes or to HIV and drug dependence treatment and care. The UNAIDS interagency working group on HIV and key populations (including UNICEF, WHO, UNFPA and UNODC) is advocating for improving access for children and young people who inject drugs to effective evidence-based HIV prevention and treatment services. A draft joint technical brief was developed and launched at AIDS2014 conference.

Several challenges can be identified with regard to current responses to these issues. Punitive approaches towards children with drug use problems that are in contact with the justice system lead to increasing numbers of cases for the juvenile justice system that could be more effectively dealt with through preventive, restorative, and rehabilitative approaches. Many countries lack adequate drug prevention and child protection laws, policies and measures, leading to a reliance on detention. Specialized institutions and professionals are often missing and inter-institutional communication and cooperation is a challenge in many cases. 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 who are alleged offenders or victims.

UNODC supports Member States in preventing crime and violence and in strengthening juvenile justice systems to ensure that children in contact with the justice system, whether as alleged offenders, victims or witnesses of crime, are well protected and served in accordance with international standard and norms. In this regard, UNODC provides legal advisory services, supports the development of public policies and the strengthening of juvenile justice institutions, the development of training curricula and the delivery of training activities to justice and child protection professionals. In order to address drug use and drug dependence in children under twelve, adolescents and their families, UNODC has developed and piloted psychosocial protocols, a ground-breaking tool based on scientific evidence and successfully piloted in several countries.