**UNODC submission for the study on impact of the world drug problem on the enjoyment of human rights and recommendations on respect for and protection and promotion of human rights in the context of world drug problem, with particular consideration for the needs of affected persons in vulnerable situations**

***The right of people to a safe and sound society***

Linkage between the drug trafficking and the right of people to a safe and sound society is acknowledged in the Conventions under UNODC mandates, for instance in the following paragraphs of the preamble of United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988: ‘’*Recognizing* the links between illicit traffic and other related organized criminal activities which undermine the legitimate economies and threaten the stability, security and sovereignty of States’’ and ‘’*Aware* that illicit traffic generates large financial profits and wealth enabling transnational criminal organizations to penetrate, contaminate and corrupt the structures of government, legitimate commercial and financial business, and society at all its levels’’.

***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 Protocol[[1]](#footnote-1) and the Convention on Psychotropic Substances of 1971[[2]](#footnote-2) 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 including violence patterns and involvement in crime[[3]](#footnote-3)

An access to continuum of prevention and care in the health and social services, including in closed settings, 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 to protect their health. Stigma, discrimination and violence constitute major barriers, especially for people who inject drugs, to access essential evidence based and cost effective HIV prevention services as described in the WHO/UNODC/UNAIDS Comprehensive package for HIV among people who inject drugs. Gender-related violence makes women reluctant to access relevant services, often because they fear being harassed or abused simply for trying to enter facilities.

***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.[[4]](#footnote-4) This situation contributes in many jurisdictions 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 refer to measures of treatment, education, aftercare, rehabilitation or social reintegration.[[5]](#footnote-5)

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 access to drug dependence therapy or HIV prevention treatment and care and face high risks of relapse to drug use, drug overdose, HIV or hepatitis C infection and recidivism where this need is not met, especially if there are no linkages to community services and continuum of care.[[6]](#footnote-6) Access to HIV services in prisons for people who inject drugs is not equivalent to the community. The overrepresentation of people who inject drugs together with sub-standards HIV services for people who use drugs are responsible for high HIV prevalence and incidence rates in prisons.

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.[[7]](#footnote-7) Appropriate coordination of the criminal justice system and 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.

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. 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.[[8]](#footnote-8) 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 not more severe than the punishment would have been in the absence of the alternative.[[9]](#footnote-9)

UNODC notes that coordinating human rights approaches in the domain of drugs with the United Nations Country Teams and United Nations Resident’s Coordinator system is important for effectively addressing the concerns.

**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,[[10]](#footnote-10) from violence[[11]](#footnote-11) and to ensure appropriate treatment of children in the criminal justice system.[[12]](#footnote-12) The right to health is enshrined in both conventions.

***Women***

Women drug users are much more prone to entering the criminal justice system than male drug users or women in general.[[13]](#footnote-13) In many countries women offenders who are imprisoned for drug-related offences make up a large proportion of the female prison population.[[14]](#footnote-14) Specialized treatment programmes that take into account prior victimization and the special needs of pregnant women and women with children are often unavailable.[[15]](#footnote-15)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.[[16]](#footnote-16)

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.[[17]](#footnote-17) 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.[[18]](#footnote-18)

***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.[[19]](#footnote-19) 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 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.

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 justice systems in dealing with children with drug use problems who are alleged offenders or victims.

***Recommendations for action***

(a) Integrate the issue of drug use, drug dependence and its consequences on health such as HIV, hepatitis and overdoses in the public health agenda, and integrate the issue of drug-related offending, including specific issues concerning women and children, into the broader health, rule of law and development agendas;

(b) Establish a clear framework for coordinated service delivery in the areas of health and justice as a means to identify who are the rights holders and who are the service providers;

(c) Increase the availability, coverage and quality of evidence based drug prevention, drug dependence and HIV prevention systems, interventions and policies

(d) Ensure that relevant institutions have adequate human, financial and physical resources to protect the rights and respond to the needs of persons in contact with the justice system who have substance abuse problems, especially women and children, and provide specialized training for criminal justice professionals dealing with drug offenders, including on the international legal framework and on the medical aspects of drug addiction and drug-related crimes;

(e) Provide and implement a wide range of non-custodial measures for such persons and limit imprisonment to appropriate cases of serious crime;

(f) Consider abolishing the death penalty or establishing a moratorium on the use of the death penalty and excluding drug related offences from the scope of the death penalty;

(f) Ensure that drug detention and rehabilitation centres are voluntary, evidence-informed and rights-based;

(g) Ensure that persons in contact with the justice system who have substance abuse problems have access to drug dependence treatment and adequate HIV, hepatitis other health and social services in prisons and within the community;

(i) Step up efforts to prevent children’s involvement in drugs and crime and strengthen the accountability of child protection, health, educational and justice institutions in line with the principle of shared responsibility;

1. United Nations, Treaty Series, vol. 976, No. 14152. [↑](#footnote-ref-1)
2. Ibid., vol. 1019, No. 14956. [↑](#footnote-ref-2)
3. Maalouf W. 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. [↑](#footnote-ref-3)
4. UNODC Handbook on Alternatives to Imprisonment, p. 63. [↑](#footnote-ref-4)
5. See 1988 Convention, article 3(4). [↑](#footnote-ref-5)
6. UNODC, From coercion to cohesion: Treating drug dependence through health care, not punishment,

   Discussion Paper, New York, 2010, p. 2. [↑](#footnote-ref-6)
7. UNODC From coercion to cohesion, p. 5. [↑](#footnote-ref-7)
8. UNODC From coercion to cohesion, pp. 7-8. [↑](#footnote-ref-8)
9. Ibid., pp. 5-6. [↑](#footnote-ref-9)
10. Art. 33 [↑](#footnote-ref-10)
11. Art. 19. [↑](#footnote-ref-11)
12. Art. 40. [↑](#footnote-ref-12)
13. A/68/340, paras. 5-8. [↑](#footnote-ref-13)
14. UNODC Handbook on Women and Imprisonment, p. 116. [↑](#footnote-ref-14)
15. UNODC Handbook on Women and Imprisonment, pp. 13-14, 115-118. [↑](#footnote-ref-15)
16. UNODC, Drug Abuse Treatment Toolkit, Substance abuse treatment and care for women: Case studies

    and lessons learned, United Nations, New York, 2004, p. 90. [↑](#footnote-ref-16)
17. Resolution 52/1 (2009). [↑](#footnote-ref-17)
18. UNODC Handbook on Women and Imprisonment, p. 114. [↑](#footnote-ref-18)
19. UNODC (2013), Draft Guidelines on Drug Prevention and Treatment for Girls and Women,

    E/CN.7/2014/CRP.12, available online at:

    http://www.unodc.org/documents/commissions/CND/CND\_Sessions/CND\_57/E-CN7-2014-

    CRP12\_V1401561\_E.pdf. [↑](#footnote-ref-19)