May 2018

INPUD submission to the Office of the High Commissioner on Human Rights' report on UNGASS implementation and human rights

The International Network of People who Use Drugs (INPUD) is a global peer-based organisation that seeks to promote the health and defend the rights of people who use drugs. INPUD will expose and challenge stigma, discrimination, and the criminalisation of people who use drugs and its impact on the drug-using community's health and rights. INPUD will achieve this through processes of empowerment and advocacy at the international level, while supporting empowerment and advocacy at community, national and regional levels. www.inpud.net

This contribution is in response to the request of the Office of the High Commissioner for Human Rights (OHCHR) for relevant information with regard to the implementation of *Our Joint Commitment to Effectively Addressing and Countering The World Drug Problem*, the 2016 United Nations General Assembly Special Session On The World Drug Problem Outcome Document. This submission considers the relevant operational recommendations within the Outcome Document and analyses their relationship to the human rights, lives and experiences of people who use drugs. This submission has been prepared by drawing from available data and from prior consultations with people who use drugs globally.

Chapter 1. Operational recommendations on demand reduction and related measures, including prevention and treatment, as well as other health-related issues

This first chapter emphasises "our commitment to promoting the health, welfare and well-being of all individuals, families, communities and society as a whole". For people who use drugs, **the right to the highest attainable standard of health** specifically includes harm reduction services, which are designed to reduce the avoidable harms and risks to health that can be associated with drug use, especially harms driven by criminalisation, such as HIV and hepatitis C acquisition, and overdose. Harm reduction interventions mentioned in the Outcome Document notably include needle and syringe programmes, opiate substitution therapy (with methadone and buprenorphine recognised by the World Health Organization as being 'essential medicines'), and naloxone. However, harm reduction services are severely lacking, and they are strongly opposed by many organisations and governments: only an estimated 10% of people worldwide who require harm reduction services have access to them.[1] As a result of this considerable lack of harm reduction services, combined with social exclusion and criminalisation, almost 14% of people who inject drugs are living with HIV,[2] an estimated 52.3% of people who inject drugs are living with hepatitis C,[3] and there are around 187,000 drug-related deaths every year,[4] primarily overdose-related deaths. Further to barriers in accessing service provision, people who currently use drugs can be denied treatments and healthcare on the basis of their drug use. This is of especial concern in terms of treatment for hepatitis C and antiretroviral therapy for HIV. Antiretroviral coverage for people who use drugs living with HIV is only about 4% globally; in some countries it is less than 1%.[5]

"There is a serious shortage of harm reduction services … harm reduction should be adopted."

[1] Mathers, B. (2010) 'HIV prevention, treatment, and care services for people who inject drugs: a systematic review of global, regional, and national coverage'
[2] Harm Reduction International (2016) 'Global State of Harm Reduction' https://www.hri.global/contents/1739
[3] Degenhardt et al. (2017). 'Global prevalence of injecting drug use and sociodemographic characteristics and prevalence of HIV, HBV, and HCV in people who inject drugs: a multistage systematic review', The Lancet
[4] The United Nations Office on Drugs and Crime (UNODC) '2017 World Drug Report'. http://www.unodc.org/wdr2017/field/Booklet_1_EXSUM.pdf
[5] Mathers, B. (2010) 'HIV prevention, treatment, and care services for people who inject drugs: a systematic review of global, regional, and national coverage'

(TaNPUD, Tanzania, INPUD Consensus Statement Dar es Salaam consultation)[6]

OP 1.k and OP 4.b discusses the **right to non-discrimination**, to "ensure non-discriminatory access to a broad range of interventions" and "Ensure non-discriminatory access to health, care and social services in prevention, primary care and treatment programmes", respectively. People who use drugs experience discrimination, judgemental encounters, breaches in medical confidentiality, and structural violence from healthcare and service providers. Since disclosing drug use can result in difficult interactions, people can be reluctant to do so, or may not even seek healthcare and service provision in the first place: stigma and discrimination are significant barriers to prioritising the health and wellbeing of people who use drugs.

"Stigma often prevents … people going forward for treatment."
(EuroPUD, Northern Ireland, INPUD Consensus Statement London consultation)[7]

Women who use drugs regularly experience problematic and discriminatory interactions with service and healthcare providers, including social service involvement, domestic intrusions, breaches in confidentiality, and losing child custody, and often do not have access to services tailored to women's specific needs. Pregnant women who use drugs can be subject to breaches in medical confidentiality, can be subject to compulsory 'treatment' and medicalised detention, can be denied access to antiretroviral therapies and harm reduction services, and can be denied access to opiate substitution despite it being safe and recommended by the World Health Organization for pregnant women who have opiate dependency.

"After having given birth, women should feel happy, but they often leave the facility feeling depressed, because she faces not only additional problems as a person who uses drugs, but also she faces strong stigma and discrimination coming from medical staff."
(ENPUD, Ukraine, translation, INPUD Consensus Statement Tbilisi consultation)[8]

OP 1.m specifically mentions "elements for the prevention and treatment of drug overdose, in particular opioid overdose". Overdose deaths contribute to between a third and a half of all drug-related deaths. In 2016, in the United States alone, overdose deaths exceeded 64,000.[9] Overdose is the principal cause of death of North Americans younger than fifty years old. Naloxone is a safe drug that is very easy to use and administer and that reverses opiate overdose in seconds to minutes. Yet naloxone is not widely available, and take-home naloxone cannot be purchased or acquired at service and healthcare providers in most contexts despite the World Health Organisation emphasising the importance of community naloxone distribution. Drug-related deaths could be avoided additionally if comprehensive harm reduction had been available: drug testing facilities, as are available in The Netherlands, would allow people who use drugs to safely test the contents and purity of their drugs. Such facilities provide life-saving information without fear of legal repercussion and allow people who use drugs to do so more safely in the knowledge of their drugs' strength and purity, allowing people who use drugs to also avoid drugs that contain toxins, contaminants.

OP 1.q underlines the importance of the **meaningful participation of communities** most impacted by drugs and drug policy. People who use drugs are the most aware of the impact of drug policies on the ground, and possess the experience, knowledge and understanding to support the effective implementation of the UNGASS Outcome Document. Networks of people who use drugs are an important, but under-utilized resource for policy makers, programme managers and decision makers. Meaningful involvement of those most directly impacted by drug policies should be a key principle that shapes policy direction, decision-making and

[6] INPUD (2015). 'INPUD Consensus Statement on Drug use under Prohibition: Human Rights, Health and the Law' http://www.inpud.net/en/news/inpud-consensus-statement-drug-use-under-prohibition-human-rights-health-and-law
[7] INPUD (2015). 'INPUD Consensus Statement on Drug use under Prohibition: Human Rights, Health and the Law' http://www.inpud.net/en/news/inpud-consensus-statement-drug-use-under-prohibition-human-rights-health-and-law
[8] Ibid
[9] National Institute on Drug Use (2017). 'Overdose death rates'. https://www.drugabuse.gov/related-topics/trends-statistics/overdose-death-rates

implementation practices. The principle of meaningful involvement of communities is widely supported in a number of key UN policy and technical guidance documents.[10]

Chapter 4. Operational recommendations on cross-cutting issues: drugs and human rights, youth, children, women and communities

Human rights, essential towards ensuring the health and well-being of human kind, are outlined in Chapter 4. Current approaches to drugs and drug use undermine the inherent rights of communities of people who use drugs globally. Some of the common rights violations are listed below.

OP 4.c stresses a need "to prevent any possible acts of **cruel, inhuman or degrading treatment or punishment**" in "drug treatment and rehabilitation facilities". Thousands of people who use drugs are interred in forced 'treatment' centres. In addition to detaining people without any due legal process, compulsory 'treatment' centres for people who use drugs are often marked by violence, torture, unpaid and forced labour, and a lack of access to service and healthcare provision. Compulsory testing for blood-borne viruses, the possibility of medicalised incarceration, and breaches in medical confidentiality all act as barriers and disincentives to accessing healthcare and service provision. This recommendation is therefore most welcome, in this global context.

> "*They have a law about non-consensual treatment. It's used by the agreement of the relatives, and if they have a signal from the neighbours it also can be used … it's like a prison with antidepressants.*"
> (ENPUD, Uzbekistan, translation, INPUD Consensus Statement Tbilisi consultation)[11]

OP 4.d notes a need to tackle "conditions that continue to make **women and girls vulnerable to exploitation**". Due to gender- and sex- based stigma and discrimination, harms associated with drug use are substantially greater for women. Women who use drugs experience exclusion from services and healthcare and are all too often not catered for appropriately by services that are available. Women who use drugs experience considerable barriers to accessing healthcare and service provision, thus resulting in barriers to the prevention of blood-borne and sexually transmitted infections. Women who use drugs are more likely to experience violence, both perpetrated by the state, and in their homes and family contexts. Women who use drugs experience gross violations of their human rights, including arbitrary incarceration, interference with their bodily integrity, and interference with their families. Pregnant women who use drugs face the possibility of compulsory drug 'treatment' and detention, and they can be forced, coerced, and incentivised to have their foetus terminated, and can be coerced and/or incentivised into being sterilised.

> *"If she's pregnant it is thought she should get an abortion because it's thought her child will be mentally disabled. And doctors make her have an abortion. There were fourteen cases in prisons when the uteruses of women [who use drugs] were removed."*
> (ENPUD, Georgia, translation, INPUD Consensus Statement Tbilisi consultation)[12]

OP 4.j engages with sentencing for drug offences, principally the notion of proportionality and "conviction or punishment in cases of an appropriate nature". This is an extremely pressing topic, intersecting with t**he right to life**, where 33 states retain the death penalty for drug offences.[13] This is not only the case for offences such

[10] UNAIDS 38th Programme Coordinating Board Decision Points; UNAIDS (2015). 'Communities Deliver'; UNODC/INPUD/UNAIDS/WHO (2016) 'Implementing Comprehensive HIV and HCV Programmes with People Who Inject Drugs'

[11] INPUD (2015). 'INPUD Consensus Statement on Drug use under Prohibition: Human Rights, Health and the Law' http://www.inpud.net/en/news/inpud-consensus-statement-drug-use-under-prohibition-human-rights-health-and-law

[12] Ibid

[13] Amnesty International. *Death Sentences and Executions 2016*. April 2017

as drug trafficking or dealing: while in some countries crimes such as drug possession may not result in criminal proceedings, in other states they can be punishable by death. In some contexts, the police have been responsible for extra-judicial killings of people who use drugs and members of the communities in which they live, and numerous states retain the death penalty for drug offences, with people still executed for a wide range of drug-related offences. 2,200 people were killed by the police in Thailand in 2003, in an attempt by the Thai government to make Thailand a drug-free state.[14] Extra-judicial killings continue unabated in the Philippines, with more than 12,000 lives lost since June 2016.[15] In Mexico alone, tens of thousands of people have been killed in drug-related violence since military assaults on drug cartels began.

OP 4.o relates to the **right to be free from arbitrary arrest and detention**, to "uphold the prohibition of arbitrary arrest and detention". Drugs are controlled and people who use drugs are criminalised. This gives police legal sanction to harass and arbitrarily stop and search people on the suspicion that they use, sell, and/or carry drugs. People who use drugs are frequently stopped and searched simply for 'appearing' as if they use drugs, or as if they have committed a drug-related offence. The police ascertaining whether someone may have committed a drug-related offence is hugely arbitrary; it is driven by bias, stigma, and discrimination. People can be singled out if they appear to be 'under the influence', or if they show signs of having used or injected drugs. People of colour in much of the Global North are searched for drugs at a rate considerably higher than that of white people, six times more in the UK, and the areas with the highest levels of deprivation experience the highest extent of police stopping and searching people. Far more black people enter the criminal justice system than white people in the Global North. The same is the case notably in the US, where racial profiling of black and Latin American people has led to the disproportionate incarceration of these respective groups for drugs offences.

> "*Amongst all those young boys [in French prisons for drug offences], you have a lot of people from the immigration people … the war on drugs … [is similar to in the] United States, for the black people and Latin people, it's kind of, war against [people of colour] … and that's [the] point, you know? The principal point.*"
> (ASUD, France, INPUD Consensus Statement London consultation)[16]

OP 4.o also refers to "practical measures to uphold the prohibition of… **torture and other cruel, inhuman or degrading treatment or punishment**". People who use drugs are subject to police-perpetrated abuse and violence, including sexual violence and torture. People who use drugs are subject to abuse and violence, including sexual violence, and physical and mental torture in prisons and pre-trial detention. People who use drugs can be forced to experience drug withdrawal in detention, and can be interrogated whilst withdrawing. This is recognised as a form of torture.[17]

> *"Then we have a rehab [centre] called XXXX. So, they are chained on their ankles … so they have to go on hunger for about a week to ten days, something like that, and they're many dead reported in that site also … lots of torture is happening*."
> (DNP+, India, INPUD Consensus Statement Bangkok consultation)[18]

Summary and Recommendations

[14] International Harm Reduction Association & Human Rights Watch (2008). 'Thailand's war on drugs'. https://www.hrw.org/news/2008/03/12/thailands-war-drugs

[15] Human Rights Watch (2018). 'Philippines: Duterte's drug war claims 12,000+ lives'. https://www.hrw.org/news/2018/01/18/philippines-dutertes-drug-war-claims-12000-lives

[16] INPUD (2015). 'INPUD Consensus Statement on Drug use under Prohibition: Human Rights, Health and the Law' http://www.inpud.net/en/news/inpud-consensus-statement-drug-use-under-prohibition-human-rights-health-and-law

[17] Méndez, J. E., 2013, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, available at http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A.HRC.22.53_English.pdf

[18] INPUD (2015). 'INPUD Consensus Statement on Drug use under Prohibition: Human Rights, Health and the Law' http://www.inpud.net/en/news/inpud-consensus-statement-drug-use-under-prohibition-human-rights-health-and-law

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Numerous human rights considerations are covered in the Outcome Document, and are detailed above. These notably include: -

The right to the highest attainable standard of health
The right to non-discrimination
The right to life and security of person
The right not to be subjected to torture or to cruel, inhuman, or degrading treatment
The right not to be subjected to arbitrary arrest or detention

The human rights of people who use drugs are simply not protected by national legislation in the majority of countries, and on-going criminalisation and prohibition drive the continuing violation of the rights of people who use drugs the world over. Progress towards the realisation of these rights is unlikely to occur unless implementation efforts towards the UNGASS Outcome Document are significantly accelerated.

In order to protect the human rights of people who use drugs we urge the Office to actively engage in high-level United Nations events, which pertain to drug policy and the International Drug Control Conventions, and to closely track and monitor the human rights implications of drug policies.

In the course of increased engagement, the Office should recommend the following:

- Strongly condemn any human rights violations that are driven by drug policies at the global, regional and national levels
- Urge for the removal of structural barriers such as criminalisation and other punitive measures, as well as addressing stigma and discrimination through protective laws and policies
- Ensure evidence-informed and rights-based services for people who use drugs. These should be responsive to the needs of people who use drugs, and not be driven by ideology, morality and prejudice
- Ensure clear guidelines on informed consent are observed in all health settings, including with regard to the right to refuse treatment and/or drug testing
- Strongly urge for the meaningful involvement of people who use drugs in the policies, programmes and practices that affect our lives

As implementation strategies on the UNGASS Outcome Document are considered, the opportunity for rethinking and reviewing current approaches are presented. We thank the Office of the High Commission for Human Rights for its attention to the issue of the human rights violations engendered in the course of drug policy. The International Network of People who use Drugs look forward to further collaboration.