

Submission to the Office of the High Commissioner for Human Rights: Human Rights Council Resolution 39/7 on Local Government and Human Rights

26 March 2019



Harm Reduction International (HRI) is a leading NGO dedicated to reducing the negative health, social and legal impacts of drug use and drug policy. HRI promotes the rights of people who use drugs and their communities through research and advocacy to help achieve a world where drug policies and laws contribute to healthier, safer societies.

HRI works to ensure that lifesaving harm reduction interventions are adequately funded; to monitor gaps and progress globally in the availability of health and social services for people who use drugs; and, to ensure nobody's rights are violated in the name of drug control.

This work comes together at our biennial international conference, which is the main global forum for the exchange of information and best practice at the intersection of human rights, drug policy and harm reduction.

Release **Drugs, the Law & Human Rights**

Release is the national centre of expertise on drugs and drugs law in the UK. The organisation, founded in 1967, is an independent and registered charity. Release provides free non-judgmental, specialist advice and information to the public and professionals on issues related to drug use and to drug laws.

The organisation campaigns directly on issues that impact on its clients - it is their experiences that drive the policy work that Release does and why Release advocates for evidence-based drug policies that are founded on principles of public health rather than a criminal justice approach.

Release believes in a just and fair society where drug policies should reduce the harms associated with drugs, and where those who use drugs are treated based on principles of human rights, dignity and equality.

HRI and Release are both NGOs in Special Consultative Status with the Economic and Social Council of the United Nations.

Introduction

Further to OHCHR letter to civil society organisations dated 13 December 2018 (https://www.ohchr.org/Documents/Issues/LocalGvt/LetterNGOs_EN.pdf).

Harm Reduction International (HRI) and Release jointly submit the following examples of **laws, policies and programmes explicitly developed by local authorities to promote and protect human rights**, with a specific focus on the rights of people who use drugs.

HRI and Release note that criminalisation, discrimination and prejudice, and ill-informed approaches to problematic drug use continue to result in systematic violations of the rights of people who use drugs, such as: violations of the right to health (including access to essential harm reduction services), the right to physical autonomy which also encompasses a right to refuse medical treatment, and the right to be free from torture and inhuman and degrading treatment, amongst others.

HRI and Release respectfully submit that the critical issues at the intersection of human rights and drug control policy are relevant to the report of the UN High Commissioner for Human Rights on effective methods of fostering cooperation between local government and local stakeholders for the effective promotion and protection of human rights at their level through local government programmes.

Harm reduction as a human right

By way of background, HRI and Release note that harm reduction has been recognised as a fundamental component of the right to health, as well as of the right of everyone to enjoy the benefits of scientific progress.¹ Harm reduction has been explicitly endorsed as an essential measure for people who use drugs on numerous occasions by the Committee on Economic, Social, and Cultural Rights,² as well as by the UN General Assembly,³ the Human Rights Council,⁴ the Committee on the Rights of the Child,⁵ the Committee on the Elimination of Discrimination against Women,⁶ the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health⁷ and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.⁸

The World Health Organization, UNAIDS and UNODC recognise Needle and Syringe Programs (NSPs) and Opioid Substitution Therapy (OST) – essential harm reduction services - as key components of an effective HIV and viral hepatitis response for injecting drug use.⁹ These interventions have also been

¹ Among others, see: Paul Hunt, 'Human rights, health, and harm reduction', 8; Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Anand Grover (2010) A/65/255, para. 55; CESCR, Concluding Observations on the combined initial and second periodic reports of Thailand, UN Doc. E/C.12/THA/CO/1-2; CEDAW, Concluding Observations on the combined fourth and fifth periodic reports of Georgia (2014), UN Doc. CEDAW/C/GEO/CO/4-5, para. 31(e); Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Anand Grover, Mission to Poland (2010) A/HRC/14/20/Add.3, para. 86; CESCR, 2016, Concluding Observations on the sixth periodic report of Sweden. UN Doc. E/C.12/SWE/CO/6.

² In E/C.12/RUS/CO/5, E/C.12/LTU/CO/2, E/C.12/EST/CO/2 and E/C.12/UKR/CO/5.

³ In its resolution 65/277.

⁴ In its resolution 12/27.

⁵ See the Committee's general comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health.

⁶ In CEDAW/C/GEO/CO/4-5 and CEDAW/C/CAN/CO/8-9.

⁷ In A/65/255.

⁸ In A/HRC/22/53.

⁹ WHO, UNODC and UNAIDS, WHO, UNODC, UNAIDS Technical Guide for Countries to Set Targets for Universal Access to HIV Prevention, Treatment and Care for Injecting Drug Users: 2012 Revision (Geneva, WHO, 2012).

endorsed by the UN General Assembly,¹⁰ the Economic and Social Council,¹¹ and the Commission on Narcotic Drugs (CND). The CND has highlighted the importance of these interventions to meet the Sustainable Development Goals targets to end AIDS and tuberculosis, and combat hepatitis by 2030.¹²

Laws, policies and programmes developed by local authorities to protect and promote harm reduction

HRI and Release provide the following [four] examples of local government initiatives designed to promote and protect human rights:

City of Liège, Belgium

In Liège, Belgium, the city government led in the implementation of Belgium's first drug consumption room. Sometimes known as supervised injecting facilities or overdose prevention sites, drug consumption rooms are facilities where people can use illicit drugs in a medically supervised environment. Such sites are shown to reduce the risk of blood-borne disease transmission and overdose, increase linkage to health care for people who use drugs and reduce drug use in public spaces.

While the city government held conversations with the national ministers of health and justice in early 2018, the Liège drug consumption room operates without the official authorisation of the Belgian government.¹³ As such, its existence is technically illegal according to Belgian federal law.¹⁴ Despite this, the city government took the decision to open the new drug consumption room in a city where in 2018 up to 2,100 people were using heroin and approximately 300 were using illicit drugs in public spaces, and where there were 35 fatal overdoses in two years from 2011-2013.¹³ The facility now operates with the tacit consent of the federal departments of health and justice.¹⁴

The Liège drug consumption room welcomes all people who use drugs, and permits the smoking or injection of heroin and crack cocaine.¹³ In its first three months of operation, 72% of people who had previously used drugs in public spaces had accessed the facility, and 2,900 instances of drug consumption had taken place.¹⁵ Additionally, 1 in 6 people accessing the service had switched from injection to smoking, on the recommendation of the facility's health care professionals.¹⁴

City of Tshwane Metropolitan Municipality, South Africa

The government in the City of Tshwane Metropolitan Municipality, South Africa, has become a national leader in harm reduction implementation. Harm reduction is an emerging concept in public health in South Africa and implementation so far has been limited, with just four needle and syringe programmes and up to eleven opioid substitution therapy sites operating nationwide as of late 2018.¹⁶ However, since 2016 the City of Tshwane has invested in harm reduction, allocating between 4 and 5 million Rand (US\$ 280,000 to US\$ 350,000) to make sterile injecting equipment and opioid substitution therapy available to people who use drugs.¹⁶ In 2018, the city announced this would

¹⁰ Political Declaration on HIV/AIDS: Intensifying our Efforts to Eliminate HIV/AIDS (General Assembly resolution 65/277, annex).

¹¹ Economic and Social Council resolution 2009/6.

¹² CND Resolution 60/8; Promoting measures to prevent HIV and other blood-borne diseases associated with the use of drugs, and increasing financing for the global HIV/AIDS response and for drug use prevention and other drug demand reduction measures (2017)

¹³ <https://www.liege.be/fr/actualites/une-salle-de-consommation-a-moindre-risque-ouvre-a-liege>

¹⁴ <https://www.alterechos.be/longform/salle-de-consommation-de-drogues-le-projet-pousse-la-loi-des-liegeois/>

¹⁵ <https://www.willydemeyer.be/billet/communiquede-presse/2018-12-07/salle-de-consommation-moindre-risque-pour-usagers-de-drogues>

¹⁶ Stone, K & Shirley-Beavan, S, 2018. *Global State of Harm Reduction 2018*. London: Harm Reduction International.

<https://www.hri.global/files/2019/02/05/global-state-harm-reduction-2018.pdf>

support the creation of eight new needle and syringe programmes in Pretoria.¹⁶ As of June 2018, there were 606 people on a city-funded opioid substitution programme, with that figure growing by 50 each month.¹⁶ The City of Tshwane's drug policy is framed as a three-pillar approach, with harm reduction as an independent pillar, in a way that South African national policy has not yet been formulated.¹⁷

Autonomous City of Buenos Aires, Argentina

In Argentina, the Autonomous City of Buenos Aires has engaged in harm reduction interventions in nightlife settings. In the wake of the deaths of five young people at an electronic music party in Buenos Aires, 30 organisations from around the world released a declaration in favour of harm reduction.¹⁶ In response, legislators and civil servants from the city government sought out advice from Intercambios, an Argentine signatory to the declaration, on the development of harm reduction interventions in nightclubs, festivals and parties.¹⁶ Together, the city government and Intercambios launched the Proyecto Acción en Fiestas (PAF!) project, primarily targeted at informing people about harm reduction techniques when using illicit drugs.¹⁶ From June 2017 to June 2018, PAF! reached 17,000 participants with informational and advice. They also distributed condoms, fruit juice to address dehydration, and sweets and chewing gum to address teeth grinding (bruxism).¹⁶

Police force area initiatives, England

There are 43 police force areas in England and Wales, led by Chief Constables and elected Police and Crime Commissioners (PCCs). A number of these Chief Constables and PCCs have implemented diversion schemes for low level drug offences, which aim to divert people who use drugs away from the criminal justice system. These schemes approach drug possession as a health and education issue rather than a criminal justice matter, ensuring that people are not criminalised. This is important from a human rights perspective as criminalisation of people who use drugs is proven to undermine health, social and economic rights, as well as to enable grave violations of civil and political rights.¹⁸

Currently, three police forces have implemented diversion programmes for low level offending including drug offences – Durham Constabulary, Avon and Somerset Police Force, and Thames Valley police.

Durham Police force's diversion scheme, "Checkpoint", concerns specified low-level offences. The scheme initially included drug possession offences only. Following the success of the scheme, this has been extended to include low-level supply offences, where the offender is determined to be a user/dealer.¹⁹ "Checkpoint" diverts people after arrest on the condition that they undertake a four-month programme to address their offending behaviour. Initial findings from the pilot period found lower reoffending rates compared to those who were subject to out of court disposals, such as cautions. Participants in Checkpoint also reported improved outcomes in relation to: substance misuse; alcohol misuse; accommodation; relationships; finances and mental health.²⁰

Avon and Somerset Police implement an on the street diversion programme in Bristol for those caught in personal possession of drugs. The 'Drug Education Programme' ('DEP') was initially launched as a pilot in 2016. Attendees of the DEP are less likely to re-offend compared to those who

¹⁷ https://www.saps.gov.za/resource_centre/nscs/city_tshwane.pdf

¹⁸ International Centre on Human Rights & Drug Policy, UNAIDS, UNDP, WHO (2019) The International Guidelines on Human Rights and Drug Policy, <https://www.humanrights-drugpolicy.org/>

¹⁹ <https://www.independent.co.uk/news/uk/home-news/drugs-addicts-heroin-not-face-prosecution-durham-police-chief-constable-mike-barton-a8063486.html>

²⁰ Durham Constabulary & Durham Police and Crime Commissioner (2017), "Checkpoint: An Innovative Programme to Navigate People Away from the Cycle of Reoffending: Implementation Phase Findings", Durham PCC (provided via email by Durham PCC on 16 March 2018)

had gone through the criminal justice system. The majority of attendees at the DEP reported cessation or reduction in their drug use. The DEP saved significant resources and the reduced burden of diverting drug possession offences to the DEP meant that it freed them up to focus on other tasks.²¹ The success of the DEP in Bristol saw the scheme rolled out across Avon and Somerset from April 2018. Thames Valley Police have piloted a similar scheme in one geographical area of their force – this has been in operation since early 2019. Other police forces, including West Midlands PCC²² and North Wales PCC, are now considering implementing similar diversion programmes.

In addition, numerous police forces and local councils have supported the work of The Loop at festivals and in local town centres. The Loop offers, free of charge, a drug checking service which provides people with information on what substances are in their controlled drugs, as a harm reduction intervention. This service operates in the absence of national legislation and is based on local agreements with police forces not to arrest or prosecute those accessing this service.²³

²¹ Luckwell J. (2017) 'Drug Education Programme Pilot: Evaluation Report', Avon and Somerset Constabulary, 17 March 2017, Pg. 4- 5 (provided by Avon and Somerset police by email 15 March 2018)

²² Jamieson D. (2018) West Midlands Drug Policy Recommendations, West Midlands Police and Crime Commissioner, <http://www.westmidlands-pcc.gov.uk/media/477434/West-Midlands-Drug-Policy-Recommendations.pdf> [accessed 25 March 2018]

²³ Measham, F (2018) Drug safety testing, disposals and dealing in an English field: Exploring the operational and behavioural outcomes of the UK's first onsite 'drug checking' service, <https://www.sciencedirect.com/science/article/abs/pii/S0955395918302755?via%3Dihub>