

HUMAN RIGHTS AND DRUG POLICIES: BEST PRACTICES FROM UNODC's PERSPECTIVE

For delivery at panel discussion on the impact of the world drug problem on the enjoyment of human rights

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Excellencies,

Distinguished participants,

Ladies and gentlemen,

With the adoption of the Sustainable Development Agenda just behind us, and the preparatory work for the UNGASS 2016 on the World Drug Problem in full swing, we believe that the present panel discussion on the impact of the world drug problem on the enjoyment of human rights could not be more timely and necessary.

Let me spell out 7 of the most critical issues and best practices that permeate our work at *the United Nations Office on Drugs and Crime*.

First, there is still a **manifest need to recognize that drug use and related complications—such as HIV, hepatitis C and drug overdoses—are public health issues** that must be addressed by qualified and trained healthcare experts. Drug use is a multi-factorial health condition requiring humane and evidence-based treatment, not punishment.

People who use drugs and seek support are often denied access to the health, social and other care services that they need. These obstacles range from barriers in law and policy; absence of effective healthcare and social services, including harm reduction measures; risk of violence (particularly for women and children); and stigma and discrimination levied at drug users by health services, police, criminal justice system or communities in general. Working with governments, other UN entities, civil society organizations and the scientific community, we work hard to remove such obstacles. At both policy and operational levels, we advocate for the move away from a sanction-oriented approach and into to a health-oriented one, which is fully in line with the international drug control conventions and an underlying and robust body of international standards, norms and best practices.

Second, UNODC strongly encourages Member States to use alternatives to imprisonment for drug-related offences of a non-violent nature. Notwithstanding the clear focus of the international drug control conventions on combating the most serious offences, the provisions available in the conventions on alternatives to imprisonment for minor drug-related offences are not fully implemented by many Member States. Excessive use of imprisonment for drug-related offences of a non-violent nature is ineffective and has contributed significantly to severe prison overcrowding, thereby increasing the risk of infringing on the human rights of those imprisoned, and exacerbating the transmission of HIV and other diseases among people who inject drugs. The provision of evidence-based treatment and care services to drug-related offenders, as alternatives to incarceration, has shown to substantially increase recovery and reduce recidivism. Even the most costly forms of alternative interventions beat imprisonment on the basis of a cost-benefit analysis. The use of non-custodial measures in appropriate cases is, therefore, a human rights-based and cost-effective solution.

In recent decades, the UN General Assembly has adopted several normative instruments that encourage the use of alternatives to imprisonment and can guide implementation of the international drug control conventions in this regard. These international standards and norms include the *UN Standard Minimum Rules for Non-custodial Measures* (the **Tokyo Rules**), and the *UN Rules for the Treatment of Women Prisoners and Noncustodial Measures for Women Offenders* (the **Bangkok Rules**), which add a gender perspective to the issue of imprisonment and its alternatives.

Let me also mention at this point the '**Nelson Mandela Rules**', soon before the General Assembly for final adoption. Under the auspices of the Commission on Crime Prevention and Criminal Justice, Member States representatives, experts from human rights bodies and civil society joined forces with UNODC, OHCHR and other UN agencies, to upgrade the UN Standard Minimum Rules for the Treatment of Prisoners. The Mandela Rules strongly emphasize respect for the inherent dignity and human rights of prisoners. UNODC is now focusing its efforts on the implementation of these new standards, while continuing to resolutely promote the use of alternatives to imprisonment in the course of its criminal justice reform work.

Equally important, when called upon to provide legislative assistance to Member States that are drafting or reviewing their drug laws, we promote the proportionality of sentences and the clear distinction between serious drug trafficking offences and offenses of a minor nature.

Third, attention must be paid to the particular vulnerability of women drug offenders. There has been a marked increase in relative and absolute terms of women imprisoned for their involvement in drug offences in recent decades. Women in prison for drug-related offences are seldom major players in the global drug trade, but rather those who have been recruited or coerced to perform low-level, yet high-risk tasks, such as small-scale dealing or smuggling drugs across borders. The contributing factors that motivate women to commit drug-related offences typically points to a combination of factors, such as drug dependence, poverty, manipulation and coercion. Given that imprisonment has a particularly detrimental effect on women, their families and their communities-at-large, the use of alternatives to imprisonment are particularly appropriate for women charged with minor drug-related offences.

A good example of incorporating a gender perspective to the criminal justice treatment of women is **Costa Rica's 2013 amendment of its drug laws**. This has allowed judges to use discretion in imposing shorter prison sentences, or alternatives to imprisonment for women. It applies in particular to women who have caretaking responsibilities or are vulnerable due to poverty or old age.

Fourth, UNODC works with other partners to strongly advocate for the **promotion and protection of children's rights**. The *Convention on the Rights of the Child* explicitly requires measures to protect children from the illicit use of drugs and to prevent the use of children in illicit drug production and trafficking. Although initiation of drug use usually starts at adolescence, effective prevention that addresses vulnerabilities starts at, or even before, birth. The sound development of children and youth requires better education, poverty alleviation and protection from violence. Furthermore, children with drug use problems, who have not committed a crime, should be dealt with exclusively by the health and child protection systems. Much more cooperation among the health, child protection and justice systems is still required to promote the rights of children who have substance abuse problems.

Fifth, UNODC actively promote the provision of **legal aid**, meaning the free provision of legal advice, assistance and representation to those who have no means to afford their criminal defence. Many people arrested or detained for minor drug offences are poor, ill educated or otherwise vulnerable. Access to legal aid at the early stages of contact with the criminal justice system is particularly critical, as it is at this point

that decisions are made about whether prosecution or diversion will take place. UNODC's work in strengthening legal aid provision in Kenya, and training public defenders in Liberia, have been successful, and can be adapted to different legal and cultural environments.

Sixth, UNODC strongly advocates for the **rational use of controlled medicines** as it is essential to the relief of pain related to health conditions. Ensuring access to controlled medicines for medical use, whilst simultaneously preventing their diversion for illicit purposes, is a fundamental objective of the international drug control conventions. And yet, only 80% of the global population has access to pain medication. UNODC, together with WHO and the Union for International Cancer Control (UICC), works to increase access to controlled drugs for medical purposes and provides technical assistance and guidance to Member States.

Seventh, in line with the entire UN system, UNODC opposes the **death penalty** in all circumstances and encourages every country which has not yet done so to join a moratorium on its use and to eventually abolish this practice. UNODC strongly advises . countries that retain capital punishment not to impose it for drug-related offences, as they generally are not considered to fall under the category of "most serious crimes".

With the adoption of the post-2015 Sustainable Development Framework, **we must promote effective, fair and humane drug control, including evidence-based drug use and HIV prevention, treatment and care services, as well as effective criminal justice systems** if we wish to achieve tangible results in critical Global Goals aimed at better **health, justice, gender equality and sustainable social development**. UNODC stands ready to work with other stakeholders to provide integrated technical advice and assistance to Member States in this important field.

Thank you for your attention.