

Human Rights Council, 58th Session (24 February – 4 April 2025)

Agenda Item 3: Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement by International Network of People who Drugs (INPUD) and African Network of People Who Use Drugs (AfricaNPUD), Latin American Network of People Who Use Drugs (LANPUD), Middle East and North Africa Network of People Who Use Drugs (MENANPUD), Network of Asian People Who Use Drugs (NAPUD), Eurasian Network of People Who Use Drugs (ENPUD), European Network of People Who Use Drugs (EuroNPUD), International Network of Women Who Use Drugs (INWUD)

**Sustaining the HIV Response:
Safeguarding the Human Rights of People Who Use Drugs**

This Council has recognized that, to sustain the gains made in the HIV response and end AIDS as a public health threat by 2030, States must end the inequalities and human rights violations faced by persons living with, at risk of or affected by HIV and by communities.¹ This includes ensuring full and unimpeded access, including for key populations, to HIV-related services free from discrimination, harassment or persecution.²

We highlight **three key elements** of a response to HIV that is *effective* – elements that will also help *sustain* progress made because they are respect, protect and fulfill the human rights of people who use drugs.

1) Decriminalisation and Regulation

Numerous jurisdictions punish drug use, possession for personal use, and other drug-related activities through criminal, administrative or other sanctions. In some settings, essential harm reduction services recommended by WHO (e.g., distribution of sterile drug use equipment, opioid agonist therapy) are prohibited. Special Rapporteurs on the right to health have highlighted the failure of the ‘war on drugs’ and that it creates more harm than it seeks to prevent.³

- Punitive approaches undermine the realization of rights recognized in the core UN human rights treaties, including by denying access to harm reduction and other health services or by deterring people from accessing services because they fear arrest or other sanctions.⁴
- There are specific, disproportionate effects of drug criminalisation on poor and/or marginalized individuals and communities, including migrants, Indigenous Peoples, people of African descent, and ethnic minorities, as well as young people, sex workers, people in prisons and other closed settings.⁵ Punitive approaches also have gendered impacts, with women experiencing significantly higher rates of incarceration,⁶ and a disproportionate impact on LGBTIQ+ people.⁷

- A systematic review of peer-reviewed scientific literature confirmed that criminalisation has a negative effect on HIV prevention and treatment.⁸ The Johns Hopkins– *Lancet* Commission on Drug Policy and Health found that repressive policing contributes to unsafe drug use, such as sharing needles, hurried injection, and drug use in unsafe places, and is linked with HIV, viral hepatitis and overdose.⁹

This Council has urged States to repeal restrictive, punitive or discriminatory legal and policy frameworks that adversely affect the successful, effective and equitable delivery of and access to HIV services, including to key populations.¹⁰ Under the UN drug control treaties, States are free to refrain from criminalising drug use and the possession, purchase or cultivation of drugs for personal use – as has been recognised by the International Narcotics Control Board¹¹ – and this reflects their obligations under international human rights law.¹² Decriminalisation has been recommended not only by Special Rapporteurs on the right to health,¹³ but by many of the human rights experts appointed by this Council,¹⁴ several treaty bodies,¹⁵ the Working Group on Arbitrary Detention,¹⁶ and the High Commissioner for Human Rights.¹⁷ All UN agencies recommend decriminalisation,¹⁸ including for a more effective HIV response.¹⁹

Special Rapporteurs have also repeatedly recommended regulatory approaches as alternatives to the current predominant drug control system focussed on criminal prohibitions.²⁰ The Global Commission on Drug Policy has outlined that, while decriminalization is a vital step, “in order to fully mitigate the harms caused by ineffective and dangerous punitive responses to drugs, governments must ultimately regulate illicit drugs, from production through to distribution.”²¹ The OHCHR has also called on States to consider responsible legal regulation of all controlled substances.²² INPUD agrees: full decriminalisation is necessary to better protect public health and human rights, but ultimately States should adopt the legal regulation of all drugs based on evidence, public health principles and human rights standards.²³

2) Harm Reduction

The General Assembly and international human rights bodies have recognized harm reduction is integral to the right to health.²⁴ Harm reduction encompasses policies, programmes and practices aimed at minimising the negative health, social and legal impacts associated not only with drug use but also with drug policies and laws.²⁵ From the discussion above, and as noted by the Special Rapporteur on the right to health in her most recent report to the General Assembly, “decriminalization emerges as the self-evident harm reduction approach.”²⁶

However, the available evidence demonstrates that while reforming punitive drug laws is necessary, it is not sufficient, including for fully realising HIV prevention and treatment benefits. Rather, a true harm reduction approach complements decriminalisation with not only harm reduction services but other measures to address various social determinants of health (e.g. social assistance and housing, protection against discrimination).²⁷

3) Community-led Responses

The meaningful involvement of people who use drugs is the cornerstone of effective interventions; it ensures our specific needs and concerns are identified and addressed. Yet too often, decisions are made without our participation, including in the implementation of

decriminalisation, leading to poor implementation of models falling short of fully decriminalising.²⁸ For INPUD, community empowerment means more than the involvement or engagement of communities: it requires community ownership and actions that are explicitly aimed at social and political change.²⁹

Recommendations

- **Decriminalise and regulate:** States should remove criminal, administrative or similar penalties for drug use and for the possession, production, and cultivation for personal drug use. States should abolish any prohibition on harm reduction services (e.g., opioid agonist treatment, sterile drug use equipment). States should decriminalize, or at a minimum provide alternatives to conviction or punishment for, non-violent supply-side offences of a minor nature, such as selling and sharing of drugs to subsist, to support personal drug use, or to provide a safe supply of drugs of known composition. States should avoid the use of quantity thresholds that can result in criminal records for personal use and/or small-scale user-dealing. States should gradually introduce legal regulation of drug markets and ensure independent, multidisciplinary and rigorous evaluation to draw lessons and inform improvements in regulatory policy and practice.
- **Reduce harm:** States should take proactive steps to expand access to harm reduction services, including the comprehensive set of interventions recommended by WHO for the prevention, treatment and care of HIV among people who use drugs, including in prisons and closed settings.³⁰ In addition, States need to reduce harms by addressing social determinants of health such as poverty and lack of housing.
- **Support and listen to communities:** States should meaningfully involve people who use drugs and our networks in all stages of legislative reform and in increasing access to harm reduction. This includes providing clear, accessible, and credible information to community on changes to laws, policies or programs.³¹ States should support community-led research to evaluate the implementation of decriminalisation and models of legal regulation of drugs and to evaluate harm reduction services.

¹ A/HRC/RES/56/20 (2024), para. 3.

² Ibid., para. 5.

³ A/65/255 (2010), paras 16, 62-69, 76; HRC/56/52 (2024), paras. 5, 31-33.

⁴ A/66/255, paras. 19-21, 26-27; A/HRC/56/52, para. 32. See also: *Human rights challenges in addressing and countering all aspects of the world drug problem - Report of the Office of the United Nations High Commissioner for Human Rights*, A/HRC/54/53 (2023); INPUD. *Global Consultation Forum on the Impact of Drug Policies on the Economic, Social, and Cultural Rights of People who Use Drugs: Consultation Report* (July 2024).

⁵ A/65/255, paras. 28-29; A/HRC/56/52, paras. 5, 37-42, 54-55; A/HRC/47/40, paras. 51-71.

⁶ A/HRC/48/55 (2021), para. 29; A/HRC/47/40 (2021), paras. 56-63.

⁷ A/HRC/56/52, paras. 38-39; A/HRC/47/40, paras. 51, 64.

-
- ⁸ DeBeck K et al. HIV and the criminalisation of drug use among people who inject drugs: a systematic review. *Lancet HIV* 2017; 4(8): e357-e374.
- ⁹ Csete J et al. Public health and international drug policy. *Lancet* 2016; 387(10026): 1427–1480.
- ¹⁰ A/HRC/RES/56/20, para. 7; see also para. 10.
- ¹¹ E/INCB/2022/1, paras. 60-61.
- ¹² International Centre on Human Rights and Drug Policy et al. *International Guidelines on Human Rights and Drug Policy* (2018), <https://www.humanrights-drugpolicy.org>.
- ¹³ A/65/255, paras. 62-69; A/HRC/56/52, paras. 54-57, 81, 85.
- ¹⁴ OHCHR, “UN experts call for end to global ‘war on drugs’”, 23 June 2023.
- ¹⁵ E.g., E/C.12/UKR/CO/7, para. 43; E/C.12/LTU/CO/3, para. 55; E/C.12/GTM/CO/4, para. 45; E/C.12/BLR/CO/7, para. 38; E/C.12/NOR/CO/6, para. 43.
- ¹⁶ A/HRC/47/40, para. 126(a).
- ¹⁷ A/HRC/54/53.
- ¹⁸ CEB/2018/2 (2019).
- ¹⁹ *Consolidated guidelines on HIV, viral hepatitis and STI prevention, diagnosis, treatment and care for key populations*. Geneva: WHO, 2022.
- ²⁰ A/79/177, para. 115(h).
- ²¹ Global Commission on Drug Policy. *Advancing Drug Policy Reform: a new approach to decriminalization* (2016), p. 27; and *Beyond Punishment: From Criminal Justice Responses to Drug Policy Reform* (2024), p. 41.
- ²² A/HRC/54/53, para. 68(a),(c).
- ²³ Madden A et al. *Drug Decriminalisation: Progress or Political Red Herring? Assessing the Impact of Current Models of Decriminalisation on People Who Use Drugs* (London: INPUD, 2021), p. 38.
- ²⁴ *Implementation of the joint commitment to effectively addressing and countering the world drug problem with regard to human rights: Report of the Office of the United Nations High Commissioner for Human Rights*, A/HRC/39/39 (2018), para. 17.
- ²⁵ A/HRC/56/52, paras. 8-9,13; Harm Reduction International, “What is harm reduction?,” <https://hri.global/what-is-harm-reduction>.
- ²⁶ A/79/177, para. 70.
- ²⁷ A/HRC/56/52.
- ²⁸ Madden et al, pp. 31-32.
- ²⁹ Ibid.
- ³⁰ WHO, *Consolidated guidelines, supra*; A/79/177, para. 72.
- ³¹ Madden et al, *supra*, p. 38.