

# HEALTH AND HUMAN RIGHTS RESOURCE GUIDE



**FXB**CENTER  
FOR HEALTH & HUMAN RIGHTS

HARVARD SCHOOL OF PUBLIC HEALTH | HARVARD UNIVERSITY

# HEALTH AND HUMAN RIGHTS RESOURCE GUIDE

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## Health and Human Rights Resource Guide

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Fifth Edition, November 2013

Cover photograph courtesy of Sven Torfinn - Panos for the Open Society Foundations, "A paralegal nurse named Mercy and a lawyer named Johnson, both with Nyeri Hospice in Nyeri, Kenya talk with Elizabeth (center) about her health and property. She has cancer and is cared for by her granddaughter Caroline (to her left). She wants to ensure her granddaughters can inherit her property even though other relatives are trying to claim it."

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# CHAPTER 4



## HARM REDUCTION AND HUMAN RIGHTS

“ Individuals who use drugs do not forfeit their human rights. ”

— Navi Pillay, UN High Commissioner for Human Rights

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Cover photograph courtesy of Denis Sinyakov, Andrey Rylkov Foundation for Health and Social Justice (ARF),  
“Andrey Rylkov Foundation for Health and Social Justice (ARF) outreach workers on a night outreach shift in  
Moscow, Russia”

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# INTRODUCTION

This chapter will introduce you to key issues and resources in harm reduction and human rights, with a particular focus on the rights of people who inject drugs. Some related issues are also addressed in Chapter 2 on HIV, AIDS and Human Rights and Chapter 3 on Tuberculosis and Human Rights.

The chapter is organized into six sections that answer the following questions.

1. How is harm reduction a human rights issue?
2. What are the most relevant international and regional human rights standards related to harm reduction?
3. What is a human rights-based approach to advocacy, litigation, and programming?
4. What are some examples of effective human rights-based work in the area of harm reduction?
5. How can I find additional resources about harm reduction and human rights?
6. What are key terms related to harm reduction and human rights?

# I. HOW IS HARM REDUCTION A HUMAN RIGHTS ISSUE?

## What is harm reduction?

There are an estimated 16 million people who inject drugs in over 148 countries around the world.<sup>1</sup> This practice can carry significant health risks, including increased exposure to HIV, hepatitis C and hepatitis B.<sup>2</sup> Yet repressive drug policies and practices create and exacerbate the harms associated with illicit drug use. People who use drugs are regularly harassed and detained, subjected to involuntary and abusive treatment procedures, and denied life-saving medical care. This is true despite evidence that people who use drugs can benefit from many health services even before abstaining from drug use, and that the denial of services makes them and their communities more vulnerable to a range of health and social problems.<sup>3</sup>

“Harm reduction” refers to policies, programs, and practices aimed at reducing drug-related risks and harms by advancing the health and human rights of people who use drugs.<sup>4</sup> As Harm Reduction International notes, “The defining features are the focus on the prevention of harm, rather than on the prevention of drug use itself, and the focus on people who continue to use drugs.”<sup>5</sup> This approach recognizes that “people unable or unwilling to abstain from drug use can still make positive choices to protect their own health in addition to the health of their families and communities.”<sup>6</sup> Harm reduction thus seeks to create an enabling environment for people who use drugs to protect their health and other human rights by providing them with evidence-based information, services, and resources.<sup>7</sup>

While harm reduction refers to an approach, rather than a set of health interventions, the term is commonly applied to a number of measures designed to minimize drug-related risks, particularly in the context of injection drug use. Examples include needle and syringe programs to reduce syringe sharing and reuse; opioid substitution therapy to reduce drug cravings (e.g., methadone and buprenorphine); opioid medications to relieve pain (e.g., morphine); drug-consumption rooms to facilitate access to health care; route-transition interventions to promote non-injecting drug administration; and overdose prevention practices (e.g., naloxone to reverse opioid overdose).<sup>8</sup> Harm reduction measures also encompass broader projects to help people who use drugs access their economic, social, and political rights—including outreach and education programs, provision of legal services, and creation of public policies that are supportive of health.<sup>9</sup>

Harm reduction services are most effective when they meet people who use drugs “where they are,” rather than requiring them to undergo many complicated steps and behavioural changes before they receive help. This is especially true given the range of factors that contribute to drug-related risks and harms, including “the behaviour and choices of individuals, the environment in which they use drugs, and the laws and poli-

1 Mathers B et al, “The global epidemiology of injecting drug use and HIV among people who inject drugs: A systematic review,” *Lancet*, 372, no. 9651 (2008): 1733–1745.

2 Jurgens et al., “People who use drugs, HIV, and human rights,” *Lancet* 376 (2010): 475–485.

3 Harm Reduction International, “What is harm reduction?,” [www.ihra.net/what-is-harm-reduction](http://www.ihra.net/what-is-harm-reduction).

4 Open Society Foundations, “Harm Reduction.” [www.soros.org/topics/harm-reduction](http://www.soros.org/topics/harm-reduction).

5 Harm Reduction International, *What is Harm Reduction?: A position statement from the International Harm Reduction Association* (2010). [www.ihra.net/what-is-harm-reduction](http://www.ihra.net/what-is-harm-reduction).

6 Open Society Foundations, “Harm Reduction.” [www.soros.org/topics/harm-reduction](http://www.soros.org/topics/harm-reduction).

7 Harm Reduction International, *What is Harm Reduction?: A position statement from the International Harm Reduction Association* (2010). [www.ihra.net/what-is-harm-reduction](http://www.ihra.net/what-is-harm-reduction).

8 UN General Assembly, *Report of the Special Rapporteur on the right to health*, A/65/255, para. 50 (Aug. 6, 2010).

9 Rhodes T and Hedrich D, “Chapter 1: Harm reduction and the mainstream in Harm Reduction: Evidence, Impacts and Challenges,” *Harm Reduction: evidence, impacts and challenges* (European Monitoring Centre for Drugs and Drug Addiction, April 2010). [www.emcdda.europa.eu/publications/monographs/harm-reduction](http://www.emcdda.europa.eu/publications/monographs/harm-reduction).



cies designed to control drug use.”<sup>10</sup> For example, while access to treatment for drug dependence is important, not all people who use drugs want or even need such treatment. Access to informal and non-clinical methods of harm reduction is thus equally important. According to Harm Reduction International:

*Harm reduction interventions are facilitative rather than coercive, and are grounded in the needs of individuals.... The objective of harm reduction in a specific context can often be arranged in a hierarchy with the more feasible options at one end (e.g. measures to keep people healthy) and less feasible but desirable options at the other end. Abstinence can be considered a difficult to achieve but desirable option for harm reduction in such a hierarchy. Keeping people who use drugs alive and preventing irreparable damage is regarded as the most urgent priority while it is acknowledged that there may be many other important priorities.*<sup>11</sup>

Harm reduction strategies are therefore complementary to other approaches, including those focused on the reduction of the overall level of drug use in society. According to Anand Grover, the UN Special Rapporteur on the right to the enjoyment of the highest attainable standard of physical and mental health (UN Special Rapporteur on the Right to Health), harm reduction interventions “may operate within restrictive legal regimes.”<sup>12</sup> Nonetheless, it is now recognized that overly restrictive regimes are among the key drivers of drug-related harm. They create risky environments for drug use, drive the problem further underground, and run counter to public health objectives. Harm reduction efforts must therefore include measures to challenge international and national laws and policies that maximize harm.<sup>13</sup> Human rights-based and evidence-based approaches to drug use can assist in this endeavor.

Harm reduction strategies are UN-endorsed and are applied in a range of drug-related health contexts, including injection drugs (such as heroin and other opiates) and non-injection drugs (such as marijuana).<sup>14</sup> They have also been applied to non-drug settings, such as the distribution of condoms to prevent sexually transmitted HIV/AIDS.<sup>15</sup> This chapter will focus primarily on harm reduction aimed at injection drug use. This context offers the largest and most established body of evidence for supporting the development of human rights based programming. However, practitioners working in analogous contexts are encouraged to draw on this chapter for ideas to guide their own work.

## What are the issues and how are they human rights issues?

The current approach to global drug control fuels widespread human rights violations against people who use drugs. In many countries, they are subjected to torture and ill-treatment by police, extrajudicial killings, arbitrary detention, coercive and abusive drug treatment, and denial of essential medicines and basic health services.<sup>16</sup> These abuses are often committed in the name of “medicine, public health or public

<sup>10</sup> Harm Reduction International, *What is Harm Reduction?: A position statement from the International Harm Reduction Association* (2010). [www.ihra.net/what-is-harm-reduction](http://www.ihra.net/what-is-harm-reduction).

<sup>11</sup> Ibid.

<sup>12</sup> UN General Assembly, *Report of the Special Rapporteur on the right of everyone to the highest attainable standard of physical and mental health*, A/65/255 (Aug. 6, 2010).

<sup>13</sup> Harm Reduction International, *What is Harm Reduction?: A position statement from the International Harm Reduction Association* (2010). [www.ihra.net/what-is-harm-reduction](http://www.ihra.net/what-is-harm-reduction).

<sup>14</sup> Marlatt GA, Larimer, ME, and Witkiewitz, K, eds., *Harm Reduction, Second Edition: Pragmatic Strategies for Managing High-Risk Behaviors* (New York: Guilford Press, 2011).

<sup>15</sup> This approach has been implemented in Thailand, although recent policy developments threaten to jeopardize progress. OSF, *Criminalizing Condoms: How Policing Practices Put Sex Workers and HIV Services at Risk in Kenya, Namibia, Russia, South Africa, the United States, and Zimbabwe* (July 2012). [www.opensocietyfoundations.org/reports/criminalizing-condoms](http://www.opensocietyfoundations.org/reports/criminalizing-condoms). See also Human Rights Watch, *Sex Workers at Risk: Condoms as Evidence of Prostitution in Four US Cities* (2012). [www.hrw.org/reports/2012/07/19/sex-workers-risk](http://www.hrw.org/reports/2012/07/19/sex-workers-risk).

<sup>16</sup> Human Rights Watch, “Drug Policy and Human Rights.” [www.hrw.org/topic/retired-terms/drug-policy-and-human-rights](http://www.hrw.org/topic/retired-terms/drug-policy-and-human-rights). See also Jurgens et al., “People who use drugs, HIV, and human rights”, *Lancet* 376 (2010): 475–485.

order.”<sup>17</sup> Yet repressive drug laws and policies have not reduced drug use or prevented health-related risks and harms. As the UN Special Rapporteur on the Right to Health states:

*First, people invariably continue using drugs irrespective of criminal laws, even though deterrence of drug use is considered the primary justification for imposition of penal sanctions. Second, drug dependence, as distinct from drug use, is a medical condition requiring appropriate, evidence-based treatment—not criminal sanctions. Finally, punitive drug control regimes increase the harms associated with drug use by directing resources towards inappropriate methods and misguided solutions, while neglecting evidence-based approaches.*<sup>18</sup>

For example, the majority of people who use drugs do not become dependent on drugs and do not require treatment for drug dependence.<sup>19</sup> Even where drug dependence is an issue, it should be treated like any other medical condition—meaning with treatment methods that are voluntary, scientifically and medically appropriate, and of good quality.<sup>20</sup> Finally, people who use drugs are entitled to harm reduction measures as a matter of right under international human rights law.<sup>21</sup> According to Harm Reduction International:

*Human rights apply to everyone. People who use drugs do not forfeit their human rights, including the right to the highest attainable standard of health, to social services, to work, to benefit from scientific progress, to freedom from arbitrary detention and freedom from cruel inhuman and degrading treatment. Harm reduction opposes the deliberate hurts and harms inflicted on people who use drugs in the name of drug control and drug prevention, and promotes responses to drug use that respect and protect fundamental human rights.*<sup>22</sup>

Human rights are relevant to reducing drug-related risks and harms in at least three ways. First, lack of human rights protection creates risky environments for people who use drugs.<sup>23</sup> They are often members of socially and economically marginalized groups to begin with,<sup>24</sup> and their vulnerability is increased by the stigma associated with drug use. Criminalization of drug use and possession often forces people who use drugs to adopt risky injection practices that increase the risk of poor health and illness, such as reused or shared needles, hurried injection to avoid detection, or improper disposal of syringes.<sup>25</sup>

17 Open Society Foundations, *Human Rights Abuses in the Name of Drug Treatment: Reports from the Field* (March 2009). [www.opensocietyfoundations.org/publications/human-rights-abuses-name-drug-treatment-reports-field](http://www.opensocietyfoundations.org/publications/human-rights-abuses-name-drug-treatment-reports-field).

18 UN General Assembly, *Report of the Special Rapporteur on the right of everyone to the highest attainable standard of physical and mental health*, A/65/255, para. 15 (Aug. 6, 2010).

19 Ibid.

20 Open Society Foundations, *Human Rights Abuses in the Name of Drug Treatment: Reports from the Field* (2009).

21 Jurgens et al., “People who use drugs, HIV, and human rights”, *Lancet* 376 (2010): 475–485; UN General Assembly, *Report of the Special Rapporteur on the right of everyone to the highest attainable standard of physical and mental health*, A/65/255 (Aug. 6, 2010).

22 Harm Reduction International, *What is Harm Reduction?: A position statement from the International Harm Reduction Association* (2010). [www.ihra.net/what-is-harm-reduction](http://www.ihra.net/what-is-harm-reduction).

23 Jurgens et al., “People who use drugs, HIV, and human rights”, *Lancet* 376 (2010): 475–485.

24 United Nations Office on Drugs and Crime (UNODC). [www.unodc.org/](http://www.unodc.org/).

25 Global Commission on HIV and the Law, *HIV and the Law: Risks, Rights and Health* (2012). [www.hivlawcommission.org/index.php/report](http://www.hivlawcommission.org/index.php/report).

Second, lack of human rights protection prevents people who use drugs from accessing services and treatment. In many countries, repressive drug laws and policies have “reinforced the status of people who use drugs as social outcasts, driving drug use underground, compromising the HIV/AIDS response, as well as discouraging people who use drugs from accessing treatment.”<sup>26</sup> People who use drugs may refrain from seeking assistance for drug use or drug-related health issues in order to avoid discrimination, violations of their privacy, arrest, imprisonment, and involuntary treatment.<sup>27</sup>

Third, lack of human rights protection in the context of drug use disproportionately impacts members of vulnerable and marginalized communities. In the United States, African-Americans are arrested at higher rates than white Americans for comparable offenses and more than 80% of drug-related arrests are for drug possession rather than sales. The UN Special Rapporteur on the Right to Health notes: “Accumulation of such minor offences can lead to incarceration and further marginalization of these already vulnerable individuals, increasing their health-related risks.”<sup>28</sup> The social vulnerability of drug users is demonstrated by the fact that in some countries, they are confined with other “social outcasts”—including people with mental disabilities, sex workers, and the homeless.<sup>29</sup>

The following are some examples of key human rights issues related to people who use drugs, denial of harm reduction services, and human rights.

### Criminalization of drug use and possession

Around the world, criminalization of drug use and possession “creates more harm than the harms it seeks to prevent.” Repressive drug laws and policies disproportionately punish people who use drugs compared to those who sell or produce drugs. They also perpetuate stigma, risky forms of drug use, and negative health and social consequence—not only for those who use drugs, but the wider community as well.<sup>30</sup> The Vienna Declaration, adopted at the 2010 International AIDS Conference, recognizes that the criminalization of drug use directly fuels the global HIV epidemic.<sup>31</sup> The UN Special Rapporteur on the Right to Health confirms that criminalization runs counter to public health aims:

*Higher rates of legal repression have been associated with higher HIV prevalence among people who use injecting drugs, without a decrease in prevalence of injecting drug use. This is a likely result of individuals’ adopting riskier injection practices such as sharing of syringes and injection supplies, hurried injecting, or use of drugs in unsafe places (such as needle-shooting galleries) out of fear of arrest or punishment.*<sup>32</sup>

As a result, around one in ten new HIV infections result from injection drug use and up to 90% of all infections occur in people who inject drugs in regions such as Eastern Europe and Central Asia. In many of the same countries, harm reduction services are not only unavailable but prohibited by law, further increasing the risk of HIV transmission.<sup>33</sup>

26 UN General Assembly, *Report of the Special Rapporteur on the right of everyone to the highest attainable standard of physical and mental health*, A/65/255, (Aug. 6, 2010).

27 Open Society Institute and International Harm Reduction Development, *Protecting the Human Rights of Injection Drug Users: The Impact of HIV and AIDS* (2005). [www.opensocietyfoundations.org/publications/protecting-human-rights-injection-drug-users-impact-hiv-and-aids](http://www.opensocietyfoundations.org/publications/protecting-human-rights-injection-drug-users-impact-hiv-and-aids).

28 Ibid.

29 Open Society Foundations, *Human Rights Abuses in the Name of Drug Treatment: Reports from the Field* (2009).

30 UN General Assembly, *Report of the Special Rapporteur on the right of everyone to the highest attainable standard of physical and mental health*, A/65/255 (Aug. 6, 2010).

31 International Center for Science in Drug Policy, *The Vienna Declaration* (2010). [www.viennadeclaration.com](http://www.viennadeclaration.com).

32 UN General Assembly, *Report of the Special Rapporteur on the right of everyone to the highest attainable standard of physical and mental health*, A/65/255 (Aug. 6, 2010).

33 Ibid. See also: Global Commission on HIV and the Law, *HIV and the Law: Risks, Rights and Health* (2012). [www.hivlawcommission.org/index.php/report](http://www.hivlawcommission.org/index.php/report).

The harshness of drug laws and law enforcement practices varies considerably by jurisdiction.<sup>34</sup> In many countries, people are arrested and detained for using drugs “on the basis of mere police suspicion or a single positive urine test” and may be remanded to treatment centers “for months or years without medical assessment or right of appeal.”<sup>35</sup> In other countries, including several members of the Commonwealth of Independent States, drug use may not be prohibited per se, but possession of drug paraphernalia, including unused syringes to prevent HIV, can be cause for arrest. Additionally, individuals can be subjected to prolonged imprisonment if they are found with “large” or “extra-large” quantities of illicit drugs—in some countries, defined as the residue in a used syringe or half a cigarette of cannabis.<sup>36</sup>

At the extreme end, more than 30 UN member states retain the death penalty for drug offenses,<sup>37</sup> despite clear guidance from human rights authorities that the death penalty must be reserved for the most serious crimes, and that drug-related offenses do not meet those criteria.<sup>38</sup> For example, in 2003, “the Thai government’s efforts to make the country ‘drug free’ led to the extrajudicial killing of some 2800 people.”<sup>39</sup> People have also been executed for drug offenses in China, Iran, Saudi Arabia, Vietnam, Singapore, and Malaysia, although Singapore and Malaysia have limited enforcement in recent years and China and Vietnam are reviewing their legislation. The International Harm Reduction Association notes:

*Retentionist governments sometimes justify harsh sentences for drugs as a necessary deterrent to social risks linked to drug use—such as addiction, overdose and blood-borne infections usually associated with drugs like heroin, cocaine and amphetamine-type stimulants. Yet the reality is more nuanced. Many of the people sentenced to die are not traders in so-called ‘hard’ drugs and instead are subject to the death penalty for trafficking in marijuana or hashish.*<sup>40</sup>

Moreover, drug users can also be charged with trafficking, particularly in countries with weak rule of law. Jurgens et al. note, “The amount of illicit drugs possessed, produced, or sold to constitute a capital crime varies from 2 grams to 25 kilograms, indicating an arbitrariness that defies human rights norms on the death penalty.”<sup>41</sup>

Criminalization of drug use is implicated in the violation of many human rights, including the right to life, to health, to bodily integrity, to due process, to freedom from arbitrary arrest, and to freedom from torture and cruel, inhuman, and degrading treatment.<sup>42</sup> While the 1984 Siracusa Principles on the Limitation and Derogation of Principles in the International Covenant on Civil and Political Rights permit restrictions on individual liberties in limited circumstances, they must be “sanctioned by law, serve a legitimate public health goal... necessary to achieve that goal... no more intrusive or restrictive than necessary, and ... non-discriminatory in application.”<sup>43</sup> The criminal penalties imposed against people who use drugs lack an evidence basis in public health and fall short of these stringent requirements.

34 Jurgens et al., “People who use drugs, HIV, and human rights”, *Lancet* 376 (2010): 475–485.

35 Open Society Foundations, *Human Rights Abuses in the Name of Drug Treatment: Reports from the Field* (2009). <http://www.opensocietyfoundations.org/publications/human-rights-abuses-name-drug-treatment-reports-field>.

36 Alternative Georgia, *Reforming Drug Policy for HIV/AIDS Prevention* (2005).

37 Harm Reduction International, *The Death Penalty for Drug Offenses: Global Overview* (2011). [www.ihra.net/contents/1080](http://www.ihra.net/contents/1080).

38 UN General Assembly, *Report of the Special Rapporteur on the right of everyone to the highest attainable standard of physical and mental health*, A/65/255 (Aug. 6, 2010).

39 Human Rights Watch, “Drug Policy and Human Rights.” <http://www.hrw.org/node/82339>.

40 Harm Reduction International, *The Death Penalty for Drug Offenses: Global Overview* (2011). [www.ihra.net/contents/1080](http://www.ihra.net/contents/1080).

41 Jurgens et al., “People who use drugs, HIV, and human rights”, *Lancet* 376 (2010): 475–485.

42 UN General Assembly, *Report of the Special Rapporteur on the right of everyone to the highest attainable standard of physical and mental health*, A/65/255 (Aug. 6, 2010).

43 Amon J, *Preventing the Further Spread of HIV/AIDS: The Essential Role of Human Rights* (Human Rights Watch). [www.old.msmgf.org/documents/NorthAmerica/TakeAction/PreventingtheFurtherSpreadofHIVAIDSTheEssentialRoleofHumanRights.pdf](http://www.old.msmgf.org/documents/NorthAmerica/TakeAction/PreventingtheFurtherSpreadofHIVAIDSTheEssentialRoleofHumanRights.pdf).

## Incarceration and denial of services in prisons

Due to harsh and repressive drug control regimes, people who use drugs but who do no harm enter the criminal justice system in large numbers. Jurgens et al. note:

*The incarceration of many drug-dependent people—often for lengthy periods of time and for minor offences such as possession of very small amounts of drugs—also raises human rights and health concerns. In many countries, a substantial proportion of prisoners are drug dependent. For people who inject drugs, imprisonment is a common event, with reported incarceration rates of 56–90% in this population.<sup>44</sup>*

Once in prison, they are often exposed to conditions that further jeopardize their rights, including unsanitary facilities, overcrowding, inadequate food, violence, sexual assault, and inadequate medical attention.<sup>45</sup> HIV, hepatitis B and C, and tuberculosis are especially prevalent in prison settings given high rates of injection drug use, risky injecting practices, and lack of prevention and treatment services.<sup>46</sup> Access to sterile injection equipment, the single most important determinant of HIV infection, remains poor, as does access to antiretroviral therapy.<sup>47</sup> The UN Special Rapporteur on the Right to Health notes that these factors “create enormous risk for inmates [which] is then passed on to members of the public upon prisoners’ release.”<sup>48</sup>

Many prisons also fail to provide medically appropriate care and medications, including treatment for drug dependence. For example, substitution therapy, considered the standard of care for opiate addictions, is rarely available, leaving many people alone to face withdrawal without medical support. In New York, many prisoners are denied such services “as part of the disciplinary sanction.”<sup>49</sup> At the same time, prisons often deny people who use drugs the right to give informed consent before undergoing medical procedures, including mandatory HIV testing, or deny them the opportunity to refuse treatment, including for drug dependence. These practices constitute a breach of medical ethics and a violation of international human rights law.<sup>50</sup>

## Extrajudicial detention, abuse, and compulsory treatment

Even when governments profess to treat people who use drugs as patients rather than criminals, the result is frequently harsh, punitive regimes with no medical or public health benefit. Many countries use compulsory detention as a form of “treatment,” and people suspected of using drugs are regularly confined for months or years without a trial or even an evaluation of their drug dependency.<sup>51</sup> As Clark et al. note, these so-called compulsory treatment centers “are probably more aptly named ‘extrajudicial drug detention centres.’”<sup>52</sup> They typically fall outside the criminal justice system, are run by police, military, or security personnel, and lack judicial oversight, government regulation, and medical supervision.<sup>53</sup>

44 Jurgens et al., “People who use drugs, HIV, and human rights”, *Lancet* 376 (2010): 475–485.

45 UNODC, “Sustainable livelihoods.” [www.unodc.org/eastasiaandpacific/en/topics/sustainable-livelihoods/index.html](http://www.unodc.org/eastasiaandpacific/en/topics/sustainable-livelihoods/index.html).

46 UN General Assembly, *Report of the Special Rapporteur on the right of everyone to the highest attainable standard of physical and mental health*, A/65/255 (Aug. 6, 2010).

47 Jurgens et al., “People who use drugs, HIV, and human rights”, *Lancet* 376 (2010): 475–485.

48 Open Society Institute and International Harm Reduction Development, *Protecting the Human Rights of Injection Drug Users: The Impact of HIV and AIDS* (2005). <http://www.opensocietyfoundations.org/publications/protecting-human-rights-injection-drug-users-impact-hiv-and-aids>.

49 Human Rights Watch, “Drug Policy and Human Rights.” <http://www.hrw.org/node/82339>.

50 UN General Assembly, *Report of the Special Rapporteur on the right of everyone to the highest attainable standard of physical and mental health*, A/65/255 (Aug. 6, 2010).

51 Open Society Foundations, *Treated with Cruelty: Abuses in the Name of Rehabilitation* (2011). [www.opensocietyfoundations.org/publications/treated-cruelty-abuses-name-rehabilitation](http://www.opensocietyfoundations.org/publications/treated-cruelty-abuses-name-rehabilitation).

52 Clark et al, *Voluntary treatment, not detention, in the management of opioid dependence* (WHO, 2013). [www.who.int/bulletin/volumes/91/2/13-117184/en/index.html](http://www.who.int/bulletin/volumes/91/2/13-117184/en/index.html).

53 Open Society Foundations, *Human Rights Abuses in the Name of Drug Treatment: Reports from the Field* (2009). [www.opensocietyfoundations.org/publications/human-rights-abuses-name-drug-treatment-reports-field](http://www.opensocietyfoundations.org/publications/human-rights-abuses-name-drug-treatment-reports-field).

People remanded to these facilities for drug treatment rarely receive effective, medically necessary therapies based on scientific evidence and offered under conditions of informed consent. Instead, they are frequently subjected to egregious violations of their human rights, in some cases rising to the level of torture. The Open Society Institute's International Harm Reduction Development Program (IHRD) notes:

*What is referred to as 'treatment' in many centers in fact includes painful, unmedicated withdrawal, beatings, military drills, verbal abuse, and sometimes scientific experimentation without informed consent. Forced labor, without pay or at extremely low wages, at times in total silence, is used as 'rehabilitation,' with detainees punished if work quotas are not met.*<sup>54</sup>

IHRD has documented numerous examples of patients forced to undergo perverse, punitive, and abusive treatment:

- “Former detainees in Cambodia report being locked in cement facilities where they are forced to withdraw ‘cold turkey,’ and not allowed to use the toilet despite the diarrhea that is commonly associated with such withdrawal, subjected to sexual violence and beatings with batons and boards, and compelled to confess to unsolved criminal cases.”
- In South Africa, “[Former residents of one center report being kicked and beaten if they did not maintain sufficient speed during physical training, which consisted of carrying boulders on their bare backs, rolling long distances on hot pavement, or running while carrying as much as 25 liters of water and then being forced to drink it all, pausing only to vomit.”
- “In Nagaland, India, drug users have been crammed into thorn-tree cages in a sitting position. In Punjab, drug treatment patients are routinely tortured, and in some cases have been beaten to death.”<sup>55</sup>
- Moreover, people may be forced to undergo dangerous and experimental therapy, a clear violation of their right to be free from “torture, nonconsensual medical treatment and experimentation.” IHRD has documented:<sup>56</sup>
- In China, “Private and voluntary treatment methods include partial lobotomy through the insertion of heated needles clamped in place for up to a week to destroy brain tissue thought to be connected to cravings.”
- “Throughout Eastern Europe and Central Asia... patients have ampoules or substances injected under the skin and are told that they will explode and poison them if they drink or use drugs.”<sup>57</sup>

Beyond this so-called treatment, people detained in these centers are frequently denied access to basic medical treatment and care, including evidence-based treatment for drug dependence, medical care for HIV and other health conditions, and access to HIV prevention measures. As the UN Special Rapporteur on the Right to Health notes, “Imposition of compulsory treatment, at the expense of OST and other harm reduction interventions, also increases the risk of disease transmission, particularly HIV/AIDS.” This constitutes a further violation of the right to health.

54 Open Society Foundations, *Treatment or Torture?: Applying International Human Rights Standards to Drug Detention Centers* (2011). [www.opensocietyfoundations.org/sites/default/files/treatment-or-torture-20110624.pdf](http://www.opensocietyfoundations.org/sites/default/files/treatment-or-torture-20110624.pdf).

55 Open Society Foundations, *Human Rights Abuses in the Name of Drug Treatment: Reports from the Field* (2009). [www.opensocietyfoundations.org/publications/human-rights-abuses-name-drug-treatment-reports-field](http://www.opensocietyfoundations.org/publications/human-rights-abuses-name-drug-treatment-reports-field).

56 UN General Assembly, *Report of the Special Rapporteur on the right of everyone to the highest attainable standard of physical and mental health*, A/65/255 (Aug. 6, 2010).

57 Open Society Foundations, *Human Rights Abuses in the Name of Drug Treatment: Reports from the Field* (2009). [www.opensocietyfoundations.org/publications/human-rights-abuses-name-drug-treatment-reports-field](http://www.opensocietyfoundations.org/publications/human-rights-abuses-name-drug-treatment-reports-field).

While the heads of 12 UN agencies have signed a statement calling for an end to detention as treatment, the practice continues.<sup>58</sup> For example, there are an estimated 300,000 to 500,000 people undergoing compulsory drug detention in China, and as many 60,000 people each year in Vietnam. Thousands more are interned in Cambodia, Thailand, Malaysia, Laos, Burma, and other countries in Asia.<sup>59</sup> Conditions in drug detention centers are so severe that people who use drugs are sometimes forced to resort to desperate measures. In one Chinese study, up to 10% had swallowed nails or glass to avoid such detention.<sup>60</sup>

For legal assessments detailing the violations of international human rights law represented by these practices, please consult the following Open Society Foundation resources: *Treatment or Torture? Applying International Human Rights Standards to Drug Detention Centers* (2011); *Treated with Cruelty: Abuses in the Name of Rehabilitation* (2011); and *Human Rights Abuses in the Name of Drug Treatment: Reports From the Field* (2009).

## Police harassment, ill treatment, and torture

Criminalization of drug use is common, creating tension between law enforcement and harm reduction efforts.<sup>61</sup> Persons who use drugs, already a marginalized group in society, are vulnerable to a range of human rights abuses by police and law enforcement officers. Police often target them in order to meet arrest quotas.<sup>62</sup> According to Human Rights Watch:

*People who use drugs are routinely subjected to violence during arrest and detention, in some cases to extract confessions. Law enforcement in many countries has relied on tactics amounting to inhuman treatment or in some cases to torture, including forcing suspects to suffer withdrawal to extract confessions and extorting money from them.*

In some countries, such as Russia, Georgia, Ukraine, and Thailand, people who use drugs are identified and listed in registries that “brand [them] as sick and dangerous, sometimes for life” and fuel violations of their civil rights, including increased police surveillance and discrimination in employment, travel, immigration, and child custody.<sup>63</sup>

Police harassment and abuse directly contribute to drug-related harms and undermine important public health objectives, violating the right to health of people who use drugs and the communities in which they live. The UN Special Rapporteur on the Right to Health notes:

*Police crackdowns and other interventions associated with criminalization of drug use and possession also result in displacement of drug users from areas serviced by harm-reduction programmes, decreasing their ability to participate in needle and syringe programmes, opioid substitution therapy (OST) and access to outreach workers. Access to emergency assistance in the instance of an overdose also is impeded, and the incidence of overdose may be increased by disrupting access to regu-*

58 United Nations, *Joint Statement: Compulsory Drug Detention and Rehabilitation Centres* (2012). [www.unaids.org/en/media/unaids/contentassets/documents/document/2012/JC2310\\_Joint%20Statement6March12FINAL\\_en.pdf](http://www.unaids.org/en/media/unaids/contentassets/documents/document/2012/JC2310_Joint%20Statement6March12FINAL_en.pdf); Human Rights Watch, *Torture in the Name of Treatment* (2012). [www.hrw.org/sites/default/files/reports/HHR%20Drug%20Detention%20Brochure\\_LOWRES.pdf](http://www.hrw.org/sites/default/files/reports/HHR%20Drug%20Detention%20Brochure_LOWRES.pdf).

59 Open Society Foundations, *Treatment or Torture?: Applying International Human Rights Standards to Drug Detention Centers* (2011). [www.opensocietyfoundations.org/sites/default/files/treatment-or-torture-20110624.pdf](http://www.opensocietyfoundations.org/sites/default/files/treatment-or-torture-20110624.pdf).

60 Wolfe D, “Paradoxes in antiretroviral treatment for injecting drug users: Access, adherence and structural barriers in Asia and the former Soviet Union,” *International Journal of Drug Policy* (2007).

61 Stevens A, Stöver H and Brentari C, “Chapter 14: Criminal justice approaches to harm reduction in Europe in Harm Reduction: evidence, impacts and challenges,” *Harm Reduction: evidence, impacts and challenges* (European Monitoring Centre for Drugs and Drug Addiction, April 2010). [www.emcdda.europa.eu/publications/monographs/harm-reduction](http://www.emcdda.europa.eu/publications/monographs/harm-reduction).

62 Global Commission on HIV and the Law, *HIV and the Law: Risks, Rights and Health* (2012). [www.hivlawcommission.org/index.php/report](http://www.hivlawcommission.org/index.php/report).

63 Ibid. Open Society Institute, *Human Rights Abuses in the Name of Drug Treatment: Reports from the Field* (2009). [www.opensocietyfoundations.org/publications/human-rights-abuses-name-drug-treatment-reports-field](http://www.opensocietyfoundations.org/publications/human-rights-abuses-name-drug-treatment-reports-field).

*lar injecting networks and drug suppliers.... Any efforts to decriminalize or de-penalize drug use or possession must be coupled with appropriate strategies to ensure that the fear and stigma that were reinforced through excessive policing are ameliorated.<sup>64</sup>*

## Denial of evidence-based treatment and care, including harm reduction

People who inject drugs experience heightened risk of HIV, hepatitis B<sup>65</sup> and C,<sup>66</sup> and TB.<sup>67</sup> Yet in many countries, harm reduction services are underutilized or even proscribed. The UN Special Rapporteur notes:

*Currently, 93 countries and territories support a harm reduction approach. As of 2009, needle and syringe programmes had been implemented in 82 countries, and OST in 70 countries, with both interventions available in 66 countries. However, needle and syringe programmes have been confirmed to be absent in 55 countries where injecting drugs are used, and OST in 66 such countries. It is particularly disturbing that OST is unavailable in 29 countries throughout Africa and the Middle East, especially in the light of the HIV burden throughout Africa.<sup>68</sup>*

Even where harm reduction measures are legal, people may refrain from seeking assistance for drug use or drug-related health issues in order to avoid discrimination, violations of their privacy or even incarceration.<sup>69</sup> Human Rights Watch notes:

*In some countries, many people who inject drugs do not carry sterile syringes or other injecting equipment, even though it is legal to do so, because possession of such equipment can mark an individual as a drug user and expose him or her to punishment on other grounds. Police presence at or near government sanctioned harm reduction programs (such as legal needle exchange sites) drives drug users away from these services out of fear of arrest or other punishment.<sup>70</sup>*

The illegal status of drug use and possession also shape the quality and type of treatment people who use drugs receive. People who use drugs are often discriminated against in medical settings and may be denied access to antiretroviral therapy and other medical treatments.<sup>71</sup> For example, it is estimated that only 4% of people who inject drugs with HIV are receiving antiretroviral treatment.<sup>72</sup> People who use drugs also face disproportionate barriers in accessing housing other social services.

## Denial of access to controlled medicines

An essential aspect of reducing drug-related harms is increasing access to controlled essential medicines for therapeutic purposes, including pain, drug dependence, and other health conditions. According to the UN Special Rapporteur on the Right to Health:

64 UN General Assembly, *Report of the Special Rapporteur on the right of everyone to the highest attainable standard of physical and mental health*, A/65/255 (Aug. 6, 2010).

65 World Health Organization (WHO), *Guidance on Prevention of viral Hepatitis B and C among people who inject drug*, Policy Brief (July 2012). [http://apps.who.int/iris/bitstream/10665/75192/1/WHO\\_HIV\\_2012.18\\_eng.pdf](http://apps.who.int/iris/bitstream/10665/75192/1/WHO_HIV_2012.18_eng.pdf).

66 Ibid.

67 Harm Reduction International, *Global State of Harm Reduction 2012* (2012). [www.ihra.net/global-state-of-harm-reduction-2012](http://www.ihra.net/global-state-of-harm-reduction-2012).

68 UN General Assembly, *Report of the Special Rapporteur on the right of everyone to the highest attainable standard of physical and mental health*, A/65/255, para. 15 (Aug. 6, 2010).

69 Open Society Institute and International Harm Reduction Development, *Protecting the Human Rights of Injection Drug Users: The Impact of HIV and AIDS* (2005). [www.opensocietyfoundations.org/publications/protecting-human-rights-injection-drug-users-impact-hiv-and-aids](http://www.opensocietyfoundations.org/publications/protecting-human-rights-injection-drug-users-impact-hiv-and-aids).

70 Human Rights Watch, "Drug Policy and Human Rights." <http://www.hrw.org/node/82339>.

71 Jurgens et al., "People who use drugs, HIV, and human rights", *Lancet* 376 (2010): 475–485.

72 Harm Reduction International, *Global State of Harm Reduction 2012* (2012). [www.ihra.net/global-state-of-harm-reduction-2012](http://www.ihra.net/global-state-of-harm-reduction-2012); Mathers BM et al, "The global epidemiology of injecting drug use and HIV among people who inject drugs: A systematic review," *Lancet* 372, no. 9651 (2010): 1733–1745.



*These medications are often restricted excessively for fear they will be diverted from legitimate medical uses to illicit purposes. Although preventing drug diversion is important, this risk must be balanced against the needs of the patient to be treated.... Where patients with HIV are also dependent on drugs, they may be denied access to both OST and palliative care.... Restrictive laws are a particular problem in the cases of methadone and buprenorphine, drugs used for OST. In some States use of these drugs is outlawed.<sup>73</sup>*

Access to essential medicines is a minimum core obligation of the right to health and the failure of states to provide people who use drugs access controlled medicines constitutes a violation of this right.

## **Vulnerability of women, children and young people who use drugs<sup>74</sup>**

Young people frequently represent a significant proportion of people who inject drugs; in some countries, injection drug use starts as early as age 12. In one study of harm reduction programs in Georgia, 16.8% of the respondents were under 25. In another study in Romania, 16% of the participants were aged 15–19 and 45% were aged 20–24. Based on these and similar findings across Central and Eastern Europe, UNAIDS estimates that around 45% of all new HIV infections are among young people under age 25.

There is also a high prevalence of injection drug use among women in many parts of the world. According to Harm Reduction International, “Though precise data on women who use drugs are rarely available, women have been estimated to represent about 40% of drug users in the United States and some parts of Europe, 20% in Eastern Europe, Central Asia, and Latin America, between 17-40% in various provinces of China, and 10% in some other Asian countries.” Advocates also note an overlap between commercial sex work and injecting drug use in some areas, which contributes to increased risk of drug-related harms.<sup>75</sup>

## **What are current interventions and practices in the area of harm reduction?**

Harm reduction measures include a range of interventions to address the medical and ethical problems outlined above. Some target biomedical issues while others target the social determinants of health – either root causes or the larger environment in which people access their right to health. Harm reduction measures can be tailored to take specific vulnerability factors into account, such as age, gender or incarceration, and they can be used in combination.

Additionally, some of these measures include a human rights component and are explicitly designed to respect and protect the dignity and rights of people who use drugs. The following list includes both rights-based and public health-based interventions, as well as other approaches to ensuring the respect of the rights of people who inject drugs that may not be traditionally characterized as harm reduction.

<sup>73</sup> UN General Assembly, *Report of the Special Rapporteur on the right of everyone to the highest attainable standard of physical and mental health*, A/65/255, para. 15 (Aug. 6, 2010).

<sup>74</sup> Harm Reduction International, *Global State of Harm Reduction 2012* (2012). [www.ihra.net/global-state-of-harm-reduction-2012](http://www.ihra.net/global-state-of-harm-reduction-2012).

<sup>75</sup> Harm Reduction International, *Harm Reduction and Human Rights: The Global Response to Drug-Related HIV Epidemics* (2009). [www.ihra.net/files/2010/06/01/GlobalResponseDrugRelatedHIV\(2\).pdf](http://www.ihra.net/files/2010/06/01/GlobalResponseDrugRelatedHIV(2).pdf).

### Needle and syringe programs

These programs are designed to provide sterile injection equipment to people who inject drugs and have been extensively proven to prevent and control HIV and other blood-borne infections.<sup>76</sup> Programs differ greatly from fixed and mobile sites, community outreach, pharmacy provision, and vending machines.

### Supervised injection facilities and drug-consumption rooms

Medically supervised injection facilities provide a hygienic site for injection drug use. The sites often provide sterile injection equipment, as well as information about drugs and medical and treatment referrals. Some sites may offer additional medical or counselling services.

The Special Rapporteur on the Right to Health stated that the “potential benefits of drug-consumption rooms include prevention of disease transmission and reduced venous damage, as well as encouraging entry to treatment and other services. Evidence exists that drug consumption rooms have contributed to reductions in overdose rates, and increased access to medical and social services.”<sup>77</sup>

### Route-transition interventions

Route transition interventions strive to prevent transitions to more harmful methods of drug administration or attempt to change a drug users current method of drug administration to a safer method. An example would be promoting smoking heroin rather than injecting heroin.

### Opioid substitution therapy

Opioid substitution therapy (OST) is the prescription of opioid medicines to persons with opioid dependence under medical supervision. This is also known as substitution or replacement therapy, drug dependence treatment, or prescription of substitute medications. OST facilitates the reduction or discontinuation of drug injection and increases the normalization of the patient’s lifestyle. OST also reduces risk of contracting blood-borne disease and increases the possibility of treatment if the patient is already a carrier, and reduces overdose mortality. Traditional opioid substitutions are methadone and buprenorphine, but some countries also use slow-release morphine or codeine. Heroin-assisted treatment (HAT) is an effective option for people who continue using intravenous heroin while on methadone maintenance or who are not enrolled in treatment.<sup>78</sup>

### Overdose prevention

Overdose prevention practices can be promoted through education and outreach and overdose interventions can be as simple as first-aid training. Administration of the drug Naloxone, “an opioid receptor antagonist used to reverse depression of the central nervous system in cases of opioid overdose,” is also crucial for minimizing overdose risk, but it must be available for distribution and administration.<sup>79</sup>

76 WHO, UNAIDS and UNODC, *Guide to Starting and Managing Needle and Syringe Programmes* (2007). [www.who.int/hiv/pub/idu/needleprogram/en/index.html](http://www.who.int/hiv/pub/idu/needleprogram/en/index.html); World Health Organization, *Effectiveness of sterile needle and syringe programming in reducing HIV/AIDS among injecting drug users* (2004). <http://whqlibdoc.who.int/publications/2004/9241591641.pdf>; S. Burris et al, “Physician Prescribing of Sterile Injection Equipment to Prevent HIV Infection: Time for Action,” *Annals of Internal Medicine* 133, no. 3 (2000): 219.

77 UN General Assembly, *Report of the Special Rapporteur on the right of everyone to the highest attainable standard of physical and mental health*, A/65/255, (Aug. 6, 2010).

78 See, e.g., Haasen C et al. “Heroin-assisted treatment for Opioid Dependence: Randomised Controlled Trial”, *The British Journal of Psychiatry* 191:55-62 (2007). <http://bjp.rcpsych.org/content/191/1/55>.

79 UN General Assembly, *Report of the Special Rapporteur on the right of everyone to the highest attainable standard of physical and mental health*, A/65/255, (Aug. 6, 2010).

### Outreach and education programs

Education and outreach programs can involve assistance with access to services, peer mentoring or counselling, support groups, provision of sterile injection equipment, or provision of educational materials on harm reduction, safe drug use, or safe sex.

### Access to justice through legal aid, paralegal training, and legal empowerment <sup>80</sup>

Evidence suggests that access to legal aid, paralegal services, and legal empowerment can greatly enhance the health of drug users. Legal services can include assistance with access to housing, health, and social services; training and supporting non-lawyers as paralegals and companions; training drug users to know and assert their rights; documenting human rights abuses against drug users and related advocacy; and ensuring the legality of health services for drug users.

### Access to medical services

#### *Access to medical services*

People who inject drugs are deterred from accessing available services for a variety of reasons. Harm reduction programs should ensure that people who inject drugs are afforded access to medical services without discrimination or judgment.

#### *Access to HIV treatment*

Evidence has shown that persons who inject drugs can, with proper supports, enjoy the same benefits from ART as other people with HIV. However, as mentioned above, people who inject drugs account for a large number of HIV infections, but a small fraction of those with access to antiretroviral treatment (ART).

#### *Vaccination, diagnosis, and treatment of hepatitis B and C*

WHO recommends countries provide catch-up vaccination against hepatitis B for people at increased risk (there is no vaccine against hepatitis C).<sup>81</sup> WHO also recommends that people who inject drugs receive the rapid hepatitis B vaccination regimen as well as incentives to complete the regimen. People who inject drugs should also have access to medical services to ensure treatment of hepatitis.

#### *Integrated services*

Treatment for HIV and/or TB can be integrated with OST to more adequately address the needs of people who inject drugs. For example, if TB treatment requires hospital stays, people who inject drugs may avoid treatment to also avoid withdrawal symptoms. Models on integrated services have been developed over the past few years, resulting in more information on best practices.<sup>82</sup>

<sup>80</sup> Csete J and Cohen J, "Health Benefits of Legal Services for Criminalized Populations: The Case of People Who Use Drugs, Sex Workers, and Sexual and Gender Minorities," *Journal of Law, Medicine, and Ethics* (Winter 2010).

<sup>81</sup> World Health Organization, *Four ways to reduce hepatitis infections in people who inject drugs* (July 2012). [http://www.who.int/mediacentre/news/notes/2012/hiv\\_hepatitis\\_20120721/en/](http://www.who.int/mediacentre/news/notes/2012/hiv_hepatitis_20120721/en/).

<sup>82</sup> WHO, UNAIDS and UNODC, *Policy Guidelines for Collaborative TB and HIV Services for Injecting and Other Drug Users: An Integrated Approach* (2008). [http://whqlibdoc.who.int/publications/2008/9789241596930\\_eng.pdf](http://whqlibdoc.who.int/publications/2008/9789241596930_eng.pdf).

### Decriminalization

Harm reduction advocates have always sought to decriminalize harm reduction services and to decriminalize drug users. On July 11, 2012, the UN assembled Commission on HIV and the Law publicly called for the decriminalization of drug use, needles, and the personal possession of drugs.<sup>83</sup> In June 2012, the Global Commission on Drug Policy also released a report recommending the decriminalization of drug use.<sup>84</sup> It should also be noted that harm reduction challenges laws and policies that may generate or exacerbate harm. “In many countries, harm reduction is further hampered by criminal laws, disproportionate penalties and law enforcement.”<sup>85</sup>

### Elimination of the death penalty

The death penalty is one of the most egregious examples of the punitive laws, policies, and measures that operate on the situation of people who inject drugs. The death penalty can be imposed for certain drug offenses, including drug trafficking. Oftentimes people who use drugs can be charged with trafficking, particularly in countries with weak rule of law. The UN Human Rights Committee has found that drug offenses are not serious crimes, and therefore the death penalty is not permitted under international human rights law for drug offenses.

### Protection against abuses by police and health care providers

Mistreatment of people who use drugs by police and healthcare providers is widespread. Police use the threat of incarceration or painful withdrawal symptoms to coerce testimony and extort money from people who use drugs. In many countries, police or health care providers release confidential information regarding HIV or drug-using status, register drug users’ names on government lists, and deny them employment or services. It is common for governments to impose lengthy prison sentences for minor drug offenses. This not only constitutes cruel and unusual punishment, but also catalyzes HIV transmission, since hundreds of thousands of people are incarcerated in environments where drug injection and unprotected sex continue, and where HIV treatment and prevention measures are often unavailable.

### Support for political participation

More than two decades of experience with HIV have shown that “hard-to-reach” populations are their own best advocates. Despite the importance of involving those who are directly affected in the formation of drug and harm reduction policy, drug users have often been excluded, even from those mechanisms that are intended to increase participation of drug users.

Women often wait longer to seek diagnosis and treatment for TB. This in turn can “increase the severity of their illness, decrease the success of treatment, and raise the risks that they will infect others.”<sup>86</sup> Where TB treatment is provided mostly via in-patients modes—the norm in many former Soviet countries—women may face particular difficulty adhering to treatment due to their child care responsibilities or inability to leave home for extended periods. While men and women may both face economic consequences related TB stigma, women can also face lost marriage prospects, divorce, desertion and separation from their children.<sup>87</sup>

83 Wolfe D and Csete J, *Decriminalization of Drugs as HIV Prevention* (July 2012). [www.opensocietyfoundations.org/voices/decriminalization-drugs-hiv-prevention](http://www.opensocietyfoundations.org/voices/decriminalization-drugs-hiv-prevention); Global Commission on HIV and the Law, *HIV and the Law: Rights and Health* (July 2012). [www.hivlawcommission.org/](http://www.hivlawcommission.org/).

84 Global Commission on Drug Policy, *The War on Drugs and HIV/AIDS: How the Criminalization of Drug Use Fuels the Global Pandemic* (June 2012). [http://globalcommissionondrugs.org/wp-content/themes/gcdp\\_v1/pdf/GCDP\\_HIV-AIDS\\_2012\\_REFERENCE.pdf](http://globalcommissionondrugs.org/wp-content/themes/gcdp_v1/pdf/GCDP_HIV-AIDS_2012_REFERENCE.pdf).

85 Human Rights Watch, OSI: Public Health Program, Canadian HIV/AIDS Legal Network, and Harm Reduction International, *Human Rights and Drug Policy: Harm Reduction* (2010).

86 TB Alert, “TB and Women: TB is the single biggest killer of young women.” [www.tbalert.org/worldwide/TBAndwomen.php](http://www.tbalert.org/worldwide/TBAndwomen.php).

87 Courtwright A and Turner AN, “Tuberculosis and Stigmatization: Pathways and Interventions,” *Public Health Reports* 125, Suppl 4 (2010):34-42; Somma D et al., “Gender and socio-cultural determinants of TB-related stigma in Bangladesh, India, Malawi and Colombia,” *International Journal of Tuberculosis and Lung Disease* 17, no. 7 (2008): 856-866. [www.who.int/tdr/publications/documents/tb-related-stigma.pdf](http://www.who.int/tdr/publications/documents/tb-related-stigma.pdf).

## 2. WHICH ARE THE MOST RELEVANT INTERNATIONAL AND REGIONAL HUMAN RIGHTS STANDARDS RELATED TO HARM REDUCTION?

### How to read the tables

Tables A and B provide an overview of relevant international and regional human rights instruments. They provide a quick reference to the rights instruments and refer you to the relevant articles of each listed human right or fundamental freedom that will be addressed in this chapter.

From Table 1 on, each table is dedicated to examining a human right or fundamental freedom in detail as it applies to harm reduction. The tables are organized as follows:

Human right or fundamental freedom	
<b>Examples of Human Rights Violations</b>	
<b>Human rights standards</b>	<p><b>UN treaty body interpretation</b></p> <p>This section provides general comments issued by UN treaty bodies as well as recommendations issued to States parties to the human right treaty. These provide guidance on how the treaty bodies expect countries to implement the human rights standards listed on the left.</p>
<b>Human rights standards</b>	<p><b>Case law</b></p> <p>This section lists case law from regional human rights courts only. There may be examples of case law at the country level, but these have not been included. Case law creates legal precedent that is binding upon the states under that court’s jurisdiction. Therefore it is important to know how the courts have interpreted the human rights standards as applied to a specific issue area.</p>
<p><b>Other interpretations:</b> This section references other relevant interpretations of the issue. It includes interpretations by:</p> <ul style="list-style-type: none"> <li>• UN Special Rapporteurs</li> <li>• UN working groups</li> <li>• International and regional organizations</li> <li>• International and regional declarations</li> </ul>	

The tables provide examples of human rights violations as well as legal standards and precedents that can be used to redress those violations. These tools can assist in framing common health or legal issues as human rights issues, and in approaching them with new intervention strategies. In determining whether any human rights standards or interpretations can be applied to your current work, consider what violations occur in your country and whether any policies or current practices in your country contradict human rights standards or interpretations.

Human rights law is an evolving field, and existing legal standards and precedents do not directly address many human rights violations. Through ongoing documentation and advocacy, advocates can build a stronger body of jurisprudence on human rights and harm reduction.

## Abbreviations

In the tables, we use the following abbreviations to refer to the twelve treaties and their corresponding enforcement mechanisms:

Treaty	Enforcement Mechanism
Universal Declaration of Human Rights ( <b>UDHR</b> )	None
International Covenant on Civil and Political Rights ( <b>ICCPR</b> )	Human Rights Committee ( <b>HRC</b> )
International Covenant on Economic, Social, and Cultural Rights ( <b>ICESCR</b> )	Committee on Economic, Social and Cultural Rights ( <b>CESCR</b> )
Convention on the Elimination of All Forms of Discrimination Against Women ( <b>CEDAW</b> )	Committee on the Elimination of Discrimination Against Women ( <b>CEDAW Committee</b> )
International Convention on the Elimination of All Forms of Racial Discrimination ( <b>ICERD</b> )	Committee on the Elimination of Racial Discrimination ( <b>CERD</b> )
Convention on the Rights of the Child ( <b>CRC</b> )	Committee on the Rights of the Child ( <b>CRC Committee</b> )
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ( <b>CAT</b> )	Committee against Torture ( <b>CAT Committee</b> )
African Charter on Human and Peoples' Rights and Protocols ( <b>ACHPR</b> )	African Commission on Human and Peoples' Rights ( <b>ACHPR Commission</b> )
[European] Convention for the Protection of Human Rights and Fundamental Freedoms ( <b>ECHR</b> )	European Court of Human Rights ( <b>ECtHR</b> )
1996 Revised European Social Charter ( <b>ESC</b> )	European Committee of Social Rights ( <b>ECSR</b> )
American Convention on Human Rights ( <b>ACHR</b> )	Inter-American Court of Human Rights ( <b>IACHR</b> )
American Declaration of the Rights and Duties of Man ( <b>ADRDM</b> )	Inter-American Court of Human Rights ( <b>IACHR</b> )

Also cited are the former Commission on Human Rights (**CHR**) and various UN Special Rapporteurs (**SR**) and Working Groups (**WG**).

**Table A: International Human Rights Instruments and Protected Rights and Fundamental Freedoms**

	UDHR	ICCPR	ICESCR	CEDAW	ICERD	CRC
Life	Art. 3	Art. 6(1)				Art. 6(1)
Torture or Cruel, Inhuman or Degrading Treatment*	Art. 5	Art. 7				Art. 37(a)
Arbitrary Arrest and Detention	Art. 9	Art. 9				Art. 37(b)
Fair Trial	Art. 8, Art. 10, Art. 11	Art. 9, Art. 14, Art. 15			Art. 5(a), Art. 6	Art. 40
Privacy	Art. 12	Art. 17				Art. 16
Expression and Information	Art. 19	Art. 19(2)			Art. 5(d) (viii)	Art. 12, Art. 13, Art. 17
Assembly and Association	Art. 20	Art. 21, Art. 22			Art. 5(d) (ix)	Art. 15
Bodily Integrity						
Non-discrimination and Equality	Art. 1, Art. 2	Art. 2(1), Art. 3	Art. 2(2), Art. 3	Art. 2, All	Art. 2, Art. 5, All	Art. 2
Health	Art. 25		Art. 12	Art. 12	Art. 5(e) (iv)	Art. 24
Women and Children	Art 16, Art. 25(2)	Art. 3, Art. 23, Art. 24	Arts. 3, Art. 10, Art. 12(2) (a)	All		All

\*See also Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Article 2.

**Table B: Regional Human Rights Instruments and Protected Rights and Fundamental Freedoms**

	Africa: ACHPR	Europe: ECHR	Europe: ESC	Americas: ADRDM	Americas: ACHR
Life	Art. 4	Art. 2		Art. I	Art. 4
Torture or Cruel, Inhuman or Degrading Treatment	Art. 5	Art. 3			Art. 5(2)
Arbitrary Arrest and Detention	Art. 6	Art. 5		Art. XXV	Art. 7(3)
Fair Trial	Art. 7	Art. 6		Art. XVIII	Art. 8
Privacy		Art. 8		Art. V	Art. 11
Expression and Information	Art. 9	Art. 10		Art. IV	Art. 13
Assembly and Association	Art. 10, Art. 11	Art. 11		Art. XXI, Art. XXII	Art 15, Art. 16
Bodily Integrity					
Non-discrimination and Equality	Art. 2, Art. 19	Art. 14	Art. E	Art. II	Art. 1(1)
Health	Art. 16		Art. 11, Art. 13	Art. XI	
Women and Children	Art. 18(3)		Art. 7, Art. 8, Art. 17	Art. VII	Art. 17, Art. 19



**Table I: Harm Reduction and the right to life**

Examples of Human Rights Violations
<ul style="list-style-type: none"> <li>• A government authorizes, or fails to investigate, the murder of suspected drug traffickers as part of a crackdown on drugs.</li> <li>• An ambulance refuses to respond to a drug overdose because the underlying activity is “illegal.”</li> <li>• A government imposes the death penalty for drug-related offenses.</li> <li>• Drug users die in locked rehabilitation clinics or hospital wards, such as fire incidents in Peru in 2012 and in Moscow in 2006.</li> <li>• The government arbitrarily closes down a health service provided to drug users.</li> </ul>

Human Rights Standards	Treaty Body Interpretation
<p><b>ICCPR 6(1)</b> Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.</p> <p><b>ICCPR 6(2)</b> In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgment rendered by a competent court.</p>	<p><b>HRC:</b> Expressing concern to <b>Thailand</b> over the extrajudicial killing of people who use drugs. Also stating definitively that capital punishment for drug offences is in violation of the ICCPR. CCPR/CO/84/THA (2005).</p> <p><b>HRC:</b> Stating to <b>Kuwait</b> that the “committee notes the implementation of the de facto moratorium on executions in the state party since 2007. However, it is concerned about: ... (b) the large number of offences for which the death penalty can be imposed, including vague offences relating to internal and external security and drug-related crimes. CCPR/C/KWT/CO/2 (2011).</p>
<p><b>CRC 6(1).</b> States Parties recognize that every child has the inherent right to life.</p> <p><b>CRC 6(2).</b> States Parties shall ensure to the maximum extent possible the survival and development of the child.</p>	<p><b>CRC:</b> Recommending <b>Ukraine</b> “ensure that criminal laws do not impede access to such services, including by amending laws that criminalize children for possession or use of drugs.” CRC/C/UKR/CO/3-4 (CRC, 2011).</p> <p><b>CRC:</b> Recommending <b>Denmark</b> “ensure that children who use drugs and abuse alcohol are treated as victims and not as criminals.” CRC/C/DNK/CO/3 (CRC, 2005).</p>

Human Rights Standards	Case Law
<p><b>ECHR 2(1)</b> Everyone’s right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.</p>	<p><b>ECtHR:</b> Holding that a violation of the right to life occurs “where it is shown that the authorities . . . put an individual’s life at risk through the denial of health care which they have undertaken to make available to the population generally.” <i>Cyprus v. Turkey</i>, 25781/94, para. 721 (May 10, 2001).</p>

**Other Interpretations**

**SR Torture:** “In the Special Rapporteur on torture’s view, drug offences do not meet the threshold of most serious crimes. Therefore, the imposition of the death penalty on drug offenders amounts to a violation of the right to life, discriminatory treatment and possibly, as stated above, also their right to human dignity.” Report of the Special Rapporteur on torture and other cruel, inhuman, or degrading treatment or punishment for the 10th session of the Human Rights Council (2009), <http://www2.ohchr.org/english/bodies/hrcouncil/docs/10session/A.HRC.10.44AEV.pdf>.

**SR Torture:** “Many states, commendably, will not extradite those who may face the death penalty. This is of particular relevance to drug policy due to the number of death sentences handed down and executions carried out for drug offences each year. While capital punishment is not prohibited entirely under international law, the weight of opinion indicates clearly that drug offences do not meet the threshold of “most serious crimes” to which the death penalty might lawfully be applied. In addition, States that have abolished the death penalty are prohibited to extradite any person to another country where he or she might face capital punishment.” Letter to CND Chairperson Ms. Selma Ashipala-Musavyi from Manfred Nowak, Special Rapporteur on the question of torture, and Anand Grover, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, December 10, 2008.

**The Death Penalty for Drug Offenses:** A Violation of Human Rights Law by the International Harm Reduction Association, available at: [www.ihra.net/files/2010/07/01/DeathPenaltyReport2007.pdf](http://www.ihra.net/files/2010/07/01/DeathPenaltyReport2007.pdf).

**India:** Overturns mandatory death sentence for convictions for drug trafficking in July 2011, declaring Section 31A of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act) unconstitutional.

**Table 2: Harm reduction and freedom from torture and cruel, inhuman, and degrading treatment, including in prisons**

Examples of Human Rights Violations	
<ul style="list-style-type: none"> <li>• Police or security officers beat and injure people suspected of using drugs.</li> <li>• Investigators force drug suspects into withdrawal from heroin in order to extract confessions.</li> <li>• A government imposes lengthy mandatory prison sentences for minor drug-related offenses.</li> <li>• Persons convicted of drug offenses are detained and committed to treatment in overcrowded and unsanitary facilities, without access to medical services.</li> <li>• Interruption of medical treatment in pretrial detention—e.g., opioid substitution treatment.</li> <li>• Drug users are denied mental health treatment while in prison, jail, or drug treatment.</li> </ul>	
Human Rights Standards	Treaty Body Interpretation
<p><b>ICCPR 7:</b> No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.</p>	<p><b>HRC:</b> Expressing concern about high rates of HIV and TB in <b>Ukraine</b>, and recommended that Ukraine provide hygienic facilities, assure access to health care and adequate food, and reduce the prison population, including by using alternative sanctions. CCPR/C/UKR/CO (2006).</p>

**Table 2(cont.)**

Human Rights Standards	Case Law
<b>ECHR 3:</b> No one shall be subjected to torture or to inhuman or degrading treatment or punishment.	<p><b>ECtHR:</b> Holding that refusal of medical treatment to an HIV-positive detainee held on drug charges violated Article 3. <i>Khudobin v. Russia</i>, 59696/00 (Oct. 26, 2007).</p> <p><b>ECtHR:</b> Holding that forcing a drug suspect to regurgitate to retrieve a balloon of heroin violated Article 3. <i>Jalloh v. Germany</i>, 54810/00 (July 11, 2006).</p> <p><b>ECtHR:</b> Holding that the UK government breached Article 3 by failing to provide necessary medical care to a heroin dependent woman who died in a UK prison while serving a four-month sentence for theft. <i>McGlinchey and others v. UK</i>, 50390/99 (Apr. 29, 2003).</p>

**Other Interpretations**

**SR Torture:** “From a human rights perspective, drug dependence should be treated like any other health-care condition. ... denial of medical treatment and/or absence of access to medical care in custodial situations may constitute cruel, inhuman or degrading treatment or punishment and is therefore prohibited under international human rights law. ... Given that lack of access to pain treatment and opioid analgesics for patients in need might amount to cruel, inhuman and degrading treatment, all measures should be taken to ensure full access and to overcome current regulatory, educational and attitudinal obstacles to ensure full access to palliative care.” Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment for the 10<sup>th</sup> session of the Human Rights Council (2009).

**SR Torture:** Recommending that **Kazakhstan** “initiate harm-reduction programmes for drug users deprived of their liberty, including by providing substitution medication to persons and allowing needle exchange programmes in detention.” A/HRC/13/39/Add.3 (SR Torture, 2009)

**SR Torture:** Noting of **Indonesia** that in police stations, “in particular in urban areas, torture and ill-treatment is used routinely to extract confessions or in the context of drug charges to reveal dealers/suppliers.” A/HRC/7/3/Add.7 (SR Torture, 2008)

**Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**, Art. 5: “The training of law enforcement personnel and of other public officials who may be responsible for persons deprived of their liberty shall ensure that full account is taken of the prohibition against torture and other cruel, inhuman or degrading treatment or punishment.”

**Standard Minimum Rules for Non-custodial Measures** (1990) (“Tokyo Rules”), Art. 1.1: “provide a set of basic principles to promote the use of non-custodial measures, as well as minimum safeguards for persons subject to alternatives to imprisonment.”

**ECOSOC**, United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (“Bangkok Rules”). [www.un.org/en/ecosoc/docs/2010/res%202010-16.pdf](http://www.un.org/en/ecosoc/docs/2010/res%202010-16.pdf).

**Code of Conduct for Law Enforcement Officials**, Art. 2: “In the performance of their duty, law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons.”

**Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment, Principles of Medical Ethics Relevant to the Role of Health Personnel, Particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.**

**Table 3: Harm reduction and freedom from arbitrary arrest and detention**

Examples of Human Rights Violations
<ul style="list-style-type: none"> <li>• Drug users are arrested or detained based on planted evidence or evidence obtained through an illegal search or seizure.</li> <li>• Drug users are imprisoned on criminal charges without a fair trial.</li> <li>• Drug users are committed to forced treatment or detoxification without their consent.</li> </ul>

Human Rights Standards	Treaty Body Interpretation
<p><b>ICCPR 9(1):</b> Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.</p>	<p><b>HRC General Comment 8 (1):</b> Has held that protections under Article 9 apply to all forms of detention, including for “drug addiction.”</p> <p><b>HRC:</b> Noting to <b>New Zealand</b> that “the finding of an infringement of the presumption of innocence in criminal legislation related to drug possession by the Supreme Court has not yet led to amendments of the relevant legislation.” CCPR/C/NZL/CO/5 (HRC, 2010)</p> <p><b>HRC:</b> Has expressed concern in <b>Mauritius</b> that bail is not allowed for persons arrested or held in custody for the sale of drugs, urging the government to “review the Dangerous Drugs Act in order to enable judges to make a case-by-case assessment on the basis of the offence committed.” CCPR/CO/83/MUS (2005).</p> <p><b>HRC:</b> Has expressed concern in <b>Ireland</b> about the 7-day period of detention without charge under the Drug Trafficking Act (2005).</p>
<p><b>CRC 37(b)</b> No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time.</p>	<p><b>CRC General Comment 10:</b> Noting that “the rights of a child deprived of his/her liberty, as recognized in CRC, apply with respect to ... children placed in institutions for the purposes of care, protection or treatment” including drug treatment.</p> <p><b>CRC:</b> Has expressed concern in <b>Vietnam</b> about the treatment of children in drug detention centers and recommended that the government “Take all necessary measures to prevent, prohibit and protect children administratively detained in connection with drug addiction problems from all forms of torture or other cruel, inhuman and degrading treatment or punishment.” CRC/C/VNM//CO/3-4 (2011).</p> <p><b>CRC:</b> Has expressed concern in <b>Brunei Darussalem</b> “that children abusing drugs may be placed in a closed institution for a period of up to three years” and recommended that the government “develop non-institutional forms of treatment of children who abuse drugs and make the placement of children in an institution a measure of last resort” (2003).</p>

**Table 3(cont.)**

Human Rights Standards	Case Law
<p><b>ECHR 5(1):</b> Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:</p> <p>(a) the lawful detention of a person after conviction by a competent court;</p> <p>(e) the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants.”</p>	<p><b>ECtHR:</b> The applicant’s sentence for drug trafficking required placement in a prison or State hospital where he could receive treatment for drug addiction but the applicant was placed in an ordinary prison. While a detention must take place “in accordance with a procedure prescribed by law” and be “lawful”, he Court finds that the applicant’s “detention” was the consequence of his conviction as a drug trafficker. The Court found that only Art. 5(1)(a) applied in this case and that while the implementation of the sentence does not have any bearing on the lawfulness of a deprivation of liberty. Therefore, the Court found no violation of Art. 5(1). <i>Bizzotto v. Greece</i>, 22126/93 (November 15, 1996).</p> <p><b>ECtHR:</b> A person charged with an offence must always be released pending trial unless the State can show that there are “relevant and sufficient” reasons to justify the continued detention. In this case, the applicant was accused of absconding investigations for his charges of drug trafficking. The Court held that the “gravity of the charges cannot by itself serve to justify long periods of detention on remand.” <i>Fursenko v. Russia</i>, 26386/02 (April 24, 2008).</p>
<p><b>ACHR 7(1):</b> Every person has the right to personal liberty and security.</p> <p><b>ACHR 7(2).</b> No one shall be deprived of his physical liberty except for the reasons and under the conditions established beforehand by the constitution of the State Party concerned or by a law established pursuant thereto.</p> <p><b>ACHR 7(3).</b> No one shall be subject to arbitrary arrest or imprisonment.</p> <p><b>ACHR 7(4)-(6).</b> Relating to rights of detained persons.</p>	<p><b>IACHR:</b> Two men were held in custody for suspicion of their involvement in international drug trafficking. The men were taken into custody and were held incommunicado for five days and were not advised of their rights, not provided any reasons for custody, or taken before a judge. The men were held in custody for a year despite lack of evidence to convict them. The Court found that the State violated Art. 7(3) “owing to the lack of due justification in the adoption and maintenance of the remand in custody” [para. 119]. <i>Chaparro Álvarez and Lapo Iñiguez v. Ecuador</i> (November 21, 2007).</p>

**Other Interpretations**

**WG Arbitrary Detention: Concluding to Italy** that “the system of open-ended “security measures” for persons considered “dangerous” on the basis of mental illness, drug-addiction or otherwise might not contain sufficient safeguards.” A/HRC/10/21/ADD.5 (WG Arbitrary Detention, 2009)

**WG Arbitrary Detention:** From 2003-2005, has expressed concern about arbitrary detention of “drug addicts” and “people suffering from AIDS”; recommended that persons deprived of their liberty on health grounds “have judicial means of challenging their detention”; concluded that bail conditions can be difficult to meet for people who use drugs; and recommended that states prevent over-incarceration of vulnerable groups.

**UN Standard Minimum Rules for Non-custodial Measures (Tokyo Rules)**, adopted by GA Res 45/110 (December 14, 1990), Para. 2.3: “In order to provide greater flexibility consistent with the nature and gravity of the offence, with the personality and background of the offender and with the protection of society and to avoid unnecessary use of imprisonment, the criminal justice system should provide a wide range of non-custodial measures, from pre-trial to post-sentencing dispositions. The number and types of non-custodial measures available should be determined in such a way so that consistent sentencing remains possible.”

**Code of Conduct for Law Enforcement Officials** (1979)

**Basic Principles on the Use of Force and Firearms by Law Enforcement Officials** (1990)

**Arab Charter on Human Rights: Art. 14(1).** Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest, search or detention without a legal warrant.

**Art. 14(2).** No one shall be deprived of his liberty except on such grounds and in such circumstances as are determined by law and in accordance with such procedure as is established thereby.

**Table 4: Harm reduction and the right to a fair trial**

Examples of Human Rights Violations	
<ul style="list-style-type: none"> <li>• An individual is convicted of drug charges after an undercover police officer lures them into committing a drug offense.</li> <li>• A detainee is kept in pre-trial detention for drug charges for an unreasonable length of time.</li> <li>• An individual is convicted on a drug offense without trial.</li> <li>• An individual is convicted of a drug charge based on evidence obtained during an illegal police search of his or her home.</li> </ul>	
Human Rights Standards	Treaty Body Interpretation
<p><b>ICCPR 14(2):</b> Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.</p>	<p><b>HRC:</b> Noting of <b>New Zealand</b> that “the finding of an infringement of the presumption of innocence in criminal legislation related to drug possession by the supreme court has not yet led to amendments of the relevant legislation” violates Article 9 and 14 of the ICCPR. CCPR/C/NZL/CO/5 (HRC, 2010).</p>
Human Rights Standards	Case Law
<p><b>ECHR 6(1):</b> In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. . .</p> <p><b>ECHR 6(2):</b> Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.</p>	<p><b>ECtHR:</b> Held that where the activity of undercover agents instigates a drug offence and there is nothing to suggest the offence would have been committed without the police’s intervention, this constitutes “incitement,” and evidence obtained as a result cannot be used against a defendant. The Court examined “whether the proceedings as a whole, including the way in which the evidence was obtained, were fair “and found that “the police’s intervention and the use of the resultant evidence in the ensuing criminal proceedings against the applicant irremediably undermined the fairness of the trial.” <i>Vanyan v. Russia</i>, 53203/99 (December 15, 2005). See also, <i>Teixeira de Castro v. Portugal</i>, 25829/94 (June 9, 1998).</p> <p><b>ECtHR:</b> Applying the above cases in 2007, the Court held that a Russian trial court should have considered evidence that a defendant facing drug charges had been entrapped by the police, especially considering that he did not have a criminal record and the only allegations of his involvement in drug dealing came from a police informant. <i>Khudobin v. Russia</i>, 59696/00 (October 26, 2007).</p> <p><b>ECtHR:</b> The Court lists criteria defining what constitutes police entrapment, but does not find a violation of Art. 6 in this case. <i>Bannikova v. Russia</i>, 18757/06 (November 4, 2010).</p>

**Other Interpretations**

**Charter of Fundamental Rights of the European Union**, Arts. 47-50: “right to an effective remedy and to a fair trial,” “presumption of innocence and right of defence,” “principles of legality and proportionality of criminal offenses and penalties,” and “right not to be tried or punished twice in criminal proceedings for the same criminal offense.”

**Table 5: Harm reduction and the right to privacy**

Examples of Human Rights Violations
<ul style="list-style-type: none"> <li>• Police are authorized to arrest or detain people based on suspected drug use, without having to prove possession or trafficking of drugs.</li> <li>• Police are authorized to test the urine of anyone suspected of using drugs.</li> <li>• School officials are authorized to conduct invasive searches of children and random drug testing.</li> <li>• Government maintains registries of suspected drug users.</li> <li>• Doctor discloses a patient's history of drug use or addiction without consent.</li> <li>• Clinic shares lists of registered drug users with law enforcement.</li> <li>• Police raid the home of a suspected drug user without evidence or judicial authorization.</li> </ul>

Human Rights Standards	Treaty Body Interpretation
<p><b>CRC 16(1):</b> No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, or correspondence, nor to unlawful attacks on his or her honour and reputation.</p> <p><b>CRC 16 (2)</b> The child has the right to the protection of the law against such interference or attacks.</p>	<p><b>CRC General Comment No. 4 (11):</b> “Health-care providers have an obligation to keep confidential medical information concerning adolescents, bearing in mind the basic principles of the Convention. Such information may only be disclosed with the consent of the adolescent, or in the same situations applying to the violation of an adult’s confidentiality. Adolescents deemed mature enough to receive counselling without the presence of a parent or other person are entitled to privacy and may request confidential services, including treatment.” CRC/GC/2003/4 (2003).</p>

Human Rights Standards	Case Law
<p><b>ECHR 8(1):</b> Everyone has the right to respect for his private and family life, his home and his correspondence.</p> <p><b>ECHR 8(2):</b> There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.</p>	<p><b>ECtHR:</b> The Court found that there was no compelling reason for monitoring letter correspondence to a prisoner facing drug charges and who was suspected as an illicit drug user. Although the law requires that letters addressed to prisoners are always opened in front of them, the Court found that the State must respect the confidentiality of letters from official authorities, in this case the Commission’s Secretariat. <i>Peers v. Greece</i>, 28524/95 (April 19, 2001)</p>

### Other Interpretations

#### Declaration on the Promotion of Patients’ Rights in Europe

Art. 4.1: All information about a patient’s health status . . . must be kept confidential, even after death.

Art. 4.8: Patients admitted to health care establishments have the right to expect physical facilities which ensure privacy . . . .”

**European Convention on Human Rights and Biomedicine**, Art 10(1): “Everyone has the right to respect for private life in relation to information about his or her health.”

**US Supreme Court:** ruling that Arizona school officials’ strip search of a 13-year-old girl suspected of possessing painkillers violated the Fourth Amendment, despite the school’s zero-tolerance drug policy. *Safford Unified Sch. Dist. #1 v. Redding*, No. 08–479, 129 S. Ct. \_\_\_ (2009).

## Table 6: Harm Reduction and freedom of expression and information

Examples of Human Rights Violations
<ul style="list-style-type: none"> <li>• Drug users are denied information about HIV prevention, harm reduction, and safer drug use.</li> <li>• Government bans publications about drug use or harm reduction, claiming they represent propaganda for illegal activity.</li> <li>• The government shuts down websites providing information about harm reduction. See, <a href="http://www.hrw.org/news/2012/02/08/russia-government-shuts-hiv-prevention-group-s-website">www.hrw.org/news/2012/02/08/russia-government-shuts-hiv-prevention-group-s-website</a>.</li> <li>• Government officials harass or detain individuals who speak publicly in favor of needle exchange, methadone, or other harm reduction measures.</li> <li>• NGOs are compelled to oppose harm reduction as a condition of government funding for work on HIV prevention.</li> </ul>

Human Rights Standards	Treaty Body Interpretation
<p><b>ICESCR 12(1):</b> The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.</p>	<p><b>CESCR General Comment 14:</b> Noting that states have a responsibility, inter alia, to refrain from “applying coercive medical treatments, unless on an exceptional basis for the treatment of mental illness or the prevention and control of communicable diseases,” and to refrain from “censoring, withholding or intentionally misrepresenting health-related information, including sexual education and information, as well as from preventing people’s participation in health-related matters.”</p> <p><b>CESRC:</b> Recommending that <b>Estonia</b> “intensify its efforts with regard to preventing drug use, including through education and awareness-raising programmes, and expansion of the provision of drug substitution therapy.” E/C.12/EST/CO/2 (CESCR, 2011).</p>

Human Rights Standards	Treaty Body Interpretation
<p><b>ECHR 10(1):</b> Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.</p> <p><b>ECHR 10(2):</b> The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society.</p>	<p><b>ECtHR:</b> This case arises from <i>Campbell v. MGN</i>, in which the supermodel Naomi Campbell was awarded damages for breach of confidence (privacy) for the publication of her drug addiction and treatment. The ECtHR held that the finding in the original case that the publication was in breach of confidence did not violate the publisher’s right to freedom of expression. <i>MGN Limited v. The United Kingdom</i>, 39401/04 (January 18, 2011).</p> <p><b>ECtHR:</b> The applicant company complained about the injunction imposed on it against reporting on the arrest and conviction of a celebrity for drug use. The Court found that the injunction violated Art. 10. <i>Axel Springer AG v. Germany</i>, no. 39954/08 (February 7, 2012).</p>



**Table 7: Harm reduction and freedom of assembly and association**

Examples of Human Rights Violations
<ul style="list-style-type: none"> <li>Public authorities refuse to register a drug user association.</li> <li>Police break up a peaceful demonstration against drug laws.</li> <li>Police threaten a group of people at a community meeting providing information or support. See en.rylkov-fond.org.</li> <li>People who use or possess drugs are subject to arrest, imprisonment, and fines, such as the case of Cambodia’s 2011 Law on Drug Control (Royal Kram, NS/RKM/0112/001).</li> <li>A small group of people using drugs together can be charged with ‘criminal conspiracy’ under the law.</li> </ul>

Human Rights Standards	Treaty Body Interpretation
<p><b>ICCPR 21:</b> The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.</p> <p><b>ICCPR 22 (1):</b> Everyone shall have the right to freedom of association with others ... (2) No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.</p>	None

**Other Interpretations**

**Charter of Fundamental Rights of the European Union, Art. 12(1):** Everyone has the right to freedom of peaceful assembly and to freedom of association at all levels, in particular in political, trade union and civic matters, which implies the right of everyone to form and to join trade unions for the protection of his or her interests.

**Table 8: Harm reduction and right to bodily integrity**

Examples of Human Rights Violations
<ul style="list-style-type: none"> <li>A suspected drug user is abused by police.</li> <li>Police fail to investigate a case of domestic violence against a drug-using woman.</li> <li>Doctors compel a drug-using pregnant woman to undergo an abortion.</li> <li>Police fail to investigate the assault or murder of a person suspected of using drugs, blaming it on “gang violence.”</li> </ul>

**Note:** The right to bodily integrity is not specifically recognized under the **ICCPR** or **ICESCR**, but has been interpreted to be part of the right to security of the person, to freedom from torture and cruel, inhuman, and degrading treatment, and the right to the highest attainable standard of health.

Similarly, the right to bodily integrity is not specifically recognized in **CEDAW**, although CEDAW has been widely interpreted to include the right to protection from violence against women.

**Table 8(cont.)**

Human Rights Standards	Treaty Body Interpretation
<p><b>CEDAW 2</b> States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women.</p> <p><b>CEDAW 3</b> States Parties shall take ... all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.</p>	<p><b>CEDAW:</b> explaining to <b>Thailand</b> that “sexual harassment, rape, domestic violence and marital rape, whether in the family, the community or the workplace, constitute violations of women’s right to personal security and bodily integrity.” CEDAW/C/1999/1/L.1/Add.6 (1999).</p>

**Other Interpretations**

**Working Group on Enforced or Involuntary Disappearances:** Has noted, “An aspect of disappearances that has been underreported in the past and continues at the present time relates to the way in which acts of disappearance are perpetrated in conjunction with other gross violations, with targets drawn from among the most vulnerable groups in society. . . . Common examples brought to our notice were: disappearances, combined with “social cleansing,” the urban poor, the unemployed, and the so-called “undesirables,” including prostitutes, petty thieves, vagabonds, gamblers and homosexuals as the victims.”

**SR Violence Against Women:** Recommending to **Mexico** to “investigate with due diligence all instances of alleged violence against women whether it occurs in home, in community, or workplace with particular emphasis on connections between violence against women and drug and human trafficking; prosecute perpetrators; grant prompt and adequate compensation and support to survivors.” E/CN.4/2006/61/Add.4 (2006)

**SR Violence Against Women:** Noting of **Sweden** that while in “recent years, the shelter movement has created specialized institutions for young women and teenage girls exposed to violence. Other groups with special needs are still underserved. For example, women with severe alcohol or drug problems are usually not given access to existing shelters if they face violence. Unless they agree to enter an addiction rehabilitation programme (and actually find a place), they face a protection gap.” A/HRC/4/34/Add.3 (2006).

**The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment** (2001) stated that “every competent patient...should be given the opportunity to refuse treatment or any other medical intervention. Any derogation from this fundamental principle should be based upon law and only relate to clearly and strictly defined exceptional circumstances.

**The European Charter of Patients’ Rights** sets out the right to informed consent. “A patient has the right to refuse a treatment or a medical intervention and to change his or her mind during the treatment, refusing its continuation.” [Art. 4]. Moreover, a patient has “the right to freely choose from different treatment procedures and providers on the basis of adequate information.” [Art. 5].

**The Declaration on the Promotion of Patients’ Rights in Europe**, Art. 3.1, 3.2: “The informed consent of the patient is a prerequisite for any medical intervention,” and “[a] patient has the right to refuse or halt a medical intervention.”

**European Convention on Human Rights and Biomedicine**, Art 5: An intervention in the health field may only be carried out after the person concerned has given free and informed consent to it.

**Table 9: Harm reduction and the right to non-discrimination**

Examples of Human Rights Violations
<ul style="list-style-type: none"> <li>• A person is denied work, housing, health care, education, or access to goods and services due to actual or suspected drug use.</li> <li>• Police disproportionately arrest migrants and racial minorities for drug offenses, such as in the United States. See Bryan Stevenson, “Testimony on Criminal Justice for the UN Special Rapporteur on Racism” (2008), <a href="http://www.eji.org/files/05.28.08%20UNtestimonyonRace.pdf">www.eji.org/files/05.28.08%20UNtestimonyonRace.pdf</a>.</li> <li>• People who use drugs are underrepresented in HIV treatment programs despite constituting a majority of people living with HIV, especially women.</li> </ul>

**Table 9(cont.)**

Human Rights Standards	Treaty Body Interpretation
<p><b>ICERD 2(1):</b> States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races.</p> <p><b>ICERD 2(2):</b> States Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms.</p>	<p><b>CERD:</b> has recommended that governments “should pay the greatest attention to the following possible indicators of racial discrimination: . . . The proportionately higher crime rates attributed to persons belonging to those groups, particularly as regards petty street crime and offences related to drugs and prostitution, as indicators of the exclusion or the non-integration of such persons into society” (2005).</p>

**Other Interpretations**

**SR Health:** Expressed concern that in **Romania** “the stigma associated with commercial sex work and injecting drug use, for example, affects how people engaged in these activities are often treated by health-care workers, especially when requesting services such as tests for sexually transmitted infections” and encouraged the government to combat discrimination that creates barrier to services (2005).

**SR Adequate Housing:** Recommended that the **United States** “federally prohibit the use of criteria such as drug tests and criminal records, for gaining access to subsidized housing.” A/HRC/13/20/Add.4 (2010).

**SR Violence Against Women:** Expressing concern that in the **United States**, “[r]acial profiling by law enforcement in the ‘war on drugs’ is a prominent issue for African-American women” and recommending that the government “[e]xplore and address the root causes, including the multiple and intersectional challenges, which lead to the increasing number of immigrant and African-American women in prisons and detention facilities.” A/HRC/17/26/Add.5 (2011).

**UN Secretary-General Ban Ki-moon’s** message for the International Day against Drug Abuse and Illicit Trafficking (June 23, 2008): “No one should be stigmatized or discriminated against because of their dependence on drugs.” [www.un.org/News/Press/docs/2008/sgsm11652.doc.htm](http://www.un.org/News/Press/docs/2008/sgsm11652.doc.htm)

**European Convention on Human Rights and Biomedicine 3:** Parties, taking into account health needs and available resources, shall take appropriate measures with a view to providing, within their jurisdiction, equitable access to health care of appropriate quality.

**Covenant on the Rights of the Child in Islam, as adopted by the Organization of the Islamic Conference (OIC) 15:** The child is entitled to physical and psychological care and lists a number of concrete features of this entitlement, including: the right to necessary measures to reduce infant and child mortality rates; to preventive medical care; to the control of disease and malnutrition; and to protection from narcotics, intoxicants and other harmful substances.

**Report of the Working Group of experts on people of African descent:** noting that in the United States, “Whereas the available evidence shows that people of African descent use illegal drugs at approximately the same rate as white people, they are 10 times more likely, on a per capita basis, to go to prison for drug-related offences.” A/HRC/15/18 (2010).

**Table 10: Harm reduction and the right to the highest attainable standard of health**

Examples of Human Rights Violations
<ul style="list-style-type: none"> <li>• Drug users or suspected drug users are turned away from hospitals or treated with stigma and judgmental attitudes in the health care system.</li> <li>• Government officials ban needle exchange programs or confiscate syringes from drug users, claiming they promote illegal activity.</li> <li>• Government bans substitution therapy with methadone.</li> </ul>

Table 10 (cont.)

Human Rights Standards	Treaty Body Interpretation
<p><b>ICESCR 12(1):</b> The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.</p> <p><b>ICESCR 12(2):</b> The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for: . . . (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases.</p>	<p><b>CRC General Comment No. 3:</b> Has commented that governments “are obligated to ensure the implementation of programs which aim to reduce the factors that expose children to the use of substances, as well as those that provide treatment and support to children who are abusing substances.”</p> <p><b>CESRC:</b> Recommending that <b>Estonia</b> “intensify its efforts with regard to preventing drug use, including through education and awareness-raising programmes, and expansion of the provision of drug substitution therapy. Furthermore, the committee encourages the state party to continue expanding the needle exchange programme.” E/C.12/EST/CO/2 (CESCR, 2011).</p> <p><b>CESCR:</b> After expressing concern about the spread of drug addiction and the ban on certain medical treatments for drug dependence, recommended that <b>Russia</b> “apply a human rights-based approach to drug users so that they do not forfeit their basic right to health.” They also recommended that Russia “provide clear legal grounds and other support for the internationally recognized measures for HIV prevention among injecting drug users, in particular the opioid substitution therapy with use of methadone and buprenorphine, as well as needle and syringe, and overdose prevention programmes.” E/C.12/RUS/CO/5 (CESCR, 2011).</p> <p><b>CESRC:</b> Recommending that <b>Kazakhstan</b> “ensure that methadone as substitute drug dependence therapy is made accessible to all drug dependents.” E/C.12/KAZ/CO/1 (2010).</p> <p><b>CESRC:</b> Recommending to <b>Mauritius</b> to “undertake a comprehensive approach to combat its serious drug problem. In order to achieve the progressive realization of the right to the highest attainable standard of physical and mental health for people who inject drugs and to ensure that this group may benefit from scientific progress and its applications (art. 15, para. 1(b)), the State party should implement in full the recommendations made by the World Health Organization in 2009 designed to improve the availability, accessibility and quality of harm reduction services, in particular needle and syringe exchange and opioid substitution therapy with methadone. People who use drugs should be a key partner in this initiative. As a matter of urgency, the State party should:</p> <ul style="list-style-type: none"> <li>(a) Scale up needle and syringe programmes to all geographical areas. The Government should amend the Dangerous Drugs Act of 2000 to remove prohibitions on distributing or carrying drug paraphernalia as these impede HIV prevention services; (b) Implement pilot prison needle and syringe exchanges and opioid substitution therapy programmes based on international best practice standards; (c) Remove age barriers to accessing opioid substitution therapy and develop youth-friendly harm reduction services tailored to the specific needs of young people who use drugs;</li> <li>(d) Remove restrictions on access to residential shelters for women who use drugs; (e) Make hepatitis C treatment freely available to all injecting drug users; (f) With regard to addicted persons, consider decriminalization and public health-based measures such as prescription of buprenorphine. E/C.12/MUS/CO/4 (2010).</li> </ul> <p><b>CESRC:</b> Recommending that <b>Poland</b> “take measures to ensure that effective treatment of drug dependence is made accessible to all, including to those in detention.” E/C.12/POL/CO/5 (2009).</p> <p><b>CESRC:</b> Recommending that <b>Ukraine</b> “make drug substitution therapy and other HIV prevention services more accessible for drug users.” E/C.12/UKR/CO/5 (CESCR, 2008).</p> <p><b>CESCR:</b> Expressed concern in <b>Tajikistan</b> with “the rapid spread of HIV...in particular among drug users, prisoners, sex workers,” and recommended that the government “establish time-bound targets for extending the provision of free testing services, free treatment for HIV and harm reduction services to all parts of the country” (2006).</p>

## Table 10 (cont.)

### Other Interpretations

**SR Health:** Chapters of this report include the impact of drug control on the right to health including deterrence from accessing services and discrimination; and a human rights-based approach to drug control, including harm reduction and decriminalization. A/65/255 (2010).

**SR Health:** After an in-depth review of harm reduction in **Poland**, recommends that Poland:

(a) Ensure that needle and syringe programmes, opioid substitution therapy and other harm reduction strategies become widely available throughout the country; (b) To establish, without further delay, an opioid substitution programme in the Tri-City region of Gdansk, Sopot and Gdynia; (c) Amend the National Law on Counteracting Drug Addiction to avoid penalization of the possession of minute quantities of drugs, in order to foster access to substitution therapy for people using drugs; (d) Ensure the informed and active participation of people using drugs and other marginalized groups at the national, regional, and local level in the establishment of policies and programmes; (e) Include the participation of people living with HIV and those groups most at risk of HIV in HIV/AIDS-related educational projects and campaigns; (f) Ensure the enactment and implementation of a comprehensive antidiscrimination and equality law to help ensure the full enjoyment of the right to health, based on equality and non-discrimination within the State. A/HRC/14/20/Add.3 (2010).

**SR Health:** Recommending to **Sweden** that “the Government has a responsibility to ensure the implementation, throughout Sweden and as a matter of priority, of a comprehensive harm-reduction policy, including counselling, advice on sexual and reproductive health, and clean needles and syringes. A/HRC/4/28/Add.2 (2007).

**SR Health:** Expressed concern that the Anti-Narcotics Campaign in **Thailand**, coupled with limited access to harm reduction services, had inadvertently created the conditions for a more extensive spread of HIV in Thailand. (2005).

**SR Health:** Expressed concern in Romania that “the stigma associated with commercial sex work and injecting drug use, for example, affects how people engaged in these activities are often treated by health-care workers, especially when requesting services such as tests for sexually transmitted infections” and encouraged the government to combat discrimination that creates barriers to services (2005).

Decision 74/10, **Flexibility of Treaty Provisions as Regards Harm Reduction Approaches**, prepared by UNDCP’s Legal Affairs Section, E/INCB/2002/W.13/SS.5, September 30, 2002, [www.tni.org/drugsreformdocs/un300902.pdf](http://www.tni.org/drugsreformdocs/un300902.pdf).

**Declaration on the Elimination of Violence Against Women**, G.A. Res. 48/104, UN Doc. A/RES/48/104 (December 20, 1993): Women are entitled to the equal enjoyment and protection of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. These rights include, *inter alia*: . . . (f) the right to the highest standard attainable of physical and mental health.

**WHO 1978 Declaration of Alma-Ata:** The Conference strongly reaffirms that health, which is a state of complete physical, mental and social wellbeing, and not merely the absence of disease or infirmity, is a fundamental human right and that the attainment of the highest possible level of health is a most important world-wide social goal whose realization requires the action of many other social and economic sectors in addition to the health sector.

**World Health Organization Constitution, preamble:** The enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition.

**Protocol San Salvador 10(2):** In order to ensure the exercise of the right to health, the States Parties agree to recognize health as a public good, and particularly, to adopt the following measures to ensure that right: (a) Primary health care, that is, essential health care made available to all individuals and families in the community (b) Extension of the benefits of health services to all individuals subject to the State’s jurisdiction; (c) Universal immunization against the principal infectious diseases; (d) Prevention and treatment of endemic, occupational and other diseases; (e) Education of the population on the prevention and treatment of health problems, and (f) Satisfaction of the needs of the highest risk groups and of those whose poverty makes them the most vulnerable.

**The Declaration on the Promotion of Patients’ Rights in Europe**, Art. 5.3: “Patients have the right to a quality of care which is marked both by high technical standards and by a humane relationship between the patient and health care provider.”

**Charter of Fundamental Rights of the European Union 35:** Everyone has the right of access to preventive health care and the right to benefit from medical treatment under the conditions established by national laws and practices. A high level of human health protection shall be ensured in the definition and implementation of all Union policies and activities.

**Table II: Harm reduction and the rights of women and children**

Examples of Human Rights Violations
<ul style="list-style-type: none"> <li>• Women are denied access to harm reduction services on an equal basis with men.</li> <li>• Pregnant women who use drugs are forced to undergo abortions or sterilization, or are penalized for attempting to injure their child.</li> <li>• Children and young people are denied access to objective and accurate information about drugs and are barred from existing treatment and harm reduction services through age restrictions.</li> </ul>

Human Rights Standards	Treaty Body Interpretation
<p><b>CRC 24(1):</b> States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.</p> <p><b>CRC 33:</b> States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.</p>	<p><b>CRC General Comment 3 (39):</b> Has identified that “[c]hildren who use drugs are at high risk [of HIV]” and that “injecting practices using unsterilized instruments further increase the risk of HIV transmission;” has also stated that governments “are obligated to ensure the implementation of programmes which aim to reduce the factors that expose children to the use of substances, as well as those that provide treatment and support to children who are abusing substances.”</p> <p><b>CRC:</b> Recommending to <b>Ukraine</b> to, “in partnership with non-governmental organizations, develop a comprehensive strategy for addressing the alarming situation of drug abuse among children and youth and undertake a broad range of evidence-based measures in line with the convention, and that it:</p> <p>(a) develop specialized and youth-friendly drug-dependence treatment and harm-reduction services for children and young people, building on recent legislative progress on HIV/AIDS and the successful pilot programmes for most-at-risk adolescents initiated by UNICEF; (b) ensure that criminal laws do not impede access to such services, including by amending laws that criminalize children for possession or use of drugs; (c) ensure that health and law enforcement personnel working with at-risk children are appropriately trained in HIV prevention and that abuses by law enforcement against at-risk children are investigated and punished; (d) intensify the enforcement of the prohibition of the sale of alcohol and tobacco to children and address root causes of substance use and abuse among children and youth.” CRC/C/UKR/CO/3-4 (CRC, 2011)</p> <p><b>CRC:</b> Expressed concern in <b>Armenia</b> at the criminalization of young drug users, and urged the government “to ensure that child drug abusers are not criminalized, but treated as victims in need of assistance towards recovery and reintegration.” (2004).</p> <p><b>CRC:</b> Has made country-specific recommendations on children who use drugs to <b>Iceland</b> (2012), <b>Seychelles</b> (2012), <b>Costa Rica</b> (2011), <b>Bangladesh</b> (2009), <b>Sweden</b> (2009), <b>Bulgaria</b> (2008), <b>Colombia</b> (2007), <b>Honduras</b> (2007), <b>Malaysia</b> (2007), <b>Uruguay</b> (2007), <b>Liechtenstein</b> (2006), <b>Peru</b> (2006), <b>Senegal</b> (2006), <b>Tanzania</b> (2006), <b>Albania</b> (2005), <b>Bahamas</b> (2005), <b>Denmark</b> (2005), <b>Nigeria</b> (2005), <b>Mongolia</b> (2005), <b>Armenia</b> (2004), <b>El Salvador</b> (2004), <b>Netherlands</b> (2004), <b>Sao Tome and Principe</b> (2004), <b>Indonesia</b> (2004), <b>Brunei Darussalem</b> (2003), <b>Pakistan</b> (2003), <b>Panama</b> (2003), <b>Estonia</b> (2003), <b>Ukraine</b> (2002), <b>St. Vincent and the Grenadines</b> (2002), <b>Cote D’Ivoire</b> (2001), <b>Monaco</b> (2001), <b>India</b> (2000), <b>UK</b> (2000), etc.</p>

### Other Interpretations

**SR Violence Against Women:** Recommending that the **United States** “Ensure that sentencing policies reflect an understanding of women’s levels of culpability and control with drug offenses” and “[r]eview laws that hold women responsible for their association with people involved in drug activities, and which punish them for activities of drug operations they may have little or no knowledge.” A/HRC/17/26/Add.5 (2011).

**SR Violence Against Women:** Expressed concern that the **United States** was “criminalizing a large segment of its population” through drug charges, increasingly women, and that many of these offenses “may be more appropriately handled by a community-based system of welfare and social support, as is presently the case in certain European countries” (1999).

### 3. WHAT IS A HUMAN RIGHTS-BASED APPROACH TO ADVOCACY, LITIGATION, AND PROGRAMMING?

#### What is a human rights-based approach?

*“Human rights are conceived as tools that allow people to live lives of dignity, to be free and equal citizens, to exercise meaningful choices, and to pursue their life plans.”<sup>88</sup>*

A human rights-based approach (HRBA) is a conceptual framework that can be applied to advocacy, litigation, and programming and is explicitly shaped by international human rights law. This approach can be integrated into a broad range of program areas, including health, education, law, governance, employment, and social and economic security. While there is no one definition or model of a HRBA, the United Nations has articulated several common principles to guide the mainstreaming of human rights into program and advocacy work:

- The integration of human rights law and principles should be visible in all work, and the aim of all programs and activities should be to contribute directly to the realization of one or more human rights.
- Human rights principles include: “universality and inalienability; indivisibility; interdependence and interrelatedness; non-discrimination and equality; participation and inclusion; accountability and the rule of law.”<sup>89</sup> They should inform all stages of programming and advocacy work, including assessment, design and planning, implementation, monitoring and evaluation.
- Human rights principles should also be embodied in the processes of work to strengthen rights-related outcomes. Participation and transparency should be incorporated at all stages and all actors must be accountable for their participation.

A HRBA specifically calls for human rights to guide relationships between rights-holders (individuals and groups with rights) and the duty-bearers (actors with an obligation to fulfill those rights, such as States).<sup>90</sup> With respect to programming, this requires “[a]ssessment and analysis in order to identify the human rights claims of rights-holders and the corresponding human rights obligations of duty-bearers as well as the immediate, underlying, and structural causes of the non-realization of rights.”<sup>91</sup>

A HRBA is intended to strengthen the capacities of rights-holders to claims their entitlements and to enable duty-bearers to meet their obligations, as defined by international human rights law. A HRBA also draws attention to marginalized, disadvantaged and excluded populations, ensuring that they are considered both rights-holders and duty-bearers, and endowing all populations with the ability to participate in the process and outcomes.

<sup>88</sup> Yamin AE, “Will we take suffering seriously? Reflections on what applying a human rights framework to health means and why we should care,” *Health and Human Rights* 10, no. 1 (2008).

<sup>89</sup> For a brief explanation of these principles, see UN Development Group (UNDG), *The Human Rights Based Approach to Development Cooperation Towards a Common Understanding Among UN Agencies* (May 2003), available at: [www.undg.org/archive\\_docs/6959-The\\_Human\\_Rights\\_Based\\_Approach\\_to\\_Development\\_Cooperation\\_Towards\\_a\\_Common\\_Understanding\\_among\\_UN.pdf](http://www.undg.org/archive_docs/6959-The_Human_Rights_Based_Approach_to_Development_Cooperation_Towards_a_Common_Understanding_among_UN.pdf).

<sup>90</sup> Ibid.

<sup>91</sup> Ibid.

## What are key elements of a human rights-based approach?

Human rights standards and principles derived from international human rights instrument should guide the process and outcomes of advocacy and programming. The list below contains several principles and questions that may guide you in considering the strength and efficacy of human rights within your own programs or advocacy work. Together these principles form the acronym PANELS.

- **Participation:** Does the activity include participation by all stakeholders, including affected communities, civil society, and marginalized, disadvantaged or excluded groups? Is it situated in close proximity to its intended beneficiaries? Is participation both a means and a goal of the program?
- **Accountability:** Does the activity identify both the entitlements of claim-holders and the obligations of duty-bearers? Does it create mechanisms of accountability for violations of rights? Are all actors involved held accountable for their actions? Are both outcomes and processes monitored and evaluated?
- **Non-discrimination:** Does the activity identify who is most vulnerable, marginalized and excluded? Does it pay particular attention to the needs of vulnerable groups such as women, minorities, indigenous peoples, disabled persons and prisoners?
- **Empowerment:** Does the activity give its rights-holders the power, capacity, and access to bring about a change in their own lives? Does it place them at the center of the process rather than treating them as objects of charity?
- **Linkage to rights:** Does the activity define its objectives in terms of legally enforceable rights, with links to international, regional, and national laws? Does it address the full range of civil, political, economic, social, and cultural rights?
- **Sustainability:** Is the development process of the activity locally owned? Does it aim to reduce disparity? Does it include both top-down and bottom-up approaches? Does it identify immediate, underlying and root causes of problems? Does it include measurable goals and targets? Does it develop and strengthen strategic partnerships among stakeholders?

## Why use a human rights-based approach?

There are many benefits to using a human rights-based approach to programming, litigation and advocacy. It lends legitimacy to the activity because a HRBA is based upon international law and accepted globally. A HRBA highlights marginalized and vulnerable populations. A HRBA is effective in reinforcing both human rights and public health objectives, particularly with respect to highly stigmatizing health issues.<sup>92</sup> Other benefits to implementing a human rights-based approach include:

- **Participation:** Increases and strengthens the participation of the local community.
- **Accountability:** Improves transparency and accountability.
- **Non-discrimination:** Reduces vulnerabilities by focusing on the most marginalized and excluded in society.
- **Empowerment:** Capacity building.
- **Linkage to rights:** Promotes the realization of human rights and greater impact on policy and practice.
- **Sustainability:** Promotes sustainable results and sustained change.

<sup>92</sup> Gauri V & Gloppen S, *Human Rights Based Approaches to Development: Concepts, Evidence, and Policy*, World Bank Policy Research Working Paper 5938 (Jan. 2012). <http://elibrary.worldbank.org/content/workingpaper/10.1596/1813-9450-5938>.



## How can a human rights-based approach be used?

A variety of human rights standards at the international and regional levels applies to patient care. These standards can be used for many purposes including to:

- Document violations of the rights of patients and advocate for the cessation of these violations.
- Name and shame governments into addressing issues.
- Sue governments for violations of national human rights laws.
- File complaints with national, regional and international human rights bodies.
- Use human rights for strategic organizational development and situational analysis.
- Obtain recognition of the issue from non-governmental organizations, governments or international audiences. Recognition by the UN can offer credibility to an issue and move a government to take that issue more seriously.
- Form alliances with other activists and groups and develop networks.
- Organize and mobilize communities.
- Develop media campaigns.
- Push for law reform.
- Develop guidelines and standards.
- Conduct human rights training and capacity building
- Integrate legal services into health care to increase access to justice and to provide holistic care.
- Integrate a human rights approach in health services delivery.

## 4. WHAT ARE SOME EXAMPLES OF EFFECTIVE HUMAN RIGHTS-BASED WORK IN THE AREA OF HARM REDUCTION?

This section contains nine examples of effective human rights-based work in the area of harm reduction and human rights. These are:

1. Documenting police misconduct through affidavits of drug users.
2. Thai Drug Users Network raising awareness of health and human rights issues.
3. Challenging police raids and criminalization of drug use in Hungary.
4. Harm Reduction International's engagement with human rights mechanisms.
5. Litigating the privacy of drug users versus freedom of information held by the press in the European Court of Human Rights.
6. Challenging hate speech against drug users in the press in Ireland.
7. Challenging the mandatory death penalty for drugs in India.
8. Advocating for opioid substitution treatment in Russia.
9. Litigating and advocating for methadone maintenance programs in Canadian prisons.

## Example I: Collecting affidavits to document illegal policing actions

### Project Type

Advocacy

### The Organization

Pivot Legal Society focuses its work on marginalized populations that live in Vancouver's Downtown Eastside (DTES). Believing that equality lifts everyone, Pivot employs legal, political and community outreach techniques to promote health and drug policy, protect sex workers' rights, advance accountable policing, reverse homelessness and create meaningful employment opportunities. In their own words, they are "building a movement for a just society, where dignity, fairness and compassion are firmly rooted in the law."

### The Problem

Vancouver's DTES faces a public health emergency. Residents in DTES face high rates of injection drug use and poverty, a growing sex trade, higher morbidity rates for HIV/AIDS, and skyrocketing violence. In 2002, while Vancouver did recognize the public health emergency in DTES, it combated the homelessness, drug use and sex trade with increased policing efforts. The increased policing resulted in poorer public health outcomes, higher numbers of civil liberty offenses, and a rising frequency of illegal policing actions. In this climate, Pivot calls for improved monitoring and enforcement of police actions, increased access to the complaint system, a public inquiry and a general end to the selection of those who live on society's margins in Vancouver's DTES for the infliction of special punishment.

### Actions Taken

John Richardson, lawyer, founder and, at that time, executive director of Pivot, began to collect affidavits from residents of the DTES. The goal was to document police misconduct against people who use drugs in the DTES. Over a period of nine months, Mr. Richardson worked with volunteer lawyers and law students from the University of British Columbia collecting affidavits from residents who responded to requests for affidavits made by announcements at public events, through distributed pamphlets and by a word of mouth campaign. The participants did not receive any compensation or any promise of future aid. Although designed by Mr. Richardson, the program was inspired by Mahatma Gandhi's work in 1917 with peasant farmers in Bihar, India.

The affidavits revealed impressive but quite regrettable statistics. Twenty-two witness statements and 39 victim statements reported 50 incidences of police misconduct in the DTES. Of the 39 victim statements, 26 victims reported whether they used drugs. Twenty-one of those 26 reported that they used drugs. Therefore, the affidavits revealed an apparent and particularly troubling tendency of the police to inflict punishment on drug users in Vancouver's DTES.

### Results and Lessons Learned

The affidavits were a success. They drew the public's attention to the problem of police misconduct in the DTES and catalyzed a change in policing policy in the DTES. Some of the tangible results were:

*In response to the published affidavits, retired BC Judge Josiah Wood audited Vancouver's Police Department and made recommendations similar to Pivot's. The Police Department implemented some reforms including an improved seized property handling policy and more stringent note-taking procedures for police officers.*

## Examples of Documented Violations of International Obligations

- **Torture.** Police beat those they suspected of using drugs. 12 affidavits report incidents meeting the legal definition of torture, including broken bones or teeth, head and brain injuries, flesh wounds and dog bites.
- **Discrimination.** Arrests and detentions based on ethnicity. Police refuse to aid suspected drug addicts.
- **Freedom of Movement.** Police order DTES residents out of a neighborhood. “They searched through all my stuff. When they saw that I didn’t have any drugs on me, they told me to ‘get out of Vancouver.’”
- **Arbitrary Arrest/Detention.** Police “jack-up” suspected drug addicts (arbitrary detention without arrest).
- **Bodily Integrity.** Police removed a suspected drug dealer’s pants on the street. Strip searches conducted as a matter of policy when newly arrested individuals arrive at jail.
- **Privacy.** Police raid the home of a suspected drug user without evidence or judicial authorization. Unlawful seizure of property owned by suspected drug user/dealer
- **Lack of Medical Treatment in Jail.** People are denied access to medical treatment or their medications while in the Vancouver jail.

In 2007, five years after Pivot conducted its affidavit campaign, the new chief of the Vancouver Police Department issued a formal apology, which recounted a number of acts of police misconduct. The police department disciplined officers and made 16 major policy and procedural changes.

In 2011, the provincial government implemented an Independent Investigations Office which will receive individual complaints against police departments.

The affidavit campaign did have problems, however, particularly with regards to barriers to participant participation. Women were particularly underrepresented in the campaign because of their special vulnerability to exploitation, addiction, poverty and violence. Moreover, as noted in Pivot’s report, the general DTES population had a lower than optimal participation rate due to a participant’s lack of time; fear of retribution from police officers who may target them as a result of the affidavit; belief that time spent giving the affidavit could be better spent trying to get money to buy drugs; a preference to forget about the incident; feeling that they deserved police mistreatment as a consequence of their drug use; concern that swearing information could be used to incriminate them; a lack of faith in the legal processes combined with a disbelief that reporting misconduct would will lead to any redress; and a belief that the police will lie about the incident while the affiant will not be believed because they are a drug addict and/or have a criminal record.

### Pivot Legal Society

Vancouver, Canada

E-mail: [getinvolved@pivotlegal.org](mailto:getinvolved@pivotlegal.org)

Website: [www.pivotlegal.org](http://www.pivotlegal.org)

Report: To Serve and Protect: A Report on Policing in Vancouver’s Downtown Eastside. [http://d3n8a8pro7vhmx.cloudfront.net/pivotlegal/legacy\\_url/251/toserveandprotect.pdf?1345134576](http://d3n8a8pro7vhmx.cloudfront.net/pivotlegal/legacy_url/251/toserveandprotect.pdf?1345134576).

## Example 2: Thai drug users form a network to advocate for harm reduction and human rights

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### Project Type

Advocacy

### The Organization

The Thai Drug Users' Network (TDN) formed in Bangkok, Thailand in December 2002. The organization focuses on raising awareness of health, human rights and harm reduction principles—especially as those concepts relate to experiences of arbitrary arrest, torture, discrimination in judicial and healthcare settings, and lack of access to health care information. Former injection drug users founded TDN and the organization now includes over 100 former or current drug users.

### The Problem

Most new cases of HIV in Thailand occur as a result of injection drug use. At the time of TDN's forming, needle exchange programs were illegal, drug users encountered difficulty obtaining antiretroviral drugs, opiate substitution therapy was not readily available, and stiff criminal penalties existed for illicit drug use. In February 2003, the Thai Government initiated a campaign to make Thailand “drug free.” The campaign resulted in widespread human rights abuses against IDUs, including the extrajudicial killings of over 2,200 alleged drug dealers and the incarceration of approximately 50,000 suspected drug users.

### Actions Taken

In May 2002, Paisan Suwannawong and Karyn Kaplan conducted a study on the human rights situation of IDUs in Thailand. In December 2002, Suwannawong and Kaplan released their findings to the study participants in a meeting held in Bangkok. This prompted the study participants to form TDN.

TDN was designed to address the human rights issues raised by Suwannawong and Kaplan's report. The project benefited from technical and financial support from international organizations, but was led by the Thai IDUs who commanded knowledge of the problem, a passion to effectuate a solution, credibility of their followers and respect from activists and governments around the world.

### Results and Lessons Learned

- TDN gained a seat on Thailand's official harm reduction task force and met with members of the Ministry of Public Health and the Office of Narcotics Control
- TDN and three partners received a US \$1.3 million grant from the Global Fund to Fight AIDS, TB and Malaria (despite the lack of a Country Coordinating Mechanism) to implement peer-driven HIV prevention and harm reduction programs across Thailand.
- TDN met with members of the Ministry of Public Health and the Office of Narcotics control. In July 2004, Prime Minister Shinawatra (who previously declared Thailand's drug-free campaign) reversed course and publicly committed to the harm reduction principle, eschewing punitive measures.
- The project and Global Fund grant dramatically raised the profile of IDUs in Thailand and the region, leading to their unprecedented involvement in national and multilateral policymaking, funding, and program development.

## Example 3: Challenging police raids and criminalization of drug use in Hungary through “civil obedience”

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**Project Type**

Advocacy

**The Organization**

The Hempseed Association is a Hungarian drug reform activist group. The Hungarian Civil Liberties Union is Hungary’s leading drug policy NGO.

**The Problem:**

In Hungary, police regularly raided discos and forced young club-goers to undergo urine tests. This violated privacy rights and rules of criminal procedure, and potentially forced discos underground, making it more difficult to conduct harm reduction outreach with club-goers.

**Actions Taken:**

The Hempseed Association and the Hungarian Civil Liberties Union challenged the police practice of raiding discos and conducting forced urine tests in order to catch people using drugs. Led by the Hempseed Association and with legal advice and representation from the HCLU, individuals reported to the National Police Headquarters in Budapest in the spring of 2005 to confess their non-violent drug use. The aim of this “Civil Obedience Movement” was to challenge the practice of forced urine tests and to raise the issue of decriminalization of drug use.

Every Wednesday for five weeks, “self-reporters” including celebrities appeared at police headquarters. The HCLU provided each self-reporter with a legal manual. More than 60 people self-reported in total.

The action attracted significant media attention and dominated public debate for weeks. Activists expressed their views to the media about the illegal practice of police raids and about decriminalization. HCLU made freedom-of-information requests to the police about the cost of police raids, and used the data to show the raids were not cost-effective.

**Results and Lessons Learned:**

The action succeeded in its main goal, which was to obtain a statement from the police that urine tests could only be conducted on someone following initiation of a criminal procedure against them. This effectively made urine test raids unlawful. The number of police raids seriously decreased, with very few raids occurring in 2006.

The campaign also succeeded in making decriminalization of drug use a subject of mainstream debate. More than 70 professionals working on the drug field signed a petition supporting the aims of the campaign. Three months after the action, the first-ever draft bill on decriminalization was introduced in parliament.

The campaign showed that good stories and human faces are an important and successful way of achieving media coverage of drug policy campaigns.

**Hungarian Civil Liberties Union**

Budapest, Hungary

E-mail: [tasz@tasz.hu](mailto:tasz@tasz.hu)

Website: <http://tasz.hu/en>

Drug Policy Website: [www.drogriporter.hu](http://www.drogriporter.hu)

Drug Policy Website English: <http://drogriporter.hu/en>

**The Hempseed Association (Kendermag Egyesület)**

Website: <http://www.kendermag.hu/> (Hungarian only)

## Example 4: Harm Reduction International's engagement with human rights mechanisms

### Project Type

Advocacy

### The Organization

Harm Reduction International (HRI) advocates for the human rights of drug users and documents the harms associated with drug use.

### The Problem

The total elimination of psychoactive drug use is not a practical goal. Those who are unable or unwilling to end their use of controlled drugs, alcohol, tobacco, or pharmaceutical drugs need access to treatment to reduce harms associated with their drug use. Unfortunately, many governments do not provide the necessary harm reduction programs. A health and human rights approach is needed to leverage these governments into providing not only the necessary funding, commitment and implementation of harm reduction programs but also the appropriate legal framework in which to operate those programs.

## What are Shadow Reports?

When a country is being reviewed by a human rights committee, civil society organizations are permitted to submit a report to supplement the obligatory state report. Often, many civil society organizations collaborate together to create one comprehensive report. These shadow reports provide valuable and independent insight to the human rights committee. The reports allow the human rights committee to determine whether a given country complies with its human rights obligations vis-à-vis its actions towards drug users within its borders. Shadow reports are encouraged by the committees because it ensures that the treaty body review mechanisms are more meaningful and the committees can engage in more robust analysis.

### Actions Taken

In partnership with national and international organizations, HRI submits shadow reports on various countries to various human rights treaty bodies.

#### *Committee on Economic, Social and Cultural Rights*

**Sweden** (2007/08) with Swedish Drug Users Union. <http://www2.ohchr.org/english/bodies/cescr/docs/info-ngos/sduu-ihra.pdf>.

**Poland** (2009) with Open Society Institute Global Drug Policy Program [www.ihra.net/human-rights-treaty-body-reporting](http://www.ihra.net/human-rights-treaty-body-reporting).

**Kazakhstan** (2010) with Canadian HIV/AIDS Legal Network, The Eurasian Harm Reduction Network, Anti-AIDS (Pavlodar), Equal to Equal (Almaty) and KREDO. (In Russian). [www2.ohchr.org/english/bodies/cescr/docs/ngos/IHRA\\_Kazakhstan\\_44.pdf](http://www2.ohchr.org/english/bodies/cescr/docs/ngos/IHRA_Kazakhstan_44.pdf).

**Mauritius** (2010) with Collectif Urgence Toxida. [www2.ohchr.org/english/bodies/cescr/docs/ngos/IHRA\\_CUT\\_Mauritius44.pdf](http://www2.ohchr.org/english/bodies/cescr/docs/ngos/IHRA_CUT_Mauritius44.pdf).



**Afghanistan** (2010) with Transnational Institute

**Colombia** (2010) with Institute for Policy Studies and Witness for Peace.

**Russian Federation** (2010-ongoing) with Andrey Rylkov Foundation for Health and Social Justice. [www.ihra.net/human-rights-treaty-body-reporting](http://www.ihra.net/human-rights-treaty-body-reporting).

*Committee on the Rights of the Child*

**Ukraine** (2010) with Eurasian Harm Reduction Network. [www.ihra.net/files/2011/02/10/EHRN\\_IHRA\\_Ukraine\\_report\\_CRC.pdf](http://www.ihra.net/files/2011/02/10/EHRN_IHRA_Ukraine_report_CRC.pdf)

*Committee Against Torture*

**China** with Human Rights Watch and Asia Catalyst (2008). [http://www2.ohchr.org/english/bodies/cat/docs/ngos/HRW\\_IHRA\\_AC\\_China\\_41.pdf](http://www2.ohchr.org/english/bodies/cat/docs/ngos/HRW_IHRA_AC_China_41.pdf)

## Resources for Engagement with UN Treaty Bodies

Below we provide one general guide that includes descriptions of the treaty bodies and what they do as well as an explanation of how NGOs can engage with the treaty bodies. The second resource provides training materials for engagement with UN mechanisms specific to harm reduction.

*Simple Guide to the UN Treaty Bodies*. International Service for Human Rights, [www.ishr.ch/guides-to-the-un-system/simple-guide-to-treaty-bodies](http://www.ishr.ch/guides-to-the-un-system/simple-guide-to-treaty-bodies). Also available in French.

*The UN Human Rights System and Harm Reduction Advocacy: A training package for civil society organisations*. Harm Reduction International, [www.ihra.net/human-rights-training](http://www.ihra.net/human-rights-training)

## Results and Lessons Learned

The submission of shadow reports to various UN human rights committees has had a positive impact on the committees' ability to determine a country's compliance with a human rights treaty. Frequently, shadow reports address omissions, deficiencies or inaccuracies in official government reports. Shadow reports can also influence and shape the questions asked by the committee and consequently, their concluding observations and recommendations as well. For example, by submitting a shadow report on the status of drug users in a given country, it will bring the issue to the committee's attention and perhaps trigger the committee to pose questions to government officials on its political and financial commitment to harm reduction measures. Governments are required to answer all questions posed by the committee, and this has proven to be an effective accountability mechanism for civil society.

### Harm Reduction International

London, United Kingdom

Email: [info@ihra.net](mailto:info@ihra.net)

Website: <http://www.ihra.net/>

## Example 5: The right to privacy in the context of drug treatment

*MGN Limited v. The United Kingdom*, no. 39401/04, ECtHR (January 18, 2011). Available at <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-111412>.

### Project Type

Litigation

### Organization

This is an example of an individual person that filed a lawsuit to protect her privacy.

### The Problem

The British tabloid *The Daily Mirror* (formerly known as the *Mirror*) published several articles in 2001 showing supermodel Naomi Campbell attending Narcotics Anonymous (NA) meetings. Ms. Campbell wrote to the paper stating that the article was a breach of her privacy and asked it to publish no further articles regarding her attending NA meetings. The tabloid continued to publish articles regarding Ms. Campbell attending NA meetings and once wrote, “After years of self-publicity and illegal drug abuse, Naomi Campbell whinges about privacy.”

### Procedure

The British House of Lords found MGN Limited, publisher of the *Mirror*, guilty of the tort of failing to maintain confidence by publishing an article depicting supermodel Naomi Campbell attending a Narcotics Anonymous meeting. MGN Limited appealed to the European Court of Human Rights (“ECtHR”) on the theory that the verdict violated its article 10 rights under the European Convention of Human Rights (“ECHR”) (relating to freedom of expression).

### Rights Violated

ECHR Article 8: Everyone has the right to respect for private and family life, his home and his correspondence.

### Arguments and Holdings

#### *Freedom of Expression*

Ms. Campbell acknowledged that she could not complain about the reports that she took illegal drugs, since she had previously made public claims that she did take illegal drugs. The subject of her complaint involved those “additional” materials published by the *Mirror*—that is, the reports of her attending NA meetings. Article 10 of the European Convention on Human Rights provides: “Everyone has the right to freedom of expression” but also provides that a state party may limit freedom of expression when “prescribed by law” and when it is “necessary in a democratic society.”

Since it was not disputed that a finding of a breach of confidence against the applicant amounted to an infringement on its right to freedom of expression, the issue for the court to decide was whether the restriction was necessary in a democratic society. MGN admitted that publishing the facts of Ms. Campbell's drug use and recovery efforts were sufficient to rebut her earlier statements regarding her history of drug use. The *Mirror* did not have to publish the additional materials regarding Ms. Campbell attending NA meetings to ensure the credibility of the story regarding her prior drug use. Moreover, the reports of the additional material were harmful to Ms. Campbell's continued treatment and caused a setback in her recovery efforts. Finally, the Court noted that it needed "strong reasons," which were not present in this case, to substitute its judgment for that of a national court. Therefore, since publishing the additional material was not necessary in a democratic society and since it was proscribed by law, the Court found no violation of the newspaper's right to freedom of expression under Article 10 of the European Convention on Human Rights.

#### *Right to privacy*

In a factual similar case (*Von Hannover v. Germany*, App. No. 59320/00 [June 24, 2004]), the European Court of Human Rights found that the German Constitutional Court violated Article 8 of the European Convention on Human Rights (providing the right to respect for private and family life) by denying a public figure privacy claims against a publisher. In *MGM Limited*, the European Court of Human Rights held that the House of Lords did not violate Article 10 of the European Convention on Human Rights (providing the right to freedom of speech) when it found that the tabloid had acted in breach of confidence by publishing the articles on Ms. Campbell.

#### **Commentary and Analysis**

Articles 8 and 10 are in natural tension with each other. States parties must strike an appropriate balance between the two. In determining whether the state party has succeeded in striking the appropriate balance, a court will balance the public interest that article 10, freedom of expression, is intended to protect with the individual interest that art. 8, respect for private and family life, is intended to protect.

The case demonstrates the right of drug users to privacy rights within the context of drug treatment. Narcotics Anonymous cannot operate if members cannot maintain anonymity. This case helps establish that the right to freedom of expression must be balanced with the right for respect for private and family life. MGN Limited and other members of the press in Europe do not have an unbridled right to out an individual as a Narcotics Anonymous member.

## Example 6: Contesting hate speech against drug users

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### Project Type

Advocacy

### The Organization

Harm Reduction International (HRI), the Irish Needle Exchange Forum, and the CityWide Drugs Crisis Campaign work to provide services for drug users, their families and their communities. They also provide accurate information on drug use to policy makers and battle the stigma against drug users that exists in Ireland.

### The Problem

Ian O’Doherty wrote an article for the *Irish Independent* in which he described drug users as “vermin,” “feral worthless scumbags,” and proclaimed “if every junkie in this country were to die tomorrow [,] I would cheer.”

### Actions Taken

HRI, the Irish Needle Exchange Forum and the CityWide Drugs Crisis Campaign filed a joint complaint with the Irish Press Ombudsman against the *Irish Independent* for publishing Mr. O’Doherty’s article. The complainants argued that the article violated Principles 1.1 and 8 of the Code of Practice for Newspapers and Magazines.

### Results and Lessons Learned

#### *Hate Speech:*

The Irish Press Ombudsman found that the article “was likely to cause grave offense to or stir up hatred against individuals or groups addicted to drugs on the basis of their illness.” The Independent published hate speech, which the Ombudsman would not allow under Ireland’s Principle 8.

#### *Duty of the Press.*

The Ombudsman determined that it did not have enough information to rule on the Principle 1 claim, however was clear that journalist and the press—as having an important role in contributing ideas and discourse necessary to a functioning democracy—must report the facts accurately. This obligation extends beyond Ireland to all countries in Europe.<sup>93</sup>

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<sup>93</sup> See *Pedersen a Baadsgard v. Denmark* (ECtHR) Report 2004-XI para. 78 (“protection of the right of journalists to impart information on issues of general interest requires that they should act in good faith and on an accurate actual basis and provide ‘reliable and precise’ information in accordance with the ethics of journalism.”) (citations omitted).

## Code of Practice for Newspapers and Magazines

Principle 1.1: “In reporting news and information, newspapers shall strive at all times for truth and accuracy.  
Principle 8: “Newspapers and magazines shall not publish intended or likely to cause grave offense or stir up hatred against individual or group on the basis of their race, religion, nationality, colour, ethnic origin, membership of the travelling community, gender, sexual orientation, marital status, disability, illness or age.

### Commentary and Analysis

This case study demonstrates that public expression of stigma against drug users can be categorized as hate speech. These types of comments fuel negative and oppressive attitudes towards drug users. Fighting against this level of hate speech will help change societal attitudes and work to eliminate the stigma attached to drug users.

The International Convention on Civil and Political Rights (ICCPR) also allows for states parties to restrict expression for the purpose of prohibiting hate speech. State parties are permitted to limit hate speech “for respect of the rights or reputations of others” under ICCPR article 19(3) (a). Advocacy groups may consider utilizing the human rights committee complaint mechanism or country review process to bring attention to hate speech against drug users in an effort to affect societal attitudes.

#### **Harm Reduction International**

London, England

Email: [info@ihra.net](mailto:info@ihra.net)

Website: <http://www.ihra.net/>

#### **Irish Needle Exchange Forum**

Ireland

E-mail: [info@inef.ie](mailto:info@inef.ie)

Website: <http://inef.ie/>

#### **CityWide Drugs Crisis Campaign**

Dublin, Ireland

E-mail: [info@citywide.ie](mailto:info@citywide.ie)

Website: <http://www.citywide.ie/>

## Example 7: Challenging the mandatory death penalty for drugs in India

*Mithu v. State of Punjab*, (1983) 2 S.C.C. 277 (India).

Available at: [www.lawyerscollective.org/files/IHRN%20judgment.pdf](http://www.lawyerscollective.org/files/IHRN%20judgment.pdf).

### Project Type

Litigation

### Organization

This is an example of an individual challenging a government policy by bringing a human rights claim.

### The Problem

An Indian man who was found guilty of a repeated offense of transporting *charas* (cannabis resin) received a mandatory death sentence under section 31-A of the Narcotic Drugs and Psychotropic Substances Act.

### Procedure

On appeal from the Special Narcotic Drugs and Psychotropic Substances (NDPS) Court in Mumbai to the High Court of Judicature at Bombay.

### Arguments and Holdings

#### *Procedural Due Process*

Although the Indian Constitution does not contain an explicit reference to “due process,” numerous decisions by Indian courts over the years recognize the right as living in article 21 of the Indian Constitution (“No person shall be deprived of his life or personal liberty except according to procedure established by law.”). Moreover, Article 6 of the International Convention on Civil and Political Rights demands that “No one shall be arbitrarily deprived of his life” and that the “sentence of death may be imposed only for the most serious crimes.” Harm Reduction International argued that the mandatory death penalty of section 31-A breaks with the principle of procedural due process which holds that judges should determine sentences based on the individual criminal offense. The High Court of Judicature at Bombay agreed, reasoning that a mandatory death penalty “fails to fulfill the cardinal procedure safeguards of legitimate exercise of judicial discretion for sentencing.”

#### *Substantive Due Process*

The petitioner argued that the mandatory death penalty was unconstitutional because it violated the defendant’s substantive due process rights. Citing article 7 of the ICCPR as interpretative support, the petitioner argued that the mandatory death penalty violated his substantive due process rights against torture. The court disagreed, arguing that (a) Indian municipal law that is in accordance with the Indian Constitution trumps the requirements of International agreements and that (b) Indian courts have consistently held that the death penalty is not cruel.

*Separation of Powers:* The petitioner argued that allowing section 31-A to stand would be to allow the legislature to circumscribe the power of Indian courts to determine penalties for offenses prescribed by section 31-A, leaving the courts with the ability to determine guilt or innocence, only. This argument clearly concerned the court, as it reasoned that section 31-A “completely takes away the judicial discretion, nay, abridges the entire procedure for administration of criminal justice of weighing the aggravating and mitigating circumstances in which the offense was committed as well as that of the offender.”

**Violations of India's Constitution**

**Article 21:** No person shall be deprived of his life or personal liberty except according to procedure established by law.

**Violations of the ICCPR**

**Article 7:** “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”

*Equal Protection*

The petitioner made a strong but ultimately unsuccessful equal protection attack on the NDPS. Article 14 of the Indian Constitution provides that “[t]he State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.” Yet, the NDPS does not distinguish between pure drugs and mixtures. For example, a defendant found guilty of possessing 10 kg of pure opium receives the automatic death penalty just the same as a defendant found guilty of possessing 10 kg of an opium *mixture*. Arguing that the purpose of the ADPS was to punish in accordance with drug quantity, the Petitioner argued that ADPS violated Article 14. The Court disagreed, simply stating that the classification of drugs was “based on intelligible differentia.”

*Proportionality*

The petitioner argued that, since providing or consuming narcotics listed under section 31-A do not directly or indirectly cause loss of life, violations of section 37-A do not constitute the “most serious crimes.” Therefore, since article 6 of the ICCPR provides that the “sentence of death may be imposed only for the most serious crimes[,]” the petitioner argued that the mandatory death penalty for violations of section 31-A were disproportionate to the crime and unconstitutional.

The Court disagreed. According to the Court, the death penalty was based on intelligible differentia and the differentia had a rational nexus to the law’s purpose (i.e. reducing the illicit drug trade and lowering illicit drug consumption). Moreover, the Court found that Indian precedent clearly established that offenses relating to narcotics were more heinous than homicide. Finally, the Court held that the ICCPR did not control when municipal law enacted within the context of the Indian Constitution existed.

**Commentary and Analysis**

In the end, the Court found that the mandatory death penalty for narcotic-related offenses violated article 21 (protection of life and personal liberty) but not article 14 (equal protection of the laws). The death penalty is still possible in courts within the jurisdiction of the High Court at Bombay for those who violate section 31-A, but it is no longer mandatory. It is the trial court judge’s discretion to impose the death penalty after s/he has fairly evaluated each individual defendant and offense.

The constitutions of many countries provide for due process of law, separation of powers or equal protection. In *Mithu*, any one of these constitutional provisions was independently sufficient to read down the mandatory nature of section 31-A from “shall” to “may.” Challenges to similar laws based on similar constitutional measures may very well succeed in other legal venues.

**Lawyers Collective**

New Dehli & Mumbai, India

E-mail New Dehli: [aidslaw1@lawyerscollective.org](mailto:aidslaw1@lawyerscollective.org)

E-mail Mumbai: [aidslaw@lawyerscollective.org](mailto:aidslaw@lawyerscollective.org)

Website: [www.lawyerscollective.org](http://www.lawyerscollective.org)

## Example 8: Encouraging implementation of CESCR recommendations on opioid substitution treatment in Russia

### Project Type

Advocacy and Litigation

### The Organization

The Andrey Rylkov Foundation for Health and Social Justice (ARF) is a non-profit organization incorporated in the Russian Federation in September 2009. The aim of ARF is to develop and promote a “humane drug policy based on tolerance, protection of health, dignity and human rights in Russia.” It is a small organization with a minimalist budget that depends on volunteers for most of its program activities.

### The Problem

Opioid substitution therapy (OST) is an effective method for reducing the harms associated with injection drug use. Yet, Russia prefers to incarcerate people who use drugs instead of providing them with OST. Indeed, Russia prohibits access to OST, disseminates false or misleading information regarding OST, stifles discussion of OST and promotes a treatment for injection drug use that ignores best practices in science. As a result, Russia now faces the world’s largest and most dramatic rise in HIV/AIDS morbidity within its injecting drug use community.

### Actions Taken

ARF has pursued a multifaceted strategy to secure access to OST in Russia, including proceedings before domestic courts, direct appeals to the highest state authorities, and activities to raise public awareness of the need for the measures recommended by the international human rights bodies.

### Alleged Violations

Right to the highest attainable standard of physical and mental health (ICESCR, art. 12; UDHR, art. 25; Russian Const., art. 41).

Right to enjoy the benefits of scientific progress and its application (ICESCR, art. 15(b)).

Right to freedom of information (ICCPR, art. 19; UDHR, art. 19; Russian Const., art. 29(4)).

On April 2, 2010, ARF submitted a shadow report to the International Committee on Economic, Social, and Cultural Rights (CESCR) on Russia’s failure to implement the right to health (art. 12) “as it relates to access of people who inject drugs to drug treatment and HIV prevention, care and treatment programs.”<sup>94</sup> Specifically, ARF presented evidence that the government violated the human rights of people who use drugs by banning access to harm reduction services and information, including OST.

On May 20, 2011, the CESCR issued its Concluding Observations to the Russian Federation, recommending that the government “apply a human rights-based approach to drug users so that that they do not forfeit their basic right to health” and “provide clear legal grounds and other support for the internationally

<sup>94</sup> Report to CESCR on implementation by Russia of ICESCR Article 12 as it relates to access of people who inject drugs to drug treatment and HIV prevention, care and treatment programs ([www2.ohchr.org/english/bodies/CESCR/docs/ngos/fhsj\\_RussianFederation\\_wg44.doc](http://www2.ohchr.org/english/bodies/CESCR/docs/ngos/fhsj_RussianFederation_wg44.doc)) and Supplemental Report ([http://www2.ohchr.org/english/bodies/cescr/docs/ngos/AndreyRylkovFoundation\\_RussianFederation\\_CESCR46.doc](http://www2.ohchr.org/english/bodies/cescr/docs/ngos/AndreyRylkovFoundation_RussianFederation_CESCR46.doc)). See also, Additional information to the Report to CESCR on implementation by Russian of ICESCR Article 12 as it relates to access of people who inject drugs to drug treatment and HIV prevention, care and treatment programs (in response to the replies by the Government of the Russian Federation to the list of issues (E/C.12/RUS/Q/5) to be taken up in connection with the consideration of the fifth periodic report of the Russian Federation (E/C.12/RUS/5) of 9 February 2011). <http://en.rylkov-fond.org/wp-content/uploads/2012/01/AFR-ICESCR-may-5-2011.pdf>.



recognized measures for HIV prevention among injecting drug users, in particular the opioid substitution therapy (OST) with use of methadone and buprenorphine, as well as needle and syringe programs and overdose prevention programs.” (UN Doc. E/C.12/RUS/CO/5)

On September 2, 2011, ARF submitted a formal request to the Office of the President, as guarantor of the Russian Constitution, asking for implementation of the CESCR Recommendations, including the introduction of OST in Russia. The President’s administration forwarded this request to the Ministry of Health, which responded to ARF with false information on the ineffectiveness of OST. ARF did not request information on the efficacy of OST. ARF submitted a new request to the President asking for an appropriate reply. However, the President’s Administration responded that the initial reply would suffice.

On January 10, 2012, ARF submitted a complaint to the district court against the President’s Administration and the Ministry of Health, claiming that both had violated the right to a reply on the merits and the right to receive objective, accurate information about the affairs of the state bodies. In July 2012, the district court dismissed the complaint based on the constitutional provision of separation of powers. According to the district court, the court cannot pass judgment mandating the President’s Administration to propose certain laws. ARF did not request the court to pass judgment; it requested the court to mandate the Administration to fulfill its obligations to reply to citizens on the merits of their petitions. An appeal was filed in July 2012 to the Moscow City Court and on October 2, 2012, the court of appeal upheld the judgment of the district court. ARF is preparing an application to the UN Human Rights Committee claiming the violation of the right to receive reliable information on the matters related to the implementation of the International Covenants on Human Rights.<sup>95</sup>

### Results and Lessons Learned

The work of ARF demonstrates successful advocacy for OST and other harm reduction services on an international level. Nevertheless, Russia continues to void its international treaty obligations and has in fact retaliated against ARF by persecuting its staff for challenging the legal ban on OST. On February 3, 2011, it shut down the entire ARF website.<sup>96</sup> ARF continues its advocacy work at the domestic level through court-based challenges, calls for changes to domestic drug-related legislation and policies, calls for international attention to ARF website closure, and ongoing recommendations on further actions to protect the human rights violations of people who use drugs.

#### Andrey Rylkov Foundation for Health and Social Justice

E-mail: [Rylkov.foundation@gmail.com](mailto:Rylkov.foundation@gmail.com)

Website: <http://en.rylkov-fond.org/> (English)

<sup>95</sup> See ARF-CALN Submission for the Human Rights Council’s Periodic Review of the Russian Federation (2012). <http://en.rylkov-fond.org/blog/arf-advocacy/arf-international-advocacy/submission-hrc-2012/>.

<sup>96</sup> See also, Information note regarding retaliation of the Government of the Russian Federation against ARF for promoting the recommendations made by the UN CESCR to the Russian Federation in its Concluding Observations (Feb. 14, 2012). <http://en.rylkov-fond.org/blog/arf-advocacy/arf-international-advocacy/infonote-cescr-arf-website/>.

## Example 9: Methadone maintenance treatment in Alberta prisons

*Milton Cardinal v. The Director of the Edmonton Remand Centre and the Director of the Fort Saskatchewan Correctional Centre*

### Project Type

Litigation

### Organization

This is an example of an individual bringing an action to challenge a human rights abuse.

### The Problem

Milton Cardinal was addicted to opiate-based narcotics for over 20 years when, in 2002, he applied for and received methadone maintenance treatment (MMT) through the Alberta Alcohol and Drug Abuse Commission (AADAC). In 2002, Mr. Cardinal was arrested and held in the Edmonton Remand Centre (ERC). It was the policy of the ERC to permit those already receiving MMT therapy to continue to receive MMT from the AADAC for 30 days, at which point the prisoner would be placed on “mandatory withdrawal.” Unsurprisingly, when Mr. Cardinal was placed on mandatory withdrawal, he experienced acute physical and mental pain as a result of the prison’s policy.

### Arguments and Holdings

The court never issued a judgment in this case. Since filing the action prompted the government to change its policy and allow Mr. Cardinal and others similarly situated to receive MMT, the case became moot.

### Commentary and Analysis

Mr. Cardinal brought a civil action against the ERC, arguing that withholding his MMT amounted to a violation of his rights under Sections 7, 12, and 15 of the Canadian Charter of Rights and Freedoms. Before the case could go to trial, a change in policy allowed prisoners in Alberta, like Mr. Cardinal, to receive MMT while in jail. The case settled with the two parties agreeing, “The provision of methadone maintenance treatment to persons who suffer from opioid drug addiction constitutes the community standard of health care in the province of Alberta.”

## Canadian Charter of Rights and Freedoms

s. 7 Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

s. 12 Everyone has the right not to be subjected to any cruel and unusual treatment or punishment.

s. 15(1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

MMT therapy, particularly for prisoners, is an important element of any harm reduction program. Prisoners require MMT while in prison and referrals to community-based MMT programs prior to their release. Beyond the individual health benefits to the prisoners, MMT benefits the community by driving lower recidivism rates. Unfortunately, clear practical obstacles exist to establishing an effective MMT program, including the stigmas associated with pharmacological treatment, misconceptions regarding the nature of opioid addiction, logistics of control and storage of methadone, increased work load for nursing staff and general safety and control concerns. Therefore, an effective legal strategy, built on existing rights, may be the best way to leverage and pry open MMT programs for prisoners who need them.

“That [denial of MMT] was wrong . . . . They have no right to torture your client, none whatsoever. It’s almost like keeping food away from him, starving him. He needs this. It’s a medical necessity. He’s going to get it.” –**Justice Feehan, Alberta Court of Queen’s Bench**

## 5. HOW CAN I FIND ADDITIONAL RESOURCES ABOUT HARM REDUCTION AND HUMAN RIGHTS?

A list of commonly used resources on harm reduction and human rights follows. It is organized into the following categories:

- A. International Instruments
- B. Regional Instruments
- C. Other Declarations & Statements
- D. Harm Reduction Generally
- E. Human Rights & Harm Reduction – General
- F. Right to Life
- G. Freedom from Torture and Cruel, Inhuman and Degrading Treatment
- H. Freedom from Arbitrary Arrest and Detention
- I. Right to a Fair Trial
- J. Right to Privacy
- K. Right to Non-Discrimination
- L. Right to Health
- M. Right to an Adequate Standard of Living and Right to Work
- N. Women
- O. Children
- P. Key Populations – HIV/AIDS, TB or Hepatitis
- Q. Key Populations – Prisoners
- R. Key Populations – Sex Workers
- S. Key Populations – LGBTQ & MSM
- T. Advocacy, Training and Programming Materials
- U. Periodicals
- V. Websites

## A. International Instruments

### Nonbinding

- UN Committee on the Rights of the Child, *General Comment No. 3: HIV/AIDS and the Rights of the Child*, CRC/GC/2003/3 (March 17, 2003). [www2.ohchr.org/english/bodies/crc/comments.htm](http://www2.ohchr.org/english/bodies/crc/comments.htm).
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- UN General Assembly, *Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*, A/RES/43/173 (1988). [www.un.org/documents/ga/res/43/a43r173.htm](http://www.un.org/documents/ga/res/43/a43r173.htm).
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- UN General Assembly, *United Nations Standard Minimum Rules for Non-custodial Measures [The Tokyo Rules]*, A/RES/45/110 (1990). [www.un.org/documents/ga/res/45/a45r110.htm](http://www.un.org/documents/ga/res/45/a45r110.htm).
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## B. Regional Instruments

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### **Nonbinding**

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## C. Other Declarations and Statements

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## G. Freedom from Torture and Cruel, Inhuman and Degrading Treatment

(see also “Freedom from Arbitrary Arrest and Detention”)

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## 6. WHAT ARE KEY TERMS RELATED TO HARM REDUCTION AND HUMAN RIGHTS?

### A

#### **Addiction**

A commonly used term that describes a pattern of drug use indicating physical or mental dependence. It is not a diagnostic term and is no longer used by the World Health Organization (WHO).

#### **Advocacy**

Harm reduction efforts often include an advocacy component, which may involve lobbying for drug users' rights, or for funding for harm reduction programs, or trying to change public perception of drug users and of harm reduction.

#### **AIDS**

Acquired Immunodeficiency Syndrome (AIDS) is the severe manifestation of infection with the Human Immunodeficiency Virus (HIV).

#### **Alcohol pad**

A small piece of fabric soaked with alcohol, used to swab the skin before injecting. (Washing with soap and water is thought to be more effective at reducing infection than rubbing with an alcohol pad. Cleaning hands and potential sites of injection also reduces the potential for infection.)

#### **Amphetamine-type stimulants**

Refers to a group of drugs including amphetamine (also referred to as speed), methamphetamine, methcathinone, fenetylline, ephedrine, pseudoephedrine, methylphenidate, and MDMA (also called ecstasy – an amphetamine-type derivative with hallucinogenic properties). Amphetamine-type stimulants cause increased wakefulness and focus; use is increasing worldwide.

#### **Anti-Retroviral Therapy (ART)**

Anti-retroviral drugs inhibit various phases of the life-cycle of the human immunodeficiency virus (HIV), thus reducing HIV-related symptoms and prolonging life expectancy of people living with HIV.

### B

#### **Backloading and frontloading**

“Backloading” and “frontloading” refer to a practice whereby one syringe is used to prepare the drug solution, which is then divided into one or more syringes for injection. The drug solution is shifted from one syringe into another with the needle (frontloading) or plunger (backloading) removed. HIV, hepatitis, and other infectious agents can be transmitted if the preparation syringe has been contaminated.

#### **Biohazard containers**

Puncture-resistant containers used for disposing of hazardous waste such as used syringes. The contents of biohazard containers are disposed of at a location specifically designed to negate the potential dangers of hazardous waste. The containers are ideally designed so that hazardous material cannot be removed once it is placed into the container.

***Buprenorphine***

A medication used in substitution therapy programs. Buprenorphine is included in the World Health Organization (WHO) Model List of Essential Medicines. See also

***Buprenorphine Maintenance Treatment***

See Substitution or replacement therapy.

**C*****Community-based outreach programs***

These programs are an effective way to provide information and outreach services to drug users with the goal of prevention and health promotion.

***Consumption rooms***

Safe, clean places for drug users to inject sterilely and under medical supervision. Information, sterile injection equipment, and health services are often provided.

***Cooker***

Any item used to heat injectable drugs in order to turn them from powder or other non-liquid form into a liquid suitable for injection. (According to some experts, injection drug users often reused metal spoons for cooking drugs until harm reduction service providers began promoting the one-time use of disposable items, such as bottle caps or similarly shaped objects, in order to reduce the risk of disease transmission.)

***Cotton***

Any item used to filter out particles of solids from injectable liquid drugs, in order to prevent them from clogging syringes. From the point of view of sterile injection, the ideal filter is a sterilized cotton pellet, made of natural cotton fibers and especially cut for this purpose.

**D*****Decriminalization***

Unlike legalization, decriminalization refers only to the removal of penal and criminal sanctions on an activity, which retains prohibited status and non-penal regulation.

***Demand reduction***

Programs and policies aimed at directly reducing demand for illicit drugs via education, treatment, and rehabilitation, without reliance on law enforcement or prevention of production and distribution of drugs.

***Drop-in centre***

Centers provide easy-to-access basic care and information to drug users.

***Drug consumption rooms***

Drug consumption rooms are medically supervised sites that provide a safe and hygienic site for consumption of illicit drugs. The sites often provide sterile injection equipment as well as information about drugs and medical and treatment referrals. Some sites may offer additional medical or counselling services.

***Drug policy***

Refers to the sum total of policies and laws affecting supply and/or demand of illicit drugs, and may include issues such as education, treatment, and law enforcement.

**Drug use**

Preferred term for use in harm reduction context, acknowledging that drug use is a nearly universal cultural behavior with a wide range of characteristics and impacts, depending on the individual user.

**Drug-related harms**

Include HIV and AIDS, other viral and bacterial infections, overdose, crime, and other negative consequences stemming from drug use and from policies and problems relating to drug use.

**H****Harm reduction**

Refers to a set of interventions designed to diminish the individual and societal harms associated with drug use, including the risk of HIV infection, without requiring the cessation of drug use. In practice, harm reduction programs include syringe exchange, drug substitution or replacement therapy using substances such as methadone, health and drug education, HIV and sexually transmitted disease screening, psychological counseling, and medical care.

**Hepatitis B and C**

Hepatitis B and C are blood borne diseases causing inflammation of the liver. Hepatitis B and C can be contracted through sharing needles and hepatitis B can also be spread through unprotected sex.

**Heroin**

An illegal narcotic whose use is rare compared to the use of other drugs, but which has been viewed in many areas as a social scourge dangerous to health and related to criminality.

**Heroin-assisted treatment**

Refers to the prescription and use of medical heroin for heroin or opiate users. Heroin-assisted treatment is proven as effective treatment and is currently utilized as a second-line treatment for users who failed to respond to opioid replacement therapy using methadone or buprenorphine.

**HIV**

The Human Immunodeficiency Virus (HIV) attacks and weakens the immune system. HIV infection eventually leads to AIDS, but proper medical treatment can delay symptoms for years.

**I****Injection equipment**

Items such as syringes, cottons, cookers, and water used in the process of preparing and injecting drugs. Each of these can be contaminated and transmit HIV or hepatitis. The broader term “drug paraphernalia” comprises injection equipment, as well as items associated with non-injection drug use, such as crack pipes.

**Injecting drug use**

Refers to the consumption of a drug through injection into the body by use of a needle or syringe.

**L****Legalization**

As opposed to decriminalization, legalization refers to the process of transferring an activity from prohibited status to legally controlled status.

**M*****Methadone***

A medication used in opioid substitution therapy programs. It is included in the WHO Model List of Essential Medicines.

***Methadone maintenance treatment***

See Substitution or replacement therapy.

***Methamphetamines***

A group of substances, most of them synthetic, that have a stimulating effect on the central nervous system. Methamphetamines can be injected, snorted, smoked, or ingested orally. The popular term “crystal meth” usually refers to the smokeable form of methamphetamine. Other amphetamine-type stimulants include anoretics (appetite suppressants) and non-hallucinogenic drugs such as “ecstasy.”

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**N*****Needle or syringe exchange points***

Programs that provide sterile syringes in exchange for used ones. In addition to exchanging syringes, needle exchange points often provide HIV prevention information and screening, primary health care, and referrals to drug treatment and other health and social services.

***Needle sharing***

The use by more than one person of the same needle, or, more generally, of the same injecting or drug-preparation equipment. It is a common route of transmission for blood-borne viruses and bacteria, and the prevention of needle sharing is a major focus for many harm reduction interventions.

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**O*****Opioid substitution therapy***

See Substitution or replacement therapy.

***Overdose prevention***

Overdosing is a significant cause of morbidity and mortality among drug users, and is a major focus of harm reduction initiatives, including outreach, health services, safe injection rooms, and access to information on how to reduce the likelihood of an overdose.

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**R*****Risk behavior reduction***

Behaviors that place drug users at risk of adverse consequences are a main focus of a set of harm reduction initiatives referred to as risk reduction for their focus on reducing the risk of drug-related harm.

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**S*****Safe injection facility***

See Drug consumption room.

***Sex worker***

A non-judgmental term which avoids negative connotations and recognizes that people sell their bodies as a means of survival, or to earn a living. (UNAIDS)

**Shirka**

The popular name for one of the most commonly injected opiate derivatives used in Ukraine, a homemade preparation of acetylated or extracted opium. In the Odessa region, shirka refers to a homemade amphetamine derivative known elsewhere in the country as vint or perventin.

**Substance abuse**

A widely-used but poorly defined term that generally refers to a pattern of substance use that results in social or health problems, and may also refer to any use of illegal drugs.

**Substitution or replacement therapy**

Medically supervised administration of a psychoactive substance pharmacologically related to the one creating dependence (often buprenorphine or methadone) to substitute for that substance. This aims at preventing withdrawal symptoms while reducing or eliminating the need or desire for illicit drugs. Substitution therapy seeks to assist drug users in switching from illicit drugs of unknown potency, quality, and purity to legal drugs obtained from health service providers or other legal channels, thus reducing the risk of overdose and HIV risk behaviors, as well as the need to commit crimes to obtain drugs.

**Syringes or needles**

The main components of a syringe are a needle, a tubular syringe barrel, and a plastic plunger. Graduated markings on the barrel of a syringe are used to measure the water or saline solution used to dissolve a solid substance into liquid form. Syringes and needles vary in size and do not always come as one piece; a syringe with the needle attached is often referred to as an “insulin syringe.” While disinfection of syringes is possible, public health authorities recommend a new sterile syringe for every injection.

**T****Ties or tourniquets**

Items used to enlarge or “plump up” veins to facilitate injection. Ties should be clean because blood on a tie can be a source of infection. Common ties include a piece of rope, a leather belt, a terry cloth belt, a rubber hose, and a piece of bicycle inner tube.

**V****Vint or perventin**

The popular names for an injected homemade amphetamine derivative. (See Shirka.)

**W****Water**

Water is used to dissolve solid substances (such as pills or powder) into a liquid form suitable for injection. Having a clean source of one’s own water is important to prevent disease transmission. Harm reduction programs often distribute vials of distilled water, sterile water or sterile saline solution (all referred to as “waters”) for this purpose.

**Withdrawal**

Clinical symptoms associated with ceasing or reducing use of a chemical agent that affects the mind or mental processes (i.e., a “psychoactive” substance). Withdrawal usually occurs when a psychoactive substance has been taken repeatedly and/or in high doses.