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

Joint written statement* submitted by International Harm Reduction Association (IHRA), Canadian HIV/AIDS Legal Network, DRCNet Foundation, Inc., IDPC Consortium, Rede Brasileira de Redução de Danos e Direitos Humanos - REDUC, non-governmental organizations in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[03 June 2019]

* Issued as received, in the language(s) of submission only.

Protecting and Promoting the Health of People Who Use Drugs

Harm Reduction International (HRI) and supporting organisations welcome the report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health on promoting mental health through a holistic approach, and the attention paid to underlying determinants, the impact of discrimination, and the need to promote the inclusion and empowerment of marginalised communities.

HRI seconds the acknowledgment that inequitable laws and policies, such as the criminalisation of drug possession or cultivation for personal use, undermine the protection and promotion of the right to health.1

People who use drugs and mental health

People who use drugs are a "key population" when it comes to mental health. On one hand, drug dependency often relates to trauma, stressful life events, homelessness, poverty, mental/physical health problems;2 while women are more likely than men to report mental health diagnoses when accessing drug treatment/harm-reduction services.3 Nevertheless, drug dependency is not solely a manifestation of mental disorders or viceversa, and a conflation of the two "can be pathologising and stigmatising, leading to social exclusion, which in and of itself can be a driver for mental health problems."4

On the other hand, criminalisation, discrimination, and marginalisation have a negative impact on mental health of people who use drugs. We strongly agree with this Rapporteur that many risk factors of poor mental health are linked to the "impact of structural factors that consistently put some groups in a vulnerable situation", such as criminalisation of drug-use.5 This echoes findings by the International Network of People who Use Drugs (INPUD) that "alienation and experiences of discrimination were independently associated with poorer mental health."6

In spite of this, the provision and use of health services is impinged by punitive drug policies and enforcement practices.7 In its 2017 Concluding Observations on the Russian Federation, UN CESCR found that criminalisation of drug use drives people away from seeking medical attention; and recommended that the country consider decriminalising drug possession for personal consumption.8 More recently, the UN High Commissioner for Human Rights denounced how "repressive policies have actually impeded policies which could address some of the social factors which aggravate an individual's vulnerability to drug use and its harmful outcomes."9

We wish to comment on four points made by the Special Rapporteur.

1) Human rights as determinants of health
The fundamental rights of people who use drugs should be protected and promoted on a non-discriminatory basis. Repressive drug policies, however, generate a broad range of violations–including arbitrary detention, ill-treatment, denial of essential medicines and health services-for which there has been little, if any, accountability. Vulnerable groups such as women who use drugs, ethnic minorities, indigenous people experience overlapping and intersecting abuses and discrimination.

1 A/HRC/41/34,Par.5;18
2 Advisory Council on the Misuse of Drugs, *What are the risk factors that make people susceptible to substance use problems and harm?* (2018)
3 Grella, "From Generic to Gender-Responsive Treatment: Changes in Social Policies, Treatment Services, and Outcomes of Women in Substance Abuse Treatment" (Journal of Psychoactive Drugs, 2014)
4 The International Network of People who use Drugs commentary and inputs into the Background Note of the Thematic Segment of the 43rd UNAIDS PCB.
5 A/HRC/41/34,Par.42
6 INPUD, *Stigmatising People Who Use Drugs* (2015)
7 Joanne Csete, al, "Public Health and International Drug Policy. Report of the John Hopkins – *Lancet* Commission on Drug Policy and Health" (2016)
8 E/C.12/RUS/CO/6,Par.50-51
9 Statement by UN High Commissioner for Human Rights Michelle Bachelet at the Harm Reduction International Conference 2019. 28 April 2019

2) Discrimination

This Rapporteur correctly states that "discrimination on any ground, within and beyond mental health settings, is both a cause and a consequence of poor mental health".10 The systemic discrimination and structural violence people who use drugs endure furthers a vicious cycle of stigma, abuse, and marginalisation which negatively impacts on their health. UNAIDS recently highlighted the link between discrimination and anxiety, depression, poor adherence to antiretroviral therapy for people how use drugs.11

People who use drugs experience discrimination in society, and in accessing some of the determinants of health specifically. For example, they regularly face barriers to securing housing, employment, educational grants, and social protection. In addition, because of the stigma associated with drug use and its criminalisation, people who use drugs often refrain from accessing lifesaving harm-reduction services.12

Of particular concern is discrimination in healthcare settings, which further impinges on access to health and social services. A recent report on Bulgaria, for example, denounced violations endured by people living with HIV in healthcare settings, and intersectional discrimination suffered by people who inject drugs. Among others, staff in public hospitals was reported as avoiding direct contact with people living with HIV, denying them essential care or refusing their admission.13

Stigma and discrimination in healthcare settings are major barriers to care-seeking. As reported by INPUD, people who use drugs are often reluctant to access healthcare due to concerns about discriminatory interactions, concerns which may also lead them to conceal their drug use from health-professionals during consultations.14 Research from Canada found that the double stigma of mental health and substance-use increased barriers for patients' care-seeking.

Therefore, people who inject drugs with mental health conditions may need more health and social services than are available to them, and systematically encounter barriers to existing services, resulting in elevated self-reported barriers to access.15

3) Resource allocation

Punitive approaches to drugs steer focus and funding away from services that keep people who use drugs safe and healthy, exacerbating the spread of diseases and health harms and intensifying discrimination and marginalisation. Funding for harm-reduction in low-and middle-income countries is in crisis, receiving just 13% of what is required for an effective response. Modelling shows that a mere 7.5% shift in resources could bring a 94% drop in new HIV infections among people who inject drugs by 2030.16

This funding crisis is mirrored in specific regions as well. A recent report by the Eurasian Harm Reduction Association revealed that incarceration of people who use drugs receives two to six times more funding than health and social services for this population in Eurasian states.17 An enabling legal and policy environment, alongside appropriate resource allocation for harm-reduction and other health and social services, are urgently required for people who use drugs to realise their right to health.

4) Participation

For health laws and interventions to be acceptable, it is essential that those impacted by them are meaningfully involved in their development, implementation, and evaluation.18 This includes people who use drugs. To be effective, participation should enable people who use drugs to challenge all forms of exclusion preventing them from exercising power over decisions and processes affecting their lives. This requires active and informed participation in the

10 A/HRC/41/34,Par.36

11 https://www.unaids.org/sites/default/files/media_asset/JC2954_UNAIDS_drugs_report_2019_en.pdf

12 M.S. Khudyk et al., "Overview of Judicial Mechanisms to Support Key Populations in Five Cities: Almaty, Belci, Odessa, Sofia, and Tbilisi. Sofia case study" (2018)

13 Ibid.

14 INPUD,*Stigmatising People Who Use Drugs* (2015)

15 Wang, al.,"Inability to Access Health and Social Services Associated with Mental Health Among People Who Inject Drugs in a Canadian Setting" (Drug and Alcohol Dependence, 2016)

16 Cook and Davies,*The Lost Decade:Neglect for Harm Reduction Funding and the Health Crisis Amon People Who Use Drugs* (2018)

17 https://harmreductioneurasia.org/criminalization-costs/

18Pots and Hunt, *Participation and the right to the highest attainable of health* (2008)

identification of problems, budget allocation, and development, implementation, and evaluation of laws, policies, and programmes relating to drugs and health. Such involvement is critical to ensuring that interventions are adequate and effective, promote dignity, and aim at eliminating structural inequalities.

Recognising harm reduction as a mental health intervention

Harm reduction should be understood expansively as including interventions which take into account the mental health concerns and needs of people who use drugs, including by acknowledging and addressing intersectional trauma. Harm-reduction/drug treatment services are often ill-equipped to address the often complex and overlapping needs of people who use drugs in a holistic manner. For example, research shows that PTSD, intimate-partner violence and drug use are not currently addressed holistically, and women end up being "shunted from service to service" because no one provider can address all-in part because services are not designed for women.19 Efforts should be taken to integrate harm reduction services with social, mental health and community-based interventions to coordinate complementary services and improve access to comprehensive care for people who use drugs.

Recommendations

HRI asks this Special Rapporteur to:

- Continue denouncing the negative impacts of punitive policies on the right to health of people who use drugs;
- Produce and disseminate a report on legal, policy, and practical barriers, as well as financial constraints, that people who use drugs face in accessing health services, including mental health and harm-reduction services;
- Urge States to remove said barriers by adopting dedicated legislation; and that such legislation be developed with the meaningful involvement of affected communities;

Urge states to acknowledge and raise awareness – including among health-professional – on social determinants, and the impact of poverty, marginalisation, and discrimination on the enjoyment of the

Geneva Platform on Human Rights, Health and Psychoactive Substances, and International Network of People who Use Drugs (INPUD), NGO(s) without consultative status, also share the views expressed in this statement.

19 HRI,"Women and Harm Reduction" (2019); Mason et al,"Making Connections across Silos: intimate partner violence, mental health, and substance use" (BWC Women's Health, 2017);