

**HUMAN  
RIGHTS  
STANDARDS  
ON ACCESS  
TO HARM  
REDUCTION  
IN PRISONS**



**HARM REDUCTION  
INTERNATIONAL**

# INTRODUCTION

Punitive drug policies are shaping the world's prisons.<sup>1</sup> People being punished for drug offences remains a major contributor to prison overcrowding, and it is people from racialised and marginalised groups who are disproportionately affected.<sup>2</sup> Over 11.5 million people are held in prison worldwide.<sup>3</sup> Out of 3.1 million arrested for drug offences globally, an estimated 61% are arrested for possessing drugs, while 78% of the 2.5 million people in prison for drug offences (20% of the total global prison population) were sentenced for drug trafficking.<sup>4</sup> The number of women in prison is increasing at a faster rate than the number of men in prison, and drug convictions are a key contributor to women's incarceration. In Latin America alone, between 35% and 70% of women in prison are there due to drug-related convictions.<sup>5</sup> Evidence shows the 'war on drugs' fuels systemic biases and discrimination against Black and Brown people and others from ethnic minority groups.<sup>6</sup> In the USA, for example, 62% of people in state prison for drug offences are Black,<sup>7</sup> of those sentenced for drug trafficking in US federal prisons, 27% are Black.<sup>8</sup>

Evidence shows that drug use is higher in prisons than in the community. Globally, on average, 32% of people in prison use drugs (ranging between 3.4% to 90% depending on the region) compared to 5.6% in the community.<sup>9</sup> Poor prison

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1 Throughout this report, the term 'prison' refers only to prison.

2 UN Working Group on Arbitrary Detention, (2021), Arbitrary Detention and Drug Policy, AHRC/47/40, para. 8, HRC/UNGA, New York. Available from <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F47%2F40&Language=E&DeviceType=Desktop&LangRequested=False>.

3 Fair, H. and R. Walmsley, (2024), World Prison Population List. Fourteenth edition, p.2, World Prison Brief and ICPR, Birkbeck, University of London, London. Available from [www.prisonstudies.org/sites/default/files/resources/downloads/world\\_prison\\_population\\_list\\_14th\\_edition.pdf](http://www.prisonstudies.org/sites/default/files/resources/downloads/world_prison_population_list_14th_edition.pdf).

4 UNAIDS, (2023), UNAIDS Submission to the Office of the High Commissioner for Human Rights: Report on human rights challenges in addressing and countering all aspects of the world drug problem, pursuant to HRC resolution 52/24, UNAIDS, Geneva. Available from [www.ohchr.org/sites/default/files/documents/issues/drug/cfi-hrc54-drug-policy/submission/subm-ohchrs-report-un-entities-unaids-41.docx](http://www.ohchr.org/sites/default/files/documents/issues/drug/cfi-hrc54-drug-policy/submission/subm-ohchrs-report-un-entities-unaids-41.docx).

5 Institute for Crime & Justice Policy Research, (19 October 2022), 'World Female Prison Population Up By 60% Since 2000' [online article, accessed September 2024], ICPR, Birkbeck, University of London, London. Available from [www.icpr.org.uk/news-events/2022/world-female-prison-population-60-2000](http://www.icpr.org.uk/news-events/2022/world-female-prison-population-60-2000); Giacomello, C. and C.A. Youngers, (2020), 'Women Incarcerated for Drug-related Offences: A Latin American Perspective', in The Impact of Global Drug Policy on Women: Shifting the Needle, edited by J. Buxton, G. Margo and L. Burger, p. 103-111, Emerald Publishing, Leeds. Available from <https://doi.org/10.1108/978-1-83982-882-920200016>.

6 Harm Reduction International, (2021), The Harms of Incarceration, p. 4, HRI, London. Available from <https://hri.global/publications/the-harms-of-incarceration-the-evidence-base-and-human-rights-framework-for-decarceration-and-harm-reduction-in-prisons>.

7 Human Rights Watch, 'Punishment and Prejudice: Racial Disparities in the War on Drugs' [web page, accessed September 2024], HRW, New York. Available from [www.hrw.org/legacy/campaigns/drugs/war/key-facts.htm#:~:text=Nationwide%2C%20blacks%20comprise%2062%20percent,the%20rate%20of%20white%20men](http://www.hrw.org/legacy/campaigns/drugs/war/key-facts.htm#:~:text=Nationwide%2C%20blacks%20comprise%2062%20percent,the%20rate%20of%20white%20men).

8 United States Sentencing Commission, (2024), Quick Facts. Drug Trafficking Offences: Population Snapshot, USSC, Washington DC. Available from [www.ussc.gov/research/quick-facts/drug-trafficking](http://www.ussc.gov/research/quick-facts/drug-trafficking).

9 United Nations Office on Drug and Crime, (2024), World Drug Report 2024: Key Findings and Conclusions, p.45, UNODC, Vienna. Available from [www.unodc.org/unodc/en/data-and-analysis/world-drug-report-2024.html](http://www.unodc.org/unodc/en/data-and-analysis/world-drug-report-2024.html); Austin, A., et al., (2023) 'Factors associated with drug use in prison: A systematic review of quantitative and qualitative evidence', International Journal of Drug Policy, vol. 122, e104248. p.1. Available from <https://doi.org/10.1016/j.drugpo.2023.104248>; Norman, C., (2022) 'A global review of prison drug smuggling routes and trends in the usage of drugs in prisons', Wires Forensic Science, vol. 5, no.2, e1473. Available from <https://wires.onlinelibrary.wiley.com/doi/10.1002/wfs2.1473>.

conditions have not only been identified as a contributing factor to drug use, but also as a critical factor contributing to poor health among people in prison. Prisons are high-risk environments for the transmission of diseases due to overcrowding, limited access to clean water, inadequate sanitary conditions, a lack of healthcare and good-quality food, and mistreatment of people in detention, to name a few.<sup>10</sup> Unsafe drug use is a common practice in prisons, and this increases people's risk of infection. For example, sharing injecting equipment has been linked to HIV outbreaks in prisons in Iran, Lithuania, Thailand, the UK and Ukraine.<sup>11</sup> People in prison are 7.2 times more likely to be living with HIV than people in the general community. It is estimated that, globally, 4.2% of people in prison are living with HIV and 15.1% are living with hepatitis C.<sup>12</sup>

The COVID-19 pandemic exacerbated these problems. Measures taken to control COVID-19 often made already-inhumane living conditions worse, and some measures restricted the rights of people in prison.<sup>13</sup> The over-representation of people who are particularly vulnerable to poor health, such as people who use drugs, means many people in prison are at high risk of becoming seriously ill if they contract a condition such as HIV. People in prison are also disproportionately vulnerable to overdose, both during their sentence and immediately after release.<sup>14</sup>

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- 10 For more details on prison conditions, see Penal Reform International and Thailand Institute of Justice, (2023), Global Prison Trends 2022, p. 11, PRI, London. Available from [www.penalreform.org/global-prison-trends-2022](http://www.penalreform.org/global-prison-trends-2022).
- 11 Dolan, K., et al., (2015) 'People who inject drugs in prison: HIV prevalence, transmission and prevention', International Journal of Drug Policy, vol. 26, s12-15. Available from <https://pubmed.ncbi.nlm.nih.gov/25727258>.
- 12 UNAIDS, (2021), HIV and people in prisons and other closed settings: Human Rights Fact Sheet Series, UNAIDS, Geneva. Available from [www.unaids.org/sites/default/files/media\\_asset/06-hiv-human-rights-factsheet-prisons\\_en.pdf](http://www.unaids.org/sites/default/files/media_asset/06-hiv-human-rights-factsheet-prisons_en.pdf); Dolan K, et al., (2016), 'Global burden of HIV, viral hepatitis, and tuberculosis in prisoners and detainees', The Lancet, vol. 388, no. 10049, p.1089–102.
- 13 Sander, G. and M. Jofré, (2023), Prison After COVID-19: Beyond Emergency Measures, Harm Reduction International, London. Available from <https://hri.global/publications/prison-after-covid-19-beyond-emergency-measures>.
- 14 Hartung, D.M., et al., (2023), 'Fatal and non-fatal opioid overdose risk following release from prison: A retrospective cohort study using linked administrative data', Journal of Substance Use and Addiction Treatment, vol. 147, e208971; Vera Institute of Justice, 'National trends and racial disparities', [webpage accessed September 2024], Vera, New York; Available from [www.vera.org/publications/overdose-deaths-and-jail-incarceration/national-trends-and-racial-disparities](http://www.vera.org/publications/overdose-deaths-and-jail-incarceration/national-trends-and-racial-disparities); Harm Reduction International, (2021), The Harm of Incarceration, HRI, London. Available from <https://hri.global/publications/the-harms-of-incarceration-the-evidence-base-and-human-rights-framework-for-decarceration-and-harm-reduction-in-prisons>; Binswanger, I.A., et al., (2012), 'Return to drug use and overdose after release from prison: a qualitative study of risk and protective factors', Addiction Science and Clinical Practice, vol. 7, no. 1, p.3. Available from <https://pubmed.ncbi.nlm.nih.gov/22966409>.

# HARM REDUCTION IS A HUMAN RIGHT

Harm reduction refers to the policies, programmes and practices that aim to minimise the negative health, social and legal impacts of drug use and drug policies and laws.<sup>15</sup> It encompasses a wide range of interventions and policies, including information on safer drug use, needle and syringe programmes (NSPs), opioid agonist therapy (OAT), drug consumption rooms (DCR), drug checking and overdose prevention and reversal. Harm reduction also involves human rights and evidence-based drug policies, such as those that support the decriminalisation of drug use, inclusive housing, employment, education and sustainable funding.<sup>16</sup>

Harm reduction is a human right. This is demonstrated by harm reduction being recognised as an important element of the right to health for people who use drugs.<sup>17</sup> Denial of access to harm reduction may constitute torture and other cruel, inhuman and degrading treatment.<sup>18</sup> These principles also apply to people in prison.

Apart from those rights that are limited by a judicial sentence, people in prison retain all their human rights.<sup>19</sup> International standards make clear that governments have an obligation to ensure the highest standard of physical and mental health for people in prison by providing adequate, timely, available and accessible healthcare to all, without discrimination and cost.<sup>20</sup>

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15 Harm Reduction International, 'What is harm reduction?' [web page, accessed September 2024], HRI, London. Available from <https://hri.global/what-is-harm-reduction>.

16 Mofokeng, T., (2024), Drug use, harm reduction and the right to health: Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, A/HRC/56/52, para. 57-67, OHCHR, Geneva. Available from [www.ohchr.org/en/documents/thematic-reports/ahrc5652-drug-use-harm-reduction-and-right-health-report-special](http://www.ohchr.org/en/documents/thematic-reports/ahrc5652-drug-use-harm-reduction-and-right-health-report-special).

17 UN General Assembly, Grover, A., (2010), Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Anand Grover, A/ HRC/14/20, UNGA, New York. Available from <https://documents.un.org/doc/undoc/gen/n10/477/91/pdf/n1047791.pdf?OpenElement>.

18 UN General Assembly, Nowak, M., (2009), Report of the Special Rapporteur on Torture, and Other Cruel, Inhuman, and Degrading treatment and Punishment, A/HRC/10/44, p.71, UNGA, New York. Available from <https://documents.un.org/doc/undoc/gen/g09/103/12/pdf/g0910312.pdf>.

19 UN Human Rights Council, (2013), Human rights in the administration of justice, including juvenile justice, A/HRC/RES/24/12, UNHRC, Geneva. Available from [www.right-docs.org/doc/a-hrc-res-24-12](http://www.right-docs.org/doc/a-hrc-res-24-12).

20 Article 12 International Covenant on Economic Social and Cultural Rights, UN System Chief Executives Board for Coordination, (2018), United Nations system common position on supporting the implementation of the international drug control policy through effective inter-agency collaboration, CEB/2018/2, p.12, UN System, New York; Committee Against Torture, (2013), Observations of the Committee against Torture on the revision of the United Nations Standard Minimum Rules for the Treatment of Prisoners (SMR), CAT/C/51/4, para. 24, OHCHR, Geneva. Available from [www.refworld.org/reference/themreport/cat/2013/en/98769](http://www.refworld.org/reference/themreport/cat/2013/en/98769).

Following the principle of the equivalence of care,<sup>21</sup> healthcare must be provided at least to the same standard as is available in the broader community. This includes providing adequate health services that closely mirror the general health service and providing continuity of care<sup>22</sup> and essential medicines, including methadone and buprenorphine.<sup>23</sup> It also means protecting the underlying determinants of health by providing access to fresh air, clean water, adequate sanitation, a non-discriminatory environment and active and informed participation in health-related decision making.

**As recognised by UN agencies and bodies, equal access to quality harm reduction and other evidence-based health responses to drugs is essential for the full realisation of the right to health for people who use drugs and should be available for all people deprived of liberty on a voluntary and non-discriminatory basis.**<sup>24</sup> The increased degree of vulnerability caused by incarceration triggers a heightened duty of care on the part of the State, and it cannot use financial constraints or other logistical problems as a reason for failing to comply with its international obligations.<sup>25</sup>

Yet, people in prison continue to be severely underserved by harm reduction services. As of 2024, the provision of harm reduction services in prison is still low, with only 11 countries implementing NSPs, 60 countries implementing OAT in at least one prison and 11 countries providing take-home naloxone on release.<sup>26</sup> In her latest report, the Special Rapporteur on the right to the highest attainable standard of physical and mental health urged UN Member States to make harm reduction

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- 21 United Nations Office on Drugs and Crime, (2023), UN Common Position on supporting the implementation of the international drug control through effective inter-agency collaboration, UNODC, Vienna. Available from [www.unodc.org/res/un-common-position-drugs/index\\_html/2315371E-eBook.pdf](https://www.unodc.org/res/un-common-position-drugs/index_html/2315371E-eBook.pdf); United Nations System, (2021), Common position on Incarceration, UN System, New York; UN Human Rights Council, (2016), Revised UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), Rule 24 (1), OHCHR, Geneva; United Nations Office on Drugs and Crime, et al., (2006), Prevention, Care, Treatment and Support in Prison Settings – A Framework for an Effective National Response, UNODC, Vienna; UN General Assembly, (1990), Basic Principles for the Treatment of Prisoners, Principle 9, UNGA, New York; UN General Assembly, (1982), 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 of Punishment, A/RES/37/194, Principle 1, UNGA, New York.
- 22 Sander, G. and M. Jofré, (2023), Prison After COVID-19: Beyond Emergency Measures, Harm Reduction International, London. Available from <https://hri.global/publications/prison-after-covid-19-beyond-emergency-measures>.
- 23 The two drugs commonly used to treat opioid dependence.
- 24 Among others, Mofokeng, T., (2024), Drug Use, Harm Reduction and the right to health, A/HRC/56/52, para. 8-17, 21, 85 d. Available from <https://daccess-ods.un.org/access.nsf/Get?OpenAgent&DS=A/HRC/56/52&Lang=E>; UN Office of the High Commissioner on Human Rights, (2023), Human Rights Challenges in addressing and countering all aspects of the world drug problem, A/HRC/54/53, para. 9-12, UNGA, New York. Available from <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F54%2F53&Language=E&DeviceType=Desktop&LangRequested=False>; Committee on Economic, Social and Cultural Rights, (2020), Concluding Observations on the Seventh Periodic Report of Ukraine, E/C.12/UKR/CO/7, para. 43, Ecosoc, New York. Available from [www.undocs.org/en/E/C.12/UKR/CO/7](https://www.undocs.org/en/E/C.12/UKR/CO/7); Callamard, A., et al., (16 April 2020), 'Statement by the UN experts on the right to health on the protection of people who use drugs during the COVID-19 pandemic' [online statement, accessed September 2024], OHCHR, Geneva. Available from [www.ohchr.org/en/statements/2020/04/statement-un-expert-right-health-protection-people-who-use-drugs-during-covid-19](https://www.ohchr.org/en/statements/2020/04/statement-un-expert-right-health-protection-people-who-use-drugs-during-covid-19); Grover, A., (2010), Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, A/65/255, UNGA, New York. Available from <https://undocs.org/Home/Mobile?FinalSymbol=A%2F65%2F255&Language=E&DeviceType=Desktop&LangRequested=False>; World Health Organization, (2022), Consolidated guidelines on HIV, viral hepatitis and STI prevention, diagnosis, treatment and care for key populations, WHO, Geneva. Available from [www.who.int/publications/i/item/9789240052390](https://www.who.int/publications/i/item/9789240052390).
- 25 Human Rights Committee, (2018), General Comment No. 36, CCPR/C/GC/36, para. 25, CCPR, HRC, New York. Available from [www.ohchr.org/en/calls-for-input/general-comment-no-36-article-6-right-life](https://www.ohchr.org/en/calls-for-input/general-comment-no-36-article-6-right-life).
- 26 Harm Reduction International, (2023), Global State of Harm Reduction: 2023 Update to key data, HRI, London. Available from <https://hri.global/publications/global-state-of-harm-reduction-2023-update-to-key-data>; Harm Reduction International, (2022), Global State of Harm Reduction 2022, p. 14-19, HRI, London. Available from <https://hri.global/flagship-research/the-global-state-of-harm-reduction>.

services, including OAT, available to people in prison without discrimination.<sup>27</sup> The Special Rapporteur also highlights the need to ensure that such services are tailored to the specific needs of people in prison; medical considerations must prevail over security and punitive aspects, and medical practitioners in prison should be independent from the prison staff.<sup>28</sup>

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27 Mofokeng, T., (2024), Drug Use, Harm Reduction and the right to health, A/HRC/56/52, para. 34-35, HRC/UNGA, New York. Available from <https://daccess-ods.un.org/access.nsf/Get?OpenAgent&DS=A/HRC/56/52&Lang=E>.

28 European Prison Litigation Network, (17 May 2023), 'Harm reduction in Eastern European prisons: Ensuring equivalence of care for people who use drugs in prison' [online article, accessed September 2024], EPLN, Paris. Available from [www.prisonlitigation.org/cnd-prison-healthcare-2023](http://www.prisonlitigation.org/cnd-prison-healthcare-2023).

# UNDERSTANDING UN HUMAN RIGHTS SYSTEM

Human rights standards are implemented and monitored through various mechanisms under the UN human rights system, which is usually divided into two: the charter-based and treaty-based systems.

CHARTER-BASED	TREATY-BASED
<p><b>Human Rights Council</b></p> <ul style="list-style-type: none"><li>■ Special Procedures <i>46 thematic mandates</i> <i>14 country mandates</i></li><li>■ Universal Periodic Review</li><li>■ Independent Investigations</li></ul>	<ul style="list-style-type: none"><li>■ Committee on the Elimination of Racial Discrimination</li><li>■ Committee on Economic, Social and Cultural Rights</li><li>■ Human Rights Committee</li><li>■ Committee on the Elimination of Discrimination against Women</li><li>■ Committee Against Torture</li><li>■ Committee on the Rights of the Child</li><li>■ Committee on Migrants Workers</li><li>■ The Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment</li><li>■ Committee on the Rights of Person with Disabilities</li><li>■ Committee on Enforced Disappearances</li></ul>



## CHARTER-BASED

UN Charter-based human rights mechanisms are a set of bodies and procedures established under the authority of the [United Nations Charter](#) to monitor and promote adherence to human rights standards across all [UN Member States](#). These mechanisms are distinct from treaty-based bodies, which are created by specific human rights treaties or conventions and focus on monitoring the implementation of those legal instruments.

### Human Rights Council

The [UN Human Rights Council \(HRC\)](#) is the primary inter-governmental body and subsidiary organ of the UN General Assembly. It is responsible for promoting and protecting human rights globally, addressing situations of human rights violations, and making recommendations thereon.

The HRC meets at least three times a year, where it receives updates from special procedures and holds the Universal Periodic Review (UPR). The HRC's regular sessions are public, usually live-streamed, and non-governmental organisations (NGOs) with ECOSOC accreditation (or 'consultative status') can observe sessions in person and make written and oral statements.<sup>29</sup> NGOs can also organise side events to highlight topics of their interest and engage directly with delegations and other relevant stakeholders. Civil society can equally engage with country delegations in Geneva and in capitals, to ensure they are aware of relevant matters being discussed at the HRC.

In the last decade, the HRC has increased its attention to the human rights implications of drug policy and has adopted key resolutions that promote evidence-based and human rights-based approaches to drug policy reform, including the 2023 HRC resolution Contribution of the Human Rights Council with regard to the human rights implications of drug policy ([A/HRC/RES/52/24](#)), which gave explicit support to harm reduction strategies. The resolution also mandated the Office of the High Commissioner for Human Rights (OHCHR) to prepare the report Human rights challenges in addressing and countering all aspects of the world drug problem ([A/HRC/54/53](#)). Other relevant resolutions, although not specific to drug policy, which mention and support harm reduction are the 2021 ([A/HRC/RES/47/14](#)) and 2024 ([A/HRC/56/20](#)) resolution on human rights in the context of HIV and AIDS.

### Special procedures

Special procedures are independent mechanisms established by the HRC. Each mechanism has a specific mandate, and its 'competency' over a country issue is irrespective of the ratification of a treaty by a UN Member State. Special procedures are conducted by special rapporteurs, independent experts and working groups.

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<sup>29</sup> For more information on ECOSOC accreditation, visit <https://ecosoc.un.org/en/ngo/consultative-status>, and on NGO participation, visit [www.ohchr.org/en/hr-bodies/hrc/ngo-nhri-info](http://www.ohchr.org/en/hr-bodies/hrc/ngo-nhri-info).



Those involved in a special procedure undertake country visits, act on individual cases of reported human rights violations, contribute to the development of international standards, engage in advocacy, raise public awareness and provide advice for technical cooperation.

Special procedures report their findings on a specific issue or country to the HRC annually and make recommendations on how to advance human rights. Civil society can participate in the special procedures' annual meetings and dialogues before the HRC.

Particularly relevant for drug policy advocacy are the outputs of the Working Group on Arbitrary Detention ([A/HRC/47/40](#)), the Special Rapporteur on the Right to Health ([A/HRC/56/52](#), [A/HRC/38/36](#), [A/HRC/32/32](#), [A/65/255](#)) and the Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment ([A/HRC/55/52](#)), to name a few.

### **The Universal Periodic Review**

The UPR is a unique state-driven process that periodically reviews the human rights records of all UN Member States and follows up on recommendations made in previous cycles. UN agencies, national human rights institutions and civil society can provide inputs and suggest recommendations during the review process.<sup>30</sup>

### **TREATY-BASED**

UN treaty-based bodies are committees of independent experts established under legally binding international human rights treaties and their protocols. Each committee is tasked with monitoring and promoting the implementation of the human rights obligations that UN Member States have committed to under a specific convention.<sup>31</sup> There are 10 treaty bodies, including the Committee on the Elimination of Racial Discrimination (CERD), the Committee on Economic, Social and Cultural Rights (CESCR), the Human Rights Committee (HRCtee) and the Committee Against Torture (CAT). They only have jurisdiction over matters in UN Member States that have ratified the respective international instrument, as ratification includes recognising the competence of that committee to monitor their actions in relation to that treaty. The committees monitor countries' implementation of the treaty's provisions through periodic reports and provides concluding observations and recommendations for improvement. Committees can also receive individual complaints, but only if the State it relates to has recognised the competence of the committee to receive such complaints and if domestic remedies have been exhausted.

Treaty bodies also adopt general comments or recommendations as a way to provide authoritative interpretations of the treaty provisions. Particularly relevant for drug

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30 For more information on how to engage with the UPR process, visit [www.ohchr.org/en/hr-bodies/upr/upr-home](http://www.ohchr.org/en/hr-bodies/upr/upr-home).

31 For more information, visit [www.ohchr.org/en/instruments-and-mechanisms](http://www.ohchr.org/en/instruments-and-mechanisms).

policy and prisons are the [HRCtee's General Comment No. 36](#) on the right to life and the [CESCR's General Comment No. 14](#) on the right to highest attainable standards of physical and mental health. The CESCR is currently drafting a new general comment on the implication of drug policy on economic, social and cultural rights ([more information can be found here](#)).

Civil society organisations and individuals can provide inputs on a country's reports and provide feedback and relevant information during the development of a general comment and thematic discussions.

# HUMAN RIGHTS STANDARDS ON HEALTHCARE AND HARM REDUCTION IN PRISON

Closing the gap between international human rights obligations and domestic policies and practices is critical to protecting the rights of people in prison. Experts, activists, people with lived experience of incarceration, community-led organisations and civil society in general have a key role to play in catalysing change. Progress can be made by, among other things, raising awareness and actively engaging with human rights mechanisms at national and international level to hold States accountable and by promoting the provision of harm reduction for people in prison.

Harm Reduction International (HRI) is developing an [online database](#) – open to everyone – which compiles existing norms, principles and recommendations made by UN human rights mechanisms and bodies that relate to drug policy and human rights, including harm reduction in prisons. These standards define some of the specific steps and benchmarks required from UN Member States to respect, protect and fulfil the human rights of people deprived of liberty, including the right to life, the right to be free from torture or to cruel, inhuman or degrading treatment or punishment, the right to not be subjected to arbitrary arrest, to be treated with equality and non-discrimination, among others, which is particularly relevant to make the case for harm reduction in prison.

However, it is important to note that while meeting standards is often a necessary pre-condition for compliance with legal requirements, these standards serve as a minimum level of protection. Authorities should strive to provide conditions that exceed the minimum standards identified by international human rights laws.

The following summary draws on international laws, standards and principles from the UN human rights system to present the key human rights obligations and recommendations for UN Member States to provide equal access to quality harm reduction interventions for people in prison, and by doing so protect their right to life and to the highest attainable standard of physical and mental health, among other human rights. This is not an exhaustive list. For more detailed information on each human rights standard, or specific recommendations made by UN mechanisms and bodies, visit the [HRI website](#).

## GENERAL OBLIGATION ON THE RIGHT TO HEALTH IN GENERAL AND THE PROVISION OF THE RIGHT TO HEALTH FOR PEOPLE IN PRISON

- **States must protect, respect and fulfil the right to health with dignity and in a non-discriminatory manner.**

Regulated in, among others:

- Universal Declaration of Human Rights, particularly Articles 1 and 25,
- International Covenant on Economic, Social and Cultural Rights, particularly Article 12,
- International Covenant on Civil and Political Rights, particularly Articles 6-7, 9-10 and 26,
- International Convention on the Elimination of All Forms of Racial Discrimination, particularly Article 5,
- Convention on the Elimination of All Forms of Discrimination against Women, particularly Articles 2, 12 and 14,
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, particularly Articles 2 and 11,
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, particularly Articles 7 and 45,
- Convention on the Rights of Persons with Disabilities, particularly Articles 5 and 25.

- **States should ensure equal access to health services, adequate prison conditions and other underlying determinants of health for all people in prison, including access to safe and potable water and adequate sanitation, adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions, and access to health-related education and information, including on sexual and reproductive health and women's specific hygiene needs by, among others, allocating sufficient financial and human resources.**

Regulated in, among others:

- United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), particularly Rules 24 – 35,
- United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), particularly Rules 6 – 18,
- CESCR General Comment No. 14: The Right to the Highest Attainable Standard of Health (Article 12) (CESCR GC No. 14), particularly para. 34,
- United Nations System Common Position on Incarceration (UN Common Position on Incarceration).

In addition to the general obligation above, more specific standards on the provision of the right to health for people in prison are listed below.

■ **States should ensure meaningful participation of people in prison. People in prison should be included in all stages of the decision-making process for health policy and programmes implemented in prisons, including harm reduction.**

Regulated in, among others:

- CESCR General Comment No. 14, particularly paras. 11,17, 34 and 54,
- UN Common Position Supporting the Implementation of the International Drug Control Policy through Effective Inter-agency Collaboration (UN Common Position on Drug Policy),
- Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Anand Grover, A/HRC/23/41/ADD.1, para. 25,
- Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Tlaleng Mofokeng, A/HRC/56/52, para. 82.

■ **States should guarantee sufficient, specialised and good quality medical and healthcare staff, including by providing training for medical staff on the Istanbul Protocol and other international standards, and on human rights in general.**

Regulated by, among others:

- CESCR General Comment No. 14, para. 12,
- Human Rights Council Resolution on Human rights in the context of HIV and AIDS, A/HRC/RES/38/8, para. 11,
- Report of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment:
  - a. Visit to the former Yugoslav Republic of Macedonia, CAT/OP/MKD/1, para. 31 (f),
  - b. Visit to Gabon, CAT/OP/GAB/1, para. 94,
  - c. Visit to Mongolia, CAT/OP/MNG/1, para. 97,
- Committee on Economic, Social and Cultural Rights, Concluding observations on the fourth periodic report of Azerbaijan, E/C.12/AZE/CO/4, para. 49.

## ON THE PROVISION OF HARM REDUCTION AND OTHER DRUG TREATMENT IN PRISON

- **States should provide healthcare for people in prison, including harm reduction and antiretroviral therapy, to the same standards that are available in the community, and it should be free of charge, without discrimination on the grounds of legal status, culturally appropriate and gender-specific. States should also maintain and scale up non-discriminatory harm reduction interventions in prison, including OAT and NSPs, among others.**

Regulated in, among others:

- The Bangkok Rules, Rules 10 and 15,
- UN Common Position on Drug Policy, p. 13,
- UN Common Position on Incarceration, particularly p. 11,
- Reports of the United Nations High Commissioner for Human Rights:
  - a. Study on the impact of the world drug problem on the enjoyment of human rights, A/HRC/30/65, para. 61,
  - b. Human rights and HIV/AIDS, A/HRC/50/53, para. 15 (g),
- Human Rights Committee, Concluding observations on the fifth periodic report of the Netherlands, CCPR/C/NLD/CO/5, para. 41 (c),
- Committee on Economic, Social and Cultural Rights:
  - a. Concluding observations on the seventh periodic report of Belarus, E/C.12/BLR/CO/7, para. 38,
  - b. Concluding observations on the seventh periodic report of Ukraine, E/C.12/UKR/CO/7, para. 43,
  - c. Concluding observations on the sixth periodic report of Sweden, E/C.12/SWE/CO/6, para. 42,
- Committee on the Elimination of Discrimination against Women:
  - a. Concluding observations on the fifth periodic report of Kazakhstan, CEDAW/C/KAZ/CO/5, para. 40 (e),
  - b. Concluding observations on the combined third and fourth periodic reports of Kazakhstan, CEDAW/C/KAZ/CO/3-4, para. 31 (b),
  - c. Concluding observations on the combined fourth and fifth periodic reports of Georgia, CEDAW/C/GEO/45/4-5\*, para. 31 (e),
- Report of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Visit to Portugal, CAT/OP/PRT/1, para. 103,
- Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, A/HRC/13/39/Add.3, para. 85 (b),

- Report of the United Nations High Commissioner for Human Rights, Study on the impact of the world drug problem on the enjoyment of human rights, A/HRC/30/65, para. 21,
- Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, A/65/255, para. 60.

■ **States should ensure that all health services are provided under the basis of voluntary, informed and free consent and complete confidentiality of any medical condition, treatment, and healthcare accessed by people in prison, including access to harm reduction interventions, HIV treatment and services for infectious diseases.**

Regulated in, among others:

- The Nelson Mandela Rules, Rules 9 and 31-32,
- The Bangkok Rules, Rule 8,
- CESCR General Comment No. 14, particularly para. 8 and 12,
- Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Tlaleng Mofokeng, A/HRC/56/52, para. 21,
- Report of the Working Group on Arbitrary Detention on its mission to Botswana, A/HRC/54/51/Add.1, para. 86,
- Report of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, CAT/OP/MNG/1, para. 96.

■ **States should ensure, in cooperation with public health services, the continuity of medical treatment in prison, particularly for drug dependency, among others, including through the provision of suitable medical personnel, materials and medicines.**

Regulated in, among others:

- The Nelson Mandela Rules, Rule 24,
- UN Common Position on Drug Policy,
- UN Common Position on Incarceration, p. 15,
- Committee against Torture:
  - a. Concluding observations on the second periodic report of Brazil, CAT/C/BRA/CO/2, para. 22 (f),
  - b. Concluding observations on the fourth periodic report of Iceland, CAT/C/ISL/CO/4, para. 16 (c).



- **States should ensure access to information and education about all health programmes and services available, including harm reduction, for people in prison and prison staff.**

Regulated in, among others:

- The Bangkok Rules, Rule 17,
- CESCR General Comment No. 14, particularly para. 12 (b) and 17,
- UN Common Position on Incarceration,
- Report of the United Nations High Commissioner for Human Rights, A/HRC/30/65, para. 61.

- **States should protect people who use drugs who are in prison against unnecessary pain and suffering associated with the withdrawal syndrome, and ensure that timely, adequate and evidence-based medical assistance to counter withdrawal symptoms is available. Denying people who use drugs access to OAT, including as a way of eliciting criminal confessions by inducing painful withdrawal symptoms, is a form of ill-treatment and might amount to torture.**

Regulated in, among others:

- UN Common Position on Drug Policy,
- Human Rights Committee, Concluding observations on the seventh periodic report of the Russian Federation, CCPR/C/RUS/CO/7, para. 16,
- Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, A/HRC/10/44, para. 57 and 71,
- Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, A/HRC/22/53, para. 73-74,
- Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, A/HRC/43/49, para. 26,
- A/HRC/51/29/Add.1, para.111 (c), CAT/C/RUS/CO/6, para. 21.

- **States should ensure that all people in prison, including people with drug dependency, should be seen by a fully qualified health professional to assess their health and medical needs upon admission to prison. To that end, States must ensure that there is a sufficient number of suitable medical personnel, materials and medicines to meet these needs.**

Regulated in, among others:

- The Nelson Mandela Rules, Rule 30,
- The Bangkok Rules, Rules 6, 8 and 9
- Committee against Torture, Concluding observations on the seventh

periodic report of Guatemala, CAT/C/GTM/CO/7, para. 21 (f),

- Report of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment:
  - a. Visit to the former Yugoslav Republic of Macedonia, CAT/OP/MKD/1, para. 26,
  - b. Visit to Mongolia, CAT/OP/MNG/1, para. 110.

## ON GENERAL PRISON HEALTH MANAGEMENT AND MONITORING

### ■ States should establish a fully independent mechanism to monitor the health status of people in prison.

Regulated in, among others:

- The Nelson Mandela Rules, Rules 83-85,
- The Bangkok Rules, Rule 25 (e),
- UN Common Position on Incarceration, p. 7, 8, 14 and 17,
- Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, Mission to Kazakhstan, A/HRC/13/39/Add.3, para. 85 (a).

### ■ States should report and investigate all cases of deaths in prisons.

Regulated in, among others:

- The Nelson Mandela Rules, Rules 69 and 71-72,
- Human Rights Committee:
  - a. Concluding observations on the third periodic report of Kyrgyzstan, CCPR/C/KGZ/CO/3, para. 36 (a),
- Committee against Torture:
  - a. Concluding observations on the seventh periodic report of Canada, CAT/C/CAN/CO/7, para. 19 (a) and (b), CAT/C/51/4, para. 42,
  - b. Consideration of reports submitted by states parties under Article 19 of the convention, CAT/C/UZB/CO/3, para. 11.

### ■ States should collect disaggregated data on drug use patterns in prison and collect statistical data on the health of people in prison to determine the needs and risks associated with drug use and develop gender-sensitive and tailored health interventions and policies.

Regulated in, among others:

- Nelson Mandela Rules 10,
- UN Common Position Supporting the Implementation of the International

- Drug Control Policy through Effective Inter-agency Collaboration,
- CESCR General Comment No. 14, particularly para. 16, and 20,
  - Committee on the Elimination of Discrimination against Women, Concluding observations on the combined third and fourth periodic reports of Kazakhstan, CEDAW/C/KAZ/CO/3-4, para. 31(b).

## REDUCING INCARCERATION TO REDUCE HARM

- States should promote the use of non-custodial measures and alternative treatment for people who use drugs.

Regulated in, among others:

- The Bangkok Rules, Rules 57-62,
- UN Common Position Supporting the Implementation of the International Drug Control Policy through Effective Inter-agency Collaboration,
- UN Common Position on Incarceration,
- Committee on Economic, Social and Cultural Rights, Concluding observations on the second periodic report of Cambodia, E/C.12/KHM/CO/2, para. 47,
- Committee on the Elimination of Discrimination against Women:
  - a. Concluding observations on the combined eighth and ninth periodic reports of Canada, CEDAW/C/CAN/CO/8-9, para. 45 (d),
  - b. Concluding observations on the seventh periodic report of Chile, CEDAW/C/CHL/CO/7, para. 49,
- Human Rights Committee Concluding observations on the third periodic report of Kyrgyzstan, CCPR/C/KGZ/CO/3, para. 36 (c).

