

Submission to the Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment to his thematic report on Practical measures to reduce and prevent prison overcrowding.

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Submitting organisation



Harm Reduction International (HRI) is a leading non-governmental organisation that envisions a world in which drug policies uphold dignity, health and rights. We use data and advocacy to promote harm reduction and drug policy reforms. We show how rights-based, evidence-informed responses to drugs contribute to healthier, safer societies, and why investing in harm reduction makes sense. HRI is an NGO in Special Consultative Status with the Economic and Social Council of the United Nations.

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Introduction

Harm Reduction International (HRI), welcomes the opportunity to contribute to the Special Rapporteur's forthcoming thematic report on practical measures to reduce and prevent prison overcrowding. This submission focuses specifically on the impacts of punitive drug policies on prison overcrowding and on the enjoyment of rights by people who use drugs, answering questions 2, 6 and 8.

Question 2. Reducing entry into prison- Decriminalisation of drug use and possession for personal use as effective mechanism to reduce prison population.¹

Decriminalisation of drug use and possession for personal use is one of the most effective and evidence-based measures available to reduce unnecessary imprisonment; hence prevent overcrowding. Drug use and related conduct is now decriminalised in some form in at least 69 jurisdictions across 39 countries, although models vary considerably, ranging from health-oriented approaches to narrow administrative regimes that retain fines, stigma

¹ For more information on discrimination visit https://www.unaids.org/sites/default/files/2026-03/20260310_Decriminalization-drug-use-HIV.pdf

or other sanctions.² Despite this progress, criminalisation remains the norm, falling short in the Global AIDS Strategy's target that fewer than 10% of countries retaining such laws.

According to UNAIDS's latest guidance, the evidence for decriminalisation is clear. Removing criminal sanctions for personal drug use is associated with better health outcomes, including fewer HIV infections, fewer overdose deaths, and greater access to harm reduction reductions, while also reducing prison populations.³ Decriminalisation removes a key barrier to healthcare, enabling people to engage with HIV testing, treatment and other services without fear, which in turn helps curb transmission when paired with adequate harm reduction services.

However, decriminalisation is most effective as part of a broader package of reform: jurisdictions including **Canada, Czechia, the Netherlands, Portugal, Switzerland and Uruguay** have paired decriminalisation with sustained investment in harm reduction, treatment and social services.

Jamaica illustrates both the costs of criminalisation and the impact of reform. Cannabis possession, use and cultivation carried mandatory imprisonment from 1941; even after this was removed in 1972, sustained prosecution nearly doubled the prison population between 1972 and 2014 (from 2,330 to 4,050), with 15,000 arrests for possession in 2014 alone, a quarter of all court cases, and estimated annual costs of USD 64 million.⁴ Reform gained momentum following the death in custody of a young man arrested for possessing a joint. The 2015 Dangerous Drugs (Amendment) Act decriminalised possession of up to two ounces of cannabis and small-scale cultivation, legalised regulated medicinal cultivation and sale, protected sacramental use by Rastafari communities, and enabled expungement of past convictions. The results were rapid and measurable: court cases involving cannabis possession fell by over 90%, roughly 14,000 fewer arrests occurred each year, and total criminal case referrals fell 25% between 2014 and 2016. Reform was paired with a near-doubling of domestic HIV programme funding (from USD 2.83 million to USD 5.17 million between 2015 and 2016), a rise in HIV status awareness from 70% to 88% and scaled-up testing among key populations.⁵ This case demonstrates that decriminalisation, resourced and paired with health investment, can simultaneously reduce imprisonment and strengthen public health outcomes.

Where full decriminalisation has not been achieved, formal diversion mechanisms remain important but frequently underperform without proper resourcing and rights safeguards. In **Lebanon**, the Drug Addiction Committee provides an alternative to prosecution for first-time arrests, but it remains underutilised. People arrested are rarely informed of this option, and police are often unaware of it or withhold the information, with fewer than 10% of eligible cases actually reaching the Committee. Fear of arrest also deters people from seeking emergency overdose care; although civil society successfully advocated with the Ministries of Public Health and Interior for a policy allowing hospitals to provide emergency overdose care without police reporting. Arrests for drug use

² Prison Reform International (2026) Global Prison Trends 2026 <https://www.penalreform.org/resource/global-prison-trends-2026/>

³ UNAIDS, UNDP and INPUD (2026). Decriminalization of drug use in the context of HIV: a guidance note. https://www.unaids.org/sites/default/files/2026-03/20260310_Decriminalization-drug-use-HIV.pdf

⁴ Harm Reduction International. (2025) Jamaica. Case Study. Divesting from Prohibition, Investing in the HIV Response. <https://hri.global/wp-content/uploads/2025/04/Jamaica.pdf>

⁵ Harm Reduction International. (2025) Jamaica. Case Study. Divesting from Prohibition, Investing in the HIV Response. <https://hri.global/wp-content/uploads/2025/04/Jamaica.pdf>

nonetheless declined 34% between 2021 and 2023, suggesting a gradual shift, though full use and expansion of the Committee mechanism would yield substantially greater impact.⁶ In **Egypt**, legal alternatives to incarceration exist on paper but are implemented inconsistently; broad discretion by police and judicial authorities in deciding eligibility produces arbitrary and discriminatory outcomes that disproportionately affect people experiencing poverty and marginalisation, and compulsory treatment can in practice function as a form of involuntary detention. Both examples show that diversion legislation alone is insufficient, and that implementation requires mandatory information for people who are arrested about their rights, institutional accountability, clear non-discretionary eligibility criteria, and independent monitoring to prevent diversion mechanisms becoming a further layer of punitive control rather than a genuine alternative to detention.⁷

Question 6. Groups disproportionately affected and social drivers of imprisonment. People who use drugs are disproportionately incarcerated and impacted by overcrowding

Punitive drug policies remain a major driver of incarceration and prison overcrowding globally. Drug-related offences account for 22% of the global prison population,⁸ and 19% of people imprisoned for drug offences are serving sentences for possession for personal use,⁹ making people who use drugs disproportionately affected by incarceration and overcrowding.

The death penalty represents the most extreme expression of this punitive approach. Currently, 36 countries retain the death penalty for drug offences and over 2,450 individuals are on death row for such crimes globally.¹⁰ Confirmed drug-related executions rose by 97% between 2024 and 2025, reaching the highest levels recorded since HRI began tracking this data in 2007, with at least 1,212 people executed for drug offences in 2025 and drug offences accounting for more than 46% of all confirmed executions globally that year.¹¹ Those executed are disproportionately people occupying peripheral roles in the drug trade, ethnic minorities and foreign nationals. Many of them have reportedly been subjected to torture and ill treatment in detention and executed following proceedings characterised by serious violations of due process and fair trial.¹²

The same punitive approach also contributes directly to prison overcrowding. In the **Philippines**, one of the most overcrowded prison systems in the world, the punitive “war on drugs” contributed to an increase in the prison population from approximately 95,000 people to more than 165,000 people between 2015 and 2021.¹³ Around

⁶ Harm Reduction International (2026) Lebanon. Case study. Lebanon’s Shift Toward Health-Centred Drug Policy <https://hri.global/wp-content/uploads/2026/07/Lebanon.pdf>

⁷ Harm Reduction International (2026) Egypt. Case study. Expanding Harm Reduction Within a Punitive Drug Policy Framework. <https://hri.global/wp-content/uploads/2026/07/Egypt.pdf>

⁸ Penal Reform International. (2026) Global Prison Trend 2026. <https://www.penalreform.org/resource/global-prison-trends-2026/>

⁹ Penal Reform International. (2026) Global Prison Trend 2026. <https://www.penalreform.org/resource/global-prison-trends-2026/>

¹⁰ Girelli G, Jofre M and Larasati A. (2026) The Death Penalty for Drug Offences: Global overview 2025. <https://hri.global/flagship-research/death-penalty/the-death-penalty-for-drug-offences-global-overview-2025/>

¹¹ Girelli G, Jofre M and Larasati A. (2026) The Death Penalty for Drug Offences: Global overview 2025. <https://hri.global/flagship-research/death-penalty/the-death-penalty-for-drug-offences-global-overview-2025/>

¹² For more information, complete series of report here: <https://hri.global/flagship-research/death-penalty/>

¹³ <https://news.un.org/en/story/2024/07/1152051>

70% of people in detention were reportedly held for minor drug-related offences. By 2024, pre-trial detention facilities were operating at an average occupancy rate of 322%; Manila City Jail, for example, held approximately 3,200 people despite having capacity for fewer than 1,200.¹⁴ In **Indonesia**, a country that retains the death penalty for drug offences, more than half of the prison population is incarcerated for drug offences. Official data estimate that overall prison capacity is exceeded by 97%, with overcrowding rates in some prisons as high as 845%.¹⁵ In **Lebanon**, prisons were reported to be operating at almost 200% capacity in 2023, driven significantly by the criminalisation of low-level drug offences; this is compounded by chronic delays in sentencing, with some 87% of people in prison held without trial.¹⁶

In **Italy**, as of 31 December 2025 there were 63,499 people in prison, against an official capacity of 51,249 (123%). Of these, around 30% were incarcerated for drug offences, and 32.7% were identified as 'drug dependent.'¹⁷ In **Brazil**, as of December 2024 over 674,000 people were incarcerated and 235,000 more were deprived of liberty, with almost one in three held pursuant to drug laws.¹⁸

The burden of incarceration falls disproportionately on marginalised groups, particularly women. Data shows that 35% of female prison population is convicted for a drug-related offence, compared with 19% of men.¹⁹ In **Chile**, the women prison's population has reached its highest recorded level, increasing by 79% since 2021, and 59% of incarcerated women are convicted for drug offences.²⁰ In **Mexico**, 48% of women in prison are held for drug-related offences.²¹ **Thailand**, which has one of the largest female prison populations in the world, sees between 80% and 90% of incarcerated women convicted of drug offences, with a large share of them are in pre-trial detention. In **Bolivia, Mexico, Panama, Paraguay and Uruguay**, the number of women in pre-trial detention exceeds the number of women serving sentences, with drug policies identified as a key contributing factor.²²

¹⁴ <https://news.un.org/en/story/2024/07/1152051>

¹⁵ Cullen D and Hoyle Carolyn (2025). The role of socioeconomic factors in Indonesia's punitive drug policy regime. <https://www.law.ox.ac.uk/sites/default/files/2025-03/ODA%20report%20-%20English.pdf>

¹⁶ Harm Reduction International (2022) Lebanon case study. Lebanon's Shift Toward Health-Centred Drug Policy. <https://hri.global/wp-content/uploads/2026/07/Lebanon.pdf>

¹⁷ <https://www.fuoriluogo.it/pubblicazioni/libro-bianco-sulle-droghe/contesto-nazionale/il-peso-delle-sanzioni-penale-e-amministrative-sul-carcere-e-nella-societa/>; Ministero della Giustizia. Detenuti presenti - aggiornamento al 31 ottobre 2025.

https://www.giustizia.it/giustizia/it/mg_1_14_1.page?contentId=SST1478510#

¹⁸ Catherine Heard (2025) Working Prisoners in Brazil: Laws, policies and practical realities. https://eprints.bbk.ac.uk/id/eprint/55685/2/working_prisoners_in_brazil.pdf; World Prison Brief. Brazil.

https://www.prisonstudies.org/country/brazil?language_content_entity=en-gb

¹⁹ Human Rights Council (2023) Human Rights Challenges in addressing the World Drug Problem. (A/HRC/54/53). <https://documents.un.org/doc/undoc/gen/g23/156/03/pdf/g2315603.pdf>

²⁰ <https://www.emol.com/noticias/Nacional/2026/03/06/1193476/encarcelamiento-femenino-alcanza-maximo-historico.html>

²¹ De la Rosa-Rodríguez, P. & Cortés-Pérez, O.I. (2021). Género, criminalidad femenina y drogas: reflexiones desde la criminología feminista para su estudio en México... *Revista Cultura y Droga*, 26(32), 109–135. <https://doi.org/10.17151/culdr.2021.26.32.6> (citing SSP data that 48% of women prisoners are held for drug-related offences, specifically trafficking)

²² Jeffries. S and Owen. B. (2025). Locked Away While Innocent: Women, Human Rights, and Pre-Trial Detention. *Laws*, 14(5), 75. <https://www.mdpi.com/2075-471X/14/5/75> ; <https://www.yucatan.com.mx/mexico/2026/07/16/mexico-registra-casi-98-mil-presos-sin-sentencia-mujeres-son-las-mas-afectadas-revela-inegi.html>

Overcrowding and criminalisation also aggravate health harms. Drug use prevalence is significantly higher in prisons than in the community.²³ This is compounded by poor detention conditions, high-risk behaviours and worse overall health status of people deprived of liberty, that result in heightened risk of acquiring HIV and other infectious diseases. Latest UNAIDS's data indicates that HIV infections are almost double that of the general population.²⁴ Over 15% of people in prisons globally are living with hepatitis C virus (HCV) and 5% with chronic hepatitis B.²⁵

Question 8. Costs and allocation of resources. Divesting punitive drug policy, investing on social justice and health

Over \$100 billion is spent on drug law enforcement globally. Evidence shows that aid donor governments direct significant development assistance towards punitive drug-control measures, including police training, intelligence gathering, surveillance, arrests and prosecutions. Between 2012 and 2021, at least USD 974 million in aid was allocated to “narcotics control” activities across 92 developing countries.²⁶ Between 2015 and 2024 aid donors provided approximately \$60 billion to narcotic control projects in 14 countries that retain the death penalty for drug offences. Around half of this total was provided by the United States. Japan, Korea and Germany were also identified as principal donors, with some funding channelled through multilateral organisations, including UNODC.²⁷

This funding risks diverting resources from health and social priorities, reinforcing harmful and discriminatory enforcement practices, and undermining aid-supported HIV and harm-reduction programmes.

Decriminalisation can ease pressure on criminal justice systems, generating direct and indirect savings for the State. Reallocating resources from incarceration to health and social alternatives generates measurable savings while improving outcomes. In **South Africa**, the annual cost of imprisoning one person is approximately ZAR 169,700 (USD 10,340), whereas supporting a person through the Community Oriented Substance Use Programme (COSUP), a health-based, low-threshold harm reduction model, costs approximately 22 times less per year. This scale of differential illustrates the potential for governments to achieve both fiscal savings and better public health and criminal justice outcomes by redirecting resources from imprisonment toward community-based drug treatment, harm reduction and diversion services. Comparable economic evidence should be systematically collected and

²³ Favril Louis, Stran John, Fazel Seena (2025) Drug use among people in prison: A global review of epidemiology, harms and interventions. National Library of Medicine, [20;121\(4\):749–764. 10.1111/add.70245](https://pubmed.ncbi.nlm.nih.gov/370245/)

²⁴ UNAIDS (2025) Fact Sheet 2025. Global HIV statistics. https://www.unaids.org/sites/default/files/2025-07/2025_Global_HIV_Factsheet_en.pdf

²⁵ Harm Reduction International (2024). Global State of Harm Reduction: 2024 Update to Key Data. London: Harm Reduction International. <https://hri.global/publications/global-state-of-harm-reduction-2025-update-to-key-data/>

²⁶ Harm Reduction International (2023) Aid for the war on drugs. https://hri.global/wp-content/uploads/2023/09/HRI_Aid-for-the-War-on-Drugs_Final-1.pdf

²⁷ Institute of Journalism and social change and Harm Reduction International (2026) Aiding executions? How aid donors and the United Nations enable the death penalty for drug offences. <https://hri.global/wp-content/uploads/2026/06/Aiding-Executions-FINAL-2306.pdf>

used to inform budgetary decisions, including in the design of any legally enforceable capacity limits or early-warning mechanisms considered elsewhere in the technical guide.²⁸

Recommendations

In line with human rights obligations and the evidence provided in this submission, we encourage the Special Rapporteur to recommend that Member States:

- a) Take immediate measures to reduce the proportion of people deprived of liberty for drug offences, including those held in pre-trial detention, through alternative to incarceration, decongestion and early release measures to reduce prison overcrowding, ensuring that drug-related offences are not subject to any blanket restrictions in decongestion and early release mechanisms;
- b) Decriminalise drug use and possession for personal use, apply health- and human rights-centred community-based responses to drug control and promote the right to health, including by implementing and scaling up harm reduction services in prison and in the community;
- c) Revise and reform punitive drug policies and laws to eliminate all legal, stigmatising, and discriminatory barriers to health care and harm reduction services for people who use drugs;
- d) Call on countries that retain the death penalty for drug offences to implement an immediate moratorium on its use, while pursuing reforms to abolish it entirely, and call on all countries to divest from punitive drug policies and redirect resources towards rights-based, evidence-based drug policies and health services.
- e) Ensure the meaningful participation of people who use drugs and other affected communities in the design, implementation, and evaluation of the laws, policies, and programmes that affect them.

²⁸ Harm Reduction International (2026) South Africa case study. <https://hri.global/wp-content/uploads/2026/03/South-Africa-Final.pdf>