
VISITING EXPERTS' PAPER

EFFECTIVE TREATMENT INTERVENTIONS FOR PEOPLE WITH SUBSTANCE USE DISORDERS IN CONTACT WITH THE CRIMINAL JUSTICE SYSTEM

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I. INTRODUCTION

This article is based on the publication “Treatment and care of people with drug use disorders in contact with the criminal justice system: Alternatives to conviction or punishment”¹ (UNODC/WHO, 2019), the draft summary report on available measures based on an analysis of Note Verbale responses by UN Member States to UNODC on “Alternatives to conviction or punishment available for people who use drugs and with drug use disorders in contact with the criminal justice system”² (UNODC, 2022), the 65th Commission on Narcotic Drugs (CND) conference room paper on “Treatment of drug use disorders and associated mental health disorders in prison settings and forensic hospitals”³ (UNODC, 2022), and the 66th CND conference room paper on “Review of interventions to treat drug use disorders among girls and women in the criminal justice system in low- and middle-income countries (UNODC, 2023).⁴

Enhancing prevention and treatment of drug use disorders while creating healthy, safe, and sustainable communities is in line with UNODC’s strategy 2021–2025 pillar on addressing the world drug problem. It is an essential demand reduction strategy that contributes to significant public health importance of the 2016 United Nations General Assembly Special Session (UNGASS) on the World Drug Problem outcome document⁵ and contributes to the overall achievement of Sustainable Development Goal (SDGs) 3,⁶ targeting goal 3.5 (“Strengthen the prevention and treatment of substance abuse, including narcotic drug abuse and harmful use of alcohol”), and SDG 16,⁷ targeting especially goal 16.3 (“Promote the rule of law at the national and

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¹ United Nations Office on Drugs and Crime, UNODC and World Health Organization, WHO, “Treatment and Care of People with Drug Use Disorders in Contact with the Criminal Justice System: Alternatives to Conviction or Punishment”, 2019, https://www.unodc.org/documents/drug-prevention-and-treatment/UNODC_WHO_Alternatives.pdf

² United Nations Office on Drugs and Crime, UNODC, “Alternatives to Conviction or Punishment available for People Who Use Drugs and with Drug Use Disorders in Contact with the Criminal Justice System. Draft Summary Report on Available Measures Based on an Analysis of Note Verbale Responses by UN Member States to UNODC”, 2022, https://www.unodc.org/res/drug-prevention-and-treatment/publications_html/Report_on_NVs_on_Alternatives_to_Incarceration_FINAL_0609221.pdf

³ United Nations Office on Drugs and Crime, UNODC, E/CN.7/2022/CRP.9, “Treatment of Drug Use Disorders and Associated Mental Health Disorders in Prison Settings and Forensic Hospitals”, 2022, https://www.unodc.org/documents/drug-prevention-and-treatment/UNODC_TX_in_Prisons_March22.pdf

⁴ United Nations Office on Drugs and Crime, UNODC, E/CN.7/2023/CRP.XX, “Review of interventions to treat drug use disorders among girls and women in the criminal justice system in low- and middle-income countries”, 2023 (forthcoming)

⁵ United Nations Office on Drugs and Crime, UNODC, “Outcome Document of the 2016 United Nations General Assembly Special Session on the World Drug Problem. Our Joint Commitment to effectively addressing and countering the World Drug Problem”, 2016, <https://www.unodc.org/documents/postungass2016/outcome/V1603301-E.pdf>

⁶ United Nations Sustainable Development Knowledge Platform, SDG Goal 3 “Ensure healthy lives and promote well-being for all at all ages” <https://sustainabledevelopment.un.org/sdg3>

⁷ United Nations Sustainable Development Knowledge Platform, SDG Goal 16 “Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels” <https://sustainabledevelopment.un.org/sdg16>

international level and ensure equal access to justice for all”) and 16.6 (“Develop effective, accountable and transparent institutions at all levels”).

The United Nations Office on Drugs and Crime (UNODC) and the World Health Organization (WHO) initiative on “Treatment and Care of People with Drug Use Disorders in Contact with the Criminal Justice System” was launched in 2016, in response to the Commission on Narcotic Drugs (CND) resolution 58/5 entitled “Supporting the collaboration of the public health and justice authorities in pursuing alternative measures to conviction or punishment for appropriate drug related offences of a minor nature”.⁸ The initiative aims at enhancing the knowledge, understanding, scope and potential for non-custodial alternative measures to conviction or punishment for drug-related offences of a minor nature. As part of the initiative, UNODC and WHO published a handbook on “Alternatives to Conviction or Punishment” in 2019. Options of diverting people with drug use disorders who are in contact with the criminal justice system to treatment are being explored at a global level, in line with the international drug control conventions and other relevant international instruments, including human rights treaties and UN standards and norms in crime prevention and criminal justice.⁹

Moreover, providing effective treatment interventions for people with drug use disorders in contact with the criminal justice system, such as in prison settings responds to CND resolution 61/7 on “Addressing the specific needs of vulnerable members of the society in response to the world drug problem”¹⁰ and the 2016 UNGASS Outcome Document that suggests United Nations (UN) Member States to “promote and strengthen regional and international cooperation in developing and implementing treatment-related initiatives (···), enhance technical cooperation and capacity-building and ensure non-discriminatory access to a broad range of interventions, including psychosocial, behavioural and medication-assisted treatment, as appropriate and in accordance with national legislation, as well as to rehabilitation, social reintegration and recovery-support programmes, including access to such services in prisons and after imprisonment (···)”.

Understanding that prison is a high-risk environment for many health threats, including drug use and associated mental health disorders, the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) highlight the needs for equitable access to health care, including mental health services and services for the treatment of drug use disorders.¹¹ The provision of treatment of drug use disorders in prison settings, as well as the integrated treatment of drug use disorders and related mental health disorders, has been furthermore described in the UNODC/WHO “International Standards for the Treatment of Drug Use Disorders”.¹²

II. GLOBAL SITUATION WITH REGARD TO DRUG USE DISORDERS IN THE CRIMINAL JUSTICE SYSTEM

According to the 2022 World Drug Report, there are currently about 284 million people worldwide who have used drugs at least once in 2020, of which an estimated 36.7 million people suffer from drug use

⁸ United Nations Office on Drugs and Crime, UNODC, Commission on Narcotic Drugs (CND) resolution 58/5, “Supporting the collaboration of the public health and justice authorities in pursuing alternative measure to conviction or punishment for appropriate drug related offences of a minor nature”, 2015, https://www.unodc.org/documents/commissions/CND/CND_Sessions/CND_58/2015_Resolutions/Resolution_58_5.pdf

⁹ The United Nations Standard Minimum Rules for Non-Custodial Measures (the Tokyo Rules); the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)

¹⁰ United Nations Office on Drugs and Crime, UNODC, Commission on Narcotic Drugs (CND) resolution 61/7, “Addressing the specific needs of vulnerable members of the society in response to the world drug problem”, 2018, https://www.unodc.org/documents/commissions/CND/CND_Sessions/CND_61/CND_res2018/CND_Resolution_61_7.pdf

¹¹ United Nations Office on Drugs and Crime, UNODC, “The United Nations Standard Minimum Rules for the Treatment of Prisoners. (the Nelson Mandela Rules)”, 2015, https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf

¹² United Nations Office on Drugs and Crime, UNODC and World Health Organization, WHO, “International Standards for the Treatment of Drug Use Disorders”, 2020, https://www.unodc.org/documents/drug-prevention-and-treatment/UNODC-WHO_International_Standards_Treatment_Drug_Use_Disorders_April_2020.pdf

disorders (UNODC, 2022).¹³ Cannabis remains the most used drug globally. Drug use disorders are a multifactorial health disorder, associated with socio-economic inequalities, criminal behaviour and social exclusion. They account for 31 million healthy lives lost due to disability and premature deaths (DALYs) in 2019.

Although the majority of people using drugs is men, only 1 in 3 people using drugs is a woman. For this reason, treatment services are primarily designed to cater to the male patient majority and females who use drugs may not be adequately met. With increasing numbers of people using drugs, the treatment gap keeps growing, only 1 in 8 people with drug use disorders have access to any form of treatment globally. In terms of women with drug use disorders, they continue to be underrepresented in drug treatment, as only 1 in 6 women have access to treatment globally. This proportion of women in drug treatment varied greatly across regions, influenced by factors such as the prevalence of substance use disorders among men and women, accessibility and availability of treatment, as well as societal stigmas and additional barriers women may face when seeking treatment.

People with drug use disorders are often in contact with the criminal justice system, and many people in the criminal justice system have a history of drug use disorder (UNODC, 2019). The 2020 World Drug Report presented data on an estimated number of people in the criminal justice system for drug-related offences. There are about 3.1 million people arrested due to drug-related offences of which 61 per cent are arrested due to drug possession for their personal use (UNODC, 2019).¹⁴ This data indicates that more people are in contact with the criminal justice system on drug possession charges globally and implies the need of non-custodial alternatives to conviction or punishment for people with drug use disorders and for key intervention points and types of diversion programmes along the criminal justice continuum. Non-custodial measures as an alternative to conviction or punishment are effective ways of treating people with drug use disorders in the criminal justice system, and diversion mechanisms should be applied whenever appropriate.

According to the 2015 World Drug Report, people who use drugs that have a history of incarceration are affected by increasing vulnerability to infectious diseases (UNODC, 2015).¹⁵ Drug use does not stop in the criminal justice system or prison settings. Data from the 2017 World Drug Report confirms that the prevalence of drug use in prison settings is higher than drug use among the general population (UNODC, 2017).¹⁶ Updated data from the 2019 World Drug Report confirms that 31 per cent of people have used any kind of drugs during incarceration globally at least once and 19 per cent of those even in the past month, 16 per cent of those have been reporting current use of cannabis and 10 per cent reporting heroin use (UNODC, 2019). Moreover, people who inject drugs often represent a large part of the prison population (WHO, 2014).¹⁷

Currently, there are nearly twelve million people in prison globally with about one-third of the people in prison being unsentenced and a solid majority of countries worldwide are operating with overcrowded prisons (UNODC, 2021).¹⁸ According to the 2019 World Drug Report, it is important to note that with 35 per cent, there is a higher proportion of women than men, comparatively 19 per cent in prison for drug-related offences (UNODC, 2019).¹⁹ Deeply concerning is also the rate of increase in the female prison population. Although they only make up 10 per cent of the world's prison population, they are increasing at a much faster rate than the male population, as there has been a 50 per cent increase since 2000, compared to 18 per cent for males in prisons (UNODC, 2021).¹⁸ Fortunately, there has been a drastic reversal in the trend from

¹³ United Nations Office on Drugs and Crime, World Drug Report 2022. https://www.unodc.org/res/wdr2022/MS/WDR22_Booklet_1.pdf

¹⁴ United Nations Office on Drugs and Crime, UNODC, World Drug Report, "Global Overview of Drug Demand and Supply", 2019. https://wdr.unodc.org/wdr2019/prelaunch/WDR19_Booklet_2_DRUG_DEMAND.pdf

¹⁵ United Nations Office on Drugs and Crime, UNODC, World Drug Report, "Status and Trend Analysis of Illicit Drug Markets", 2015, https://www.unodc.org/documents/wdr2015/WDR15_Chapter_1.pdf

¹⁶ United Nations Office on Drugs and Crime, World Drug Report "Drug Demand and Supply" 2017. <https://www.unodc.org/wdr2017/index.html>

¹⁷ United Nations Office on Drugs and Crime, World Drug Report "Drug Demand and Supply" 2017. <https://www.unodc.org/wdr2017/index.html>

¹⁸ United Nations Office on Drugs and Crime, UNODC, Data Matters, 2021. https://www.unodc.org/documents/data-and-analysis/statistics/DataMatters1_prison.pdf

¹⁹ United Nations Office on Drugs and Crime, UNODC, World Drug Report, "Global Overview of Drug Demand and Supply", 2019. https://wdr.unodc.org/wdr2019/prelaunch/WDR19_Booklet_2_DRUG_DEMAND.pdf

the preceding decades since the start of the Covid-19 pandemic. From 2019 to 2020, the global prison population actually declined by around 4.7 per cent from about 11.8 million to 11.2 million people held in prison settings.²⁰

III. DRUG USE DISORDER TREATMENT AS AN ALTERNATIVE TO CONVICTION OR PUNISHMENT

Individuals with drug use disorders who are in contact with the criminal justice system have complex needs and require a range of interventions that address both their drug use disorder and other social and health needs. When people with drug use disorders commit an offence of a minor nature, non-custodial measures for treatment, education or social reintegration should be applied as alternatives to conviction or punishment or be applied in addition to conviction and punishment. Providing treatment as an alternative to conviction or punishment for people with drug use disorders who are in contact with the criminal justice system in appropriate cases, contributes to improving public health and public safety.

UNODC's support in promoting non-custodial measures for people with drug use disorders in contact with the criminal justice system, along all stages of the criminal justice continuum is in line with the international policy and legal frameworks mentioned above. Moving from a coercive to a cohesive approach towards people with drug use disorders in contact with the criminal justice system requires the involvement of a multisectoral approach, including close collaboration among the health, social and justice sectors as well as a concerted investment in evidence-based treatment services in the community.

Health is a fundamental right, indispensable for the exercise of other human rights. The right to health extends to any person in contact with the criminal justice system and thus people with drug use disorders who are in contact with the criminal justice system should be provided with effective treatment of drug use disorders. The provision of treatment as an alternative to conviction or punishment, based on the international drug control conventions, can be implemented in appropriate cases of a minor nature:

- Community: Parties shall take all practical measures for the prevention of abuse of drugs and for the early identification, treatment, education, after-care, rehabilitation and social reintegration of the persons involved
- Persons in contact with the criminal justice system: Parties may provide (those measures) either as an alternative to conviction or punishment or in addition to conviction or punishment
- Cases of drug consumption-related offences and other cases of drug trafficking of a minor nature: Parties shall measure those cases as an alternative to conviction or punishment

Treatment and care as an alternative to conviction or punishment has been implemented in different countries and different legal systems. However, the process, time frame and key judicial actors, in particular the roles of the prosecutor and the judge, can differ. A key task in implementing treatment and care requires provision of appropriate sensitization and training to the key policymakers, practitioners and advocates from different sectors. Sensitization and capacity-building should also be offered within communities to reduce stigma, both from the justice side as well as from the health side and strengthen a common understanding of drug use and drug use disorders, especially in the criminal justice setting.

Through the UNODC-WHO initiative and handbook on "Treatment and care for people with drug use disorders in contact with the criminal justice system – alternatives to conviction or punishment", seven principles highlight the importance of using treatment and care strategies for individuals with drug use disorders who come into contact with the justice system.

²⁰ <https://dataunodc.un.org/dp-prisons-persons-held>

- 1) *Drug use disorders are a public health concern requiring responses that are health-centred. Individuals with drug use disorders should not be punished for their drug use disorder but be provided with appropriate treatment.*

The right to health is a crucial aspect of drug policies, and promoting public health is a key part of addressing drug use disorders. Access to essential medicines and treatment, as well as the right to the prevention and treatment of diseases should be a universal right to health. However, due to varying levels of capacity, the full realization of the right to health is achieved progressively, and significant gaps still exist in the delivery of prevention, treatment and rehabilitation services for people with drug use disorders.

- 2) *The use of alternatives to conviction or punishment at all stages of the criminal justice system for offenders with drug use disorders, on the basis of an assessment using established criteria, should be encouraged.*

The criminal justice system should provide a range of non-custodial alternative measures at all stages of the process, considering the nature and gravity of the offence, offender background, and protection of victims and society. Non-custodial alternatives are effective in reducing reoffending and promoting social reintegration, and international drug control conventions allow Member States to provide drug treatment and other measures as an alternative or addition to conviction or punishment. The selection of alternatives should be based on established criteria related to the offence, offender, sentencing purpose and victim rights.

- 3) *Proportionality is required at all stages of the diversion and supervision process.*

Proportionality should be applied as a guiding principle throughout the criminal justice process, such as when deciding on the eligibility of an offender for diversion, the intensity and the length of supervision and the responses to non-compliance or breaches of conditions.

- 4) *A diversion to treatment should be made with the informed consent of the offender.*

The right to health includes the right to be free from torture, non-consensual treatment and experimentation. This means that alternatives to conviction or punishment shall not involve non-consensual medical or psychological experimentation or undue risk of physical or mental injury to the offender. In general, no treatment should be given to a patient without their informed consent, and nobody should be compelled to undergo medical treatment against their will, unless in an extreme acute emergency.

- 5) *The implementation of alternatives to conviction or punishment should respect legal and procedural safeguards.*

The observance of legal and procedural safeguards for protecting the rights of individuals with drug use disorders during the implementation of alternatives to conviction or punishment is crucial. Authorities must adhere to relevant laws and define and prescribe the application of alternative measures and conditions for supervision. Furthermore, special attention must be paid to respecting the rights to dignity and privacy, and individuals should have the right to review decisions, seek recourse, and appeal against decisions to modify or revoke alternatives. Lastly, the text emphasizes the importance of providing clear information to offenders about their obligations and rights and conducting drug treatment only by trained professionals.

- 6) *Specific attention to special groups and their access to treatment as an alternative to conviction or punishment is required to avoid discrimination.*

This principle highlights the importance of giving specific attention to the particular needs of various population groups such as women, young adults, persons with co-occurring mental health and drug use disorders, persons with cognitive and intellectual disabilities, and racial and ethnic minorities. Non-discrimination principles require adopting specific measures to eliminate existing forms of discrimination faced by particular groups in areas such as justice or health. For instance, women offenders and prisoners have unique needs that are often not adequately met by criminal justice systems dealing with male offenders, and gender-specific options should be implemented. Women with drug use disorders should be diverted or referred to gender-sensitive, trauma-informed treatment programmes, and residential treatment should

either be women-only or have gender segregation to increase safety and enhance outcomes.

7) Prisoners with drug use disorders may not be deprived of their right to health and are entitled to the same level of treatment as the general population.

The last principle emphasizes that even when individuals with drug use disorders are in prison, they still have the right to receive health care, which is the State's responsibility. They should have access to necessary health care services without discrimination, and these services should be organized in a way that ensures continuity of treatment and care, including for infectious diseases and mental and behavioural disorders. The relationship between health care professionals and prisoners should be governed by the same ethical and professional standards as those applicable to patients in the community, including the adherence to prisoners' autonomy with regard to their own health and informed consent in the doctor-patient relationship.

Between 2016 and 2021, UNODC consulted Member States three times to gather different information on non-custodial alternative measures to conviction or punishment for people with drug use disorders in contact with the criminal justice system. In 2016, UNODC reached out to UN Member States to obtain information on national responses with regard to justice and health collaboration on alternative measures to conviction or punishment for appropriate drug-related offences of a minor nature through a Note Verbale (NV). In December 2020, the Commission of the African Union, together with UNODC reached out especially to African Union Member States to identify existing practices on alternatives to conviction or punishment for people with drug use disorders in contact with the criminal justice system through another Note Verbale and lastly, in February 2021, UNODC invited UN Member States to provide information on existing national tools on the collaboration of justice and health authorities with regard to alternatives measures to conviction or punishment for appropriate drug-related offences of a minor nature and the roles of different professional groups that divert people with drug use disorders in contact with the criminal justice system in appropriate cases at each stage of the criminal justice continuum, from pre-arrest to post-sentencing stage, through the last Note Verbale.

Based on these, a draft summary of NV responses was prepared by UNODC to provide an overview of existing laws, legislation and practices between justice and health authorities on alternative measures to conviction or punishment for appropriate drug-related offences of a minor nature. The report highlights both progress and challenges in implementing the international drug conventions. Although Member States generally agreed on the need for alternatives to conviction or punishment for people with drug use disorders in contact with the criminal justice system, challenges in implementing these alternatives were highlighted, such as the lack of availability to treatment for drug use disorders and limited infrastructure and insufficient trained human resources for evidence-based assessment, treatment and supervision. To make non-custodial alternatives for people with drug use disorders in contact with the criminal justice system work, they need to be appropriately tailored to different groups and evaluated to demonstrate their effectiveness in achieving positive health, social and justice outcomes. It is also important to have a multisectoral approach and support from professionals and communities from the health, justice and social sectors, in establishing networks and mentoring programmes for sharing good practices and experiences between countries. More monitoring and evaluation efforts are needed to ensure that alternatives for people with drug use disorders in contact with the criminal justice system are successfully used. Further, efforts must be made to develop legal frameworks and national budgets to allow for a drug use disorder treatment infrastructure, in line with the UNODC-WHO International Standards for the Treatment of Drug Use Disorders. Overall, there is a need to build on the existing policy consensus and interest expressed by Member States to provide effective non-custodial alternatives to conviction or punishment for those in need.

To further advance the UNODC-WHO's initiative on "Treatment and care for people with drug use disorders in contact with the criminal justice system", UNODC has embarked on the development of detailed principles for the implementation of treatment as an alternative at the various stages of the criminal justice system, highlighting the different roles of health, justice and relevant professionals.

To start identifying these principles, UNODC organized four informal preparatory consultations from 2020 to 2022. The objective of these meetings was to outline options along the criminal justice continuum, namely at pre-arrest, pre-trial, trial and post-trial stages. While gaps and opportunities have been identified in implementing alternatives to conviction or punishment for people with drug use disorders in contact with

the criminal justice system along the different criminal justice stages, the principles will be developed after a technical consultation that will be held in 2023, where all stages of the criminal justice continuum and different professional groups will be considered.

Lastly, UNODC prepared a Conference Room Paper (CRP) which will be published at the upcoming 66th CND on the "Review on interventions to treat drug use disorders among girls and women in the criminal justice system in low-and middle-income countries", due to the unique needs of women with drug use disorders including those in criminal justice systems. Women with drug use disorders should be diverted or referred to gender-sensitive, trauma-informed drug treatment programmes, and if residential treatment is needed, they should either be women-only or consider gender segregation to increase safety and enhance outcomes.

The findings of this study indicated a public health concern for girls and women with drug use disorders who are involved with the criminal justice system. For those girls and women who come into contact with the criminal justice system, screening for substance use disorders should take place immediately. They should also be considered for alternatives to punishment or conviction, and gender-sensitive and trauma-informed treatment should be provided and evaluated for its effectiveness. While this study has summarized available findings on drug use disorders among women and girls in the criminal justice system, data from low-and-middle-income countries (LMIC) are limited. Therefore, further research is necessary to understand the factors that influence drug use and to develop effective interventions for this population, especially in low-and-middle income countries.

The report aimed to investigate the factors influencing drug use, including alcohol and tobacco use, in women and young girls who have had contact with the criminal justice system and live in LMIC. Available evidence of interventions targeting drug use and related harms in this group were discussed. Evidence of research in LMIC that include female cohorts was found in China and Thailand and studies providing psychosocial interventions for drug use disorders treatment such as cognitive behavioural therapy (CBT) and peer-based support groups in LMIC show no positive impact on drug use, injecting risk behaviours or sexual risk behaviours.

Government approaches and inter-agency cooperation within the criminal justice system were encouraged to ensure that drug use among women and girls are addressed and Member States responses adequately documented and evaluated. Additionally, development of national programmes that specifically target women and their traumatic experiences influencing their drug use was recommended.

IV. TREATMENT OF DRUG USE AND ASSOCIATED MENTAL HEALTH DISORDERS IN PRISON SETTINGS

Prison overcrowding severely impacts the quality of nutrition, sanitation, activities of people held in prison settings, physical and mental health conditions, and the care available for vulnerable groups in prison settings. Applying alternatives to conviction or punishment for people with drug use disorders in contact with the criminal justice system should be the first priority for all Member States. When alternatives to conviction or punishment are used to replace imprisonment, they contribute directly to the reduction of the prison population. A further advantage of using alternatives to imprisonment is that they can help reduce reoffending, and thereby lower the prison population in the long term. For people with drug use disorders in contact with the criminal justice system, treatment as an alternative to conviction or punishment can be applied in all appropriate cases to benefit public health and public safety. Moreover, drug treatment is more cost-effective than imprisonment.

The global prison population is on the rise, which poses serious negative health and social consequences including financial challenges for governments. It is estimated that around 10 to 50 per cent of all people held in prison have a drug use disorder. The rate of imprisonment varies across different regions, with some areas having higher rates of drug use and infectious diseases like HIV and tuberculosis among people held in prison settings. This makes them more vulnerable to health risks compared to the general population.

The Covid-19 pandemic has drastically shifted attention towards the issue of prison overcrowding. According to a global analysis, nearly 550,000 people held in prisons have contracted Covid-19 in 122 countries. Globally, close to 4,000 fatalities of people held in prison settings due to Covid-19 occurred in 47 countries.²¹ In response to the pandemic, some prisons limited recreation, work opportunities and visitation rights – all essential components of rehabilitation programmes. Some countries opted to release people in prison settings at least temporarily, as prevention measures were difficult to implement, especially when they are overcrowded. Large numbers of people in custody, particularly people in remand, or the pre-trial stage, and those convicted of non-violent offences were among those released early. Since March 2020, at least 700,000 persons around the globe – or roughly 6 per cent of the estimated global prison population – have been authorized or considered eligible for release through emergency release mechanisms adopted by 119 Member States.

While criminal sanctions no doubt deter some people from drug use, those with more severe drug use disorders are relatively insensitive to the threat of criminal sanctions, and higher incarceration rates have not led to reduced drug use in the community. At the same time, incarceration has severe negative consequences for people with drug use disorders, their families and their communities, and incarceration can worsen the underlying health and social conditions associated with drug use. Above all, imprisonment should always be a measure of last resort and community-based interventions for people with drug use disorders, including those in contact with the criminal justice system, should always be considered.

UNODC supports Member States in addressing treatment of drug use and associated mental health disorders in prison settings, specifically for people with drug use disorders in contact with the criminal justice system, who have committed a more serious crime and, due to the nature of their crime, alternatives to conviction or punishment cannot be considered. Promoting appropriate, evidence-based drug use disorder treatment services in prison settings, in line with the UNODC WHO International Standards for the Treatment of Drug Use Disorders, coordination should take place between the criminal justice system and health and social services.

Prison health is an integral part of public health, as the right to health extends to people in contact with the criminal justice system, no matter the legal status of a person. This is in line with the UNODC Nelson Mandela Rules, specifically rule 109 which states that individuals with severe mental disabilities or health conditions should not be held in prisons and should be transferred to appropriate mental health facilities for treatment. Furthermore, all prisoners who require psychiatric treatment should receive it from the health care service.

Evidence-based treatment of drug use disorders that seeks to promote a balanced, human rights-centred and compassionate approach for individuals with drug use disorders contributes to the overall quality of care and outcomes for people with drug use disorders, including those in contact with the criminal justice system. According to the UNODC-WHO International Standards for the Treatment of Drug Use Disorders, and in line with other international conventions, drug use disorders should be considered primarily as health problems rather than criminal behaviours and, as a rule, people with drug use disorders should be treated in the health care system rather than the criminal justice system. Not all people with drug use disorders commit crimes and, even if they do, these are typically low-level crimes committed to sustain their drug use. Moreover, it is important to understand that drug use does not automatically lead to dependence.

In cases of drug use disorder treatment within prison settings, the criminal justice system should collaborate closely with the health and social sectors to ensure that treatment for drug use disorders in the health care system takes precedence over criminal prosecution or imprisonment. Law enforcement, legal practitioners and penitentiary or prison staff should receive appropriate training to effectively engage in and support drug use disorder treatment, rehabilitation and social reintegration. Upon prison release, providing a continuum of care, such as effective continuous drug use disorder treatment, lowers the risk of relapse, overdose death and reoffending. In all justice-related cases, people should receive the same health standards, including treatment and care for drug use disorders, of a standard, equal quality as available in the community.

²¹ <https://www.unodc.org/unodc/frontpage/2021/July/one-in-three-people-globally-imprisoned-without-trial-while-overcrowding-puts-prisoners-at-risk-of-contracting-covid-19-says-unodcs-first-global-research-on-imprisonment.html>

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In 2021, UNODC conducted an online and informal technical consultation on addressing treatment of drug use disorders and associated mental health disorders in prison settings, which brought together 120 experts from 53 countries. Health and justice practitioners, researchers, policymakers, civil society, people with lived experience, and representatives of regional and international organizations shared practices, challenges and needs on drug use and associated mental health disorders in prison settings. This year, the UNODC-WHO Informal Scientific Network is also preparing a statement of recommendations to be presented to policymakers at the 66th CND plenary on how to strengthen treatment of substance use disorders in prison settings.

In both meetings, closing the overall treatment gap for people with drug use disorders and increasing the accessibility of evidence-based treatment were underlined as key efforts to reduce substance use and criminal justice contacts, as well as associated prison overcrowding. Thus, improving public health and public safety in a synergic approach are beneficial for communities and prison settings. Pharmacological treatments for opioid use disorders, including when offered in prison settings, are effective clinical interventions in reducing substance use, related mortality and morbidity, as well as recidivism and reincarceration. Psychosocial interventions such as cognitive behavioural therapy, contingency management, the community reinforcement approach and therapeutic communities, including opioid overdose prevention trainings, were also considered beneficial.

Furthermore, UNODC conducted a literature review on the effectiveness of treatment options for drug use disorders in prison settings and forensic hospitals, soon to be published in the scientific journal *Criminal Justice and Behaviour*. Its findings suggest that the coverage of treatment at a global level is low.

Lastly, during the 65th CND, UNODC published a CRP that reported on treatment of drug use and associated mental health disorders in prison settings and forensic hospitals. Member States were asked: 1) to share information on existing national level programmes, protocols and good practices addressing mental health including the treatment of disorders/drug use disorders for people in prison settings and in forensic hospitals; and 2) to provide relevant evaluation of research data on the effectiveness of such treatment for mental health disorders and substance/drug use disorders in prison settings or in forensic hospitals. A total of 35 countries submitted information in response to the NV.

Responses to the NV request showed that Member States acknowledge the need for a high-quality response to drug use disorder treatment in prison settings. In particular, countries reported good practices in relation to drug use disorder treatment for people in prison settings and confirmed that the principle of equity is widely acknowledged. Countries provided an overview on inter-ministerial collaborations and synergies. Despite this progress, the responses highlighted a number of challenges, including drug treatment gaps and less common interventions.

V. CONCLUSION

UN Member States promote evidence-based treatment for people with drug use disorders in contact with the criminal justice system in cases of a minor nature an alternative to conviction or punishment and for more severe crimes also in prison settings, in line with relevant international policy agreements. Good practices were described by Member States but, overall, only with limited evaluation data on the outcomes. More efforts on monitoring and evaluation to inform policymakers on the importance of evidence-based treatment and care of drug use disorders for people in contact with the criminal justice system and associated public health and public safety benefits is recommended. Member States acknowledged that imprisonment by itself is ineffective in addressing drug use and drug use disorders. Alternatives to conviction or punishment, therefore, are a crucial component of proportionate responses to certain criminal offences. They have the potential to reduce reoffending, promote social reintegration and offer an opportunity to foster recovery from drug use disorders and a reduction in drug use and associated criminal behaviour.

The provision of treatment as an alternative to conviction or punishment can be implemented at all stages of the criminal justice process (pre-trial, trial, post-trial) in line with the International Conventions and other relevant legal documents as well as in coordination with the International Standards for Treatment of Drug Use Disorders. It is widely recognized that imprisonment alone is not a sufficient solution for dealing

with drug use and drug use disorders. Consequently, it is essential to have alternatives to conviction or punishment as a significant part of appropriate measures for certain criminal offences. Such alternatives have the potential to decrease recidivism rates, encourage social reintegration, and provide a chance for individuals to recover from drug use disorders and reduce their drug use and related criminal conduct.

Universal health coverage and equity are critical concepts for quality prison health service, and cooperation between health, justice and social services will ensure that people with drug use and associated mental health disorders in prisons are not left behind.

Above all, imprisonment should always be a measure of last resort, and community-based interventions for people with drug use disorders, including those in contact with the criminal justice system, should always be considered. Prison-based drug treatment needs to be of the same standard as community-based interventions and can only be effective if there is a continuity of treatment and care in the community. Non-custodial measures to increase access to drug dependence treatment, address prison overcrowding and reduce recidivism and alternatives to conviction or punishment are crucial for responding to the world drug problem more effectively and proportionately. Multisectoral partnerships are crucial to promote both public health and public safety. UNODC will continue to support Member States in promoting alternatives to conviction or punishment, including as an integral part in prison health services.