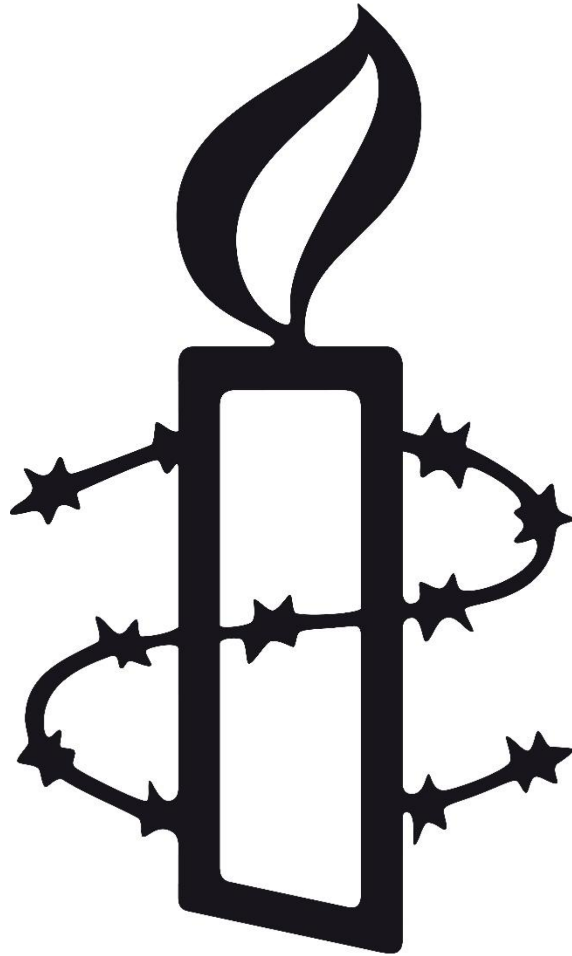

HARM REDUCTION AND THE RIGHT TO HEALTH

SUBMISSION TO THE UN SPECIAL RAPPORTEUR ON THE RIGHT TO THE HIGHEST STANDARD OF PHYSICAL AND MENTAL HEALTH

15 NOVEMBER 2023

AMNESTY INTERNATIONAL

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1. INTRODUCTION

Amnesty International welcomes the opportunity to provide comments in response to a call for input by the UN Special Rapporteur on the right to the highest standard of physical and mental health in preparation for the mandate's upcoming report on "Drug policies and responses: a right to health framework on harm reduction".

As evidenced by the OHCHR in its most recent report to the Human Rights Council on the impact of drug policies on human rights,[1] the blanket prohibition of drugs has led to a litany of abuses. The "war on drugs" has effectively been a war on people, in particular the poorest and most marginalised sectors of society, and has undermined the rights of millions. A sustained paradigm shift towards drug policies grounded in the protection of public health and human rights is therefore essential to stem the widespread human rights violations that arise from or are facilitated by the implementation of drug control policies, including of the right to health.

Harm reduction must thus be recognized as an inherent component of the right to health, necessary for achieving universal coverage and reaching the most marginalized populations, specifically those affected by ill-conceived policies in the context of the "war on drugs". Harm reduction must also be expanded to cover not only the risks and harms faced by people who use drugs but also to other criminalized conduct, including the illicit supply of drugs, sex work and abortion.

Amnesty International highlights in this submission the need to recognize harm reduction as a core component of the right to health, as well as structural and systemic barriers that prevent access to these essential services. The submission is largely based on research conducted by Amnesty International, although it should not be considered as an exhaustive list of all concerns the organization has regarding human rights and drug policies.

2. ACCESS TO HARM REDUCTION AS A CORE COMPONENT OF THE RIGHT TO HEALTH (QUESTION 1)

As previously noted by the Special Rapporteur on the right to health, access to harm reduction and other evidence-based health responses to drugs is essential for the protection of the right to health of people who use drugs.[2] Similarly, the Committee on Economic, Social and Cultural Rights (CESCR) has recognized the importance of harm reduction interventions for the protection of the right to health and has recommended governments to expand these programmes, including in prisons, and to remove obstacles that limit the provision of such services.[3]

While harm reduction services have tended to focus more on the use of injecting drugs and the prevention of HIV transmission, it is essential to recognize that harm reduction services can also be critical to reduce the risks and harms of other types and ways of using drugs. Therefore, harm reduction services should include not only programmes related to the use of opioids, such as needle and syringe programmes, prescription of substitute medications and naloxone distribution, but also other services that have proven to be successful in reducing the risks and harms associated with other type of drugs such as drug-checking services, supervised drug-consumption rooms, distribution of safer smoking kits, integration of harm reduction into nightlife settings (for example chill-out spaces and hydration points), peer-led information sharing and the promotion of non-injecting routes for the administration of drugs.[4]

Despite a large body of evidence proving the effectiveness of diverse harm reduction services,[5] these have nonetheless been at the centre of heated discussions at multilateral forums and remain highly politicised and divisive within international drug control bodies, in particular the Commission on Narcotic Drugs (CND). To date, no resolution from the CND has explicitly named harm reduction and it was only

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[1] Report of the Office of the High Commissioner for Human Rights, *Human rights challenges in addressing and countering all aspects of the world drug problem*, 15 August 2023, UN Doc. A/HRC/54/53.

[2] Statement by the UN expert on the right to health on the protection of people who use drugs during the COVID-19 pandemic, 16 April 2020, available at https://www.ohchr.org/en/statements/2020/04/statement-un-expert-right-health-protection-people-who-use-drugs-during-covid-19. See also Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 6 August 2010, UN Doc. A/65/255.

[3] Committee on Economic, Social and Cultural Rights, Concluding observations on the fourth periodic reporting on Ecuador, 14 November 2019, UN Doc. E/C.12/ECU/CO/4, para. 47; Committee on Economic, Social and Cultural Rights, Concluding observations on the third periodic report of the Plurinational State of Bolivia, 05 November 2021, E/C.12/BOL/CO/3, para. 57.

[4] *See* Harm Reduction International, "Harm reduction for stimulant use", April 2019, hri.global/files/2019/04/28/harm-reduction-stimulants-coact.pdf

[5] Joanne Csete *et al.,* "Public Health and international drug policy" in *The Lancet.* April, 2016.

after intense negotiations that the Human Rights Council included the term for the first time in its resolution 52/24 of 2023 to recognize the need to expand these services.[6] UNODC, the leading UN agency on drug policy matters, has also lagged behind other UN agencies that have promoted harm reduction approaches and has failed to embrace harm reduction as a pillar of drug policy.[7]

Amnesty International urges States and intergovernmental organizations, including the CND and UNODC, to recognize harm reduction as a core component of the right to health at the national and international level, and to incorporate it as a central pillar of their drug policies. As part of their obligations to guarantee the right to health, States must ensure that harm reduction services are available, acceptable and easily accessible to everyone on a non-discriminatory basis, and of good quality.[8] These services must comply with human rights law and standards, be evidence-based and gender-sensitive, including in prisons and other situations where people are deprived of their liberty.[9] This requires paying particular attention to the needs of the most marginalized and to the specific needs of women, children and adolescents.[10] In this sense, harm reduction services must provide suitable environments for women and girls who use drugs, including by providing integrated sexual and reproductive healthcare, information and services, childcare facilities and should be respondent to other gender-specific needs.[11]

3. IMPACT OF DRUG PROHIBITION ON ACCESS TO HARM REDUCTION SERVICES (QUESTIONS 1 AND 2)

Policies based on prohibition and criminalization have exacerbated the risks and harms associated with using drugs.[12] Drug prohibition has led to more harmful drugs of unknown quality being sold and to people who use drugs seeking riskier methods of drug use, leading to significant increases in overdose deaths and other risks to health.[13] Moreover, the prohibition of drugs has been linked to the use of more potent and risky substances as those who produce and distribute drugs prefer to deal with more portable and concentrated preparations or with drugs that will induce dependence more easily.[14] As a result, people who use drugs are faced with adulterated products of unknown potency and purity that pose significantly higher risks to their health and are left with few mechanisms to be aware of the presence of adulterants or to identify the strength and purity of their drugs.[15] The harms of prohibition are further exacerbated due to entrenched stigma against people who use drugs fostered by decades of punitive policies, which have been operationalized by law enforcement and medical professionals.[16]

Punitive drug policies have directly contributed to the transmission of blood-borne viruses, such as HIV and hepatitis C, deterred people from seeking and accessing health care and restricted the availability of harm reduction services.[17] In 2021, 10% of all new HIV infections globally were among people who inject drugs.[18] While transmission of HIV amongst adults decreased by 14% worldwide between 2011 and 2017, there was no decrease among people who inject drugs.[19] According to UNAIDS, people who

[6] Human Rights Council Resolution 52/24 adopted on 4 April 2023, UN Doc. A/HRC/RES/52/24

[7] International Drug Policy Consortium, "300+ NGOs call on world leaders to address the global health and human rights crisis among people who use drugs on the occasion of the 26th International Harm Reduction Conference", 30 April 2019, available at https://idpc.net/news/2019/04/ngos-call-on-world-leaders-to-address-global-health-and-human-rights-crisis

[8] Committee on Economic, Social and Cultural Rights, General Comment 14: The right to the highest attainable standard of health (Art. 12), 11 August 2000, UN Doc. E/C.12/2000/4, para. 12

[9] World Health Organization and United Nations Office on Drugs and Crime, *International Standards for the treatment of drug use disorders,* March, 2017, UN Doc. E/CN.7/2016/CRP.4

[10] Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 3 August 2011, UN Doc. A/66/254; Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 4 April 2016, UN Doc. A/HRC/32/32

[11] Open Letter by the Special Rapporteur on the right of everyone to the highest attainable standard of mental and physical health, Dainius Pūras, in the context of the preparations for the UN General Assembly Special Session on the Drug Problem (UNGASS), which will take place in New York in April 2016, 7 December 2015

[12] UN System coordination Task Team on the Implementation of the UN System Common Position on drug-related matters, *What we have learned over the last ten years: A summary of knowledge acquired and produced by the UN system on drug-related matters,* March 2019.

[13] Office of the High Commissioner on Human Rights, *Study on the impact of the world drug problem on the enjoyment of human rights,* 2023

[14] Leo Beletsky , Corey Davis, *Today's fentanyl crisis: Prohibition's Iron Law, revisited*, 18 July 2017, International Journal on Drug Policy; Greg Denham, "The rising appetite for powerful drugs like fentanyl is a direct result of Australia's failing prohibition policies", 30 August 2022, The Guardian, theguardian.com/australia-news/commentisfree/2022/aug/31/the-rising-appetite-for-powerful-drugs-like-fentanyl-is-a-direct-result-of-australias-failing-prohibition-policies; Jan van Amsterdam, Nicholas Burgess, Wim van den Brink, *Legal Approaches to New Psychoactive Substances: First Empirical Findings*, 2023, European Addict Research, karger.com/ear/article/doi/10.1159/000531503/854424/Legal-Approaches-to-New-Psychoactive-Substances

[15] Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 6 August 2010, UN Doc. A/65/255, para. 25; Joanne Csete *et al.* "Public Health and international drug policy" in *The Lancet*. April, 2016, p. 1428.

[16] CESCR, Concluding observations on the third periodic report of Uzbekistan, 2022, UN Doc. E/C.12/UZB/CO/3, paras 52-53.

[17] Joanne Csete *et al.,* "Public Health and international drug policy" in *The Lancet*. April, 2016; Harm Reduction International, *The Global state of harm reduction 2016,* 2016.

[18] UNAIDS, *IN DANGER: UNAIDS Global AIDS Update 2022*, 2022, Geneva, Licence: CC BY-NC-SA 3.0 IGO, p. 15.

[19] UNAIDS, "Health, rights and drugs", 2019, unaids.org/sites/default/files/media_asset/JC2954_UNAIDS_drugs_report_2019_en.pdf, p.17.

inject drugs face a 35 times higher risk of acquiring HIV than the rest of the adult population.[20] In most cases, transmission of HIV and hepatitis C among people who use drugs is due to sharing contaminated needles and other drug paraphernalia.[21]

According to UNODC, nearly 500,000 people died of drug-related causes in 2019 alone, with a noticeable increase in overdose deaths mainly associated with synthetic opioids.[22] According to the Centers for Disease Control and Prevention, 107,270 people died from drug overdoses in the United States in 2021, a 60% increase since 2018.[23] In Sweden, drug-related deaths are the highest in Europe and four times higher than average.[24] Civil society organizations have linked this to the lack of harm reduction services and other restrictive drug policies.[25] Despite the importance of harm reduction services for the protection of the right to health, they remain underutilized and of limited availability or even prohibited.[26] According to Harm Reduction International, needle and syringe programs have been documented in only 92 countries, while 87 countries had at least one program for opioid substitution in place.[27] Even within these countries, coverage for these services is insufficient. According to UNAIDS, only three high income countries reported having achieved UN-recommended levels of coverage.[28] Methadone and buprenorphine, the most common drugs used for opioid substitution, remain banned in several countries including Egypt, Jordan, Russia, Saudi Arabia, Turkmenistan and Uganda.[29]

Rather than pursuing policies based on the prohibition of drugs that have facilitated human rights abuses and contributed to the existence of unregulated criminal markets, States should aim to bring currently illicit drugs under government control through effective enforcement of regulations and adequate prevention campaigns. Regulation models should put harm and risk reduction at the centre and consider to what extent, to whom and by what means drugs should be accessible within its jurisdiction, taking into account available scientific evidence about the risks associated with each drug and their possible mitigation, whether it has the capacity to establish and enforce adequate regulations for that drug, and whether permitting and regulating such access would reduce overall harms. When moving towards the regulation of drugs, States must consider different tools to impose distinct controls and restrictions depending on the risks and harms associated with each drug and the different environments in which regulation will apply. These tools may include, for example, restrictions and regulations that control the purity, dosage and potency of the product; its price and taxation; licensing of growers and producers; licencing and vetting vendors; restrictions on marketing, advertising, branding and promotion of products; regulations on location, capacity and appearance of retail outlets; restrictions on the use of drugs in public spaces; and access controls such as age limits, buyers' registries, club membership schemes and medical prescriptions.

4. IMPACT OF CRIMINALIZATION OF DRUGS ON ACCESS TO HARM REDUCTION (QUESTIONS 2 AND 3)

Punitive drug policies that have relied on the criminalization of drugs have directly undermined the implementation of harm reduction services despite their potential to protect the health and life of people who use drugs. As well as driving people away from health services, unjust criminalization is a driver to

[20] UNAIDS, *IN DANGER: UNAIDS Global AIDS Update 2022*, 2022, Geneva, Licence: CC BY-NC-SA 3.0 IGO, p. 15.
[21] Global Commission on HIV and the Law, *Risks, Rights & Health*, July, 2012, pp. 29.
[22] United Nations Office for Drugs and Crime (UNODC), *World Drug Report 2023*, p. 23
[23] Centers for Disease Control and Prevention, 'Provisional Drug Overdose Data', cdc.gov/ nchs/nvss/vsrr/drug-overdose-data.htm
[24] EMCDDA (European Monitoring Centre for Drugs and Drug Addiction), *European drug report 2020: trends and developments*, 2021, Luxembourg: Publications Office of the European Union.
2020. https://www.emcdda.europa.eu/system/files/publications/13236/TDAT20001ENN_web.pdf Accessed 14 Jan 2021
[25] Disa Dahlman et al., *Socioeconomic correlates of incident and fatal opioid overdose among Swedish people with opioid use disorder*, 26 September 2021, Substance Abuse Treatment, Prevention and Policy.
[26] Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 6 August 2010, UN Doc. A/65/255, para. 55; Committee on Economic, Social and Cultural Rights (13 July 2016), Concluding Observations: Sweden, UN Doc. E/C.12/SWE/CO/6, para. 42.
[27] Harm Reduction International, *The Global state of harm reduction 2022*, hri.global/flagship-research/the-global-state-of-harm-reduction/the-global-state-of-harm-reduction-2022/
[28] UNAIDS, *Health, Rights and Drugs: harm reduction, decriminalization and zero discrimination for people who use drugs,* 2019, unaids.org/sites/default/files/media_asset/JC2954_UNAIDS_drugs_report_2019_en.pdf, p. 3
[29] Harm Reduction International, *The Global state of harm reduction 2022*, hri.global/flagship-research/the-global-state-of-harm-reduction/the-global-state-of-harm-reduction-2022/

poor health outcomes as it impacts several social determinants of health, such as housing, working conditions, economic development, and gender equity.[30]

The CESCR has repeatedly denounced situations in which people who use drugs are prevented from accessing harm reduction services due to fear of reprisals, particularly in contexts in which the use and possession of drugs are criminalized.[31] At the same time, the CESCR emphasized how high fines and policing based on stigma can constitute de facto criminalization of drug use and remain a barrier to accessing services.[32]

Amnesty International has documented the effects of heavy-handed policing in the surroundings of facilities that provide health and harm reduction services to people who use drugs in Cambodia.[33] Cambodia's anti-drugs campaign has led to police raids targeting drug treatment and other health facilities, further deterring people from seeking harm reduction services and creating additional barriers to the right to health.[34] As told to Amnesty International by service providers, raids regularly involve the arbitrary arrest and detention of people who use drugs, interrupt essential health services, and act as a deterrent to individuals who are seeking to access drug treatment and rehabilitation.[35]

In recent years, multiple jurisdictions in over 40 countries around the world have implemented new models for regulating and decriminalizing drugs.[36] The evidence available so far shows that decriminalizing the use, possession and cultivation of drugs for personal use, if combined with an expansion of health and social services, does not lead to higher rates of use.[37]

States should adopt new models of drug control that put the protection of people's health and other human rights at the centre, including the decriminalization of the use, possession, purchase and cultivation of drugs for personal use and an expansion of health and other social services to address the risks related to the use of drugs.

5. IMPACT OF DISCRIMINATION ON ACCESS TO HARM REDUCTION SERVICES (QUESTIONS 2, 5, AND 6)

The implementation of punitive drug laws and drug enforcement operations has produced profoundly unequal outcomes across marginalised communities, even when rates of drug use are broadly similar across groups.[38] Direct and indirect discrimination against people who use drugs or on the basis of their identity, including gender, age, race, ethnicity, sexual orientation, gender identity, Indigenous identity, migrant or socio-economic status, intersect to deny affected groups resources and opportunities resulting in multiple barriers to the full enjoyment of their right to health.

As noted by OHCHR, people living in poverty who use drugs have had less access to health and other social services, including harm reduction and drug treatment.[39] Despite similar levels of consumption amongst socio-economic groups, tangible discrepancies based on social and economic factors have shown negative effects on people living in poverty who use drugs. For example, research in the USA shows that opioid overdose is concentrated in regions with higher rates of poverty and unemployment,[40] while homeless people are six times more likely to have an overdose from opioids compared to low-

[30] Amnesty International, *Racism and the Right to Health: Preliminary Observations on the draft general recommendation n. 37 by the Committee on the Elimination of Racial Discrimination* (IOR 40/5785/2022), 30 June 2022, amnesty.org/en/documents/ior40/5785/2022/en/

[31] Committee on Economic, Social and Cultural Rights, Concluding observations on the third periodic report of Lithuania, 30 March 2023, UN Doc. E/C.12/LTU/CO/3, paras 62-63; CESCR, Concluding observations on the third periodic review of Uzbekistan, 31 March 2022, UN. Doc. E/C.12/UZB/CO/3, paras 52-53.

[32] CESCR, Concluding observations on the third periodic report of Estonia, 2019, UN Doc. E/C.12/EST/CO/3, para. 45.

[33] Amnesty International, *Substance abuses: The human cost of Cambodia's anti-drug campaign* (ASA 23/2220/2020), May 2020, amnesty.org/en/documents/asa23/2220/2020/en/, pp. 18-23.

[34] Amnesty International, *Substance abuses: The human cost of Cambodia's anti-drug campaign* (ASA 23/2220/2020), May 2020, amnesty.org/en/documents/asa23/2220/2020/en/, pp. 10-17.

[35] Amnesty International, *Substance abuses: The human cost of Cambodia's anti-drug campaign* (ASA 23/2220/2020), May 2020, amnesty.org/en/documents/asa23/2220/2020/en/, pp. 59.

[36] Release – Drugs, The Law & Human Rights, *A Quiet Revolution: Drug Decriminalisation Across the Globe*, March 2016, release.org.uk/sites/default/files/pdf/publications/A%20Quiet%20Revolution%20%20Decriminalisation%20Across%20the%20Globe.pdf

[37] Scheim AI, et al, *Impact evaluations of drug decriminalisation and legal regulation on drug use, health and social harms: a systematic review*, 2020, BMJ Open.

[38] UNDP, *Addressing the Development Dimensions of Drug Policy*, 2015, p. 7

[39] Office of the High Commissioner for Human Rights, *Human rights challenges in addressing and countering all aspects of the world drug problem*, 15 August 2023, UN Doc. A/HRC/54/53, para. 12.

[40] Pear VA et al., *Urban-rural variation in the socioeconomic determinants of opioid overdose,* February 2019, Drug and Alcohol Dependence.

income housed individuals.[41] In Canada, people living in impoverished areas were 3.8 times more likely to die from an overdose than more affluent residents.[42] Racial disparities in access to harm reduction services have been documented in the USA, where buprenorphine is not sufficiently available in non-white neighbourhoods.[43] Indigenous peoples in Australia and the Māori population in New Zealand have also been disproportionately affected by harms related to the use of drugs, and consistently experience worse health outcomes than other ethnic groups in the region.[44]

Amnesty International has also documented a wide range of instances in which denial of economic, social and cultural rights worsens the abuses faced by people who use drugs. For example, pregnant women who use drugs in the USA have been driven away from healthcare, prenatal care and drug treatment for fear of being criminally prosecuted under "fetal assault" laws that assume they have caused or risked harm to their foetus due to their use of drugs.[45] Amnesty also found that drug use and dependence was an underlying factor driving homelessness in England, as the housing first principle is not fulfilled and people were asked to be sober before receiving help with housing.[46] In Finland, interviews conducted by Amnesty pointed to a lack of essential services, such as dental care, to people who use drugs, who also consistently reported a lack of trust in public healthcare.[47]

Colonial policies, including those that reflect racial segregation, combined with government failures to address stark inequalities in the public health system's infrastructure and resources also continue to impact people's access to health care, including harm reduction services. In South Africa, for example, Amnesty has documented how those in the poorest and most marginalized communities, including women and girls, people living with HIV and sex workers, continue to experience physical and economic barriers to accessing their right to health.[48] Racialised communities are also disproportionately targeted with sanctions and other punitive policies or regulations that have the effect of punishing people because of their identities, work, socio-economic status and health choices, including around the use of drugs.[49]

States must therefore ensure that drug law enforcement does not lead to disparate outcomes, paying particular attention to the disproportionate impact that drug control policies have had on marginalized groups and people who face multiple and intersecting forms of discrimination, including women and girls, racial and ethnic minorities, Indigenous peoples, children and young people, people living in poverty, sex workers and LGBTI people. Importantly, States have an obligation to address the underlying socio-economic factors that increase the risks of using drugs, including ill-health, denial of education, unemployment, lack of housing, poverty or discrimination. Drug control policies should therefore be understood as a way to achieve broader objectives, including the protection of the right to health, ensuring equality and non-discrimination, and avoiding the violence associated with illicit markets.

6. IMPACT OF OVER-POLICING ON ACCESS TO HARM REDUCTION SERVICES (QUESTIONS 2 AND 3)

Punitive drug policies that have relied on the security forces to enforce the prohibition and criminalization of drugs have also directly undermined the implementation of harm reduction services. The UN Special Rapporteur on the right to health has previously drawn attention to the ways in which law enforcement leads to riskier and more harmful practices.[50] As noted by OHCHR, the rushed preparation of drugs to

[41] Yamamoto A, Needleman J, Gelberg L, Kominski G, Shoptaw S, Tsugawa Y. *Association between homelessness and opioid overdose and opioid-related hospital admissions/emergency department visits*, December 2019, Social Science & Medicine.
[42] Alsabbagh MW, Cooke M, Elliott SJ, Chang F, Shah N, Ghobrial M. *Stepping up to the Canadian opioid crisis: a longitudinal analysis of the correlation between socioeconomic status and population rates of opioid-related mortality, hospitalization and emergency department visits (2000–2017)*, 2022;
[43] HRI, *Global State of Harm Reduction 2022*,p. 114;
[44] Graham R, Masters-Awatere B., *Experiences of Māori of Aotearoa New Zealand's public health system: a systematic review of two decades of published qualitative research*, Australian and New Zealand Journal of Public Health, 2020; Pearson O, Schwartzkopff K, Dawson A, Hagger C, Karagi A, Davy C, et al. *Aboriginal Community Controlled Health Organisations address health equity through action on the social determinants of health of Aboriginal and Torres Strait Islander peoples in Australia*, 2020, BMC Public Health.
[45] Amnesty International, *Criminalizing pregnancy: policing pregnant women who use drugs in the USA* (AMR 51/6203/2017), 23 May 2017, amnesty.org/en/documents/amr51/6203/2017/en/
[46] Amnesty International, *An obstacle course: homelessness assistance and the Right to Housing in England* (EUR 03/5343/2022), 7 June 2022, amnesty.org/en/documents/eur03/5343/2022/en/
[47] Amnesty International, *"I know I won`t get help": Inequality of healthcare in Finland* (EUR 20/6899/2023), 13 June 2023, amnesty.org/en/documents/eur20/6899/2023/en/, p. 58.
[48] Amnesty International, *South Africa: Barriers to safe and legal abortion in South Africa* (AFR 53/5423/2017), 2017, amnesty.org/en/documents/afr53/5423/2017/en/
[49] Amnesty International, *There is no help for our community: The impact of states' Covid-19 responses on groups affected by unjust criminalization*, POL 30/5477/2022,amnesty.org/en/documents/pol30/5477/2022/en/
[50] Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 6 August 2010, UN Doc. A/65/255, para. 26.

avoid detection may increase the risk of overdose, vascular damage and infections with a direct impact on the right to health.[51]

The blunt and punitive way of policing drug enforcement has been found to be ineffective and counterproductive and has disproportionally targeted the most marginalized sectors of society.[52] Overall, punitive drug enforcement has driven people away from health and harm reduction services, thereby creating an additional barrier to the effective realization of the right to health.[53] A systemic review of studies conducted in nine different countries including Canada, China, India, Malaysia, Mexico, Russia, Thailand, Ukraine, and the USA found that policing shapes HIV risk among people who inject drugs, with policing practices being associated with risky behaviours.[54] A different study in South Africa found specifically that the destruction of injecting equipment by law enforcement negatively impacted HIV transmission.[55]

Amnesty International has documented the effects of heavy-handed policing in the surroundings of facilities that provide health and harm reduction services to people who use drugs in the Philippines where the "war on drugs" has driven people who use drugs and people living with HIV further underground, creating more barriers to crucial prevention, harm reduction and treatment services.[56] According to a harm reduction service provider interviewed by Amnesty International, HIV testing among people who inject drugs dropped by over 60% just a few months after the anti-drug campaign began in 2016. According to members working with Cebu Plus, an HIV care organization, educators and health workers are cautious because they might be arrested. A community worker who quietly continued distributing clean syringes and needles despite a local government ban in 2009 told Amnesty International that he had to stop completely after he received a phone call in 2016 from officials in Manila instructing him to stop.

States should desist from law enforcement practices that hamper the right to health, including the seizure or destruction of injection equipment and prosecution of healthcare and harm reduction service providers. Furthermore, States should ensure law enforcement agencies do not target health facilities, supervised drug-consumption rooms or needle and syringe programs as a strategy for drug enforcement. Instead, States should reframe policing and other law enforcement efforts to promote public health and human rights, including by building a constructive engagement and partnership between law enforcement officials and health providers around health and other human rights issues.

When policing tactics incorporate a harm reduction approach to drug enforcement, police and other agencies can play a crucial role in promoting individual and public health. As proposed by the Law Enforcement Action Partnership and other civil society groups, new policing strategies can have a more beneficial impact when designed to prevent the harms of drugs and drug markets rather than simply aiming to reduce or eradicate drug markets.[57] Many jurisdictions, including in Canada and the USA, have implemented policies to exempt from prosecution people who call emergency services when a person is in need of assistance due to their use of drugs. These laws and policies, also known as Good Samaritan, have enabled people to act quickly to save lives without fear of prosecution.[58] Many police forces, emergency medical teams and other public services that come in contact with people who use drugs have also implemented policies for the distribution of naloxone among their corporations to be able to respond promptly when witnessing an overdose.[59]

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[51] Office of the High Commissioner on Human Rights, *Study on the impact of the world drug problem on the enjoyment of human rights*, 4 September 2015, UN Doc. A/HRC/30/65, para. 25.

[52] UN System coordination Task Team on the Implementation of the UN System Common Position on drug-related matters, *What we have learned over the last ten years: A summary of knowledge acquired and produced by the UN system on drug-related matters,* March 2019, p.11.

[53]Joanne Csete *et al., Public Health and international drug policy,* April 2016, The Lancet, p. 1442.

[54] Baker P, Beletsky L, Avalos L, Venegas C, Rivera C, Strathdee SA, Cepeda J., *Policing Practices and Risk of HIV Infection Among People Who Inject Drugs*, Epidemiol Rev., 31 January 2020, ncbi.nlm.nih.gov/pmc/articles/PMC7879596/

[55] South African Medical Research Council, South African Community Epidemiology Network on Drug Use (SACENDU), *Full Report Phase 47,* 2020, samrc.ac.za/sites/default/files/attachments/2020-11-18/SACENDUFullReportPhase47.pdf

[56] Amnesty International, *If you are poor, you are killed: Extrajudicial executions in the Philippines "war on drugs"* (ASA 35/5517/2017), 31 January April 2017, amnesty.org/en/documents/asa35/5517/2017/en/

[57] Law Enforcement Action Partnership (LEAP), Centre for Law Enforcement & Public Health (CLEPH), *Police Statement of Support for Drug Policy Reform*, 2019, cleph.com.au/application/files/4815/4957/9983/Statement_of_Support_for_Drug_Policy_Reform_Feb_2019.pdf

[58] Open Society Foundations, *Police & Harm Reduction: How law enforcement can advance public safety, public health, and public confidence*, 2018, opensocietyfoundations.org/uploads/0f556722-830d-48ca-8cc5-d76ac2247580/police-harm-reduction-20180720.pdf, p. 13.

[59] Joanne Csete *et al., Public Health and international drug policy,* April 2016, *The Lancet,*, p. 1452.

7. HARM REDUCTION AND THE RIGHTS OF SEX WORKERS (QUESTION 4)

Around the world, 167 countries still criminalize all or some aspects of sex work.[60] These laws criminalize sex workers themselves, their clients and/or third parties facilitating the organization of sex work. Moreover, colonial-era laws punishing 'loitering' and conduct associated with living in poverty have had a disproportionate impact on sex workers and violate their human rights.[61]

Amnesty International's research in countries such as Argentina,[62] the Dominican Republic,[63] Hong-Kong,[64] Ireland,[65] Norway,[66] and Papua-New Guinea[67] has emphasized the impacts on human rights, including on the right to health, of the criminalization of aspects associated with decisions to sell sex. Amnesty International's research shows that discrimination in access to employment is particularly dire for transgender women, who are, as a consequence, often disproportionately represented among sex workers. In some contexts, the decision to sell sex stems from the opportunity to access higher wages than in other economic sectors where women's labour is particularly undervalued and underpaid. While cisgender men also engage in sex work, available data suggests that the majority of sex workers are women, who are more likely to experience poverty.[68]

Amnesty International has found in Ireland that decisions to engage in sex work are often based on multiple and intersecting factors, including flexibility and control over working hours. Sex workers with disabilities or chronic health conditions, as well as third level students, told Amnesty International that sex work often offered better financial gain compared with other alternatives of employment. Some transgender sex workers or those using drugs and/or experiencing homelessness told Amnesty International that sex work was one of the few, if not the only option for meeting basic needs.[69] The use of criminal law to prohibit sex work does nothing to address or challenge the socioeconomic forces that lead people to sex work, including living in poverty and systemic and intersectional forms of discrimination. In contrast, Amnesty International's research has shown that these laws further expose sex workers to gender-based violence and police abuse.

Amnesty International has particularly documented the impact of police practices of using condoms as evidence of sex work, which have obstructed harm reduction services to prevent the transmission of sexually transmitted infections particularly affecting sex workers. For example, sex workers in Norway told the organization that they only ever carry one condom or a small number to avoid questions from the police.[70] Amnesty also documented similar practices in Papua New Guinea and Hong Kong that discouraged the use of condoms among sex workers, hampering HIV reduction and awareness efforts.[71]

Amnesty International has also found that systemic, structural and intersecting factors are at the very root of the violence and other human rights violations experienced by sex workers.[72] Sex workers often live in a context of structural violence which impacts their health, safety, well-being and access to

[60] UNAIDS, *Decriminalise, Save Lives*, decriminalise.unaids.org/?_gl=1%2ae8n7fw%2a_ga%2aMTY1NDE1NTExOS4xNjkyNjk3Mzc0%2a_ga_T7FBEZEXNC%2aMTY5MjY5NzM3My4xLjEuMTY5MjY5NzUwNi4xLjAuMA..&_ga=2.213107927.252193921.1692697374-1654155119.1692697374

[61] Amnesty International, *Criminalizing loitering is discriminatory and contrary to the right to dignity*, (AFR 51/8526/2023), amnesty.org/en/documents/afr51/6586/2023/en/

[62] Amnesty International, *"What I'm Doing Is Not a Crime." The Human Cost of Criminalizing Sex Work in the City of Buenos Aires, Argentina* (Index: AMR 13/4042/2016), 26 May 2016, amnesty.org/en/documents/amr13/4136/2016/en/

[63] Amnesty International, *"If they can have her, why can't we?" Gender-based torture and other ill-treatment of women engaged in sex work in the Dominican Republic* (AMR 27/0030/2019), amnesty.org/en/documents/amr27/0030/2019/en/

[64] Amnesty International, *Harmfully isolated: criminalizing sex workers in Hong Kong* (ASA 17/4032/2016), amnesty.org/en/documents/asa17/4032/2016/en/

[65] Amnesty International, "*We live in a violent system." Structural violence against sex workers in Ireland* (EUR 2156/2022), amnesty.org/en/documents/eur29/5156/2022/en/, chapter 6.

[66] Amnesty International, *The human cost of crushing the market: Criminalization of sex work in Norway* (EUR 36/4034/2016), amnesty.org/en/documents/eur36/4034/2016/en/, chapter 6.6.

[67] Amnesty International, *Outlawed and abused: criminalizing sex work in Papua New Guinea* (ASA 34/4030/2016), amnesty.org/en/documents/asa34/4030/2016/en

[68] Amnesty International, Amnesty International, "Explanatory Note on Amnesty International's policy on state obligations to respect, protect and fulfil the human rights of sex workers", pp. 5-6.

[69] Amnesty International, *"We live in a violent system." Structural violence against sex workers in Ireland* (EUR 2156/2022), amnesty.org/en/documents/eur29/5156/2022/en/, chapter 6, p. 16.

[70] Amnesty International, *The human cost of crushing the market. Criminalization of sex work in Norway* (EUR 36/4034/2016), amnesty.org/en/documents/eur36/4034/2016/en/ , chapter 6.6, p. 50.

[71] Amnesty International, *Outlawed and abused: criminalizing sex work in Papua New Guinea* (ASA 34/4030/2016), amnesty.org/en/documents/asa34/4030/2016/en, p. 57; Amnesty International, *Harmfully isolated: criminalizing sex workers in Hong Kong* (ASA 17/4032/2016), amnesty.org/en/documents/asa17/4032/2016/en/, p. 61.

[72] Amnesty International, "*We live in a violent system." Structural violence against sex workers in Ireland* (EUR 2156/2022), www.amnesty.org/en/documents/eur29/5156/2022/en/, chapter 6.

justice.[73] The criminalization of various aspects of sex work, including brothel keeping, has directly contributed to gender-based violence, and has effectively facilitated the targeting and abuse of sex workers. The legal prohibition on sex workers' sharing of premises and working together for safety under brothel keeping provisions and other criminal sanctions on the organization of sex work have created a chilling effect on sex workers' exercise of their human rights and their ability to take measures to minimize the risks of violence from potentially abusive individuals.[74] Moreover, structural violence has heightened the stigma and everyday violence sex workers are exposed to.[75]

A positive alternative approach has been the Prostitution Reform Act which decriminalized sex work in New Zealand in 2003 with the aim of safeguarding the human rights of sex workers. The New Zealand Ministry of Justice Prostitution Law Review Committee commissioned two reviews in 2005 and 2008 to assess the impact of the Prostitution Reform Act. Prior to decriminalization, sex workers were hesitant to disclose their occupation to health care workers or to carry condoms for fear of criminal sanctions. After decriminalization, the Committee saw increased confidence, well-being and a sense of validation among sex workers, which had a positive effect in the improvement of employment conditions and the ability to ensure that safer sex practices remain standard. In June 2022, a law reform entered into force in Belgium that similarly decriminalized all aspects of sex work.[76]

8. HARM REDUCTION AND THE RIGHT TO ABORTION (QUESTION 4)

Ensuring access to a comprehensive range of good-quality sexual and reproductive health information, goods and services, including abortion, post-abortion care, modern contraceptives and evidence-based, non-biased and non-discriminatory information on sexual and reproductive health, is critical to realizing the rights of women, girls and people who can get pregnant.

Criminalizing abortion creates a "chilling effect" that undermines access to health services and results in an increase in preventable maternal mortality and morbidity. For example, service providers are more reluctant to, or may refuse to, provide even lawful abortion services if there is a threat of criminal punishment.[77] Criminalizing abortion also creates barriers to other essential reproductive health services such as post-abortion care; when people know they risk being reported, prosecuted and imprisoned for having miscarriages, this can discourage them from seeking the care they need.[78] Research also confirms that criminal abortion laws do not reduce the need for abortion but lead pregnant individuals to seek clandestine and/or unsafe abortions and avoid post-abortion care, to the detriment of their health and lives.[79]

Even while abortion is criminalized in many contexts, increased access to medical abortion has changed abortion care. Self-managed medical abortion involves the use of medication (such as mifepristone and/or misoprostol) by a pregnant person to induce their abortion, with limited or no involvement of a medical professional. Studies show that self-management of medical abortion is a safe and effective way to terminate early pregnancy and the World Health Organization endorses this practice if pregnant people have access to accurate information, quality-assured medications, and support of a trained healthcare worker in case of need.[80] Self-managed medical abortion is increasingly necessary in the face of access-based restrictions (including criminalization), discriminatory access to sexual and reproductive health services, and during situations of conflict, disaster and public health crises. Self-managed medical

[73] *Sex Worker Lives under the Law: A Community Engaged Study of Access to Health and Justice in* Ireland (previously cited).
[74] Amnesty International, *"We live in a violent system." Structural violence against sex workers in Ireland*, (EUR 2156/2022), amnesty.org/en/documents/eur29/5156/2022/en/, chapter 6.
[75] *Sex Worker Lives under the Law: A Community Engaged Study of Access to Health and Justice in Ireland* (previously cited), p. 49.
[76] Loi du 21 mars 2022 « modifiant le Code pénal belge en ce qui concerne le droit pénal sexuel », n°C-2022/31330. Some conduct, including pimping, remains criminalized. However, these offences will be defined by a subsequent law. For more information, Bouvier, S. "La Belgique: un modèle européen de reconnaissance d travail sexuel", available at : https://www.unilim.fr/omij/wp-content/uploads/sites/9/2022/06/11-Sam-BOUVIER-billet-FINAL.pdf
[77] De Londras F. et al, *The impact of criminalisation on abortion-related outcomes: a synthesis of legal and health evidence,* 2022, BMJ Global Health.
[78] UN Working Group on the issue of discrimination against women in law and in practice, Report of the Working Group, UN Doc. A/HRC/32/44 (2016), para. 79. See also CEDAW Committee, Concluding Observations: El Salvador, UN Doc. CEDAW/C/SLV/CO/8-9 (2017), para. 36(a)
[79] See for example Amnesty International, She is not a criminal: The impact of Ireland's abortion laws (Index: EUR 29/1597/2015); see also Amnesty International, On the brink of death: Violence against women and abortion ban in El Salvador (Index: AMR 29/003/2014); Amnesty International, The total abortion ban in Nicaragua: Women's lives and health endangered, medical professionals criminalized (Index: AMR 43/001/2009)
[80] Abortion care guideline. Geneva: World Health Organization; 2022 (Recommendation 50)

abortion also promotes autonomy and dignity when exercising one's sexual and reproductive rights and enables equality in access to abortion.[81]

Those who self-administer abortion medicines need accurate information on their safe and effective use. Helplines, websites, community groups, physicians and human rights defenders may play a role in sharing information for the purposes of harm reduction, whether abortion is legal or not.[82]

In some countries, even the sharing of information about abortion itself is criminalized. For instance, "thirty-four countries restrict the dissemination of information about abortion and abortion services, even when abortions may be legal in some circumstances."[83] The Penal Code of Morocco punishes making statements in public or in meetings or distribution of written or visual materials about abortion with a prison sentence and/or a fine.[84]

Amnesty International has spoken with activists and organizations raising concerns that social media platforms like Facebook and Instagram,[85] YouTube, and TikTok[86] limit the visibility of abortion content and take down posts that discuss abortion or mark them as "sensitive material". On some platforms, activists even avoid using the word "abortion" in their posts and talk around the topic of abortion so they can share medically accurate information without their content or account being removed. When questioned about the issues surrounding abortion content Meta (the parent company of Facebook and Instagram) recognised that some of these posts should not have been deleted and said in June 2022 they would be addressing the "incorrect enforcement" of policies.[87] However, Amnesty International continues to receive information that abortion rights advocates still regularly see their posts taken down and were unclear about the criteria that trigger a "sensitive material" label, content removal, or account suspension.[88]

In 2019, the *Open Observatory of Network Interference (OONI)* found that several states blocked access to the websites womenonwaves.org and/or womenonweb.org, which are run by organizations helping people access self-managed abortions in restrictive countries. OONI found that these websites were blocked in Brazil, Iran, Turkey, South Korea, Turkey and Saudi Arabia.[89]

[81] Braine N., *Autonomous Health Movements: Criminalization, De-Medicalization, and Community-Based Direct Action,* December 2020, Health & Human Rights, pubmed.ncbi.nlm.nih.gov/33390699/

[82] L. Huss, F Diaz-Tello, G Samari, Self-Care, Criminalized: The Criminalization of Self-Managed Abortion from 2000 to 2020, 2023. If/When/ How: Lawyering for Reproductive Justice, https://www.ifwhenhow.org/wp-content/uploads/2023/10/Self-Care-Criminalized-2023-Report.pdf; Bixby Center for Global Reproductive Health, Self-managed abortion: what healthcare workers need to know, https://bixbycenter.ucsf.edu/sites/bixbycenter.ucsf.edu/files/Self-managed%20abortion-what%20healthcare%20workers%20need%20to%20know.pdf;

[83] S. Ambast et al, A global review of penalties for abortion related offences in 182 countries

[84] Morocco, Penal Code, 1962, Article 455, amended on 1 July 1967

[85] The Guardian, "Facebook and Instagram removing posts with mentions of abortion pills", 28 June 2022, theguardian.com/technology/2022/jun/28/facebook-instagram-meta-abortion-pills-posts.

[86] Wired, "TikTok Keeps Removing Abortion Pill Content", 24 June 2023, https://www.wired.com/story/tiktok-abortion-content-censorship/

[87] Axios, "Next post-Roe battlefield: Online abortion information", 1 July 2022, axios.com/2022/07/01/roe-battlefield-online-abortion-information

[88] Amnesty International, An Unstoppable Movement: A Global Call to Recognize and Protect Those Who Defend the Right to Abortion, 2023.

[89] OONI, "On the blocking of abortion rights websites: Women on Waves & Women on Web", 29 October 2019, ooni.org/post/2019-blocking-abortion-rights-websites-women-on-waves-web/