



NGO REPORTING GUIDELINES ON CEDAW & RIGHTS OF WOMEN WHO USE DRUGS

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List of Abbreviations

| | |
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| ART | Antiretroviral Therapy |
| CEDAW | Convention on the Elimination of All Forms of Discrimination Against Women |
| Hep C | Hepatitis C |
| HIV | Human Immunodeficiency Virus |
| NGOs | Non-governmental organisation |
| NSP | Needle and syringe programme |
| OHCHR | Office of the High Commissioner of Human Rights |
| OST | Opiate Substitution Therapy |
| PMTCT | Prevention of Mother to Child Transmission |
| SRHR | Sexual and Reproductive Health & Rights |
| TB | Tuberculosis |
| UN | United Nations |

Foreword

The failed war on drugs has come at a huge cost to women who use drugs. Due to the compounding effects of criminalisation, stigma and discrimination, women who use drugs are one of the most marginalised groups in the world. Every aspect of our lives is affected – from public to personal domains. Our lives are marked by invisibility, fear, shame, and neglect. In short, our lives are deemed to almost not matter.

Globally, women who use drugs make up approximately one third of people who use drugs. Despite this, our needs, interests, rights and voices are consistently neglected and sidelined in policies, programming, and practices that affect our lives. The intersection of punitive policies and gender inequality create social structures that shape our lives in harmful and damaging ways - for it is under the prohibitionist discourse and framework that women who use drugs are incarcerated for minor drug charges; experience abuse and violence with impunity; have higher vulnerabilities to HIV and Hepatitis C; and are vilified as unfit parents and as ‘fallen women’. Underpinning these violations is the idea that our bodies are marked by ‘deviance’ and somehow inherently ‘threatening’ to a society that expects women to strictly adhere to gendered social norms and moral standards. As such, in court systems and settings, women who use drugs face harsher penalties and sentences compared with men who use drugs. Within this context of social exclusion and discrimination, we must seek avenues for the protection and redress of rights violations.

Currently, the global drug control architecture – propped up by the three UN drug control conventions – exists in ‘parallel universes’ divorced from the human rights framework, as well as considerations of structural gender inequality. For these reasons, the rights of women who use drugs should be a central concern. Our rights are, simply, the rights of all human beings: the right to the highest attainable standard of health, right to be free from violence and discrimination, right to bodily integrity, right to privacy, right to be free from arbitrary interference, and the right to be entitled to protection by the law. In instances of rights violations, human rights instruments and treaty bodies can be used to seek protection and redress. For women who use drugs, the Convention against the Elimination of Discrimination Against Women (CEDAW), with its principles of non-discrimination and substantive equality, holds the promise of addressing the specificities of our experiences as women who use drugs.

The *IWRAW Asia Pacific NGO Reporting Guidelines on CEDAW and Rights of Women who use Drugs* is an important guide for our community and allies to document, advocate for, and realise the human rights of women who use drugs. Through utilising these guidelines, we can hope to get treaty bodies such as CEDAW to pay attention to the rights of women who use drugs.

We need an end to gender inequality and criminalisation. We need to demand accountability and responsibility from our governments in addressing rights violations. One way of doing so is to record and document the myriad of ways current drug policies and gender-based discrimination cause harm to women who use drugs, and use this evidence-based advocacy as a pathway: from the promise of rights, to the realisation of rights. The first step, as ever, is making ourselves heard.

Judy Chang
Executive Director
International Network of People who use Drugs

I. Introduction

This document aims to provide guidance to non-governmental organisations (NGOs) engaging with the CEDAW review process and providing alternative information to the CEDAW Committee on the theme of rights of women who use drugs. It is a practical tool to aid documentation and analysis using the CEDAW Convention as a frame of reference.

This resource arises from the organisational mandate of the International Women's Rights Action Watch Asia Pacific (IWRAP Asia Pacific) that strives to drive progressive interpretation and implementation of international women's rights standards, specifically the Convention on Elimination of All Forms of Discrimination Against Women (CEDAW) at the national level. Rooted within this broad strategy of ensuring CEDAW compliance, IWRAP Asia Pacific also seeks to work towards the extension of the CEDAW framework to emerging issues and supporting the inclusion of women from marginalised groups within the CEDAW rights framework and advocacy space. As part of this since 2013, IWRAP Asia Pacific has worked with groups of women advocating for the rights of women who use drugs using CEDAW and its mechanisms towards enhancing state accountability for violations of women's human rights. Through sustained engagement over the last five years, IWRAP Asia Pacific has worked with groups advocating for rights of women who use drugs to streamline our collective thinking on strategies to use the CEDAW framework to ensure protection of rights of women who use drugs. This, in turn, will strengthen and support the application of the human rights framework to drug control policies, nationally and internationally. A significant step in this knowledge-building and strategising process was an International Expert Group Meeting on Framing Rights of Women who Use Drugs under CEDAW, organised jointly in April 2017 by IWRAP Asia Pacific and Eurasian Harm Reduction Network (now Eurasian Harm Reduction Association). This meeting resulted in highlighting the specific contexts of rights violations faced by women who use drugs and the identification of concrete strategies to advance the discourse on protection of rights of women who use drugs. A key strategy outlined for action by IWRAP Asia Pacific was the development of a guidance document or framework to support the advocacy of community groups seeking to engage with the CEDAW review process.

Accordingly, the present NGO Reporting Guidelines aim to serve as a preliminary documentation and advocacy tool to support activists seeking to engage in CEDAW advocacy to ensure protections for rights of women who use drugs. The use of these guidelines will enable activists to locate the specific rights violations faced by women who use drugs, within the CEDAW framework, and to strengthen their demands for accountability from their states for discrimination and rights violations.

This document is divided into three parts:

- I. this preface, which provides the background and objectives;
- II. an introduction to the CEDAW review process and the process of shadow reporting; and
- III. guidelines for community activists and rights advocates for writing and submitting NGO reports on the theme of rights of women who use drugs for submission to the CEDAW Committee.

This document has been developed by IRAW Asia Pacific with input from Tripti Tandon and Ayesha Sen Choudhury who served as resource persons at a Writeshop on Developing NGO Reporting Guidelines on Rights of Women who Use Drugs organised by IRAW Asia Pacific in March 2018. IRAW Asia Pacific would like to acknowledge the contributions of the following individuals who participated in the writeshop in various capacities: Cathy Alvarez, Daria Matyushina, Fiona Hasim, Medea Khmelidze, Svitlana Moroz, Yatie Jonet, Umyra Ahmad, Ishita Dutta and Anna Robinson.

II. Women who Use Drugs: At the Intersections of Drug Policy and Human Rights

Women who use drugs face multiple forms of discrimination on the basis of their sex and due to their drug use. In many cases, women who use drugs may also be socio-economically marginalised and single parents; they may possess intersecting identities or belong to specific socially marginalised groups, such as women living with HIV/AIDS, sex workers, and/or undocumented migrants, which further compounds this discrimination and inequality.

The marginalisation and exclusion of women who use drugs is due in part to the historic and systemic inequality between men and women. However, it is greatly compounded by predominant models of drug policy that overwhelmingly apply punitive and prohibitionist approaches in line with the global drug control framework, comprising of three UN treaties: [the Single Convention on Narcotic Drugs](#), 1961; [the Convention on Psychotropic Substances](#), 1971, and [the Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances](#), 1988.¹ Human rights are explicitly mentioned only once in the three treaties: in Article 14(2) of the 1988 Convention, which also contains the strictest measures for criminalisation.

Recent years have seen a growing consensus among States that the global drug control regime is failing, which has given rise to dissension among States as to which drug policies actually work. Whereas countries like China, Russia and the Philippines continue to favour repressive policies that are in clear contravention of human rights, increasingly States in Latin America and Europe are looking at more humane drug policy.² The success of the Portuguese model, which decriminalised the possession and consumption of all illicit substances in 2001 and made concerted efforts to make a range of health and other services available to people who use drugs, has led “to dramatic drops in overdoses, HIV infection and drug-related crime”.³

These trends in the development of international drug policy are noteworthy in terms of locating the current context of punitive legal frameworks and the resultant issues

¹ For an in-depth analysis of the UN Conventions forming the Global Drug Control Framework, refer to: transnational institute, *The UN Drug Control Conventions: A Primer*. Available at: <https://www.tni.org/en/publication/the-un-drug-control-conventions>

² Brookings Institute, “The Emerging Global Dissensus on Drug Policy: Seizing the Opportunities”. Available at: <https://www.brookings.edu/blog/order-from-chaos/2015/04/29/the-emerging-global-dissensus-on-drug-policy-seizing-the-opportunity/>

³ The Guardian, “Portugal’s Radical Drugs Policy is Working. Why Hasn’t the World Copied It?” Available at: <https://www.theguardian.com/news/2017/dec/05/portugals-radical-drugs-policy-is-working-why-hasnt-the-world-copied-it>

at the national level. Soon after the entry into force of the 1988 Convention and by the 1990s, almost every state had criminalised a whole list of drug-related activities, which led to a simultaneous rise in the prison population and laid the grounds for the draconian criminal justice apparatus dealing with drugs that is seen in most jurisdictions currently. The discrimination and marginalisation faced by women who use drugs manifests in many different and specific ways.

First, women who use drugs suffer a disproportionate burden in the application of criminal laws and punitive legal frameworks that stigmatise people who use drugs. Globally, more women are incarcerated for drug offences, mostly non-violent, than for any other crime.⁴ This overarching context of punitive legal frameworks and criminalisation disproportionately affects women. Women's participation in the drug trade is increasing, especially rural women and women who live in poverty. Women are usually couriers or occupy other low-ranking positions in the drug-trade supply chain, which makes them more visible and hence, more vulnerable. Thus, women are more likely to be caught and detained for drug-related offences. In most instances, they do not have information on the drug-trade hierarchy, so they cannot easily negotiate a plea bargain with law enforcement agencies, resulting in harsher legal penalties. Alternatives to imprisonment that are rarely made available to persons accused of drug-related crimes are even harder for women to receive, despite most of them being first-time offenders and not accused of any violent crimes. Thus, we see mostly women being caught by law enforcement agencies, and men who profit from the drug trade being rarely detained.

Women who use drugs further face specific rights violations due to their criminalised status, including losing custody of their children, coerced abortion, coerced sterilisation, and penalisation for exposing their children to a controlled substance if they are pregnant while using drugs.

The **population of women in prison is increasing** at an alarming rate. For example, in Latin America, 60-80% of all women in prison are incarcerated for drug-related offences. In the European Union and Canada, this applies to 30% of all women in detention.

In terms of the death penalty, drug-related offences do not meet the threshold of 'most serious crimes' as required by international law to restrict the use of the death penalty by states. Yet, drug-related offences are still punished with the death penalty in more than 30 countries, and 40% of all executions documented by Amnesty International in 2015 were drug-related. There has been no comprehensive analysis so far on the issue of women and the death penalty for drug-related offences. There is some information on its disparate impact on people living in poverty who have no

⁴ L Turquet. "Report on the Progress of the World's Women 2011-2012: In Pursuit of Justice". New York: UN Women, 2011. At: <http://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2011/progressoftheworldswomen-2011-en.pdf> in Kasia Malinowska-Sempruch & Olga Rychkova, *The Impact of Drug Policy on Women*, Open Society Foundations 2015. At: <https://www.opensocietyfoundations.org/sites/default/files/impact-drug-policy-women-20160928.pdf>

access to legal aid, and foreign nationals detained abroad with no consular assistance or translation support.

Another key contextual factor is the growing trend of **militarisation of public security**, putting the army on the streets to control the existential threat of drug trafficking in our societies. The armed forces are taking the job of police, or the job is being done by police who utilise military training techniques or equipment, often in disregard of international standards on the appropriate use of force. There has been an increase in torture in Mexico, for example, and a spate of extrajudicial executions in the Philippines. This militarisation also impacts women differently, increasing their vulnerability to rights violations including violence against women. This can manifest in the form of forced marriage, sexual violence, trafficking and/or exploitation.

The UN drug conventions have no safeguards for human rights and no ways to ensure state compliance – there are only external measures to measure compliance. The **drug control conventions are running in parallel to the human rights conventions**, with security and criminal justice deemed to have no correlation with human rights. This has led to a wide range of human rights abuses being proliferated against people who use drugs.

Second, even where women who use drugs are not incarcerated, harsh criminal penalties result in their invisibilisation, leading to adverse impacts on their health and social wellbeing. Most harm reduction interventions and services are designed for men and therefore fail to respond to the specific needs of women who use drugs.⁵ Discrimination does not only occur where people in similar situations are treated differently;⁶ it also occurs where people in different situations are treated similarly. The current situation of healthcare services in the post-Soviet region is a classic illustration of formal equality where special needs are not considered by the State to be important in the provision of healthcare services. For instance, public centres for opioid substitution therapy (OST) services are meant to be open to all. However, women's access to these centres as well as to other healthcare services is impeded by the fact that they are not designed for use by women but men. Thus, women are forced to fit into a system made for men. Accordingly, to access this system women must forget about issues such as their reproductive rights or their children. Women who are pregnant or women who are mothers may be denied these services altogether, and where such services are available to them, they are simply not catered to in a gender-responsive way.⁷

⁵ International Network of People Who Use Drugs, *Drug User Peace Initiative: A War on Women Who Use Drugs*. Available at: https://www.unodc.org/documents/ungass2016/Contributions/Civil/INPUD/DUPI-A_War_on_Women_who_Use_Drugs-Web.pdf pg. 3.

⁶ For more information on women's specific needs in the context of health, also see: UNODC, *Policy Brief: Women who Inject Drugs and HIV – Addressing Specific Needs*, 2014. Available at: http://www.unodc.org/documents/hiv-aids/publications/WOMEN_POLICY_BRIEF2014.pdf

⁷ International Women's Rights Action Watch Asia Pacific, *Process Report: Expert Group Meeting on Framing Rights of Women who Use Drugs*, April 2017. Available on file.

Mandatory disclosure laws that give rise to confidentiality breaches, combined with insensitive attitudes of service providers, disincentivise women from accessing healthcare and harm reduction services. There has been a slow shift from a pure public health approach towards a law enforcement approach when it comes to how states deal with drug (and alcohol) users. In the 1960s, administrative offences started being used, and narcology (i.e. drug treatment specialisation) appeared in psychiatry. However, from the 1970s, there was a clear shift towards law enforcement taking over the remit of drug control, with doctors acting more like police officers, and public health concerns no longer played a role. Doctors have an obligation to treat their patients with dignity and maintain confidentiality. However, fear of professional repercussions, as well as socialisation of norms stigmatising persons who use drugs, leads some doctors to report and register their patients on the drug registry. Being in a drug-user registry is a huge deprivation of civil rights and impacts the patient's access to treatment. Thus, the healthcare system acts as an instrument of state surveillance and doctors perform the role of law enforcement agents vis-à-vis their patients instead of providing them with medical treatment.

Third, beyond the context of health, women who use drugs are also often deterred from reporting violence and seeking institutional support to protect themselves against it. In addition to facing violence in the family and community, women who use drugs are also vulnerable to violence and harassment from the police and while in detention.⁸ Service providers, including domestic violence shelters, in most instances are ill-equipped to support women who use drugs.

It is also important to consider the intersection of contextual factors such as poverty and social exclusion that further increase the vulnerability of women who use drugs to a multitude of rights violations. Where women who use drugs are living in poverty or are single parents, their status may actively exclude them from accessing social welfare and support. Where women who use drugs are incarcerated, this restricts them from gaining employment once they are out of prisons. Where States implement austerity measures, the rollback on social services means that women who use drugs are most at risk of losing access to health and housing support necessary for their day-to-day survival.

The root of this marginalisation and rights violations lies in pervasive social stigma and prejudice against persons who use drugs, including women. The negative stereotypes of persons who use drugs, compounded by gender norms and stereotypes regarding women's roles in the family and society, make it acceptable for women who use drugs to be discriminated against in all spheres. The findings of a study conducted by the Georgia Harm Reduction Network are especially telling of the impact of social stigma and stereotyping of women who use drugs. It emerged from the report that it is actually in prison that women freely disclose their status and mobilise themselves.

⁸ Ibid., p.5.

The stigma underlying drug use by women is interlinked with a range of human rights violations. For instance, in the context of parental rights, even if women who use drugs are not legally challenged for the custody of their children, they are afraid of their own family members taking away their children if they disclose their status as drug users. In some cases, women may lose permanent parental rights of their children once they are incarcerated for minor, non-violent drug-related offences. Studies have found that women are more likely than men to experience this violation.⁹ Whereas the best interest of the child is paramount, punitive laws more often than not operate in ways that are absolutist and leave no room for consideration of women's specific experiences. In the context of sexual and reproductive health rights, a woman has access to these health services but only if she does not disclose her status. As service providers are not trained to deal with women who use drugs, this means that women who use drugs will not disclose their status while seeking an abortion – to the detriment of their health. In some cases, women were not using drugs at the beginning but started using drugs during the course of an abusive relationship. Many are forced into early marriages. Women do not seek support within their family or from institutions – they would rather live with the abuser than disclose their drug-using status.

Gender stereotyping is also rife in how drug policies are implemented. The same contempt and disdain that WUDs are shown in society is replicated in courts. This manifests in the form of more moralising undertones in the language of court orders and ultimately more stringent punishments for offences related to drug use for women.

It is within this context of exclusion and discrimination that avenues for protection and redress for the rights of women who use drugs have to be identified and advocated for.

Why CEDAW?

The United Nations Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), adopted in 1979, is a widely ratified international human rights treaty. It is also the only international treaty that specifically addresses discrimination against women based on the principles of indivisibility, inter-relatedness and interdependence of rights. In identifying the various forms of discrimination, the Convention places an obligation on state parties to identify the historical, systemic and cultural discrimination faced by women, and take concrete measures to address the impacts of such discrimination on women's lives

CEDAW-compliant law and policy frameworks must lead to the exercise and enjoyment of all rights for all women measured through the lens of equality of opportunity, equality of access and equality of results. Any response or action that does not take into account any one of these elements would result in unequal

⁹ Rewire, “‘No Hope for Me’: Women Stripped of Parental Rights after Minor Crimes”. Available at: <https://rewire.news/article/2015/04/02/hope-women-stripped-parental-rights-minor-crimes/>

outcomes as between men and women or between different groups of women. Framing the rights of women who use drugs under the CEDAW principles of non-discrimination and substantive equality requires analyzing the current range of law and policy responses that are mainly aimed at diminishing drug use through policing women who use drugs, but that result in discriminatory treatment against them and in many instances cause irreparable violation of their rights.

Multiple efforts by NGOs from Russia, Georgia, Kazakhstan, Kyrgyzstan and Ukraine, among others, to present some of the challenges and obstacles in protection of rights of women who use drugs has led to the issue being addressed by the CEDAW Committee in specific instances, such as in the case of Georgia where it advised the state party to adopt a harm reduction approach in addressing issues related to women who use drugs. However, the lack of a cohesive framework and strategies in presenting the socio-political issues around rights of WUDs before the CEDAW Committee has diluted the impact of this advocacy. Additionally, the absence of the mobilisation of a critical mass of groups advocating for rights of women who use drugs before the CEDAW Committee remains a continuing challenge.

The present NGO guidelines are a step in the direction of addressing these challenges and supporting the advocacy strategies of groups of women who use drugs seeking to utilise the CEDAW framework. It is hoped that rights advocates, through using these guidelines, will contribute to strengthening the engagement of human rights and women's rights bodies, including the CEDAW Committee, on issues concerning women who use drugs.

III. The CEDAW Review Process

3.1 Overview

Under Article 18 of the CEDAW Convention (hereafter, the Convention) all State parties are required to submit periodic national or **state reports** to the CEDAW Committee (hereafter referred to as the Committee) on ‘the legislative, judicial, administrative or other measures’ taken by them to give effect to the provisions of the Convention and the progress made with respect to these. The **initial report** has to be submitted one year after ratification of the Convention and thereafter a **periodic report** has to be submitted every four years. Once a State party has prepared and submitted its report, it is scheduled to be reviewed by the Committee at its periodic **review sessions**. The review sessions take place three times – in February, July and October each year. More information on the states scheduled for each review session can be found at the OHCHR website.¹⁰

Two sessions before the State party is scheduled for the review, the Committee holds a **pre-session working group** meeting that draws up a **list of issues and questions** which the State party has to address in writing prior to its review. NGOs can engage with the CEDAW review process through submitting alternative information or **NGO shadow reports** to the Committee for their consideration both at the pre-session working group and during the actual review session. There is also an opportunity for NGOs to make oral statements to the Committee at the public **informal meeting with NGOs** scheduled at each review session. Following the **constructive dialogue** with the state party under review (held at a public meeting that NGOs can attend as observers), the CEDAW Committee adopts a set of **concluding observations** recommending specific action for the state party to enhance protection for women’s rights.

Pursuant to **follow-up procedures**, State parties are requested to report back to the Committee within two years on measures taken to give effect to the follow-up recommendations. These recommendations are clearly identified in a paragraph at the end of the concluding observations. Again, NGOs have an opportunity to submit a follow-up shadow report to aid the work of the Committee in assessing state compliance with the follow-up recommendations.

¹⁰

https://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/SessionsList.aspx?Treaty=CEDAW

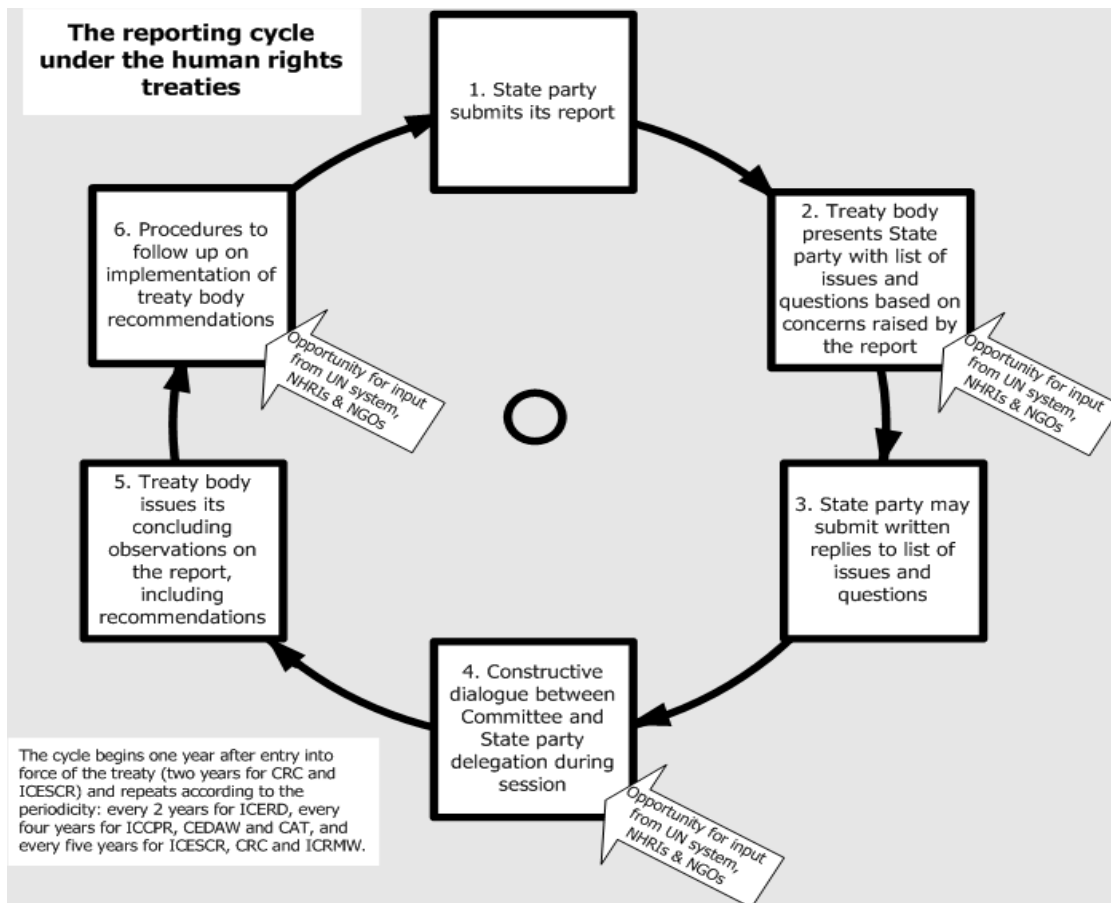


Figure Source: Based on: Office of the United Nations High Commissioner for Human Rights: The United Nations Human Rights Treaty System: An Introduction to the Core Human Rights Treaties and the Treaty Bodies. Geneva: Office of the UNHCHR June 2005, p. 20.

3.2 State Reports

The State party report consists of two documents: a common core document and the convention-specific report. The **common core document** presents general, factual information that is relevant for the Committee to understand the political, legal, social, economic and cultural context in which human rights are implemented in the State. The State should keep the common core documents current and it should be updated as required whenever the State is submitting the convention-specific report. If no update is required to be made, this should also be mentioned in the convention-specific report.

The **convention-specific report** addresses the substantive articles of the CEDAW Convention and is meant to indicate the impact of actions taken to implement the

Convention by the State. It provides a record of the performance of the State according to the standards of the Convention. It outlines the problems and obstacles to women's equality as well as means to address these. It provides information on the progress concerning key women's rights issues as highlighted by the Committee in its concluding observations to the State party's previous report.

Reports under the Simplified Reporting Procedure

Where there has been significant delay by States in submitting their convention-specific report, they may request the Committee to allow them to submit reports under the Simplified Reporting Procedure. Under this procedure, the Committee will send a set of **List of Issues Prior to Reporting** to the concerned State to direct the preparation of the State report. The number of questions/issues included in the list is no more than 25. More information regarding this procedure can be found at the OHCHR website.¹¹

Initial Report

This report is the State's first opportunity to present information to the Committee on the extent of its compliance with the Convention articles. In particular, the initial report should outline the constitutional and legal framework for the implementation of the Convention rights, explain the legal and practical measures adopted to give effect to the Convention rights and demonstrate the progress made in ensuring implementation of the Convention articles.

Periodic Report

This report, submitted by the State to the Committee every four years, focuses on the concluding observations made by the Committee on the previous State report and addresses the progress made and the current situation concerning the enjoyment of the Convention rights.

3.3 NGO Reports/Shadow Reports

The Committee has expressly stated that it places high value on its close cooperation with NGOs working on women's human rights as essential for the promotion and implementation of the Convention. In the context of the review process which is at its core an accountability mechanism for States to fulfill their obligations in respect of women's rights, the role of NGOs is especially significant. NGO reports provide important information to the Committee on gaps in implementation of the Convention articles or the Committee's concluding observations by the relevant State party and include recommendations and suggestions for ensuring implementation of the Convention.

¹¹ <https://www.ohchr.org/EN/HRBodies/CEDAW/Pages/ReportingProcedures.aspx>

NGO reports are to be submitted to the Committee via its Secretariat at least three weeks prior to the beginning of the session. The reports should be sent electronically in Word format to the following e-mail address: cedaw@ohchr.org. They should not exceed 3,300 words if being submitted by one NGO and not exceed 6,600 words if being submitted by NGO coalitions.

While submitting NGO reports, NGOs should:

- indicate their full name;
- indicate the State party scheduled to which the information relates;
- and
- indicate whether or not the submission can be posted on the CEDAW website for public information purposes.

Submission of hard copies of the report is not mandatory. However, NGOs wishing to do so can mail 15 hard copies of their report to CEDAW Secretariat, OHCHR – Palais Wilson, 52, rue des Pâquis, CH-1201 Geneva 10, Switzerland.

Reports submitted by national and international NGOs to the Committee can either be comprehensive reports addressing the overall status of women’s rights in the country, or be focused on specific themes.

NGO reports can also be submitted to the Committee at its **pre-sessional working group**. In fact, the Committee stresses the importance of NGO engagement at the stage at which questions are being formulated for the State. The procedural guidelines for submission of NGO reports to the pre-sessional working group, in terms of the deadline, word limit and other issues, remain the same.

3.3 FOLLOW-UP TO CEDAW REVIEW PROCESS

It is critical to devise and implement follow-up strategies once the Committee issues the concluding observations. Some strategies to advocate for ensuring implementation of the concluding observations include engaging in media advocacy – to publicly disseminate the NGO report and the concluding observations; undertaking monitoring – to assess implementation of the concluding observations; and submission of a follow-up NGO report two years after the review session. The NGO report and concluding observations can also be an important resource for legal advocacy as information from them can be used in making legal submissions to national authorities.

IV. Guidelines for Writing an NGO Report

This section is set out in two parts: A) provides an overview of key points to consider while developing an NGO report, and B) lists out a series of questions that will aid community and civil society activists in examining whether and to what extent the rights of women who use drugs are protected in their respective countries, as mandated under the CEDAW Convention and the various Articles that make up its core.

A. GENERAL GUIDANCE

Context and problem analysis: NGO reports are a key advocacy tool for rights advocates, through which they can critically engage with the reporting and monitoring process of the CEDAW Committee by providing data (including statistical data and case studies) on the context and status of rights of women who use drugs in their countries. The NGO report should clarify the context, highlight priority issues, contain specific information related to the various substantive rights guaranteed under CEDAW, and include recommendations on measures that the State could adopt to ensure that women who use drugs enjoy equal rights under the law. Further, they should critically analyse the information provided in the State Party report to enable the CEDAW Committee to raise issues that may not be presented in the official report, or to verify the data shared by the government in its report.

Language: NGO reports can be prepared and submitted in any of the six UN languages (English, French, Spanish, Russian, Arabic and Chinese). However, it is important to note that NGO reports are not translated by the UN for the CEDAW Committee Members. Hence, it is advisable to submit the NGO report in English as all Committee Members have English as a working language.

Structure: The NGO report should be concise, focusing clearly on priority issues and relevant solutions and demands from the perspective of groups advocating for the rights of women who use drugs, to aid the Committee in constructing its recommendations. The report should have a clear executive summary as it assists the CEDAW Committee in understanding what is contained in the report and where they should read more carefully on specific issues. It should also include a cover page with the title, author(s), date of the report and the relevant CEDAW Committee session.

The best way to organise an NGO report is by providing a contextual analysis which can highlight specific priority issues and also by providing comprehensive information by aligning it with the Articles of the CEDAW Convention, because the CEDAW Committee reviews the official report submitted by the government article-wise. The broad structure of the CEDAW Convention is as follows:

Articles 1 to 5 provide the core obligations of the State to provide a legal and policy framework for the implementation of the Convention as well as the social context that may impede the achievement of women's right to equality;

Articles 6 to 16 provide specific substantive areas of equal rights for women under the Convention, such as in education, health, employment;

Articles 17 to 23 outline the role of the CEDAW Committee and the procedures pertaining to the Convention;

Articles 23 to 30 outline the administration and interpretation of the Convention.

The NGO report need only provide information on the substantive articles of the CEDAW convention, i.e. Articles 1 to 16.


B. ARTICLE-SPECIFIC GUIDANCE

The following set of questions, which are placed according to Articles of the CEDAW Convention that the issue/situation engages, are intended to aid NGOs in inquiring and eliciting information on the rights of women who use drugs in their respective countries while preparing NGO reports for submission to the CEDAW Committee. They are neither formal nor exhaustive. The questions are illustrative and NGOs are encouraged to use those that are relevant to their respective situation and explore others that fit their context better, while keeping the relevant Article in mind. Some issues may overlap between different CEDAW Articles. NGOs are encouraged to articulate them under all the relevant Articles, without worrying about repetition.

Part 1: Articles 1 – 5

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| Article 1: Discrimination Article 2: Policy Measures Article 3: Guarantee of Basic Rights and Fundamental Freedoms Article 4: Special Measures Article 5: Sex Role Stereotyping and Prejudice <i>(refer also to General Recommendations 28, 33 and 35)</i> |
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Article 1: Definition of discrimination

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|  | <p>The questions below aim at unpacking the specific ways in which women who use drugs experience discrimination. Consider how women in general in your country experience discrimination vis-à-vis men and then unpack how women who use drugs face further discrimination, vis-à-vis other women. The questions also ask you to consider how to clarify the current legal framework works to address specific WHR issues and address anti-discrimination/gender.</p> |
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1. Does your country recognise equality and non-discrimination as fundamental rights in the Constitution? What are the prohibited grounds for discrimination?
2. Are gender and health status considered prohibited grounds for discrimination under the Constitution? If yes, do they adequately protect women who use drugs?
3. Does the guarantee of non-discrimination recognise multiple/cumulative and inter-sectional discrimination against women? If yes, how have they been applied with regards to women who use drugs in judicial decisions?
4. Does the guarantee of non-discrimination prohibit direct as well as indirect discrimination?
5. **Does the guarantee of non-discrimination include protection against discrimination by public/state actors as well as private/non-state actors? What standards and measures have been adopted under the legal system to prevent and address discrimination by public and private actors?** For example, would the standard of due diligence apply for discrimination by private/non-state actors? Would vicarious liability apply for discrimination by public/state actors?
6. Are there any laws or policies that exclude women who use drugs from healthcare, social security or welfare benefits?
7. Is there any law that can protect women who use drugs against disclosure of status of drug use or dependence status?
8. Are there any specific contextual factors, such as conflict or post-conflict situation, austerity or shrinking democratic space, that particularly impact the rights of women who use drugs?
 - If yes, please explain the manner in which such contexts impact rights of women who use drugs. In what manner do they create additional vulnerabilities and forms of discrimination? Are these forms of discrimination recognised, prohibited or addressed by law?

Article 2: Policy measures to eliminate discrimination



Women who use drugs are often made invisible both in policymaking spaces and as the subject of those policies. Explain the different ways in which laws, policies and institutions do or do not take into account the specific concerns of women who use drugs, and the impact of this on rights of women who use drugs. This set of questions also seeks to strengthen the full scope of state obligations (actions needing to be taken) in relation to the issues faced by women who use drugs - as the CEDAW framework evolves, there may be a need to consider how your information can expand, clarify, strengthen or challenge certain trends in legal, political and ideological framing of laws and policies which impact rights of women who use drugs.

1. Is there data on the extent of drug use among women in your country?
[Comparative data by percentage may also be cited].
2. Is there data on how many persons are arrested, prosecuted, convicted, sentenced and imprisoned for drug offences, disaggregated by gender?
3. Are there any constitutional or legal frameworks protecting women's rights? Do these frameworks adequately protect the rights of women who use drugs?
 - Does the law provide remedies to women whose rights are violated?
 - Are legal remedies accessible by women who use drugs in cases of rights violations?
 - What do the legal remedies look like? For example, laws providing for prosecution of the relevant public official or access to compensation for the victim in cases of rights violation. Are these laws applied in practice to cases concerning women who use drugs?
4. Are there legal safeguards against arbitrary and/or unreasonable searches, arrests and detention under drug laws? Are the legal safeguards mindful of the rights of women? Are women, including women who use drugs, able to avail of these safeguards? For example, is there a practice of involuntary testing of individuals for drug consumption?
5. Are legal aid services available and accessible to women who use drugs to claim legal remedies? Are such services competent and gender-sensitive?
6. Is drug use criminalised by law?
 - How are women impacted by such laws?
 - Are there diversion measures or alternatives to incarceration for such offences?
 - Are these extended to women?

7. Is possession of drugs for personal use criminalised by law?
 - How are women impacted by such laws?
 - Are there diversion measures or alternatives to incarceration for such offences?
 - Are these extended to women?
8. Is there data on how many persons are arrested, prosecuted, convicted, sentenced and imprisoned for drug offences, disaggregated by gender?
9. Does criminalisation of use and/or possession for use of drugs result in threats to life, liberty and security of women?
[*Note:* Manifestations of rights violations in this context may include: arbitrary arrest and detention, custodial violence, torture and compulsory treatment. Data on number of women in prison for drug offences and women killed in drug war and the impact on their families may also be included.]
10. What are the forms of women's interaction with the criminal justice system for drug offences?
 - Does a partner's involvement with drugs lead to women being implicated under the criminal justice system?
 - Are there laws that compel women to testify against their partners who are implicated in drug-related cases?
 - Are there compulsory third-party reporting requirements for drug use? How do these affect women?
11. Are there instances of drug-war-related extrajudicial killings? How many women have been killed or otherwise targeted by drug-war-related extrajudicial killings?
 - Are there legal protections for the right to life for women who use drugs?
 - Can legal remedies be accessed in cases where the right to life has been violated?
12. Are there instances of police abuse/violence against women who use drugs? Are there mechanisms to identify, monitor and prevent such cases and seek redress? Are these applied in practice?
13. What are the specific forms of violations of right to privacy faced by women who use drugs? Are there legal provisions protecting right to privacy? Do these protections extend to women who use drugs or address their specific needs and circumstances?
 - Are legal remedies accessible to women who use drugs in cases where the right to privacy has been violated?

What legal remedies are available, for example injunctions against disclosure, prosecution of the errant official, claims for compensation, etc.?

14. Is your State taking progressive measures in policy or practice to reduce prison overcrowding and other adverse impacts of punitive drug policies? [Note: In considering this question, reflect on the disproportionate impact of laws criminalising offences on use or possession for use of drugs, on women.]

Article 3: Guarantee of basic human rights and fundamental freedoms




Consider what needs to happen practically, in social, political and economic fields, to make sure that women who use drugs enjoy their rights.

1. Are there laws or policies requiring mandatory registration of persons who use drugs? What are the intended objectives and impact of such policies?
2. Are there laws or policies requiring mandatory reporting of drug use by self, family or healthcare providers? Who are such reports required to be made to – health ministry, justice department, drug control agency or police? Please explain the impact of such policies.
3. Do police who come into contact with women who use drugs disclose their drug use to others, e.g. to spouse, family or health or social security agency? Is this authorised by law or policy or is it a practice? Please explain the impact of such disclosure on enjoyment of human rights by women who use drugs.
4. Does a prior criminal record for drugs lead to discriminatory treatment in contexts of employment, exercise of parental rights, etc.? Are there laws or mechanisms to prevent disclosure and use of prior criminal records in denying exercise of legitimate rights and benefits in political, social, economic and cultural fields by persons who use drugs?
 - How do such breaches of privacy impact women who use drugs? If there are laws and mechanisms to prevent disclosure of prior criminal record, do they apply equally and effectively to women who use drugs?
 - How would such disclosure and breach of privacy impact social reintegration and rehabilitation for women who use drugs?
5. Are there instances of breach of privacy against women who use drugs by media? How do they impact social reintegration and rehabilitation for women who use drugs? Are there laws and mechanisms to prevent, monitor and provide redress for such breaches?
6. Are there laws protecting the confidentiality of medical records relating to drug use?

Article 4: Temporary special measures to achieve equality

1. Are there laws or policies recognising the specific needs of women who use drugs, particularly in instances of pregnancies or motherhood?
2. Are there government policies or schemes to ensure that women who use drugs are able to access social welfare schemes on a priority basis?

Article 5: Sex role stereotyping and prejudice

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|  | <p>Beyond the specific ways in which the law discriminates against women who use drugs, your responses to the questions below will help the CEDAW Committee understand the social context of discrimination. Think about how bad laws reinforce bad stereotypes and how bad stereotypes reinforce bad laws that cause real harm to women who use drugs.</p> |
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1. Do public education campaigns on prevention of drug use stigmatise or dehumanise women who use drugs – for example, suggesting that people who use drugs are dangerous and that women who use drugs are ‘bad’ mothers?
2. Does media reporting on drugs create or perpetuate stereotypes and discrimination against women who use drugs? For example, suggesting that women who use drugs are of ‘loose’ morals and therefore, can be raped or sexually assaulted with impunity?
3. Do healthcare policies and practices stigmatise and perpetuate negative stereotypes against persons who use drugs?
 - o How do these impact women who use drugs?
4. How do gender stereotypes about women’s social roles influence State policies and practices towards women who use drugs?

PART 2: Articles 6 – 16

Article 6: Trafficking and Exploitation of Prostitution
Article 7: Political and Public Life (*refer also to General Recommendation 23*)
Article 8: Participation at the International Level
Article 9: Nationality
Article 10: Equality in Education (*refer also to General Recommendation 36*)
Article 11: Employment
Article 12: Healthcare and Family Planning (*refer also to General Recommendation 24*)
Article 13: Economic and Social Benefits
Article 14: Rural Women (*refer also to General Recommendation 34*)
Article 15: Equality before the Law
Article 16: Marriage and Family Life (*refer also to General Recommendation 21*)

Article 7: Participation in political and public life

[Note: Public life includes both running for and holding office at any level of government, as well as non-governmental advocacy.]

1. Do women who use drugs face barriers to participating or being represented in political processes?
2. Are community organisations and associations of women who use drugs represented or consulted in decision-making processes at the local, national or international level, especially in relation to drug policies, health and social justice?
3. Are there barriers against forming and/or participating in non-governmental organisations (NGOs) and associations for women who use drugs?
4. Are there any legal restrictions for registration or funding that prevent women who use drugs from forming NGOs or associations?
 - Are there specific restrictions relating to registration or funding requirements in laws that prevent women who use drugs from forming NGOs or associations?
 - Are there barriers in practice to organising by women who use drugs?
5. Are there administrative requirements that impede the day-to-day working of NGOs or associations formed by women who use drugs?

Article 8: Representation

1. What are the legal, policy or administrative barriers that women who use drugs face in participating in the work or programmes of international organisations at the national, regional or international levels?

2. Are women who use drugs represented in governance structures of international networks and organisations of people who use drugs?
3. Are women who use drugs able to meaningfully participate in high-level meetings as professionals engaged in drug policy work?

Article 9: Nationality

1. Are there legal, policy or administrative barriers that women who use drugs face in claiming their citizenship rights? For example, does having a criminal record for drug offences bar women from voting or preclude them from applying for citizenship?
2. Are there specific barriers or exclusions faced by women who use drugs in migrant communities?
3. Are there instances of women who use drugs being deported for drug offences at risk to their lives?
4. Does past or present drug use by women bar or restrict the right to seek and enjoy asylum?

Article 10: Education

1. Are there legal, policy or administrative barriers that women who use drugs face in accessing education in school or in university?

Article 11: Employment

1. Are there laws, policies or administrative practices that allow mandatory or random testing for drug use at the workplace?
 - o What is the impact of such laws, policies or practices on women who use drugs, including those who are on opiate substitution treatment (OST)?
2. Are there laws that require the production of documents such as medical certificates that certify a person as being 'drug-free' in order to obtain employment?
3. Are criminal records for drug offences a barrier for women who use drugs seeking employment?
4. Are there instances of unlawful disclosure of personal information, including past or present drug use, by the police or other third parties such as partners or family members, to private employers or healthcare providers?

Article 12: Healthcare and Family Planning

1. Are healthcare service providers understanding and respectful of women who use drugs when they approach health facilities?
2. Do women who use drugs have access to the following services? Is there gender-disaggregated data on the number of persons enrolled in or accessing the following services?
 - Harm reduction services¹²
 - Drug dependence treatment, including OST and residential services
 - Overdose prevention and management
 - ART services
 - SRHR services
 - Hep C diagnosis and treatment
 - TB diagnosis and treatment
 - Mental health and allied services
3. What are the specific barriers facing women who use drugs who are pregnant or those with children in accessing the following health services?
 - Harm reduction services, including NSP
 - Drug dependence treatment, including OST and residential services
 - Overdose prevention and management
 - HIV counselling and testing
 - ART services
 - SRHR services, including obstetric and gynaecological services
 - Hep C diagnosis and treatment
 - TB diagnosis and treatment
 - Mental health and allied services
4. Are there separate facilities for women who use drugs or are facilities integrated and accessible to men and women?

¹² According to UNODC, WHO and UNAIDS, the implementation of a package of nine interventions is essential to ensure reduction of drug-related infectious disease. The comprehensive package for harm reduction consists of:

1. needle and syringe programmes (NSPs)
2. opioid substitution therapy (OST) and other drug dependence treatment
3. HIV testing and counselling
4. antiretroviral therapy
5. prevention and treatment of sexually transmitted infections
6. condom distribution programmes for people who inject drugs and their sexual partners
7. targeted information, education and communication for people who inject drugs and their sexual partners
8. vaccination, diagnosis and treatment of viral hepatitis
9. prevention, diagnosis and treatment of tuberculosis.

Overdose management and prevention have since been added to this list.

For more information, see: The Global Fund, *Technical Brief: Harm Reduction for People who Use Drugs*, March 2017, Geneva, Switzerland. Available at:

https://www.theglobalfund.org/media/1279/core_harmreduction_infonote_en.pdf

5. Are women who use drugs during pregnancy liable to be charged for offences like endangering the foetus, or causing substantial harm to the unborn child?
6. Are there any specific laws that deal with women who use drugs during pregnancy?
7. What are the legal consequences of using drugs during pregnancy - compulsory institutional care, forced abortion, forcible drug treatment, being kept under mandatory supervision, punishment? Are the following health services available and accessible to women who use drugs in prison and other detention facilities?
 - Harm reduction services, including NSP
 - Drug dependence treatment, including OST and residential services
 - Management of drug overdose
 - ART services
 - SRHR services
 - Hep C diagnosis and treatment
 - TB diagnosis and treatment
 - Mental health and allied services
8. Are overdose cases mandatorily reported to law enforcement agencies? Is such reporting a prerequisite for accessing medical help?
9. Do women who use drugs face specific violations in the context of sexual and reproductive health and rights, such as forced sterilisation, forced abortion, etc.?
10. Are women who use drugs liable to be charged under laws criminalising transmission of HIV or other life-threatening diseases?

Article 13: Economic and Social Benefits

1. Are there opportunities for women who use drugs to interact and participate in social and recreational activities? For example, sports, community gatherings and activities?
2. Is social security available and accessible to women who use drugs? What specific barriers do women who use drugs face in accessing social security benefits?
3. Are financial services available and accessible to women who use drugs? Do women who use drugs face specific barriers in accessing financial services? For example, is having outstanding fines from drug offences not recognised as a valid ground for making a claim under bankruptcy laws?

Article 14: Rural Women

1. Are harm reduction services available and accessible to women who use drugs in rural or remote areas? What specific barriers to accessing services are faced by women who use drugs in rural or remote areas?

Article 15: Equality before the Law

1. Do women who use drugs enjoy full equality in all civil and business matters?
 - Are they able to enter into contracts, receive loans, own/buy/sell and administer their and their children's property, travel freely, apply for a passport, etc., on their own, without the consent of their husbands, fathers, or other male guardians?
 - Are there specific barriers they face to enjoying these legal rights?

Article 16: Marriage and Family Life

1. Are there any legal barriers to women who use drugs having custody of their children? Is it possible for women who use drugs to regain custody of their children?
2. Is drug use and/or dependence grounds to deny a mother custody of her child under family law?
3. Are women who use drugs denied custody of children by the State on the grounds of 'physical or mental incapacity' or perceived debility or negligence under child protection laws?
4. Is drug use and/or dependence recognised grounds for divorce or nullification of marriage?
 - Are there other grounds such as psychological incapacity which are applied as grounds for divorce or nullification of marriage against women who use drugs?
 - In what manner do the specific grounds for divorce or nullification of marriage impact or deprive a mother of the custody of her child? For example, would psychological incapacity serve as a stricter ground to deny claims of custody by a woman who uses drugs?
5. Are women who use drugs made to undergo mandatory drug treatment services in order to retain custody of their children?
6. Are adequate, person-centered, voluntary support services available that enable women who use drugs to look after their children?
7. Under what circumstances do State child protection agencies consider removal of a child from the custody of a woman who uses drugs?
 - Is removal a measure of last resort?
8. Do women who use drugs have access to legal aid in child custody cases? Is legal aid available to them in practice?

9. What are the legal provisions with respect to the custody of children for women incarcerated for drug offences? Are the Bangkok Rules applied effectively in the case of women incarcerated for drug offences?
10. Are there any policies/programmes to support children of women incarcerated for drug offences?

General Recommendation 35 updating General Recommendation 19 on Gender-Based Violence against Women (GBVAW)

1. What are the various forms of violence faced by women who use drugs, i.e. violations that result in death, physical, sexual, psychological or economic harm or suffering threats of such acts, harassment, coercion and arbitrary deprivation of liberty? [Note: This may include but is not limited to femicide/murder, sexual violence and rape, domestic violence, harmful practices such as female circumcision, violence in custodial settings, violence at the workplace, violence in technology-mediated settings, etc.]
 - What is the extent of gender-based violence towards women who use drugs?
 - What forms of rights violations do women who use drugs experience from law enforcement officers? [Note: Rights violations may encompass actual violence, but also other forms of intimidation and harassment, such as being asked to turn in friends, pay bribes, etc.]
 - Does the State neglect to recognise and remedy the specific forms of violence faced by women who use drugs?
 - Are women who use drugs able to safely report and receive protection from the police in cases of domestic violence or other forms of gender-based violence?
 - Are there instances of violence against women who use drugs in institutional and custodial settings, such as in prison and other forms of detention? Is there a mechanism for reporting, investigating and redressing such violations?
 - Are support services for women survivors of violence available? For example, are there crisis centres or shelters? Are these accessible to women who use drugs?
 - Are legal aid services for women survivors of violence available? Are they accessible and affordable for women who use drugs?

ANNEXE: Overview of Select International Law & Policy Standards Relevant to the Human Rights of Women who Use Drugs

Concluding Observations: Committee on the Elimination of All Forms of Discrimination Against Women

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| Georgia (2014) | <p>Health</p> <p>30. While noting the new State programme on universal health care that provides health insurance to all citizens free of charge, the Committee remains concerned about the:</p> <p>(d) Lack of gender-sensitive, accessible and evidence-based drug treatment programmes for women.</p> <p>31. The Committee urges the State party to improve women’s access to high-quality health care and health-related services, in line with its general recommendation No. 24 on women and health, in particular by:</p> <p>(d) Conducting a nationwide study to establish the number of women who use drugs, including while pregnant, in order to inform strategic planning;</p> <p>(e) Providing gender-sensitive and evidence-based drug treatment services to reduce harmful effects for women who use drugs, including harm reduction programmes for women in detention.</p> |
| Kazakhstan (2014) | <p>Health</p> <p>30. The Committee is also concerned at the lack of data on women drug users in the society and in prisons who are in need of drug dependency treatment and who are living with HIV/AIDS.</p> <p>31. The Committee calls upon the State party:</p> <p>(b) To collect data on women drug users in prisons and in society at large to determine the extent of the problem, with a view to developing appropriate drug dependency interventions and determining the number of those living with HIV/AIDS in need of medical care</p> |
| Macedonia (2013) | <p>Health</p> <p>Furthermore, the Committee regrets the lack of information on health and rehabilitation services available to women and girl drug users.</p> <p>34. The Committee urges the State party to:</p> <p>(c) Integrate a gender perspective in all health interventions and policies and collect and analyse sex-disaggregated data.</p> |

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| <p>Russia (2015)</p> | <p>Health</p> <p>35. (d) The absence of substitution therapy programmes for women who use drugs, which also contributes to the spread of HIV/AIDS</p> <p>36. In line with its general recommendation No. 24 (1999) on women and health, the Committee calls upon the State party: (c) To develop programmes of substitution therapy, in line with the recommendations of the World Health Organization, for women drug users, and intensify the implementation of strategies to combat HIV/AIDS, in particular preventive strategies, including by increasing efforts to prevent sexual and mother-to-child transmission</p> |
| <p>Ukraine (2017)</p> | <p>Health</p> <p>38. The Committee welcomes the State party's initiative to reform the health-care system and to respond to the humanitarian crisis, in particular by establishing mobile emergency units for victims of violence.</p> <p>39. In line with its general recommendation No. 24 (1999) on women and health, the Committee recommends that the State party: (c) Intensify the implementation of strategies to combat HIV, in particular preventive strategies, and continue the provision of free antiretroviral treatment to all women living with HIV, as well as strategies to combat alcoholism and drug consumption among women</p> |
| <p>Canada (2016)</p> | <p>Health</p> <p>44. The Committee welcomes the commitment of the State party to reviewing its drug policy with a view to shifting from a criminal to a public health and harm reduction approach. Nevertheless, the Committee is concerned about the excessive use of incarceration as a drug-control measure against women and the ensuing female overpopulation in prison. The Committee is also concerned about the significant legislative and administrative barriers women face in terms of access to supervised consumption services, especially in the light of the continuing nationwide opioid overdose crisis.</p> <p>45. The Committee recommends that the State party: (a) Define harm reduction as a key element of its federal strategy on drugs, and reduce the gap in health service delivery relating to women's drug use by scaling up and ensuring access to culturally appropriate harm reduction services; (b) Repeal the Respect for Communities Act (2015) and establish a transparent process for exemptions permitting the operation of</p> |

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| | <p>supervised consumption services without risk of criminal prosecution of clients or service providers;</p> <p>(c) Repeal mandatory minimum sentences for minor, non-violent drug-related offences;</p> <p>(d) Take measures to prevent overdose deaths throughout the State party, including by exempting from arrest drug users who, when facing an overdose, contact the emergency services for assistance.</p> |
| Sweden (2016) | <p>Health</p> <p>36. The Committee acknowledges that there is comprehensive health coverage in the State party. Nevertheless, it is concerned that mental illness and drug and alcohol use have increased, especially among young women.</p> <p>37. The Committee recommends that the State party:</p> <p>(a) Increase its efforts, including through the allocation of additional resources, to address the deteriorating mental health situation of women and girls and the abuse of alcohol and drugs, with a particular focus on adopting preventive measures</p> |
| Brazil (2012) | <p>Women in detention</p> <p>32. The Committee expresses its concern about the significant increase in the number of women and girls in prison in the State party. It takes note that a large proportion of them have been imprisoned for committing drug trafficking-related offences, in particular for having transported drugs (as 'mules') at the request of their partners.</p> <p>33. The Committee urges the State party to:</p> <p>(a) Take measures to reduce the number of women in conflict with the law, including through targeted prevention programmes aimed at addressing the causes of women's criminality;</p> <p>(b) Address the situation of women and girls in detention through the development of comprehensive gender-sensitive policies, strategies and programmes aimed at facilitating their access to justice and ensuring compliance with their fair trial guarantees, in particular for indigenous women; and providing educational, rehabilitative and resettlement programmes for women and girls; and</p> <p>(c) Improve the conditions of women's detention facilities in accordance with international standards, to solve the problems of overcrowding in the prisons, guarantee separate accommodation for men and women inmates; and ensure the provision of adequate health facilities and services, in particular for pregnant women.</p> |
| Kyrgyzstan (2015) | <p>Disadvantaged groups of women</p> <p>33. The Committee notes that the State party recognizes the existence of various disadvantaged groups of women, including migrant workers, older women, women domestic workers, women belonging</p> |

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| | <p>to ethnic minorities, women drug users and lesbian, bisexual, transgender and intersex women. The Committee is, however, concerned about the situation of those groups of women who face intersecting forms of discrimination.</p> <p>34. The Committee recommends that the State party:</p> <p>(a) Adopt measures, including temporary special measures within the meaning of article 4 (1) of the Convention and the Committee’s general recommendation No. 25 on the subject, to ensure equal rights and opportunities for women who face intersecting forms of discrimination;</p> <p>(b) Ensure access to sustainable, non-discriminatory and non-prejudiced services, such as shelters, sexual and reproductive health services, legal aid and counselling, and employment for all women, in particular women facing intersecting forms of discrimination, and protect them from violence, abuse and exploitation;</p> <p>(c) Adopt the legislative measures and targeted policies necessary to address multiple forms of discrimination and promote the integration into society of disadvantaged and marginalized groups of women facing intersecting forms of discrimination;</p> <p>(d) Finalize and adopt an expeditious, transparent and accessible official procedure to change the gender marker on the identity documents of transgender women who wish to obtain legal recognition of their gender.</p> |
| <p>Myanmar (2016)</p> | <p>Rural women</p> <p>44. In addition, the Committee is concerned at reports that State drug eradication programs, involving the banning of opium growing without substitution of sustainable alternatives, have also led to large-scale food shortages and migration.</p> <p>45. In addition, the State party should ensure that opium eradication is carried out together with the development of sustainable alternative livelihoods with local communities, where rural women are most affected</p> |

Concluding Observations: Committee on Economic, Social & Cultural Rights

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| <p>Russia (2011)</p> | <p>29. The Committee remains concerned about the spread of drug addiction, including by way of injection, which is the main factor for the growing epidemic of HIV/AIDS, hepatitis C and tuberculosis in the Russian Federation. The Committee also remains concerned about the continued ban on the medical use of methadone and buprenorphine for treatment of drug dependence and the fact that the Government does not support opioid substitution therapy (OST) and needle and syringe</p> |
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| | <p>programmes which are strongly recommended by the World Health Organization (WHO) and the Joint United Nations Programme on HIV/AIDS (UNAIDS), the United Nations Office on Drugs and Crime and other international organizations as effective measures for prevention of HIV/AIDS among injecting drug users (art. 12).</p> <p>The Committee urges the State party to apply a human rights-based approach to drug users so that they do not forfeit their basic right to health. The Committee strongly recommends the State party to provide clear legal grounds and other support for the internationally recognized measures for HIV prevention among injecting drug users, in particular the opioid substitution therapy with use of methadone and buprenorphine, as well as needle and syringe, and overdose prevention programmes.</p> |
| Ukraine (2008) | <p>28. The Committee is gravely concerned at the high prevalence of HIV/AIDS in the State party, including among women; discrimination against persons with HIV/AIDS and high-risk groups such as sex workers, drug users and incarcerated persons; disclosure of information about their HIV status by law enforcement agencies, healthcare and educational institutions; and the limited access by drug users to substitution therapy.</p> <p>51. The Committee recommends that the State party continue its efforts and take urgent measures to improve the accessibility and availability of HIV prevention to all the population and the treatment, care and support of persons living with HIV/AIDS, including in prisons and detention centres, combat discrimination against persons living with HIV/AIDS and high-risk groups, ensure the confidentiality of information about a person's HIV status, and make drug substitution therapy and other HIV prevention services more accessible for drug users.</p> |

UN Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health

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| Report of the Special Rapporteur on the right to health, 10 August 2009, A/64/272 | <p>Persons who use drugs</p> <p>88. Persons who use drugs are often perceived as being dangerous to themselves and unable to make the 'right' decision. Prohibitions against their behaviour threaten their ability to refuse testing and treatment. Informed consent is obviated by compulsory drug and alcohol testing when such testing is linked to non-consensual treatment consequences.</p> |
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| | <p>89. In addition to being generally ineffective, largely conducive to relapse and demotivating, compulsory drug dependence treatment is often associated with prolonged isolation, detention without judicial oversight and government registrations constituting violations of the right to privacy. In some countries, persons who use drugs are subjected to compulsory treatment and HIV/AIDS testing, and to ‘therapy’ constituting cruel, inhuman or degrading treatment or punishment nationally endorsed by existing legal frameworks for drug control. Persons undergoing drug dependence treatment are often unaware of its nature, duration or experimental status. Conditions in compulsory treatment centres often present additional health risks owing to exposure to infectious diseases and lack of qualified staff able to address emergencies or provide medically managed drug treatment.</p> <p>90. Treating persons who use drugs as criminals is counterproductive from a right to health perspective. States should change legislation that supports criminalization based on non-consensual testing. Any routine drug or alcohol testing should be consensual to encourage appropriate conditions of counselling and treatment, and implemented in a non-discriminatory, transparent and inclusive way. Testing and treatment protocols should treat drug dependence like any other health-care condition.</p> <p>91. Guidelines for drug dependence treatment should endorse only voluntary evidence-based treatment (such as opioid substitution therapy) and provide for adequate training of staff. Treatment that is not evidence-based should never be used, and voluntary treatment services should be scaled up and accessible to marginalized groups.</p> |
| <p>Report of the Special Rapporteur on the right to health, 06 August 2010, A/65/255</p> | <p>Recommendations</p> <p>76. Member States should:</p> <ul style="list-style-type: none"> • Ensure that all harm-reduction measures (as itemized by UNAIDS) and drug-dependence treatment services, particularly opioid substitution therapy, are available to people who use drugs, in particular those among incarcerated populations. • Decriminalize or de-penalize possession and use of drugs. • Repeal or substantially reform laws and policies inhibiting the delivery of essential health services to drug users, and review law enforcement initiatives around drug control to ensure compliance with human rights obligations. • Amend laws, regulations and policies to increase access to controlled essential medicines. <p>77. The United Nations drug control bodies should:</p> <ul style="list-style-type: none"> • Integrate human rights into the response to drug control in laws, policies and programmes. |

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| | <ul style="list-style-type: none"> • Encourage greater communication and dialogue between United Nations entities with an interest in the impact of drug use and markets, and drug control policies and programmes. • Consider creation of a permanent mechanism, such as an independent commission, through which international human rights actors can contribute to the creation of international drug policy, and monitor national implementation, with the need to protect the health and human rights of drug users and the communities they live in as its primary objective. • Formulate guidelines that provide direction to relevant actors on taking a human rights-based approach to drug control, and devise and promulgate rights-based indicators concerning drug control and the right to health. • Consider creation of an alternative drug regulatory framework in the long term, based on a model such as the Framework Convention on Tobacco Control. |
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UN Special Rapporteur on Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment

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| <p>Report of the Special Rapporteur on Torture, Manfred Nowak, 14 January 2009, A/HRC/10/44</p> | <p>Recommendations</p> <p>71. With regard to human rights and drug policies, the Special Rapporteur wishes to recall that, from a human rights perspective, drug dependence should be treated like any other health-care condition. Consequently, he would like to reiterate that denial of medical treatment and/or absence of access to medical care in custodial situations may constitute cruel, inhuman or degrading treatment or punishment and is therefore prohibited under international human rights law. Equally, subjecting persons to treatment or testing without their consent may constitute a violation of the right to physical integrity. He would also like to stress that, in this regard, States have a positive obligation to ensure the same access to prevention and treatment in places of detention as outside.</p> <p>72. Similarly, the Special Rapporteur is of the opinion that the de facto denial of access to pain relief, if it causes severe pain and suffering, constitutes cruel, inhuman or degrading treatment or punishment.</p> <p>73. To address the many tensions between the current punitive approach to drug control and international human rights obligations, including the prohibition of torture and cruel, inhuman and degrading treatment, the Special Rapporteur calls on the Human Rights Council</p> |
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| | <p>to take up the question of drug policies in the light of international obligations in the area of human rights at one of its future sessions.</p> <p>74. Regarding the review process, decided by the General Assembly at its special session in 1998, to be held in Vienna in March 2009, the Special Rapporteur recommends that States and the relevant United Nations agencies reassess their policies, bearing in mind the following points:</p> <p>(a) States should ensure that their legal frameworks governing drug dependence treatment and rehabilitation services are in full compliance with international human rights norms;</p> <p>(b) States have an obligation to ensure that drug dependence treatment as well as HIV/hepatitis C prevention and treatment are accessible in all places of detention and that drug dependence treatment is not restricted on the basis of any kind of discrimination;</p> <p>(c) Needle and syringe programmes in detention should be used to reduce the risk of infection with HIV/AIDS; if injecting drug users undergo forcible testing, it should be carried out with full respect of their dignity;</p> <p>(d) States should refrain from using capital punishment in relation to drug-related offences and avoid discriminatory treatment of drug offenders, such as solitary confinement;</p> <p>(e) Given that lack of access to pain treatment and opioid analgesics for patients in need might amount to cruel, inhuman and degrading treatment, all measures should be taken to ensure full access and to overcome current regulatory, educational and attitudinal obstacles to ensure full access to palliative care.</p> |
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UN High Commissioner for Human Rights

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| <p>Report of the United Nations High Commissioner for Human Rights, Study on the impact of the world drug problem on the enjoyment of human rights, 4 September 2015, A/HRC/30/65</p> | <p>Conclusion and Recommendations</p> <p>61. The right to health should be protected by ensuring that persons who use drugs have access to health-related information and treatment on a non-discriminatory basis. Harm reduction programmes, in particular opioid substitution therapy should be available and offered to persons who are drug dependent, especially those in prisons and other custodial settings. Consideration should be given to removing obstacles to the right to health, including by decriminalizing the personal use and possession of drugs; moreover, public health programmes should be increased. The right to health requires better access to controlled essential medicines, especially in developing countries.</p> <p>62. The prohibition of arbitrary arrest and detention, torture and other forms of ill-treatment and the right to a fair trial should be protected in accordance with international norms, including in respect of persons who are arrested, detained or charged for drug-</p> |
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| | <p>related offences. Drug dependent persons in custodial settings should not be denied opioid substitution therapy as a means of eliciting confessions or other information, and opioid substitution therapy should be provided as part of a detainee’s right to health in all circumstances. Compulsory detention centres should be closed.</p> <p>63. The right to life of persons convicted of drug-related offences should be protected and, in accordance with article 6 of the International Covenant on Civil and Political Rights and the jurisprudence of the Human Rights Committee, such persons should not be subject to the death penalty. The right to life should be protected by law enforcement agencies in their efforts to address drug-related crime, and only proportional force should be used, when necessary. Extrajudicial killings should be subject to prompt, independent and effective investigations to bring the alleged perpetrators to justice.</p> <p>64. Ethnic minorities and women who possess or use drugs, or who are ‘microdistributors’, should be protected against discrimination. Consideration should be given to reforming laws and policies to address the disparate impact of drug policies on ethnic minorities and women. Providing training to law enforcement, health personnel and social service workers who come into contact with drug users should also be considered, to eliminate discrimination.</p> <p>65. Taking into account the severe impact that a conviction for a drug-related offence can have on a person’s life, consideration should be given to alternatives to the prosecution and imprisonment of persons for minor, non-violent drug-related offences. Reforms aimed at reducing overincarceration should take into account such alternatives.</p> <p>66. The rights of the child should be protected by focusing on prevention and communicating in a child-friendly and age-appropriate manner, including on the risks of transmitting HIV and other blood-borne viruses through injecting drug use. Children should not be subjected to criminal prosecution, but responses should focus on health education, treatment, including harm reduction programmes, and social re-integration.</p> <p>67. Indigenous peoples have a right to follow their traditional, cultural and religious practices. Where drug use is part of these practices, the right of use for such narrowly defined purposes should in principle be protected, subject to limitations provided for in human rights law.</p> |
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UN Working Group on Arbitrary Detention

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| <p>Report of the Working Group on Arbitrary Detention, Mission to</p> | <p>144. Periodic judicial reviews are often not carried out once a drug user or a chemical dependent has been put in detention. In the absence of judicial review, a person may be detained for prolonged periods, even when the person is eligible for release. This is a cause for concern, given that the number of those arrested for drug-related offences in the country is particularly high.</p> |
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| Brazil, 30 June 2014, A/HRC/27/48/Add.3 | 148. On the basis of its findings, the Working Group recommends that the Government: (d) Take measures alternative to detention for chemical dependents and drug users |
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World Health Organization (WHO)

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| Women who inject drugs and HIV: addressing specific needs: policy brief, 2014 | <p>1. Collect gender-specific strategic information</p> <ul style="list-style-type: none"> • Collect sex-disaggregated data on drug use, HIV prevalence and coverage of harm reduction services components (as listed in table 1), including in prisons. • Identify and fill research gaps to improve understanding of the needs of women who inject drugs. This is necessary to inform evidence-based service provision. <p>Data collection methodologies should be rigorous and transparent. A lack of data does not constitute a reason to delay implementation of gender-specific harm reduction interventions</p> <p>2. Mainstream harm reduction interventions for women who inject drugs</p> <ul style="list-style-type: none"> • Introduce/expand and integrate gender-specific elements (see table 1) within all harm reduction services, including in prisons and pre-trial detention centres. • Develop specific guidelines, indicators and targets that address the needs of women who inject drugs with regard to harm reduction services, sexual and reproductive health, pre- and post-natal care and other key interventions (as listed in columns 1 and 2 of table 1). • Prison systems should provide access to the Comprehensive Package of harm reduction interventions and health services equivalent to those available in the community, including during pre-trial detention, and ensure that no interruptions of ART and OST occur in any settings associated with detention (including pre-sentencing). • Provide sexual and reproductive health care, psychosocial support and other forms of gender-sensitive care in women's prisons and pre-trial detention centres. <p>3. Strengthen capacity and increase resources</p> <ul style="list-style-type: none"> • Establish functional working partnerships and policy harmonization across all relevant stakeholder ministries, including justice, corrections, health, women's affairs and social welfare. Such partnerships should include the non-governmental sector as well, including community-based organizations that |
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| | <p>focus on gender equality, harm reduction services and women’s health.</p> <ul style="list-style-type: none"> • Train harm reduction service staff to deliver gender-specific services. • Ensure that law enforcement training curricula and health-care staff training curricula include materials on the needs and rights of women who inject drugs, stigma reduction and appropriate referrals to harm reduction services. • Allocate resources to introduce and expand gender-specific harm reduction service provision for women who inject drugs. • Integrate gender analysis into policy and programme planning and monitoring and evaluation frameworks and build capacity to address gender inequalities faced by women who inject drugs. <p>4. Create an enabling policy environment</p> <ul style="list-style-type: none"> • Ensure that HIV policy and programme planning are in line with international guidance and protocols, including human rights mechanisms. • Legislation, procedures, policies and practices should be reviewed to determine if they have a negative impact on women. Those found lacking should be modified in order to ensure that women are treated fairly by health, welfare, law enforcement and criminal justice systems. For example, drug use status should not be used as a criterion for loss of child custody or access to health and social services. • Involve and support organizations representing women who inject drugs in programme design, implementation, monitoring and evaluation. • Effective and humane approaches should be considered, including diversionary measures, sentencing substitutes and decriminalization of drug use. • Implement and enforce measures aimed at preventing violence and abuse, including sexual violence, both in society overall and within prisons specifically |
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UN Commission on Narcotics & Drugs

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| <p>Commission on Narcotic Drugs (CND), resolution 55/5, 16 March 2012)</p> | <p>2: Encourages Member States to integrate essential female specific services in the overall design, implementation, monitoring and evaluation of policies and programmes addressing drug abuse and dependence, where needed.</p> |
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| CND Resolution 55/5 | <p>3: Recommends that Member States consider and accommodate the specific needs of drug dependent parents, including child care and parental education.</p> <p>4: Also recommends that Member States, in designing, implementing and evaluating integrated drug prevention and treatment and HIV prevention programmes, take into account the needs of women who have experienced sexual and other violent trauma related to drug abuse</p> |
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