**Submission by the United Nations Development Programme**

**in response to the call for input “Drug policies and responses: a right to health framework on harm reduction” by the Special Rapporteur on the highest attainable standard of physical and mental health**

New York, 15 November 2023

**Background and strategic framework:**

By adopting Agenda 2030 and the Sustainable Development Goals (SDGs), UN Member States committed, *inter alia*, to end the AIDS and tuberculosis as public health threats by 2030 as well as to combat hepatitis and other communicable diseases, while leaving no one behind. Currently people who use drugs are seven times more likely to acquire HIV compared to adults of the general population and are disproportionately affected by tuberculosis, viral hepatitis and other co-infections ([UNAIDS, 2023](https://thepath.unaids.org/wp-content/themes/unaids2023/assets/files/2023_report.pdf)). Currently, 109 countries, a little more than half of the countries worldwide, refer to harm reduction in their policy documents. Only 88 implement opioid agonist therapy (OAT), and just ten countries worldwide operate needle and syringe programmes (NSP) in prison ([IDPC, 2023](https://hri.global/publications/global-state-of-harm-reduction-2023-update-to-key-data/)). With the [2021 Political Declaration](https://www.unaids.org/sites/default/files/media_asset/2021_political-declaration-on-hiv-and-aids_en.pdf) on HIV and AIDS UN Member States committed to increasing national leadership, resource allocation and other evidence-based enabling measures for proven HIV combination prevention, including, among other measures, harm reduction, in accordance with national legislation. The [Global AIDS Strategy (2021-2026)](https://www.unaids.org/sites/default/files/media_asset/global-AIDS-strategy-2021-2026_en.pdf) has a priority action to intensify and redouble efforts to scale up comprehensive harm reduction for people who inject drugs in all settings, including NSP, OAT, medication used to block the effects of opioid overdose, and interventions for alcohol and non-injecting drug use. Drugs and drug policies also have significant development dimensions: innovative, rights-based approaches have proven to yield better and more inclusive, health, social and development outcomes ([UNDP, 2015](https://www.undp.org/publications/addressing-development-dimensions-drug-policy), [2019](https://www.undp.org/sites/g/files/zskgke326/files/publications/Development_Dimensions_of_Drug_Policy.pdf)).

The success of these strategic commitments is largely pre-determined by the removal of punitive law and policy norms and the presence and implementation of enabling legislation, policies and practices. The [Strategic Plan of UNDP (2022-2025)](https://www.undp.org/sites/g/files/zskgke326/files/2021-09/UNDP-Strategic-Plan-2022-2025_1.pdf) for instance calls for rights-based approaches centred on empowerment, inclusion, equity, human agency and human development to ensure that no one is left behind. Similarly, the [UNDP HIV and Health Strategy (2022-2025)](file:///C%3A//Users/Boyan.Konstantinov/Downloads/UNDP-Connecting-the-Dots-Towards-a-More-Equitable-Healthier-and-Sustainable-Future-V2-15.pdf) focuses on reducing inequalities and exclusion that affect health, as well as on promoting effective and inclusive governance for health. Recommendations for removing of punitive norms and adopting enabling legislation and policies, including on harm reduction have been made by independent bodies such as the [Global Commission on HIV and the Law](https://hivlawcommission.org/report/), as well as the [Global Commission on Drug Policy](https://www.globalcommissionondrugs.org/reports/the-war-on-drugs-and-hivaids). The [UN System Common Position on Drugs](https://unsceb.org/sites/default/files/2021-01/2018%20Nov%20-%20UN%20system%20common%20position%20on%20drug%20policy.pdf) calls for promoting increased investment in measures aimed at minimizing the adverse public health consequences of drug abuse - harm reduction, as well as for alternatives to conviction and punishment in appropriate cases, including the decriminalization of drug possession for personal use. While globally we see some developments towards decriminalization of drug use and personal possession of small quantities of drugs, for personal use, punitive regimes remain paramount with 145 countries still criminalizing the use or possession of small number of rugs (UNAIDS 2023). There is a need to invest more efforts and more resources towards moving to decriminalization of drug use as called for by the UN System Common Position.

**Country examples:**

Global evidence shows that removal of punitive norms and focus on evidence-informed, health-based approaches to drug use, including in harm reduction, yields results. Twenty-two years ago, **Portugal** ceased to criminalise any drug use. People who use drugs remain subject to administrative charges that usually result in a referral to a regional Commission for the Dissuasion of Drug Addiction (CDT). CDT members are health, legal and social-work professionals who assess health risks and provide people who use drugs with access to a spectrum of services. Ten years after decriminalisation, drug use was lower in in the general population than in 2001. The combined effects of an evidence- and rights-based drug policy and significant investments in harm reduction in Portugal have drastically reduced the number of new HIV diagnoses due to drug injection – from 50% of all such diagnoses in the European Union in 2001, to less than 2% in 2019.

Following a legal environment assessment in 2021-2022, supported by UNDP, **Côte d’Ivoire** reformed its 1988 Drugs Act and introduced the “therapeutic injunction”. This is a new approach to the problems of drug use which stipulates that the user is not a delinquent but rather a person who should receive appropriate treatment and alternatives to imprisonment. The penalty for imprisonment for drug use has also been reduced.

Since 1994, the Constitutional Court of **Colombia** has gradually decriminalised the possession of narcotic drugs for personal use and, the use of narcotic drugs, after ascertaining that the results of previous enforcement activities did not justify the limitations on individuals’ constitutional rights. In 2019, the Court cited the UNDP-led International Guidelines on Human Rights and Drug Policy, showing this shift to a human rights-based approach.

**Ghana**'s Narcotics Control Commission Act 2020 (Act 1019) aims to address drug use and dependence as a public health issue rather than criminal act, shifting the focus towards treatment and rehabilitation rather than the criminalization and incarceration for minor drug offenses. Under this new law, the penalty for drug use is a fine ranging from the equivalent of US$ 200-500, instead of a prison sentence as previously prescribed. Ghana’s law is an incremental progress towards decriminalization and, importantly, allows now allows judges to direct people who use drugs into health services such as harm reduction, treatment and rehabilitation. UNDP, OHCHR and the University of Essex supported a national dialogue on rights-based approaches to drugs in Ghana, including the use of the Human Rights and Drug Policy Guidelines, in late 2022.

The COVID-19 pandemic was initially associated with significant challenges in delivering HIV services, including harm reduction. It also led to some good practices, such as methadone take-home flexibilities, which did not cause diversion of methadone to the secondary markets as originally feared but instead facilitated access to harm reduction, reduced the risk of contracting COVID-19 and ultimately led to recommendations to extend take home policies as effective and cost-efficient. ([Krawczyk et al. 2023](https://www.thelancet.com/journals/lanpub/article/PIIS2468-2667%2823%2900023-3/fulltext))

**UNDP’s engagement:**

As a founding co-sponsor of UNAIDS, under the Joint Programme’s division of labour, UNDP convenes the work on law and policy reform in HIV responses, including on reform of drug laws and policy. UNDP also co-convenes the work on key populations accessing HIV services, including prevention services such as harm reduction. In 2022, as the principal recipient of 29 Global Fund grants, covering 21 countries and two regional programmes, UNDP has served 992,539 representatives of key populations including 86,245 people who use drugs and has provided 326 people with OAT, including in challenging legal and operational environments.

In alignment with its UNAIDS mandate and in supporting countries to implementthe recommendation of the Global Commission on HIV and the Law, UNDP has worked with partners such as the University of Essex to develop the [International Guidelines on Human Rights and Drug Policy](https://www.undp.org/publications/international-guidelines-human-rights-and-drug-policy),. The guidelines have been endorsed by the Office of the UN High Commissioner for Human Rights (OHCHR), UNAIDS, and the World Health Organization (WHO). They are applied globally including in countries such as Albania, Brazil, Colombia, as well as by the Council of Europe’s Pompidou Group and were referred to by UN Human Rights Council. The Guidelines reconcile human rights obligations with the provisions of the three drug conventions and provide opportunities for UN Member States to shape their laws and policies so as to allow rights-based and evidence-based approaches to drugs as called for by the UN System Common Position on Drugs. The Guidelines call for the repeal, amendment, or discontinuation of laws, policies, and practices that hinder access to controlled substances for medical purposes and harm reduction services. They emphasize the right to health, including voluntary access to harm reduction services, facilities, and information. They also outline specific actions that states should take, such as ensuring adequate funding for harm reduction services, developing evidence-based interventions to minimize health risks related to drug use, removing age restrictions on access to services, and protecting people seeking medical assistance for drug-related incidents from criminal prosecution.

In 2023, UNDP started implementing the "Partnering to Support UN Member States to Implement Rights-Based Approaches to Drug Policy in Line with the UN Common Position on Drugs" initiative. The three-year initiative, running from 2023 to 2026, is supported by the Open Society Foundations (OSF) and is being implemented in partnership with OHCHR and UNAIDS, along with the University of Essex and in consultation with the UN Office on Drugs and Crime (UNODC), WHO, UN country structures, governments, and community organizations. The initiative aims to support the implementation of evidence-informed, rights-based drug policies and contribute to implementing the UN System Common Position. The project, will convene country leaders, enhance country capacity in implementing the International Guidelines on Human Rights and Drug Policy, engage communities and civil society, and advocate for the development dimensions of drug policy, align with the objectives of the Common Position. UNDP's extensive country presence, broad development mandate, membership in the UNODC-led Interagency Task Team to support countries in implementing the Common Position, and role in UNAIDS further reinforce its capacity to lead integrated approaches to supporting drug law and policy reforms that leave no one behind.