

DRUG USER PEACE INITIATIVE
VIOLATIONS OF THE HUMAN RIGHTS
OF PEOPLE WHO USE DRUGS

drug war
peace



Drug User Peace Initiative

Violations of the Human Rights of People who Use Drugs

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Introduction: the Universality of Human Rights

“All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.” (Article 1 of the *Universal Declaration of Human Rights*, 1948)

The United Nations’ *Universal Declaration of Human Rights* is just that: the declaration is universal. Nobody is exempt. These rights apply to everybody.

Yet there are some groups for whom human rights do not appear to be even considered when formulating and applying law and policy. People who use illicit drugs¹ are one such group. People who use drugs have their human rights violated systematically and endemically, and these human rights violations have grave impacts on wellbeing and health. In addition to the direct impacts of these human rights violations, they increase vulnerability to blood-borne infections such as HIV and hepatitis B and C.

“Published work documents widespread abuses of human rights, which increase vulnerability to HIV infection and negatively affect delivery of HIV programmes. These abuses include denial of harm-reduction services, discriminatory access to antiretroviral therapy, abusive law enforcement practices, and coercion in the guise of treatment for drug dependence.” (Jürgens et al., 2010: 475)²

People who use drugs make up a considerably hidden population due to stigma, discrimination, social exclusion, and criminalising laws: often, people who use drugs need to remain hidden in order to survive. It is therefore impossible to categorically document all of the human rights violations experienced by people who use drugs. It is clear, however, that abuses of the human rights of people who use drugs are extensive and multiple. In this document, INPUD highlights some of the most prevalent and serious violations.

1 ‘Drug use’ should be taken to refer to the non-medically sanctioned use of psychoactive drugs, including drugs that are illegal, controlled, or prescription.

2 Jürgens, R., Csete, J., Amon, J. J., Baral, S., and Beyrer, C., 2010, People who use drugs, HIV, and human rights. *The Lancet* 376: 475-485
Jürgens et al.’s literature review of human rights violations of people who use drugs concisely details many such human rights violations. This important resource is referred to throughout this paper.

A Crime to Exist

Violations of Bodily Integrity and Arbitrary Arrest

“Everyone has the right to life, liberty and security of person”, states the *Universal Declaration of Human Rights*. People who use drugs frequently have their security of person and bodily integrity violated.

In most countries, possessing drugs is criminalised. This effectively criminalises people who use drugs themselves, and in some countries it is illegal to even have drugs in one’s bloodstream: it is illegal to *be* a drug user. People who use drugs are therefore inherently vulnerable to police interference and harassment, being publicly searched, being subjected to invasive strip and cavity searches, being arrested, and being imprisoned.

The world over, police stop, detain, and arrest people simply for appearing as if they use drugs; needless to say, this process is entirely arbitrary and discriminatory (the racist dynamics of this are discussed below). People are arrested for possessing needles, and/or their injection paraphernalia is destroyed by police when it is discovered. People who inject drugs are singled out due to visual signs of having injected, and people who use drugs are stopped simply for looking as if they may be ‘under the influence’ of a psychoactive drug.

INPUD stresses that these human rights abuses are systemic, and occur also in high-income countries: for example, in Sweden – one of the world’s most wealthy countries, frequently perceived as a liberal welfare state – police can and do stop people who they think may have taken illicit drugs. Those who are stopped have their bodily integrity violated through forced blood and/or urine testing in police stations.

People who use drugs are therefore routinely subject to detention simply for existing in society. Though Article 9 of the UN’s *International Covenant on Civil and Political Rights* states that “No one shall be subjected to arbitrary arrest or detention”, police are able to arrest and detain people who use drugs without following the same processes that many other citizens enjoy. A constant concern about police harassment, violence, and arrest results in rushed drug use and injections, as well as decreased use of harm reduction services such as needle and syringe programmes (discussed below).

A War on Drugs; a War on People of Colour and the Poor

The *Universal Declaration of Human Rights* emphasises that:

“Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

However, violations of the rights of people who use drugs are not perpetrated symmetrically. Enforcement of drug control legislation and prohibition has notably come to disproportionately impact some groups. Since police are permitted to use their discretion in harassing people on the suspicion that they use drugs, institutional racism informs who is harassed. The London-based organisation, Release, notes in its recent publication, *The Numbers in Black and White* (2013), that black and Asian people are considerably more likely to be stopped and searched by the police than white people in the UK. Black people, the report notes, are searched for drugs at a rate six times higher than that of white people, and the areas with the highest levels of deprivation experience the highest extent of police stopping and searching people. What is so striking is that not only is the stop-and-search rate racist, but that black people are six times more likely than white people to be arrested for drug offences, and white people are more likely to be let off with

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a 'caution' notice. Far more black people enter the criminal justice system than white people. The same is the case in other countries, such as the US, where racial profiling of black and Latin American people has led to the disproportionate incarceration of these respective groups for drugs offences.

"The 'War on Drugs' has distinctly racial impacts and results in the disproportionate incarceration of African Americans not in proportion to their drug use."
(Johnson, 2001: 71)³

"It is evident from these figures that the policing of drugs is an important driver of ethnic disparities in stop and search across England and Wales"
(Eastwood et al., 2013: 22)⁴

Police harassment of those who are suspected of drug-related offences is not only racially motivated, but discriminates against young people and those who are economically marginalised and disenfranchised:

"poorer communities, especially young people in these communities, are subject to more intensive policing than areas that are considered more affluent" (Ibid.: 26)

The so-called 'war on drugs' is therefore a lens through which wars on people of colour, on young people, and on the poor are fought. It is clear that in the context of prohibition and endemic prejudice on the part of those who enforce the law – the police – everyone has not equally enjoyed all the rights and freedoms set forth in the *Universal Declaration of Human Rights* "without distinction of any kind".

Imprisonment and Forced Labour - Drug Detention Centres

People who use drugs and people with drug dependencies are frequently viewed as pathological and unable to exercise agency or self-determination in their decision to use or not use drugs.

These discriminatory, disempowering, and widely-held perspectives have resulted in the incarceration of thousands of people who use drugs in forced 'treatment' centres.

Again, this is a violation of the human right of people who use drugs not to be subject to arbitrary detention. Far from actually offering helpful services to people who use drugs, these centres operate to imprison people in little more than labour camps without due legal process or trial.

Tens of thousands of men, women, and children are incarcerated in these camps in Vietnam, and their 'treatment' appears to consist entirely of forced labour for below-market wage. Similarly, in China people arrested for drug offences can be incarcerated in similar centres without due process, and are forced to work unpaid.⁵ Despite the human right that nobody "shall be held in slavery or servitude", people who use drugs are subject to conditions that essentially amount to slavery or bonded labour in the guise of treatment.

People who are interned in these camps are subject to violence and torture, including electric shocks and beatings. In Vietnam, HIV prevalence is thought to be between 15 and 60%, and inmates do not receive antiretroviral therapies (or, for that matter, opiate substitution, blood-borne infection prevention interventions such as needle and syringe programmes, or STI

³ Johnson, K.R., 2001, The Case For African American and Latina/o Cooperation in Challenging Race Profiling in Law Enforcement. *National Association for Chicana and Chicano Studies Annual Conference*

⁴ Eastwood, N., Shiner, M., and Bear, D., 2013, *The Numbers In Black And White: Ethnic Disparities in the Policing and Prosecution of Drug Offences in England and Wales* (Release: London)

⁵ Jürgens, R. et al., 2010, People who use drugs, HIV, and human rights. *The Lancet* 376: 475-485

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prevention such as condom provision), thus they are denied their human right to health. The fact that these centres in Vietnam have their roots in the 1970s 're-education through labour' camps for sex workers and people who use drugs⁶ is reminiscent of the Nazi slogan 'Arbeit macht frei' (work makes [you] free), placed at the entrance of several concentration camps.

Large-scale escapes serve to highlight the extent to which these camps are non-consensual and the dire conditions from which people attempt to flee. One such escape took place recently, in September 2014: hundreds of people escaped from Gia Minh Centre, Vietnam, with one individual noting that escapees wanted to demand better policy.⁷

Torture and Execution

In violation of Article 5 of the *Universal Declaration of Human Rights*, it is clear that **people who use drugs are subject to torture, and cruel and degrading treatment** in these camps.

Torture of people who use drugs is not limited to these forced 'treatment' centres. Police have been noted to interrogate individuals experiencing drug withdrawal; this has been recognised as a form of torture and yet this violation of the rights of people who use drugs continues.⁸ Beatings and sexual abuse are also noted as being perpetrated by guards against people who use drugs in custody. In China, people who use drugs are subject to brutal aversion therapies, including being given electric shocks whilst viewing images of drug use.⁹

People who use drugs are not only tortured, but are also executed for drug offences: 32 states retain the death penalty for drug offences.¹⁰ This is not only the case for offences such as drug trafficking or dealing: while in some countries crimes such as drug possession may not result in criminal proceedings, in other states they can be punishable by death.

"Of the estimated 64 countries that retain the death penalty, half apply it to drug offences, including many that are non-lethal—eg, simple possession of drugs. Hundreds of people have been executed for drug-related offences in several countries" (Jürgens et al., 2010: 476)¹¹

Many executions are extrajudicial. 2,200 people were killed by the police in Thailand in 2003, in an attempt by the Thai government to make Thailand a drug-free state. Many of those killed did not use drugs, let alone have any association with drug trafficking (ostensibly the key ambition of the crackdown).¹² The so-called 'war on drugs' has had a catastrophically high death toll. In Mexico alone, tens of thousands of people have been killed in drug-related violence since military assaults on drug cartels began.

Lack of Healthcare and Service Provision

Lack of Harm Reduction

The human right to the highest attainable level of health applies to people who use **drugs, who require services that reduce the harms that can be associated with drug use.**

⁶ Vietnam: Torture, Forced Labor in Drug Detention. *Human Rights Watch*, 7 September 2011, available at <http://www.hrw.org/news/2011/09/07/vietnam-torture-forced-labor-drug-detention> (last accessed 17 September 2014)

⁷ Hundreds of Vietnam drug addicts escape rehabilitation. *BBC News*, 15 September 2014, available at <http://www.bbc.co.uk/news/world-asia-29201931> (last accessed 17 September 2014)

⁸ Center for Human Rights & Humanitarian Law & Anti-Torture Initiative, 2014, *Torture in Healthcare Settings: Reflections on the Special Rapporteur on Torture's 2013 Thematic Report*, available at <http://antitorture.org/torture-in-healthcare-publication> (last accessed 22 September 2014)

⁹ Jürgens, R. et al., 2010, People who use drugs, HIV, and human rights. *The Lancet* 376: 475-485

¹⁰ Gallahue, P. and Lines, R., 2010, *The Death Penalty for Drug Offences: Global Overview 2010* (London: Harm Reduction International)

¹¹ Jürgens, R. et al., 2010, People who use drugs, HIV, and human rights. *The Lancet* 376: 475-485

¹² Ibid.

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Needle and syringe programmes and opiate substitution programmes are examples of essential services.

In spite of the universality of human rights, global prohibition has led to staunch opposition to targeted service provision and harm reduction.

Globally, less than 10% of people who require harm reduction services have access to them.¹³ People who inject drugs receive an estimated two needles and syringes per month and only around 8% receive opiate substitution therapy.¹⁴ Arguments used in opposition to harm reduction include the claim that harm reduction will encourage drug use, increase the number of people who use drugs and the amount of drugs that people use, and will discourage people from ceasing their drug use. Examples include arguments against needle and syringe programmes, and against drug consumption rooms. These arguments are totally unfounded,^{15,16} and the lack of harm reduction that they frequently result in violates the human rights of people who use drugs.

Requirements to register at harm reduction services can act as a disincentive to seeking service provision. Concerns about judgmental and/or discriminatory interactions with staff or the police act as further disincentives. The vast majority of states which *do* provide harm reduction services in the community fail to provide them in closed settings such as prisons or in pre-trial detention, resulting in needle sharing and high levels of incidence of blood-borne infections such as HIV and hepatitis C. Furthermore, young people who use drugs are frequently excluded from harm reduction services and education initiatives.

Many states, including high- and middle-income countries, continue to refuse to implement harm reduction interventions. As the Global Commission on Drug Policy reported (2012: 2):

“a number of specific countries, including the US, Russia and Thailand, ignore scientific evidence and World Health Organization recommendations and resist the implementation of evidence-based HIV prevention programs – with devastating consequences”¹⁷

Lack of Pain Management Medication

Prohibition has not only resulted in an opposition to harm reduction. Huge numbers of people suffer moderate to severe pain that could easily be mitigated.¹⁸ This is due to generalised opposition to psychoactive drugs *per se*. This has resulted in a lack of provision of pain-relieving drugs such as opiates and ketamine. The World Health Organisation estimates that five billion people live in such contexts.¹⁹

13 Ibid.

14 Mathers, B. M., et al., 2010, HIV prevention, treatment, and care services for people who inject drugs: a systematic review of global, regional, and national coverage. *The Lancet* 375, 9719:1014-1028

15 World Health Organization (WHO), 2004, *Effectiveness of Sterile Needle and Syringe Programming in Reducing HIV/AIDS Among Injecting Drug Users* (Geneva:WHO)

16 Hedrich, D., Kerr, T. and Dubois-Arber, F., 2010, Drug consumption facilities in Europe and beyond, in *European Monitoring Centre for Drugs and Drug Addiction, Harm reduction: evidence, impacts and challenges*, ed. Rhodes, T. and Hedrich, D.: 305-331 (Luxembourg: Publications Office of the European Union)

17 Global Commission on Drug Policy, 2012, *The War on Drugs and HIV/AIDS – How the Criminalization of Drug Use Fuels the Global Pandemic*, available at <http://www.globalcommissionondrugs.org/reports> (last accessed 28 June 2012)

18 Center for Human Rights & Humanitarian Law & Anti-Torture Initiative, 2014, *Torture in Healthcare Settings: Reflections on the Special Rapporteur on Torture's 2013 Thematic Report*, available at <http://antitorture.org/torture-in-healthcare-publication> (last accessed 22 September 2014)

19 World Health Organization (WHO), 2009, *Access to Controlled Medications Programme – Improving Access to Medications Controlled under International Drug Conventions*, available at http://www.who.int/medicines/areas/quality_safety/ACMP_BrNoteGenr_EN_Feb09.pdf (last accessed 17 September 2014)

Lack of Antiretroviral Coverage

Huge numbers of people who use drugs and are living with HIV do not have access to the antiretroviral therapies (ART) they require. We have already seen that access to these life-saving treatments is denied in drug detention centres. ART coverage for people who use drugs living with HIV is around 4% globally, and in some countries is less than 1%.²⁰ In the countries that collectively account for around half of people who inject drugs who are living with HIV, people who inject drugs are less likely to receive antiretrovirals than their non-drug using counterparts.²¹

Interference with Families of People who Use Drugs

Everybody has the right not to suffer arbitrary interference with their family. People who use drugs suffer such interference frequently. The state, police, and social services becoming aware of an individual's drug use can result in domestic intrusions, confrontations with social services, and losing child custody. **Since people who use drugs are so heavily and universally demonised and stigmatised, they are often assumed to be unfit and/or incapable parents.**

Not only do people who use drugs risk losing custody of their children when their status as a drug user becomes known to the authorities, but we are seeing increasing prioritisation of the rights of foetuses over those of pregnant women who use drugs. These women are accused of endangering their foetuses due to their drug use. Far from improving the health of either foetus or mother, these interventions serve to increase stress, social exclusion, and marginalisation, and can act as a strong disincentive for women to access healthcare or service provision.

“The threat of punitive responses to pregnancy creates a climate of mistrust, drives pregnant women away from prenatal care, drug treatment, and even harm reduction services for fear of reporting, arrest, or loss of child custody. It also foments uncertainty among medical professionals as to their duty to protect patient confidentiality. The presence of police and prosecutors disrupts important medical care that is already often difficult to access.” (INPUD et al., 2014: 4)²²

Conclusions: Moving Forward

“[...] many of these violations also have a negative effect on the health of people who use drugs and the communities in which they live. They displace people who use drugs from communities, thus preventing them from seeking and using health and social services. They foster prejudicial attitudes towards people who use drugs, rather than providing understanding and assistance, and deprive them of essential HIV prevention and treatment. For women, they reinforce complex and intertwined subordination on the basis of both gender and status as a person who uses illicit drugs” (Jürgens et al., 2010: 482)²³

People who use drugs can rarely rely on access to the service and healthcare provision which is their human right. People who use drugs cannot rely on not being arbitrarily detained, harassed, abused, arrested, or incarcerated. People who use drugs are subject to violations of their bodily integrity, to torture, to compulsory labour camps masquerading as ‘treatment’, and to execution. People who use drugs have their family lives interfered with and disrupted, lose custody of their

20 Mathers, B. M., et al., 2010, HIV prevention, treatment, and care services for people who inject drugs: a systematic review of global, regional, and national coverage. *The Lancet* 375, 9719:1014-1028

21 Jürgens, R. et al., 2010, People who use drugs, HIV, and human rights. *The Lancet* 376: 475-485

22 International Network of People Who Use Drugs (INPUD), International Network of Women who Use Drugs (INWUD), the Women and Harm Reduction International Network (WHRIN), National Advocates for Pregnant Women (USA) (NAPW), SisterReach, the Sexual Rights Initiative, Family Law & Cannabis Alliance (USA) (FLCA), and Native Youth Sexual Health Network, 2014, *Universal Periodic Review of United States of America 22nd Session*, available at http://www.inpud.net/INWUD_Joint_Shadow_Report_FINAL_DRAFT_2-1.docx (last accessed 18 September 2014)

23 Jürgens, R. et al., 2010, People who use drugs, HIV, and human rights. *The Lancet* 376: 475-485

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children, and are vilified as being incapable of looking after themselves and their loved ones. Women, people of colour, poor people, and young people who use drugs (or are suspected of using drugs) experience even more human rights violations and state-sponsored intrusions into their lives.

INPUD stresses that people who use drugs have the same rights as everyone else. Human rights of people who use drugs must be upheld, and governments are legally obliged to act. Human rights are universal, and are not to be enjoyed by only some members of society. If the human rights of people who use drugs are not respected, then improving the wellbeing, health, and social inclusion of people who use drugs will be impossible.

It is prohibition – as well as the stigma and discrimination that prohibition drives – which results in the human rights violations that have been discussed in this document. INPUD stresses that respecting the human rights of people who use drugs must go hand in hand with an end to prohibition of drugs and an end to the criminalisation and social exclusion of people who use them.



INPUD

The International Network of People who Use Drugs (INPUD) is a global peer-based organisation that seeks to promote the health and defend the rights of people who use drugs. INPUD will expose and challenge stigma, discrimination, and the criminalisation of people who use drugs and its impact on our community's health and rights. INPUD will achieve this through processes of empowerment and international advocacy.
www.inpud.net

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These papers of the *Drug User Peace Initiative* are part of INPUD's work under Bridging the Gaps – Health and Rights for Key Populations. In this programme, almost 100 local and international organisations have united to reach 1 mission: achieving universal access to HIV/STI prevention, treatment, care and support for key populations, including sex workers, LGBT people and people who use drugs. Bridging the Gaps is funded through the Netherlands Ministry of Foreign Affairs. Go to www.hivgaps.org for more information.

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INPUD Secretariat

Unit 2C05, South Bank Technopark

90 London Road

London

SE1 6LN

www.inpud.net

