

The key human rights challenges in addressing and countering all aspects of the world drug problem – A contribution by the Pompidou Group Secretariat

The Pompidou Group is the Council of Europe's International Cooperation Group on Drugs and Addictions, whose mission is to provide knowledge, support and solutions for effective, evidence-based drug policies through a human rights perspective. With the adoption of its revised statute in 2021, the Committee of Ministers of the Council of Europe entrusted the Pompidou Group to 'promote respect for human rights in the framing, adoption, implementation and evaluation of drug and addiction policies'.

Protected rights

Tackling the world drug problem requires a concerted effort addressing production, and trafficking of illicit drugs, poses several challenges to the protection of human rights. Policy makers, policy implementers and policy evaluators must be aware and mindful of the human rights dimension that should inspire their choices and decisions.¹ The key human rights to safeguard in addressing and countering all aspects of the world drug problem are:

Right to life: Drug-related violence is a serious human rights concern, especially in countries where drug trafficking is prevalent. Governments must take steps to ensure the safety and security of their citizens, while also respecting due process and the rule of law. The death penalty must be banned in all circumstances.

Right to health: Drug use can lead to a range of health problems, including a drug use disorder (DUD), overdose, and infectious diseases such as HIV and hepatitis. Governments must ensure that people who use drugs (PWUD) have access to comprehensive healthcare services, including prevention, treatment, harm reduction and recovery programs.

Right to privacy: Drug laws and policies often violate individuals' right to privacy, as law enforcement agencies may conduct searches, seizures, and arrests without proper legal authorization. Governments must ensure that any surveillance or monitoring activities are lawful, proportionate, and necessary to protect public safety.

Right to a fair trial: In a number of countries, drug laws and policies result in arbitrary detention, extrajudicial killings, and other human rights abuses. Governments must ensure that drug offenders are treated fairly and have access to legal representation, due process, and the presumption of innocence.

Right to freedom from discrimination: Drug laws and policies often discriminate against certain groups, including people who use drugs, ethnic minorities, and low-income communities. Governments must ensure that drug policies are based on evidence and do not unfairly target or stigmatize specific populations.

Prohibition of discrimination: The right to non-discrimination guarantees the enjoyment of rights and freedoms without discrimination on any grounds such as sex, race, colour,

¹ [Pompidou Group statement on bringing human rights into drug policy development, implementation, monitoring and evaluation, Pompidou Group, 2017](#), p. 4

language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status. This includes health status such as HIV/AIDS, tuberculosis and a drug use disorder.. Governments must take steps to address the underlying socioeconomic factors including poverty, inequality, and corruption.

Right to freedom of expression and freedom of assembly: Civil society participation, as an important element in the development, implementation and evaluation of its policies, programmes, projects and activities, is anchored in right to freedom of expression and the freedom of assembly. Civil society and NGOs are a prerequisite for the realisation of human rights, in particular through the promotion of public awareness and securing the transparency and accountability of public authorities. ²

Aligning policies with human rights

Overall, addressing and countering all aspects of the world drug problem requires a comprehensive approach that prioritizes human rights and balances public health and safety concerns with the protection of individual liberties and freedoms.

Respect for human rights, human duties and the rule of law is important for effective implementation of the international drug control conventions. Disrespect for them can hinder the ability of the criminal justice system to enforce the law, can lead to discriminatory and disproportionate responses to drug offenses and can undermine the conventions. A human rights-based approach means the incorporation of all applicable human rights standards into a specific policy and not merely addressing specific violations.³ In this context, it needs to be recalled that governments have obligations under international and national law to safeguard the fundamental standards of human rights and the rule of law.⁴

Drug control measures may be grouped according to whether they are targeting people who use drugs or drug producers, traffickers and suppliers. In both cases, governments have obligations under international and national legal instruments to safeguard fundamental standards of human rights and the rule of law, which apply to drug offenders. ⁵

Specific challenges

Practical policing and physical contact between law enforcement agents and suspected drug law offenders presents a risk of inappropriate, disproportional use of force, violation of human rights, as well as physical and mental harm and distress. Each of these elements is likely to have adverse health effects for victims. Violence and excessive use of force against people who use drugs have been reported in various countries, as have human rights violations, including extortion of suspected people who use drugs, forced detoxification and mandatory HIV testing.⁶

Harm reduction is grounded in justice and human rights – it focuses on positive change and on working with people without judgement, coercion, discrimination, or requiring that they stop using drugs as a precondition of support. Harm reduction improves not only the health of people who use drugs, but also that of their families, their immediate environment, and society in general and is based on a strong commitment to human rights. ⁷

The crucial principles of patient consent and medical confidentiality play a major role in treatment of DUD. Consent of the adequately informed patient – “informed consent” – is a

² [Human Rights and Drug Policies - International instruments and case law, Pompidou Group, 2021](#), p. 5

³ [Human rights in drug policy, a self-assessment tool, Pompidou Group, 2021](#), p. 5

⁴ [Covid-19 and people who use drugs, Pompidou Group, 2021](#), p. 25

⁵ [Costs and unintended consequences of drug control policies, Pompidou Group, 2017](#), p.8

⁶ *Ibid*, p. 34

⁷ [Intercultural responses to drug-related challenges for refugees and migrants, Pompidou Group, 2022](#), p. 26

prerequisite to any treatment. There is no place for compulsory treatment of PWDUD because this amounts to a violation of human rights and has been shown to lack efficacy.⁸

Withdrawal from psychoactive drugs without medical treatment can cause severe suffering and, particularly in acute withdrawal from benzodiazepines and alcohol, life-threatening conditions in need of hospital care. Not offering MAT amounts to malpractice and a human rights violation.⁹

People incarcerated for drug-related offences make up a large proportion of the prison population in many countries. The majority of convictions are for non-violent offences. As a result, an increasing number of countries are implementing alternatives to criminalisation and/or punishment to address health and human rights concerns. These alternatives are permissible and encouraged under the United Nations drugs conventions notably that of 1988, and constitute positive human rights practice.¹⁰

Serious concerns have been expressed about recent discriminatory behaviours towards people who use drugs, emerging in the wake of global financial and economic crises, resulting in stigma and social exclusion. The political and societal acceptance of dependence as a health condition a DUD no different from other chronic diseases, appears to be severely undermined by the social circumstances following austerity measures in countries in financial crisis.¹¹

In the light of the fact that availability, accessibility and quality of services are elements affected by economic crisis, and which create inequalities, thus aggravating health indices, immediate political action is called for to mitigate the impact of economic crisis and to provide essential services for people who use drugs under strict budgetary constraints.¹²

In this context it may be important rethink and reconfigure relationships between the government sector and civil society stakeholders. The aim of cooperation and joint action in partnerships should be to avoid duplication and waste, create synergies, maintain service quality and wide availability and accessibility, as well as cost control.¹³

Needed action

The Pompidou Group encourages governments to conduct a comprehensive human rights-based review in their country in line with the applicable policy cycle, which will serve to optimise results.¹⁴ In doing so, they can rely on a range of indicators, available from various sources issued by and with the help of organs such as the World Health Organisation (WHO), the Joint United Nations Programme on HIV/AIDS (UNAIDS), the UN Office on Drugs and Crime (UNODC), the UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, or the UN High Commissioner for Human Rights. To facilitate such a process the Pompidou Group has created a tool that allows for a self-assessment/ internal evaluation of drug policies and programmes with respect to human rights standards under existing legal instruments and also too, the work undertaken by UNODC, UNHCR, OHCH and other stakeholders. The [self-assessment tool on drug policy compliance with human rights standards](#) is also available as an [online application](#).

⁸ [Standards for treatment of people with drug use disorders in custodial settings, Pompidou Group, 2022, p. 13](#)

⁹ [Ibid, p. 18](#)

¹⁰ [Guidance paper on developing strategies for raising standards on drug treatment in the criminal justice system, Pompidou Group, 2022, p. 16](#)

¹¹ [Explanatory memorandum to the Athens Declaration on protecting public health by ensuring essential services in drug policy under austerity budgets, Pompidou Group, 2013, p.16](#)

¹² [Ibid, p. 14](#)

¹³ [Ibid, p. 18](#)

¹⁴ [Pompidou Group statement on bringing human rights into drug policy development, implementation, monitoring and evaluation, Pompidou Group, 2017, p. 5](#)