

Check against delivery



Statement by Tlaleng Mofokeng

**Special Rapporteur on the right of everyone to the
enjoyment of the highest attainable standard of physical
and mental health**

Harm reduction for sustainable peace and development

**Seventy-ninth session of the General Assembly
Third Committee**

New York
24 October 2024

Mr. President,
Distinguished delegates,
Colleagues,

I am honoured to be here today to present to you, at this **seventy-ninth session** of the General Assembly, my **fourth thematic report**, which focuses on Harm reduction for sustainable peace and development. I wish to express my gratitude to all stakeholders that have sent contributions to the mandate in preparation of this report.

My presentation takes place, as last year, in a very horrifying and challenging context. Thousands of people have been callously killed and the call to stop the genocide has not been fulfilled. The right to health and underlying determinants of health are attacked, including damages to health facilities in Gaza and recently in Lebanon. I continue to share in the collective rage and fury as we watch day after day horrific genocidal acts unfold and documented in real time in Gaza without any result from the international community and those in power to stop these atrocities and including in areas such as the Democratic Republic of Congo and Sudan with protracted conflict.

I reiterate that the practice of medicine is not a crime. Bombing hospitals and targeting health workers **is a violation of international law**. Despite the horrific images we have been witnessing this year, my hope is that world leaders will summon the necessary political, economic and diplomatic force to bring an urgent ceasefire so desperately needed. The dignity, physical and mental safety of the population must be guaranteed.

Mr. President,
Distinguished delegates,

The report I present to you today "**Harm reduction for sustainable peace and development**" builds on the well-established premise that health and human rights are mutually reinforcing frameworks, meaning that a human rights-based approach can actively contribute to – and at the same time benefit from – public health tools such as harm reduction.

The report explores **the model of harm reduction** as applicable to drug use, HIV exposure, transmission, and non-disclosure, abortion, same-sex relations, and sex work that are **central to sustainable peace and development**, spotlighting populations that are often stigmatized, criminalized and discriminated against to the detriment of their enjoyment of human rights.

In harm reduction, **there is no path to sustainable peace and development without the meaningful participation of populations** that face historic and ongoing forms of discrimination and marginalization, such as sex workers, women, LGBTIQ+ persons, Black people, Indigenous Peoples, migrant persons, persons living with HIV or hepatitis, persons with disabilities, persons in situations of homelessness or poverty, persons deprived of their liberty, and persons living in rural areas.

Preventing and redressing harm are aspirations that have long steered societies and their use of the law, including in the realm of health, where “do no harm” has been a guiding principle for thousands of years.

Harm can present itself in numerous ways. Sometimes, it stems from certain behaviours or substances, other times, it stems not

from the behaviours or substances themselves, but rather from how States address them (or not).

Mr. President,
Distinguished delegates,

The **social, political and commercial determinants** of health frameworks, with the considerations on substantive equality, can inform the normative content of the underlying determinants of health. The 2030 Agenda for Sustainable Development provides a clear framework of the connection between the different Goals for achieving the right to health while leaving no one behind.

The Pact for the Future, adopted last September stresses the need to protect the right to health, through universal health coverage, among others.

For the cases of **tobacco, alcohol, food, nutrition and environmental harms**, harm reduction means adequately and effectively **regulating corporate actors**. States and businesses have a responsibility to respect human rights, including the right to health.

Furthermore, corporations and pharmaceutical companies play a major role in the research and development of life-saving and life-improving medicines. Left unchecked, however, pharmaceutical companies have been shown to seek profit maximization at all costs, often to the expense of individual or public health.

Law and policy can themselves become a conduit to harm, by either enhancing or generating it **as in the criminalization of individual behaviours**. Criminalization often disproportionately affects individuals who have historically been

more vulnerable, in particular in cases of drug use, HIV exposure, transmission and disclosure, abortion, same-sex relations and sex work. Legal frameworks that are over reliant on criminal law has fuelled stigmatization and marginalization against individuals.

In the case of **drug use**, criminalization represents a barrier to people who use drugs from seeking health care, both in accessing medicines and establishing therapeutic relationships and services. Punitive drug laws and policies have also had a profoundly negative impact on minorities, women and girls, LGBTIQ+ persons, sex workers, migrants and people living with HIV/AIDS, among others.

Extensive evidence indicates that **HIV-specific criminalization** acts as a barrier to HIV prevention, diagnosis and treatment. HIV-specific criminalization further stigmatizes people who are living with HIV by creating a presumption of criminality that is solely connected to their health status.

Abortion care is safe, effective and not inherently harmful. The threat of being prosecuted or imprisoned can have a “chilling effect” in the provision of health care, including post-abortion care. The criminalization of abortion is associated with a lack of approved essential abortion-related medicines, including mifepristone and misoprostol, a shortage of supplies and with obstructions in training for health workers to provide abortion care and a reluctance of some health-care workers to offer such care.

Legal frameworks that criminalize **sex work** are based on the premise that the use of criminal law will successfully eradicate or diminish the sex industry. However, research consistently indicates that **criminalising sex work fails to do so, and**

negatively affects the health of sex workers. Further, **criminalization escalates health risks for sex workers**, as the fear of arrest leads to rushed transactions, riskier sexual practices, or encounters in secluded venues where they have less control.

The criminalization of **same-sex relations** exposes the LGBTIQ+ community to risks of arrest and deprivation of liberty, and contributes to hate-motivated violence, torture and ill treatment, across various settings, including those that are vital to health and the social determinants of health, such as hospitals and clinics, schools and places of employment.

Mr. President,
Distinguished delegates,

Harm reduction is a multisectoral and multilevel issue. Good governance, including participation, transparency and accountability are key factors for this process.

Rights-based approaches to health and harm reduction programmes demand that clear **accountability** mechanisms are in place for decisions, review, complaints and redress.

While commercial actors have long shown a preference for self-regulatory and co-regulatory approaches over direct Government regulation, such measures have been shown to lead to legal gaps and inconsistencies, making them less transparent and less effective, and there is a lack of mechanisms for adequate industry accountability.

Human rights mechanisms have indicated that the use of criminal law, particularly when it targets people seeking health services, can negatively affect public health.

Decriminalization emerges as the self-evident harm reduction approach and a regulatory option to mitigate harm and promote health.

Mr. President,
Distinguished delegates,

Harm reduction aligns with the right to health and related rights in the context of universal health coverage and the rights of those in situations of vulnerability, including conflict, health emergencies and climate change.

Humanitarian and emergency settings, including conflicts, pandemics, natural disasters and other crises **pose distinct threats and harms to health**. Less access to essential medicines, treatment centres, facilities damaged or inaccessible and lack of trained healthcare workers for the increased needs. Furthermore, crises are often used as a pretext to increase the policing or criminalization of already vulnerable or marginalized populations, often adding to, rather than mitigating, the harms of the crisis itself. Harm reduction for sustainable peace and development is a path to ensure **the dignity of people**.

Mr. President,
Distinguished delegates,

The report before you today also contains **good practices received from Member States and other stakeholders. The recommendations** I made should lead us on a path to create conditions that are conducive to a life of dignity of all people.

Thank you



Closing remarks by Tlaleng Mofokeng

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Sustainable Development Goal target 3.8 contains a call for Member States to achieve **universal health coverage (UHC)**, including financial risk protection, access to quality essential health-care services and access to safe, effective, quality and affordable essential medicines and vaccines for all. In line with the principle of leaving no one behind, **harm reduction services within models for UHC** are a key way to help ensure that many groups who are pushed to the fringes of society are not left behind.

Colonialism has played a role in ingraining harmful norms and policies into legal systems across the world, including criminalization in circumstances such as abortion, sex work, or same-sex relations, – one of the clearer manifestations of the looming power of States over individuals.

The global dominance of corporations, largely headquartered in the global North while operating in the global South, resembles neocolonialism that contributes to spreading harm by manufacturing and commercializing harmful products, including tobacco, alcohol, unhealthy foods, and environmental harms. Against these interwoven complexities of power and resulting harms, a human rights based approach to harm reduction is crucial to show the way forward.

Stigmatisation, criminalisation and discrimination are all public health issues because they contribute to negative health outcomes for individuals and communities by pushing people to the margins.

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Harm reduction should be integrated as part of UHC plans, incorporating comprehensive services that are accessible, affordable, acceptable and of quality.

Furthermore, abortion should be decriminalized and access to quality care should be guaranteed; all laws, policies and practices that criminalize sex work should be repealed and measures to ensure that sex workers' rights, including the right to health, are guaranteed should be taken; laws that criminalize HIV exposure, transmission and non-disclosure should be also repealed; and the use, possession, purchase and cultivation of drugs for personal use should be decriminalized.

States and other stakeholders should adopt, implement and monitor effective and evidence-based regulations to prevent health or environmental harms stemming from the use of products such as tobacco, alcohol and products with excess of sugar, salt or fats, which are often ultra-processed products. Enforce, through regulation, the expectation that all businesses must respect human rights throughout their operations.

Additionally, harm reduction services should be applied widely and be non-discriminatory, evidence-based, trauma-informed, gender- and culturally sensitive, and age-appropriate, focusing on the individual and steering away from "one-size-fits-all" approaches that are ineffective and often reproduce pre-existing power dynamics. Health-care personnel must be trained to deliver quality services, in line with universal health coverage and harm reduction, that respect and promote autonomy and self-determination.

In working toward sustainable peace and development, all stakeholders must incorporate human rights and harm reduction approaches through evidence-based, stigma-free legislations,

policies, programmes and practices linked with universal health coverage.

The compassionate and inclusive approach that guides harm reduction is essential to achieving good health for all. Harm reduction can be a model of integrated service delivery that centres the person, takes into account their intersectional vulnerabilities, and provides programmes that help them achieve better health, meet the unique needs of women, of people living in rural areas, people in prison, and people of African descent and Indigenous peoples around the world. And in doing that, they create worse health outcomes for these communities.

We also see this in the difference in the number and nature of harm reduction services available to people in high-income countries versus in low- and middle-income countries, and in the funds allocated to these services. These gaps are compounded by a lack of comprehensive, disaggregated data. If we are to achieve the right to health for all, we need to also urgently address this data deficit.

Decriminalization emerges as the self-evident harm reduction approach and a regulatory option to mitigate harm and promote health.

Thank you
