Statement by the UN expert on the right to health* on the protection of people who use drugs during the COVID-19 pandemic

In the current COVID-19 context, people who use drugs face unique needs and risks, due to criminalisation, stigma, discrimination, underlying health issues, social marginalisation and higher economic and social vulnerabilities, including a lack of access to adequate housing and healthcare. Treatment and harm reduction services should continue to be provided to them.

16 April 2020 - COVID-19 is now a global public health emergency posing unprecedented challenges, creating new vulnerabilities, and exacerbating existing ones. The situation presented by the COVID-19 pandemic requires countries to take extraordinary measures to protect the health and well-being of the population. COVID-19 will impact each country differently depending on the health infrastructure, the spread of the virus, the political, economic and social context, as well as the country's preparedness.

As COVID-19 spreads, all our efforts should be focused on slowing down its spread and ensuring that the most vulnerable people receive the protection and care they are entitled to. Preventing the spread of this virus requires outreach to all, and ensuring equitable and non-discriminatory access to information, prevention, medical care and treatment for all persons, irrespective of their citizenship, nationality or migratory status.

Everyone, without exception, has the right to life-saving interventions and this responsibility lies with the national authorities. It is essential that governments introducing measures to impede the spread of the COVID-19, undertake a range of additional actions to reduce the potentially negative impact such measures may have on people's lives.

In accordance with the World Drug Report 2019,[1] globally, some 35 million people, up from an earlier estimate of 30.5 million reported in 2016, are affected by drug use disorders and require treatment and harm reduction services. The latest available data indicates that the death toll has been also higher: 585,000 people died as a result of drug use in 2017. In the current COVID-19 context, people who use drugs face unique needs and risks, due to criminalisation, stigma, discrimination, underlying health issues, social marginalisation and higher economic and social vulnerabilities, including a lack of access to adequate housing and healthcare. Vulnerable groups of people who use drugs should be recognised as a high-risk population in order to mitigate the spread of the pandemic.

Access to Harm Reduction Services

Harm reduction services, including opioid agonist therapy (OAT), needle and syringe programmes (NSPs), the distribution of naloxone (a medicine that can reverse the effects of an opioid overdose), and overdose prevention sites are essential for the protection of the right to health of people who use drugs. In the COVID-19 emergency context, these should be acknowledged as key services and thus remain available, accessible, acceptable and of adequate quality without discrimination.

Harm reduction service providers should be recognised as workers providing key services and exceptional measures should be encouraged to ensure that they operate in a safe environment (including ensuring adequate personal protective equipment). Harm reduction services should reach people where they are, in a context of heightened isolation and lock down. The distribution of sterile

commodities should be supported via peer-to-peer (secondary) distribution and home delivery (to prevent further strain on national health systems) should be made available. Clients should have access to adequate personal protective equipment and essential services without discrimination and fear of harassment or repercussions. National authorities should provide necessary guidance to law enforcement authorities to permit the implementation of harm reduction services.

People who use drugs are vulnerable to HIV, tuberculosis (TB) and hepatitis, as well as overdose. Ongoing access to medicines - including anti-retroviral treatment (ART) for people living with HIV/AIDS, anti-TB drugs including second-line treatment, antiviral and interferon drugs for hepatitis, and naloxone - is essential in maintaining the health of vulnerable populations. States should consider adopting measures to ensure adequate production/import of these medicines and allow people who use drugs, harm reduction service providers, and health services to stock-up on medicines for HIV, TB, hepatitis and overdose reversal.

In the current COVID-19 emergency, exceptional budgetary measures may have to be adopted. Funding of harm reduction and related services, however, should be safeguarded. Additional funding may have to be made available to support exceptional measures for the provision of these services.

Access to Controlled Medicines

The availability and accessibility of controlled medicines must be safeguarded for the treatment of drug dependence, palliative care, including for older persons,[2] and other treatment. Compliance with complex procedural requirements for scheduled medicines may create barriers to supply of these medicines. In the current COVID-19 context, States should adopt the necessary measures to ensure that the international supply chains of these substances are not disrupted. As recently recommended by the International Narcotic Control Board, States should ensure the maintenance of sufficient buffer stocks of controlled substances to guarantee availability throughout the duration of the COVID-19 pandemic.[3] States should use simplified control procedures for the export, transportation, storage and provision of medicines containing controlled substances, in order to ensure people can maintain consistent access to these medicines, and avoid symptoms of withdrawal.

Women who Use Drugs

Around one third of all people who use drugs are estimated to be women. Women who use drugs are consistently reported to be at higher risk of HIV and hepatitis C infection. Available research also indicates that intimate partner violence is more commonly experienced by women who use drugs than women in the broader population. This phenomenon is likely to be exacerbated in a context of heightened isolation and stress.

It is thus essential that gender-sensitive harm reduction services, non-judgemental sexual and reproductive health services, and domestic violence services are kept operational, and equipped to remain effective. In this regard, States should implement the recommendations of the *Interim Technical Note on the protection from sexual exploitation and abuse during response to COVID-19.*[4]

Homelessness and people who use drugs

As people are being called upon to stay at home, it is vital that Governments take urgent measures to help people without adequate housing, including people who are homeless. Around the world, a large number of homeless people who use drugs are now facing additional challenges for the lock down and other strict emergency measures. There is an urgent need to take specific measures to ensure that social care and harm reduction services continue in the community for this specific population. In any circumstances, COVID-19 related criminal sanctions should not target vulnerable population of the society such as homeless people who use drugs. On the contrary, they should be protected from disproportionate or discriminatory targeting by law enforcement. Furthermore, States should consider implementing the recommendations of the COVID-19 Guidance Note on Protecting Residents of Informal Settlements.

Prisons and other detention settings, including compulsory drug rehabilitation Centres

Prisons and other places of detention are high-risk environments for the spread of infectious diseases. A disproportionate number of people who use drugs are imprisoned around the world due to criminalization of personal use and possession of drugs, including thousands on death row, in violation of international human rights law.

Some States have recently taken exemplary initiatives to reduce overcrowding in prisons and other detention settings by promoting early release and reducing the intake of prisoners, with the view to

protecting the health of prisoners and staff. All States should consider the early release of prisoners with health vulnerabilities (including those with HIV, hepatitis C, TB or drug dependence), prisoners with dependents, and those charged for minor and non-violent drug and other offences, while adequately planning to care for the health of those released.

Preparedness and response plans to COVID-19 adopted by prisons and other detention facilities should include targeted measures to safeguard the health of people who use drugs. In this connection, States should consider the *Interim Guidance Note on COVID-19: Focus on Persons Deprived of Their Liberty*.[5]

Thousands of people around the world are also held in public and private drug detention and rehabilitation centres, often on a compulsory basis, or pursuant to decisions of the drug courts and tribunals. As highlighted in the 2012 Joint UN Statement on compulsory drug detention and rehabilitation, these centres "raise human rights issues and threaten the health of detainees,"[6] In the context of the COVID-19 emergency, and in line with the International Guidelines on Human Rights and Drug Policy,[7] where compulsory drug treatment centres operate, States "should take immediate measures to close such centres, release people detained in such centres, and replace such facilities with voluntary, evidence-based care and support in the community." In particular, States should review the necessity and reasonableness of drug detention. Effective measures should be put in place, and adequately funded, to ensure that those released from prisons and other detention settings have continuity of care, access to adequate housing and healthcare in the community.

Emergency Powers and the Right to Health

Additional law enforcement powers may be put in place as part of the emergency response; and as exceptionally provided in the COVID-19 related emergency laws. Such powers should be carefully balanced against the right to health, as well as the right to privacy. Law enforcement powers should not be an obstacle to the promotion and protection of individual and public health. At the same time, increased surveillance provided by some emergency laws may further expose people who use drugs and other criminalised populations to law enforcement, and imprisonment, immediately or in the future. Lack of adequate safeguards regarding health data has already lead to public outcry and privacy harms in some countries which have attempted to use social media data to track drug users through geo-location in a COVID-19 situation. To prevent unnecessary intake of prisoners and unsafe drug consumption practices, moratoria should be considered on enforcement of laws criminalising drug use and possession.

Information and Participation

Relevant information on the COVID-19 pandemic and response should reach all, without exception. Information should include details on how the emergency impacts specific populations and on the risks faced by people who use drugs, and promote safe drug use practices. States should ensure that harm reduction information is available and accessible in a context of the increased COVID-19-related isolation. Against this backdrop, internet access is essential to ensuring that information reaches those affected both by the virus and measures to address the crisis. Governments should not resort to internet disruptions or shutdowns and should ensure the broadest possible access to internet service, and take steps to bridge digital divides.

(*)The expert: ***Dainius Pūras*** *(Lithuania) took up his functions as UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mentalhealth took up his functions as on 1 August 2014. Mr. Pūras is the Director of Human rights monitoring institute in Vilnius Lithuania, a professor of child and adolescent psychiatry and public mental health at Vilnius University and teaches at the faculties of medicine and philosophy of the same university. He is a medical doctor with notable expertise on mental health and child health.*
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NOTES

1/ https://wdr.unodc.org/wdr2019/prelaunch/WDR19_Booklet_1_EXECUTIVE_SUMMARY.pdf

2/ Report of the Independent Expert on the enjoyment of all human rights by older persons (A/HRC/30/43 on autonomy and care of older persons, para.86.

3/ https://www.incb.org/incb/en/coronavirus.html

4/ Created by the United Nations (UN) General Assembly resolution 46/182 in 1991, the Inter-Agency Standing Committee is the longest-standing and highest-level humanitarian coordination forum of the UN system, bringing together the executive heads of 18 UN and non-UN organizations to ensure coherence of preparedness and response efforts, formulate policy, and agree on priorities for strengthened humanitarian action. https://interagencystandingcommittee.org/system/files/2020-03/IASC%20Interim%20Guidance%20on%20COVID-19%20-%20Protection%20from%20Sexual%20Exploitation%20and%20Abuse.pdf

5/ https://interagencystandingcommittee.org/other/iasc-interim-guidance-covid-19-focus-persons-deprived-their-liberty-developed-ohchr-and-who

6/ https://www.who.int/hhr/JC2310_joint_statement_20120306final_en.pdf?ua=1

7/ https://www.undp.org/content/undp/en/home/librarypage/hiv-aids/international-guidelines-on-human-rights-and-drug-policy.html

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