



‘Welfare and control: The paternalism of support’

IDPC contribution to the upcoming report of the UN Special Rapporteur on extreme poverty and human rights

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Submitting organisations

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Introduction

1. This submission, made on behalf of IDPC, HRI and Youth RISE, summarises information collected from within IDPC’s network of Members and allies on the human rights implications monitoring and control that people in poverty are subjected to in the context of drug policy.

Child protection services: Lack of safeguards for people who use drugs

2. In many countries, any form of parental drug use is automatically considered as being harmful to children – and is used by State authorities to restrict parental rights, whether or not this benefits the rights and well-being of the child. This discriminatory practice against people who use drugs has severe negative effects on their ability to access social services.
3. In the **USA**, the child welfare system often treats drug use as a predictor of child abuse or neglect.¹ In many US states, parental drug use, even without any showing of harm to a child, is often a basis to terminate parental rights and is the second most common reason to remove a child from a home.²
4. Similarly, in **Portugal**, being ‘exposed to drug use’ is considered as ‘child neglect’. As a result, it is very common for women who use drugs not to resort to social services out of fear of child removal.³ The country has been convicted many times by the European Court of Human Rights for not respecting the right to respect of private and family life.⁴

5. In **Russia**, pregnant women registered or judged as using drugs reported having their children taken away from them in the maternity ward soon after birth.⁵
6. Pregnant and parenting people face particularly acute stigma and discrimination when accessing harm reduction and treatment services, despite evidence that parental drug use is best addressed by harm reduction.⁶ Deeply ingrained societal expectations of women play a crucial role in creating obstacles to harm reduction services for women who use drugs.
7. In **South Africa**, women often fear disclosing drug use because of the risk of stigma and social sanctions, which directly impacts their ability to access harm reduction services. Women who use drugs, including pregnant women, also face social stigma and discrimination from health professionals, including those involved in harm reduction services.⁷
8. In most of **Eastern Europe and Central Asia**, undergoing drug treatment means inclusion in a ‘drug user registry’, which in turn may be automatic grounds for losing custody of a child.
9. A similar practice was reported in **Poland**. In addition, with the exception of one abstinence-based treatment centre that admits mothers with children, parents deciding to enrol in an in-patient treatment programme must find a caretaker for their child for the duration of the treatment.⁸
10. **Belarus** is one of the most extreme cases, where children are deemed in a ‘socially dangerous situation’ if they are parented by a woman who either uses drugs or is undergoing opioid agonist therapy (OAT). In that case, a mark is put in the parent’s passport and medical record, resulting in increased stigma and discrimination, while the child is taken away from the family by social services. Parents are then required to pay monthly fees to the State, and the child can only be returned to the mother if the State deems that the mother can provide adequate housing and has a sufficient income.⁹

Conditionalities associated with cash transfers for people who use drugs

11. The UN Special Rapporteur on the right to health has concluded that the criminalisation of drug use and possession can create ‘considerable obstacles in obtaining employment’ and affected people ‘may lose access to government benefits, such as basic income assistance, student loans, public housing and food assistance, or may face difficulties travelling abroad’.¹⁰ In several countries, public authorities or service providers have established formal policies that exclude people who use drugs from accessing social protection, from public housing to disability benefits.¹¹

Exclusion from public housing

12. The Guidelines for the Implementation of the Right to Housing stress that ‘States should provide access to safe, secure and dignified emergency accommodation, with necessary supports and without discrimination on any grounds, including... dependence on alcohol or drugs, criminal record...’.¹² And yet,

people who use drugs or who have a history of incarceration face discrimination in access to housing.

13. In the **USA**, public housing authorities that receive Federal assistance are required to include a clause in lease agreements¹³ that allows them to terminate a tenancy if they suspect that the person has engaged in a drug offence, including drug possession for personal use. According to the Drug Policy Alliance, 4.8 million households are subject to this regime, most of them earning less than USD 20,000 a year.¹⁴ This practice leaves severely limited options for parents who use drugs or have a criminal record for a drug offence to care for their families, further isolating and stigmatising them.
14. In **France**, entire families have been evicted from social housing by local authorities when one of their members was sentenced for drug offences.¹⁵
15. In the **UK**, the Anti-social Behaviour, Crime and Policing Act 2014¹⁶ allows for the closure of premises, including residential housing, for a period of 3-6 months where there is 'nuisance behaviour' (including drug use) - in that case, the tenant must find alternative housing and will often eventually be evicted from the property. Social housing in the UK will also often contain policies restricting illegal activities, leading to eviction if a person is caught using drugs in their home.¹⁷
16. In certain districts of **Portugal**, people must undergo an 'evaluation' by professionals to decide whether they have the right to public housing; drug use, although not explicitly mentioned, can be an obstacle to this right.¹⁸

Exclusion from shelters

17. Public or private shelter providers often impose conditions for access to protective housing based on abstinence from drugs. This is the case in **Canada**,¹⁹ the **UK**²⁰ and **Brazil**.²¹
18. In **Canada**,²² **Portugal** and **Spain**,²³ some shelters dedicated to women survivors of violence have adopted a zero-tolerance policy regarding drug use, leaving behind women who use drugs and have suffered violence. This is alarming considering that the Special Rapporteur on the right to health reported that women who use drugs face rates of violence up to 24 times higher than those experienced by women who do not use drugs.²⁴

Exclusion from social security

19. Several countries have established drug-related conditionalities to social security assistance. This is the case in the **USA**, where over a quarter of states require that applicants for cash assistance undergo drug testing – if the test is positive, the benefit can be denied, or they may be required to attend abstinence-based treatment. Nine states ban people convicted of a drug offence from receiving cash assistance, and one has a similar policy regarding food stamps.²⁵
20. In **New Zealand**, people on job-seeker benefits can be required to undergo drug tests by prospective

employers, if they refuse or fail the test, they can have their welfare payments cut.²⁶

21. In other countries, people who use drugs can be excluded from income security schemes for disability, as is the case for **Ukraine**,²⁷ the **USA**²⁸ and **Switzerland**.²⁹
22. In **Portugal**, access to a minimum income depends on a contract that includes conditionalities defined by a case manager, 'taking into account the conditions and characteristics of the person or family in order to promote social inclusion, mainly through work'. In the case of a person using drugs, conditionalities may include the requirement to undergo abstinence-based treatment or OAT.³⁰

Exclusion from drug dependence treatment

23. In some contexts, people undergoing OAT can see their treatment discontinued if they are found to use drugs, which may result in more health risks for the person.³¹ In **Sweden** for instance, a survey of OAT patients showed that a third of them had been involuntarily discharged from treatment.³²
24. In **Portugal**, people undergoing low-threshold OAT must go to a mobile unit daily to receive their treatment. When the treatment teams consider that the person is 'stable enough', they are allowed to take home the dosage for several days. However, the person must undergo random urine testing; if drugs are detected, that amount of days is shortened. This is a major obstacle for working people, as opening hours to pick up treatment are not adjusted to the clients' needs.³³

Exclusion from education

25. While young people who inject drugs are 50% more likely to acquire HIV and hepatitis C and face increased risks of overdose than their adult counterparts, they continue to be severely underserved by harm reduction interventions and face barriers in accessing health and harm reduction education and services. Adolescents and young people are often subject to restrictive and paternalistic ethical and legal frameworks which dictate the extent to which they can access these services.³⁴
26. In **Uganda**, age restrictions in access to services for people under 18, combined with fears of academic and legal repercussions, significantly hinder young people's ability to access harm reduction services.³⁵
27. Moreover, stigma and discrimination significantly hinder young people's access to harm reduction education and services. The situation worsens when the young person faces intersecting layers of marginalisation (i.e., being a woman, LGBTQI+, migrant, sex worker or neurodiverse), exacerbating fear of judgement or exclusion when seeking services.³⁶
28. In other contexts, young people face exclusion from education for drug use. In **Sweden**, students have been suspended or expelled from school after testing positive for drug use, with the police reporting them to social services or filing charges.³⁷ In the **UK**, a survey of 151 university policies found that 70% of them included expulsion due to drug use.³⁸ In the 2023-2024 autumn term, 303 children were permanently

excluded from schools across England for drug and alcohol-related activities.³⁹ In **Costa Rica**, using or possessing drugs at school can lead to up to 30 days of exclusion.⁴⁰ In the **USA**, students are excluded from federal financial aid to attend university if they receive a drug conviction.

Exclusion from employment

29. A criminal record for a drug offence, including for drug use or simple possession, can drastically impact a person's access to, and retention of, employment. This is the case in most **African countries**.
30. In **Honduras**, the criminal and stigmatising approach towards people who use drugs has left them exposed to greater levels of vulnerability, affecting access to employment.⁴¹
31. In the **Philippines**, where drug laws are particularly harsh, criminal records related to drug offences create major barriers to employment, as well as essential processes such as travel visas, education and bank loans.⁴²
32. In **Poland**, possessing a criminal record for a drug offence (including simple possession) prevents employment in specific sectors, especially those with a high degree of responsibility.⁴³
33. Strict rules in drug treatment programmes can also complicate employment, especially when people undergoing OAT have to attend the programme daily. This structure, coupled with social stigma, forces people to hide their treatment status or history of drug use.⁴⁴
34. In other countries like **Armenia, Azerbaijan, Belarus, Kazakhstan, Kyrgyzstan, Moldova, Tajikistan and Ukraine**, in order to enrol in a drug treatment programme, people are required to register in a 'drug user registry', which will limit people's ability to find employment, to study or raise their children.⁴⁵
35. Stigma and discrimination stemming from drug use disproportionately impact women. In **Sri Lanka**, for example, women are less likely than men to be employed if they are identified as using drugs, and are often abandoned by their families.⁴⁶
36. Many countries are clearly grappling with the complexities of drug use and its impact on the workforce. Positively, there is now a growing awareness of the need for more caring approaches, aiming to address underlying issues, promote harm reduction over punishment, and foster a supportive work environment.⁴⁷ This nuanced perspective can help create a healthier dialogue around drug use and employment practices.

Recommendations

37. In light of these findings, we call on the UN Special Rapporteur to recommend the following:
38. That Member States **balance the protection of children's welfare with the respect for family privacy**

rights, as guaranteed under international human rights law. This balance can be achieved through transparent communication, informed consent, and individualised support that prioritises the well-being of both the mother and child, while respecting their familial bond.

39. That Member States **urgently remove criminal sanctions for drug use and related activities** – as recommended in the UN System Common Position on drugs,⁴⁸ by the UN Special Rapporteur in his report A/HRC/56/61/Add.3, the UN Special Rapporteur on the right to health in her report A/HRC/56/52 and the OHCHR.
40. That Member States **end disproportionate practices against people who use drugs** in the areas of access to social benefits, health and social services, including drug services, as well as education and employment – in particular urgently reconsider the use of urine testing and the consideration of a criminal record as an obstacle to access to such benefits.
41. That Member States **invest in harm reduction services** to ensure that they are available, accessible and tailored to the specific needs of those most marginalised and vulnerable, and adapted to the needs of people who work and study.

¹ Betancourt LM, Yang W, Brodsky NL, et al. Adolescents with and without gestational cocaine exposure: Longitudinal analysis of inhibitory control, memory and receptive language. *Neurotoxicol Teratol.* 2011;33(1):36–46

² See Parenting and Drug Use, Pregnancy Justice, found at: <https://www.pregnancyjusticeus.org/wp-content/uploads/2022/12/parenting-and-drug-use-12-12.pdf>. These laws – and misunderstanding about when reports are required – have conscripted doctors to wage the war on drugs on people who come to them for health services.

³ https://repositorio.ulisboa.pt/bitstream/10451/33134/1/ulsd731592_td_Carolina_Henriques.pdf

⁴ See: https://repositorium.sdum.uminho.pt/bitstream/1822/82179/1/2022_A-DISCRIMINACAO-COMO-LEITMOTIV.pdf; <https://cibercrime.ministeriopublico.pt/sites/default/files/documentos/pdf/relatorio-anual-avaliacao-atividade-cpcj-2022.pdf>; <https://www.cnpdpcj.gov.pt/documents/10182/14801/Guia+de+Orienta%C3%A7%C3%B5es+para+Profissionais+de+A%C3%A7%C3%A3o+Social/5c6dc372-e12b-4b84-a462-38ecc5a6e85>; <https://www.cnpdpcj.gov.pt/documents/10182/16406/Relat%C3%B3rio+Anual+de+Avalia%C3%A7%C3%A3o+da+Atividade+das+CPCJ+do+ano+de+2023/25700505-2c45-409e-947c-bc14de63219c>

⁵ <https://whrin.site/wp-content/uploads/2024/12/The-impact-of-drug-policy-on-women.pdf>, p. 10

⁶ https://hri.global/wp-content/uploads/2022/11/HRI_GSHR-2022_Full-Report_Final-1.pdf, p. 27

⁷ https://www.hri.global/files/2020/06/10/Barriers_to_Harm_Reduction_for_Women_2.pdf

⁸ <https://idpc.net/publications/2024/09/joint-submission-to-the-un-cescr-regarding-opioid-agonist-therapy-oat-and-human-rights-in-poland>, p. 3

⁹ https://hri.global/wp-content/uploads/2022/11/HRI_GSHR-2022_Full-Report_Final-1.pdf, p. 79

¹⁰ <https://www.ohchr.org/en/documents/thematic-reports/ahrc5652-drug-use-harm-reduction-and-right-health-report-special>, para. 55

¹¹ For more information, read: <https://idpc.net/publications/2022/01/marginalising-the-most-marginalised-gathering-evidence-on-how-the-welfare-state-discriminates-against-people-who-use-drugs>

¹² <https://documents.un.org/doc/undoc/gen/g19/353/90/pdf/g1935390.pdf>

¹³ As of 2020, the Federal Public Housing Occupancy Guidebook still specifies that ‘The lease must state that the PHA may evict a family when the PHA determines that a household member is illegally using a drug’. See:

<https://www.hud.gov/sites/dfiles/PIH/documents/PHOGLeaseRequirements.pdf>

¹⁴ See: https://uprootingthedrugwar.org/wp-content/uploads/2021/02/uprooting_report_PDF_housing_02.04.21.pdf

¹⁵ See: https://www.bfmtv.com/immobilier/location/hlm-pourquoi-les-bailleurs-sociaux-peuvent-expulser-les-dealers-et-leur-famille_AV-202109070295.html

¹⁶ See: <https://www.legislation.gov.uk/ukpga/2014/12/contents/enacted>

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- ¹⁷ See: <https://www.legislation.gov.uk/ukpga/2014/12/notes/annex/2#:~:text=The%20E2%80%9Crack%20house%20closure%20order%E2%80%9D&text=The%20test%20is%20that%20there,a%20maximum%20of%20six%20months>
- ¹⁸ <https://www.cm-evora.pt/wp-content/uploads/2021/03/Regulamento-de-Atribuic%C3%A7%C3%A3o-de-Habitac%C3%A7%C3%A3o-Social-Habevora.pdf>
- ¹⁹ See: https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Final_Report_Vol_1b.pdf, p. 147
- ²⁰ See: <https://www.homeless.org.uk/our-work/resources/supporting-drug-users>
- ²¹ See: <https://www.uniad.org.br/artigos/2-dependencia-quimica/moradia-monitorada-unidade-recomeco-helvetia/>
- ²² See: <https://www.hivlegalnetwork.ca/site/gendering-the-scene-women-gender-diverse-people-and-harm-reduction-in-canada-full-report/?lang=en>, p. 12
- ²³ In Spain the Network for the Assistance and Comprehensive Recovery of Women who Suffer Sexist Violence in Catalonia subjects clients ‘to rules they may find difficult to abide by, including (...) in some cases, a ban on using drugs’. See: <https://womenanddrugs.wola.org/wp-content/uploads/2020/10/Metzineres-ENG.pdf>
- ²⁴ See: <https://www.ohchr.org/en/documents/thematic-reports/ahrc5652-drug-use-harm-reduction-and-right-health-report-special>, para. 38
- ²⁵ See: https://uprootingthedrugwar.org/wp-content/uploads/2021/02/uprooting_report_PDF_publicbenefits_02.04.21.pdf, p. 2
- ²⁶ See: <https://www.theguardian.com/australia-news/2019/sep/10/the-coalition-want-to-drug-test-welfare-recipient-heres-why-experts-think-its-a-bad-idea>
- ²⁷ Ukraine law 1105-XIV establishes that temporary disability benefits will not be provided where disability has been caused by alcohol or ‘drugs intoxication. See: <https://zakon.rada.gov.ua/laws/show/1105-14?lang=en#Text>
- ²⁸ In the United States, Social Security Disability, Supplemental Security Income benefits, and Medicare and Medicaid coverage can be denied to those whose drug or alcohol use is a ‘contributing factor material to their disability’. See: https://uprootingthedrugwar.org/wp-content/uploads/2021/02/uprooting_report_PDF_publicbenefits_02.04.21.pdf, p. 2
- ²⁹ According to correspondence with NGO Fachverband Sucht, <https://fachverbandsucht.ch/de>
- ³⁰ https://www.seg-social.pt/documents/10152/15010/8001_rendimento_social_insercao/75f2f024-aeac-42dc-81ad-503ab0e9c441
- ³¹ See: <https://www.bmj.com/content/373/bmj.n784>, p. 5
- ³² Socialstyrelsen (2020), *Läkemedelsassisterad behandling vid opioidberoende*, <https://www.socialstyrelsen.se/globalassets/sharepoint-dokument/artikelkatalog/kunskapsstod/2020-3-6607.pdf>, p. 18
- ³³ <https://apdes.pt/wp-content/uploads/2015/12/Revista-da-Associa%C3%A7%C3%A3o-Portuguesa-de-Adictologia.pdf>;
https://www.azores.gov.pt/NR/rdonlyres/B9C3D689-DEA9-47AB-AA19-F837071DA518/519129/Normas_Orientadoras_PTAO.pdf;
https://repositorium.sdum.uminho.pt/bitstream/1822/64464/1/3_Disserta%C3%A7%C3%A3o_pg34145_Soraia%2BCoelho.pdf;
<https://estudogeral.uc.pt/retrieve/264862/Monografia%20de%20Est%C3%A1gio%2C%20Mestrado%20Servi%C3%A7o%20Social%2C%20Katherin%20Sandoval.pdf>
- ³⁴ <https://hri.global/flagship-research/the-global-state-of-harm-reduction/the-global-state-of-harm-reduction-2024/>, p. 94
- ³⁵ Ibid.
- ³⁶ Ibid., p. 97
- ³⁷ See: <http://fileserv.idpc.net/library/CESCR-Submission-Sweden-Final.pdf>
- ³⁸ See: <https://www.release.org.uk/sites/default/files/pdf/publications/Taking%20the%20Hit%20-%20Student%20drug%20use%20and%20how%20institutions%20respond%20-.pdf>, p. 11
- ³⁹ <https://explore-education-statistics.service.gov.uk/find-statistics/suspensions-and-permanent-exclusions-in-england#dataBlock-bad87660-1781-4b61-824a-5ef547df6398-tables>
- ⁴⁰ See: http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=45466&nValor3=47903&strTipM=TC, arts. 82 and 87
- ⁴¹ <https://idpc.net/publications/2024/08/communication-to-the-un-cescr-regarding-honduras-periodic-review-on-the-right-to-health-of>, pp. 3-4
- ⁴² <https://idpc.net/publications/2024/04/breaking-barriers-and-building-bridges-navigating-justice-for-womxn-who-use-drugs-in-southeast>, p. 11
- ⁴³ <https://idpc.net/publications/2024/09/joint-submission-to-the-un-cescr-regarding-opioid-agonist-therapy-oat-and-human-rights-in-poland>, p. 2
- ⁴⁴ Ibid.
- ⁴⁵ https://hri.global/wp-content/uploads/2022/11/HRI_GSHR-2022_Full-Report_Final-1.pdf, p. 81
- ⁴⁶ <https://hri.global/news/sri-lankan-mps-reject-the-bureau-of-rehabilitation-bill/>
- ⁴⁷ <https://www.opensocietyfoundations.org/publications/harm-reduction-work>
- ⁴⁸ <https://www.unodc.org/unodc/en/un-common-position-drugs/index.html>