

# Legal Environment Scan

A drug user-led monitoring toolkit  
of legal and policy framework  
**Our Rights, Every Body's Rights**



International  
Network of People  
*who Use Drugs*



INPUD are very excited to be releasing the first, community-friendly legal assessment tool specifically focused on people who use drugs. We as people who use drugs know what legal and policy changes are needed to defend the rights and autonomy of all people, regardless of the choice of substance we put in our bodies. To fight for these legal and political changes, we need to collect evidence of the detrimental impact of current drug policy approaches, particularly evidence that amplifies the lived impacts of criminalisation, stigma and discrimination. Use and uptake of this tool by communities and networks of people who use drugs around the world can be an important first step in the struggle for drug user liberation.

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## PART 1 BACKGROUND INFORMATION

### 1.1 Introduction

Legal and policy frameworks play an important role in protecting and promoting the right to health for people who use drugs by ensuring access to HIV and related services. Conversely, laws that criminalise drug use and aggressive law enforcement, which are both underpinned by and exacerbate stigma, discrimination and violence against people who use drugs, can exacerbate the marginalisation of people who use drugs, create barriers to their access to essential HIV services, harm reduction and protection against overdose and increase the impact of HIV and poor sexual and reproductive health on their lives.

It is recognized that *“criminalisation of drug use, restrictive drug policies and aggressive law-enforcement practices are key drivers of HIV and hepatitis C epidemics among people who inject drugs”*<sup>1</sup> a view that is shared by several United Nations agencies<sup>2,3</sup>. The Global Commission on HIV and the Law has recognised that these factors, together with fear of arrest, discrimination, marginalisation, stigmatisation and violence, drive people who inject drugs underground and exclude them from proper access to the harm reduction and health services they need to prevent overdose and protect themselves from HIV and hepatitis C.<sup>4</sup>

The Global Commission on HIV and the Law was an independent body convened by UNDP on behalf of the UNAIDS family from 2010 to 2012. During its 18-month process, the Global Commission examined the impact of laws, policies and practices on HIV in seven regions of the world. The Commission’s report contains evidence that protective legal environments improve the lives of people living with HIV and reduce vulnerability to HIV infection. Across the globe, it also found evidence that stigma, discrimination, punitive laws, police violence and lack of access to justice continue to fuel the HIV epidemic. Laws that criminalise aspects of sex work, same-sex relations and drug use can lead to increased violence and brutality against these key populations, driving them away from health care and harm reduction services.

The Global Commission made a number of recommendations including:

- Outlaw all forms of discrimination and violence directed against those who are vulnerable to or living with HIV or are perceived to be HIV-positive.
- Ensure that existing human rights commitments and constitutional guarantees are enforced.
- Repeal punitive laws and enact laws that facilitate and enable effective responses to HIV prevention, care and treatment services for all who need them.
- Reform approaches towards drug use. Rather than punishing people who use drugs but do no harm to others, governments must offer them access to effective HIV and health services, including harm reduction programmes and voluntary, evidence-based treatment for drug dependence.

1 Science addressing drugs and HIV: state of the art of harm reduction. A scientific statement. Vienna: United Nations Office on Drugs and Crime; 2014. Science addressing drugs and HIV: state of the art. 2nd scientific statement. Vienna: United Nations Office on Drugs and Crime; 2016.

2 Consolidated guidelines on HIV prevention, diagnosis, treatment and care for key populations–2016 update. Geneva: World Health Organization; 2016.

3 Do no harm: health, human rights and people who use drugs. Geneva: Joint United Nations Programme on HIV/AIDS; 2016.

4 188GCHL. *Report of the Africa Regional Dialogue on HIV and the Law*, 2011 - <https://hivlawcommission.org/regional-dialogue-resources/africa-downloads/>

If we are to improve access to essential HIV services as well as to the harm reduction and health services for people who use drugs, it is critical that we identify the laws, policies and practices that act as barriers to access to these services for people who use drugs and advocate for their removal.

## 1.2 Purpose of the toolkit

This toolkit has been developed as a guide for conducting a community-led scan of the legal and policy environment for people who use drugs and developing recommendations for law and policy reform to remove barriers to access to essential HIV services for people who use drugs as well as to the harm reduction and related health services. The scan will focus on three areas, namely:

1. Comprehensive harm reduction
2. Societal enablers
3. Community-led responses

A *Legal Environment Scan* (LES) is a community-led participatory process that helps identify how laws, policies and practices affect health outcomes, human rights, wellbeing and livelihoods for people who use drugs. The aim of the LES is to review HIV, health, criminal and any other related laws, regulations, policies and practices to identify those which have a negative impact on access to HIV, harm reduction and related services for, as well as the well being of people who use drugs.

In the course of the LES you will examine how these laws, policies and practices are implemented in your country, to determine the extent to which the legal framework does or does not align with international agreements on human rights and other commitments related to the rights of people who use drugs.

The LES will help you identify the issues on which you need to focus your advocacy efforts or 'levers for change' and may be seen as a 'gateway' to advance advocacy and find consensus on priority actions. The LES findings can form the basis for advocacy recommendations for law and policy reform, strengthened implementation and enforcement of the HIV-related legal framework and measures to improve access to justice to protect rights and promote universal access to HIV treatment, prevention, care and support for people who use drugs. The findings will provide critical evidence which can be used to advocate for evidence-informed human rights-based national drug policies and strategies.

The LES is an opportunity to:

- identify and examine key legal, policy and human rights issues affecting people who use drugs in the context of HIV, broader health and social justice
- identify international human rights obligations by which countries are bound and to hold governments accountable for upholding those obligations
- raise awareness of and generate national dialogue on the priority legal and human rights issues affecting people who use drugs
- determine the extent to which the current legal framework protects rights or acts as a barrier to access to social, legal and health services by people who use drugs
- use the findings of the LES to:
  - make recommendations for reforming laws and policies and addressing practices that prevent people who use drugs from accessing health and social services, including harm reduction services; and

- inform advocacy for reforming laws and policies and addressing practices that prevent people who use drugs from accessing HIV-related health services, including harm reduction services

### 1.3 The impact of criminalisation of drug possession and use on people who use drugs: the facts

Drug laws and policies have traditionally sought to suppress supply and deter use through the application of punitive laws. Today, there is a growing recognition that these drug laws and policies have not only failed to reach their objectives but have resulted in a great deal of collateral damage.

In most countries, drug use and possession are criminalised. At the same time, governments around the world have largely failed to successfully address the risks associated with drug use, which has led to a human rights crisis among people who use drugs that both fuels and is fuelled by power abuse, discrimination, incarceration, disease, and drug related-death.

In many countries around the world, drug control efforts result in serious human rights abuses: torture and ill treatment by police, mass incarceration, extrajudicial killings, arbitrary detention, and denial of essential medicines and basic health services.

*“Reliance on criminal sanctions as the major response to illicit drug use inevitably results in the denial of human rights of the Injecting Drug User population as drug use remains defined as a law enforcement rather than a health problem. Poor health outcomes in this population then follow because health promotion and health care services are more difficult to provide to a now stigmatised and underground population. Protection of human rights is an essential precondition to improving the health of individual drug users and improving the public health of the communities where they live.”<sup>5</sup>*

Common laws, policies and practices that act as barriers to access to HIV, harm reduction and related services for people who use drugs to look out for when conducting the Legal Environment Scan include the following:

- Policies and laws that criminalise possession and use of drugs.
- Policies and laws that criminalise the possession and use of sterile needles and syringes (and thus prevent needle and syringe programmes) and that criminalise Opioid Agonist Treatment (OAT).
- Policies and laws that provide for compulsory treatment for people who use or inject drugs.
- Policies and laws that deny people who use drugs in places of detention access to OAT and NSP.
- Stigma, discrimination against people who use drugs in different settings, including in health care facilities, education, access to social welfare and social services, and employment.
- Arbitrary arrests and violence against people who use drugs by law enforcement.
- Lack of access to legal services for people who use drugs when their human rights have been violated.

5 Wodak, Alex. 1998. “Health, HIV Infection, Human Rights, and Injecting Drug Use.” *Health and Human Rights*, Vol. 2, No. 4, 24–41. 1998

People who use drugs all have their own lived experiences of the negative impact of laws that criminalise drug possession and use on their lives and health.

This section provides you with an overview of various aspects of this negative impact, which will help you to back up your advocacy for the removal of these laws with evidence and facts.

*“Because drugs, and people who use them, are criminalised, people who use drugs are dehumanised, are judged to be criminals, and are understood as dangerous, deviant and socially disruptive. It is these understandings that result in people who use drugs being endemically discriminated against, and it is these perceptions that inform systemic violence and human rights violations perpetrated against people who use drugs. Fear and hatred of people who use drugs—drug-user phobia—is rife and is rarely challenged.”*

International Network of People Who Use Drugs, submission to the Civil Society Task Force to UNGASS on the World Drug Problem 2016

People who use drugs face daily human rights violations in the form of stigma and discrimination, physical and psychological harassment, abuse and violence by police, coerced drug “rehabilitation” in settings whose programs do not have any therapeutic rationale or benefit, compulsory HIV testing, and the denial of health care services, employment, and social benefits. These rights violations are largely underpinned by laws that criminalise the possession, use and cultivation of illicit drugs.

We know that criminalisation drives people who use drugs underground, leading to unsafe practices which, in turn, increase the risk of infection for both themselves and their sexual partners in the wider community<sup>6</sup>. Criminalisation of drug users undermines HIV prevention and treatment<sup>7</sup> and thus the likelihood of achieving Sustainable Development Goal (SDG) 3 of ensuring healthy lives and promoting well-being for all at all ages. In particular, the criminalisation of drug users undermines the realisation of SDG 3.3 of ending the AIDS epidemic by 2030.

Studies have shown that punitive and discriminatory laws are associated with high HIV incidence and prevalence, where stigma and laws criminalising drug use and possession increase HIV risks. The criminalisation of drug use and possession entrenches discrimination and marginalises populations already facing exclusion and oppression, severely impeding access to health and social protection. Studies have shown that decriminalisation is fundamental to an effective HIV response, demonstrating significant results in reducing HIV incidence and improving overall health outcomes. Modelling estimates have indicated that the decriminalisation of drug use is linked to a 14% increase in the number of people who know their HIV status and who achieve viral suppression<sup>8</sup>.

6 GCHL, Risks, Rights and Health: Supplement (July 2018). [https://hivlawcommission.org/wp-content/uploads/2018/09/Hiv-and-the-Law-Supplement-Exec-Summary-2018\\_Final.pdf](https://hivlawcommission.org/wp-content/uploads/2018/09/Hiv-and-the-Law-Supplement-Exec-Summary-2018_Final.pdf)

7 DeBeck, K., et al., (2017), HIV and the Criminalisation of Drug Use Among People Who Inject Drugs: A Systematic Review, *Lancet HIV* 2017; 4:e357-74. Available at: [https://www.thelancet.com/pdfs/journals/lanhiv/PIIS2352-3018\(17\)30073-5.pdf?code=lancet-site](https://www.thelancet.com/pdfs/journals/lanhiv/PIIS2352-3018(17)30073-5.pdf?code=lancet-site); Mayer, L., et al., (2017), Collateral Damage and the Criminalization of Drug Use, *The Lancet HIV*, volume 4, No. 8, e326-e327, August 2017. Available at: [https://www.thelancet.com/journals/lanhiv/article/PIIS2352-3018\(17\)30071-1/abstract](https://www.thelancet.com/journals/lanhiv/article/PIIS2352-3018(17)30071-1/abstract).

8 Kavanagh, Matthew M et al. “Law, criminalisation and HIV in the world: have countries that criminalise achieved more or less successful pandemic response?” *BMJ global health* vol. 6,8 (2021): e006315. doi:10.1136/bmjgh-2021-006315

In 2016 UN Member States agreed at the 2016 United Nations General Assembly Special Session (UNGASS) to an outcome document that took an important step forward: it called for effective public health measures to improve health outcomes for people who use drugs, including programmes that reduce the impact of the harms associated with drug use. The outcome document also urged countries to fully respect the human rights and fundamental freedoms of people who use drugs, and to consider alternatives to punishment for drug offences. While some progress has been made, an assessment of the implementation of the recommendations included in the 2016 United Nations General Assembly Special Session (UNGASS) on Drugs Outcomes Document shows that the gap between policy commitments on paper and meaningful change on the ground has continued to widen<sup>9</sup>.

It is important that we understand the impact of criminalisation on people who use drugs and have a good grasp of the data that illustrate this impact because we can use these data to back up our advocacy for decriminalisation of drug possession and use.

World Health Organization (WHO) data shows an increase in the number of people who died of 'drug use disorders' from 154,811 in 2015 to 181,758 in 2019, with the total number of deaths associated with drug use (including those related to HIV and hepatitis C) estimated at 585,000 in 2017, 30% of which was overdose.

People who use or inject drugs are at increased risk of HIV, tuberculosis (TB), and viral hepatitis B and C (HBV and HCV), in addition to overdose. Globally, it is estimated that around 11 million people inject drugs, though this number is likely to be higher due to gaps in data. Approximately 1 in 8 (or 1.4 million) of these people are living with HIV (UNODC World Drug Report, 2020), while 39.4% have viremic HCV infection. The risk of acquiring HIV is 35 times higher among people who inject drugs<sup>10</sup>.

Injecting drug use accounts for approximately 10% of new HIV infections globally (UNAIDS, 2020). And an estimated 23–39% of new HCV infections occur among people who inject drugs. Globally, 1 in 3 HCV deaths are attributable to injecting drug use. In some regions, such as Eastern Europe and Central Asia, prevalence rates for both HIV and HCV are particularly high. Furthermore, there are approximately 2.3 million HIV–HCV co-infections worldwide, of which more than half (1.3 million) occur in people who inject drugs (WHO, 2016).

Whilst new HIV infections among people of all ages worldwide declined by 23% between 2010–2019, there is no evidence of a change in global HIV incidence among people who inject drugs. Indeed, in some regions HIV incidence has increased<sup>11,12</sup>.

Among the immediate causes of these disparities is the lack of consistent access to sterile injecting equipment, opioid agonist therapy (OAT), community-distribution of naloxone, condoms and lubricant, HIV testing and antiretroviral therapy (ART) for those who are living with HIV, and affordable diagnostic and treatment of Hepatitis C. This lack of access is primarily caused by the criminalisation of drug use.

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9 IDPC, Taking Stock Of Half A Decade Of Drug Policy An Evaluation Of UNGASS Implementation, 2021

10 <https://www.unaids.org/en/resources/fact-sheet>

11 UNAIDS. Seizing the moment: tackling entrenched inequalities to end epidemics–global AIDS update. Geneva: UNAIDS; 2020

12 UNAIDS. Key Population Atlas (<https://kpatlas.unaids.org/dashboard>, accessed 7 April 2022)

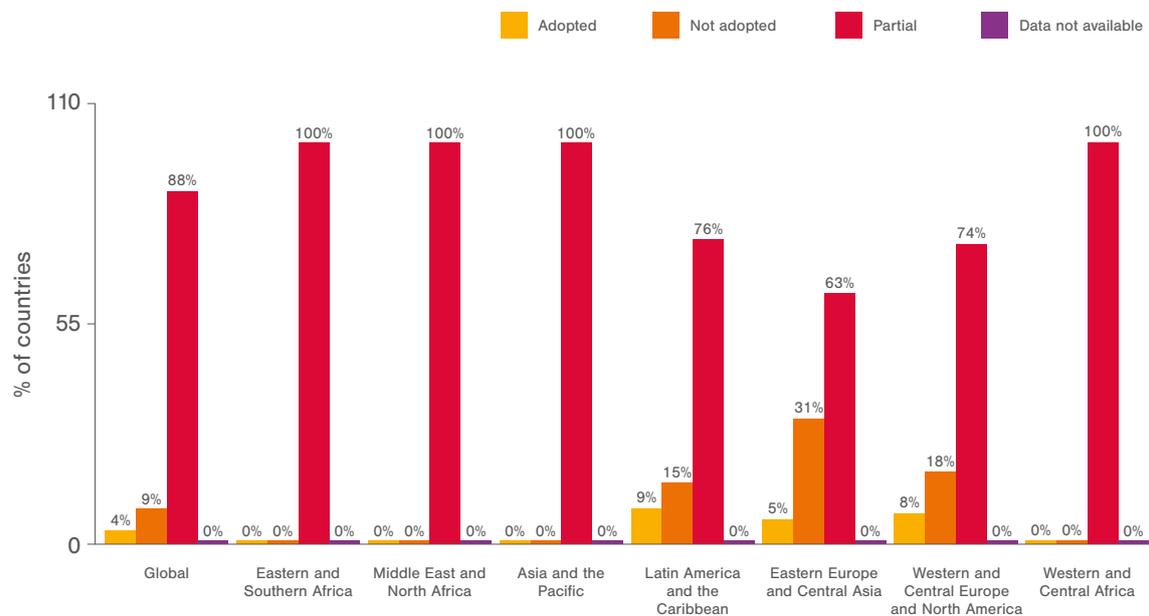
The 2022 Global State of Harm Reduction Report<sup>13</sup> reported that:

- The total number of countries implementing at least one needle and syringe programmes (NSP) has increased from 86 in 2020 to **92**.
- The total number of countries implementing at least one OAT programme in 2022 is **87** (up from 84 in 2020)
- The total number of countries with explicit supportive references to harm reduction in national policy documents in 2022 is **105**.
- There is a **95%** funding gap for harm reduction in low-and middle-income countries.

Women continue to be disproportionately impacted by punitive drug control measures. Women who use drugs are particularly vulnerable to health harms, but their access to gender-sensitive harm reduction and treatment services has not improved. Stigma, criminalisation, fear of loss of child custody and other punitive measures play a major role in deterring women from accessing the services that do exist. The proportion of women incarcerated for drug offences remains high at 35% of women deprived of their liberty globally<sup>14</sup>.

Although the international drug conventions do not automatically require the imposition of conviction and punishment for drug-related offences, work undertaken by drug user advocates to hold governments accountable for protecting and upholding the human rights of people who use drugs and to advance the decriminalisation agenda has been both challenging and frustrating.

As illustrated in the graph below, globally 189 countries still fully criminalise drug use or possession.<sup>15</sup> Even among the 8 countries that have adopted and 17 countries that have partially adopted



<sup>13</sup> The global state of harm reduction 2022. London: Harm Reduction International; 2022.

<sup>14</sup> IDPC op cit

<sup>15</sup> HIV Policy Lab: Global HIV Policy Report, March 2022 at <https://hivpolicylab.org/documents/reports/2021GlobalReport/Global%20HIV%20Policy%20Report%20-%20Findings%20from%20the%20HIV%20Policy%20Lab%20-%205BHighRes%5D.pdf>

the so-called decriminalisation, administrative sanctions are still imposed towards people who use drugs, and that the community remains as subject of violence, abuse, ill-treatment, social exclusion, stigmatisation, and discrimination.

#### **1.4 Using the Global AIDS Strategy 2021-2026 and the 2021 Political Declaration on HIV and AIDS as a basis for your Legal Environment Scan**

In March 2021 a new Global AIDS Strategy 2021-2026: End Inequalities. End AIDS was adopted. Shortly after, in June 2021, United Nations member states adopted the [Political Declaration](#) on HIV and AIDS : Ending Inequalities and Getting on Track to End AIDS by 2030.

Both of these documents are important resources as they set out bold new targets to be reached by 2025 if we are to end AIDS as a public health threat by 2030. These are often referred to as the ‘10-10-10’ and ‘30-60-80’ targets.

The ‘10-10-10’ targets require governments to:

- ensure that less than 10% of countries have restrictive legal and policy frameworks that lead to the denial or limitation of access to services by 2025;
- ensure that less than 10% of people living with, at risk of or affected by HIV face stigma and discrimination by 2025; and
- reduce to no more than 10 % the number of women, girls and people living with, at risk of and affected by HIV who experience gender-based inequalities and sexual and gender-based violence by 2025.

Of particular importance to people who use drugs are the following targets:

- less than 10% of countries criminalise drug use and possession of small amounts of drugs<sup>16</sup>;
- less than 10% of people who use drugs, report experiencing stigma and discrimination<sup>17</sup>; and
- less than 10% of people who use drugs lack access to legal services<sup>18</sup>.

The 30-60-80 targets require governments to ensure that:

- 30% of testing and treatment services to be delivered by community-led organisations;
- 60% of the programmes to support the achievement of societal enablers to be delivered by community-led organisations; and
- 80% of service delivery for HIV prevention programmes for people who use drugs to be delivered by community-led organisations.

<sup>16</sup> See para 65(a): Creating an enabling legal environment by reviewing and reforming, as needed, restrictive legal and policy frameworks, including discriminatory laws and practices that create barriers or reinforce stigma and discrimination such as age of consent laws and laws related to HIV non-disclosure, exposure and transmission, those that impose HIV-related travel restrictions and mandatory testing and laws that unfairly target people living with, at risk of and affected by HIV, with the aim of ensuring that less than 10 per cent of countries have restrictive legal and policy frameworks that lead to the denial or limitation of access to services by 2025;

<sup>17</sup> See Para 65(e): Working towards the vision of zero stigma toward and discrimination against people living with, at risk of and affected by HIV, by ensuring that less than 10 per cent experience stigma and discrimination by 2025, including by leveraging the potential of Undetectable = Untransmittable;

<sup>18</sup> See Para 67(b): Investing in robust, resilient, equitable and publicly funded systems for health and social protection systems that provide 90 per cent of people living with, at risk of and affected by HIV with people-centred and context-specific integrated services for HIV and other communicable diseases, non-communicable diseases, sexual and reproductive health care and gender-based violence, mental health, palliative care, treatment of alcohol dependence and drug use, legal services and other services they need for their overall health and wellbeing by 2025.

### What do we mean by ‘Community-led’ and why is it important?

Community-led organisations, groups and networks engaged in the AIDS response - whether formally or informally organised, are entities for which the majority of governance, leadership, staff, spokespeople, membership and volunteers, reflect and represent the experiences, perspectives and voices of their constituencies, and who have transparent mechanisms of accountability to their constituencies. Community-led organisations, groups, and networks engaged in the AIDS response are self-determining and autonomous, and not influenced by government, commercial, or donor agendas. Not all community-based organisations are community-led<sup>19</sup>.

**Community-led AIDS responses** are actions and strategies that seek to improve the health and human rights of their constituencies, that are specifically informed and implemented by and for communities themselves and the organizations, groups and networks that represent them.

Communities living with or affected by HIV must lead the way to get the response on-track to end AIDS by 2030. Community-led responses are really important as they are determined by and respond to the needs and aspirations of their communities. Community-led responses include advocacy, campaigning and holding decision-makers to account; monitoring of policies, practices, and service delivery; participatory research; education and information sharing; service delivery; capacity building, and funding of community-led organisations, groups, and networks.<sup>20</sup> Communities give voice to people who are often excluded from decision-making processes.

Progress in recent years demonstrates the essential role of community-led HIV responses in global efforts to end AIDS. As of 2019, community and key population-led HIV prevention programmes that exceeded 80% coverage in many countries were among the most effective<sup>21</sup>.

We can use these targets to support our recommendations for the reform of laws and policies that we identify in our Legal Environment Scan that act as barriers to access to HIV and related health services as well as to harm reduction services for people who use drugs.

## 1.5 The International human rights framework

International human rights law provides us with a good framework for an analysis of the laws and policies that hinder access to essential HIV services as well as to the harm reduction and health services. The barriers have a negative impact on affected populations’ human rights. International and regional human rights law is set out in the various charters, treaties and conventions signed and ratified by member states. Once a state has signed and ratified a treaty or convention, it must ensure that the principles and provisions of that instrument are implemented at a national level.

The *International Guidelines on Human Rights and Drug Policy*<sup>22</sup> highlight the measures states should undertake or refrain from undertaking in order to comply with their human rights obligations, while taking into account their obligations under the international drug control conventions.

19 [https://www.unaids.org/sites/default/files/media\\_asset/PCB51\\_MTT\\_report\\_CLR.pdf](https://www.unaids.org/sites/default/files/media_asset/PCB51_MTT_report_CLR.pdf)

20 ibid

21 Global AIDS Strategy, p63

22 The content of this section is based on excerpts from The International Guidelines On Human Rights And Drug Policy, 2019

The most important human rights to look at for the purpose of the Legal Environment Scan are set out in the table below:

Human Right	What States Should Do	Source
<p>All persons have the <b>right to equality and freedom from discrimination</b>. This means that all are equal before the law and are entitled to equal protection and benefit of the law, including the enjoyment of all human rights without discrimination on a range of grounds (such as health status, which includes drug dependence).</p>	<ul style="list-style-type: none"> <li>• Take all appropriate measures to prevent, identify, and remedy unjust discrimination in drug laws, policies, and practices on any prohibited grounds, including drug dependence.</li> <li>• Provide equal and effective protection against such discrimination, ensuring that particularly marginalised or vulnerable groups can effectively exercise and realise their human rights.</li> </ul>	<ul style="list-style-type: none"> <li>• International Covenant on Civil and Political Rights (ICCPR): available at <a href="https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights">https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights</a></li> <li>• International Covenant on Economic, Social and Cultural Rights (ICESCR): available at <a href="https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights">https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights</a></li> </ul>
<p>Everyone has the <b>right to enjoy the highest attainable standard of physical and mental health</b>. This right applies equally in the context of drug laws, policies, and practices.</p>	<ul style="list-style-type: none"> <li>• Take steps to ensure that drug-related and other health care goods, services, and facilities are available on a non-discriminatory basis to all who need them, including in places of detention.</li> <li>• Address the social and economic determinants that support or hinder positive health outcomes related to drug use, including stigma and discrimination of various kinds, such as against people who use drugs.</li> <li>• Remove laws, policies, and practices that inhibit access to health goods, services, and facilities for the prevention of harmful drug use, harm reduction among those who use drugs, and drug dependence treatment.</li> <li>• Utilise the available flexibilities in the UN drug control conventions to decriminalise the possession, purchase, or cultivation of controlled substances for personal consumption.</li> </ul>	<ul style="list-style-type: none"> <li>• ICESCR (Article 12)</li> </ul>

Human Right	What States Should Do	Source
<ul style="list-style-type: none"> <li>• <b>Protection from torture and other forms of cruel, inhuman or degrading treatment.</b> People in “drug treatment centres” are often subjected to cruel, inhuman and degrading treatment. What is referred to as “treatment” in many treatment centers in fact includes painful, unmedicated withdrawal, beatings, military drills, verbal abuse, and sometimes scientific experimentation without informed consent. Forced labor, without pay or at extremely low wages is used as “rehabilitation,” with detainees punished if work quotas are not met.</li> <li>• People in places of detention are frequently unable to access drug dependence treatment. Withholding of drugs in places of detention, from people who need them for medical purposes, including for drug dependence treatment, is considered a form of torture.</li> </ul>	<ul style="list-style-type: none"> <li>• Take effective measures to prohibit, prevent, and redress all acts of torture and ill-treatment, including in the context of drug dependence treatment, whether administered in public or private facilities.</li> <li>• Promptly investigate allegations of torture and cruel, inhuman, or degrading treatment or punishment by State or non-State actors and prosecute and punish those responsible.</li> <li>• Abolish corporal punishment for drug offences where it is in place.</li> <li>• Ensure access to essential medicines, including for drug dependence.</li> <li>• Ensure that access to health care for people who use or are dependent on drugs and are in places of detention is equivalent to that available in the community.</li> <li>• Establish a national system to effectively monitor drug dependence treatment practices and to inspect drug dependence treatment centres, as well as places of detention.</li> </ul>	<ul style="list-style-type: none"> <li>• ICCPR (Article 7)</li> </ul>
<p>Everyone has the <b>right to equality before the law</b> and before courts and tribunals, to defend oneself against criminal charges, <b>and to determine one’s rights and obligations in a suit at law.</b> These and other components of the right to a fair trial should not be infringed or limited simply because an individual is accused of illicitly using, cultivating, or trading drugs.</p>	<ul style="list-style-type: none"> <li>• Guarantee to all persons accused of drug-related offences the right to a fair and public hearing, without undue delay, by a competent, independent, and impartial tribunal established by law, and further guarantee that all such persons will be presumed innocent until proven guilty according to the law.</li> <li>• Ensure that such persons have access to prompt, detailed information and free, good-quality legal assistance where needed, in a language and format that is accessible. This includes access to interpreters, consular assistance (where applicable), and legal counsel to defend against criminal charges.</li> </ul>	<ul style="list-style-type: none"> <li>• ICCPR (Article 14)</li> </ul>

The United Nations Office of the High Commissioner for Human Rights has an interactive dashboard on the ratification status of the different international human rights treaties, where you can find information about what international human rights treaties have been ratified by your country: <https://indicators.ohchr.org/>

## PART 2 CONDUCTING A NATIONAL COMMUNITY-LED ENVIRONMENTAL SCAN (LES)

### Advocacy planning framework



## Step 1: Planning and preparation

The planning and preparation stage aims to ensure that the process is a transparent and participatory exercise and is focused on priority HIV, legal and human rights issues of concern to all people who use drugs in the country. Thorough planning, consultation and preparation involving and led by the community of people who use drugs helps to increase awareness and understanding of the LES process within the community and to ensure that the LES is relevant to the needs of all people who use drugs.

### 1.1 Select your team

Who you select to undertake the LES will depend on available expertise within your network or organisation. Ideally the work should be undertaken by a team of people from the community of people who use drugs. If you feel however that you do not have the experience or expertise within the community, you can consider identifying a consultant to assist you with the process. It is important that the process is led and directed by the community of people who use drugs.

### 1.2 Hold a consultative planning meeting

A consultative planning meeting with peers is a useful way to start the LES as it provides an opportunity to discuss national HIV, legal and human rights issues and to agree on the purpose, nature and scope of the LES and priority issues of national concern. The planning meeting should be attended by representatives of community-led organisations of people who use drugs. You may also consider inviting allies in the form of human rights or other civil society organisations who may be able to help with some aspects of the LES.

The consultative planning meeting will help to:

- clearly define and agree on the purpose, nature and scope of the LES;
- agree on the focus areas for the LES based on key legal and human rights issues faced by people who use drugs raised by participants (see box below for common legal and human rights issues faced by people who use drugs);
- identify key stakeholders to participate in consultations, focus group discussions or surveys; and
- brainstorm on the laws, regulations, policies, plans and other documents that need to be reviewed during the LES.

Legal and human rights issues of global concern for people who use drugs, common to countries across the world, include:

- Criminalisation of drug use and possession of small amounts of drugs and the impact of criminalisation on the ability of people who use drugs to access HIV and related health services, including harm reduction services.
- Stigma and discrimination faced by people who use drugs at the hands of health care and other service providers and law enforcement.
- Confidentiality and consent, including age of consent to HIV prevention (including harm reduction), testing and treatment services.
- Involuntary drug treatment.

- Lack of provision in or inconsistencies between national laws and policies for harm reduction services.
- Denial of HIV and harm reduction services for people in prisons or other places of incarceration.
- Police harassment and violence.
- Lack of access to affordable legal services and assistance by people who use drugs whose human rights have been violated.

### Step 2: Desk review

A desk review of laws, regulations and policies that impact on the ability of people who use drugs to access HIV and related health services, including harm reduction services requires looking at several different areas of law in a country.

Laws relating to drug use are usually found in the country's criminal laws (either in a drug-specific criminal law or in the Penal Code). In addition, there are a number of laws, policies and plans that regulate access to HIV prevention including harm reduction and treatment services. Some countries have HIV-specific laws. However, in other countries general laws related to public health and medical practice (e.g. laws setting out patients' rights or regarding the safety, quality and availability of health services) will apply equally to HIV and AIDS. Additionally, general principles of law, such as those set out in the country's constitution, as well as common law principles relating to privacy and autonomy, will also apply.

There are other laws outside of criminal laws and health laws that also have a role in determining who has access to HIV prevention and treatment services, including harm reduction services. For example:

- laws that provide protection against stigma and discrimination;
- laws that determine the age at which young people can consent to prevention and treatment services (including harm reduction and voluntary drug treatment without the consent of their parents); and
- correctional service laws that determine access to services for prisoners.

Use tables A1 – A3 in Annexure A to record the information that you gather in the course of the LES. These tables also provide more information on what laws, policies and plans to look for and where to find them.

### Step 3: Secondary data collection

Speaking with people from the community of people who use drugs is critical to obtain information on how the laws and policies that you have identified in your desk review actually impact on the lives of people who use drugs in terms their ability to access HIV prevention and treatment as well as drug treatment and harm reduction services and how the laws are enforced and their ability to access justice if their rights have been violated.

The most common form of gathering information about the lived experiences of people who use drugs are:

- holding one-one-one interviews (often referred to as key informant interviews)
- holding group discussions with groups or people who use drugs (often referred to as focus group discussions)

- distributing questionnaires to selected individuals and organisations; and
- conducting online surveys.

Care should be taken to ensure that interviews and discussions are held in a safe place, that the process ensures confidentiality of the respondents, and that informed consent is obtained from them prior to the group discussion/interview: the principle guiding the process should be the principle of 'do no harm'.

In Annexure B more information is provided on sample questions that you can use in the key informant interviews, focus group discussion and questionnaires or online surveys.

## Step 4: The LES Report

### 4.1 Draft the Report

Use the information that you have gathered during the desk review and the consultations captured in Tables A1 to A3 and Annex A to draft a short LEA report to reflect the following:

Country context: information on the HIV epidemic in your country with a focus on HIV prevalence amongst people who use drugs (if data are available) compared to the HIV prevalence in the general population. If there are no data on HIV prevalence amongst people who use drugs it is important to state this fact.

The legal and policy environment:

- Laws and policies regulating drug possession and use and the impact that these laws and policies have on access to HIV prevention and treatment services, and to harm reduction and drug treatment for people who use drugs.
- Laws and policies that provide protection against stigma and discrimination.
- Laws and policies that provide protection against physical and sexual violence.
- Laws and policies that regulate the registration and funding of community-led organisations and networks.
- Laws and policies that provide for access to legal services for human rights violations.

Lived experiences of people who use drugs:

- Stigma and discrimination faced by people who use drugs in different settings, including in health facilities and at the hands of law enforcement agencies.
- Sexual and physical violence faced by people who use drugs.
- Access to legal services for people who use drugs who have faced violations of their human rights, including stigma and discrimination, denial of access to HIV prevention and treatment including harm reduction, and violence.
- Ability of people who use drugs to obtain justice for human rights violations.

Recommendations for:

- the reform of laws that prevent people who use drugs from accessing HIV prevention and treatment services, including harm reduction services;
- addressing stigma and discrimination faced by people who use drugs;
- addressing physical and sexual violence faced by people who use drugs; and

- strengthening access to legal services and to justice for the violation of the human rights of people who use drugs.

It is important to prioritise the recommendations into short- and long-term recommendations. This is because changing laws can often take a very long time. There are however things that can be done to address problems in the meantime. For example, decriminalisation of drug possession and use may take many years to achieve but in the shorter term it can be possible to:

- sensitise policy makers on the human rights and public health imperatives of ensuring that harm reduction services are provided;
- train health care workers on the negative impacts of stigma and discrimination to ensure that levels of stigma and discrimination faced by people who use drugs in health facilities are reduced; and
- train law enforcement agents to understand the negative impacts of arbitrary arrests and violence against people who use drugs to ensure that these are reduced.

#### **4.2 Consultation meeting to validate the report and recommendations**

Convene a consultative validation workshop with the community of people who use drugs. The purpose of this consultative validation workshop is to:

- present the draft findings and recommendations to the community;
- provide an opportunity for dialogue on key issues and feedback on the draft findings and recommendations;
- seek consensus on the final findings and recommendations; and
- prioritise recommendations and key actions for moving forward to address barriers presented by the current legal and policy framework for people who use drugs.

#### **4.3 Finalising and disseminating the report**

After the consultative validation workshop finalise the report by updating the draft report to reflect the final findings and recommendations agreed upon at the consultative validation workshop and disseminate the final report to the network members.

### **Step 5: Sustaining the process**

It is important to ensure that the LES does not end with the production of the final report. The recommendations made in the final report are a useful tool for the community of people who use drugs and their allies to advocate for change. Make sure that the recommendations are taken forward by way of advocacy for the change of laws and policies and the integration of the recommendations into national strategies and plans (such as national development plans, national strategic plans on HIV and AIDS).

The table below outlines the three areas of focus for your LES as well as the targets and examples of the issues that you will focus on in the LES:

Areas of focus	Targets	Priority issues (examples)
<b>Combination Harm Reduction</b>	<ul style="list-style-type: none"> <li>• 90% coverage of needle and syringe programme</li> <li>• 50% coverage of opioid substitution therapy</li> </ul>	<ul style="list-style-type: none"> <li>• Harm reduction:               <ul style="list-style-type: none"> <li>◦ NSP</li> <li>◦ OAT</li> <li>◦ Naloxone</li> <li>◦ Hepatitis C</li> </ul> </li> <li>• Controlled substance medicines</li> <li>• Drug paraphernalia &amp; other commodities</li> </ul>
<b>Societal enablers “10-10-10” targets</b>	<ul style="list-style-type: none"> <li>• Less than 10% of countries criminalise drug use and possession of small amounts of drugs</li> <li>• Less than 10% of people who use drugs, report experiencing stigma and discrimination</li> <li>• Less than 10% of people who use drugs lack access to legal services</li> <li>• Less than 10% of people who use drugs experience physical or sexual violence</li> <li>• Less than 10% of countries lack mechanisms for people living with HIV and key populations to report abuse and discrimination and seek redress</li> </ul>	<ul style="list-style-type: none"> <li>• Drug use and possession of small amounts of drugs:               <ul style="list-style-type: none"> <li>◦ threshold amount</li> <li>◦ decriminalisation</li> </ul> </li> <li>• Arbitrary arrest and detention</li> <li>• Torture and other cruel, inhuman, or degrading treatment or punishment</li> <li>• Stigma and discrimination</li> <li>• Physical and sexual violence</li> <li>• Access to legal services, redress mechanisms and protection</li> </ul>
<b>Community leadership “30-60-80” targets</b>	<ul style="list-style-type: none"> <li>• 30% of testing and treatment services to be delivered by community-led organisations</li> <li>• 60% of the programmes to support the achievement of societal enablers to be delivered by community-led organisations.</li> <li>• 80% of service delivery for HIV prevention programmes for people who use drugs to be delivered by community-led organizations.</li> </ul>	<ul style="list-style-type: none"> <li>• Freedom of association:</li> <li>• Registering of organisations led by people who use drugs</li> <li>• access to funding and other financial services</li> <li>• Community leadership:               <ul style="list-style-type: none"> <li>◦ meaningful participation of people who use drugs</li> <li>◦ community leadership and engagement in public sector</li> <li>◦ community-led service delivery</li> </ul> </li> </ul>

## ANNEX A BACKGROUND INFORMATION

**Table A1: Combination Harm Reduction<sup>23</sup>**

Area of focus	What are you looking for?	Where do you find it?		Comments	Recommendations (e.g. regarding existing laws or policies that need to be removed or amended or new laws or policies that need to be put in place)
		National laws and policies and plans	Questions to consider		
<p><b>Harm reduction service:</b></p> <ul style="list-style-type: none"> <li>• NSP</li> <li>• OAT</li> <li>• Naloxone</li> <li>• Controlled substances</li> </ul>	<p>Policies and laws that criminalise the possession and use of sterile needles and syringes (and thus prevent needle and syringe programmes) and that criminalise OAT.</p> <p>Policies and laws that deny people who use drugs access to OAT and NSP.</p>	<ul style="list-style-type: none"> <li>• Constitution:</li> <li>• Penal Code</li> <li>• Specific criminal laws that criminalize drug possession and use and possession of drug using paraphernalia</li> <li>• Laws or policies that specify age of consent to medical treatment</li> <li>• Laws that govern the prison services</li> <li>• National strategic plans (NSP) on HIV</li> <li>• National HIV policy</li> </ul>	<ul style="list-style-type: none"> <li>• Does your Constitution guarantee the right to health and to be free from cruel and unusual punishment and torture?</li> <li>• Does the NSP make provision for needle and syringe programmes and OAT?</li> <li>• Are there laws, policies and practices in place that enable harm reduction approaches (e.g. safe injecting spaces, facilities for safe disposal of injecting equipment, needle and syringe programmes, overdose prevention and response)?</li> <li>• Are there laws, policies or practices in place that prevent the provision of harm reduction services (e.g. laws that prohibit the possession of needles and syringes?)</li> <li>• Does the NSP make provision for OAT and NSP in places of detention?</li> <li>• Are adolescents under the age of 18 able to access harm reduction services without the consent of their parents?</li> <li>• Is there a law, policy or practice that automatically excludes people on OAT from further access to OAT on the basis of a positive drug urine test?</li> <li>• In practice, do the opening hours of harm reduction services make it possible for people who use drugs to access these services?</li> </ul>		
	<p>Policies and laws that govern the provision of HIV prevention and treatment services</p>	<ul style="list-style-type: none"> <li>• Public health or HIV Law</li> <li>• National HIV Policy</li> <li>• National strategic plans (NSP) on HIV</li> <li>• National HIV Prevention and Treatment Guidelines</li> </ul>	<ul style="list-style-type: none"> <li>• Does the law or HIV Policy and/or NSP make provision for provision of HIV prevention and treatment services without discrimination?</li> <li>• Does the HIV Policy and/or NSP on HIV recognise people who use drugs as a key population and provide for access to HIV prevention and treatment as well as drug treatment and harm reduction services for people who use drugs?</li> <li>• Do the National HIV Prevention and Treatment Guidelines or any other law or policy exclude people from access to HIV or other health services based on a positive drug urine test?</li> <li>• Does the Public Health law or any other law or policy require health care providers to report people who use drugs to the police or any other authority?</li> </ul>		

<sup>23</sup> Comprehensive package of harm reduction interventions: 1) Needle and syringe programmes 2) Opioid substitution therapy 3) HIV testing services 4) Antiretroviral therapy 5) Prevention and treatment of sexually transmitted infections 6) Condom programmes for people who inject drugs and their sexual partners 7) Targeted information, education and communication 8) Prevention, vaccination, diagnosis and treatment of viral hepatitis B and C 9) Prevention,

diagnosis and treatment of tuberculosis 10) Community distribution of naloxone. Source: WHO, UNODC, UNAIDS technical guide for countries to set targets for universal access to HIV prevention, treatment and care for injecting drug users–2012 revision. Geneva: World Health Organization; 2013. Consolidated guidelines on HIV prevention, diagnosis, treatment and care for key populations–2022 update. Geneva: World Health Organization; 2022.

**Table A2: Societal enablers (10-10-10 targets)**

Targets					
<ul style="list-style-type: none"> <li>• Less than 10% of countries criminalise drug use and possession of small amounts of drugs</li> <li>• Less than 10% of people who use drugs, report experiencing stigma and discrimination</li> <li>• Less than 10% of people who use drugs lack access to legal services</li> <li>• Less than 10% of people who use drugs experience physical or sexual violence</li> <li>• Less than 10% of countries lack mechanisms for people living with HIV and key populations to report abuse and discrimination and seek redress</li> </ul>					
Desk Review					
Area of focus	What are you looking for?	Where do you find it?	Questions to consider	Comments	Recommendations
		National laws and policies and plans			
<ul style="list-style-type: none"> <li>• Drug use and possession of small amounts of drugs               <ul style="list-style-type: none"> <li>◦ Threshold amount</li> <li>◦ Alternatives to criminal sanctions</li> </ul> </li> <li>• Arbitrary arrest and detention</li> <li>• Torture and other cruel, inhuman, or degrading treatment or punishment</li> </ul>	<ul style="list-style-type: none"> <li>• Policies and laws that criminalise possession and use of drugs.</li> </ul>	<ul style="list-style-type: none"> <li>• Constitution: does your constitution guarantee the right to health?</li> <li>• Penal Code</li> <li>• Specific criminal laws that criminalise drug possession and use and possession of drug using paraphernalia</li> </ul>	<ul style="list-style-type: none"> <li>• Are there drug laws criminalising drug use? What do they prohibit (e.g. do they criminalise possession and use of drugs in all circumstances or are there exceptions in terms of, for example, threshold)? Do they also criminalise carrying of paraphernalia for drug use?)</li> <li>• Do these laws provide for punitive measures for people who use drugs, such as mandatory detention, mandatory treatment and registration as an offender?</li> <li>• Are alternatives to criminal sanctions for drug use/possession for personal use available in law?</li> <li>• If so what are these alternatives? If these take the form of fines, what is the amount of these fines and how affordable are they for people who use drugs?</li> </ul>		
	<ul style="list-style-type: none"> <li>• Policies and laws that provide for compulsory treatment for people who use or inject drugs.</li> </ul>	<ul style="list-style-type: none"> <li>• Constitution</li> <li>• Penal Code</li> <li>• Specific criminal laws that criminalise drug possession and use and possession of drug using paraphernalia</li> <li>• National strategic plans (NSP) on HIV</li> </ul>	<ul style="list-style-type: none"> <li>• Does your constitution guarantee the right to health and to be free from cruel and unusual punishment and torture?</li> <li>• Is compulsory drug treatment permissible in law?</li> <li>• If so under what conditions is compulsory drug treatment possible in law?</li> <li>• If drug treatment is court ordered instead of a criminal conviction, is there a punishment for relapse?</li> <li>• Does the NSP make provision for voluntary drug treatment – this is sometimes the case even in countries where drug laws provide for compulsory treatment.</li> </ul>		

Area of focus	What are you looking for?	Where do you find it?		Comments	Recommendations
		National laws and policies and plans	Questions to consider		
Stigma and discrimination	<ul style="list-style-type: none"> <li>Stigma, discrimination against people who use drugs in different settings, including in health care facilities.</li> </ul>	<ul style="list-style-type: none"> <li>Constitution:</li> <li>Anti-discrimination laws</li> <li>Health laws which provide guidance on how health programmes and services are provided and standards for ensuring the availability, accessibility, safety and quality of treatment as well as related health goods and services. They may also contain provisions relating to the responsibilities of health care providers and the rights of patients with respect to health (including HIV) issues, such as their rights regarding informed consent to medical treatment, to medical confidentiality, of equal access to health care services, harm reduction and drug treatment services without discrimination, and to be protected from harm.</li> <li>National strategic plans (NSP) on HIV: check whether the NSP makes provision for stigma reduction programmes to address stigma and discrimination against key populations, including people who use drugs.</li> </ul>	<ul style="list-style-type: none"> <li>Does your constitution guarantee the right to equality and to be free from stigma and discrimination?</li> <li>Is there an equality/anti-discrimination law?</li> <li>Does it provide for equality and prohibit discrimination on the basis of health status, which includes drug use as a health status?</li> <li>Is discrimination prohibited in both the public and private sectors?</li> <li>Is there a complaints / reporting mechanism in place that allows people to file complaints in respect of discrimination in access to health services?</li> <li>Does the law protect people who file complaints of discrimination—as well as witnesses or others who support the complaints—from retaliation?</li> <li>Is there a public health or HIV law? Does it specifically recognise the need to protect rights to equality and prohibit discrimination against people who use drugs? Does it provide for equal access to health care for people who use drugs?</li> <li>Do people who use drugs have equal access to HIV prevention, treatment and care services including drug treatment and harm reduction services? If not what are the problems experienced by people who use drugs in accessing (a) HIV prevention, treatment and care services and (b) harm reduction services?</li> <li>Does the national strategic plan on HIV recognise people who use drugs as a key population and provide for access to HIV prevention and treatment as well as drug treatment and harm reduction services for people who use drugs?</li> <li>What is the existing redress mechanism for cases of discrimination? Is there a human rights ombudman, a national human rights commission, a human rights tribunal or other institutions that take up complaints of discrimination by people who use drugs?</li> <li>Are people who use drugs whose rights have been violated able to access affordable legal advice and legal representation in the courts?</li> <li>Are human rights violations against people who use drugs monitored and documented?</li> </ul>		

Area of focus	What are you looking for?	Where do you find it?		Comments	Recommendations
		National laws and policies and plans	Questions to consider		
Physical and sexual violence	<ul style="list-style-type: none"> <li>Arbitrary arrests and violence against people who use drugs by law enforcement.</li> </ul>	<ul style="list-style-type: none"> <li>Constitution: does your constitution guarantee the right right to liberty and security of person and freedom from arbitrary arrest or detention?</li> <li>Laws that govern criminal procedure and arrests</li> <li>Laws that regulate the police service</li> </ul>	<ul style="list-style-type: none"> <li>Can police attend overdose incidents without the need to arrest the patient, those calling emergency services or others on site due to the presence of drugs or paraphernalia?</li> <li>Is there a complaint procedure in place for police abuse in the context of drug enforcement?</li> <li>What kinds of police abuse are reported by people who use drugs and how often do they occur?</li> <li>Is there any provision in law or policy requiring reports of police abuse by women and young girls and adolescent women who use drugs or the family members of people who use drugs to be attended to by women police officers and/or accompanied by psychologists?</li> </ul>		
Legal support, services and protection	<ul style="list-style-type: none"> <li>Lack of access to legal services for people who use drugs when their human rights have been violated.</li> </ul>	<ul style="list-style-type: none"> <li>Constitution: does your constitution guarantee the right to be equal before the law and to legal representation?</li> <li>Laws that make provision for legal aid</li> </ul>	<ul style="list-style-type: none"> <li>Do people who use drugs have access to state provided free legal advice and assistance when their rights have been violated?</li> <li>If no state provided legal aid is available, are there civil society organisations that provide free legal advice and assistance to people who use drugs whose rights have been violated?</li> </ul>		

**Table A3: Community leadership (30-60-80 targets)**

Targets					
<ul style="list-style-type: none"> <li>• 30% of testing and treatment services to be delivered by community-led organisations.</li> <li>• 60% of the programmes to support the achievement of societal enablers to be delivered by community-led organisations.</li> <li>• 80% of service delivery for HIV prevention programmes for people who use drugs to be delivered by community-led organisations.</li> </ul>					
Desk Review					
Area of focus	What are you looking for?	Where do you find it?		Comments	Recommendations
		National laws and policies and plans	Questions to consider		
<p>Freedom of association:</p> <ul style="list-style-type: none"> <li>• Registering of organisations led by people who use drugs</li> <li>• access to funding and other financial services</li> </ul> <p>Community leadership:</p> <ul style="list-style-type: none"> <li>• meaningful participation of people who use drugs</li> <li>• community-leadership and engagement in public sector</li> <li>• community-led service delivery</li> </ul>	<ul style="list-style-type: none"> <li>• Laws and policies that regulate the registration and operation of community-led organisations</li> <li>• Laws and policies that promote or require the meaningful participation of people who use drugs in the HIV response</li> </ul>	<ul style="list-style-type: none"> <li>• Constitution</li> <li>• Laws that govern the registration of non-governmental organisations</li> <li>• HIV Policy</li> <li>• HIV NSP</li> </ul>	<ul style="list-style-type: none"> <li>• Does your constitution guarantee the right to freedom of association?</li> <li>• Does the law require non-governmental organisations to register?</li> <li>• Does the law place any restrictions on the registration of non-governmental organisations that prevent organisations led by people who use drugs being registered?</li> <li>• Does the HIV policy and/or NSP recognise and/or make provision for the meaningful engagement of people who use drugs in the HIV response?</li> <li>• Does the HIV policy and/or NSP make provision for community-led service delivery?</li> <li>• Is there representation by people who use drugs in the CCM?</li> <li>• Are people who use drugs effectively involved in national dialogues such as the development of Global Fund funding requests, the HIV technical working group, the harm reduction technical working group and in processes to develop policies and programmes related to people who use drugs?</li> <li>• Are organisations led by people who use drugs engaged in the national HIV programme as implementers (for e.g. as providers of services for people who use drugs)?</li> <li>• Are there any employment policies in place at civil society organisations that provide harm reduction services that prevent the recruitment of people who use drugs to work in these programmes?</li> <li>• Are organisations led by people who use drugs able to access funding for their work?</li> <li>• If government funding is available, is it possible to use this funding to support drug user's rights advocacy work, and harm reduction or is it limited to programmes that are abstinence-based?</li> </ul>		

In addition to the laws, policies and plans referred to in the tables above, you can also look at your country's reports to UNAIDS (see <https://www.unaids.org/en/dataanalysis/knowyourresponse/countryprogressreports/2020countries>) as well as at any Stigma Index surveys that have been conducted (see <https://www.stigmaindex.org/>)

**Tips for finding laws and policies:**

- UNAIDS and WHO have a law and policies analytics global database, which provides information on the laws and policies in place around the world, which is searchable wither by country or by the specific policy topic such as, for example, HIV prevention for people who use drugs: <https://lawsandpolicies.unaids.org/>
- The United Nations Office of the High Commissioner for Human Rights has an interactive dashboard on the ratification status of the different international human rights treaties, where you can find information about what international human rights treaties have been ratified by your country: <https://indicators.ohchr.org/>

In some countries it can be difficult to access national laws, policies and plans on the internet. If this is the case in your country, you might consider approaching other organisations in your country that provide legal and other access to justice services for people who use drugs or other key populations to assist you with your search for the relevant laws and policies.

## ANNEX B INTERVIEW GUIDE

You can find some examples of questions you can use when collecting secondary data. This list is not meant to be complete nor that you have to complete them all. The list include some suggestions and guiding questions you can use and adapt accordingly. The questions are grouped by theme and they are not in order. Feel free to pick and choose, or even add your own.

### 1.0 Stigma, discrimination and other human rights violations

- 1.1 Do you face stigma and discrimination or other human rights violations? If so, please provide examples.
- 1.2 When accessing health care, including harm reduction services, are you treated in a discriminatory manner or face human rights violations at the hands of any specific organisations/institutions (e.g. Ministries, hospitals, prisons, police, drug treatment centres)? If so, please provide examples.
- 1.3 Have health care providers been trained on the human rights of people who use drugs?
- 1.4 Have lawmakers and law enforcers been sensitised on the human rights of people who use drugs and the impacts of criminalisation of drug use and aggressive law enforcement on the right to health for people who use drugs?

### 2.0 Laws/Policies/Practices

- 2.1 Are there punitive laws that criminalise possession of drugs for personal use as well as possession of drugs paraphernalia. How do these laws impact on access to HIV prevention and treatment services for people who use drugs? In particular how do these impact on access to harm reduction including opioid agonist therapy?
- 2.2 Do you think that these laws make people who use drugs more vulnerable to HIV infection? If so, why?
- 2.3 Do practices occur, that are not necessarily provided for in law or policy, at the hands of government institutions, that negatively impact on access to HIV prevention, treatment and care services by people who use drugs? (For example, the use of laws that are not specifically designed to address drug use by law enforcement officials to harass people who use drugs or practices such as requiring registration of identity details of people accessing harm reduction and opioid agonist therapy programmes?)
- 2.4 Does the law allow organisations led by people who use drugs to register? Does it allow organisations to receive and use donor or public funds to provide HIV-related services to people who use drugs as well as advocacy for law reform?
- 2.5 Is there a national network or community group led by people who use drugs? Are there by-laws and other processes that may make it either harder or easier for such groups to register as an organisation?
- 2.6 Are there policies and programmes in place to improve services for HIV, STI and other sexual health care for people who use drugs (including people with disabilities who use drugs)?
- 2.7 What laws, policies and practices would you change, and how, to improve access to HIV prevention and treatment services for people who use drugs (including people with disabilities who use drugs)?

### **3.0 Enforcement**

- 3.1 Are the laws that criminalise drug possession and use and the possession of drug paraphernalia implemented and enforced (are people who use drugs being prosecuted?)
- 3.2 If yes, how often does this happen and what is usually the result?
- 3.3 Are people who use drugs subjected to any forms of harassment or violence by law enforcement officials? If yes, what form does this usually take?
- 3.4 What effect, if any do you think that this has on the ability of people who use drugs to access HIV prevention and treatment services?
- 3.5 Do organisations providing services for people who use drugs experience harassment by law enforcement officers? If so, please provide examples.
- 3.6 Do police take protective, appropriate action in cases of gender-based violence against people who use drugs? If not, how are complaints of gender-based violence on the part of people who use drugs dealt with by law enforcement officials?
- 3.7 Have lawmakers and law enforcers been sensitised on HIV, drug use, and human rights?

### **4.0 Access to Justice**

- 4.1 To what extent do people who use drugs know their rights? Are 'know your rights' campaigns/ programmes provided for people who use drugs?
- 4.2 Are there legal support services to help people who use drugs access information, advice, referrals and support to uphold their rights? Are people who use drugs able to claim and enforce their rights, and if not, why not?
- 4.3 Do you seek help when you are discriminated against/when your rights are denied? Why/why not?
- 4.4 Where do you seek help when you are discriminated against or when your rights are otherwise infringed? (e.g. police, lawyers, courts, Human Rights Commission, religious facilities, faith-based organisations, community-led organisations)?
- 4.5 Are human rights violations among people who use drugs monitored and documented?

### **5.0 Access to comprehensive harm reduction and drug treatment (some of these may have already been answered)**

- 5.1 Are people who use drugs able to access HIV prevention and treatment services and broader sexual and reproductive health services? If not, what are the problems that people who use drugs encounter in accessing these services?
- 5.2 Have health care providers been sensitised on the rights of people who use drugs?
- 5.3 Have you ever had an HIV test? If so, did you receive pre-test counselling in order to allow you to make an informed decision about whether to take the test and was the test in fact taken with your consent? Was confidentiality of the results assured and was it indeed upheld?
- 5.4 Have any of your rights been violated by health care workers? If so, please provide examples.
- 5.5 Do people who use drugs in places of detention (both awaiting trial and sentenced) have adequate access to HIV prevention and treatment services, including harm reduction and opioid agonist therapy? If not, what are the problems experienced?

- 5.6 Are drug treatment and harm reduction services provided free of charge for the client or covered by health insurance?
- 5.7 Are drug treatment and harm reduction services equally accessible in all parts of the country (geographic accessibility)?
- 5.8 If not, why are these services not equally accessible in all parts of the country?
- 5.9 Are there dedicated treatment and harm reduction services for women and young people who use drugs?
- 5.10 Are adolescents under the age of 18 able to access drug treatment and harm reduction services without the consent of their parents?
- 5.11 If drug treatment and harm reduction services are available in the country, what are the practical problems faced by people in accessing these services (e.g. geographical location, opening times, unfriendly staff etc.)?

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 the drug-using community's health and rights. INPUD will achieve this through processes of empowerment and advocacy at the international level, while supporting empowerment and advocacy at community, national and regional levels. [www.inpud.net](http://www.inpud.net)

INPUD would also like to acknowledge people who use drugs around the world who fight back against criminalisation, stigma and discrimination, harassment, abuse and violence every day. We will continue fighting to change existing local, national, regional and international drug laws and formulate an evidence-based drug policy that respects people's human rights and dignity instead of one fueled on moralism, stereotypes and lies.



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*Written by:* Michaela Clayton

*Reviewed by:* Aditia Taslim, Judy Chang

*Designed by:* Mike Stonelake

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INPUD Secretariat

Unit 2B15, South Bank Technopark

90 London Road, London SE1 6LN

**[www.inpud.net](http://www.inpud.net)**



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