



## **WOMEN WHO USE DRUGS AROUND THE WORLD: KEY ISSUES, VIOLATIONS, AND RECOMMENDATIONS**

### **University of Miami School of Law Human Rights Clinic**

**Gabrielle Wynn and Tamar Ezer**

1311 Miller Drive, Coral Gables, FL 33146

305-284-4542 | [www.law.miami.edu/hrc](http://www.law.miami.edu/hrc)

### **The Canadian HIV/AIDS Legal Network**

**Mikhail Golichenko**

1240 Bay Street, Suite 600, Toronto, Ontario, Canada, M5R 2A7

Tel: 1(416)595 1666 | Fax: 1 (416) 595 0094 | [www.aidslaw.ca](http://www.aidslaw.ca)

### **Eurasian Harm Reduction Association**

Gedimino av. 45-4, 01109, Vilnius, Lithuania

Tel: +370 68887975 | [www.harmreductioneurasia.org](http://www.harmreductioneurasia.org)

# **WOMEN WHO USE DRUGS AROUND THE WORLD: KEY ISSUES, VIOLATIONS, AND RECOMMENDATIONS**

This report outlines key issues and rights violations relevant to the experiences of women who use drugs, as well as recommendations to protect the human rights of women who use drugs.

## **I. Key Issues**

### **A. Discrimination against Women Who Use Drugs**

Globally, women make up approximately one third of people who use drugs.<sup>1</sup> Despite this, the needs, interests, rights, and voices of these women are consistently neglected in laws, policies, and programs that affect their lives. There is a harsh stigma against women who use drugs because drug use is seen to conflict with the notion of the woman as a mother and caretaker. Furthermore, if the woman has HIV/AIDS she is subjected to additional discrimination and abuse by society.

#### **a. Women and Drug-related Criminal Justice**

While official statistics from most countries show that men make up the majority of people who sell and use drugs, punitive drug laws and policies adversely affect women and their children. Although all people who use drugs face discrimination, women are more likely than men to be vilified as unfit parents and fallen members of society. Women are more likely than men to identify trauma and/or stressors such as relationship problems, environmental stress and family problems as causes for their initiation or continuation of substance use, yet the reasons why women use drugs in the first place is often ignored.<sup>2</sup> It is the harsh criminalization of the personal possession and use of drugs that drives many of the human rights violations that women face. The United Nations (U.N.) Special Rapporteur on violence against women reported to the General Assembly in 2013 that drug laws and policies, “are a leading cause of rising rates of incarceration of women around the world” and expressed concern that in some countries “women who commit relatively low-level drug crimes” are more likely to be given longer prison sentences than men who commit major trafficking offenses.”<sup>3</sup> These women are low-level members of the drug organization, often working as drug mules at the request of their partners.<sup>4</sup> Intersections of race, gender, and class put women at a distinct disadvantage and make them targets for harsher drug penalties for even minor crimes. For instance, with regards to the United Kingdom, the U.N. Committee on the Elimination of Discrimination against Women (CEDAW Committee)’s expressed concerns that the large number of women currently imprisoned on drug-related offenses are indicative of the women’s

---

<sup>1</sup> International Women’s Rights Action Watch Asia Pacific (IWRAP Asia Pacific), *NGO Reporting Guidelines on CEDAW & Rights of Women Who Use Drugs*, 4 (2018), <https://www.iwraw-ap.org/wpcontent/uploads/2018/07/NGO-Reporting-Guidelines-on-CEDAW-Rights-of-Women-who-Use-Drugs.pdf> [hereinafter IWRAP].

<sup>2</sup> Ellen Tuchman, “Women and addiction: the importance of gender issues in substance abuse research”, *Journal of Addictive Diseases*, vol. 29, No. 2 (April 2010).

<sup>3</sup> Rashida Manjoo (U.N. Special Rapporteur on violence against women, its causes and consequences), *Pathways to, Conditions and Consequences of Incarceration among Women*. U.N. Doc. A/68/340 (Aug. 21, 2013).

<sup>4</sup> Committee on the Elimination of Discrimination against Women (CEDAW), *Concluding observations on Brazil* on its Fifty-first Session, para. 32, U.N. Doc. CEDAW/C/BRA/CO/7 (Feb. 23, 2012).

socio-economic status.<sup>5</sup> Additionally, women may be subjected to harsher penalties than their male counterparts because they do not have access to “insider information” that allows men to plea-bargain or make deals with the prosecutors in exchange for lighter sentences.<sup>6</sup> Further, prosecution of women for drug-related offenses rarely takes into account why women may get involved with drugs in the first place.<sup>7</sup> This could include pressures from family, friends, intimate partners, unemployment or underemployment, as well as mental and emotional problems. Furthermore, the incarceration of women also impacts the lives of their children and families, who are often more dependent on the women than on the men in the family.<sup>8</sup>

### **b. Criminalizing Pregnancy**

Women who use drugs further face specific rights violations due to their criminalized status, including losing custody of their children, coerced abortion, coerced sterilization, and penalization for exposing their children to a controlled substance if they are pregnant while using drugs.<sup>9</sup> As mentioned previously, women who use drugs are vilified because their identity as a woman and mother is seen to directly contradict their status as a drug user. Popular media outlets have sensationalized the “crack-baby” epidemic to paint women who use drugs as monsters in society.<sup>10</sup> When women do figure in decision making on drug policy, the focus is on concern for the health of the unborn child. While some countries give pregnant women access to treatment services for drug dependence, pregnant women all over the world still encounter major barriers including access to quality treatment and an overall fear of losing custody of their child.<sup>11</sup> With this in mind, women are less likely to proactively seek treatment for their drug dependency. This is a harsh reality for women in a number of countries in Eastern Europe and Central Asia where seeking treatment results in the registration as a drug user and, in turn, may be grounds for losing a child.<sup>12</sup> In Estonia, police officers, health services providers, and child protective services work together to deprive women who use drugs of their parental rights solely due to their drug dependence.<sup>13</sup>

The United States has similarly problematic policies when it comes to addressing drug use among mothers. In the United States, fetal assault laws in 38 states make it a crime to give birth to a child showing prenatal exposure to narcotics.<sup>14</sup> In Tennessee, about 100 women have been charged under the fetal assault law, mostly in rural Tennessee, an area severely lacking in drug treatment

---

<sup>5</sup> CEDAW, *Concluding observations on the UK* on its Twenty-first Session, para. 312. U.N. Docs CEDAW/C/UK/3, Add.1 and 2, and CEDAW/C/UK/4, Add.1-4 (June 10, 1999).

<sup>6</sup> Kasia Malinowska-Sempruch & Olga Rychkova, *The Impact of Drug Policy on Women*, 16 (Sept. 28, 2016), <https://www.opensocietyfoundations.org/sites/default/files/impact-drug-policy-women-20160928.pdf> [hereinafter Malinowska-Sempruch & Rychkova].

<sup>7</sup> *Id.* at 8-9.

<sup>8</sup> United Nations Office on Drugs and Crime (UNODC), *Women and Drugs, drug use, drug supply, and their consequences*, (2018), 36, [https://www.unodc.org/wdr2018/prelaunch/WDR18\\_Booklet\\_5\\_WOMEN.pdf](https://www.unodc.org/wdr2018/prelaunch/WDR18_Booklet_5_WOMEN.pdf).

<sup>9</sup> IWRAW, *supra* note 1, at 9.

<sup>10</sup> Malinowska-Sempruch & Rychkova, *supra* note 6, at 10.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.* (citing Katya Burns, *Women, harm reduction and HIV: Key findings from Azerbaijan, Georgia, Kyrgyzstan, Russia and Ukraine*, Open Society Institute (2009), <https://www.issuelab.org/resources/7835/7835.pdf>).

<sup>13</sup> Canadian HIV/AIDS Legal Network et al., *The situation with the enjoyment of social rights among women who use drugs and/or living with HIV in Estonia*, Committee on Economic, Social and Cultural Rights (CESCR) Parallel Submission for 62nd Pre-Sessional Working Group with respect to Estonia, Para. 4, (2018).

<sup>14</sup> Amnesty International, *Criminalizing Pregnancy, Policing Pregnant Women Who Use Drugs*, 17 (2017), <https://www.amnesty.org/download/Documents/AMR5162032017ENGLISH.pdf> [hereinafter Amnesty International].

facilities, and in Memphis, a majority African-American city.<sup>15</sup> Alabama's chemical endangerment law was passed as a means to protect children from environments where they could be exposed to drugs or controlled substances.<sup>16</sup> However, Alabama prosecutors have interpreted this to apply to pregnant women themselves.<sup>17</sup> In a national context, pregnant women may also receive a harsher punishment if their embryo or fetus is considered a legally separate person.<sup>18</sup> Again, when women's pregnancies are criminalized, they are deterred from seeking prenatal care. This ultimately results in an attitude of distrust between the pregnant mother and the healthcare provider and potentially greater harm to the child. Drug policies that emphasize punishment and incarceration are not only ineffective but also have serious negative implications for women's health, social, and economic situations and often violate women's rights.<sup>19</sup>

### c. Stigmatization of HIV/AIDS

Women who use drugs and have HIV/AIDS face magnified stigmatization and criminalization. The Joint United Nations Programme on HIV/AIDS (UNAIDS) 2014 compilation data showed that the HIV prevalence among women who inject drugs was 13% compared to 9% among men from the same countries.<sup>20</sup> Aside from injection drug use infecting women, there is also the risk associated with sex work.<sup>21</sup> In these situations, women are not able to demand condom usage and are often met with sexual violence.<sup>22</sup> Further, the stigma associated with HIV prevents many women from seeking and utilizing health services.<sup>23</sup> Although drug-related and sex-related HIV risk is a prominent factor in the reality of women who use drugs, it is largely not addressed in programs.<sup>24</sup>

Furthermore, violence is both a cause of HIV vulnerability and a consequence of infection. Women who are subject to domestic violence have little control over their sexual lives and ability to protect themselves from infection, and women who disclose their HIV status to partners are at greater risk for violence.<sup>25</sup> Even marriage does not protect women from the transmission of HIV where women have little sexual autonomy and are economically dependent on their unfaithful husbands.<sup>26</sup> Most shockingly, according to the United Nations Population Fund, 60 to 80% of HIV-positive women in sub-Saharan Africa have been infected by their husbands, their sole partner.<sup>27</sup> Additionally, the disclosure of an HIV-positive status can also trigger violence.<sup>28</sup> Rates of non-disclosure are especially high among women seeking prenatal care, a time of particular vulnerability and

---

<sup>15</sup> *Id.* at 18.

<sup>16</sup> *Id.* at 18-19.

<sup>17</sup> *Id.* at 19.

<sup>18</sup> *Id.*

<sup>19</sup> Julia Kensy et. al., *IDPC Briefing Paper: Drug policy and women: Addressing the negative consequences of harmful drug control*, International Drug Policy Consortium, 15 (2012), <https://www.grea.ch/sites/default/files/drug-policy-and-women-addressing-the-consequences-of-control.pdf>.

<sup>20</sup> UNAIDS, *The Gap Report*, Geneva, 175 (2014), [http://www.unaids.org/sites/default/files/en/media/unaids/contentassets/documents/unaidspublication/2014/UNAIDS\\_Gap\\_report\\_en.pdf](http://www.unaids.org/sites/default/files/en/media/unaids/contentassets/documents/unaidspublication/2014/UNAIDS_Gap_report_en.pdf).

<sup>21</sup> See Malinowska-Sempruch & Rychkova, *supra* note 6, at 13.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> Tamar Ezer, Lessons from Africa: combating the twin epidemics of domestic violence and HIV/AIDS, 13 *HIV/AIDS POL'Y & L. REV.* 57-58 (2008).

<sup>26</sup> *Id.* at 58.

<sup>27</sup> *Id.* (citing United Nations Population Fund, *The State of the World Population 2005*, at 38).

<sup>28</sup> *Id.* at 58.

economic dependence.<sup>29</sup> Operating in secrecy, women who are aware of their status may still not be able to receive adequate treatment for fear that their partner may find out.<sup>30</sup> Unable to receive healthcare, the transmission of HIV from mother to child skyrockets without proper prevention. In South Africa, “AIDS is a leading killer of women in pregnancy, and HIV has increased the childhood mortality rate in Africa by 100%.”<sup>31</sup>

## **B. Gender-based Violence**

Gender-based violence (GBV) has a substantial impact on women who use drugs. This group of women is particularly vulnerable to violence due to their criminalized status.<sup>32</sup> Violence against women involves intimate partner violence and violence perpetrated by law enforcement officers through punitive drug policies. In a recent survey in Kyrgyzstan, 81% of women in harm reduction programs reported surviving sexual, physical or other injurious violence at the hands of their partner, family or police.<sup>33</sup> Similarly, in Georgia, 80% of women in harm reduction programs reported experiencing violence in the year prior to the survey, 74% at the hand of their intimate partner.<sup>34</sup> GBV is often justified by the idea that criminalized behavior like drug use is incompatible with the expected gender role of a woman as a mother and caretaker.<sup>35</sup> When violence is perpetrated by police, who are supposed to protect those in need, women are less likely to seek out legal protection for fear of more violence and potential arrest.<sup>36</sup> Fear of experiencing police violence remains a huge obstacle for women who use drugs seeking safety, emergency medical care and legal protection from GBV.<sup>37</sup> GBV against women who use drugs presents a plethora of health and human rights issues that have been largely unaddressed, including the lack of services to address drug dependence and access to preventative measures against HIV/AIDS.<sup>38</sup> Additionally, services designed to treat drug dependency do not see addressing GBV as a part of their mandate.<sup>39</sup> Moreover, domestic violence shelters explicitly ban women who use drugs.<sup>40</sup>

## **C. Lack of Access to Essential Health Services**

There is a notable service gap in the resources available to women who use drugs. Most harm reduction interventions and services are designed for men and, therefore, fail to respond to the

---

<sup>29</sup> *Id.* at 59.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> See Natalija Bitiukova, *Addressing gender-based violence against criminalized women*, The Open Society Foundations, 25 (May 24, 2015); see also Anya Sarang and Vera Akulova, *Drug politics and violence against women in Russia*, Andrey Rylkov Foundation, 13 (2013), <http://rylkov-fond.org/files/2013/07/Report-on-violence-towards-women-IDU.pdf>.

<sup>33</sup> Malinowska-Sempruch & Rychkova, *supra* note 6, at 15 (citing Louisa Gilbert et al., “Project WINGS: Building Community Capacity to Redress Violence against Women Who Use Drugs in Kyrgyzstan.” Presentation at Funders Concerned About AIDS (FCAA) Summit, Washington, D.C., December 2014).

<sup>34</sup> Union Step to the Future, *Domestic Violence and Women who use Drugs in Georgia*, Gori, Georgia, 2012.

<sup>35</sup> International Harm Reduction Development (IHRD), *Addressing Violence Against Women Who Use Drugs: Access to Safety, Health and Justice*, 1 (Mar 2014).

<sup>36</sup> Malinowska-Sempruch & Rychkova, *supra* note 6, at 16.

<sup>37</sup> L. Gilbert et al., *Feasibility and preliminary effects of a screening, brief intervention and referral to treatment model to address gender-based violence among women who use drugs in Kyrgyzstan: Project WINGS (Women Initiating New Goals of Safety)*, *Drug and Alcohol Review* 132 (Jan. 2017), <https://onlinelibrary.wiley.com/doi/abs/10.1111/dar.12437>.

<sup>38</sup> IHRD, *supra* note 35, at 1.

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

specific needs of women who use drugs.<sup>41</sup> In the context of sexual and reproductive health rights, a woman's access to adequate healthcare can ride on the disclosure of her status.<sup>42</sup> Since many service providers are not trained to deal with women who use drugs, women are unlikely to disclose this information while seeking an abortion, to the detriment of their health.<sup>43</sup> This, in turn, excludes women from a host of interventions, including HIV prevention and opioid substitution therapy.<sup>44</sup> For example, in Ukraine, there are 174 opioid substitution therapy sites and the number of participants is 9,154, including 1,706 (19%) being women.<sup>45</sup> Furthermore, some sites, 29 out of the 174 have no women among their patients at all.<sup>46</sup> This is an indicator of unequal access to treatment for women who use drugs. The opioid substitution therapy (OST) program provides for uninterrupted OST in the case of in-patient hospitalization, the right to receive OST in healthcare institutions in other administrative and territorial units, and the possibility of issuing OST as a prescription.<sup>47</sup> However, strict drug policy regulations ensure a low level of accessibility of the program for people who use drugs. Women reported that the geographical coverage of these programs is poor, which leads to them traveling hours at a time to receive the OST medication.<sup>48</sup> In Estonia, the low access to OST—despite being technically available, even to pregnant women<sup>49</sup>—is largely a consequence of doctors and child protection services consciously withholding information about OST programs.<sup>50</sup>

## II. Human Rights Violations of Women who use Drugs

Women who use drugs have inalienable human rights to equality and non-discrimination, family, health, and freedom from violence. The chart below sets out the key rights implicated by common violations experienced by women who use drugs and the corresponding provisions in international human rights law. This draws on the following core international human rights treaties: International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social, and Cultural Rights (ICESCR), Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Convention on the Rights of the Child (CRC), and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

---

<sup>41</sup> IWRAW, *supra* note 1, at 10.

<sup>42</sup> *Id.* at 12.

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> Legalife-Ukraine et al., *On the situation of women who use drugs, women living with HIV, sex workers, and lesbian, bisexual women and transgender people in Ukraine*, Shadow Report 14, (2017), [https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/UKR/INT\\_CEDAW\\_NGO\\_UKR\\_26367\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/UKR/INT_CEDAW_NGO_UKR_26367_E.pdf).

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> *Id.* at 16.

<sup>49</sup> Canadian HIV/AIDS Legal Network et al., *The situation with the enjoyment of social rights among women who use drugs and/or living with HIV in Estonia*, Committee on Economic, Social and Cultural Rights (CESCR) Parallel Submission for 62nd Pre-Sessional Working Group with respect to Estonia, Para. 43, (2018).

<sup>50</sup> *Id.*

<b>Rights Violations</b>	<b>International Human Rights Instruments</b>
<i>Right to Equality and Non-Discrimination</i>	<p><i>ICCPR</i></p> <ul style="list-style-type: none"> <li>• Art. 2(1): “Each State Party . . . undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind . . .”</li> <li>• Art. 3: “The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights . . .”</li> <li>• Art. 26: “All persons are equal before the law . . .”</li> </ul> <p><i>ICESCR</i></p> <ul style="list-style-type: none"> <li>• Art. 2: “The States . . . guarantee that the rights enunciated in the present Covenant will be exercised without discrimination.”</li> </ul> <p><i>CEDAW</i></p> <ul style="list-style-type: none"> <li>• Art. 1: Defines discrimination as “any distinction, exclusion, or restriction” made on the basis of sex that undermine women’s ability to equally enjoy their human rights and fundamental freedoms.</li> <li>• Art. 2: Obligates states to condemn discrimination against women, refrain from enacting discriminatory policies, and pursue any measure that would end gender-based prejudice and unequal treatment.</li> <li>• Art. 5: “. . . Modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices . . .”</li> </ul>
<i>Right to Health</i>	<p><i>ICESCR</i></p> <ul style="list-style-type: none"> <li>• Art. 12: “The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.”</li> </ul>

	<p><i>CEDAW</i></p> <ul style="list-style-type: none"> <li>• Art. 12: “take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure . . . access to health care services, including those related to family planning.”</li> </ul>
<p><i>Right to Family</i></p>	<p><i>ICCPR</i></p> <ul style="list-style-type: none"> <li>• Art 17: “No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.</li> <li>• Art. 23(1): “The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.”</li> </ul> <p><i>ICESCR</i></p> <ul style="list-style-type: none"> <li>• Art. 10(1): “The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children.”</li> </ul> <p><i>CRC</i></p> <ul style="list-style-type: none"> <li>• Art. 9(1): “. . . a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine . . . that such separation is necessary for the best interests of the child.”</li> <li>• Art. 9(3): “States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.”</li> </ul>
<p><i>Right to be Free from Gender-based Violence</i></p>	<p>GBV violates fundamental rights to equality and non-discrimination (ICCPR: Art. 2(1), 3,</p>



	<p>26; ICESCR: Art. 2; CEDAW: Art.1, 2, 5), life (ICCPR: Art. 6), health (ICESCR: Art. 12), security of person (ICCPR: Art. 9), privacy (ICCPR: Art. 17), and freedom from torture and cruel, inhuman or degrading treatment (ICCPR: Art. 7; CAT: Art. 10).</p> <p>Moreover, GBV can prevent women from exercising further economic and political rights.<sup>51</sup></p> <p><i>CEDAW General Recommendation No. 35</i></p> <ul style="list-style-type: none"> <li>• Para. 15: “Women’s right to a life free from gender-based violence is indivisible from and interdependent on other human rights . . .”</li> <li>• Para. 21: “Gender-based violence against women constitutes discrimination against women under article 1 and therefore engages all obligations under the Convention.”</li> <li>• Para. 24(2)(b): “States parties will be held responsible should they fail to take all appropriate measures to prevent, as well as to investigate, prosecute, punish and provide reparations for, acts or omissions by non-State actors that result in gender-based violence against women . . .”</li> </ul>
--	---

**III. Recommendations**

Women who use drugs face many unique challenges in receiving not only adequate healthcare, but in fair and equal treatment by society. However, it is not too late for countries to step up and change their law, policies, and programs. The following recommendations, drawn from Concluding Observations and General Recommendations from the CEDAW Committee and, reports from the U.N. Office on Drugs and Crime (UNDOC), NGOs, and experts can guide countries in the right direction.

**A. Combat Discrimination against Women Who Use Drugs**

- Explicitly address intersecting forms of discrimination in law and policy.<sup>52</sup>

---

<sup>51</sup> United Nations Development Programme (UNDP), *Gender-based violence*, 2019, <http://www.undp.org/content/undp/en/home/gender-equality/gender-based-violence/>.  
<sup>52</sup> CEDAW, *Concluding observations on the fourth periodic report of Kyrgyzstan\**, para. 34(a) U.N. Doc. CEDAW/C/KGZ/CO/4 (Mar. 11, 2015).

- Adopt temporary measures to accelerate the modification and elimination of cultural practices and stereotypical attitudes and behavior that discriminate against or are disadvantageous for women, for example, creating a state-sponsored media campaign that promotes equality for all women.<sup>53</sup>
- “Adopt the legislative measures and targeted policies necessary to address multiple forms of discrimination and promote the integration into society of disadvantaged and marginalized groups of women facing intersecting forms of discrimination.”<sup>54</sup>
- Address the situation of women and girls in detention through the development of comprehensive gender-sensitive policies, strategies and programs aimed at facilitating their access to justice and ensuring compliance with their fair trial guarantees.<sup>55</sup>

## **B. Protect the Family Unit**

- Develop humane policies for protecting families against arbitrary removal of children and reevaluate definitions of child abuse and neglect to ensure they are based on evidence rather than the assumption that prenatal drug exposure alone is indicative of child abuse.<sup>56</sup>
- Create policies and programs that support keeping mothers with their children, recognizing the value of the relationship between a mother and her child and its importance for a child’s development.

## **C. Address Rights Violations in Drug Policy**

- Promote drug policies and programs that are “evidence-based, respectful of human rights principles, gender-sensitive, and that emphasize health and social inclusion.”<sup>57</sup>
- Review drug policy with the goal of shifting from a criminal to a public health and harm reduction approach.<sup>58</sup>
- Ensure women who use drugs are involved in policy and program planning, implementation, and evaluation.<sup>59,60</sup>
- Research the ways women are involved in the drug trade and analyze the discriminatory effect that current drug policies can have on them.<sup>61</sup>
- “Develop specific guidelines, indicators and targets that address the needs of women who inject drugs regarding harm reduction services, sexual and reproductive health,

---

<sup>53</sup> General recommendation No. 25, on article 4, para. 1, of *The Convention on the Elimination of All Forms of Discrimination against Women, on temporary special measures*, para. 38, [http://www.un.org/womenwatch/daw/cedaw/recommendations/General%20recommendation%2025%20\(English\).pdf](http://www.un.org/womenwatch/daw/cedaw/recommendations/General%20recommendation%2025%20(English).pdf).

<sup>54</sup> CEDAW, *Concluding observations on the fourth periodic report of Kyrgyzstan\**, para. 34(c) U.N. Doc. CEDAW/C/KGZ/CO/4 (Mar. 11, 2015).

<sup>55</sup> Malinowska-Sempruch & Rychkova, *supra* note 6, at 20.

<sup>56</sup> Amnesty International, *supra* note 14, at 66.

<sup>57</sup> *Id.*

<sup>58</sup> CEDAW, *Concluding observations on the combined eighth and ninth periodic reports of Canada\**, para. 34 U.N. Doc. CEDAW/C/CAN/CO/8-9 (Nov. 25, 2016).

<sup>59</sup> *Id.*

<sup>60</sup> Malinowska-Sempruch & Rychkova, *supra* note 6, at 20.

<sup>61</sup> *Id.*

- pre- and post-natal care and other key interventions.”<sup>62</sup>
- Ensure that drug laws make a clear distinction between high-level trafficking and minor level offences, such as couriering and low-level dealing, and impose penalties proportionate to the crime in consideration of factors, such as socio-economic status.<sup>63</sup>
  - Consider decriminalizing the use and possession of drugs for personal use as it leads to the mass incarceration of women and young girls.<sup>64</sup>
  - Ensure women who use drugs can access gender-sensitive harm reduction and drug dependence treatment services without fear of arrest or stigma and discrimination.<sup>65</sup>

#### **D. Combat Stigmatization of HIV/AIDS**

- Ensure that HIV policy and program planning respects human rights and are in line with international guidance and protocols. For example, planning should provide for consultation with multiple stakeholders, including local community advocates. Furthermore, the goal should be to reduce the stigma associated with HIV.<sup>66</sup>
- Create programming to raise awareness about HIV/AIDS, testing for the virus, and preventative measures, including education of local communities.

#### **E. Address GBV against Women Who Use Drugs**

- Coordinate legislative, policy, program and advocacy initiatives to address and redress police violence against women who use drugs.<sup>67</sup>
- “Train police on supportive and non-judgmental approaches to dealing with women involved with drugs and GBV, including referrals to appropriate services as well as a method of redress for women to pursue in the case of police abuse.”<sup>68</sup>
- Provide safe and quality shelters to women who use drugs facing GBV without discrimination.
- “Ensure availability and accessibility of appropriate, good-quality, nondiscriminatory antiviolence services for all women in need, regardless of their drug use status and without involving the police or other criminal justice system actors.”<sup>69</sup>

#### **F. Improve Access to Health and Other Services for Women Who Use Drugs**

---

<sup>62</sup> United Nations Office on Drugs and Crime (UNODC) et al., *Women who inject drugs and HIV: Addressing specific needs*, (2014), 8, [http://www.unodc.org/documents/hiv-aids/publications/WOMEN\\_POLICY\\_BRIEF2014.pdf](http://www.unodc.org/documents/hiv-aids/publications/WOMEN_POLICY_BRIEF2014.pdf). [hereinafter UNODC].

<sup>63</sup> *Id.*

<sup>64</sup> Committee on Economic, Social, and Cultural Rights (CESCR), *Concluding observations on the sixth periodic report of the Russian Federation\**, para. 51 U.N. Doc. E/C.12/RUS/CO/6 (Oct. 16, 2017); see CESCR, *Concluding observations on the combined fifth and sixth periodic reports of the Philippines\**, para. 54 U.N. Doc. E/C.12/PHL/CO/5-6 (Oct. 26, 2016); see generally Malinowska-Sempruch & Rychkova, *supra* note 6, at 7.

<sup>65</sup> *Id.*

<sup>66</sup> UNODC, *supra* note 62, at 8.

<sup>67</sup> L. Gilbert et al., *Feasibility and preliminary effects of a screening, brief intervention and referral to treatment model to address gender-based violence among women who use drugs in Kyrgyzstan: Project WINGS (Women Initiating New Goals of Safety)*, *Drug and Alcohol Review* (January 2017), 36, 125–133.

<sup>68</sup> Malinowska-Sempruch & Rychkova, *supra* note 6, at 20.

<sup>69</sup> *Id.*

- Focus on addressing gaps in the healthcare system so that all communities have access to comprehensive, quality treatment, and services.<sup>70</sup>
- Collect sex-disaggregated data on drug use, HIV prevalence and coverage of harm reduction services components.<sup>71</sup>
- Ensure access to sustainable, non-discriminatory and non-prejudiced services, such as shelters, sexual and reproductive health services, legal aid and counselling, and employment for all women.<sup>72</sup>
- Take steps to remove barriers to women’s access to health services, education and information, including information on sexual and reproductive health, and allocate resources for programming directed at adolescents for the prevention and treatment of sexually transmitted diseases, including HIV/AIDS.<sup>73</sup>
- Monitor the provision and quality of health services to women to ensure equal access and quality of care.<sup>74</sup>
- “Require all health services to be consistent with the human rights of women, including the rights to physical integrity, privacy, confidentiality, and informed consent.”<sup>75</sup>
- “Implement training and guidelines to ensure drug testing of pregnant women is only conducted with informed consent, including an explanation of the potential ramifications of a positive test.”<sup>76</sup>
- Train health services workers comprehensively, by instituting mandatory, gender-sensitive courses on women’s health and human rights, in particular gender-based violence.<sup>77</sup>
- Ensure the integration of respectful and good quality harm reduction, drug treatment, and reproductive health services to enable pregnant women with opiate dependence to have easy access to opiate substitution therapy, or for women living with HIV to prevent transmission from mother to child.<sup>78</sup>
- “Expand access to residential drug treatment centers that prioritize admission of pregnant women and allow children to stay with their mothers.”<sup>79</sup>
- Respect the autonomy of pregnant and breastfeeding women; women with substance use disorders need to be fully informed about the risks and benefits, for themselves and for their fetuses or infants, and of available treatment options, when making decisions about their health care.<sup>80</sup>

---

<sup>70</sup> Amnesty International, *supra* note 14, at 66.

<sup>71</sup> UNODC, *supra* note 62, at 7.

<sup>72</sup> Malinowska-Sempruch & Rychkova, *supra* note 6, at 20.

<sup>73</sup> General recommendation No. 24: Article 12 of the Convention (women and health), *The Committee on the Elimination of Discrimination against Women*, on its Twentieth session (1999)\*, para. 31(b), [https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1\\_Global/INT\\_CEDAW\\_GEC\\_4738\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/INT_CEDAW_GEC_4738_E.pdf).

<sup>74</sup> *Id.* at para. 31(d).

<sup>75</sup> *Id.* at para. 31(e).

<sup>76</sup> Amnesty International, *supra* note 14, at 67.

<sup>77</sup> Malinowska-Sempruch & Rychkova, *supra* note 6, at 20.

<sup>78</sup> *Id.*

<sup>79</sup> Amnesty International, *supra* note 14, at 67.

<sup>80</sup> World Health Organization (WHO), Substance abuse and substance disorders in pregnancy (2014), 7, [https://apps.who.int/iris/bitstream/handle/10665/107130/9789241548731\\_eng.pdf;jsessionid=DAEC505276C44146D669CA21424663BE?sequence=1](https://apps.who.int/iris/bitstream/handle/10665/107130/9789241548731_eng.pdf;jsessionid=DAEC505276C44146D669CA21424663BE?sequence=1).

#### **IV. Conclusion**

The impact of drug use has a disproportionate effect on women who use drugs around the world. The stigma and discrimination associated with drug use conflicts with society's notion of a woman as mother and caretaker. Forgotten by society, they are susceptible to violence from both the police and intimate partners and especially vulnerable to contracting HIV. There is an overall lack of access to services that can help women address addiction and overcome gender-based violence. Moreover, women who use drugs are unfairly persecuted by the criminal justice system in comparison to their male counterparts. This violates their innate human right to equality and non-discrimination, health, family, and freedom from violence. This is a critical international human rights issue that can no longer be ignored.