

**Human rights at the margin:  
HIV/AIDS, prisoners, drug users, and the law**

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**Remarks by Paul Hunt,  
UN Special Rapporteur  
on the right of everyone to the enjoyment of  
the highest attainable standard of physical and mental health**

I was delighted to receive the invitation to speak at today's meeting and very much regret that I am not able to be present in person. From the agenda and list of participants I know your discussions will be both lively and enriching.

The global fight against the HIV/AIDS epidemic has shown that the promotion and protection of human rights constitute an essential component in preventing transmission of HIV and reducing vulnerability to infection and the impact of HIV/AIDS. Governments around the world have committed to placing human rights at the heart of their efforts against HIV/AIDS. Yet a lack of respect for the human rights of certain groups continues to fuel these vulnerabilities.

Like other human rights, the right to health has a particular preoccupation with disadvantaged and vulnerable populations. In virtually every part of the world, drug users and prisoners are among the most vulnerable members of society. As a result they often have lower access to information, education, basic social services and other human rights. They are more likely to suffer stigma and discrimination, less likely to enjoy access to health services, essential medicines and so on. In the context of HIV/AIDS, respecting the right to health – and other related rights - of prisoners and drug users can literally be a matter of life or death.

Effective HIV/AIDS responses require us to address the ways in which public health and criminal justice policies can bear upon the enjoyment of the right to health for drug users and prisoners. In some countries, for example, drug addiction continues to be treated primarily as a matter of criminal law rather than a health issue. Drug users are often stigmatized and are vulnerable to repressive treatment by the criminal justice system.

At the same time, prisoners often face overcrowded living conditions, poor nutrition and a lack of access to HIV/AIDS treatment, including antiretroviral therapy. In many jurisdictions, coercive public health policies - such as compulsory HIV testing - are imposed on both drug users and prison populations.

Yet rather than improving health conditions, these policies can help to perpetuate social marginalization and hinder HIV prevention and treatment efforts. People will not seek HIV counseling, testing, treatment and support if this means facing discrimination, lack of privacy or confidentiality, alienation – or in some cases, the threat of incarceration. This makes it more difficult for those affected to protect themselves from health risks, including HIV/AIDS, and to deal with the consequences. It also serves to further silence the voices of those affected.

From a right to health perspective, public health strategies must include the active involvement of communities and affected individuals. Consistent with the human right to participate, the participation of injecting drug users and prison populations should be supported, for example, in the development and implementation of policies and programmes. Community-based drug user organizations can help to confront stigma and break down barriers to access. In countries such as Thailand, community-based drug user groups have been mobilised to develop peer-based responses to HIV/AIDS education, treatment and care.

To be effective, public health and criminal justice policies should ensure respect for the human rights of drug users and prisoners. For example, they should include commitments to:

- Reviewing anti-discrimination laws to ensure that people affected by HIV/AIDS, including drug users and prisoners, are protected against discrimination;
- Promoting health-based approaches to managing drug dependency, including by ensuring available and accessible treatment and rehabilitation services, and appropriate HIV-related information;
- Reviewing drug control legislation and practices, to ensure that they do not hinder HIV prevention efforts by perpetuating the stigmatization and marginalization of drug users;
- Ensuring equitable access to education, information, treatment, care and support programmes for all people affected by HIV/AIDS, including drug users and prisoners;
- Developing harm reduction approaches to ensure access to public health programmes including information, peer education and voluntary counseling; sterile needle and syringe distribution and disposal; and voluntary treatment

options including substitution drug therapies in community and custodial settings; and

- Ensuring that people living with HIV/AIDS in prisons have access to treatment, including antiretroviral therapies, as well as for tuberculosis and other opportunistic infections.

These are not easy discussions. Some of these initiatives will be controversial in some societies. But in the context of HIV/AIDS, international human rights law and pragmatic public health goals demand difficult policy decisions. These must include ensuring respect for the human rights of the most vulnerable and marginalized.

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