Release
Drugs, The Law & Human Rights

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How Drug Policy in the United Kingdom of Great Britain and Northern Ireland (UK) Contravenes International Human Rights Standards

Release welcomes the opportunity to participate in the third Universal Periodic Review (UPR) of the United Nations (UN) Human Rights Council (HRC).

Release is the UK centre of expertise on drugs and drugs law and has provided free and confidential specialist advice to the public and professionals for almost 50 years. Release aims to raise awareness of how UK drug policy and legislation impacts on people who use drugs. Based on our clients' experiences, the organisation advocates for changes to UK drug laws to bring about a fairer and evidence-based legal framework to manage drug use in our society.

Release delivers five key frontline services: legal outreach services; drug and alcohol counselling; expert witness testimony; a national advice service; and a youth stream which focuses on stop and search. Through the delivery of these services we hear directly from those most affected by the UK's drug laws, in particular those impacted by drugs policing, the criminal justice system more broadly, and those who use drugs problematically.

There is often the perception that human rights abuses committed against people who use drugs are confined to certain parts of the world, but in our view people in the UK who use drugs, particularly those whose use is considered problematic, are subject to high levels of discrimination and marginalisation. We feel that this has failed to receive adequate attention in previous UPRs.

Below is an outline of the relevant international human rights standards that the UK's drug laws and policy contravene[1]:

The 'Right to Health,' as enshrined in Article 12 of the International Covenant on Economic, Social and Cultural Rights 1966 ('ICESCR')

States party to the 1966 ICESCR must work to ensure the 'highest attainable standard of physical and mental health' (Article 12) for their populations, within which is included access to essential medicines. The World Health Organisation ('WHO') deems key substances used in opioid substitution therapy ('OST')[2] to be essential medicines because of their effectiveness in reducing the harms associated with illicit drug use and combatting the spread of blood-borne viruses.

Despite its long tradition of delivering harm reduction services, in recent years the UK government's commitment to harm reduction[3], especially OST provision, has seriously diminished. Methadone, one

[1] Release submitted evidence similar to that provided here to the OHCHR in 2015 for their review "on the impact of the world drug problem on the enjoyment of human rights."
[2] The two medicines in question are methadone and buprenorphine http://www.who.int/selection_medicines/committees/expert/20/EML_2015_FINAL_amended_AUG2015.pdf?ua=1
[3] For a definition on harm reduction, see: Harm Reduction International (2015), *What is Harm Reduction?* http://www.ihra.net/what-is-harmreduction

such medication used in OST, saves lives, is cost effective, reduces drug-related deaths, reduces the transmission of blood-borne viruses, and, when used as part of a holistic treatment approach, can stabilise someone, hence improving the quality of their life.[4] However, in the face of overwhelming evidence, the current UK drug strategy has focused on an abstinence-based goal at the expense of providing OST. We would say that we are witnessing the politicisation of drug treatment.

Release supports a treatment system that offers all options, including abstinence, should the patient desire it. Decisions regarding what is the best treatment for an individual must be taken by that person and their clinician, and not determined by political ideology.

In recent years, government ministers have repeatedly asked the Advisory Council on the Misuse of Drugs ('ACMD') to consider the evidence for time-limited methadone, and repeatedly the ACMD has said there is no evidence to support this approach.[5] This ideologically driven approach has had a direct impact on many drug treatment providers and commissioners of services, and in recent years we have witnessed an alarming rise in heroin and/or morphine-related deaths; between 2012 and 2015 the number of these deaths registered doubled and is now the highest on record.[6]

> *"Methadone maintenance treatment is the most researched treatment currently available for people who are dependent on opioids. Its use is supported by an evidence-base developed over almost 40 years and from across many different countries. It retains patients in treatment for longer than any alternative, non-replacement therapy, and has a superior effect on the reduction of heroin use and crime associated with opioid dependence. It is effective at reducing HIV risk behaviours and there is evidence that it also reduces the risk of mortality from opioid use."*[7]

Through the services Release provides, we have seen more and more punitive measures imposed on people in a drug treatment setting in certain areas of the country. These measures include, though are not limited to:

- 'Therapeutic discharge' where a client is suspended from a service for behavioural issues – often, these issues are very low-level incidents and can include simple disputes between the client and a member of staff. In many of these cases the client's methadone prescription is also withdrawn, contrary to the Clinical Guidelines on Drug Misuse and Dependence[8] and National Institute of Clinical Evidence (NICE) TA114[9].

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[4] Neil Hunt et al (2003), *Review of the Evidence-Base for Harm Reduction Approaches to Drug Use*, at 3.2.12, http://www.ihra.net/files/2010/05/31/HIVTop50Documents11.pdf

[5] ACMD (2014), *Time limiting opioid substitution therapy*, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/371521/ACMD_RC_Time_limiting_OST_061114.pdf

[6] Office for National Statistics (2016), *Deaths related to drug poisoning in England and Wales: 2015 registrations,* http://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/deaths/bulletins/deathsrelatedtodrugpoisoninginenglandandwales/2015registrations

[7] Neil Hunt et al (2003), *Review of the Evidence-Base for Harm Reduction Approaches to Drug Use*, at 3.2.12, http://www.ihra.net/files/2010/05/31/HIVTop50Documents11.pdf

[8] Department of Health (2007), *Drug misuse and dependence: UK guidelines on clinical management,* http://www.nta.nhs.uk/uploads/clinical_guidelines_2007.pdf

[9] NICE (2007), *Methadone and buprenorphine for the management of opioid dependence,* http://www.nice.org.uk/guidance/ta114

- Coerced reduction of prescribed methadone and buprenorphine dosage.
- Methadone prescription being made conditional on engagement with other interventions.
- People being moved from weekly pick up of methadone to daily supervision regardless of the circumstances and in contravention of NICE TA 114.

In no other area of treatment would we see the choice of the individual to be allowed access to a widely available and evidenced treatment denied at the expense of political ideology. Unfortunately, this is the case in the UK and we would respectfully submit that this not only falls well below the required standard set by the ICESCR, but is one reason behind the rise in drug-related deaths.

Another area of concern is the discrimination of people who use drugs resulting in the withholding of opiate-based pain relief medication. Reports from people who use drugs problematically, or who have a history of such use, highlights the stigma they suffer at the hands of medical professionals who are unwilling to provide appropriate and/or sufficient pain relief medication, leading to unnecessary and distressing pain being suffered by the patient.[10]

The 'Right to be Free from Discrimination,' as enshrined in Article 7 of the Universal Declaration of Human Rights 1948; Article 26 of the International Covenant on Civil and Political Rights 1966; the International Convention on the Elimination of All Forms of Racial Discrimination 1965; and, the Convention on the Elimination of All Forms of Discrimination Against Women 1979

Racial discrimination under current UK drug policy
Release and the London School of Economics' 2013 report on ethnic disparities in drugs policing in England and Wales found[11]:

- In 2009/10 the overall search rate for drugs across the population as a whole was 10 searches per 1000 people. For those from the white population it was 7 per 1,000, increasing to 14 per 1,000 for those identifying as mixed race, 18 per 1,000 for those identifying as Asian and to 45 per 1,000 for those identifying as black.
- Black people were, in other words, stopped and searched for drugs at 6.3 times the rate of white people, while Asian people were stopped and searched for drugs at 2.5 times the rate of white people and those identifying as mixed race were stopped and searched for drugs at twice the rate of white people. This is despite the fact that drug use is lower amongst both the black and Asian communities compared to the white community.

[10] Action on Addiction (2013), *The management of pain in people with a past or current history of addiction,* http://www.actiononaddiction.org.uk/Documents/The-Management-of-Pain-in-People-with-a-Past-or-Cu.aspx
[11] Eastwood, E. Shiner, M. & Bear, D. (2013), *The Numbers in Black and White*: *Ethnic Disparities in the Policing and Prosecution of Drug Offences in England and Wales*, Release, http://www.release.org.uk/publications/numbers-black-and-white-ethnic-disparities-policing-andprosecution-drug-offences

- Across England and Wales only approximately 7 per cent of drug stop and searches end in arrest. As a result of almost 550,000 stop and searches for drugs in 2009/10, only 40,000 people were arrested.

- Black people are arrested for a drugs offence at 6 times the rate of white people and Asian people are arrested at almost twice the rate of whites.

- Black people are subject to court proceedings for drug possession offences 4.5 times the rate of whites; are found guilty of this offence at 4.5 times the rate; and are subject to immediate custody at a rate of 5 times that of white people.

Since the launch of the 2013 report stop and search reforms have led to a significant fall in the number of people being subject to this police power. However, whilst the number of searches has fallen from a high of 1.2 million in 2011 to 540,000 in 2014/15, the proportion of stops for drugs has risen from 50% to 60% of the total number carried out.[12] The rates of racial disparity still persist with black people being stopped and searched at 4-5 times the rate of white people.

Discrimination of women under current UK drug policy

In 2013 4,475 drug cautions were given to women who use drugs and another 4,868 women went on to be charged before a criminal court.[13] Of this last group, the largest percentage of sentences given fell in the 2-to-3 year custodial category.[14] In contrast to this, a staggeringly low number of action plans or treatment orders were given.[15] Indeed, the UN Committee on the Elimination of Discrimination against Women has made clear concerns it has and that are widely held about incarceration or criminalisation of women for minor infringements of drugs laws.

The impact on the future of these women as a result of heavy-handed sentencing, as well as on secondary parties such as their children, cannot be underestimated. Not only is the situation women face prior to sentencing or cautioning unique, but once the sentence is served or the caution given, the effects of these criminalising measures also have a unique and far-reaching impact on their lives.

The criminal justice system in the UK does not seem to account for the often-unique situation women who use drugs face. Often, they are socially and emotionally tied to a circle or relationship which not only exacerbates their drug use, but can also act as a form of direct or indirect duress in their drug using. In addition, these relationships can present other additional problems – such as sexual and physical abuse, low self-esteem, lack of familial support or other supportive connections.

The UN Bangkok Rules (on the standards of treatment of women prisoners) state that, *"[W]omen offenders shall not be separated from their families and communities without due consideration being given to their backgrounds and family ties."* It is evident this ideal has not been brought into practice enough. Though discrimination based on sex is generally prohibited in UK and international law, it is clear that there is a huge gap in the tailoring of drug policy towards the often-unique situation of women in the UK, resulting in an indirect form of discrimination.

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[12] Home Office (2016), *Police Powers and Procedures 2014 – 2015*, (https://www.gov.uk/government/publications/police-powers-and-procedures-england-and-wales-year-ending-31-march-2015/police-powers-and-procedures-england-and-wales-year-ending-31-march-2015#stop-and-search-1)
[13] Ministry of Justice, 2013, Criminal Justice System Outcomes by Offence, England and Wales, 2009 – 2013, https://www.gov.uk/government/statistics/criminal-justice-statistics-quarterly-december-2013
[14] Ibid.
[15] Ibid.

Other issues which engage international human rights are detailed in the table below:

Human Right	International Human Rights Convention	Violation details
Social economic	• Article 22 of the Universal Declaration of Human Rights, 1948 • Articles 6 and 7 of the International Covenant on Economic, Social & Cultural Rights, 1966	• Closure of, and eviction from homes where specified drug offences are alleged to have led to anti-social behaviour (Anti-Social Behaviour, Crime & Policing Act 2014) • Seizure of alleged proceeds of crime under the guise of disrupting supply chains, despite low value of assets
Privacy	• Article 12 of the Universal Declaration of Human Rights, 1948	• Scale of stop and search – 50-75% of all stop and searches are for drugs depending on area of the country. Her Majesty's Inspectorate of Constabulary found that the majority are for low-level offences (HMIC (2013) *Stop and Search Powers: Are the police using them effectively and fairly?* https://www.justiceinspectorates.gov.uk/hmic/media/stop-and-search-powers-20130709.pdf) • People can be detained and strip searched before arrest if the police have 'reasonable suspicion' that they are in possession of drugs. Some of those who are strip-searched are not always taken to a police station. A 'designated area' can suffice and this can include a tent or a police station that is no longer in use • Use of sniffer dogs is widespread, with positive indications creating sufficient reasonable suspicion for a search, despite evidence showing a lack of effectiveness http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3078300/ • Disclosure of medical records to employers, or other bodies, where drug use has been disclosed to a

		Doctor (even where this is purely recreational use). • Drug testing in the workplace for jobs which do not have a safety-critical element, and especially where testing is to determine presence of a drug in the system rather than if the employee is actually under the influence.

Recommendation

Resolution 28/28 saw the Human Rights Council request the UN High Commissioner for Human Rights to prepare a study on 'the impact of the world drug problem on the enjoyment of human rights'. The resulting study[16] clearly demonstrated how repressive drug policies can undermine human rights. As such we would ask that the Universal Periodic Reviews consider the negative impact of drug policies that criminalize people who use drugs, and those involved in the trade, as there is clear evidence such policies contribute to systemic human rights abuses.

[16] United Nations Office of the High Commissioner for Human Rights (2015), *Study on the impact of the world drug problem on the enjoyment of human rights,* (http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session30/Documents/A_HRC_30_65_E.docx)