Realising Rights:

Developing Human Rights-based Indicators for Drug Control

Briefing for Member States at the International Centre for Science in Drug Policy and UN University event 'Identifying Common Ground for UNGASS 2016: Rethinking Metrics to Evaluate Drug Policy'

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The current international drug control regime has developed in what former UN Special Rapporteur on the right to health, Paul Hunt, has described as a "parallel universe" to the UN human rights regime.* Due to this policy incoherence, human rights considerations have historically been absent from the monitoring and evaluation of drug policy. National and international goals prioritising the suppression or elimination of drugs have resulted in a catalogue of human rights abuses including harsh penalties for drug offences, such as the death penalty; forced drug treatment; mass incarceration; and denial of HIV, HCV and overdose prevention measures. Such human rights violations are not incidental, and are systemic to the regime itself, where current indicators of success - numbers of people arrested and prosecuted, amount of hectares of illicit crops destroyed, quantity of drugs seized - are also indicators of human rights risk. [†]

The preambles of the 1961 and 1971 drug conventions state that the objective of the regime is to 'promote the health and welfare of mankind'. Measuring movement towards this objective cannot be achieved using drug control indicators alone, and requires the development and implementation of a robust set of human rights-based indicators to monitor national and international progress.

Why do we need human rights-based indicators for drug policy?

- To help ensure that drug policy works to promote the health and welfare of humankind by respecting, protecting and fulfilling international human rights obligations;

- To help prevent human rights violations from occurring as a consequence of drug control and enforcement;

- To help design more effective policies and interventions;

- To help ensure resources are redirected to where they are most needed and will have the most positive impact.

* Hunt, Paul, *Human Rights, Health and Harm Reduction: States' amnesia and parallel universes*, Address at HRI's 19th International Conference, Barcelona, 11 May 2008.
† Barrett, Damon and Nowak, Manfred, The United Nations and Drug Policy: Towards a Human Rights-Based Approach (August 25, 2009), in *The Diversity of International Law: Essays in Honour of Professor Kalliopi K.*, pp. 449-477, Aristotle Constantinides and Nikos Zaikos, eds., Brill/Martinus Nijhoff, 2009.

Realising rights: developing human rights-based indicators

The idea of human rights indicators is nothing new, and the human rights sector has been grappling with this important concept for some time.

In 2012, the Office of the High Commissioner for Human Rights (OHCHR) published *Human Rights Indicators: A Guide to Measurement and Implementation*, providing a useful basis for the development of suitable human rights indicators for drug policy. The OHCHR framework suggests the use of structural, process and outcome indicators. Using this type of configuration helps reveal links between what is (or is not) being done, and the outcomes achieved. This makes accountability for human rights obligations much easier to measure.

STRUCTURAL INDICATORS

Help to capture the intent to meet human rights commitments in the context of drug policy. These tend to focus on legal/policy frameworks and strategies applicable to a certain right.

PROCESS INDICATORS

Measure the ongoing efforts or steps taken to transform human rights commitments into desired results on the ground.

OUTCOME INDICATORS

Capture human rights impact, or individual or collective attainments that reflect the state of enjoyment of human rights in the context of drug policy.

Identifying Human Rights-Based Indicators for Drug Policy: 3 STEPS

STEP 1: Identify the human rights that drug policy might engage, for example: the right to life, the right not to be subjected to torture and other cruel, inhuman or degrading treatment, and the right to the highest attainable standard of physical and mental health (right to health).

STEP 2: Identify a few key attributes for each of the rights selected in the context of drug policy. This can be done by reviewing the provisions in the core international human rights treaties and examining the work of UN treaty bodies and special rapporteurs to understand the contours and content of the right.

Often, in the case of economic, social or cultural rights, key attributes will be based on the notions of accessibility, availability, acceptability and quality (AAAQ), which are defined in the general comments adopted by the Committee on Economic, Social and Cultural Rights.

STEP 3: Identify suitable structural, process and outcome indicators to help capture the various components of human rights implementation and impact. This should be done in relation to all drug policy, whether at the local, national, regional or international level. The number of indicators selected will ultimately depend on the particular context and objectives, and there may sometimes be some overlap, as demonstrated in the examples that follow.

DISAGREGGATED DATA

Measuring crosscutting human rights principles, such as non-discrimination, is critical. This requires data that is disaggregated on the prohibited grounds of discrimination, such as sex, gender, race, socioeconomic status, legal status, health status or any other status. Disaggregated data helps reveal disparities in the enjoyment of human rights or discrimination faced by different groups.

Identifying Human Rights-Based Indicators for Drug Policy: Examples

Example 1: Sample indicators of the right to life in the context of drug policy	
	Death penalty
Structural	• International human rights treaties relevant to protecting the right to life, ratified by the state; • Date of entry into force and coverage of domestic laws for the implementation of the right to life; • Date of entry into force and coverage of domestic laws that prevent the death penalty for drug offences; • CND resolutions/declarations explicitly critical of, or opposed to, imposing the death penalty for drug offences.
Process	• Number of convicted people facing the death penalty for drug offences, disaggregated; • Number of Member States that retain the death penalty for drugs in receipt of drug enforcement aid via the UN or other Member States.
Outcome	• Proportion of death sentences for drugs commuted in the last 12 months; • Number of executions for drug offences in the last 12 months.

Example 2: Sample indicators of the right not to be subjected to torture or other cruel, inhuman or degrading treatment in the context of drug policy		
	Use of force by law enforcement	Access to essential medicines	Conditions of detention
Structural	• International human rights treaties relevant to protecting people from torture and ill treatment, ratified by the state; • Date of entry into force and coverage of domestic laws for implementing the right not to be subjected to torture or other cruel, inhuman or degrading treatment; • Timeframe and coverage of health policy for places of detention.		
Process	• Number of complaints received and proportion redressed; • Proportion of law enforcement officials receiving training on torture and ill treatment prevention; • Proportion of law enforcement officials formally investigated for physical and non-physical abuse against people who use drugs.	• Proportion of population in pain receiving essential pain medicines; • Proportion of population who uses opiates receiving OST; • Proportion of population living with HIV receiving HIV antiretroviral therapy; • Availability of naloxone.	• Proportion of prisoners in pain receiving essential pain medicine; • Proportion of prisoners using opiates receiving OST; • Proportion of prisoners living with HIV receiving HIV antiretroviral therapy; • Proportion of prisons where naloxone is available; • Actual prison occupancy as a proportion of prison capacity in accordance with int'l standards.
Outcome	• Incidence and prevalence of death and physical injury of people who use drugs at the hands of law enforcement.	• Incidence and prevalence of death, physical injury, and communicable diseases such as HIV and HCV within the population.	• Incidence and prevalence of death, suffering and communicable diseases such as HIV and HCV in prisons.
	• Reported cases of torture or ill treatment of people who use drugs.		

Example 3: Sample indicators of the right to the highest attainable standard of physical and mental health in the context of drug policy		
	Access to drug-related health services	Access to essential medicines	Prevention and treatment of diseases
Structural	• Human rights treaties relating to the right to health ratified by the state; • Date of entry into force and coverage of domestic laws for implementing the right to health; • Timeframe and coverage of national policy on harm reduction; • CND resolutions lending explicit support to harm reduction, HIV prevention, access to essential medicines and overdose prevention.		
		• Timeframe and coverage of national policy on essential medicines.	• Timeframe and coverage of national policy on prevention and treatment of diseases.
Process	• Proportion of people who inject drugs accessing NSPs, disaggregated; • Proportion of people who use drugs accessing drug dependence treatment programmes, disaggregated.	• Proportion of population accessing essential pain medicines, disaggregated; • Proportion of population living with HIV accessing antiretroviral therapy; • Availability of naloxone.	• Annual expenditure on harm reduction as a percentage of GDP per capita; • Annual expenditure on harm reduction as a percentage of annual expenditure on enforcement.
		• Percentage of people who use opiates accessing OST, disaggregated.	
Outcome	• Death rate associated with, and prevalence of, HIV and HCV among people who use drugs; • Prevalence of death caused by drug overdoses.		

**Assessing Harm Reduction in Prisons
- HRI's new monitoring tool!**

The devastating human rights and health costs of the current drug control regime can often be most acutely observed within the world's prison systems. Harm Reduction International has developed a new tool, made up of human rights-based indicators, to help monitor HIV, HCV, TB and harm reduction in prisons in an effort to help hold states to account and improve conditions of detention.

For more information, please visit: http://www.ihra.net/contents/1561

This briefing was prepared by Gen Sander, Human Rights Research Analyst, Harm Reduction International

For more information
http://www.ihra.net/human-rights-based-policy

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