HEALTH AND RIGHTS OF PEOPLE WHO USE DRUGS

POSITION PAPER

FIGHT
HIV & HCV
NOT
PEOPLE
USING
DRUGS

PREAMBLE

Doctors of the World – Médecins du Monde-France is an international solidarity organisation that promotes access to health for marginalised populations around the world. Since the 1980s, Médecins du Monde-France has been working with people who use drugs through a harm reduction approach. This approach consists of mitigating the harmful consequences that can result from the use of drugs by people who cannot or do not wish to stop their use. As of 2020, programmes are conducted in 6 countries: France, Georgia, Myanmar, Tanzania, Kenya and Ivory Coast. Other member organisations of the International Network of Médecins du Monde are also developing domestic programmes for people who use drugs in Belgium, Canada, Greece, Portugal, and Spain.

The vision of Médecins du Monde-France's projects focuses on promoting people's health through access to care and evolution of the law. As a clear policy framework is required on the issue of drug use, Médecins du Monde-France wanted to clarify and formalise its position on this issue. This position is based on expertise from its field practice, available scientific and institutional literature, contributions from community self-support groups and civil society, as well as consultations with people who use drugs involved in Médecins du Monde-France's projects.

TERMINOLOGY

Medically, **drugs** are psychoactive substances capable of modifying the cognitive and/or physiological functions of an individual (such as their mood, thought, behaviour or emotion), and can create psychological or physical dependence. There is no legal definition of the concept of drugs. In most countries, the legal framework is based solely on a list of classified substances of which the use is regulated. Legal classification determines the conditions under which the use of the drug is lawful or unlawful. Some substances that meet the medical definition of a drug are nonetheless excluded from the classification, such as alcohol and tobacco, which indicates that other criteria come into play. In this document, the term "drug use" is defined as the unauthorised (illicit, diverted, unregulated) use of psychoactive products.

"Drugs" do not have a legal definition. The concept refers to a social and moral prohibition of certain types of use of particular psychoactive substances.

Several professionals in the medical field refer to drug use through the concept of addiction. **Addiction** is defined by the World Health Organization as the inability to control a practice aimed at producing pleasure or eliminating a feeling of unease, and the inability to stop its pursuit despite its negative consequences. Addiction refers to pathological dependence, and therefore does not reflect the diverse realities of drug use. In addition, the concept of addiction also encompasses licit behaviours (use of alcohol, tobacco, chocolate, video games, sex, etc.); thus, it does not consider the specific impact of the illegality of drug use.

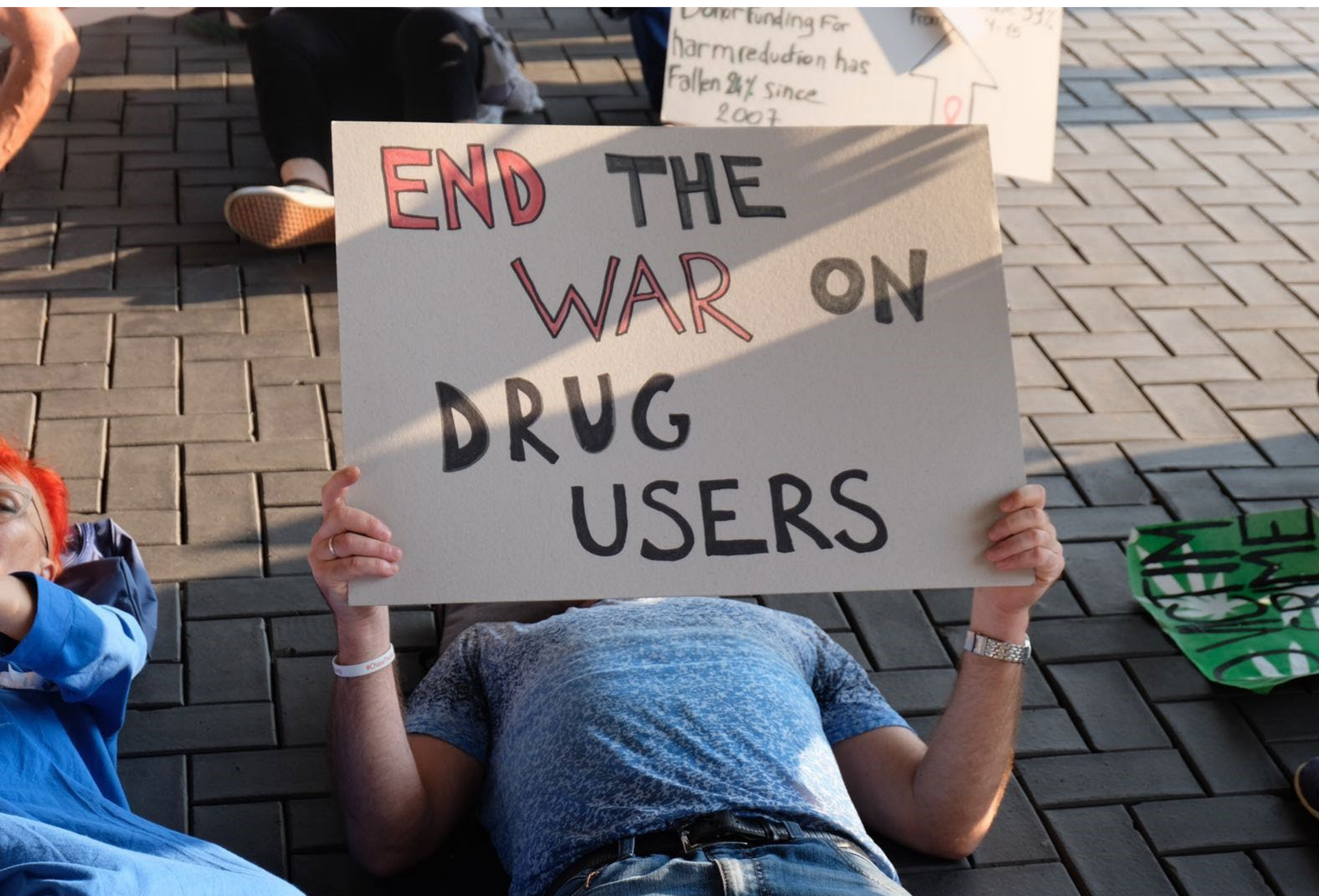
DRUG USE AND ADDICTION

The illegality of drug use creates specific health, legal and social risks for consumers that should be taken into account within a holistic health approach.

Drug use can be risky even outside of addiction situations, so harm reduction should be devised beyond the concept of addiction.

Harm reduction in the context of drug use encompasses a wide range of policies, programmes and practices that aim to reduce the negative health, social and legal impacts associated with drug use. It is an approach based on public health and human rights. At the core of its intervention ethic is the acknowledgement that people are not always willing or able to change their lifestyles and that no conditions whatsoever should be imposed on their citizenship or access to rights and health. Whilst this approach is promoted by the World Health Organization, the United Nations Office on Drugs and Crime, and other United Nations and health agencies, certain states refuse the use of this term in international drug policy documents.

Language matters when discussing issues concerning the use of drugs. Many common phrases used to describe people who use drugs reinforce negative stereotypes, perpetuating further marginalisation and discrimination of this community. The use of terms centred on the person rather than on products or behaviours, allows us to focus on people instead of defining them by their substance use.


END THE
WAR ON
DRUG
USERS

OBSERVATIONS AND POSITIONING BASED ON OUR INTERVENTION AREAS

1. DRUG USE: A COMPLEX AND MULTIFACETED SOCIAL PHENOMENON

Current context

Drug use is a widespread social phenomenon: 5.5% of the world population aged 15 to 64 used drugs in 2017.[1] The consumption of psychoactive substances has existed throughout the history of humankind and has been part of different cultures to varying degrees according to different times, drugs and societies. Today, drug use affects all regions of the world, and all population categories. This phenomenon covers extremely diverse situations, with varying degrees of visibility in the public space.

Most people have controlled and/or time-limited drug use with no long-term impact on their health.[2] However, others have problematic drug use which negatively affects both their health and everyday life. There are as many situations as there are people. The situations vary depending on:

- ➜ The product consumed, the quantity, the mode of consumption (oral, sniffing, inhalation, injection), the frequency of consumption (occasional, repeated, regular, daily use, etc.), and the effects and harms of each product;
- ➜ The person: life circumstances and what the person expects from the product (disinhibition, excitation, self-medication, performance, sedation, socialising, etc.);
- ➜ The environment of consumption: private space, party scene, street; and the context: alone or in a group, publicly or out of sight, socially, in a professional setting, during sexual encounters, etc.

In addition to physical health problems, problematic drug use can be associated with mental health problems (hyperactivity, anxiety, post-traumatic stress, psychiatric disorders, etc.), socio-economic difficulties (isolation,

1 United Nations Office on Drugs and Crime, *World Drug Report 2019*.

2 The proportion of people affected by drug-related disorders is a minority, accounting for 13% of the total number of people who use drugs (UNODC, 2019).

precariousness, emotional deprivation, etc.) and/or legal issues. These problems are not necessarily induced by drug use and can even sometimes be the cause of the problematic use, yet social representations tend to focus on drug use as the cause of problems. Such an analysis leads to inadequate care and may lead to a worsening of the situation, especially when combined with moral disapproval.

Often victims of prejudice, people who use drugs are frequently unjustly considered weak and/or incapable of sound reasoning and judgment. They are infantilised and deprived of the ability to decide for themselves. In some countries, this results in forced treatment such as non-consensual medical procedures or detoxification under coercion. Such treatments constitute human rights violations[3], are ineffective and worsen the situation by creating additional trauma. People who use drugs face additional human rights violations in the context of the war on drugs, some of which can be tantamount to acts of torture[4].

POSITION

Médecins du Monde-France:

- Rejects the erroneous and stigmatising conception of people who use drugs constituting a homogeneous group, whose consumption is inherently problematic and should systematically be the subject of medical care;
- Reasserts the importance of respecting the autonomy of people – health services should be proposed, never imposed;
- Affirms that the problems associated with drug use have multiple causes, closely linked to health and socio-economic issues;
- Stresses the need to empower and support people who use drugs to exercise their fundamental human rights;
- Affirms our obligation, as a medical organization, to not morally judge drug use but rather to focus on people and the harms to which they are exposed.

3 United Nations Joint Statement on Compulsory drug detention and rehabilitation centres, 2012.

4 Report of the United Nations High Commissioner for Human Rights, *Study on the impact of the world drug problem on the enjoyment of human rights*, 2015.

2. MULTIPLE AND URGENT HEALTH NEEDS

People who use drugs face a variety of health problems related to the products, patterns and contexts of use, as well as socioeconomic factors.

Each drug has a specific toxicity that can induce harmful effects on health, depending on the doses consumed and the regularity of consumption. These effects can be physical (hyperthermia, liver diseases) or psychological (anxiety, hallucinations, depressive or delusional episodes).

Some substances may also lead to dependency, with some dependencies creating a state of withdrawal in case of sudden cessation of consumption. The state of withdrawal can temporarily limit people's ability to protect themselves from risks.

Withdrawal symptoms and fear of withdrawal symptoms can place some people in a situation of constantly needing to find the money needed to buy the drugs they depend on. This often leads to desocialization and isolation, including with regards to health services, and makes them vulnerable to engagement with, and abuse by, criminal justice systems.

Consuming too much of certain drugs entails risks that can go as far as death. The risk of overdose is reinforced by the lack of control over the content of the substances sold on the black market, and the lack of knowledge about the different products and their toxicity and risks, both short and long term.

Different ways of using drugs have different levels of risk in terms of health. People who inject drugs are at higher risk of infectious diseases such as HIV, hepatitis B and C, and tuberculosis. This is due to the virtually global lack of access to sterile injecting materials and reliable information. Injection can also cause abscesses and venous damage, when materials are reused or unsterile, or in cases of poor injection technique. When people do not have access to needles, or when they are confiscated by the police, they may have to tinker with makeshift syringes that are more

dangerous. Injection also exposes consumers to a higher risk of overdose as it limits the ability to adjust dosage during consumption.

"When we give syringes people can't take them home. They fear arrest by police and to be stigmatized by spouses, family and the general public. Nobody wants to be known to be injecting drugs. When they come tomorrow someone else often has taken them away, the police may have burnt them, or they may have been swept away by rain. With the current repressive laws, harm reduction cannot achieve the best level of effectiveness."
– John Mbugua, Outreach Worker, Médecins du Monde, Kenya.

The conditions in which drug use occurs greatly influence the risks involved and the ability of individuals to protect themselves. For example, a person who has to consume on the street will not necessarily have access to water to wash their hands, or to sterile material to prepare their injection. Pressed by time, they may neglect to disinfect the injection site, miss the vein, etc. Such practices greatly increase the risk of infection.

Group consumption is quite common, especially in the case of group purchases. It provides a secure framework in clandestine contexts but carries additional risks of confusion or sharing of equipment.

The ability to protect oneself can be undermined by social or economic vulnerabilities. For example, in some contexts, women often use drugs after their spouse using the same injecting material. Other forms of vulnerability, such as precarious administrative status (irregular stay), illegal or marginalised activities (drug dealing, sex work), or being part of a discriminated social group (LGBT, people living with HIV) reinforce exclusion and isolation; all factors likely to lead to loss of control over drug use and limit the ability to protect oneself from risks.

Stigmatisation of drug use and discriminatory attitudes from some service providers cause many people to avoid seeking care, which can lead to worsening wounds, infections or other diseases. Multiple forms of violence resulting from stigmatisation and exclusion, drug dependence and related economic necessities, unsafe conditions of supply and drug use, police or anti-drug militias, etc., further increase the risks of harm, physical pathologies and psychological suffering. Drug use may also temporarily limit people's ability to manage risky situations.

Whilst these various risks interact and accumulate, most of them are preventable. Universal access to comprehensive harm reduction services can avoid unnecessary suffering and millions of deaths.

It must be emphasised that in recent decades the main entry point for promoting harm reduction has been the fight against infectious diseases. While this movement made it possible to increase the number of programmes

around the world, it may however have limitations, and in some contexts induces or maintains a stigmatising association between people who use drugs and the transmission of infectious diseases. The majority of harm reduction funding is focused on HIV services which creates a large gap in covering the other needs and services for people who use drugs.

POSITION

Médecins du Monde-France :

- √ Reaffirms that health is a state of complete physical, mental and social well-being, and that the possession of the highest attainable standard of health is one of the fundamental rights of all humans;
- √ Stresses the need to not limit drug use-related health concerns to the issue of infectious diseases, and recommends a comprehensive approach centred on the specific needs of each person;
- √ Stresses the importance of documenting and denouncing the violence perpetrated against people who use drugs and affirms the need to take charge of the consequences of violence, while fighting against the causes and campaigning for access to justice and rights;
- √ Reasserts that medical knowledge only makes sense if it is applied to the reality of practices. People who use drugs must be part of the development of policies and programmes that affect them, so that services are tailored to their real needs;

3. LEGAL FRAMEWORKS THAT AGGRAVATE VIOLENCE AND HEALTH-RELATED PROBLEMS

Current context

> *"When injecting, the main concern is to not get arrested. The police can appear at any time. If the police arrive when injecting, you remove the syringe with or without heroin, throw it away and run the fastest you can. The syringe is used by police as evidence. I have seen a person swallow heroin with the wrapping paper to avoid being arrested." The above very common scenario leads to all manner of poor injecting practices as even with all the harm reduction health education on safe injection, it is difficult to implement them in the dens where police can come for a raid at any time. Safety first for the PWUD means something else; it is safety from police, not HIV, HCV, overdose, absesses, TB etc.*
> *– Alex Steba, Peer Educator, Médecins du Monde, Kenya.*

During the twentieth century, the vast majority of States have adopted legislation prohibiting the use, purchase and sale of drugs. These prohibition policies have long hindered the possibility of a health-based and harm-reduction approach, generating disastrous health consequences such as the spread of infectious diseases (HIV, hepatitis B and C, etc.) and the increase of overdose-related deaths.

Prohibition limits the ability to control and reduce risk in an illicit market. The lack of regulation of the supply and resale networks makes it impossible to control the content of drugs, thereby compounding the risk of overdose and other harms.

In order to circumvent drug laws, internet platforms are selling new psychoactive substances derived from or with a similar molecular structure to illicit products. These new substances, such as synthetic cannabinoids or 3MMC, have unknown effects and harms and are potentially more dangerous than more traditionally used drugs. Illegality leads resellers to promote more powerful low-dose substances, which are more profitable and easier to smuggle.

Drug deterrence campaigns have contributed to spreading simplistic and erroneous information, yet in many countries it is the only publicly available information on drugs. People do not always have access to reliable scientific information about drugs and the associated risks, which limits their ability to protect themselves.

As of 2018, less than half of the States had integrated harm reduction as a public health approach[5]. In the absence of an adequate legal framework, laws that prohibit the use of drugs may prevent or considerably reduce harm reduction – for example, by prohibiting the possession, sale and/or distribution of syringes, or the availability and prescription of opioid substitution treatments. In some contexts, the provision of sterile equipment for use, or advice on safer practices may be legally qualified as an incentive or aid for use and may be subject to criminal prosecution.

The absence of an appropriate policy framework also results in a lack of services, trained health personnel, and the necessary regulations for supply of the appropriate equipment.

Even in States that authorise and implement harm reduction services, repressive laws and policies severely limit their benefits. Arrests of people who use drugs on the premises they usually visit make outreach work more difficult as people who use drugs avoid visiting them or spend as little time as possible there, considerably reducing their chances of coming into contact with outreach workers. The fear of being arrested by the police may deter people from attending harm reduction services or going to the hospital. In some countries, health care workers have a legal obligation to report cases of overdose to the police. Other countries, on the other hand, provide judicial protection to people who call for help in case of overdose, as the fear of criminal prosecution often dissuades people who use drugs from calling for help.

The criminalisation of drug use also reinforces the negative social perceptions of people who use drugs and the consequent discrimination by caregivers and society at large. The transgression of the criminal prohibition places people who use drugs in the category of law offenders, favouring the suspicion that they are responsible for their social or health problems. This leads to the unfair perception by society that they are no longer citizens or patients that we must treat with respect and dignity. The fear of such discrimination may lead people who use drugs to abandon care until they have severe health problems.

> *"Two of my friends had stopped accessing methadone for two months because of some verbal abuse from one of the health care staff at the methadone centre. One of the clients and her friends were shouted at and told that they were criminals. Because of such attitudes and discrimination against people who use drugs, some of the clients do not feel comfortable to return to the centre and some drop out. Even though they are not satisfied with the services, some people continue to go to the MMT centre because they do not have any other choice."*
> *– Community Worker, Médecins du Monde, Myanmar*

People who use drugs are frequently incarcerated or detained. Access to health care and harm reduction is even more limited in prisons and other places of detention: in 2018 only 54 States allowed opiate substitution

5 Harm Reduction International, *The Global State of Harm Reduction 2018.*

programmes in detention, only 10 of whom authorised the distribution of needles and syringes. This results in a 2-10 times higher prevalence of HIV, hepatitis C and tuberculosis among those incarcerated than in the general population. People who use drugs face a much higher risk of contracting a disease in prison. Incarceration also creates additional risks of social and economic disinheritance that may favour delinquency, and the risks of drug use.

"Under the current legal regime in Myanmar, drugs users are sentenced to imprisonment. Nationwide, 48% of Myanmar's 60,000-80,000 prisoners are detained for drug related offences, with the percentage of drug-related offenders as high as 70-80% in some prison."
– The Republic of the Union of Myanmar, National Drug Control Policy, February 2018.

Punishment also has the adverse effect of reinforcing social inequalities. In the drug production and trafficking chain, the functions most exposed to arrests are mostly occupied by economically or socially vulnerable people (women, ethnic minorities, migrant people).

Vulnerable people who use drugs also often resort to occasional or regular purchase-resale, either for mutual support among consumers or due to economic necessity to buy in groups. This increases their exposure to risks of arrest and incarceration by placing them in additional wrongful situations.

The repression of drug use has been used as justification for many human rights violations: extrajudicial detentions, forced treatment, torture, executions, etc.[6] Repressive legal systems are also a source of violence in that they legitimise police harassment and force people to hide, making it easier for third parties to potentially act violently towards them. Consequently, these systems severely limit the ability or willingness of people who use drugs to resort to law enforcement and justice when needed.

For example, in Myanmar, a spread of forced detention camps and traditional medicine detox camps run by anti-drug community-based activists and religious groups have increased. Numerous human rights violations are happening in these camps and they also negatively impact on public health due to the dissemination of erroneous health messages.

"The camp leader collected all the medicine including ART and claimed that the traditional medicine at the camp can cure all the diseases including HIV and other blood borne diseases. The people in these camps believed that the traditional solutions would gradually cure all of their diseases. Some people ran away from the camp because of the withdrawal symptoms and some have died after staying a few days in the camp. However, these people and their family members believed that the death is not related to the traditional medicine."
– Participant, Community Consultation Session, Moegaung, Myanmar.

6 Report of the United Nations High Commissioner for Human Rights, "Study on the impact of the world drug problem on the enjoyment of human rights", 2015.

In recent decades, **awareness of the negative and counterproductive impact of repressive policies has led more and more States to develop alternatives to the criminalisation of drug use** – a possibility permitted by the international drug control conventions. To date, twenty-six countries have adopted a decriminalisation model, either in law or in practice[7]. Some experiences have already demonstrated clear benefits in access to health for people who use drugs. For example, in Portugal, the decriminalisation of drug use and an ambitious public health policy in 2001 has led to a significant reduction in HIV infections, overdose deaths and injecting drug use. The number of drug use-related deaths in Portugal (4 per million in 2017) is now well below the European average (22 per million).

POSITION

Médecins du Monde-France :

- ✓ Denounces legal systems that penalise the use of drugs, repress consumers; and thereby
  - → promote clandestine practices and risk taking,
  - → limit the ability of people who use drugs to build their own prevention and care strategies, and access to appropriate support,
  - → contribute to social stigmatisation, discrimination and crime;
- ✓ Supports the enactment of laws and policies that guarantee access to harm reduction services related to drug use. We stress the need for a coherent legal system whose overall policies, including security policies, both national and international, are based on the harm reduction approach;
- ✓ Supports the decriminalisation of drug use, which means the removal of all criminal and administrative penalties for drug use, as well as non-violent, use-related offenses (purchase, possession and transport of drugs for personal use, resale or sale of small amounts of drugs by a consumer). In this we join many public health experts, including the World Health Organization who recommend decriminalising drug use, and the 31 UN agencies who endorsed the UN Common Position on Drugs in 2018.
- ✓ Supports the creation of a legal and regulatory framework authorising and regulating the supply and use of drugs. The inherent dangers of drugs are heightened by the clandestine management of the market by criminal networks. To fight effectively against these real dangers, it is urgent to bring drugs into the field of state regulation in order to control the market, specify the standards to be respected, and provide prevention measures and prohibitions based on a scientific risk assessment (such as the legal minimum age, authorised consumption space, maximum active concentration levels, etc.).

7 Release, *A quiet revolution: Drug decriminalisation across the globe*, 2016.

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RECOMMENDATIONS

In view of the findings and positions stated in this document, Médecins du Monde-France makes the following recommendations:

Operational recommendations for health and harm reduction service providers:

1. Take into account the complexity and diversity of drug use patterns, and promote a non-judgmental and non-discriminatory attitude toward people who use drugs;
2. Respect and promote human rights, including the autonomy, privacy and confidentiality of individuals, and their access to the highest attainable standard of health in line with scientific advances;
3. Offer comprehensive care based on the specific needs of people, using a health promotion approach that goes beyond prevention and treatment of infectious diseases and encompasses a wide range of social services required;
4. Meaningfully involve people who use drugs in the design, implementation, monitoring and evaluation of health and social programmes and services;
5. Empower and engage people who use drugs in the effective communication and advocacy at all levels;

Policy Recommendations:

6. Enact a legal and policy framework to ensure access to harm reduction services based on public health and human rights;
7. Remove legal and administrative barriers to access to services, and bring legal systems in line with the harm reduction approach;
8. Adequately fund harm reduction programmes to ensure universal access to health;
9. Remove all criminal and administrative penalties for drug use, as well as minor and non-violent offences associated with drug use (purchase, possession, cultivation, transportation, resale or transfer of low quantities of drugs by a consumer);
10. Fight against stigma and discrimination targeted at people who use drugs through communication campaigns targeting the general public, and specific actions targeting professionals in the medico-social, judicial and law enforcement sectors;
11. Meaningfully involve people who use drugs in the design, implementation and evaluation of health and social policies and laws, and promote their inclusion in medical research and communication on the results so that they are adapted for the community;
12. Enact a legal framework regulating the production, sale and use of drugs, which includes information and preventive actions to reduce harms based on scientific risk assessment.

Effects of drug use prohibition on access to services

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September 2020