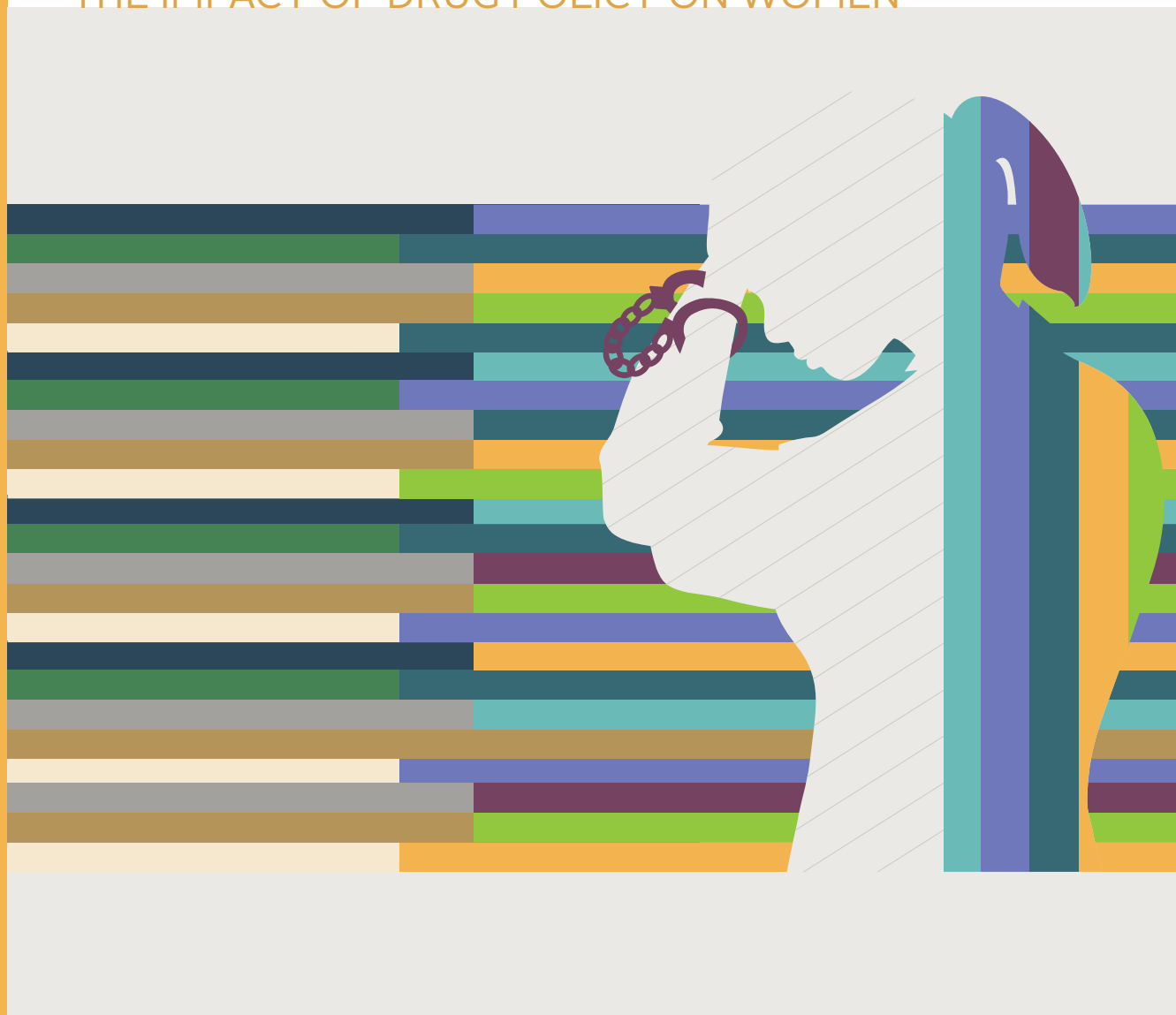


THE IMPACT OF DRUG POLICY ON WOMEN



Kasia Malinowska-Sempruch & Olga Rychkova

02	INTRODUCTION
03	WHAT THE UN AND OTHER INTERNATIONAL BODIES SAY
07	ISSUES RELEVANT TO UNGASS DEBATES
18	CONCLUSIONS AND RECOMMENDATIONS

As member states of the United Nations take stock of the drug control system, a number of debates have emerged among governments about how to balance international drug laws with human rights, public health, alternatives to incarceration, and experimentation with regulation.

This series intends to provide a primer on why governments must not turn a blind eye to pressing human rights and public health impacts of current drug policies.

WHAT IS THE IMPACT OF DRUG POLICY ON WOMEN?

“Who ever heard of a female drug lord? As the terms ‘kingpin’ and ‘drug lord’ denote, men are almost always at the head of major drug operations, and yet the rate of imprisonment of women for drug crimes has far outpaced that of men. Families and children suffer—but why?”

—American Civil Liberties Union et al., *Caught in the Net*, 2005¹

¹ American Civil Liberties Union (ACLU), Breaking the Chains and Brennan Center for Justice. *Caught in the net: the impact of drug policies on women and families*. New York, 2005. At: <https://www.aclu.org/drug-law-reform/caught-net-impact-drug-policies-women-and-families>.



INTRODUCTION

In the public mind, the “war on drugs” probably conjures up a male image. In most countries, official statistics would show that men, indeed, are the majority of people who use drugs recreationally, who have problematic use, and who sell drugs. But punitive drug laws and policies pose a heavy burden on women and, in turn, on the children for whom women are often the principal caregivers.

Men and boys are put at risk of HIV and hepatitis C by prohibitionist policies that impede access to and use of prevention and care services, but women and girls virtually always face a higher risk of transmission of these infections. Men suffer from unjust incarceration for minor drug offenses, but in some places women are more likely than men to face harsh sentences for minor infractions. Treatment for drug dependence is of poor quality in many places, but women are at especially high risk of undergoing inappropriate treatment or not receiving any treatment at all. All people who use drugs face stigma and discrimination, but women are often more likely than men to be severely vilified as unfit parents and “fallen” members of society.

This paper elaborates on the gender dimension of drug policy and law with attention to the burdens that ill-conceived policies and inadequate services place on women and girls.



WHAT THE UN AND OTHER INTERNATIONAL BODIES SAY

Discrimination based on sex is prohibited in virtually all major human rights treaties in the global legal regime of which the United Nations is the steward. In addition, there are wide-ranging protections for women in the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) of 1979.² Under CEDAW's provisions, women must have access to health care services equivalent to the access enjoyed by men (article 12) and must enjoy equality with men under the law in all respects (article 2).

The United Nations drug conventions of 1961, 1971, and 1988 do not make mention of discrimination based on sex or otherwise recognize issues faced by women. UN governance bodies and agencies, however, have recognized the special burdens faced by women with respect to drug use, drug-related health services, and involvement in activities deemed criminal in drug laws.

In a resolution in 2005, the UN Commission on Narcotic Drugs formally recognized the “adverse impact of drug use on women’s health, including the effects of fetal exposure” and urged member states to implement “broad-based prevention and treatment programmes for young girls and women” and to “consider giving priority to the provision of treatment for pregnant women who use illicit drugs.”³ It also asked the United Nations Office on Drugs and Crime (UNODC) to include more gender-disaggregated information in its drug reports. A 2012 Commission on Narcotic Drugs resolution noted that “women with substance abuse problems are often deprived of or limited in their access to effective treatment that takes into account their specific needs and circumstances.”⁴ The resolution urged member states to “integrate essential female-specific services in the

² UN Convention on the Elimination of All Forms of Discrimination against Women. UN General Assembly resolution 34/180, 18 December 1989.

³ UN Commission on Narcotic Drugs. “Women and substance use.” Res. 48/6, 48th session, Vienna, March 2005.

⁴ UN Commission on Narcotic Drugs. “Promoting strategies and measures addressing specific needs of women in the context of comprehensive and integrated drug demand reduction programmes and strategies.” Res. 55/5, 55th session, Vienna, March 2012.

overall design, implementation, monitoring and evaluation of policies and programmes addressing drug abuse and dependence,” including the integration of “childcare and parental education” in treatment services. It further encouraged members states to “take into account the needs of women who have experienced sexual and other violent trauma related to drug abuse” in their programs.⁶

Other United Nations governing bodies and institutions have noted the particular needs of women with respect to drugs and drug-related services. The Programme Coordination Board (PCB) of UNAIDS, in a 2012 review of gender-related elements of HIV responses, noted the need for special efforts to ensure access to services for women “who use or

“Women who commit relatively low-level drug crimes find themselves serving prison time while more serious offenders often escape imprisonment by entering into plea-bargaining deals.”

–Rashida Manjoo, UN Special Rapporteur on Violence Against Women, 2013⁵

have a partner who uses drugs.”⁷ In its 2001 consideration of women and HIV/AIDS, the Commission on the Status of Women noted the particular vulnerability of women who inject drugs and called for health professionals and law enforcement agents to be sensitive to their needs.⁸ The UN 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 handed long prison sentences than men who commit major trafficking offenses.⁹

- 5 R Manjoo. Pathways to, conditions and consequences of incarceration among women. Report to UN General Assembly, 68th session. UN doc. no. A/68/340, 21 August 2013.
- 6 UN Commission on Narcotic Drugs. “Promoting strategies and measures addressing specific needs of women in the context of comprehensive and integrated drug demand reduction programmes and strategies.” Res. 55/5, 55th session, Vienna, March 2012.
- 7 UNAIDS Programme Coordination Board. *UNAIDS Agenda for Accelerated Country Action for Women, Girls, Gender Equality and HIV: Midterm Review – Final Report*. 31st session, Geneva, 2012, para 95.
- 8 Commission on the Status of Women. *Agreed conclusions on thematic issues (2001/5) – Women, the girl child and human immunodeficiency virus/acquired immunodeficiency syndrome*. 45th session, New York, 2001.
- 9 R Manjoo. *Pathways to, Conditions and Consequences of Incarceration among Women*. Report to UN General Assembly, 68th session. UN doc. no. A/68/340, 21 August 2013.

“The CEDAW Committee urged Brazil to institute programs that would help women avoid drug-related activities and incarceration and also to improve the conditions of those who are incarcerated, including ensuring that they are housed in facilities separate from men.”

United Nations treaty bodies and the expert groups that oversee compliance with human rights treaties have also taken note of the situation of women with respect to drugs. In its 2012 observations on the report of Brazil, for example, the CEDAW Committee noted its concern about the large increase in the number of women in prison and pretrial detention in the country,

“a large proportion of them...imprisoned for committing drug trafficking-related offenses, in particular for having transported drugs (mules) at the request of their partners.”¹⁰ The Committee urged Brazil to institute programs that would help women avoid drug-related activities and incarceration and also to improve the conditions of those who are incarcerated, including ensuring that they are housed in facilities separate from men and providing appropriate services for pregnant women.¹¹ The CEDAW Committee’s observations on a report from the United Kingdom also expressed concern about the large number of women “imprisoned for drug-related offences or because of the criminalization of minor infringements, which in some instances seem indicative of women’s poverty.”¹²

Though they do not constitute binding law, the UN Rules for the Treatment of Women Prisoners, also called the “Bangkok Rules,” are frequently cited as a guide that urges adequate services for drug-dependent women in prison or other detention, and emphasizes the importance of protecting detained women from violence and abuse.¹³

UN agencies have produced numerous technical documents on women and drugs, particularly on improving health services, including HIV prevention, for women who use drugs. A 2014 policy brief by UNODC, the International Network of People Who Use Drugs (INPUD), and others emphasizes that women who use drugs are too often invisible when

10 Committee on the Elimination of Discrimination against Women. Concluding observations on Brazil. 51st session, UN doc. no. CEDAW/C/BRA/CO/7, 23 February 2012, para 32.

11 Ibid., para 33.

12 Committee on the Elimination of Discrimination against Women. Concluding observations on the UK. 21st session, UN docs CEDAW/C/UK/3, Add.1 and 2, and CEDAW/C/UK/4, Add.1-4, 10 June 1999, para 312.

13 UN Economic and Social Council. United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders. ECOSOC resolution 2010/16, December 2010.

it comes to research, services, and technical guidance.¹⁴ It outlines special challenges in reaching women with gender-sensitive services, including legal barriers, and gives guidance on improving data collection and program planning, implementation and evaluation to ensure that comprehensive

health and HIV services reach all women who need them. The UNAIDS 2014 guidance note on services for people who use drugs emphasizes the particular vulnerability to HIV of women who inject drugs and the importance of such strategies as integrating comprehensive HIV services and reproductive health services.¹⁵ UNODC has also published several guides on services for women in prison and pretrial detention with attention to the need for HIV and hepatitis prevention and care.¹⁶

In a policy brief laying out issues for the 2016 UN General Assembly Special Session (UNGASS) on drugs, UN Women emphasizes that “women’s involvement in drug use and the drug trade reflects the decreased economic opportunities and lower political status that women face in everyday life.”¹⁷ The agency stresses that women who participate in the drug trade, usually in low-level positions, often do so because they “lack education [and] economic opportunity or have been victims of abuse.”¹⁸ UN Women also cites gross inequality in access to health services for women who use drugs. In its UNGASS submission, the UN Development Programme (UNDP) notes that the “corruption, violence and instability” fuelled by the war on drugs generate “large-scale human rights abuses” and “discrimination and marginalization of people who use drugs, indigenous peoples, women and youth.”¹⁹ UNDP also highlights the high rate of drug-related incarceration of women and its impact on children and families as a problem of human development.

“In Latin America, between 2006 and 2011, the female prison population increased from 40,000 to more than 74,000...”

14 UNODC, INPUD, WHO, UN Women. *Policy Brief: Women Who Inject Drugs and HIV: Addressing Specific Needs*. Vienna, 2014. At: www.unodc.org/documents/hiv-aids/publications/WOMEN_POLICY_BRIEF2014.pdf

15 UNAIDS. *Services for People Who Inject Drugs*. Geneva, 2014. At: http://www.unodc.org/documents/hiv-aids/publications/2014_guidance_servicesforpeoplewhoinjectdrugs_en.pdf.

16 See, e.g., UNODC and UNAIDS. *Women and HIV in Prison Settings*. Vienna, 2008, at: www.unodc.org/documents/hiv-aids/Women%20and%20HIV%20in%20prison%20settings.pdf; UNODC. *Handbook for Prison Managers and Policymakers on Women and Imprisonment*. Vienna, 2008. At: www.unodc.org/documents/justice-and-prison-reform/women-and-imprisonment.pdf.

17 UN Women. *A Gender Perspective on the Impact of Drug Use, the Drug Trade and Drug Control Regimes* (policy brief). New York, 2014.

18 Ibid.

19 UN Development Programme. *Perspectives on the Development Dimensions of Drug Control Policy*. New York, 2015.

ISSUES RELEVANT TO UNGASS DEBATES

Women and drug-related criminal justice

In the supply chain of illicit drugs, women and girls are usually minor links, but they suffer a disproportionate burden in application of criminal law. Globally, women are incarcerated for drug offences, mostly non-violent, more than for any other crime.²⁰

In Latin America, between 2006 and 2011, the female prison population increased from 40,000 to more than 74,000, some facing sentences as high as 30 years, largely because of drug convictions.²¹ As shown in Fig. 1 (on next page), from 1977 to 2013 in the United States, the incarceration of women rose nine-fold, due in great part to harsh drug laws. The burden of this mass incarceration fell on women of color, though they did not have higher rates of drug use than white women.²² In many countries, a higher percentage of women than men are imprisoned for drug-related offenses (though the numbers of women are smaller).²³ Among the national figures cited by the UN Special Rapporteur on violence against women are the following: about 50 percent of women in state custody in Spain and Estonia were convicted of drug offenses, almost 70 percent in Tajikistan, 68 percent in Latvia, about 40 percent in Georgia and Kyrgyzstan, and 37 percent in Italy. In Ecuador, 77 percent of the women in state custody were convicted of drug offenses, compared 35 percent of the male prison population.²⁴

The Special Rapporteur on violence against women noted that the relative harshness of drug sentences handed down to women is likely because they often do not have the insider information that enables accused men to plea-bargain or make deals with prosecutors in exchange for lighter sentences.²⁵ In some countries, conspiracy laws, which may have been designed to ensnare collaborators of traffickers and organized crime networks, are often applied to women

20 L Turquet, *Report on the Progress of the World's Women 2011-2012: In Pursuit of Justice*. New York: UN Women, 2011. At: <http://progress.unwomen.org/pdfs/EN-Report-Progress.pdf>.

21 C Youngers, "Behind the Staggering Rise in Women's Imprisonment in Latin America" New York: Open Society Foundation, 2014. At: www.opensocietyfoundations.org/voices/behind-staggering-rise-womens-imprisonment-latin-america.

22 Drug Policy Alliance, *Women and Gender in the Drug Wars*, 2015, www.drugpolicy.org/women-and-gender-drug-war.

23 R Manjoo, *op.cit.*

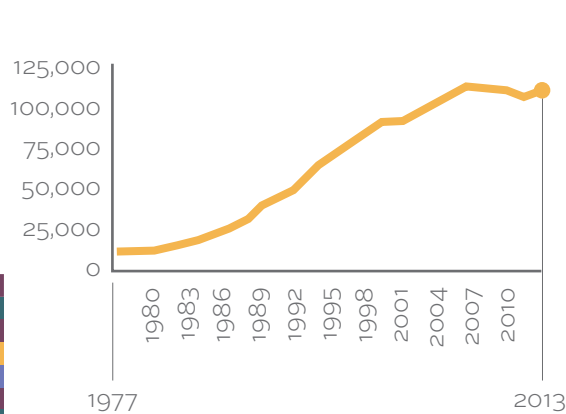
24 *Ibid.*, paras 23, 26.

25 *Ibid.*, para 26.

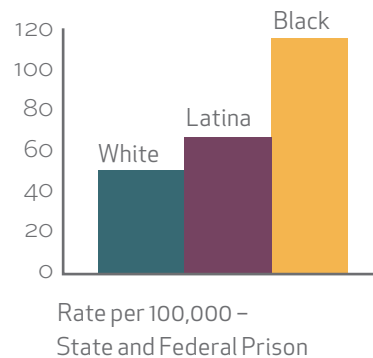
who had no role in major trafficking but lived with or drove the car of someone involved with petty drug sales.²⁶ Mandatory minimum sentences may exacerbate the situation for women, particularly when they have no leverage in plea-bargaining.²⁷ Prosecution of women for drug-related offenses also rarely takes into account the reasons why women may be involved with drugs in the first place, which may include pressure from a sexual partner, histories of domestic violence or other abuse, lack of mainstream livelihood opportunities, and lack of accessible treatment programs and related social support.²⁸ Prison sentences are likely to exacerbate most of these factors.

Figure 1: Women in U.S. state and federal prison, numbers and rate by race and ethnicity

Number of Women in State and Federal Prisons, 1977-2013



U.S. Female Incarceration Rates December 31, 2013



²⁶ ACLU et al., op. cit., pp. 1-3.

²⁷ Ibid., p. 3; Manjoo, op. cit., para 26.

²⁸ See UN Women, op. cit.; ACLU et al., op. cit.

Figure 1:

Source: U.S. Bureau of Justice Statistics, "Female prisoners under State or Federal jurisdiction," Corrections Statistical Analysis Tool, www.bjs.gov, as cited in Drug Policy Alliance, *Women and Gender in the Drug Wars*, 2015, www.drugpolicy.org/women-and-gender-drug-war

In many countries, women who are convicted for drug offenses tend to be socio-economically marginalized and are often single parents.²⁹ The impact on children of mass incarceration of women is profound. Large-scale incarceration of women in the United States in recent decades, for example, is responsible for a sharp increase in placement of low-income children in foster care in many U.S. states as extended family members were unable to cope.³⁰ Children may be impeded from visiting their mothers in prison because women's penal institutions are few and far between in many countries. Policies differ from jurisdiction to jurisdiction as to whether women who give birth in prison are permitted to keep their infants with them,³¹ but it is likely that women judged to be unfit mothers because of past involvement with drugs will have difficulty making the case to keep their infants.

Women who need suitable treatment for drug dependence rarely have access to it in prison or pretrial detention (see next section). Incarcerated women, especially marginalized and socio-economically disadvantaged women, are highly vulnerable to violence and sexual abuse in detention, as has been documented in many places, but incarcerated women who are drug-dependent (and unable to obtain treatment) may be more likely to face violent extortion and abuse than other imprisoned women.³²

After release, the ex-convict status of women may limit their opportunities for employment and social engagement and in some cases their families' access to social or economic support programs. For example, a number of U.S. states require drug testing of people as a condition of receiving housing or welfare benefits, a policy that has been considered in other countries and has been criticized (and in some cases opposed in U.S. courts) for stigmatizing the poor, not identifying people with problematic drug use, unjustifiably invading privacy, and exacerbating discrimination based on race and ethnicity.³³ Women may also have difficulty regaining custody of their children if they have been placed in foster care, particularly if women also face barriers to employment.

29 See, e.g., C Giacomello. "How the Drug Trade Criminalizes Women Disproportionately," *NACLA Report on the Americas* 47(2): 38-41, 2014; Drug Policy Alliance, op. cit.

30 M Comfort. "Punishment Beyond the Legal Offender," *Annual Review of Law and Social Science* 3:271-296, 2007.

31 Manjoo, op. cit.

32 S Pinkham, B Myers, C Stoicescu. "Developing Effective Harm Reduction Services for Women Who Inject Drugs," in *Global State of Harm Reduction 2012*, London: Harm Reduction International, 2012, pp. 126-135. At: http://www.ihra.net/files/2012/07/24/GlobalState2012_Web.pdf

33 See E Wincup. "Thoroughfares, Crossroads and Cul-de-Sacs: Drug Testing of Welfare Recipients," *International Journal of Drug Policy* 25(5): 1031-1037, 2014; N Giesbrecht, S Macdonald. "Mandatory Drug Testing and Treatment for Welfare Recipients in Ontario, Canada." *Addiction* 96:352-353, 2001.

Women, drug dependence and drug treatment

When women do figure into drug policy decision making, it is often around policymakers' stated concern about drug use in pregnancy and its impact on the newborn. Some countries give pregnant women priority in treatment services for drug dependence, as recommended by UNODC.³⁴ Unfortunately, as UNODC also notes, women, including pregnant women, in much of the world "encounter significant systemic, structural, social, cultural and personal barriers" to obtaining good-quality drug treatment, including "lack of childcare [in treatment programs] and punitive attitudes toward parenting and pregnant women, which makes them fear losing custody of their children and prevents them from seeking treatment early enough."³⁵

Fear of losing custody of children just for seeking treatment is well justified in many countries. In a number of countries in Eastern Europe and Central Asia, for example, being in treatment for a drug problem means being registered as a drug user, which in turn may be automatic grounds for losing custody of a child.³⁶ In Russia, pregnant women registered as or otherwise judged to be drug users reported having their children taken away from them in the maternity ward soon after birth.³⁷ UNODC notes that in a number of countries, drug use during pregnancy can result in automatic criminal charges and incarceration for the duration of the pregnancy and sometimes beyond.³⁸

Unfortunately, concern for pregnant women with respect to drugs is often based on ill-informed ideas about drug dependence and pregnancy. The notion of babies "born addicted" has been popularized in mass media with no grounding in science. It has been known for over 20 years, for example, that the extensive portrayal in the U.S. of a generation of "crack babies" who would be mentally handicapped for life was a vilifying construction by media and political leaders with no basis in reality.³⁹ A large body of research indicates that the effects of cocaine exposure in utero are not associated with long-term intellectual or behavioral deficits.⁴⁰ Rather, it is the circumstances of poverty, social exclusion,

34 UNODC. *Substance Abuse Treatment and Care for Women: Case Studies and Lessons Learned*. Vienna, 2004.

35 *Ibid.*, pp. 1-2.

36 K Burns. *Women, harm reduction and HIV: Key findings from Azerbaijan, Georgia, Kyrgyzstan, Russia and Ukraine*. New York: Open Society Institute, 2009. At: <https://www.opensocietyfoundations.org/publications/women-harm-reduction-and-hiv>

37 *Ibid.*

38 UNODC, *Substance Abuse Treatment*, op.cit., pp. 18-19.

39 LC Mayes, RH Granger, MH Bornstein, B Zuckerman. "The Problem of Prenatal Cocaine Exposure: A Rush to Judgment." *Journal of the American Medical Association* 267(3):406-408, 1992.

40 See, e.g., S Okie, "The Epidemic that Wasn't," *New York Times*, January 26, 2009; HS Bada, CM Bann, TM Whitaker et al. "Protective Factors Can Mitigate Behavior Problems after Prenatal Cocaine and Other Drug Exposures." *Pediatrics* 130(6):e1479-e1488, 2012.

“Unfortunately, concern for pregnant women with respect to drugs is often based on ill-informed ideas about drug dependence and pregnancy.”

malnutrition, and violence in which many drug using women are trapped partly as a result of the “war on drugs” that affect their children’s opportunity to have access to health and education services on a par with other children.⁴¹ Still, erroneous ideas about neonatal “addiction” circulate and gain a foothold in the popular mind, even to the point

of calling into question decades of research and World Health Organization (WHO) endorsement of the effectiveness of opiate substitution therapy in pregnancy.⁴² These ideas also reinforce stigma and the demonization of women who use drugs.

Even if women have the courage to seek treatment, in many countries affordable, scientifically sound, gender-appropriate treatment for drug dependence is a distant dream. Treatment services are rarely designed specifically for women, even though women differ greatly from men in their more rapid progression to dependence, their responses to treatment, and the physical and psychological comorbidities they experience.⁴³ An international review of literature—research unfortunately remains sparse from many parts of the world—found that compared to men, women who seek drug treatment are younger and less educated and are more likely to be unemployed, have dependent children, and/or suffering from anxiety, depression, and suicidal thoughts.⁴⁴ Programs that seek to instill guilt about drug use are ill suited for women already burdened with guilt and shame. For women, a treatment facility that lacks child care or does not allow them to bring their children may be a serious barrier to seeking or staying in treatment. Women may also be less likely than men to have the disposable income for costly treatment services or for transportation to far-away services.

41 M. Hepburn. “Substance Abuse in Pregnancy,” *Current Obstetrics & Gynaecology* 14: 419–425, 2004; VA Gyarmathy, I Giraudon, D Hedrich et al. “Drug Use and Pregnancy – Challenges for Public Health,” *Euro Surveillance* 14(9), 2009. At: <http://www.eurosurveillance.org/ViewArticle.aspx?ArticleId=19142>

42 WHO, UNODC and UNAIDS. “Substitution Maintenance Therapy in the Management of Opioid Dependence and HIV/AIDS Prevention (position paper)” Geneva, 2004; see also R Abrahams, C Albizu-Garcia, A Bakker et al. “Open Letter to the Media and Policymakers Regarding Alarmist and Inaccurate Reporting on Prescription Opioid Use by Pregnant Women, March 11, 2013, at: http://advocatesforpregnantwomen.org/issues/pregnancy_and_drug_use_the_facts/experts_urge_media_to_end_inaccurate_reporting_on_prescription_opiate_use_by_pregnant_women.php

43 A Roberts, B Mathers, L Degenhardt for the UN Reference Group on HIV and Injecting Drug Use. “Women Who Inject Drugs: A Review of Their Risks, Experiences and Needs. Sydney, 2010. At: http://www.unodc.org/documents/hiv-aids/Women_who_inject_drugs.pdf

44 Ibid., p. 66.

While research indicates that pregnancy can be a powerful motivator to seek drug treatment, in places where drug use is criminalized or where drug use can lead to loss of child custody, as noted above, pregnancy perversely can be an impediment to seeking care.⁴⁵ Perhaps most importantly, services designed for women need to address the profound stigma and demonization faced by women who use drugs, since they are often quickly branded by society as immoral and unfit mothers.

Women, hepatitis C, and harm reduction

Many countries do not report HIV prevalence for women who inject drugs, but in UNAIDS' 2014 compilation of available data, the pooled HIV prevalence among women who inject drugs was 13 percent compared to 9 percent among men from the same countries.⁴⁶ Some of the highest HIV prevalence rates are among women sex workers who inject drugs.⁴⁷ The lack of investment in harm reduction services in many parts of the world affects both women and men, but women face HIV risks and barriers to seeking and using services that are specific to them.

“HIV prevalence among women who inject drugs was 13 percent compared to 9 percent among men from the same countries.”

The time of initiation to injection is the highest-risk period for transmission of HIV and hepatitis B and C.⁴⁸ Evidence from some parts of the world indicates that when women are new to injecting drugs, they may rely on a sexual partner or other person to prepare the drug and often actually to inject them. This scenario may mean that women are more likely to be injected by used — that is, potentially contaminated — equipment or with

45 Ibid., pp. 67-68.

46 UNAIDS. *The Gap Report*. Geneva, 2014, p 175. At: http://www.unaids.org/sites/default/files/en/media/unaids/contentassets/documents/unaidspublication/2014/UNAIDS_Gap_report_en.pdf

47 Ibid.

48 Roberts et al., op. cit., p. 7.

“Services designed for women need to address the profound stigma faced by women who use drugs, who are often quickly branded by society as immoral and unfit mothers.”

contaminated solutions.⁴⁹ Where violence or trauma is also part of the picture, the risk may be even greater. Research from some countries suggests that women who use drugs are at very high risk of sexual and physical violence, especially from sexual partners, and particularly when they require assistance from partners in injecting or obtaining drugs.⁵⁰ In general, the intertwining of drug-related and

sex-related HIV risk is frequently prominent in the lives of women who inject drugs but infrequently addressed in programs.

As suggested by UNAIDS’ figures, women who use drugs and engage in sex work face very high HIV risk, as well as magnified stigma and criminalization, which are powerful barriers to seeking and using health services. There is significant overlap between sex work and drug use in many countries. Recognizing that stigma makes data on this subject somewhat sketchy, the UN Reference Group on HIV and Drug Use cites estimates that 15–66 percent of women who inject drugs in the U.S. have engaged in sex work at some time, 20–50 percent in Eastern Europe, 49–94 percent in Russia, Kyrgyzstan, Georgia and Azerbaijan, and 21–57 percent in China.⁵¹ The Reference Group, which reviewed a large number of studies, suggests that the risk from sex, particularly where sex workers are unable to demand condom use, and from injection together make for very high HIV risk that is further — too often — compounded by violence, including sexual violence (see also next section).⁵² It is also the case that women who use drugs may not identify themselves as sex workers even if they trade sex for drugs or money when they need to.

49 Ibid.; Burns (Open Society Foundations), op. cit. (note 1), p. 17.

50 S Pinkham and K Malinowska-Sempruch. *Women, Harm Reduction and HIV*. New York: Open Society Institute, 2007, pp. 6-7, 9; Roberts et al., *ibid.*

51 Roberts et al., *ibid.*, p. 57.

52 Ibid.; see also MH Ditmore. “Where Sex Work and Drug Use Overlap: Considerations for Advocacy and Practice.” London: Harm Reduction International, 2013. At: http://www.ihra.net/files/2014/08/06/Sex_work_report_%C6%924_WEB.pdf

“Integrated reproductive and drug-related services—or easy referral between the two by health professionals aware of the links—are needed but are often lacking.”

Underinvestment in proven harm reduction services is a central challenge in national and global responses to HIV and hepatitis C. Where services exist, they rarely are tailored to the needs of women who use drugs. For example, they rarely take into account child care and other demands on women’s time, take measures to address violence that women might face at home, from police or other men using the services, or help women to overcome deep stigma and social vilification.⁵³ A study in Ukraine, Russia and Georgia found that women

who injected drugs frequently relied on their boyfriends or spouses to go to the needle exchange, largely because women’s drug use is so deeply stigmatized and needs to be kept secret, thus depriving women of the counseling and support they could have received.⁵⁴ It was also the case, however, that when harm reduction services helped women with child-care supplies and advice or made sure that welcoming women counselors were present, women used the services more.⁵⁵

Whatever the accessibility and quality of harm reduction (and drug treatment) services that may be available to women, these services are rarely integrated with reproductive health services. Women who use drugs may be in particular need of reproductive health information and care. UNODC notes that cocaine and many opiates may interfere with the menstrual cycle such that women may be at risk of unplanned pregnancy or may be unaware of being pregnant and thus may delay seeking prenatal care or drug-related health services.⁵⁶ Integrated reproductive and drug-related services—or easy referral between the two by health professionals aware of the links—are needed but are often lacking.

53 Pinkham and Malinowska-Sempruch, *op. cit.*, p. 21.

54 Burns, *op. cit.*, pp. 21-22.

55 *Ibid.*, p. 23.

56 UNODC, *Substance Abuse Treatment*, *op. cit.*, pp. 7-8.

“In a recent survey in Kyrgyzstan, 81 percent of women in harm reduction programs reported surviving sexual, physical or other injurious violence at the hand of their partner, family or police.”

Given the high rate of arrest and detention of women for drug-related offenses in many places, it is especially important that harm reduction services be available to women who are in state custody, which is always a high-risk environment for HIV. A WHO review of data from numerous countries found that women in prison had consistently higher prevalence of both HIV and hepatitis C than incarcerated men.⁵⁷

From needle exchange and opiate substitution to peer-led information and support programs for people who use or used drugs, harm reduction programs are less available in women’s than in men’s detention facilities.⁵⁸ In Kyrgyzstan, for example, where methadone and sterile injection equipment are both available in some men’s prisons and in Georgia, where methadone is available to male prisoners, these services are not available to incarcerated women.⁵⁹

Violence and abuse

Studies show that women who use drugs are more likely than men to have experienced physical and/or sexual abuse.⁶⁰ In a recent survey in Kyrgyzstan, 81 percent of women in harm reduction programs reported surviving sexual, physical or other injurious violence at the hands of their partner, family or police.⁶¹ In the United States, surveys have reported that 25–57 percent of women in drug treatment programs experienced intimate partner violence in the previous year compared to 1.5–16 percent in the general population.⁶² Exposure to gender-based violence has a profound effect on women’s health: it intensifies the risk of HIV by limiting women’s ability to negotiate safer sex and injection practices, and women’s attempts to seek and use drug treatment, HIV prevention programs or other

57 R Jürgens. *Effectiveness of Interventions to Address HIV in Prisons* (Evidence in Action series). Geneva: World Health Organization, 2007. At: http://whqlibdoc.who.int/publications/2007/9789241596190_eng.pdf?ua=1

58 Pinkham, Myers, Stoicescu, op.cit.

59 Burns, op.cit., p. 8.

60 UNODC, *Substance Abuse Treatment*, op. cit., p. 9.

61 L Gilbert, D Nikitin. “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.

62 NEI-Bassel, L Gilbert et al. “Relationship Between Drug Abuse and Intimate Partner Violence: A Longitudinal Study among Women Receiving Methadone.” *American Journal of Public Health* 95(3): 465-470, 2005.

services are often sabotaged or discouraged when they are in abusive relationships. Despite the critical need, anti-violence services remain largely unavailable to women who use drugs. Providers at services responding to the needs of people who use drugs or sex workers often lack necessary knowledge and skills to address gender-based violence, while antiviolenence shelters often explicitly ban criminalized women, resulting in a service gap. In her 2011 report, the UN Special Rapporteur on violence against women asserted that unpreparedness of domestic violence shelters to serve women who use drugs constitutes a human rights violation.⁶³

Women who use drugs are also deterred from seeking help due to their criminalized status. Criminalization of women who use drugs — whether by law or just by treating women who use drugs as criminals without formal legal grounding — makes it extremely difficult for women to report violence to police and to seek safety, justice and essential

“In Russia and the United States, being identified as a drug user might trigger child protection agencies to remove children from their parents, which further discourages women from seeking help...”

health services. Some 60 percent of women who participated in the study in Kyrgyzstan had sustained injuries as result of abuse but did not seek medical care out of fear of arrest and even greater violence.⁶⁴ In some countries, such as Georgia, in order to be placed in a shelter, women are required to report violence to police and face risk of arrest for drug use. In Russia and the United States, being identified as a drug user might trigger child protection agencies to remove children from their parents, which

63 R. Manjoo. “Multiple and Intersecting Forms of Discrimination and Violence against Women.” Report to UN Human Rights Council, 17th Session. UN doc. no. A/HRC/17/26, 2011 (p. 11).

64 Gilbert et al., op. cit.

further discourages women from seeking help in situations of violence. The existing service gap in combination with repressive drug policies leaves women entrenched in situations of abuse, without access to health care, safety or justice.

“Criminal networks controlling drug markets may effectively be more powerful than police and may engage in abuse of women and girls with impunity.”

Criminal networks controlling drug markets may effectively be more powerful than police and may engage in abuse of women and girls with impunity. In Colombia, for example, the leader of the Urabeños, a criminal network judged to be the largest drug trafficking organization in the country, has been reported to capture young girls into sexual slavery, often luring girls from impoverished communities with luxury items.⁶⁵ High-level drug traffickers in Mexico, including the notorious Zeta cartel, have been implicated in kidnapping of women and girls and using them as sex slaves, as well as engaging in international sex trafficking.⁶⁶

Women and crop eradication

Eradication of drug crops — poppy, coca leaf and cannabis — is an important element of drug control in a number of countries. Aerial spraying of coca fields in the Andes, usually with the herbicide glyphosate, has been widely condemned as ineffective in reducing overall production of coca and toxic to the environment and the people in it.⁶⁷ There is some evidence that exposure to glyphosate — which is unavoidable for communities subjected to aerial spraying — is associated with miscarriage or premature delivery among pregnant women.⁶⁸ (It is difficult to conduct controlled studies on this point.) The insecurity associated with displacement caused by crop eradication as well as the presence of military and paramilitary eradication teams in communities is likely to affect women disproportionately.

65 M Lohmiller, “Colombia Intensifies Search for Urabeños Leader,” *InSight Crime*, March 16, 2015; “Las esclavas sexuales de Otoniel,” *Semana*, March 14, 2015, at: <http://www.semana.com/nacion/multimedia/sexo-con-menores-de-edad-tiene-otoniellider-de-los-urabenos/4208953>

66 I Grillo, “The Mexican Drug Cartels’ Other Business: Sex Trafficking,” *Time*, July 31, 2013, at: <http://world.time.com/2013/07/31/the-mexican-drug-cartels-other-business-sex-trafficking/>

67 See, e.g., UNDP UNGASS submission, op. cit., p. 4.

68 TE Arbuckle, Z Lin, LS Mery, “An Exploratory Analysis of the Effect of Pesticide Exposure on the Risk of Spontaneous Abortion in an Ontario Farm Population.” *Environmental Health Perspectives* 109(8):851-857; S Richard, S Moslemi, H Sipahutar et al. Differential Effects of Glyphosate and Roundup on Human Placental Cells and Aromatase. *Environmental Health Perspectives* 113(6):716-720, 2005.



CONCLUSIONS AND RECOMMENDATIONS

The failure of the war on drugs has come at an enormous cost to women. By compounding and perpetuating women's existing vulnerabilities and the discrimination they face, punitive drug policy regimes function as a tool of further oppression. For all the terrible impact that criminalization and incarceration of women involved with drugs has had on their lives and their families, there is no evidence that it has deterred drug use or marketing.



But the story does not need to end there. In drug policy reform debates and movements happening around the world, the rights of women should be a central concern. As noted by UNODC, INPUD, UN Women, and the World Health Organization, drug policy reform must recognize that the vast majority of women arrested and incarcerated for drug offenses have not committed a violent crime or are first-time offenders, and harsh punishments in these cases are disproportionate and unjust, both to them and to their families.⁶⁹ Less punitive laws for minor and non-violent drug infractions are the best single means of reducing incarceration of women and thus incarceration-related abuse. Such measures will also reduce stigma and enable women to have better access to services in the community.

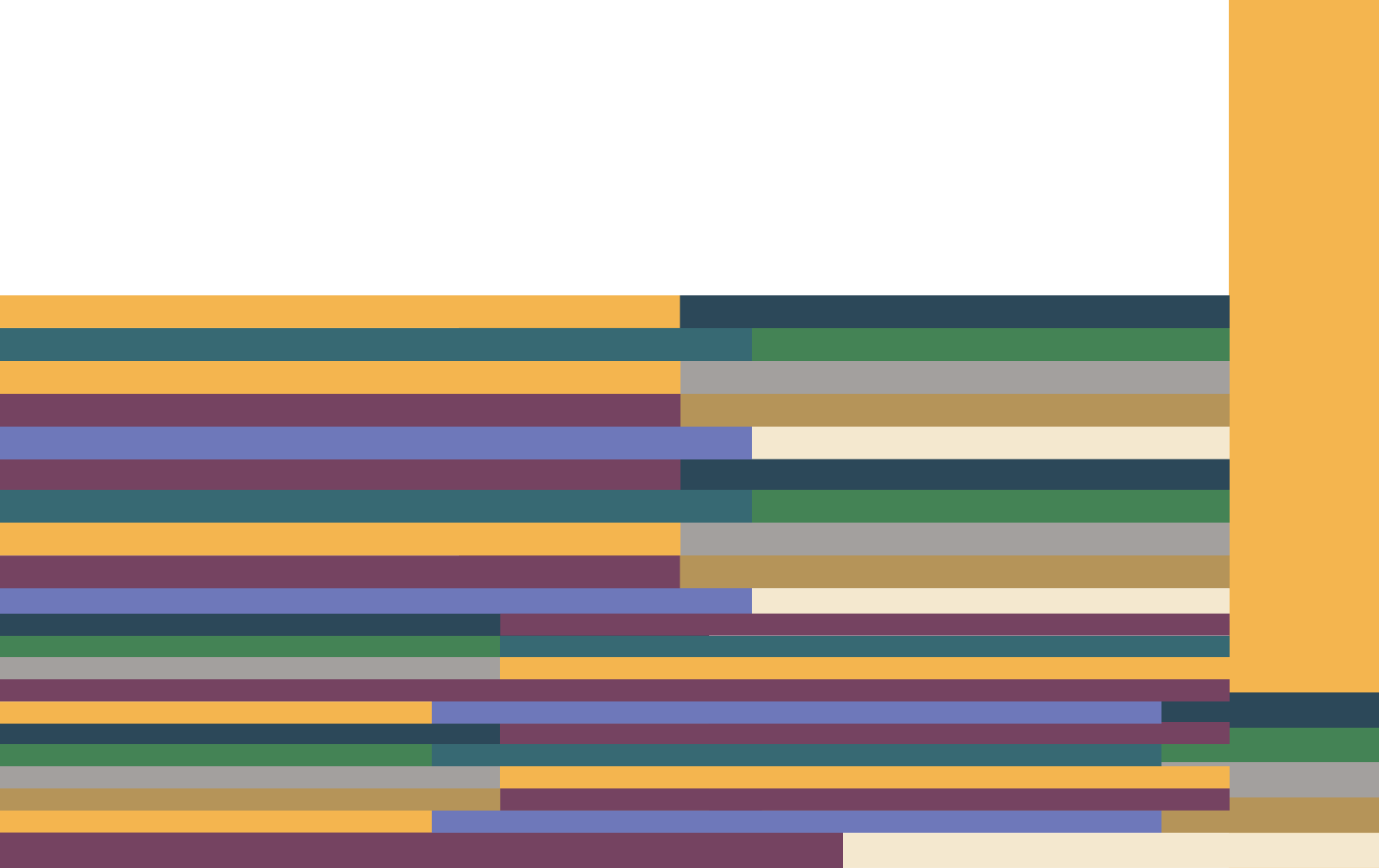
⁶⁹ UNODC et al., *Women Who Inject Drugs and HIV*, op. cit., p. 7.

In addition to law and policy reform along these lines, policies and programs should incorporate and pursue the following goals and practices:

- Collect and use gender-disaggregated data on drug use and drug-related health and social services, but without invading women's privacy or contributing to stigma.
- Ensure access to affordable, gender-appropriate and nonjudgmental drug dependence treatment, harm reduction, and other drug-related health care for women, and integrate these services with reproductive health care, and other services sought by women to maximize convenience, accessibility, and coherence of care. Services should be accessible to women caring for children and should incorporate supportive child-care services and counseling as much as possible.
- 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.
- Ensure that treatment for drug dependence and harm reduction services are available to women in the custody of the state (prison or pretrial) on a level equal to those offered to men and women in the community and that services are nonstigmatizing and independently monitored.
- Ensure integration of respectful and good-quality harm reduction, drug treatment, and reproductive health services — or ready referral mechanisms among the three — to enable pregnant women with opiate dependence to have easy access to opiate substitution therapy, for example, and women living with HIV or HCV to prevent vertical transmission of these infections.
- Institute measures to reduce violence and abuse against incarcerated women, including functioning mechanisms of complaint and redress.
- Train police on supportive and nonjudgmental approaches to dealing with women involved with drugs, including referral to appropriate services, and establish means of police oversight and complaint and redress mechanisms for persons claiming police abuse.
- Develop humane policies for protecting families against arbitrary removal of children from the custody of their mother (or father), with meaningful participation of women who use drugs, respecting the fact that drug use alone is not evidence of child neglect or harm.

→ Ensure meaningful participation of women who use drugs in policy and program planning, implementation, and evaluation.





Open Society Foundations

224 West 57th Street

New York, NY 10019 USA

+1 212 548 0600

opensocietyfoundations.org

