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Guiding Package

**Topic 1:** Criminal Justice System Treatment and Care of People with Drug Use Disorders

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11. **Abstract**

The number of drug offenders involved in the criminal justice systems (CJS) worldwide, represents a several challenges, in addressing the dual concerns of public safety and health. Unfortunately, a low proportion of those who could benefit from treatment actually receiving it while involved in the criminal justice system.

There are many ways the criminal justice system deals with such cases, including diversion, jail, prison, and community supervision. However, it includes low rates of treatment access and under-utilization of medication-assisted treatment. The options for providing treatments as an alternative to conviction is not always the easiest solution because of the different criminal offenses, the variation in legal and health systems and the amount of resources needed to do so. Consequently, CJSs tend to follow the easier/ traditional way of convicting drug users.

While a range of effective treatment options has been described for drug use disorders, the coverage of treatment at a global level is low. Also, according to statistics of both UNODC and the World Health Organization (WHO), the conviction of drug users has not deterred them from substance abuse nor has it helped nations wage a war against drugs.

1. **Introduction**

The cultivation, use, and trade of [psychoactive](https://en.wikipedia.org/wiki/Psychoactive) and other [drugs](https://en.wikipedia.org/wiki/Drug) that currently carry criminal penalties have occurred since ancient times and were often used as medicinal therapies. Concurrently, authorities have often restricted drug possession and trade for a variety of political and religious reasons.

Drug users, who came in contact with the criminal justice system, were convicted with a drug use felony or crime. However, the size of the prison population throughout the world is growing, placing an enormous financial burden on governments and at a great cost to the social cohesion of societies. Besides, the channeling of resources for convicting drug offenders is reducing the state funds for other vital social services such as health and education, and at the same time is putting a lot of burden on the criminal justice system.

Moreover, many criminal justice practitioners have realized that conviction and sentencing of drug offenders have not always yielded their desired results of deterring crime or reducing substance abuse.Internationally, legal systems have evolved over the past 20 years considering various alternatives to conviction, such as therapeutic jurisprudence, juvenile and family drug treatment courts (DTCs), treatment in prison followed by community-based treatment after discharge, probation, supervised parole, community service, conditional release, electronic monitoring and other alternatives to prison.

There is a fundamental debate in our society about which criminal justice response is more effective, what justice looks like for various crimes, and what constitutes addiction and recovery. If we consider the criminal justice systems worldwide we will find a lot of diversity in the way they handle drug use offenders. On one hand, some countries have established a lot of Alternatives to Prison (ATPs) in order to treat, rehabilitate and support drug offenders and are still developing their methods. On the other hand, some countries don’t have the capacities and resources to treat a drug offender; hence they tend to use the conventional method and, choose to convict drug users, thinking they are a threat to society.

1. **Definition of key terms:**
2. **Criminal justice system:** a set of legal and social institutions for enforcing the criminal law in accordance with a defined set of procedural rules and limitations. Criminal justice systems include several major subsystems, composed of one or more public institutions and their staffs: police and other law enforcement agencies; trial and appellate courts; prosecution and public defender offices; probation and parole agencies; custodial institutions (jails, prisons, reformatories, half-way houses, etc.); and departments of corrections (responsible for some or all probation, parole, and custodial functions).[[1]](#footnote-0)
3. **Decriminalization:** an alternative to conviction that is usually a punishment.[[2]](#footnote-1)
4. **Depenalization:** closure of minor criminal cases without punishment.
5. **Alternatives to prison:** measures that take place outside prison, which may be retributive or rehabilitative.
6. **Alternatives to punishment:** measures taken that are rehabilitative, such as treatment, education, aftercare, rehabilitation and social reintegration
7. **Substance abuse:** is a patterned use of a drug in which the user consumes the substance in amounts or with methods which are harmful to themselves or others.[[3]](#footnote-2)
8. **Rehabilitation:** the action of restoring someone to health or normal life through training and therapy after imprisonment, addiction, or illness.4
9. **Offender:** generic term for those who have broken the criminal law / code, used in this document when referring to offenders in the community and prison. When referring specifically to those in prison, prisoner is used.
10. **Drug courts:**A special court with jurisdiction over cases involving drug-using offenders. Drug courts are treatment based alternatives to prisons, youth-detention facilities, jails, and [Probation](https://legal-dictionary.thefreedictionary.com/probation). These courts make extensive use of comprehensive supervision, drug testing, treatment services, immediate sanctions, and incentives
11. **Background information:**

Many countries and organizations have been trying to address the huge controversial topic concerning the treatment and care of people with drug use disorders. It has been a problem for many years and the percentage of drug offenders is still rising. Illicit drugs are harming millions of people in many ways, from becoming dependent on such substances to causing a range of other health problems, such as injuries, cardiovascular diseases, HIV and hepatitis C or cancers. Not only is it a threat to health, it is also a contributing factor to crime and violence.

According to UNODC estimates, only 1 in 6 people in need of treatment have access to it and it is estimated that in many countries, less than 10% of people with drug use disorders are receiving treatment. According to the [2017 World Drug Report](http://www.unodc.org/wdr2017/), over 29.5 million people are estimated to suffer from drug use disorders. Overdose deaths represent approximately one-third to a half of all drug-related deaths. Yet, only one in six problem drug users have access to drug dependence treatment services - thus pointing to the large gap in service provision that still remains to be closed.

Imprisonment comes at a high cost to individuals, families and the community as a whole, and creates a significant burden on State budgets. The direct costs of imprisonment worldwide, including building and administering prisons as well as housing, feeding and caring for prisoners, is hard to calculate, with past estimates indicating an annual figure of $62,5 USD billion. Moreover, numerous studies have shown the indirect costs of imprisonment and its disproportionate impact on the poor. The loss of income of prisoners affects the economic status of the rest of the family and after release; former prisoners often have no prospects for employment due to their criminal record and subject to a cycle of poverty, marginalization, criminality and re-imprisonment.[[4]](#footnote-3)

As already noted, the insight that drug treatment could reduce both crime and the demands on the criminal justice system has animated policy for a long time. For example, the United Kingdom saw a near doubling of the population in treatment between 1998 and 2006, largely as a consequence of a large variety of criminal justice diversion programs (Reuter and Stevens 2007). Even though it is an effective method, it is still very costly. Countries who establish alternatives to conviction, must have resources in place such as doctors, medication, rehabilitation centers, food, etc.., to do so.

1. **Major parties involved:**
2. The United States of America: The number of individuals involved in the US criminal justice system (CJS) is among the highest in the developed world. In 2011, there were an estimated 12.4 million arrests, including 1.5 million for drug offenses (possession or sale). Nearly 4 million adults are under probation supervision (one out of every 60 adults in the USA) and 854,000 on parole.
3. Islamic Republic of Iran: The country has one of the toughest criminal codes around the globe. Iran’s law is based on the Islamic Shariah Law, although it is not exactly the same. This means both cultural and legal punishments for consuming intoxicating substances, which includes alcohol. Iran executes around 300 people every year, and the fourth arrest involving drugs results in the death penalty.
4. Malaysia: This nation is known for sentencing tourists to prison or death for consuming illegal substances. Although the country executes 11 people on average every year – which is very few compared to other nations with harsh penal codes – this southeast Asian nation does not hesitate to sentence substance abusers to death. The concept of “trafficking” in Malaysia appears to apply not just to selling or distributing, but also to possess.
5. The Portuguese Republic: The first country in the European Union to decriminalize all drugs has seen a decline not only in arrests, but in illicit drug use overall. While there are still small fines for selling drugs, the country’s focus is on rehabilitation, harm reduction and treating addiction as a disease.
6. The Kingdom of Belgium: In accordance with the European Union (EU) strategic plan and action plan, the Belgian government has provided for the years 2000 the opportunity for drug using oﬀenders to be diverted to treatment in the community rather than imprisonment. Several local pilot projects at prosecution and court level have been introduced to facilitate Alternatives to Prison (ATP). Such projects aim to reduce substance use in order to prevent future drug-related crime without removing the oﬀenders from society.
7. The European Monitoring Centre for Drugs and Drug Addiction (EMCDDA): was established in 1993. It is one of the EU’s decentralized agencies. The EMCDDA exists to provide the EU and its Member States with a factual overview of European drug problems and a solid evidence base to support the drugs debate. Today it offers policymakers the data they need for drawing up informed drug laws and strategies. It also helps professionals and practitioners working in the field pinpoint best practice and new areas of research.
8. **UN involvement:**

UNODC is a global organization in the fight against illicit drugs and international crime. Established in 1997 through a merger between the United Nations Drug Control Program and the Centre for International Crime Prevention, UNODC operates in all regions of the world through an extensive network of field offices.

The Treatment and Care of People with Drug Use Disorders in Contact with the CJS initiative, supporting collaboration between public health and justice authorities, was launched by the United Nations Office on Drugs and Crime (UNODC) and the World Health Organization (WHO) at the Commission on Narcotic Drugs (CND) in 2016. This initiative aims to support Member States in their efforts to pursue alternative measures to conviction or punishment for appropriate drug-related offenses of a minor nature.

United Nations Member States are encouraged to enhance the potential for alternative measures to conviction or punishment, as many people with drug use disorders are in contact with the CJS and many of them have a history of drug use (disorders). This work builds on and recognizes the work of many other organizations (e.g. EMCDDA, CCSA, CICAD, Mentor and NIDA) which have previously developed standards and guidelines on various aspects of drug prevention and treatment. Together they aim to promote and support, with a particular focus on low- and middle-income countries, evidence-based and ethical treatment policies, and strategies and interventions to reduce the health and social burden caused by drug use and dependence.

Since 2017, UNODC has provided technical assistance to support the revision of the national drug law in Côte d’Ivoire, with specific focus on the treatment and care of people with drug use disorders in contact with the CJS. Discussions with local policymakers focused on implementing United Nations standards and norms, both in the legal and health sectors, to inform the revision of Côte d’Ivoire law towards a health-focused approach and to reduce prison overcrowding by providing for and applying non-custodial measures at different stages of criminal justice proceedings.

In 2018, UNODC organized a workshop in Kenya for justice and healthcare practitioners to promote treatment and care as alternatives to conviction or punishment for people with drug use disorders in contact with the criminal justice system. Healthcare professionals and justice practitioners had an opportunity to interact and exchange experiences, in line with the Sustainable Development Goals. The Kenyan drug law is currently under review with the aim of including low-threshold treatment services and thus better reflecting a health and human rights-based perspective.

1. **Possible Solutions**
2. The use of alternatives to conviction or punishment at all stages of the criminal justice system for offenders with drug use disorders based on an assessment of established criteria should be encouraged.
3. Prisoners with drug use disorders may not be deprived of their right to health and are entitled to the same level of treatment as the general population.
4. Different UN agencies, such as UNODC and WHO should work with governments to deliver drug treatment programs
5. Drug education; in schools and workplaces should be expanded
6. Ensure that laws are in place for the care and treatment of drug offenders or revise existing laws to ensure citizen protection and care.
7. Spread more awareness especially to teens on how to protect themselves from drug use and its severe consequences.
8. **Guiding questions**

1. Where does your country stand on the issue of treating people with drug use disorders instead of convicting them? What national laws do you have in place?

2. How can your country’s criminal justice system improve its ways of taking care of drug offenders?

3. Are drug offenders in your country convicted or treated and taken care of?

4. What are the main problems that people with drug use disorders face?

5. What have the organizations done until now to solve the issue? How have those efforts improved the situations?

6. Has your country found any alternatives to conviction? If yes, what are they?

7. What are the solutions that could solve the problem from its roots?

8. Has your country done any efforts concerning the problem? If Yes, what are those efforts?

1. **Useful links**
2. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3859122/>
3. <https://www.unodc.org/unodc/en/drug-prevention-and-treatment/publications.html>
4. <https://www.who.int/substance_abuse/publications/Media/en/>
5. <https://www.caron.org/media-center/news-research/thought-leadership/incarceration-or-treatment-wrong-question>
6. <http://www.unodc.org/documents/UNODC_WHO_Alternatives_to_Conviction_or_Punishment_2018.pdf>
7. <http://www.emcdda.europa.eu/system/files/publications/1020/TDAU14007ENN.pdf>
8. **Bibliography**
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11. WHO, « Management of substance abuse », [online]. Available on : <https://www.who.int/substance_abuse/publications/Media/en/>.
12. UNODC and WHO, « treatment and care for people with drug use disorders in contact with the criminal justice system », [online]. (March 2018). Available on: <http://www.unodc.org/documents/UNODC_WHO_Alternatives_to_Conviction_or_Punishment_2018.pdf> .
13. Collins Michael, « president Trump signs “first step act” into law », [online]. (December 21 2018). Available on: <http://www.drugpolicy.org/press-release/2018/12/president-trump-signs-first-step-act-law>
14. UNODC and WHO, « International Standards on drug use prevention », [online]. (November 30 2018). Available on: <https://www.unodc.org/unodc/en/prevention/prevention-standards.html>
15. NIDA, « Criminal Justice », [online]. (April 2014). Available on: <https://www.drugabuse.gov/related-topics/criminal-justice>
16. UNODC, « Drug dependence treatment: interventions for drug users in prison », [online].Available on: <https://www.unodc.org/docs/treatment/111_PRISON.pdf>

1. What is a criminal justice system?, available on: <https://guides.temple.edu/criminaljustice> [↑](#footnote-ref-0)
2. Alternatives to punishment for drug-using offenders. Available on: <http://www.emcdda.europa.eu/attachements.cfm/att_240836_EN_TDAU14007ENN.pdf> [↑](#footnote-ref-1)
3. Substance abuse. <https://www.who.int/topics/substance_abuse/en/>

   4 Definition of rehabilitation. <https://www.merriam-webster.com/dictionary/rehabilitation> [↑](#footnote-ref-2)
4. UNODC Handbook on Strategies to Reduce Overcrowding in Prisons, p. 11 [↑](#footnote-ref-3)