Regional Spotlight on Human Rights and Drug Policy: Sub-Saharan Africa

INTERNATIONAL GUIDELINES ON
Human Rights + Drug Policy

About the International Centre on Human Rights and Drug Policy

Established in 2009, the International Centre on Human Rights and Drug Policy (HRDP) is an academic programme dedicated to developing and promoting innovative and high-quality human rights research and education on issues related to drug laws, policy, and enforcement. HRDP is based at the Human Rights Centre, University of Essex.

About the International Guidelines on Human Rights and Drug Policy

The International Guidelines on Human Rights and Drug Policy are the result of a partnership between HRDP and the United Nations Development Programme (UNDP), and a three-year international consultative process, to apply contemporary human rights legal standards to drug policy. Covering the entire supply chain, from supply to use, and grounded in basic human rights principles, the Guidelines address the catalogue of core internationally recognised rights, as well as drug policy themes (health, development, and criminal justice), and groups (children, women, indigenous people). The Guidelines highlight the measures that States should undertake or refrain from undertaking in order to comply with their human rights obligations, while taking into account their concurrent obligations under the international drug control conventions. They are intended as a normative reference for parliamentarians, diplomats, judges, policy makers, civil society organisations, and affected communities.

About the Implementation Report Series

Standard setting is a first step towards rights-based action. However, it is not always clear how certain standards – often broadly phrased – translate into concrete measures on the ground. Measuring human rights progress is a further challenge. The Implementation Report Series addresses these challenges. Written for a general audience, the reports are intended to highlight key themes or issues in drug policy requiring human rights attention, best practices from the local level that demonstrate rights realisation, and tools and methods for translating norms into action. The reports take a positive perspective, focusing on existing efforts and opportunities from around the world showing how action on human rights is possible and practical in the drug policy space and how – in some cases – it is already happening. It is our hope that this series showcases the possibilities for transformative rights-based action in drug policy in a way that is beneficial to those working in drug policy who may not have human rights expertise, as well as those working in human rights who may be unfamiliar with drug policy issues.

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INTRODUCTION

There is a strong international consensus that drug policies must be carried out in full conformity with human rights. However, for a long time there remained a lack of clarity as to what human rights standards require of States in the context of drug control law, policy, and practice. This gap was addressed in 2019 with the publication of the International Guidelines on Human Rights and Drug Policy, the result of a three-year, global participatory process. Since then, to help States and other stakeholders implement these new Guidelines, the International Centre on Human Rights and Drug Policy has been working with United Nations (UN) and civil society partners to hold regional and national dialogues in which diverse stakeholders map opportunities and challenges for implementing the Guidelines.

In preparation for the regional dialogue for Sub-Saharan Africa – a region that continues to receive far too little attention in drug policy discussions – extensive work was undertaken to research actors, existing efforts, and strategic opportunities in the region in order to identify initiatives and issues to highlight at the dialogue, and stakeholders who might present them.[1] As part of this preparatory work, over 30 stakeholders were consulted, including representatives from UN and regional entities, organisations of people who use drugs, and civil society organisations working at the national, regional, and international level on drug policy, health, human rights, and the rule of law. In keeping with themes in the Guidelines, particular attention was paid to people deprived of liberty, women, and people in need of controlled medicines for pain relief.

Focus countries identified for the dialogue were Benin, Côte d'Ivoire, Ghana, Kenya, Malawi, Mauritius, Mozambique, Nigeria, Senegal, Sierra Leone, South Africa, Tanzania, Uganda, and Zimbabwe. These countries were selected because experts consulted were of the view that there were strategic opportunities for Guidelines implementation, based on active civil society or government; because there were organisations working on these issues with the potential to integrate drugs issues into their work there; and because they represented a cross-section of regions (Eastern, Southern, Western, and Central Africa), legal systems, and languages. However, examples from other countries are also provided below.

This implementation report sets out the thematic results of our preparatory work for the Sub-Saharan Africa dialogue, providing a spotlight on human rights and drug policy in the region. As with other reports in this implementation series, it is intended to inspire action by providing an overview of ongoing efforts by a range of actors and across issues relevant to human rights and drug policy.

ACCESS TO CONTROLLED MEDICINES FOR MEDICAL AND SCIENTIFIC PURPOSES

GUIDELINE II.1.3:

Access to controlled medicines without discrimination is a key element of the right to health. This includes for use as opioid substitution therapy, for pain management, in palliative care, as anaesthesia during medical procedures, and for the treatment and management of various health conditions.

In the region, there are significant barriers to the availability of and access to opioids, in particular morphine, for pain treatment. These include overly restrictive drug control regulations and practices, limitations on who can prescribe, lack of education and training for health care workers, lack of funding, and fear of legal sanctions related to possessing or prescribing opioid medications. In recent years, important progress has been made in several countries in the region to address these obstacles. Strong advocacy by civil society, including patient interest groups, health care professionals, pharmacists, and activists, as well as strategic partnerships among these groups and governments, has been key to creating change.

Uganda has played a leading role in the region in its measures to ensure access to palliative care and to opioids for pain relief as a matter of national law and policy. Other countries that have taken important and innovative steps to provide palliative care and pain relief include Botswana, Kenya, Malawi, Rwanda, South Africa, Tanzania, and Zimbabwe.[2]

The African Palliative Care Association supports governments, policy makers, health care providers, and civil society throughout the region in developing and implementing palliative care programmes and policies. It has provided technical assistance to start the production of oral morphine in Botswana, eSwatini, Kenya, Malawi, Rwanda, Tanzania, Uganda, and Zimbabwe and is in the early phases of doing so in the Democratic Republic of Congo. In partnership with the UN Office on Drugs and Crime, it is also working with the Ministry of Health in the Democratic Republic of Congo to develop and implement programmes and policies to ensure access to pain relief and palliative care more broadly.

A number of Sub-Saharan African countries, including Ghana, Lesotho, Malawi, Mauritius, Rwanda, South Africa, Uganda, Zambia, and Zimbabwe, have legalised cannabis for medical purposes.[3] (Ghana and Malawi also have legalised cannabis for industrial use.)

ALTERNATIVE DEVELOPMENT AND SUSTAINABLE LIVELIHOODS

GUIDELINE II.3:

Everyone has the right to an adequate standard of living, including the right to adequate food, clothing, and housing. This right is equally shared by people who use drugs and people who are dependent on illicit drug economies.

Ghana, South Africa, Lesotho, and eSwatini have started to explore the option of 'alternative development with cannabis'.[4] The Cannabis Africana: Drugs and Development in Sub-Saharan Africa project, a collaboration with the Universities of Bristol and Cape Town, is conducting research on cannabis as an economic cash crop in South-West Nigeria, Western Kenya, and South Africa's Eastern Cape.[5]

Legalisation could support sustainable livelihoods for small farmers, but high licence and production costs, lack of secure land tenure, and lack of technical knowledge and tools to meet industry- and State-imposed content and quality standards pose serious barriers to entry into the legal cannabis market. This is a timely opportunity for discussion of the State's role, as part of its obligation to ensure an adequate standard of living, in creating a cannabis production model that is inclusive of current illegal cannabis farmers. The gender dimensions of cannabis production must be incorporated into this discussion, both in recognition of the fact that women make up a significant share of cannabis growers in some regions (as is the case in Pondoland in the Eastern Cape of South Africa) and to ensure their equal inclusion in this economy (see 'Women and drug policy' below).

HARM REDUCTION

GUIDELINE II.1.1:

The right to health as applied to drug policy includes access, on a voluntary basis, to harm reduction services, goods, facilities, and information.

Punitive laws, policies, and law enforcement practices (including criminalisation of drug use, of possession for personal use, and of drug paraphernalia), as well as harsh penalties for drug offences, all hinder access to harm reduction information, goods, and services in Sub-Saharan Africa. Discrimination by health care workers and failure to protect the confidentiality of information about drug use also create barriers to services.

According to Harm Reduction International, which monitors global harm reduction policy and services, 20 countries have explicit supportive references to harm reduction in their national drug policies. Needle and syringe exchange is provided in sixteen countries; opioid agonist treatment in twelve; and take-home or peer distribution of naloxone in three. Opioid agonist treatment is also available in prisons in four countries.[6] Throughout the region, people who use drugs and their networks, together with civil society and academia, and, in some cases, with the formal or informal support of local or national governments or law enforcement agencies, provide harm reduction information, goods, and services.

Innovative harm reduction examples include:

- The Centre de Prise en Charge Intégrée des Addictions de Dakar (CEPIAD), which opened in 2014, is the first centre in Francophone West and Central Africa to provide comprehensive harm reduction and health services to people who use drugs. CEPIAD is committed to ensuring human rights-based care, including to ensure that women have access to care on an equal basis with men, and to working in partnership with people who use drugs, including peer outreach workers who provide harm reduction information, goods, and services in the community. CEPIAD is a research and training centre and also conducts advocacy to reform drug laws that criminalise drug use and possession for personal use. As a member of the West Africa Commission on Drugs, Idrissa Ba, CEPIAD's founder, also advocates for human rights-based drug policy at the regional level.

- In South Africa, the Community Oriented Substance Use Programme, a publicly funded community-based programme in 17 sites in Tshwane Metropolitan Municipality, provides comprehensive harm reduction services (including opioid agonist therapy and needle and syringe exchange); HIV and tuberculosis screening and other health, social, and psychosocial services; and drop-in centres with bathing facilities, food, computers, and safe spaces to socialise. The programme partners with other organisations in the community to secure transitional shelter and to support the development of clients' work skills. It also supports harm reduction capacity building with diverse actors, including the police, and works with police officers to intervene when programme staff or community members are attacked and to assist with providing services in prison.[7]

- The Bellhaven Harm Reduction Centre provides comprehensive, low-threshold harm reduction services, medical care, and psychosocial services to around 500 homeless and low-income people who use drugs in Durban, South Africa, and is a hub for research on drug use and for service learning across multiple disciplines. It is a partnership with the South African Network of People Who Use Drugs, the Urban Futures Centre at the Durban University of Technology, Advance Access and Delivery South Africa, TB/HIV Care, and the eThekwini Municipality, which provides the building, utilities, and 24-hour security. Bellhaven is peer-led, with people who use drugs leading day-to-day programme operation and service delivery and providing home- and street-based methadone and psychosocial services.

- The non-governmental organisation Social Linkages for Youth Development and Child Link opened Sierra Leone's first needle and syringe exchange programme in 2019, and with the Legal AID Board, the organisation worked with police and government officials to develop a collective agreement to support such programmes. The police commissioner publicly supports the organisation's work, a key to its success.[8]

- In Mozambique, Médecins Sans Frontières and UNIDOS, a community-based organisation working with people who use drugs, together with the Ministry of Health, the National AIDS Council, and the Cabinet for Drug Prevention, established the Centro Comunitario para Pessoas que Usam Drogas in Maputo, a drop-in centre that provides comprehensive harm reduction services and related health and psychosocial services to people who use drugs, as well as targeted services for women who use drugs. Peer outreach workers provide harm reduction information, goods, and services and HIV testing in the district, as well as referrals to services and care. A steering committee of community leaders and people who use drugs guides the management of the drop-in centre, has sensitised local and national police to protect clients and advocates from arrest, and works to educate the community and address concerns about harm reduction activities. The National AIDS Council has included information on working with people who use drugs in its harm reduction and other operational plans, based on lessons learned from the project.[9]

WOMEN AND DRUG POLICY

GUIDELINE III.2:

Women have the right to enjoy human rights and fundamental freedoms on a non-discriminatory basis in all fields of life on the basis of equality with men. This right applies to women who use drugs and women who are involved in the drug trade or dependent on illicit drug economies.

While access to and availability of harm reduction services is poor throughout the region, women face distinct, additional barriers to harm reduction services compared to men, including stigmatisation and discrimination from health and social service providers and sexual and physical violence from intimate partners and law enforcement officials. Fear of losing child custody often drives women away from seeking harm reduction and other health services. Research in several countries in the region has found that women are more vulnerable than men to HIV and other sexually transmitted infections and to gender-based violence.[10]

In some countries, peer-led and other civil society organisations provide harm reduction and other services focusing on women, and advocate for the health and other rights of women who use drugs. For example, in Kenya, Women Nest advocates for harm reduction and sexual and reproductive health services for women, and visits women who are incarcerated, provides sanitary goods to them, helps them maintain custody of their children, and links them to pro bono lawyers. Women Nest also provides sexual and reproductive health education for women who use drugs, supports them in developing income-generating work, and has shelters for women who use drugs who are victims of domestic violence. Women who use drugs are part of the organisation's leadership team.[11]

The Muslim Education and Welfare Association in Kenya provides comprehensive legal, social, harm reduction, sexual and reproductive, and other health services for women who use drugs, including methadone, needle and syringe exchange, nutritional support, shelter, and washing facilities. Its paralegals also work with women who use drugs to obtain government-issued identification documents, birth certificates, and school leaving certificates for themselves and their children.[12] In Tanzania, SALVAGE, the sister organisation of the Tanzania Network of People Who Use Drugs, provides harm reduction services and support for women who use drugs and shelter for women and youth who use drugs.[13]

The African Network of People Who Use Drugs also works with local networks to support their work to reach women who use drugs and provide harm reduction and other health and social services that they need.

Penal Reform International has developed a number of tools to support the implementation of the UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), including a guidance document that can be used as a resource for legislators, policy makers, prison authorities, probation services, social welfare and health care services in the community, non-governmental organisations, and other relevant actors to support measures to ensure gender-sensitive laws, policies, and practices for women who are accused or convicted of a crime and those who are incarcerated. Penal Reform International has also published advocacy documents in line with the Bangkok Rules with recommendations for gender-sensitive policies for women who use drugs.

ACCESS TO JUSTICE

GUIDELINE II.7:

Everyone has the right to liberty and security of the person and therefore to freedom from arbitrary arrest and detention. No one shall be deprived of liberty except on such grounds and in accordance with such procedures as are established by law. Such rights apply equally to any person known to have used drugs or suspected of drug use, as well as to anyone suspected of a drug-related offence

GUIDELINE II.8:

Everyone has the right to equality before the law and before courts and tribunals, to defend oneself against criminal charges, and to determine one's rights and obligations in a suit at law. These and other components of the right to a fair trial should not be infringed or limited simply because an individual is accused of illicitly using, cultivating, or trading drugs.

TRAINING LAWYERS, PARALEGALS, AND PEERS

There are a number of organisations throughout the region that provide training and education for people in conflict with the law to defend their rights, including as paralegals or lawyers, as they relate to drug use or other drug offences. For example, the Tanzania Network of People Who Use Drugs has trained members on how to document and respond to human rights violations, including how to report a case to the police, how to negotiate bail for people who use drugs arrested for drug possession, and how to negotiate with law enforcement officers and the judiciary. In Ghana, the POS Foundation's in-prison paralegal programme trains prison officers, prisoners, and external personnel as paralegals. One of the Foundation's success stories centres on the case of an older woman living in poverty who was imprisoned for 11 years for possession of narcotics who appealed her case and was subsequently acquitted and discharged.[14] In Kenya, Women Nest trains paralegals and links women who use drugs facing criminal charges with lawyers and social services.[15]

The Muslim Education and Welfare Association (MEWA) in Kenya has trained prison wardens, police officers, prosecutors, judges, magistrates, and probation officers on the health and human rights of people who use drugs. Its work has influenced the judiciary to change sentencing practices to provide non-custodial alternatives and community-based services for petty crimes and to support 'deflection' to community-based treatment and counselling. MEWA's community paralegals represent people who use drugs in court, provide legal aid literacy training to people who use drugs, and work with courts to facilitate health referrals and non-custodial sentences for people who use drugs.[16]

In Côte d'Ivoire, Médecins du Monde has trained community organisations and networks of people who use drugs in advocacy techniques. In August 2019, the Groupe de Plaidoyer Phoenix, comprising 15 people who use drugs, was established to ensure the effective participation of people who use drugs in strategic meetings with government actors and civil society structures involved in drug issues.[17]

TRAINING MEMBERS OF THE JUDICIARY AND LAW ENFORCEMENT OFFICIALS

The International Drug Policy Consortium and POS Foundation work closely with Ghana's Judicial Training Institute to sensitise judges on their role in enforcing Ghana's Narcotics Control Commission Act of 2020, in particular with respect to people who use drugs. The Consortium has a close relationship with Justice Amadu Tanko of the Supreme Court, who is the Institute's director, and with Justice Dennis Dominic Adjei of Ghana's Court of Appeal, the Institute's former director, who is now assisting with Guidelines implementation. Justice Adjei is also a judge of the African Court on Human and Peoples' Rights, which opens up additional opportunities for implementation at the regional level.

In Côte d'Ivoire, Médecins du Monde, the Conseil des Organisations de Lutte contre l'Abus de Drogue, and the Groupe de Plaidoyer Phoenix have organised sessions to sensitise the Public Prosecutor's Office, the police, the National Human Rights Council, the Committee for Follow-Up of Recommendations from the UN Human Rights Council's Universal Periodic Review, the Superintendent of Prisons, and the Ministry of Security on the protection and promotion of the human rights of people who use drugs. Violations of human rights in places where drugs are consumed appear to have decreased, an apparent positive response to these sessions. The Public Prosecutor's Office also made a donation to Casa Marcory, a community centre where a multidisciplinary team of doctors, nurses, social workers, peer educators, and a lawyer provide services to people who use drugs.[18]

DECRIMINALISATION OF DRUG POSSESSION OR CULTIVATION FOR PERSONAL USEY

GUIDELINE II.1.V:

States may utilise the available flexibilities in the UN drug control conventions to decriminalise the possession, purchase, or cultivation of controlled substances for personal consumption.

South Africa decriminalised adult possession or cultivation of cannabis for personal use in private in 2018, following a Constitutional Court judgement holding that the criminalisation of such conduct violates the right to privacy.[19] Mauritius's Dangerous Drugs Act was amended in November 2022 to decriminalise the possession of small amounts of drugs for personal use and to permit referral to the Drug Users Administrative Panel in lieu of prosecution, which, in turn, will direct the person to rehabilitation, 'such as education, counselling, treatment, aftercare, social reintegration or any other therapy'.[20] A drug user who fails to appear before the Panel as and when required or to comply with terms and conditions of the Panel's directions will be referred to the director of public prosecution for 'such prosecution or legal proceedings as he may deem appropriate'.[21]

CRIMINALISATION OF POVERTY AND STATUS

GUIDELINE I.1:

Universal human dignity is a fundamental principle of human rights. It is from the inherent dignity of the human person that our rights derive. No drug law, policy, or practice should have the effect of undermining or violating the dignity of any person or group of persons.

The criminalisation of drug use and people who use drugs is recognised as among the factors contributing to fundamental human rights violations, including discrimination; torture and cruel, inhuman, and degrading treatment or punishment; and violations of the rights to liberty and security.

The Honourable Maria Teresa Manuela – a commissioner of the African Commission on Human and Peoples' Rights and the Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa – has raised concerns about the link between arbitrary arrests of people who use drugs and people living in conditions of poverty, as well as the harmful impact of incarceration on their health and other human rights. She has advocated for States to 'work towards initiating legislative review that would allow for the decriminalisation of petty offenses, which typically amount to the incrimination of poverty, including that of soft drug use'.[22] This would be in line with the Principles on the Decriminalisation of Petty Offences in Africa,[23] which recognise that the existence and enforcement of petty offences is inconsistent with human rights and exacerbates poverty and marginalisation, and which provide guidance to States on how to declassify and decriminalise these offences.

The Global Campaign to Decriminalise Poverty and Status, which grew out of the Campaign to Decriminalise Petty Offences in Africa and now comprises more than 50 national, regional, and international human rights organisations, conducts litigation, research, and advocacy to stop the criminalisation of petty offences. The Campaign has highlighted concerns about the human rights impact of punitive approaches to drugs on poor and marginalised communities, including people who use drugs, as part of its work with civil society, non-governmental organisations, national human rights institutions, legal aid organisations, bar associations, the judiciary, and academia.[24]

CIVIL SOCIETY INVOLVEMENT IN DRUG POLICY

GUIDELINE I.4:

Everyone has the right to participate in public life. This includes the right to meaningful participation in the design, implementation, and assessment of drug laws, policies, and practices, particularly by those directly affected.

Throughout the continent, people who use drugs, their representative organisations, and human rights organisations working on drug policy issues play a substantial role in providing harm reduction information, goods, and services; conducting research, advocacy, and litigation, including working with law enforcement agencies and governments; and taking action to ensure access to justice, all with an eye towards protecting the fundamental rights of people who use drugs and small farmers who cultivate them.

The African Law Foundation conducts research and advocacy concerning drug policy reform, in collaboration with networks of people who use drugs and human rights, health, and development organisations in Nigeria. The Foundation's 2022 report documenting the torture and ill-treatment of people who use drugs (particularly women) in Nigeria by law enforcement and State-owned and religious 'rehabilitation' facilities was highlighted by the National Human Rights Commission, which noted the report's importance as a tool for legal and regulatory drug policy reform.[25] The Foundation has used the Guidelines extensively in its work, including in trainings on criminal justice reform with law enforcement officers, in advocacy before the Ministry of Justice regarding the torture and ill-treatment of people who use drugs, and in workshops with networks of people who use drugs and with human rights lawyers.

The Zimbabwe Civil Liberties and Drug Policy Network conducts research and advocacy for human rights- and public health-based drug policy, working with people who use drugs, health care professionals, and policy makers from various levels of government. The Network provided technical support to government actors in the drafting of Zimbabwe's National Drug Master Plan and its Treatment and Rehabilitation Guidelines, and in 2022 published the results of an analysis of drug use in five provinces, the first of its kind. It has held workshops with UNITE Global Parliamentarians Network to End Infectious Diseases, the UK All-Party Parliamentary Group for Drug Policy Reform, and members of Parliament in Zimbabwe to support human rights- and public health-based law reform; these workshops have included discussions of decriminalisation, drug treatment (including for pregnant women), harm reduction, and alternatives to detention for drug-related crimes.

The West Africa Drug Policy Network – a coalition of West African civil society organisations with backgrounds in human rights, public health, harm reduction, prison reform, development, and education – works to promote health- and human rights-based drug policy in 16 countries in the region. The Network's leadership has identified opportunities to support harm reduction programmes in Côte d'Ivoire and Benin, countries that oppose harm reduction and criminalise drug use, but where harm reduction programmes are active.

THE AFRICAN UNION

GUIDELINE IV.3:

States have an obligation to take steps to ensure that all measures of international cooperation and assistance to counter the illicit drug trade do not directly or indirectly undermine the promotion or protection of human rights.

The African Union's Plan of Action on Drug Control and Crime Prevention (2019–2023) includes recommendations to implement harm reduction measures, including opioid agonist therapy and needle and syringe exchange programmes; exchange best practices with Member States on HIV, tuberculosis, STI prevention, opioid agonist therapy, and emergency management of opioid overdose for people who inject drugs; implement alternatives to punishment for drug use, especially among vulnerable women; implement the UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), the UN Minimum Rules for Non-custodial Measures (the Tokyo Rules), and the UN Standard Rules for the Treatment of Prisoners (the Nelson Mandela Rules); address barriers to availability and access to controlled medicines for medical and scientific purposes; take measures to release remand prisoners awaiting trial for drug offences; and conduct human rights impact assessments of existing drug policies and laws.[26]

MOVING FORWARD

Across the region, there is a diversity of human rights-based approaches to drug law and policy reform, support for their implementation, and an appetite to strengthen and broaden their reach. People who use drugs and civil society organisations have been active in leading this work, with many health and human rights organisations expanding their portfolios to include drug-related issues. Alongside and often in partnership with health care workers, policy makers, judges, prison staff, and government officials, people who use drugs and civil society organisations have pioneered innovative programmes to ensure access to justice, to provide harm reduction services and access to controlled medicines for pain relief, and to protect the fundamental rights of people who use drugs, small farmers who cultivate them, and those who need them for pain relief.

The coverage and scale of such programmes, as well as the resources to support them, remain woefully inadequate. The punitive legal environment, deep-seated discrimination against people who use or cultivate drugs, and lack of attention to those who need controlled medicines for pain relief all contribute to this problem.

The Global Fund to Fight AIDS, Tuberculosis and Malaria provides financial and technical resources to support countries in the region in the implementation and scale-up of human rights initiatives for people who use drugs.[27] The Love Alliance provides bilateral funding to organisations led by people who use drugs to support movement building and advocacy for human rights-based HIV- and health-related laws, policies, and processes.[28] There is a significant amount of overseas investment in the region, some of which is devoted to HIV and law reform issues relevant to people who use drugs and to drug policy more broadly. International cooperation efforts and private foundations should follow the Global Fund's and the Love Alliance's lead and include relevant drug policy issues in their respective portfolios. Bolstering the capacity of UN regional and country offices – including Guidelines co-sponsors UN Development Programme, Office of the High Commissioner for Human Rights, World Health Organisation, and Joint United Nations Programme on HIV/AIDS – to engage national governments and regional organisations in implementing human rights-based drug policy should also be a focus.

ANNEX

The Sub-Saharan African dialogue was followed up with a national dialogue organised by the Ministry of Foreign Affairs, the Ministry of the Interior, and the Narcotics Control Commission of Ghana, in partnership with UNDP and the Joint United Nations Programme on HIV/AIDS, the Office of the High Commissioner for Human Rights, HRDP, and the International Drug Policy Consortium. The dialogue focused on how the Guidelines could be used to support implementation of the 2020 Narcotics Control Commission Act, which provides for harm reduction and health care in place of criminalisation and incarceration for people who possess drugs for personal use; alternative livelihoods for those who cultivate narcotic plants; and cannabis cultivation for industrial or medicinal purposes.[29]

ENDNOTES

1. A core group convened to advise on the development of the dialogue and provide strategic and actor information on the region included representatives from Kenya Legal & Ethical Issues Network on HIV and AIDS, African Law Foundation (Nigeria), the West African Drug Policy Network, Women Nest (Kenya), Zimbabwe Civil Liberties and Drug Network, Enda Santé (Senegal), the Civil Society Institute for HIV and Health in West and Central Africa, the South African Network of People Who Use Drugs, TB/HIV Care (South Africa), Mainline, the International Drug Policy Consortium, Harm Reduction International, the Global Drugs and Development Programme of GIZ, the Joint United Nations Programme on HIV/AIDS, and the Office of the High Commissioner for Human Rights.

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19. *Minister of Justice and Constitutional Development and Others v. Prince; National Director of Public Prosecutions and Others v. Rubin; National Director of Public Prosecutions and Others v. Acton and Others* [2018] ZACC 30 (South Africa).

20. Mauritius, The Dangerous Drugs (Amendment) Act (2022), para. 59A(2)(a).

21. Ibid., para. 59C(4).

22. African Commission on Human and Peoples' Rights, *Intersessional Activity Report of the Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa* (2022), para. 30 (ix), https://achpr.au.int/index.php/en/intersession-activity-reports/special-rapporteur-prisons-conditions-detention-and-policing-africa-2.

23. African Commission on Human and Peoples' Rights, *Principles on the Decriminalisation of Petty Offences in Africa* (2017).

24. Campaign to Decriminalise Poverty and Status, *The Cape Declaration on Decriminalising Poverty and Status* (2022). The Campaign's advocacy and engagement with African Union mechanisms contributed to the adoption of normative guidance on decriminalisation for States (the Principles noted above); the Model Police Law adopted by the Pan-African Parliament on alternatives to arrest for minor and petty offences; successful litigation challenging charges with petty offences in several African countries; and an advisory opinion from the African Court on Human and Peoples' Rights finding that vagrancy-related offences violate the right to dignity, the right to equality before the law, the right to non-discrimination, the right to liberty and security, the right to a fair trial, the right to freedom of movement, the right to protection of the family, children's rights to non-discrimination and a fair trial, and the right to an environment where poor and marginalised women can fully enjoy their rights, and requiring States to repeal and amend such laws to comply with their obligations under regional human rights treaties and protocols. See https://decrimpovertystatus.org/campaign-timeline/.

25. African Law Foundation and International Drug Policy Consortium, *Torture and Ill-Treatment of People Who Use Drugs in Nigeria* (2022); see also Committee against Torture, Concluding Observations: Nigeria*, UN Doc.* CAT/C/NGA/COAR/1 (2021), paras. 13, 14 (expressing concern regarding the ill-treatment of people who use drugs by members of the National Drug Law Enforcement Agency and in drug rehabilitation facilities and recommending that the government 'stop and investigate arbitrary detentions and assaults against … drug users … and investigate those incidents, prosecute alleged perpetrators and provide effective remedies to the victims').

26. African Union, *African Union Plan of Action on Drug Control and Crime Prevention (2019–2023)* (2019).

27. The Global Fund's Breaking Down Barriers Initiative provides technical and financial support to 12 sub-Saharan countries to address stigma, discrimination, criminalisation, and other human rights-related obstacles that continue to threaten progress against HIV, tuberculosis, and malaria for people who use drugs and other key populations. See https://www.theglobalfund.org/en/human-rights/.

28. The Love Alliance, funded by the Dutch Ministry of Foreign Affairs, focuses on ten African countries. See https://aidsfonds.org/work/love-alliance.

29. *See Conference Room Paper Submitted by Ghana, Titled 'National Dialogue on the International Guidelines on Human Rights and Drug Policy, Held in Accra, Ghana from 12 to 13 December 2022',* UN Doc. E/CN.7/2023/CRP.11 (2023).

INTERNATIONAL GUIDELINES ON
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