

Submission by DUNE – Drug User Network in Pakistan

July 2022

Introduction

1. DUNE – the **Drug User Network in Pakistan** welcomes the opportunity to report to the Working Group for the Universal Periodic Review on the human rights situation of people who use drugs in Pakistan, encouraged by the statement of the UN High Commissioner for Human Rights that: **“individuals who use drugs do not forfeit their human rights.”**¹ This report will examine the death penalty for drug offences and the right to health of people who use drugs in Pakistan, including women who use drugs and access to institutional remedies for the violation of human rights.

Death penalty for drug offences

2. Despite ‘noting’ recommendations from the Universal Period Review, 2017 to limit the number of crimes punishable with death to cases where the accused has committed intentional killing,² Pakistan continues to impose the death penalty on persons convicted for drug offences under the Control of Narcotic Substances Act, 1997 (“CNSA”).³

3. In most cases, the persons sentenced to death are ‘drug mules’ caught for possessing or transporting drugs under coercion. Often, these individuals are disadvantaged due to extreme poverty, gender-related inequalities, drug-dependence and intellectual disabilities.⁴ Unfair investigation and forced confessions have also been observed.⁵ As a result, most death sentences in drug cases are not confirmed by higher Courts.⁶ Still, a large number of persons languish in jail on death row for crimes which should not attract a death sentence in the first place.

4. In 2021, the National Assembly passed the ‘Control of Narcotic Substances (Second Amendment) Act, 2020’, which abolished the death penalty for drug offences. A Standing Committee of the Senate on Narcotics Control, comprising Members of the Upper House of Parliament, however, disagreed and moved to retain capital punishment for offences involving heroin, cocaine and methamphetamine, where the quantity seized exceeds the stipulated threshold.⁷

5. Despite assurances by the Law Minister that the death penalty for drug offences would be eliminated,⁸ amendments to the CNSA with respect to the death penalty for drug trafficking have been put on hold. Pakistan is thus, in contravention of Article 6 of the International Covenant on Civil and Political Rights, which restricts the application of death penalty to the ‘most serious crimes’, which, as established by the Human Rights Council and other treaty bodies and special procedures, does not include drug offences.⁹

The right to health of people who use drugs

Non-availability of voluntary, evidence and rights-based treatment for drug dependence

6. According to a 2013 assessment, there were an estimated 6.7 million people who use drugs in Pakistan, which was nearly 6% of the country’s population at the time.¹⁰ Though the Government of Pakistan is required to conduct periodic surveys of the number of people who are drug dependent with the assistance of Provincial Governments,¹¹ no such survey was carried out in the last decade. The

number of people who use drugs in Pakistan is believed to have increased manifold since 2013.¹²

7. The number of people who inject drugs in Pakistan was estimated to be 430,000 in 2013.¹³ People who inject drugs are at increased risk of HIV, TB, and HBV and HCV. In 2016, 38.4% of all people who inject drugs in Pakistan were estimated to be living with HIV, compared to less than 0.1% people in the general population.¹⁴ Between 75-93.9% of people who inject drugs in the country estimated to be living with HCV.¹⁵ TB prevalence in HIV-infected people who inject drugs was 15 times higher than in the general adult population.¹⁶ People who use drugs face multiple and complex health-related conditions and require medical services for the same.

8. An estimated 4.25 million people in Pakistan are drug dependent¹⁷ and should have access to voluntary, evidence and rights-based care, treatment and management of drug dependence.

9. Provincial Governments are mandated by law to enrol all drug dependent persons in their jurisdiction for the purpose of treatment and rehabilitation¹⁸ and to set up as many centres as deemed necessary for their treatment, care and rehabilitation.¹⁹ Hardly any such facilities exist in Pakistan²⁰; as a result, people with drug dependence lack access to State run quality and affordable treatment for substance use.

10. Drug treatment services are offered by private centres for a fee, which are too costly for the majority of people who use drugs in Pakistan, especially those who have been abandoned by their families, experience homelessness or are street-based.²¹ Inability to pay is the most common reason for not seeking treatment for drug dependence.²² Though the law requires the government to bear the cost of first-time treatment,²³ this is not the case in reality. People who use drugs have to pay for private centres, which are primarily run as for-profit businesses and not for the provision of effective treatment and support to clients.²⁴

11. Private rehabilitation centres in Pakistan are known to treat clients inhumanely. People who use drugs who have been admitted in such centres at the behest of their families have described how they have had their hair, moustache and eyebrows shaved of as a gesture of insult and humiliation²⁵ and were kept chained²⁶ or locked up.²⁷ Those who complained of withdrawal symptoms had cold water thrown on them or were flogged by the staff of the facility.²⁸ Violence and brutality is common in private rehabilitation centres and some deaths have also occurred.²⁹

12. Under the law, private centres must obtain approval from the Federal or Provincial Government and comply with the conditions they prescribe.³⁰ In practice, there is little or no oversight of private treatment facilities in Pakistan.

13. In its 2019 Anti-Narcotics Policy, the Government of Pakistan undertook to promote evidence-based treatment and rehabilitation services that are compliant with human rights standards.³¹

14. To date, no measures have been taken to increase the number of evidence and rights-based drug treatment facilities or improve the quality of care for drug dependent clients through implementation of minimum standards.³² Furthermore, the gold standard of opioid dependent treatment, i.e., methadone and buprenorphine has not been introduced in Pakistan.

15. Law enforcement officers are authorised to take a person into custody on 'reasonable suspicion' of being dependent on drugs and 'hand over' such person to the nearest treatment centre for mandatory

tests and treatment.³³ Recently, people who use drugs in Peshawar were rounded up from the streets and dumped in a local centre with inadequate space and medical facilities – in complete disregard of their rights and dignity.³⁴

16. People who use drugs and people who are dependent on drugs have the same right to health as everyone else.³⁵ Services for substance use treatment are woefully inadequate in Pakistan. All rehabilitation centres are residential and require people who use drugs to be isolated from their family and community, which does not aid recovery and social integration.³⁶ Voluntary, evidence and rights-based facilities for treatment for substance use disorders are non-existent, which constitutes a violation of the right to health of people who drugs in Pakistan.

Absence of dedicated services for women who use drugs

17. Drug use among women in Pakistan is discreet and hidden owing to socio-cultural norms that discriminate against and marginalise women. Being invisible and uncouneted, women who use drugs have a higher prevalence of anxiety, depression, and other mental health conditions.³⁷ Yet, a very low proportion have access to treatment for drug dependence, HIV and other co-morbidities.³⁸ Among dependent users, women were less likely to have received drug treatment than men.³⁹

18. There are no dedicated facilities for drug dependent women in Pakistan.⁴⁰ Existing drug-related services are designed for men and do not address the needs of women.⁴¹

19. Under the National Anti-Narcotics Policy, 2019, the Federal and Provincial Governments were tasked with taking measures to: “*enhance effective, affordable, accessible and gender-sensitive drug treatment, care, and rehabilitation services*” for drug users and “*increase the number of dedicated treatment, care, rehabilitation and reintegration facilities for women.*”⁴² Yet, no progress has been made in this regard.

20. Women who use drugs in Pakistan experience systemic violation of their right to health including the right not to be discriminated against in accessing treatment for drug dependence.

Lack of access to pharmacologically assisted treatment

21. People who use drugs in Pakistan lack access to pharmacologically-assisted treatment namely – the administration of methadone or buprenorphine for managing opioid dependence. Also known as ‘Opioid Substitution Therapy’ (OST), the administration of methadone or buprenorphine to opioid dependent patients under supervision is a key component of the comprehensive package of services,⁴³ recommended by the WHO, UNODC and UNAIDS for reducing the transmission of HIV, HCV and HBV among people who inject drugs.⁴⁴ Methadone and buprenorphine are on the WHO Model List of Essential Medicines⁴⁵ and States are under an obligation to make these drugs available as part of the right to health.⁴⁶

22. The Government of Pakistan has however, not allowed the introduction of OST for treatment of opioid dependence or as part of harm reduction services for people who inject drugs. This is in spite of the fact that there are an estimated 430,000 people who inject drugs in Pakistan, and that a pilot programme conducted in 2013 found OST to be effective.⁴⁷

23. OST is also not available for HIV positive people who use drugs, who need to stabilise in order to adhere to anti-retroviral treatment (ART). Non-availability of OST has posed a major barrier in effectively

preventing and treating HIV among people who use drugs in Pakistan.⁴⁸

24. One of the objectives of the 2019 Anti-Narcotics Policy of the Government of Pakistan is to “ensure the availability of and access to controlled substances for medical and scientific purposes, while preventing their diversion, in accordance with relevant international obligations under the drug control conventions.” The use of methadone and buprenorphine, which are internationally controlled substances, for treatment of opioid dependence qualifies as ‘medical use’ under international drug control conventions.⁴⁹ It is also an obligation under the International Covenant of Economic Social and Cultural Rights.⁵⁰

25. Pakistan’s failure to provide OST constitutes a violation of the right to health.⁵¹

People who use drugs falling victim to illegal organ trafficking

26. During the preparation for this report, DUNE became aware of an appalling practice which is growing in Pakistan, where people who use drugs, especially those who are homeless and abandoned by their families are exploited by criminal gangs for illegal organ trafficking.⁵²

27. Despite laws prohibiting organ trafficking, the practice continues to thrive in Pakistan.⁵³ Poverty, desperation and neglect make people who use drugs particularly vulnerable to such coercion and exploitation, as does the lack of protection of their legal and human rights.

Access to institutional remedies and redressal

28. The National Commission for Human Rights in Pakistan, which was established in 2012, has not taken up cases of human rights violations perpetrated against people who use drugs to date.⁵⁴ Neither has the Ministry of Human Rights, which was entrusted under the National Anti-Narcotics Policy, 2019 to: “Ensure human rights of drug users are upheld, and they are treated as victims and not criminals”,⁵⁵ examined human rights violations against people who use drugs.⁵⁶

29. Despite facing multiple and egregious violations of human rights, people who use drugs are reluctant to approach authorities and register complaints as it means disclosing identities and behaviours that are stigmatised and may result in adverse social and legal consequences.⁵⁷ No efforts have been made by the State to instil awareness among the community about the existence of institutional remedies for human rights violations or about mechanisms for protecting the identity of complainants in proceedings before the Human Rights Commission or the Ministry.⁵⁸

30. In its Universal Periodic Review, 2017, the Government of Pakistan ‘accepted’ recommendations to promote education and awareness of human rights, strengthen the role and operational effectiveness of the Ministry of Human Rights and the National Commission for Human Rights and to facilitate equitable access to justice for all, especially the poor and marginalised.⁵⁹ Sadly, none of these have taken effect for people who use drugs.

Recommendations

31. In light of the above findings, DUNE calls upon Member States to recommend that the Government of Pakistan:

- a) Abolishes the death penalty for all drug offences under the Control of Narcotic Substances Act, 1997.
- b) Promotes voluntary, evidence and rights-based treatment for drug dependence that is respectful of the rights and dignity of people who use drugs including through the regulation

- and oversight of privately run centres.
- c) Adopts measures to improve access to affordable, effective and community-based treatment and care for drug dependence, with dedicated facilities for women, in line with internationally recognised standards and good practices.
 - d) Introduces and scales-up opioid substitution therapy (OST) for opioid dependent clients including people who inject drugs and those living with HIV in a time-bound manner, with allocation of human and financial resources, training and infrastructure.
 - e) Addresses the vulnerability of homeless and street-based people who use drugs to illegal organ trafficking by *inter alia*, extending social security and protection to them.
 - f) Undertakes human rights awareness among people who use drugs with a view to facilitate access to institutional remedies.

¹ Office of the High Commissioner for Human Rights, Statement 10 March 2009,

<https://www.ohchr.org/en/statements/2009/10/high-commissioner-calls-focus-human-rights-and-harm-reduction-international-drug>

² United Nations General Assembly, Human Rights Council, Human Rights Council Thirty-seventh session, 26 February–23 March 2018, Report of the Working Group on the Universal Periodic Review, Pakistan, A/HRC/37/13, Recommendations 152.123 (Republic of Moldova); 152.124 (United Kingdom of Great Britain and Northern Island); 152.128 (Austria) and 152.129 (Namibia)

³ See section 9(c) read with sections 6, 7 and 8 of the Control of Narcotic Substances Act, 1997 (XXV of 1997) (hereinafter “CNSA”).

⁴ Foundation for Fundamental Rights (FFR), *Optimising Pakistan’s Drug Law: Making The Control Of Narcotic Substances Act Stronger, Fairer And More Effective*. Available at <https://courtingthelaw.com/wp-content/uploads/Optimising-Pakistans-Drug-Law-A-Report-by-FFR.pdf>

⁵ Sughra Bibi et al., *Excessive Use of Death Penalty as Stoppage Tool for Terrorism: Wrongful Death Executions in Pakistan*, Journal of Law, Policy and Globalization, ISSN 2224-3240 (Paper) ISSN 2224-3259 (Online) Vol.81, 2019, DOI: 10.7176/JLPG

⁶ Irfan Ghauri, *Drug smuggling cases: 70% of death sentences quashed by higher courts* (March 2014), <https://tribune.com.pk/story/687816/drug-smuggling-cases-70-of-death-sentences-quashed-by-higher-courts>

⁷ Saley Mughal, *Senate panel retains death penalty for certain drugs* (The Express Tribune, September 2021) <https://tribune.com.pk/story/2317961/senate-panel-retains-death-penalty-for-certain-drugs>

⁸ Hasnat Malik, *Death penalty on two offences may be abolished* (The Express Tribune, October 2021) <https://tribune.com.pk/story/2324221/death-penalty-on-two-offences-may-be-abolished>

⁹ UN Human Rights Committee, CCPR/C/BHR/CO/1, 15 November 2018, para 31; UN General Assembly, Human Rights Council, Question of the death penalty Report of the Secretary-General, A/HRC/45/20, 13 August 2020, paras 26 and 60.

¹⁰ United Nations Office on Drugs and Crime and Ministry of Interior and Narcotics Control, Narcotics Control Division, Government of Pakistan, *Drug Use in Pakistan 2013*, (Islamabad).

¹¹ Rule 4 of the Establishment of Centres for Treatment and Rehabilitation of Addicts, Rules, 2001 [Gazette of Pakistan, Extraordinary, Part II, 7th November 2001] notified vide S.R.O. 769(I)/ 2001 dated 3.11.2001 by the Federal Government in exercise of powers conferred under section 77 read with sections 52 and 53 of the CNSA (hereinafter “Establishment of Centres for Treatment and Rehabilitation of Addicts, Rules, 2001”).

¹² Ministry of Narcotics Control, Government of Pakistan, *The National Anti-Narcotics Policy-2019*.

¹³ United Nations Office on Drugs and Crime and Ministry of Interior and Narcotics Control, Narcotics Control Division, Government of Pakistan, *Drug Use in Pakistan 2013*, (Islamabad).

¹⁴ Ali Ahmed, Furqan Khurshid Hashmi and Gul Majid Khan, *HIV outbreaks in Pakistan*, The Lancet, Vol 6 July 2019, Published Online June 13, 2019, [http://dx.doi.org/10.1016/S2352-3018\(19\)30180-8](http://dx.doi.org/10.1016/S2352-3018(19)30180-8)

¹⁵ Waheed Y, Najmi MH, Aziz H, Waheed H, Imran M, Safi SZ, *Prevalence of hepatitis C in people who inject drugs in the cities of Rawalpindi and Islamabad, Pakistan*. Biomed Rep. 2017 Sep; 7(3):263-266. doi: 10.3892/br.2017.959. Epub 2017 Aug 1. PMID: 28894573; PMCID: PMC5582579.

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- ¹⁶ S. Tahseen, H. Shahnawaz, U. Riaz, F. M. Khanzada, A. Hussain, W. Aslam and M. von Euler-Chelpin, *Systematic case finding for tuberculosis in HIV-infected people who inject drugs: experience from Pakistan*, INT J TUBERC LUNG DIS 22(2):187–193, (2018), <http://dx.doi.org/10.5588/ijtld.17.0390>
- ¹⁷ United Nations Office on Drugs and Crime and Ministry of Interior and Narcotics Control, Narcotics Control Division, Government of Pakistan, *Drug Use in Pakistan 2013*, (Islamabad).
- ¹⁸ Section 52(1), CNSA.
- ¹⁹ Section 53, CNSA.
- ²⁰ Focused Group Discussions ('FGDs') and Key Informant Interviews ('KIIs') conducted by DUNE with stakeholders in Pakistan for the preparation of this report between 16-20 June 2022.
- ²¹ FGD with people who use drugs in Rawalpindi, Punjab, 18 June 2022
- ²² United Nations Office on Drugs and Crime and Ministry of Interior and Narcotics Control, Narcotics Control Division, Government of Pakistan, *Drug Use in Pakistan 2013*, (Islamabad).
- ²³ Section 52(2) of the CNSA and Rule 3(2) of the Establishment of Centres for Treatment and Rehabilitation of Addicts, Rules, 2001.
- ²⁴ FGD with young people who use drugs, Islamabad 16 June 2022; KII with community expert, Islamabad, 16 June 2022.
- ²⁵ Mayhew S, Collumbien M, Qureshi A, Platt L, Rafiq N, Faisal A, Lalji N, Hawkes S. *Protecting the unprotected: mixed-method research on drug use, sex work and rights in Pakistan's fight against HIV/AIDS*. Sex Transm Infect. 2009 Apr; 85 Suppl 2:ii31-6. doi: 10.1136/sti.2008.033670. PMID: 19307349. see also FGD with HIV positive people who inject drugs, Islamabad, 18 June 2022; KII with community expert, Islamabad, 16 June 2022.
- ²⁶ FGD with street-based people who use drugs, Islamabad, 17 June 2022
- ²⁷ KII with civil society representative working on harm reduction, treatment and care with people who use drugs, Islamabad, 17 June 2022
- ²⁸ FGD with HIV positive people who inject drugs, Islamabad, 18 June 2022; FGD with street-based people who use drugs, Islamabad, 17 June 2022
- ²⁹ FGD with HIV positive people who inject drugs, Islamabad, 18 June 2022; FGD with street-based people who use drugs, Islamabad, 17 June 2022
- ³⁰ Rules 6 and 16 of the Establishment of Centres for Treatment and Rehabilitation of Addicts, Rules, 2001.
- ³¹ Ministry of Narcotics Control, Government of Pakistan, *The National Anti-Narcotics Policy-2019*.
- ³² World Health Organisation and United Nations Office on Drugs and Crime, International standards for the treatment of drug use disorders (2020). Available at <https://www.who.int/publications/i/item/international-standards-for-the-treatment-of-drug-use-disorders>
- ³³ Rule 7 of the Establishment of Centres for Treatment and Rehabilitation of Addicts, Rules, 2001.
- ³⁴ FGD with HIV positive people who inject drugs, Islamabad, 18 June 2022
- ³⁵ Report of the United Nations High Commissioner for Human Rights. *Study on the impact of the world drug problem on the enjoyment of human rights*. In: Thirtieth session of the Human Rights Council, New York, 4 September 2015, A/HRC/30/65, para 7. Available at <https://undocs.org/en/A/HRC/30/65>
- ³⁶ FGD with young people admitted in a private drug treatment center, Islamabad, 20 June 2022; KII civil society representative working on harm reduction, treatment and care with people who use drugs, Islamabad, 17 June 2022
- ³⁷ Niloufer Sultan Ali, Ali Khan Khuwaja and Abdul Moeed Zafar, *Characteristics of patients using psychoactive drugs in Karachi, Pakistan*, Pharm World Sci (2009) 31:369–372, DOI 10.1007/s11096-009-9279-y
- ³⁸ United Nations Office on Drugs and Crime (Country Office Pakistan), *Female Drug Use in Pakistan: Mapping Estimates, Ethnographic Results & Behavioural Assessment* (2010).
- ³⁹ United Nations Office on Drugs and Crime and Ministry of Interior and Narcotics Control, Narcotics Control Division, Government of Pakistan, *Drug Use in Pakistan 2013*, (Islamabad).
- ⁴⁰ KII with community expert, Islamabad, 16 June 2022; KII-woman who uses drugs, Islamabad, 18 June 2022; KII civil society representative working on harm reduction, treatment and care with people who use drugs, Islamabad, 17 June 2022
- ⁴¹ Iftikhar Chaudhry, *Over half of drug-addicted women are educated: report* (The Express Tribune, February 2018), <https://tribune.com.pk/story/1624327/half-drug-addicted-women-educated-report>

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- ⁴² Ministry of Narcotics Control, Government of Pakistan, *The National Anti-Narcotics Policy-2019*.
- ⁴³ World Health Organisation, *Consolidated Guidelines on HIV Prevention, Diagnosis, Treatment and Care for Key Populations - 2016 Update*, <https://www.who.int/publications/i/item/9789241511124>
- ⁴⁴ United Nations Office on Drugs and Crime, International Network of People Who Use Drugs, Joint United Nations Programme on HIV/AIDS, United Nations Development Programme, United Nations Population Fund, World Health Organization, United States Agency for International Development, *Implementing comprehensive HIV and HCV programmes with people who inject drugs: practical guidance for collaborative interventions* (Vienna: United Nations Office on Drugs and Crime; 2017). Available at <https://inpuod.net/duit-implementing-comprehensive-hiv-and-hcv-programmes-with-people-who-inject-drugs/>
- ⁴⁵ World Health Organization Model List of Essential Medicines – 22nd List, 2021. Geneva: World Health Organization; 2021 (WHO/MHP/HPS/EML/2021.02). Available at <https://www.who.int/publications/i/item/WHO-MHP-HPS-EML-2021.02>
- ⁴⁶ Committee on Economic Social and Cultural Right, General Comment No. 14: The Right to the Highest Attainable Standard of Health. 11/08/2000. E/12/2000/4, CESCR General Comment 14, para 12(a)
- ⁴⁷ Bergenstrom et al. *Drug-related HIV epidemic in Pakistan: a review of current situation and response and the way forward beyond 2015*, Harm Reduction Journal (2015) 12:43 DOI 10.1186/s12954-015-0079-5
- ⁴⁸ S. Singh et al., *Revitalizing the HIV response in Pakistan: A systematic review and policy implications*, International Journal of Drug Policy, 25 (2014) 26– 33, <http://dx.doi.org/10.1016/j.drugpo.2013.05.011>
- ⁴⁹ International Narcotics Control Board, *The use of internationally controlled drugs for the treatment of opioid dependence*, E/INCB/2018/Alert.2, https://www.incb.org/documents/News/Alerts/Alert_on_Control_of_Narcotic_Drugs_Feb_2018.pdf
- ⁵⁰ United Nations Economic and Social Council, Committee on Economic, Social and Cultural Rights, E/C.12/SWE/CO/6; E/C.12/LTU/CO/2, E/C.12/PHL/CO/5-6, E/C.12/BLR/CO/4-6, E/C.12/IDN/CO/1 and E/C.12/POL/CO/6.
- ⁵¹ Report to the General Assembly. UN Special Rapporteur on Health, Anand Grover. In: Sixty-fifth session, New York, 6 August 2010, A/65/255, paras 42, 52 and 76. Available at <https://undocs.org/en/A/65/255>
- ⁵² FGD with street-based people who use drugs, Islamabad, 17 June 2022.
- ⁵³ <https://www.reuters.com/article/us-pakistan-trafficking-organs-idUSKCN1BM17K>
- ⁵⁴ FGD with young people who use drugs, Islamabad 16 June 2022; FGD with young people admitted in a private drug treatment center, Islamabad, 20 June 2022; FGD with transgender people who use drugs, Islamabad, 20 June 2022; KII with community expert, Islamabad, 16 June 2022.
- ⁵⁵ Ministry of Narcotics Control, Government of Pakistan, *The National Anti-Narcotics Policy-2019*.
- ⁵⁶ KII with community expert, Islamabad, 16 June 2022
- ⁵⁷ FGD with young people who use drugs, Islamabad 16 June 2022.
- ⁵⁸ Association of People Living with HIV, *Voices from the field: Human rights concerns of people using drugs in Pakistan* (2016).
- ⁵⁹ United Nations General Assembly, Human Rights Council, Human Rights Council Thirty-seventh session, 26 February–23 March 2018, Report of the Working Group on the Universal Periodic Review, Pakistan, A/HRC/37/13, Recommendations 152.51 (Bhutan); 152.45 (State of Palestine); 152.47 (Morocco) and 152.143 (Cuba).