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GA5: Legal

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Issue: Ensuring the humane prosecution of drug-related offenders in judicial systems

TIMUN '20   
Turkish International Model United Nations



Committee: Legal Committee (GA5)  
Issue: Ensuring the humane prosecution of drug-related offenders in judicial systems  
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## I. Introduction

Humankind's use and trade of psychoactive substances can be confirmed by the earliest human records. Throughout history, drugs have been used in religious ceremonies, medicinal practices, or by the general population for recreational uses (Crocq). Furthermore, commerce in the opium poppy and coca leaf developed on an organized basis during the 1700s, and the first major efforts to control the distribution of drugs were done by the Chinese in the 19th century, by abolishing the trade of opium with Great Britain. (Steiner) As time passed, after World War I, the League of Nations was then given the responsibility to supervise agreements concerning the traffic of drugs. The war on drugs, however, formally came into effect in June 1971 by the U.S. President Richard Nixon as he declared drug abuse to be "public enemy number one" (The Editors of Encyclopaedia Britannica).

For fifty years, the war on drugs, a United States-led initiative to prohibit the manufacture, distribution, and consumption of banned substances commonly known as illegal drugs (Esquivel-Suárez), has gained the attention of governments all around the world. While this global initiative has taken legal and military-based precautions to prevent the abuse of illegal drugs, over the years, people from around the world have had conflicting reactions to this policy.

While governments around the world continue to pass various laws and regulations to prohibit the abuse of drugs and to set penalties for drug abusers, poorly designed policies and harsh measures have not only failed to decrease the supply and use of drugs, but they have also created new problems (Open Society Foundations). These newly created problems include penalties that violate international human rights such as death sentences, lifelong imprisonment sentences, overcrowded prisons, and relapsing drug offenders all around the world.

These newly-born problems regarding inhumane persecution of people who committed drug-related offenses and harsh and poorly designed enforcements have shown the need for reform in policies regarding penalties for drug use. Even though the change to prevent and repair these problems is urgent and necessary, governments' conflicting views on drug-related offenses make it difficult to adopt a common policy on how to decrease drug abuse around the world while ensuring the humane persecution of drug-related offenders in judicial systems.



To sum up, within the context of the theme of TIMUN '20, ensuring the humane persecution of drug-related offenders has become a crisis far more extensive than mere differences in government policies. While the war on drugs continues globally, it is the Member States' responsibility to continue protecting international human rights in a coordinated fashion. In this report, newly-created problems regarding harsh drug-related policies, conflicting views on the issue, and possible solutions to this global crisis will be covered in an in-depth way.

## II. Involved Countries and Organizations

### United Nations Office on Drugs and Crime (UNODC)

The United Nations Office on Drugs and Crime is a UN office, under the United Nations Sustainable Development Group (UNSDG), which was established in 1997. UNODC deals with issues that are related to drugs, crime, corruption, and terrorism. UNODC looks for long-term solutions to problems of criminal justice while ensuring that these issues are solved in the most sustainable and humane way possible. ("About UNODC") They have contributed their research to the Member States through numerous reports on community-based alternatives to imprisonment. This research done by UNODC is then used as guidance for the Member States to implement changes in drug, crime, and terrorism-related policies. The most well-known report done by UNODC is the annual World Drug Report. The World Drug Report is a comprehensive review of the international drug problem, presented in the form of six booklets focusing on different aspects of drug use in the world. ("World Drug Report 2020") It also raises awareness of global trends related to drug use and trafficking. Finally, UNODC also demonstrates country-based efforts to find long-term solutions to drug abuse by preparing regional programs specific to different Member States' needs.

### UNHRC

The United Nations Human Rights Council (UNHRC) "is an inter-governmental body within the United Nations system made up of 47 States responsible for the promotion and protection of all human rights around the globe." ("Welcome to the Human Rights Council") UNHRC meets at the UN Office at Geneva, Switzerland, and it discusses all human rights issues and situations. While the 47 Member States part of the UNHRC are elected by the majority of Member States at the General Assembly of the United Nations, "as of 1 January 2020, 117 UN member States will have served as Human Rights Council Members." ("Membership of the Human Rights Council") In the context of this agenda item, the UNHRC has debated on the world's current drug problem and the past, and especially the current members of the



UNHRC can weigh in on the humanitarian aspect of this agenda item throughout the debate to fulfill the main aim of UNHRC, which is to promote and protect human rights.

### Canada

As of the effective legalization date of 17 October 2018, Canada is the second Member State after Uruguay to have legalized the use of cannabis for recreational and medicinal purposes. (BBC) Furthermore, Canada is also one of the first countries to successfully implement community-based alternatives to imprisonment. Drug-related offenses being a major cause of imprisonment, Canada might set an example for a change in policies in terms of humane prosecution of drug-related offenders in judicial systems around the world.

### United States of America

In 1971, the United States of America has started the now-global initiative “the war on drugs.” While this initiative aims to prevent the abuse and trafficking of drugs, it has also been heavily criticized by the public claiming that this policy can be used for political gains and as an excuse for racial profiling. The United States of America has harsh policies regarding drug abuse, with sentences ranging from 5 years to life imprisonment. The United States also has the largest incarceration rate in the world, with more than two million people in prisons. (BBC News) The United States’ strict drug and imprisonment policy not only has not been successful in terms of preventing drug abuse, but it has also caused additional problems that violate international human rights such as inhumane conditions in overcrowded prisons. Currently, according to the FBI, in 2018, 1,654,282 out of the 10,310,960 arrests were caused by drug abuse violations. Furthermore, according to The Sentencing Project, 452,964 out of 2.2 million people were behind bars due to drug-related offenses in the United States of America, in 2017. The US’ drug policy is still very harsh due to strict sentencing laws such as mandatory minimums and cutbacks in parole release.

### Singapore

Singapore has one of the strictest drug policies in Southeast Asia and the world. Singapore’s Misuse of Drugs Act has penalties for the possession of even minuscule amounts of illegal drugs. “Under the Misuse of Drugs Act, the prescribed penalties for possession of small amounts range from fines of up to \$20,000 to a maximum of ten years in prison.” (Aquino) Furthermore, life imprisonment and death penalty can also be prescribed if somebody is caught carrying larger amounts of drugs. As of January of 2013, death penalties have become less common and they have given their places to life imprisonment sentences, which are also argued to be against international human rights. Moreover, as of 31 December 2019, based on Singapore Prison Service’s (SPS) “Annual Statistics Release for 2019,” out of the total convicted



population of 8078, 5420 of them are incarcerated due to drug-related offences. Even though the Ministry of Home Affairs of Singapore (MHA) argues that there is a very strong public support for Singapore's anti-drug policies based on a survey, the said survey was conducted on only two thousand Singapore residents, which might not reflect the general public's view on these strict laws. ("Very Strong Public Support For Singapore's Anti-Drug Policies")

## The Philippines

The Philippines also has one of the strictest drug policies in the world, especially after President Rodrigo Duterte's government waged a war against drugs in 2016. While the "Philippines Dangerous Drugs Act prescribes death penalty for drug traffickers 0.3 ounces of opium, morphine, heroin, cocaine, marijuana resin, or at least 17 ounces of marijuana," (Aquino) unofficial killings have also started to become common throughout the Philippines. According to the Human Rights Watch, "since taking office on June 30, 2016, Philippine President Rodrigo Duterte has carried out a 'war on drugs' that has led to the deaths of over 12,000 Filipinos to date, mostly urban poor." ("Philippines' 'War on Drugs'") Furthermore, research done by the Human Rights Watch also claims that evidence is falsified by the Filipino police to justify these killings. With life imprisonment sentences on paper and unofficial killings on the streets, the Philippines' drug offenders policy remains one of the harshest in the world.

## III. Focused Overview of the Issue

### 1. War on Drugs

The concept of "War on Drugs" refers to the effort in the United States and the world since the 1970s to combat illicit drug use. (The Editors of Encyclopaedia Britannica) As time passed, more governments were inspired by this initiative, and this war grew with increasing penalties and higher incarceration rates for drug use around the world.

The War on Drugs formally started when President of the United States, Richard Nixon declared drug use as "public enemy number one" in June 1971. After this declaration, the US government increased funding for drug-control agencies and drug-treatment efforts. This war had a relatively small radius until 1981 when the presidency of Ronald Reagan started. During Reagan's presidency, incarcerations throughout the United States increased. According to Britannica, incarcerations for nonviolent drug offenses increased from 50,000 in 1980 to 400,000 in 1997. Furthermore, a huge gap between the amounts of different drugs was also observed. While five grams of crackled to a five-year imprisonment sentence, five hundred grams of cocaine led to the same sentence. This gap resulted in a huge increase in incarceration



rates for nonviolent African-American drug offenders, which gave birth to claims that the war on drugs was a racist initiative.

While the war on drugs was embraced by many governments around the world, the question of whether this war was effective and whether it was worth the costs arose. This is where the question gets more complicated as there is no single definition for the success of an initiative. An article from the Harvard Law Bulletin for the Summer of 2015 shows that while in 25 years, drug use has decreased overall, “half a million Americans are behind bars for drug-related offenses.” Even though the use of illicit drugs may have decreased over time, it has been done at the expense of violating the rights of millions of humans around the world. Delegates should not forget that the war on drugs has been embraced by the many Member States around the world and this war, while effective in some ways, creates many problems, especially in terms of ensuring the humane prosecution of drug-related offenders.

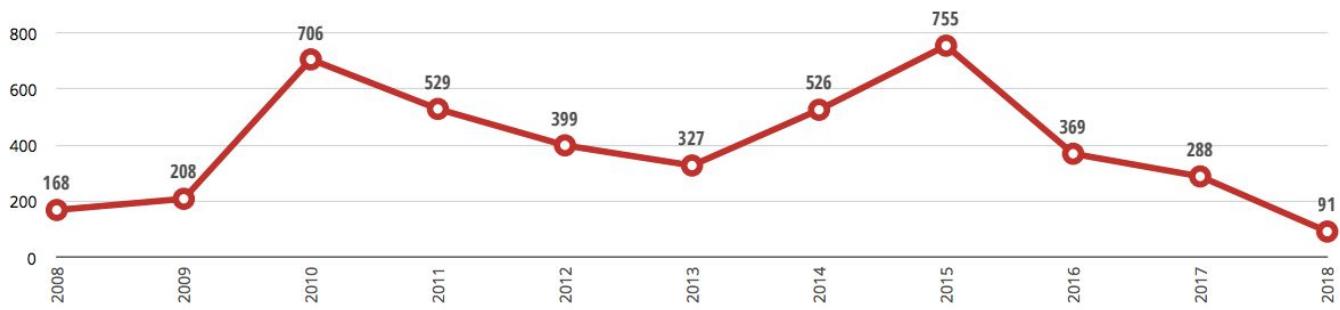


Chart 1: Global Executions for Drug Offenses, Minimum Confirmed Figures, Excluding China (Girelli)

## 2. Death Penalty for Drug-Related Offences

The death penalty for drug-related offenses is an example of a violation of human rights, as organizations such as the Office of the High Commissioner of Human Rights (OHCHR) and Amnesty International have reaffirmed. Despite a very recent resolution adopted by the General Assembly on 17 December 2018 which calls for a moratorium on the use of the death penalty and UN Secretary-General Antonio Guterres' words “the death penalty has no place in the 21st century,” (“Death Penalty”) capital punishment is still being used by the various Member States, even for drug-related offenses. According to Harm Reduction International’s (HRI) report “The Death Penalty for Drug Offences: Global Overview 2018,” drug-related offenses are punishable by death in at least thirty five countries and territories. The total number of confirmed executions for drug offenses (excluding China, including very limited data from Vietnam) between 2008 and 2018 was 4,366, and currently, it is estimated that 7,000 people are sentenced to death globally for drug-related offenses. Two conflicting trends can be seen in terms of executing the death penalty for drug-related offenders: a shift away from the death penalty for drug offenses and the



resurgence of advocating for the death penalty as a vital instrument of drug control. Surprisingly, the general public also has conflicting views on the effectiveness of the death penalty in the various Member States.

The first trend regarding abolishing the death penalty for drug related-offenses can be divided into three categories: the abolition of the death penalty for certain drug offenses, the abolition of the death penalty as a mandatory punishment for drug offenses in the presence of specific circumstances, and amendments to the definition of drug offenses punishable by death. "Since 2015, Vietnam and Thailand reviewed their laws to remove certain drug offenses from the list of crimes punishable by death." Furthermore, as mentioned above in the "Involved Countries and Organizations" section, Singapore has also abolished the death penalty, but as a mandatory punishment for drug-related offenses. This means that the death penalty can still be practiced under specific circumstances, but life imprisonment and incarceration sentences have become more common over the past years. Finally, "the Guardian Council of Iran approved a parliamentary bill which amended the Law for Combating Illicit Drugs," (Girelli) which raised the minimum amounts of drugs eligible for the death penalty. While these changes are notable improvements to ensure humane persecution of drug-related offenders in judicial systems, there is still much room for improvement. Furthermore, the second trend of increasing advocacy towards the use of the death penalty for drug-related offenses is also alarming.

As Chart 1 showing the global executions for drug offenses suggests, there is a decline in global executions for drug offenses after 2015. Despite this decline, there is a surprising resurgence in advocating that the death penalty is crucial in terms of solving drug abuse. One of the first indications of this trend was the declaration of renewal of the "war on drugs" in Indonesia in 2014 by President Joko Widodo. Just like the case with Richard Nixon, Widodo declared drugs as the leading cause of the economic crisis in Indonesia, justifying a lack of economic governance in Indonesia through the use of drugs. Another example of such a resurgence can be seen in the Philippines. Renewing the "war on drugs" has been in the center of President Rodrigo Duterte's presidential campaign, and as stated in the "Involved Countries and Organizations" section of this report, the Human Rights Watch estimates that more than 12,000 Filipinos were executed for drug-related offenses. Another of this resurgence can be seen in the United States. President Donald Trump, in March 2018, "has laid out a plan to confront the opioid crisis in the US, which included the imposition of the death penalty against drug traffickers." (Girelli) While President Trump praised President Duterte's policies, the newly resurfacing policies that favor the death penalty as a form of persecution for drug-related offenders clash with the aims of the issue at hand.

### 3. Overcrowding in Prisons Connected to Drug-Related Offences

Besides the use of the death penalty, incarceration, and more specifically, imprisonment also remains an obstacle against solving the problem of ensuring humane prosecution of drug-related offenders.



Imprisonment is often the main sanction imposed on criminals proven guilty of a crime. A very large and increasing prison population causes overcrowding, which leads to poor conditions and infringement of human rights. According to The Sentencing Project, in the United States, incarceration has increased by 500% in the last 40 years, and according to the latest World Prison Population List, published in November 2018 by The World Prison Brief, there are likely more than 11 million prisoners worldwide. Due to harsh measures on drug-related offenses and prolonged periods of time in jail, many people worldwide are incarcerated and imprisoned, which eventually leads to overcrowding in prisons.

A major reason as to why imprisonment is not a humane way to prosecute drug-related offenders is the poor conditions in prisons worldwide. Prisons are often filled with more prisoners than they can hold, which leads to small cells holding a large number of people and other ways that make living uncomfortable and worsens the conditions of the prison over time. Furthermore, inmates often experience a lack of nutrition, which leads to significant health problems. Even then, most prisons are not equipped with the proper healthcare services vital to treat these ailments. Worsening the situation, poor sanitation is common, facilitating the spread of diseases such as AIDS. Moreover, delegates should realize that common practices such as solitary confinement also infringe human rights, as prisoners are deprived of human interaction, which is necessary for well-being. Bearing in mind that harsh laws prescribing prison sentences to drug-related offenders is a major cause of overcrowding in prisons; therefore, delegates should also focus on finding alternatives to imprisonment for drug-related offenders, so that the issue at hand can be solved.

#### 4. Recidivism and Return To Drug Use After Release from Prison

Imprisonment, besides the increasing number of overcrowded prisons, also causes another problem that extends to the inhumane persecution of drug-related offenders: recidivism. According to California Innocence Project, “a recidivist is a person who is released from prison and who later commits another crime, or reoffends, such as a parole violation or the commission of a new crime.” In the context of this report, recidivism can refer to past imprisoned drug offenders returning to drug use after they have been released from prison. For drug-related offenders as imprisonment and incarceration often do not include rehabilitation, after drug-related offenders are released from prison, they are very likely to relapse to drug use. Under imprisonment, drug-related offenders are not rehabilitated and they are not helped in terms of learning necessary coping mechanisms against drug addiction. Besides this, as often after imprisonment drug-related offenders are not reintegrated into society, these previously imprisoned offenders live in environments that lack moral and social support. Finally, as previously imprisoned drug offenders are not reintegrated back into society, they face serious challenges in terms of finding a new job and rebuilding their lives. With the “context of poor social support, medical co-morbidity, and inadequate economic resources,” previously imprisoned drug-related offenders and drug users often return to using drugs. While this may



again lead to incarceration, it can even lead to death. For example, according to research published in the journal “Addiction Science & Clinical Practice,” in the state of Washington, drug overdose mortality rates fold by 12 for recently-released drug-related offenders compared to the rest of the population. While the first few weeks after release is crucial in terms of being reintegrated into society, oftentimes, “former inmates return to environments that strongly trigger relapse to drug use and put them at risk for overdose.” (Binswanger, et al.) Hence, it can be seen that imprisonment does not offer a long-term and feasible solution to drug-related problems since it can cause drug-related offenders to get stuck in a vicious cycle of drug abuse and imprisonment, and eventually, death.

#### IV. Key Vocabulary

**Abuse:** “Due to the ambiguity of the term “abuse”, the WHO Lexicon has replaced this term with ‘harmful use’ and ‘hazardous use.’” (“Terminology and Information on Drugs”) Harmful use refers to a pattern of psychoactive substance use that causes damage to mental and physical health. Hazardous use, on the other hand, refers to “a pattern of substance use that increases the risk of harmful consequences for the user.” (“Terminology and Information on Drugs”) Hazardous use refers to patterns that have consequences to public health.

**Community-Based Alternatives:** UNAFEI (United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders) defines community-based alternatives as punishments ordered by a court that occurs within a community as an alternative to incarceration. Fines, community service, monitoring of the criminal are various ways of community-based alternatives to incarceration.

**Incarceration:** Incarceration refers to the limitation of freedom by confining a person. Incarceration can be seen as a broader term than imprisonment since imprisonment refers to the confinement of a person in a prison or jail, while incarceration can refer to the confinement of a person in a domestic environment or a health facility.

**Licit Drug:** Licit drugs are usually drugs that are legally available by medical prescription. Sometimes, licit drugs can also refer to drugs that do not need a medical prescription for legal use.

**Narcotic Drugs:** According to UNODC, narcotic drugs refer to “the substances, natural or synthetic, in Schedules I and II of the Single Convention on Narcotic Drugs, 1961, and that Convention as amended by the 1972 Protocol Amending the Single Convention on Narcotic Drugs, 1961.” (“Terminology and Information on Drugs”) According to these schedules, narcotic drugs include cannabis, heroin, methadone, opium, codeine, and its derivatives. Narcotic drugs induce stupor or insensibility to pain.



## V. Important Events & Chronology

Date	Event
9th Century BC	Opium is mentioned as a medicinal drug in Homer's <i>Odyssey</i> under the name <i>Nepenthes pharmakon</i> .
18th Century	The Chinese abolish the trade of opium with Great Britain. This is considered the first major effort to control the international drug trade.
1912	The first opium convention is held in The Hague.
1919-1920	The Versailles Peace Treaties constitute the ratification of the Hague convention of 1912.
1946	The functions of the League of Nations and the Office International d'Hygiène Publique are transferred to the United Nations and the World Health Organization through the Protocol on Narcotic Drugs.
December 10, 1948	The Universal Declaration of Human Rights is adopted.
1961	Single Convention on Narcotic Drugs is ratified in New York to strengthen existing treaties on drug control.
June 1971	Richard Nixon formally declares "war on drugs."
1997	United Nations Office on Drugs and Crime (UNODC) is established.
2007	UNODC releases "Handbook of Basic Principles and Promising Practices on Alternatives to Imprisonment."
2013	European Court of Human Rights ruled that life sentences violate the right of human dignity.

## VI. Past Resolutions and Treaties

- United Nations Universal Declaration of Human Rights (UNUDHR), 10 December 1948

This document is the Universal Declaration of Human Rights which is a milestone document in the history of ensuring human rights.

- Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, 14 December 1984, (A/RES/39/112)



This resolution from 1984 takes initiatives in the Seventh United Nations Congress to prevent crime and to determine the ways of treating the offenders.

- [United Nations Standard Minimum Rules for Non-custodial Measures \(Tokyo Rules\), 14 December 1990, \(A/RES/45/110\)](#)

This document includes the standard minimum rules for non-custodial measures. It is also known as Tokyo Rules and it offers guidance regarding non-custodial measures and community-based alternatives to incarceration.

- [Basic Principles for the Treatment of Prisoners, 14 December 1990, \(A/RES/45/111\)](#)

This document sets basic principles regarding the treatment of prisoners and it recognizes the necessity of protecting the prisoners' human rights

- [Measures to Strengthen International Cooperation Against the Illicit Production, Sale, Demand, Traffic, and Distribution of Narcotic Drugs and Psychotropic Substances and Related Activities, 28 October 1993, \(A/RES/48/12\)](#)

This General Assembly resolution aims to strengthen international cooperation against drug-related offenses; however, it does not show initiative to protect the human rights of drug-related offenders.

- [Moratorium on the Use of the Death Penalty, 17 December 2018, \(A/RES/73/175\)](#)

This recent General Assembly resolution is on a moratorium on the use of the death penalty. While it respects and recognizes the Member States' legal systems, it also expresses deep concern over the continued practice of the death penalty.

Besides these past resolutions relevant to the issue, an important document about solving the issue at hand would be the Hemispheric Drug Strategy adopted by the Organization of American States. This strategy, adopted by all 35 independent countries of the Americas, shows "full compliance with international law and the Universal Declaration of Human Rights, observing the principles of sovereignty and the territorial integrity of States, nonintervention in the internal affairs of States, fundamental liberties, inherent human dignity, and equal rights and mutual respect among States." This strategy is significant because it recognizes that solving the world drug problem is integrated with ensuring the humane prosecution of drug-related offenders.



## VII. Failed Solution Attempts

While drug abuse in the world is recognized by all Member States, not many resolutions focus on the humane prosecution of drug-related offenders. Most of the time, resolutions from the General Assembly and the Security Council focus on almost declaring a war on drugs, while only suggesting the protection of human rights during the prosecution of drug-related offenders. Furthermore, even though death penalty and incarceration are recognized as inhumane ways to prosecute drug-related offenders by organizations such as Amnesty International, not many countries have initiated attempts to reintegrate drug-related offenders into society. Finally, many times, UNODC has tried to solve this issue through resolutions. However, none of these resolutions directly tackle the issue of promoting community-based alternatives, which is the key to the humane prosecution of drug-related offenders. These resolutions indirectly strengthen the rule of law and they provide minimum opportunities for community-based alternatives to incarceration.

## VIII. Possible Solutions

Throughout this report, two main problems could be identified as obstacles to solve the issue at hand: the continuation of the death penalty for drug-related offenses and the wide use of incarceration for persecuting drug-related offenders, which leads to overcrowding in prisons and recidivism. First and foremost, the ideal solution would be the abolishment of the death penalty as a way of prosecution in all Member States. The death penalty violates Article 3 of the Universal Declaration of Human Rights: "Everyone has the right to life, liberty, and security of person." Therefore, the humane prosecution of drug-related offenders cannot be achieved globally if the death penalty is still used as a way of prosecution.

Moreover, many Member States use imprisonment as their sole form of punishment and as a rehabilitative method for convicted criminals. A lot of these prisons and penitentiaries have more people than they can hold, and human rights are infringed in prisons all around the world. Community-based alternatives to incarceration could be adopted by the Member States so that not only humane prosecution of drug-related offenders could be ensured, but rehabilitation and reintegration of these offenders could also be achieved. These alternative methods could include various community service orders. Member States could refer to the Tokyo Rules for guidance regarding non-custodial measures and community-based alternatives to incarceration.

Finally, to prevent recidivism in drug-related offenders and to protect them from a cycle of imprisonment and drug abuse, Member States should aim to reintegrate drug-related offenders into society. While this could be achieved through implementing community-based alternatives to incarceration, the



availability of rehabilitation and medical services after penalties and most importantly public awareness on the issue are also crucial aspects of ensuring the humane prosecution of offenders. As Article 22 of the Universal Declaration of Human Rights suggests, “everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.” Member States should try to find ways to ensure that all economic, social, and cultural rights are available to drug-related offenders too. Furthermore, public awareness on this agenda item could be highly beneficial for drug-related offenders to be reintegrated into society, which would be a crucial step towards ensuring the humane prosecution of drug-related offenders.

## IX. Useful Links

- OHCHR: Submission: Implementation of the UNGASS Outcome Document in Regard to Human Rights: <https://www.ohchr.org/Documents/HRBodies/HRCouncil/DrugProblem/HRC39/PRI.pdf>
- UNAFEI: Community-Based Alternatives to Incarceration in Canada:  
[https://www.unafei.or.jp/publications/pdf/RS\\_No61/No61\\_12VE\\_Zubrycki.pdf](https://www.unafei.or.jp/publications/pdf/RS_No61/No61_12VE_Zubrycki.pdf)
- UNODC: Module 7: Alternatives to Imprisonment, 5. Evaluating Alternatives:  
<https://www.unodc.org/e4j/en/crime-prevention-criminal-justice/module-7/key-issues/5--evaluating-alternatives.html>
- WHO Regional Office for the Eastern Mediterranean: Public Health Alternatives to Incarceration for Drug Offenders:  
<http://www.emro.who.int/emhj-volume-23-2017/volume-23-issue-3/public-health-alternatives-to-incarceration-for-drug-offenders.html>



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