UNITED NATIONS
VIET NAM

UN GENERAL COMMENTS AND RECOMMENDATIONS ON THE PROPOSED AMENDMENTS TO

The Law on Drug Prevention and Control

August 2020

In a context of increasing drug supply and demand in Viet Nam, as well as Government commitment, opportunities and capacities to handle drug use disorder issues, Viet Nam is amending the Law on Drug Prevention and Control (hereinafter "the Law"). The UN highly appreciates the inclusive consultation process for the amendment of the Law and that one of the stated principles for its revision is to ensure compatibility with international law, commitments and practices that Viet Nam have acceded to, especially the 03 UN Convention on drugs of 1961, 1971, 1988 and other regional commitments. The UN in Viet Nam would like to take this opportunity to provide a number of recommendations for further improvements.

The comments below focus on key issues while detailed recommendations and proposed language for specific provisions of the law are captured in a separate document (UN Detailed Comments and Recommendations). Both documents aim to inform and support the drafting team.

The UN general comments and recommendations are presented in line with the structure of the Law, and are focused on the following issues:

- The ineffectiveness of compulsory drug treatment;
- The importance of evidence-based drug use prevention, harm reduction and treatment;
- The need to maintain and reinforce access to essential health services, including drug use prevention and treatment of drug use disorders including, opioid substitution therapy and drug overdose;
- The necessity of a human-rights based and gender-responsive approach;
- The use of internationally agreed terminology, definitions and standards.

First and foremost, the UN emphasises that compulsory drug detoxification and rehabilitation is not effective in preventing and treating drug dependence and is not a human rights-based or evidenced-based approach. This position was set out in the UN Joint Statement endorsed in 2012 by 12 UN entities on Compulsory drug detention and rehabilitation centres.[1] The statement called on States to close such centres without delay, release the individuals detained therein and implement voluntary, evidence-informed and rights-based health and social services for them in the community. This position was reiterated in a 2020 Joint UN Statement on compulsory drug detention and rehabilitation centres in Asia and the Pacific in the context of COVID-19,[2] signed by regional directors of 13 UN agencies from 16 regional offices. Not only is this compulsory detoxification treatment ineffective, it is also costly to maintain as highlighted by several studies.[3]

[1] UN Joint Statement: Compulsory drug detention and rehabilitation centres, March 2012, available at: https://files.unaids.org/en/media/unaids/contentassets/documents/document/2012/JC2310_Joint%20Statement6March12FINAL_en.pdf.
[2] UN Joint Statement: Compulsory drug detention and rehabilitation centres in Asia and the Pacific in the context of COVID-19, June 2020, available at: https://vietnam.un.org/en/50410-joint-statement-compulsory-drug-detention-and-rehabilitation-centres-asia-and-pacific-context.
[3] T. Vuong et al, Drug and Alcohol Dependence 168, (2016), 147–155.

Secondly, the UN promotes the principle of proportionality, and advocates for the alternatives to conviction and punishment in appropriate cases, including the decriminalization of drug possession for personal use.[4] The UN General Assembly called on States to promote "proportionate national sentencing policies, practices and guidelines for drug-related offences whereby the severity of penalties is proportionate to the gravity of offences and whereby both mitigating and aggravating factors are taken into account".[5] Furthermore, the International Guidelines on Human Rights and Drug Policy encourage States to "utilise the available flexibilities in the UN drug control conventions to decriminalise the possession, purchase, or cultivation of controlled substances for personal consumption."[6]

The current versions of the Law issued in 2000 and revised in 2008 were developed when the prominent practice of drug treatment in Vietnam was drug withdrawal, and when global and national knowledge of other drug treatment methods was limited. However, since 2008, patterns in the types of drugs used have changed considerably from injecting heroin as the most common type of substance used to diverse modes of drug use, with an increased use in synthetic drugs.

There is now much updated evidence and knowledge on drug and drug use disorder management and internationally agreed norms. The current understanding is that drug dependence is a multi-factorial health disorder that often follows the course of a relapsing and remitting chronic disease.[7] Prime Minister Decision No. 2596/QĐ-TTg/2013 stipulates that "drug addiction is a chronic brain disorder. Drug treatment is a long-term process requiring comprehensive interventions including health care, psychological care and social support in order to change the perceptions, practice harm reduction and reduce illegal drug use".[8]

Since 2008, thanks to strong national leadership and commitment, Vietnam has implemented opioid substitution therapy with Methadone and more recently, Buprenorphine. As of the end of 2019, these treatments had reached around 54,000 people who have been diagnosed with heroin dependence nationwide.[9] This method of treatment has proven effective globally and nationally, constituting the optimal treatment for individuals in terms of public health, as well as social integration and safety. The benefits and effectiveness, in terms of health and costs of this treatment programme was officially recognized in the government report of the 10 year review of the methadone treatment programme in 2018 which recommended its expansion.[10] Other harm reduction services have also been implemented and should continue.

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[4] United Nations system common position supporting the implementation of the international drug control policy through effective inter-agency collaboration, adopted by the United Nations System Chief Executives Board for Coordination (CEB) in 2018, available at: https://www.unsystem.org/CEBPublicFiles/CEB-2018-2-SoD.pdf.
[5] Outcome Document of the 2016 United Nations General Assembly Special Session (UNGASS) on the World Drug Problem (2016), Operational recommendation 4(l), available at: https://www.unodc.org/documents/postungass2016/outcome/V1603301-E.pdf.
[6] WHO, UNDP, UNAIDS and International Centre on Human Rights and Drug Policy, International Guidelines on Human Rights and Drug Policy (2019), Principle No.11. I (v), available at: https://www.undp.org/content/dam/undp/library/HIV-AIDS/HRDP%20Guidelines%202019_FINAL.PDF.
[7] UNODC and WHO, Principles of Drug Dependence Treatment (2008), available at: https://www.unodc.org/documents/drug-treatment/UNODC-WHO-Principles-of-Drug-Dependence-Treatment-March08.pdf, and UN Special Rapporteur on the Right to Health, Document No. A/65/255 (2010), para 7, available at: https://undocs.org/A/65/255, and Op Cit, WHO, UNDP, UNAIDS and International Centre on Human Rights and Drug Policy, Guideline No. II.1.2.
[8] Prime Minister Decision No. 2596/QĐ-TTg/2013, 27 December 2013, available at: https://thuvienphapluat.vn/van-ban/the-thao-y-te/Quyet-dinh-2596-QD-TTg-nam-2013-doi-moi-cong-tac-cai-nghien-ma-tuy-Viet-Nam-2020-218020.aspx.
[9] Vietnam Administration of HIV/AIDS Control and Ministry of Health, 10-Year Review of the National Methadone Maintenance Programme (2018).
[10] Ibid.

Since 2019, the Ministry of Health of Viet Nam has also successfully developed various capacities and guidelines and implemented some treatment therapies and health interventions for non-opioid drugs in line with international standards. These approaches provide effective alternatives to compulsory detention, by expanding and integrating diverse evidence-informed treatment methods for different types and patterns of drug use.

The UN urges the Government to continue its progress in this positive direction, in better compliance with Viet Nam's obligations and commitments under international human rights law, in particular the right to health.

Chapter 1
GENERAL PROVISIONS

Terminology and definitions are essential for legal clarity and to avoid stigmatization that makes the prevention and control of drugs more challenging. Since the last amendment of the Law, some concepts and internationally agreed upon definitions have been updated and informed by more recent knowledge and evidence.[11] The terminology and definitions could be stipulated under one Article or the most relevant Articles *[Arts. 1-5]*, but must be consistently used throughout the text.

The UN thus recommends the following amendments for terminology and definitions throughout the document:

1) Delete the term "*evils*" and replace with specific and suitable terms, such as "*drug-related harms*", "*drug use disorder*" or "*drug-related crime*". Rationale: 'evil' is a broad and arbitrary term, which implies a moral judgement and leaves significant scope for interpretation. It is also very stigmatizing and does not support recovery from what is officially recognized – globally and in Viet Nam – as a health issue. Drug-related harms refer to the health and social consequences of drug use and dependence. They are defined internationally as a "pattern of continuous, recurrent or sporadic use of a drugs that has caused clinically significant damage to a person's physical or mental health, or has resulted in behaviour leading to harm to the health of others".[12] It is important that activities aimed at reducing harms associated with drug use not be negatively impacted by any general prohibition on the 'incitement' or 'encouragement' of drug use.[13]

2) Replace "*drug addiction*" by "*drug use disorder*". Rationale: the term 'drug use disorder' is an internationally agreed and more comprehensive term covering drug addiction, drug dependence and other disorders among people who use drugs. It is less stigmatizing and helps to reflect that dependence on drugs is a health disorder. The term "drug use disorder" comprises two major health conditions: "harmful pattern of drug use" and "drug

[11] Op Cit, Outcome Document of the 2016 UNGASS, and WHO and UNODC, 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
[12] Op Cit, WHO and UNODC, International standards for the treatment of drug use disorders.
[13] Op Cit, WHO, UNDP, UNAIDS and International Centre on Human Rights and Drug Policy, Guideline No. II.1.1 (v).

dependence."[14] "Disorders due to drug use comprise a broad category of health conditions that include drug intoxication, withdrawal syndrome and a range of drug-induced mental disorders".[15]

3) Include the internationally agreed definition of "*drug dependence*". Rationale: drug dependence is a health disorder and does not systemically lead to drug-related harms. The draft amendments do not define drug dependence, drug dependence status or the 'seriousness' of violations of drug regulations. Dependence needs to be diagnosed, as it refers to "pattern of repeated or continuous use of a psychoactive drug with evidence of impaired regulation of use of that drug such as: (a) Impaired control over substance use; (b) Increasing precedence of drug use over other aspects of life (health, activities and responsibilities) with drug use continuing or increasing despite the harmful consequences; and (c) Physiological adaptation to the substance."[16] Drug dependence is a chronic relapsing disorder[17] – when someone has a drug use disorder it is characterized by drug-seeking behaviour, and this person requires health services and not a punitive response.

4) Define a "*drug dependent person*" as "*a person diagnosed with drug dependence or persons diagnosed with a drug use disorder*". Rationale: not all people who use drugs develop dependence, and dependence needs to be diagnosed (see above).

5) Define "*drug prevention and control*" as "*prevention of the initiation of drug use as well as prevention of the development of drug use disorders. It seeks in particular to protect the healthy and safe development of children and youth of diverse genders, sexual orientations and status, in the prevention of drug-related harms and crimes and control of relevant lawful activities*." The primary objective of drug use prevention is to help people, particularly groups in vulnerable situations, such as persons of younger age and women, to avoid or delay the initiation of the use of psychoactive substances, or, if they have started already, to avert the development of "substance use disorders" (defined as harmful substance use or dependence). The general aim of substance use prevention is the healthy and safe development of children and youth of all genders to realize their talents and potential and become contributing members of their community and society. Effective prevention contributes significantly to the positive engagement of children, youth and adults with their families, schools, workplace and community.[18]

   Drug prevention should include the prevention of the development of a drug use disorder in a gender-responsive manner. Drug policies have a differential impact on women and men. Women's involvement in drug use and the drug trade reflects the decreased

[14] WHO, International Classification of Diseases (ICD), 11th revision (2019), available at: https://icd.who.int/browse11/l-m/en, and Op Cit, WHO and UNODC, International standards for the treatment of drug use disorders (2020).
[15] Op Cit, WHO and UNODC, International standards for the treatment of drug use disorders (2020).
[16] Op Cit, WHO, ICD, and Op Cit, WHO and UNODC, International standards for the treatment of drug use disorders (2020).
[17] Op Cit, WHO and UNODC, Principles of Drug Dependence Treatment (2008), and Op Cit, UN Special Rapporteur on the Right to Health, Document No. A/65/255 (2010), para 7, and Op Cit, WHO, UNDP, UNAIDS and International Centre on Human Rights and Drug Policy, Guideline No. II.1.2.
[18] UNODC and WHO, International Standards on Drug Use Prevention. 2nd edition (2018), pg 2, available at: https://www.unodc.org/documents/prevention/standards_180412.pdf.

economic opportunities and lower political status that women face in everyday life,[19] and emphasises the importance of women's rights in drug policies.[20]

6) Replace "*drug detoxification*" with "*treatment of drug use disorders*". Rationale: biopsychosocial treatment strategies that acknowledge drug dependence as a multifactorial health disorder, treatable using medical and psychosocial approaches, can help reduce drug-related harms.[21] The internationally agreed definition of drug treatment is the "comprehensive implementation of psychological, cognitive, legal, social and health and social interventions and support in order to help person with drug use disorders to stop or reduce drug use, improve health, wellbeing and social functioning and prevent future harms."[22] "Drug detoxification" (cai nghiện) is thus just one part of the drug treatment process and compulsory drug detoxification alone is proven not effective in treating the multifactorial nature of drug dependence. Furthermore, detoxification, also called the treatment of withdrawal, is typically the foremost concern if a patient has had a protracted, and severe recent history of opioid, alcohol benzodiazepine or barbiturate use. In these cases, there are established withdrawal protocols usually employing pharmacotherapy combined with rest, nutrition and motivational counselling. Unrecognized and untreated withdrawal is likely to drive a patient out of treatment.[23]

   Drug treatment services should be "delivered in a scientifically sound and medically appropriate manner, and of good quality (that is, with a strong evidence base and independent oversight). This means that such services should also be adequately funded; appropriate for particular vulnerable or marginalised groups; compliant with fundamental rights (such as to privacy, bodily integrity, due process, and freedom from arbitrary detention), and respectful of human dignity."[24] Treatment interventions must always be voluntary and based on the informed consent from the patient.[25] In addition, treatment services should be sensitive to the needs of and accessible to women and minors of all genders, especially pregnant women and women who are the sole or primary caretakers of minors and others.[26]

7) Replace "*illegal users*" by "*people who use illicit drugs*". Rationale: some substances and their use are illegal, but an individual cannot be illegal.

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[19] UN Women, A Gender Perspective on the Impact of Drug Use, the Drug Trade and Drug Control Regimes (2014), available at: https://www.unodc.org/documents/ungass2016/Contributions/UN/Gender_and_Drugs_-_UN_Women_Policy_Brief.pdf.

[20] Commission on Narcotic Drugs Resolution, Resolution 55/5 Promoting strategies and measures addressing specific needs of women in the context of comprehensive and integrated drug demand reduction programmes and strategies, available here: https://www.unodc.org/documents/commissions/CND/Drug_Resolutions/2010-2019/2012/CND_Res-55-5.pdf.

[21] Op Cit, WHO and UNODC, International standards for the treatment of drug use disorders (2020), and Op Cit, UN Special Rapporteur on the Right to Health, Document No. A/65/255 (2010), para 7.

[22] Op Cit, WHO and UNODC, International standards for the treatment of drug use disorders (2020).

[23] Ibid, pgs 41 and 59.

[24] Op Cit, WHO, UNDP, UNAIDS and International Centre on Human Rights and Drug Policy, Guideline No. II.1.2.

[25] Ibid, and Human Rights Committee, General Comment No. 14, Document No. E/C.12/2000/4 (2000), para.34, available here: https://undocs.org/E/C.12/2000/4. See also Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, report on the right to health and informed consent, Document No. A/64/272 (2009), paras. 28 and 88-91, available here: https://undocs.org/A/64/272, and Op Cit, UN Special Rapporteur on the Right to Health, Document No. A/65/255 (2010), para 33.

[26] Commission on Narcotic Drugs Resolution 59/5 on Mainstreaming a gender perspective in drug-related policies and programmes available at https://www.unodc.org/documents/commissions/CND/CND_Sessions/CND_59/Resolution_59_5.pdf

Chapter II
RESPONSIBILITIES FOR DRUG PREVENTION AND CONTROL

It is important to ensure a legal foundation and definition in the Law for the comprehensive scope of prevention, including harm reduction interventions and the exclusion of liability of organisations or groups providing information, facilities, goods or services aimed at reducing harms associated with drug use. Drug use prevention is understood as promoting the healthy and safe development of children, youth and adults. A national drug prevention system therefore would involve relevant national sectors (e.g. education, health, social welfare, youth, labour, law enforcement, etc.) in the planning, delivery, monitoring and evaluation of its components. Evidence indicates that in successful, evidence-based drug use prevention interventions, usually the education, social welfare and health sectors have a prominent role in implementation. For example, the involvement of women in drug use and trafficking may stem from poverty and gender inequality, requiring interventions that take into account these root causes. As a result, law enforcement and public security personnel are expected to play a limited role in drug use prevention. *[Arts. 3 and 4]*

Law enforcement in drug control efforts should be consistent with States' human rights obligations. Law enforcement officials involved in drug prevention and combat activities should always adhere to the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.[27] Relevant authorities should also ensure that police officers in the conduct of their duties respect the principles of necessity and proportionality required by the situation in accordance with national legislation[28] and international law. Any "protection" provided to such officials must not lead to impunity for violations of human rights. *[Arts. 10, 12 and 13]*

Individual and families should not be asked to combat drug related crimes. It is the State's duty to combat drug related crimes, not private individuals. There is a big difference between a (perceived) feeling of ethical responsibility and a legal duty to act. In addition, "support activities" is vague and open to different interpretations.

Similarly, it is considered neither safe nor appropriate to encourage the community to participate in destroying plants bearing narcotic substances. These plants should be handled as hazardous materials by the relevant competent authority. Furthermore, the Penal Code already deals with the issue of reporting drug related crimes (Art. 19 of the Penal Code (misprision) and Art. 389 § 1 (e) (concealment of crimes)). *[Art. 7]*

In the context of education, children and youth have the right to receive accurate and objective information about drugs and drug-related harm, the right to protection from harmful misinformation, and the right to privacy.[29] Such information should also be gender responsive and non-stigmatizing. Efforts to prevent drug use in educational settings should include developing and implementing "comprehensive, scientific evidence-based and tailor-made

[27] Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990), available at: https://www.un.org/ruleoflaw/files/BASICP~3.PDF.
[28] 2015 Penal Code, Articles 24, 127 and 137, and Law on Enforcement of Custody and Temporary Detention, Articles 8 and 9. See also recommendations made by the Committee against Torture, Concluding Observations (2018), Document No. CAT/C/VNM/CO/1, available at: https://undocs.org/CAT/C/VNM/CO/1.
[29] Op Cit, WHO, UNDP, UNAIDS and International Centre on Human Rights and Drug Policy, Guidance III. 1.1 (v).

initiatives and programmes".[30] In this context, States are invited to strengthen interaction and partnerships with students, teachers, families and communities and also with the private sector and civil society.[31] For other issues, a whole society approach often works best.

In addition, the mandatory testing of children for drug use in educational settings as a preventive measure raises human rights concerns. Under Articles 3 and 16 of the Convention on the Rights of the Child, taking a child's bodily fluids without their consent may be inconsistent with the principle of the best interests of the child, and may violate the right to bodily integrity and constitute arbitrary interference with their privacy and dignity. Depending on how such testing occurred it could also constitute degrading treatment.[32] *[Arts. 8, 9 and 11]*

Chapter III
CONTROL OF LAWFUL DRUG-RELATED ACTIVITIES
No comments.

Chapter IV
MANAGEMENT OF ILLEGAL USERS OF NARCOTIC SUBSTANCES

In relation to the identification of users of illicit substances, tools for screening drug use can be grouped in two categories: 1) Self-reporting tools (interviews, self-report questionnaires) and 2) Biological markers (breathalyzer, blood alcohol levels, saliva or urine testing, serum drug testing). For conscious patients it is preferable to use a self-report screening tool.[33] Biological markers may be useful when a patient is not able to respond to an in-person interview (self-report tools), but information is required to attain a screening result (i.e. an unconscious patient in intensive care). Biological markers are only recommended once a patient has already decided that they will undergo drug dependence treatment. The markers are then used to measure progress and adherence to a treatment regime. *[Arts. 25 and 27]*

All measures, including administrative, relating to the management of drug users should be in compliance with the obligation to respect, protect and promote all human rights, fundamental freedoms and the inherent dignity of all individuals and the rule of law.[34] The UN has previously made recommendations to the relevant authorities regarding proposed amendments to the Law on the Handling of Administrative Violations, in particular:

- To add people on opioid substitution therapy to the list of people who are not subject to the measure of consignment to compulsory detoxification establishments under Article 96(2), to ensure consistency with existing policies and to avoid undermining well-recognized and effective existing health programmes.
- To maintain the existing provision in Article 96 of the Law that states that drug dependent persons may only be consigned to compulsory detoxification

[30] Commission on Narcotic Drugs, Resolution 61/2, available at: https://www.unodc.org/documents/commissions/CND/CND_Sessions/CND_61/E2018_28_advance_unedited.pdf
[31] Ibid.
[32] OHCHR, Implementation of the joint commitment to effectively addressing and countering the world drug problem with regard to human rights, Document No. A/HRC/39/39, para. 8, available at: https://undocs.org/A/HRC/39/39.
[33] Op Cit, WHO and UNODC, International Standards for the Treatment of Drug Use Disorders (2020), pgs 54-55.
[34] Op Cit, Outcome Document of the 2016 Outcome Document of the 2016, Operational recommendation 4.

establishments if they have previously been subject to community-based rehabilitation or have no stable place of residence.

- To delete proposed amendments to Articles 97(4), 98(1), 99(3), 100(1), 101(3) and 103 that would weaken due process safeguards.
- To delete proposed amendments to Article 122 that would allow administrative detention to determine drug addiction, as this process is highly complex, and must be undertaken by a medical professional. Persons suspected of drug dependence should be referred to a voluntary community-based treatment centre or relevant community-based organizations and have access to legal support.
- To delete proposed amendments to Articles 92(4) and 96(1a) that would have an adverse effect on the rights of the child, reversing a trend seen in Viet Nam between 2013 and 2019 towards alternatives to administrative liability for children in conflict with the law and limiting placement of children in reformatories.
  [Art. 26]

Drug dependence cannot be cured. As a chronic disorder, it is only possible for family to assist a person who uses drugs or a person with a drug use disorder to adhere to their treatment regime and support their recovery. In addition, as drug dependence is a health disorder, supervision, management and education of drug users, as proposed in the Law, are not effective methods in helping drug users quit drugs. It is recommended that the proposed requirement to inform employers of a person's 'drug dependence status' be removed from this Law and dealt with in relevant employment laws and regulations. *[Arts. 26 and 27]*

The UN recommends against police departments compiling and maintaining a list of people who use drugs or who have a drug use disorder. Only the relevant health authority providing diagnoses and treatment services should have records of specific persons who are receiving accessing such services, and all such information should be sex-disaggregated and confidential. As stated in International Guidelines on Human Rights and Drug Policy, States should "safeguard the confidentiality of all identifying information regarding an individual's involvement in drug-related health care to ensure that it is used solely for the purpose of advancing the health of that person".[35] The intent and management of the list proposed in the Article 28 are unclear, and the criteria for inclusion are vague and leave room for various interpretations. *[Art. 28]*

Chapter V
DRUG DETOXIFICATION

Compulsory drug detoxification and rehabilitation is not effective in preventing and treating drug dependence and is not a human rights based or evidenced based approach. It is expensive and violates a patient's right to access health services for a medical condition.[36] Consequently, the UN recommends amending the Chapter Title and Articles in this Chapter to ensure a more comprehensive and correct scope that is in line with Decision No. 2596/QĐ-TTg, aiming to minimize the percentage of the compulsory drug detoxification and

[35] Op Cit, WHO, UNDP, UNAIDS and International Centre on Human Rights and Drug Policy, Guideline No. II.1.2.
[36] Op Cit, UN Joint Statement: Compulsory drug detention and rehabilitation centres in Asia and the Pacific in the context of COVID-19, June 2020, and UNODC, From Coercion to Cohesion: Treating drug dependence through health care, not punishment (2009), available at: https://www.unodc.org/documents/hiv-aids/publications/People_who_use_drugs/D03_DrugDependenceTreatmentHealthCare_2010_EN.pdf.

rehabilitation to 5% by 2020.[37] In addition, the Ministry of Health should define the guidelines and procedures for drug use disorder treatment in line with international standards in evidence-based treatment protocols. *[Throughout Chapter V, in particular, Title and Arts. 15, 30, 32 and 36]*

Only medical professionals with consent of the individual undergoing drug use disorder treatment in relation to their treatment care plan may recommend, from among internationally recommended options, an adequate treatment regime. The choice of the form of treatment the person will participate in should always be made at the discretion of the individual undergoing treatment. Treatment should not be forced, coerced, or undertaken against the will and autonomy of the patient. The consent of the patient should be obtained before any treatment intervention.[38] In relation to residential treatment, the international standards on drug dependence treatment indicate that such treatment should be voluntary.[39] The patient should have the freedom to decide to extend their stay to help their recovery, and also to withdraw from treatment. The likelihood of treatment adherence increases when a person has voluntarily entered into it. While families play an important supportive role for people who use drugs to seek voluntary drug use disorder treatment, the UN does not support imposing a legal responsibility on families to report people who use drugs. As stated above, the UN also advises against the proposed requirement to inform employers of 'status of drug dependence'. *[Arts. 30, 32, 33 and 38]*

Community reintegration and relapse prevention programs must be part of sustained recovery management for people who are dependent on drugs. The use of drugs and related drug use disorder are often a complex dynamic interaction between biological, psychological and social factors. As keeping people within the social fabric is most effective in treating drug use disorders, treatment must go beyond medical treatment; social support is essential and very complementary to drug use disorder treatment.[40] In fact, it is internationally agreed that community-based drug use disorder treatment ensures the delivery of services in the community with minimal disruption of social links and employment; the involvement of and building on community resources and assets including families; and the integration of the treatment into existing health and social services.[41] *[Art. 40]*

The UN recommends stipulating that harm reduction interventions shall be conducted among people who use drugs, not just among people diagnosed with drug dependence. This modification will broaden the scope of targets for the interventions. Not all people who use drugs develop drug dependence. With new emerging types of drugs, especially synthetic drugs, harms related to drug use can happen at any stage – from use to dependence. In fact, among people who use amphetamine-type stimulants, it is estimated that only 11% become

[37] Op Cit, Prime Minister Decision No. 2596/QĐ-TTg/2013.
[38] Op Cit, WHO and UNODC, International Standards for the Treatment of Drug Use Disorders (2020), pg 94, Human Rights Committee, General Comment No. 14, Document No. E/C.12/2000/4 (2000), para.34, available here: https://undocs.org/E/C.12/2000/4, and Op Cit, Special Rapporteur on the right to health, report on the right to health and informed consent, Document No. A/64/272 (2009).
[39] Ibid.
[40] UNODC, Guidance for Community-Based Treatment and Care Services for People Affected by Drug Use and Dependence in Southeast Asia, available at: https://www.unodc.org/documents/drug-treatment/UNODC_cbtx_guidance_EN.pdf, and Op Cit, WHO and UNODC, Principles of Drug Dependence Treatment (2008), and Op Cit, WHO and UNODC, International standards for the treatment of drug use disorders (2020).
[41] Ibid.

dependent.[42] It is also recommended that the scope of harm reduction be in line with the definition of the Special Rapporteur on the right to health,[43] and that reference be made to the principles outlined in the WHO Key Populations Consolidated Guidelines.[44] These describe a comprehensive package of interventions, implementation of which is essential to ensure reduction of HIV and other bloodborne infectious disease among people who inject drugs, including women. *[Art. 42]*

Health is a fundamental human right, indispensable for the exercise of other human rights. It is understood that the right to health is associated with the accessibility of educational, social and health services without discrimination. The right to health extends to any person in contact with the criminal justice system. Consequently, people with drug use disorders who are in contact with the criminal justice system should be provided with effective treatment of drug use disorders, as well as the prevention and treatment of other conditions commonly found in people who use drugs, such as HIV, hepatitis, tuberculosis, mental disorders and drug overdose.[45]

As indicated in the internationally agreed principles for drug use disorder treatment for people in contact with criminal justice system:[46]

- Drug use disorders should be primarily considered and treated as health problems rather than criminal behaviours;
- Physical and mental disorders related to drugs should be properly diagnosed and treated during the whole criminal justice process;
- Criminal justice facilities including prisons could represent an opportunity to provide people who use drugs with proper medical treatment and psychosocial support;
- There is rich evidence on positive impacts of drug treatment during the criminal justice process:
    - lower disease burdens and security disorders amongst inmates;
    - better post-release social re-integration;
    - lower rate of re-imprisonments.

For people in contact with the criminal justice system, drug dependence treatment should remain voluntary.[47] Their alternative might be prison, but the choice of whether or not to undergo drug treatment should be ensured as basic human right.[48] Detainees and prisoners who have been receiving drug use disorder dependence treatment including Opioid Substitution Therapy before entering correctional facilities should be prioritized to ensure that suitable drug dependence treatment continues. *[Arts. 37 and 39]*

The UN welcomes the recent vote by the National Assembly for ratification of the ILO Abolition of Forced Labour Convention (Convention 105),[49] and urges that the proposed amendments

[42] WHO, Technical Brief 2: Harm reduction and brief intervention for ATS users, para. 3, available at: https://iris.wpro.who.int/bitstream/handle/10665.1/14091/ats-brief-2.pdf.
[43] Op Cit, UN Special Rapporteur on the Right to Health, Document No. A/65/255 (2010), para 50.
[44] WHO, Consolidated guidelines on HIV prevention, diagnosis, treatment and care for key populations (2016), available at: https://apps.who.int/iris/bitstream/handle/10665/246200/9789241511124-eng.pdf?sequence=8.
[45] Op CIt, WHO, UNDP, UNAIDS and International Centre on Human Rights and Drug Policy, Guidance No. III. 3, and Op Cit, UNODC and WHO, International Standards for the Treatment of Drug Use Disorders (2020), pg 94.
[46] Op Cit, WHO and UNODC, International standards for the treatment of drug use disorders (2020).
[47] Ibid.
[48] Ibid.
[49] Information on the vote available here: https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/forced-labour/WCMS_747466/lang--en/index.htm and here:

of this Law be in compliance with that Convention. In particular, "*occupational therapy*" is not an evidence-based treatment and violates patients' rights. In addition, it is noted that both the UN Committee against Torture and the UN Human Rights Committee have raised concerns about forced or excessive labour in drug detoxification centres.[50] The UN urges the implementation of the recommendation – in line with Convention 105 – to end the use of forced labour in drug detoxification centres.[51] *[Arts. 36 and 43]*

Clear guidelines, including a code of conduct for a person's stay in treatment facilities, should be outlined. Such rules should be known and understood by all residents and should describe the measures that will be taken if an infringement of the rules occurs. With this in mind, entry and exit from treatment facilities should always be voluntary. In addition, any facilities operating in the context of drug treatment should be subject to effective and independent oversight.[52] *[Arts. 36, 37 and 38]*

In relation to children aged between 12 and 18 years, the relevant proposed provisions of the Law on the Handling of Administrative Violations concern the placement of minors in reformatories and compulsory detoxification centres. Reformatories are closed-type educational institutions where minors are deprived of liberty while a coercive approach to child re-education is applied. Similarly, there is no evidence that compulsory detoxification centres where persons who use drugs are detained represent a favorable or effective environment for the treatment of drug dependence, particularly for the "rehabilitation" of children who have been victims of sexual exploitation, abuse or have been deprived of adequate care and protection.[53] On the contrary, detention centres may expose these children to more serious forms of drug abuse or serve to introduce them to anti-social behaviours.

Placement of minors in compulsory detoxification centers and reformatories does not facilitate multisectoral, coordinated services needed to address complex vulnerabilities of individual minors. These measures are not conducive to address family, school and community factors through strong support, thus could not ensure efficient and long-term results. While placement of minors in a reformatory or compulsory treatment centre may (but does not necessarily) remove children from exposure to drugs, it cannot teach them how to cope with such risks once they are back on the streets.[54]

Instead, a wide range of appropriate responses other than reformatories and compulsory drug detoxification centres should be available in accordance with international practice including: family support; the offer of appropriate treatment for substance abuse in the family or serious behavioral problems exhibited by the child; enhancement of parenting skills; structured recreational and cultural activities; supplementary educational tutoring; day centers; life skills courses; individual or family group counselling; mediation; and mentoring.[55]

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https://www.ilo.org/hanoi/Informationresources/Publicinformation/Pressreleases/WCMS_747233/lang--en/index.htm.

[50] Committee against Torture, Concluding Observations (2018), Document No. CAT/C/VNM/CO/1, para 24, available at: https://undocs.org/CAT/C/VNM/CO/1, Human Rights Committee, Concluding Observations on Viet Nam, Document No. CCPR/C/VNM/CO/3 (2019), paras 31-32, available at: https://undocs.org/CCPR/C/VNM/CO/3.

[51] Op Cit, Human Rights Committee, para 32(a).

[52] Op Cit, Outcome Document of the 2016 UNGASS, 4(m).

[53] Op Cit, UN Joint Statement: Compulsory drug detention and rehabilitation centres, March 2012.

[54] Op Cit, WHO, UNDP, UNAIDS and International Centre on Human Rights and Drug Policy, Guidance III.1.3 and III.1.4.

[55] United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines) (1990), available here: https://undocs.org/A/RES/45/112, and Op Cit, WHO, UNDP, UNAIDS and International Centre on

Parsimony, or the sparing use of imprisonment, is a particularly important principle for children (i.e. persons under 18 years of age). Art. 37(b) of the Convention on the Rights of the Child stipulates that restrictions of liberty for under-18-year-olds should be exceptional – a last resort and always "for the shortest appropriate time". Authorities should employ alternatives whenever possible. The Beijing Rules clearly limit the offences for which children can be incarcerated, following a finding that they have committed the offence: "Deprivation of personal liberty shall not be imposed unless the juvenile is adjudicated of a serious act involving violence against another person or of persistence in committing other serious offences and unless there is no other appropriate response."[56] *[Arts. 35 and 38]*

Finally, law and order are first responsibilities of the State, not private individuals, such as family members of drug-dependent individuals. However, the UN recommends against commune representatives compiling and maintaining a list of people who use drugs or who have a drug use disorder (see above reasoning regarding police departments compiling and maintaining a similar list).[57] As drug use disorders are a health condition, their treatment should primarily be managed by the Ministry of Health, which is better equipped to attend to the health needs of patients. Consequently, we recommend that the Ministry of Public Security, which has limited expertise in this area, would not lead or deliver treatment and rehabilitation services. The UN also recommends against having armed forces inside a treatment facility. If treatment is undertaken by individuals on a voluntary basis, such an approach would be unnecessary. *[Arts. 30, 31 and 38]*

Chapter VI
STATE MANAGEMENT OF DRUG PREVENTION AND COMBAT

Evidence-based drug use prevention interventions are those which have proven to be effective as outlined in the International Standards on Drug Use Prevention.[58] *[Arts. 44-46, 49, 50 and 54]*

As drug use is internationally and nationally recognized as a health issue, the Ministry of Health should play a leading role in drug use disorder treatment activities, the UN recommends amending and assigning a number of the health-related responsibilities that Article 49 ascribes to the Ministry of Labor, War Invalids and Social Affairs to the Ministry of Health (Article 50). As previously outlined, it is noted that the Ministry of Public Security is not be best equipped to administer drug treatment, as drug dependence is multi-factorial health disorder. *[Arts. 46, 49 and 50]*

In addition, it is recommended that the Ministry of Culture, Sports and Tourism take an active role in the prevention of drug use through, for example, implementing evidence-based sports-based programmes for young people as a drug and crime prevention strategy. *[Art. 54]*

Human Rights and Drug Policy, Guidance III.1.3 and III.1.4, and Committee on the Rights of the Child, Concluding Observations, Document No. CRC/C/VNM/CO/3-4 (2012), paras 43-44 and 63-64, available at: https://undocs.org/CRC/C/VNM/CO/3-4.

[56] United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules"), Beijing Rule 17.1.(c), available at: https://www.ohchr.org/Documents/ProfessionalInterest/beijingrules.pdf.

[57] Op Cit, WHO, UNDP, UNAIDS and International Centre on Human Rights and Drug Policy, Guideline No. II.1.2.

[58] Op Cit, WHO and UNODC, International Standards on Drug Use Prevention, 2nd edition (2018), pg 2.

Chapter VII
INTERNATIONAL COOPERATION IN DRUG PREVENTION AND COMBAT
No comments.

Chapter VIII
COMMENDATION, REWARD, AND HANDLING OF VIOLATIONS

See comments on terminology and definitions above. As the Penal Code deals with issues related to the handling of violations in drug prevention and control, the provision referring to such issues should be removed from the Law to avoid confusion. *[Art. 65]*

Chapter IX
IMPLEMENTATION PROVISION
No comments.