

## Advocacy for Decriminalization of Drug Use Policy, Ghana Prison Perspective

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### Abstract

*The involvement of prisoners in the consumption of illicit drugs in the country's prisons cannot be over-looked. Typically, drug users present significant health, safety and security challenges and risks and they are among the most disruptive groups in prison. It follows that, drug use is regarded as a serious problem which requires significant attention on a number of levels (UNODC, 2012) Given the serious health and social problems that can be attributed to illicit drug use in prisons, it is important that in-depth study is done to make information available to prison authorities, analyst, scholars, security experts and policy makers for further studies with the view of facilitating policy formulation and decision making. The study will focus on illicit drug use; its impacts on the prisoners and the prison management and security. It will also seek to examine these other important related factors, such as drug use and other risk behaviours in prison along with access to services. The research focuses on the meaning, perceptions, processes and the contexts of the illicit drug use and offers ways of understanding drug use patterns and related consequences and responses. The findings of the study will have application in the development of appropriate harm reduction policies and initiatives and targeted security practices. The study will also add to already existing knowledge on the consequences of illicit drug use by prison inmates and again establish whether the monitoring and control mechanisms in the prison settings are effective. Furthermore, it will provide a broad framework to inform the planning, implementation and management of drug treatment in prisons. One of the major focuses of the study is to promote useful knowledge for developing practical policies and effective interventions in response to drug use and drug problems in Ghana prisons and will further provide information for further studies and serves as a baseline for policy makers and other researchers.*

*Keywords: Advocacy for Decriminalization, Drug Use Policy*

### 1.0 INTRODUCTION

Over time, there has been an increase in drug consumption in the country. New arrivals of synthetic drugs, which are often even more dangerous, have also been on the rise. For example, HIV and hepatitis C infections have increased among people who inject drugs across West Africa. This has mainly been attributed to the sharing of needles (WHO, 2012). In March, 2016, the International Narcotics Control Board presented its 2015 report in the country, and the report indicated that only 1 out of 18 people who use drugs have access to treatment, although the prevention and treatment of drug abuse are parts of the main provisions of the international drug control conventions. The Report further highlights cannabis use in Ghana as the highest and in Africa as a whole, while heroin comes second, with annual prevalence use remaining as high as 7.5 per cent among the population 15- 64 years. The figure is particularly high in West and Central Africa, recording 12.4 per cent.

These statistics clearly show that repressive methods are not working, and the collateral damage that comes with the application of these laws are devastating, hence the need to adopt approaches that are evidence-based, more humane, and have been proven to work over the years. The word decriminalization has received a very negative response from society, partly because of ignorance or deliberate confusion of the discussion. Decriminalization applies to the purchase, possession, and consumption of all drugs for personal use. It must be noted that, under a decriminalization model, drug possession for personal use remains illegal and prohibited - but the actions taken in response to this offense do not necessarily lead to criminal sanctions. In fact, a more effective alternative to punishment can be social protection and detoxification services, health care, treatment of dependence and reintegration into society.

Under this module, police resources can be channeled towards stopping more serious crimes, rather than being wasted on harassing people who use drugs. It is also crucial to remember that drug

supply, trafficking, and production remain criminal actions under this approach. By decriminalizing a drug, you are protecting young people from the harms of disproportionate and unjustifiable criminalization and harassment, as well as making it more likely that they will be able to seek help and treatment as they will no longer fear arrest or persecution. Children are often, rightly, placed at the forefront of political justifications for the 'war on drugs. But the reality is that children's rights have been increasingly violated through the current approaches and the levels of drug control measures while drug use and drug-related harms among children have continued to rise (International Drug Policy Consortium, 2016).

There is therefore the need to reform the criminalization provisions in our law books for the use and possession for personal use of drugs. The longer they remain, the more we give law enforcement all the power to decide how it's going to be enforced. What that does is it creates inconsistency among enforcement practices, and it contributes to the ongoing systemic injustices around enforcement of our drug laws. In 2001, Portugal passed a ground-breaking law when it decriminalized low-level possession and use of all illicit drugs. More than a decade later, the results of the Portuguese experience demonstrates that drug decriminalization - alongside a deliberate shift in public funding from law enforcement and into treatment and harm reduction services - can significantly improve public safety and health. (UNODC, 2015). There were fears that Portugal might become a drug free-for-all, but that simply didn't happen.

According to the United Nations Office on Drugs and Crime, "Portugal's policy has reportedly not led to an increase in drug tourism. It also appears that the number of drug-related problems has decreased including petty stealing among drug users". Ghanaians are debating a proposal to decriminalize narcotics. Reformers want the government to focus on rehabilitation of drug users rather than on legal penalties. Prominent among the Ghanaians who have joined the debate include Mr. Kofi Annan who served as UN Secretary General from 1997 to 2006, and a member of the Global Commission on Drug Policy. Annan was quoted in German news magazine Der Spiegel in March 2016 as calling for a better regulation to protect drug users. "Drugs are dangerous, but current narcotics policies are an even bigger threat because punishment is given a greater priority than health and human rights," he said (<http://p.dw.com/p/11APQ/>).

The former Executive Secretary of Ghana's Narcotics Control Board, Akraasi Sarpong, is a longtime campaigner for the drug policy reform. Sarpong believes the confiscation of narcotics and jailing of the dealers has little impact on drug use. "We have a lot of confiscations. No one wants to go for a wee smoker, who is taken to prison and then learns how to become an armed robber on top of being a drugs user," Sarpong told DW (<http://www.dw.com/en/ghana-to-legalize-narcotics/a-191062560>, 2016). Analysts also say that even if law enforcement against illegal drugs succeeds in one area, it may then fail in a different one, because drug production has been relocated.

According to Der Spiegel, studies have failed to establish any link between the harshness of a country's drug laws and its levels of drug use. The widespread criminalization and punishing of drug users and the over-crowded prisons mean that the war on drugs is actually a war on people, the German news magazine said in its 11th march 2016 report. What we need to remember is that, under a decriminalization framework, drug use and possession remain prohibited. What it simply does is that criminal penalties are removed, and other sanctions (such as fines or treatment requirements) are imposed, if at all. Crucially, incarceration is no longer imposed for drug possession or use, and lives are no longer ruined with criminal records (UNODC, 2015).

## 2.0 PRISON AND DRUG USE

Prisons are "secure" establishments and so the presence of drugs can be difficult issues for the prison authorities to officially acknowledge. However, drugs are widely available in prisons throughout the world and the people will also try to get drugs into prisons (Penford, C, Turnbull, P, Webster, R, 2005). A 2013 UNODC study suggests that offences related to drug possession currently comprise more than eight out of ten of total global drug-related offences. The study states that the global increase in drug-related crime is driven mainly by a number of offences related to drug possession, particularly in Europe and Africa. As a result of such trends, offences related to drug possession currently comprise 83 per cent of total global drug-related offences. Moreover, the vast majority of the users in prison are low-level offenders (UNODC, 2013)

Research suggests that punishment has a limited impact upon reducing illicit drug use, with countries which impose severe penalties for possession and personal consumption of drugs no more likely to deter drug use in the community than countries imposing less severe sanctions (UNODC, 2010). In addition to offences related to production, sale or use of illicit drugs, in many parts of the world, large numbers of prisoners are charged with or convicted of other crimes whose commission is in some way connected to illicit drugs.

These include violent crimes committed by drug gangs and organized criminal groups, which according to UN High Commissioner for Human Rights have in the worst cases 'corrupted significant state institutions, creating a climate of impunity, and establishing vast illegal economies that significantly weaken the state. They also include property crimes committed by people dependent on drugs that require funds to feed their addiction (UNHCR, 2014). Various studies estimate that, the percentage of individuals reporting problematic substance misuse is comparatively higher in prisons than in the community. It is reported that the percentage of people in prisons who have drug problems ranges from 40-80 percent (Dolan, Khoei, Brentari and Stevens, 2008). Drugs use amongst offender entering the prison is on the increase, mirroring the rising levels of drug use generally in the community (Stoever, Hennebel and Casselman, 2004). A recent survey conducted by UK government found that 'evidence from other countries show that levels of drug use are influenced by factors more complex than legislation and enforcement alone' (UK Home office, 2014).

Various explanations may account for the correlation between drug use and imprisonment. They include for example: Used and developed drug problems before they are imprisoned, developed drug problems in prison, offended to fund their drug use, used drugs to support and 'permit' their offending, used drugs after criminal activity or to cope with the consequences and been involved in criminal activities which brings them into contact with drugs. Most societies stigmatize drug use and attitudes towards offenders are also often hostile. Therefore, drug using offenders and prisoners are considered as "undeserving" of treatment and help, having brought the problems on themselves. Negative attitudes towards offender and prisoners can be a barrier to the provision of services and interventions (UNODC, 2006). In some countries, drug use itself is a criminal offence and therefore, treatment is predominantly provided within the criminal justice system.

### 3.0 CONSEQUENCES OF ILLICIT DRUG USE IN PRISONS

The often-large numbers of prisoners with drug problems and/ or involved in drug use pose a wide range of challenges for the prison administrators and the state as a whole. Harsh drug laws with accompany harsh and long sentences imposed on drug offenders by the courts has led sharp increases in the number of prisoners who are detained before trial and serve their sentences in prisons which are wholly inadequate in terms of space and facilities. A report on the Americas concluded that 'prisons not only fail to rehabilitate, but often serve as shelters from which criminals continue to operate, (OAS, 2013). A study in East Africa found that 'the rehabilitation mandate of prisons is difficult to achieve in the environment where inmates abuse drugs and substance; this is because case of inmate 'indiscipline and infractions rise' (Onyango, 2013).

Apart from the general pressures resulting from overcrowding there are a number of specific challenges arising from the over-incarceration of drug related offenders. Prisons can become effective vehicles for spreading drug use because it is easy for drug users to establish social relationships and pass on their drug habit, (UNODC, 2012). Boredom and lack of constructive activities in prisons can also increase the likelihood of drug use. There is evidence that many prisoners initiate injection drugs for the first time in prison. (Jurgen, 2011). According to Penal Reform International 2014 report, between three and five per cent of women prisoners surveyed in 2014 in Jordan and nine percent in Tunisia stated that they started using drugs or alcohol while in detention.

#### 3.1 Health Challenges

It is estimated that a total of 246 million people, or 1 out of 20 people between the ages of 15 and 64 years, used illicit drug in 2013. The magnitude of the old drug problem becomes more apparent when considering that 1 out of 10 drug users is a problem drug user, suffering from drug use disorder or drug dependence (UNODC, 2015). The magnitude of the world drug problem becomes more apparent when

considering that more than 1 out of 10 drug users is a problem drug user, suffering from drug use disorder or drug dependence. The UNODC 2015 annual report estimated that, about 27 million were problem drug users in the world in 2013 and almost half of these problem drug users inject drugs and an estimated 1.65 million of those who inject drugs were living with HIV in 2013. This places a heavy burden on public health systems in terms of prevention, treatment and care of drug disorders and their health consequences. The report indicated that, one third of prisoners have used drugs at least once while incarcerated. Prison is a high risk, controlled environment where drugs use, including injecting drug use, often takes place in a particularly unsafe condition. Health challenges arise from the fact that people who inject drugs often continue drug use inside prison and therefore failure to provide healthcare and harm-reduction programmes for drug injection users facilitates transmission of diseases such as HIV and hepatitis and tuberculosis (UNHCR,2014). Unsterile injection equipment is often shared in the absence of the provision of needles and syringes, which are available in perhaps 60 out of 10,000 prisons worldwide (HCV Research and News, 2013).. In Mauritania in 2012 there was an estimated HIV prevalence of 24.8 per cent among prisoners (UNAIDS, 2013).

Prisoners are members of our community, living in the community prior to imprisonment and returning to it upon release. They influence their social environment directly through their own interaction with the community and indirectly their relatives and wider social network. In view of the above, prison health is an inseparable and integral component of public health (WHO, 2003). Also, prisoners are in daily contact with prison staff who return to their families and friends at a close of work. This can result in the transfer of prison health problem including blood-borne and air-borne viruses into the wider community just as community health problems comes into prisons. Though reliable data on drug use and infections in prison is not always available, where such statistics exist (Stoever et al, 2004), the prevalence rate tend to be higher than in the community. In particular, rates related to mental illness, infectious diseases such as HIV, Tuberculosis and Hepatitis are higher (WHO, 2007).

### 3.2 Overcrowding, Drug Use and Prison Health

The number people imprisoned around the world is increasing and as a consequence prisons are becoming overcrowded (World Prison Brief, 2006). Overcrowding is detrimental to prisoners' good health and can lead to problems such as stress, lack of privacy, increased security problems, restriction of activities/time spent out of cell and poor hygiene. Prisons conditions themselves can pose a major threat to the health of prisoners and staff and may exacerbate existing health problems. When such problems are combined with inadequate nutrition, limited access to and availability of health care, prisons can become a major public health and humanitarian challenge (World Prisons Brief, 2006). According to report on the Global AIDS Epidemic, A UNAIDS 10<sup>th</sup> Anniversary Special Edition, 2006, p119, "Prisons are sites for illicit drug use, unsafe injection practices, tattooing with contaminated equipment, violence, rape and unprotected sex. They are overcrowded and offer poor nutrition, limited access to health care and high rate of airborne and blood-borne diseases.

### 3.3 Safety and Violence

In many countries, drugs are smuggled into prison by visitors' businesses which come to prison or during trips to court. There is evidence from a number of countries that drugs are sold to prisoner by, or with the corrupt approval or involvement with staff and even cultivated inside prisons, for example, illegal drug sales and use are widespread in Guatemala (US Department of State, human Rights Report, 2013). In 2013, the US Department of State report on Mexico prisons indicates that, the buying and selling of drugs forms part of the black market inside prisons. The rivalries triggered thereby frequently lead to lethal violence within the prisons. The problem is most acute in the so-called self-governed prisons as found in Mexico and some Latin American prisons where leaders of drug gangs are often in effective control of prisons. Corruption, overcrowding, prisoners' abuse, alcohol and drug addiction and the lack of security combined to produce life threatening conditions. (US Department of State, 2013). Similarly, it is reported that, an inspection of a private prison in Liverpool in the UK found that 'gang issues and availability of drugs were significant factor in much of the violence (Report by HM Chief Inspect of Prisons (UK), June, 2014).

#### 4.0 DRUG TREATMENT IN PRE-TRIAL DETENTION AND PRISON

There are protocols regarding treatment for people who use drugs and sentenced to prison or other forms of state custody. For example, in Ghana, the Narcotic Drugs (Control, Enforcement and Sanction) law of 1990 (PNDCL 236) includes provision for inter alia the “rehabilitation of offenders”. (West Africa Commission of Drugs [WACD] report, 2013). According to the law, the key functions of NACOB include advising the government on suitable methods of reducing drug abuse and on provision of treatment and rehabilitation of persons addicted to drugs; and dissemination of information to the public on the evils of narcotic drug use; its impacts and offences for dealing in narcotics. However, the report mentioned only one public hospital (Patang Hospital), in Ghana which provides specialized treatment services to the people who use drugs. The Prisons Service Act 972 (NRCD46) section 1, provides that, the Prisons Service will ensure the safe custody and welfare of prisoners and whenever practicable to undertake the reformation and rehabilitation of prisoners. However, the Prisons Service has a limited budget and therefore cannot initiate such programmes on its own.

#### 4.1 Extent and Nature of Drug Use in the World

Globally, UNODC estimates that between 155 and 250 million people, or 3.5% to 5.7% of the population aged 15–64, had used illicit substances at least once in 2013 (UNODC, 2015). The report estimated that, Cannabis users comprise the largest number of illicit drug users (129–190 million people) Amphetamine-type stimulants are the second most commonly used illicit drugs, followed by opiates and cocaine. However, in terms of harm associated with use, opiates would be ranked at the top. A comprehensive understanding of the extent of the drug use problem requires a review of several indicators – the magnitude of drug use measured by prevalence (lifetime, annual, past 30 days) in the general population, the potential of problem drug use as measured by drug use among young people, and costs and consequences of drug use measured by treatment demand, drug-related morbidity and mortality.

Additionally, to understand the dynamics of drug use in a country or region, it is important to look at the overall drug situation rather than merely the trends for individual drugs (UNODC, 2015). This information helps to discern the extent to which market dynamics (availability, purity and price) have temporarily influenced the use, compared to results of long-term efforts such as comprehensive prevention programmes and other interventions to address the drug use situation. According to the report at the core of drug use lie the problem of drug users; those that might be regular or frequent users of the substances, considered dependent or injecting and who would have faced social and health consequences as a result of their drug use. Information on problem drug users from a policy and programme planning perspective is important as this drives the need and nature of the services required to address the diverse needs for treatment and care of drug dependent persons. According to UNODC, (2015 report), one of the main challenges remains the compilation of data reported by member states and their comparability across countries and regions.

#### Conclusion

An in-depth analysis of key environmental (external) factors that influence the functioning and operations of the prisons were also done and it was realized that, demographic, political and social factors influence the efficient functioning and operations of Prisons Service. Furthermore, the chapter examined illicit drug use in prisons and its dire consequences on prison inmates, staff and the general public. The key challenges of illicit drug use in prisons are healthcare issues and safety and security of prison inmates, staff and the entire community. An extensive analysis of the extent and nature of illicit drug use in the world, Africa and West Africa, its impacts and responses and also the socioeconomic variables that influence illicit drug used were also captured in the chapter.

The Commission on Narcotics Drugs in its forty-third session in 2000 endorsed the paper on 'Drug information systems: principles, structures and indicators' also known as the 'Lisbon Consensus Document'. The document outlines the set of core epidemiological indicators to monitor the drug abuse situation, against which Member States could report their respective situations through the Annual Reports Questionnaire (ARQ). One of the core indicators in the paper was 'high-risk drug consumption'.

The assumption was that some drug-taking behaviours were particularly associated with severe problems and as such merit the attention of policymakers.

The document further elaborated that high-risk consumption included information on the number of drug injectors, estimates of daily users and those who are dependent. One challenge in measuring problem drug users or high-risk drug consumption is that most of these behaviours are hidden and have low prevalence. Therefore, they are poorly covered by general population estimates. Specific methods are required to gather information on such behaviours. Out of the 110 Member States who responded to the 2008 ARQ on the extent and pattern of drug use, only 24 reported information on problem drug use. The definitions and methods of calculation differ from country to country. Most African countries define problem drug use as “drug users who constitute social harm and insecurity and drug users who relapse after rehabilitation (EMCDDA, 2012), In North America, the DSM-IV defines the criteria for illicit drug dependence or abuse, while one country in Asia only considers heroin injectors as problem drug users. The European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), in its efforts to compile comparable information on problem drug use, defines it as “injecting drug use or long duration/regular use of illicit drugs.

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