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## **Alternatives to Imprisonment for Drug-related Offences**

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## Proportionate and effective policies and responses for drug-related offences

*“Encourage the development, adoption and implementation ... of alternative or additional measures with regard to conviction or punishment in cases of an appropriate nature”*

*“Implement, where appropriate, measures aimed at addressing and eliminating prison overcrowding”*

*“Encourage the taking into account of the specific needs and possible multiple vulnerabilities of women drug offenders when imprisoned”*

*UNGASS Outcome Document Chapter 4, paras. (j), (m) and (n)*



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## International human rights law

- Right to health
- Right to personal liberty
- Right to a fair trial
- Right to be free from torture or to cruel, inhuman or degrading treatment or punishment; no one shall be subjected without his free consent to medical or scientific experimentation





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## International drug control conventions [1961 and 1971 Conventions]

- All the community: *Parties shall take all practicable measures for the prevention of abuse of drugs and for the early identification, treatment, education, after-care, rehabilitation and social reintegration of the persons involved*
- Persons in contact with the criminal justice system: *Parties may provide [those measures] either as an alternative to conviction or punishment or in addition to conviction or punishment*



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## International drug control conventions [1988 Convention]

- Measures such as treatment, education, aftercare, rehabilitation or social reintegration as alternative to conviction or punishment for
  - Cases of [drug trafficking] of a minor nature [art. 3(4)(c)]
  - Personal consumption offences [art. 3(4)(d)]



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## UN standards and norms

- UN Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) [UNGA res. 45/110, annex]
- UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) [UNGA res. 65/229, annex]
- UN Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) [UNGA res. 70/175, annex]



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# The Tokyo Rules

## Aims

- Avoid unnecessary use of imprisonment
- Promote community involvement
- Promote human rights in the administration of justice (balance between rights of offenders, victims and society)

## Legal Safeguards

- Rule of law
- Consent
- Judicial review
- Ability to seek recourse
- Right to security of a person
- Rights to dignity and privacy



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## The Bangkok Rules

- Incorporates a gender perspective light of special needs and circumstances of women in the criminal justice system
  - Gender-sensitive, trauma-informed, women-only treatment programmes
  - When sentencing, consider mitigating factors in light of women's caretaking responsibilities and typical backgrounds
  - If in prison, screening, risk-assessment and classification should consider typical backgrounds, including drug use disorders
- Alternatives are particularly well-suited for women charged with minor drug-related offences
  - Seldom major players in the global drug trade
  - Recruited to perform low-level yet high-risk tasks (e.g. small-scale dealing, "drug mules")





## Examples of alternatives

### Pre-trial

- Diversion to treatment
- Conditional suspension, waiver or dismissal of prosecution
- Bail
- Plea bargain

### Trial & Sentencing

- Diversion to treatment
- Case dismissal conditional upon treatment
- Suspension of trial
- Plea bargain
- Fines
- Community service

### Post-sentencing

- Early, conditional or temporary release
- Aftercare and follow-up treatment
- Furlough/Halfway house
- Pardon or amnesty



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## People with Drug Use Disorders in Contact with the Criminal Justice System

- Joint UNODC-WHO Initiative
- October 2016 Meeting of Experts on Treatment and Care of People with Drug Use Disorders in Contact with the Criminal Justice System
  - Key Findings*
    - Preference should always be given to non-custodial measures for people with drug use disorders
    - Need for inter-institutional coordination at technical, policy, and institutional levels
    - Form of official cooperation between health and justice authorities (e.g. MOU) desirable
- Publication containing experiences and existing practices around the world currently under development



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# THANK YOU FOR YOUR ATTENTION

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