





**UNIVERSAL PERIODIC REVIEW (3<sup>rd</sup> Cycle) – CAMBODIA – DRUG POLICY - JOINT NGO SUBMISSION**

**COVER PAGE**

**Submitting organisations:**

	<b>Organisation name and logo</b>	<b>Organisational description</b>
1.	International Drug Policy Consortium (IDPC)  Website: <a href="http://www.idpc.net">http://www.idpc.net</a> Logo:  	A global network of 180 non-government organisations, established in 2006, advocating for drug policies that are based on evidence and principles of public health, human rights, human security and development.
2.	Asian Network of People who Use Drugs (ANPUD)  Website: <a href="http://anpud.org/">http://anpud.org/</a> Logo:  	The Asian Network of People who Use Drugs (ANPUD) is a community-led regional advocacy network that works to improve the quality of life of people who use drugs through the enjoyment of equal human rights and opportunities. The formation of ANPUD is underpinned by the principle of “ <i>Meaningful Involvement of People who Use Drugs</i> ” with a strong belief of unity, support, equality, inclusiveness, spirit of friendliness, collaboration and the will to change the current situation faced by people who use drugs in the Asian Region.

## UNIVERSAL PERIODIC REVIEW – CAMBODIA – DRUG POLICY - NGO SUBMISSION

### 1) EXECUTIVE SUMMARY

1.1 Since the last UPR review of Cambodia in 2014, there are concerns about the nationwide anti-drug campaign launched in 2017 that would place Cambodia in violation of existing human rights obligations, comprising:

- A. Arresting and detaining people, including women, juveniles and children, in severely overcrowded prison and detention facilities, without adequate standards of treatment or access to medical care, thereby violating their rights to health and to be protected against torture and cruel, inhuman or degrading treatment or punishment, and
- B. Denying access to adequate drug treatment and harm reduction services and medical care, by targeting people who use drugs for arrest, detention and incarceration, including women, juveniles and children, in violation of their rights to health and to be protected against torture and cruel, inhuman or degrading treatment or punishment.

### 2) SUPPORTIVE EXAMPLES

2.1 Underpinning the human rights violations against people who use drugs in Cambodia is their criminalisation. The harm reduction services and approach set out in the Cambodia's first five-year *National Strategic Plan for Harm Reduction 2016-2020* (NSPHR) in 2016 appears to be at odds with the drug control law<sup>i</sup> and Village Commune Safety Policy (VCSP).

2.1.1 While the 2012 Drug Control Law allows for voluntary treatment and rehabilitation (as set out in articles 101 and 104), forced treatment is allowed when it is deemed by the prosecutor or judge, supported by a medical doctor's report, to be in the interest of the person using drugs when s/he is considered as not having the capacity to make decisions for themselves and where it is in the public interest (articles 101, 107, 108, and 109).<sup>ii</sup> The overriding objective of these clauses, however, appear to prioritise the use of forced treatment. This is further facilitated by the ambiguity of the law when it comes to the definition of 'personal use' as a legal act (in articles 45, 46, and 53), which was intended to allow for diversion of people accused of drug use away from imprisonment and toward voluntary treatment.

2.1.2 The Drug Control Law also provides that the prosecutor and court have the discretion to divert a person accused of using drugs from imprisonment or to postponement of sentencing if s/he agrees to enter into a 'voluntary' treatment programme and completes it (outline in articles 53, 105, and 106). However this apparent opportunity to avoid prison and detention does not seem to have been used to protect and advance the health and well-being of people who use drugs and the community, given the rapidly increasing rates of imprisonment and detention of people who use drugs since at least 2015.<sup>iii</sup>

2.1.3 The ambiguity in the Drug Control Law, coupled with the VCSP adopted by the government in 2010 with the aim of eliminating all forms of behavior that are deemed to disturb local safety and security, aggravated the campaign against people who use drugs. The VCSP targets activities such as theft, drug use, gambling, gang activities, sex work, domestic violence and human trafficking.<sup>iv</sup> However, people who use drugs are disproportionately targeted simply

because they are widely perceived as ‘bad people’ and ‘criminals.’<sup>v</sup> These perceptions are not supported by evidence, for example evidence of crime committed by people who use drugs. The heavy-handed implementation of the policy in 2011 invited reactions from a coalition of NGOs working in the HIV/AIDS sector. The coalition claimed that targeting people who use drugs by law enforcement was creating a climate of fear that forced them into hiding, and avoid health and harm reduction services, therefore resulting in escalating health risks such as transmission of HIV/AIDS.<sup>vi</sup>

- 2.2 Annual rates of arrests for drug-related offences (including of people who use drugs) in Cambodia have increased three-fold over three years: from 3,142 in 2014, to 7,008 (including 853 women) in 2015, to 9,933 (including 964 women) in 2016.<sup>vii</sup>
  - 2.2.1 In 2017 alone, over 17,800 people were arrested for drug-related offences – almost equal to the number of people arrested in 2014, 2015 and 2016 combined—of whom more than 50% were reportedly people who use drugs.<sup>viii</sup>
  - 2.2.2 during the anti-drug campaign in June 2017, police were targeting people who use drugs by arresting drug treatment patients, resulting in other patients avoiding treatment services for fear of arrest. That month, about seven people were arrested for drug use outside the Khmer and Soviet Friendship Hospital in Phnom Penh, after seeking access to methadone maintenance treatment (a vital mode of drug dependence treatment for people who inject drugs).<sup>ix</sup>
- 2.3 A 2016 report by World Vision concluded that prison conditions were poor and overcrowded, even before the anti-drug campaign was launched. Specifically:
  - 2.3.1 Cambodia’s overcrowded prison population increased by 20 per cent in the first 10 months of 2015 (from 14,780 prisoners in December 2014 to 17,522 prisoners in October 2015) due to higher rates of drug arrests and delays in the justice system, resulting in inhumane conditions and raising serious health concerns, and
  - 2.3.2 Minors are not always separated from adults, untried and convicted prisoners are not separated, girls are often neglected, with none of the 28 prisons in Cambodia exclusively catering for juveniles.<sup>x</sup>
- 2.4 Cambodia’s use of forced detention and rehabilitation has been continuing unabated even though there is strong evidence that it neither deters nor decreases levels of drug use, but rather results in increased harms for people who use drugs and their communities.<sup>xi</sup>
  - 2.4.1 In 2016, the government declared that 2,599 people who use drugs were detained in public and private rehabilitation centers despite the government’s rhetoric of strong support for quality community-based treatment programmes.<sup>xii</sup>
  - 2.4.2 In May 2017, a person who had been using heroin and living with HIV named Thhan Dang died during his incarceration at the Prey Speu detention centre in Phnom Penh, after being unable to access methadone (a medicine used in drug dependence treatment) and antiretroviral therapy (a medicine use in HIV treatment).<sup>xiii</sup>

- 2.4.3 Children are also being detained in youth drug centers and youth rehabilitation centers, despite the UN Human Rights Committee raising concerns in its 2015 report on Cambodia about “reports of arbitrary arrest and detention of homeless people, beggars, people who use drugs, children in street situations and sex workers in “social affairs”, youth rehabilitation and drug rehabilitation centers. It is particularly concerned about allegations of torture, ill-treatment and other abuses committed by staff working at these institutions.”<sup>xiv</sup>
- 2.5 The rapidly increasing rates of arrest for drug-related offences, and subsequent detention or imprisonment, constitute punitive measures that pose barriers to implementation of and access to voluntary treatment and harm reduction services. Imprisonment and detention worsens the situation of people who use drugs, especially where they are already suffering problems in other health and social dimensions (e.g. poverty, history of trauma and abuse, mental health issues) or are otherwise vulnerable such as street children. For children, detention or imprisonment facilitates contacts with older criminals and criminal gangs, leaves them with a criminal record that severely hampers future life opportunities, exacerbates social exclusion, and deteriorates their health and social skills.<sup>xv</sup> The subsequent impact of criminalisation, punishment, detention and incarceration can be seen in the results of the Integrated Biological and Behavioural Survey (IBBS) carried out amongst people who use drugs in Cambodia in 2017, showing that:<sup>xvi</sup>
- 2.5.1 the HIV prevalence rate among people who use drugs increased from 4% in 2012 to 5.7%, while HIV prevalence among people who inject drugs declined from 24.8% in 2012 to 15.2%.
  - 2.5.2 amongst both people who use drugs and people who inject drugs, women had significantly higher rates of HIV prevalence compared with men: 8.5% of women who use drugs (compared with 3.9% amongst men) and 21.7% of women who inject drugs (compared with 12.8% amongst men)
  - 2.5.3 30% of people who inject drugs live with hepatitis C
  - 2.5.4 42% of people who inject drugs reported ever being in a methadone maintenance treatment (MMT) programme, which is a major intervention for HIV prevention amongst people who inject drugs, in accordance with the World Health Organisation, United Nations Office on Drugs and Crime & Joint United Nations Programme on HIV/AIDS (2009), *Technical guide for countries to set targets for universal access to HIV prevention, treatment and care for injecting drug users*<sup>xvii</sup>

### 3) RECOMMENDATIONS

- 3.1 While diversion is provided for in Cambodia’s Drug Control Law, it is yet to be implemented to the extent that the well-being and health of people who use drugs are prioritized – indeed, current diversion mechanisms refer people who use drugs to compulsory detention centres instead of voluntary health and harm reduction services. In order to improve the health and well-being of people who use drugs and communities in Cambodia, well-coordinated efforts at both the policy and implementation levels need to be mobilised. To help achieve the realisation of the rights of people who use drugs to health and be protected against torture and cruel, inhuman or degrading treatment or punishment, we submit the following recommendations to the government of Cambodia:

1. **Take action to end the arrest and detention of people suspected of drug use and possession for the purpose of personal use, especially women, children and juveniles, and as an alternative, adopt policy responses to drug use centred upon principles of health, harm reduction and human rights.**

Justifications

- a. Belgium made the following recommendation that was accepted by Cambodia for general action in the second cycle of Cambodia's UPR in 2014: Take measures to avoid the use of excessive force and ensure that conditions of arrest and pretrial detention meet international standards
- b. Austria made the following recommendation that was accepted by Cambodia for general action in the first cycle of Cambodia's UPR in 2009: Close the so-called rehabilitation centres, where poor people living on the streets arrested in police operations are held, and pursue adequate social policies that address the problems of the concerned socially disadvantaged groups

2. **Ensure the achievement of adequate standards of treatment including medical care for people held in prisons, detention and other closed settings, particularly people who use drugs or living with HIV, women and children**

Justifications

- a. Belgium made the following recommendation that was accepted by Cambodia for general action in the second cycle of Cambodia's UPR in 2014: Take the necessary measures to ensure that children and minors in rehabilitation centres and youth centres are not in any way submitted to torture or ill-treatment, in conformity with the provisions of the Convention on the Rights of the Child
- b. The Czech Republic made the following recommendation that was accepted by Cambodia for general action in the first cycle of Cambodia's UPR in 2009: Adjust detention and prison facilities as well as standards of treatment so that they are gender-sensitive and ensure effective protection of the personal safety of all detainees and prisoners

3. **Take steps to implement voluntary and evidence-based harm reduction services (ie. opioid substitution therapy, needle and syringe programmes, and overdose prevention measures such as naloxone), and drug dependence treatment programmes designed and implemented in accordance with international standards, in the community as well as in prisons, detention facilities and other closed settings.**

### Justifications

- a. The Report by the United Nations High Commissioner for Human Rights, *Study on the impact of the world drug problem on the enjoyment of human rights*, distributed on 4 September 2015 (A/HRC/30/65) stated that:
  - People who use drugs and people who are dependent on drugs possess the same right to health as everyone else, and those rights cannot be curtailed if the use of drugs constitutes a criminal offence
  - Persons in custodial settings are entitled, without discrimination, to the same standard of health care found on the outside, including with regard to prevention, harm reduction and antiretroviral therapy. Continuity of care is critical for those entering places of detention and who have been receiving treatment such as opioid substitution and antiretroviral therapy or treatment for tuberculosis, as interrupting such treatment has serious health consequences.
  - The Special Rapporteur on the rights to health has noted that the same standards of ethical treatment apply to the treatment of drug dependence as to other health-related conditions, including with regard to the right of a patient to make decisions about treatment and to refuse treatment.
  - The Special Rapporteur on the right to health has stated that if harm reduction programmes and evidence-based treatments are made available to the general public, but not to persons in detention, this contravenes the right to health.
- b. The Outcome Document of the 2016 United Nations General Assembly Special Session on the World Drug Problem, *‘Our Joint Commitment to Effectively Addressing and Countering the World Drug Problem,’* whereby paragraph 1 on ‘Operational recommendations on demand reduction and related measures, including prevention and treatment, as well as other health-related issues’ states:

(o) Invite relevant national authorities to consider, in accordance with their national legislation and the three international drug control conventions, including in national prevention, treatment, care, recovery, rehabilitation and social reintegration measures and programmes, in the context of comprehensive and balanced drug demand reduction efforts, effective measures aimed at minimizing the adverse public health and social consequences of drug abuse, including appropriate medication-assisted therapy programmes, injecting equipment programmes, as well as antiretroviral therapy and other relevant interventions that prevent the transmission of HIV, viral hepatitis and other blood-borne diseases associated with drug use, as well as consider ensuring access to such interventions, including in treatment and outreach services, prisons and other custodial settings, and promoting in that regard the use, as appropriate, of the technical guide for countries to set targets for universal access to HIV prevention, treatment and care for injecting drug users, issued by the World Health Organization, the United Nations Office on Drugs and Crime and the Joint United Nations Programme on HIV/AIDS;

(p) Promote and implement the standards on the treatment of drug use disorders developed by the United Nations Office on Drugs and Crime and the World Health Organization and other relevant international standards, as appropriate and in accordance with national legislation and the international drug control conventions, and provide guidance, assistance and training to health



professionals on their appropriate use, and consider developing standards and accreditation for services at the domestic level to ensure qualified and scientific evidence-based responses

<sup>i</sup> Law on Drug Control 2012

<sup>ii</sup> See for further information about the use of compulsory rehabilitation: International Drug Policy Consortium (2014) "Compulsory rehabilitation in Latin America: An unethical, inhumane and ineffective practice", IDPC Advocacy Note, [http://files.idpc.net/library/IDPC-advocacy-note\\_Compulsory-rehabilitation-Latin%20America\\_ENGLISH.pdf](http://files.idpc.net/library/IDPC-advocacy-note_Compulsory-rehabilitation-Latin%20America_ENGLISH.pdf)

<sup>iii</sup> Tuort, S. et al. (2017) "How understanding and application of drug-related legal instruments affects harm reduction interventions in Cambodia: a Qualitative Study", *Harm Reduction Journal*, 14:39, 1-13, available at [https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5477156/pdf/12954\\_2017\\_Article\\_167.pdf](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5477156/pdf/12954_2017_Article_167.pdf)

<sup>iv</sup> Village Commune Safety Policy guideline, available at <http://women.open.org.kh/files/Eng-Village-Commune-Safety-Policy.pdf>

<sup>v</sup> Chheng, K. et al. (2012) "Harm Reduction in Cambodia: a disconnect between policy and practice", *Harm Reduction Journal*, 9:30, 1-9, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3404025/pdf/1477-7517-9-30.pdf>

<sup>vi</sup> HACC Press Release entitled *Community Safety Policy Proving Unsafe for HIV Prevention Efforts*, on 4 April 2011, available at [https://www.google.com.kh/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKEwiDrs\\_GqobYAhUYR48KHxbnAWoQFggNMAA&url=http%3A%2F%2Fwww.haccCambodia.org%2Fdownload\\_public%3Ffile%3DHACC%2520Press%2520Release\\_Safety%2520Policy%25204%25204%252011.pdf&usg=AOvVaw3SEDKXKCuxix3Vr2TDAAbY](https://www.google.com.kh/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKEwiDrs_GqobYAhUYR48KHxbnAWoQFggNMAA&url=http%3A%2F%2Fwww.haccCambodia.org%2Fdownload_public%3Ffile%3DHACC%2520Press%2520Release_Safety%2520Policy%25204%25204%252011.pdf&usg=AOvVaw3SEDKXKCuxix3Vr2TDAAbY); Schneiders, M.L. and Weissman, A. (2016) "Determining barriers to creating an enabling environment in Cambodia: Results from a baseline study with key populations and Police", *Journal of the International AIDS Society*, 19(suppl 3):20878, 1.9 available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4951539/pdf/JIAS-19-20878.pdf>

<sup>vii</sup> National Authority for Combating Drug (2017) Report on Drug Control for 2016 and Plan for 2017 (Phnom Penh: National Authority for Combating Drug); National Authority for Combating Drug (2016) Report on Drug Control for 2015 and Plan for 2016 (Phnom Penh: National Authority for Combating Drug); National Authority for Combating Drug (2015) Report on Drug Control for 2014 and Plan for 2015 (Phnom Penh: National Authority for Combating Drug).

<sup>viii</sup> Surrusco, M. and Phan, S. "As drug arrests rise, government weighs treatment shift", *The Cambodia Daily*, July 3, 2017 available at <https://www.cambodiadaily.com/news/as-drug-arrests-rise-government-weighs-treatment-shift-132053/>

<sup>ix</sup> Kimsay, B. and Surrusco, M. "Methadone Users Arrested Near Clinic, NGO Says," *The Cambodia Daily*, June 14, 2017, <https://www.cambodiadaily.com/news/methadone-users-arrested-near-clinic-ngo-says-131316/>

<sup>x</sup> Verstraeten, T. "The Status of Children in Conflict with the Law in Cambodia and Vietnam," *World Vision Report*, November 2016, p. 35, <https://www.wvi.org/sites/default/files/CICLreportVietnamandCambodiaFinalNov2016.docx.pdf>

<sup>xi</sup> United Nations Office on Drugs and Crime (2017) *World Drug Report 2016* (New York: United Nations) available at [https://www.unodc.org/doc/wdr2016/WORLD\\_DRUG\\_REPORT\\_2016\\_web.pdf](https://www.unodc.org/doc/wdr2016/WORLD_DRUG_REPORT_2016_web.pdf)

<sup>xii</sup> National Authority for Combating Drug (2017) Report on Drug Control for 2016 and Plan for 2017 (Phnom Penh: National Authority for Combating Drug)

<sup>xiii</sup> Bourmont, Martin de and Chakrya, Khouth Sophak "Is Cambodia's war on drugs working?" *The Phnom Penh Post*, June 14, 2017, available at <https://www.phnompenhpost.com/national-post-depth/cambodias-war-drugs-working>

<sup>xiv</sup> Verstraeten, T. "The Status of Children in Conflict with the Law in Cambodia and Vietnam," *World Vision Report*, November 2016, p. 37, <https://www.wvi.org/sites/default/files/CICLreportVietnamandCambodiaFinalNov2016.docx.pdf>



---

<sup>xv</sup> United Nations Office on Drugs and Crime (2017) *World Drug Report 2016* (New York: United Nations) available at [https://www.unodc.org/doc/wdr2016/WORLD\\_DRUG\\_REPORT\\_2016\\_web.pdf](https://www.unodc.org/doc/wdr2016/WORLD_DRUG_REPORT_2016_web.pdf)

<sup>xvi</sup> Integrated Biological and Behavioral Survey (2017) *HCV and Size Estimation among People who Use Drugs in Cambodia* (Phnom Penh: National Authority for Combating Drugs) <http://www.nchads.org/index.php?id=16&lang=en>

<sup>xvii</sup> Available at: [http://www.who.int/hiv/pub/idu/idu\\_target\\_setting\\_guide.pdf](http://www.who.int/hiv/pub/idu/idu_target_setting_guide.pdf)