

Drugs, Harm Reduction and the UN Convention on the Rights of the Child: Common themes and universal rights



Drugs and the UN Convention on the Rights of the Child

What do we know?

In 2008, Youth RISE and HR2 (the Harm Reduction and Human Rights Programme of the International Harm Reduction Association) asked young researchers about young people and drugs in their countries, as well as about harm reduction services and youth-specific drug and HIV policies. We ended up with a very diverse set of countries! We received reports from Argentina, China, India, Indonesia, Romania, Rwanda, Spain, Ukraine, United Kingdom, United States and Vietnam. It is easy to generalise about drugs. The countries we looked at vary in geography, religion, culture and language. Each country, and within them each city or town, has its own problems. Each family and each individual young person is dealing with their own specific situation. But patterns do emerge. We were looking for those issues that are common to all of the countries, no matter how diverse.

Young people are using drugs! This may seem too obvious to mention, but all too often we bury our heads in the sand about children and youth using drugs. All of the countries reported that prevention campaigns exist; yet all also reported that youth are using drugs. In India and China they inject heroin. In Spain they use cocaine. In Rwanda and Syria street-children sniff glue and smoke cannabis. In the Ukraine they use homemade drugs such as “baltushka”. Prevention campaigns have not worked for these young people. The reality is that children and youth under the age of 18 are using drugs and we need to deal with it honestly, openly and without judgement.

There is a lack of disaggregated data. Even though children and youth are using drugs in every country we studied, there is a lack of specific data about who they are, why they are using drugs, why they use certain drugs and how they use them. Many of our respondents reported that simply being young was a risk factor but we need to know more. There is a lack of data on how many and which young people are living with HIV and/or HCV and what other drug related harms they are experiencing. Respondents noted that if there was information on young people and drug use, this often excluded detailed data on young people under 16-18 years of age, street involved youth and those who inject drugs.

There are few youth-specific policies and programmes. Every respondent reported a lack of youth-specific harm reduction, HIV and drug policies and programmes. This includes a lack of honest drug education, lack of services and interventions for those already using drugs, and lack of needle exchanges and substitution therapy. Even where harm reduction services do exist, most children and youth under 18 are either excluded due to their age, or cannot access them without parental consent. As one researcher from Ukraine told us “There is no government sponsored youth-focused harm reduction strategy... Harm reduction is mainly focused on adults...with youth programs still only focused on prevention and mandatory treatment.”

Youth are criminalised for drug use. Most countries reported that children and youth are criminalised for drug use. If they are caught using drugs or are apprehended by police, they are sent to mandatory treatment or rehabilitation facilities, or to youth detention centres or jails. In addition, certain respondents noted if a young person was identified as having a drug problem, and in lieu of incarceration, young people are often kicked out schools and educational institutions.

Youth are not involved in policy and programme design. Children and youth are left out of policy design, and were not involved in creating prevention and awareness campaigns or training and material dissemination. Young people were seen only as recipients of services and not viewed integral components to the programme design. The exclusion of young people from programme and policy design is a result of the added barriers or stigma and discrimination faced by young people. Respondents recorded that most if not all of the programming and policy making is facilitated without the involvement of target populations, including people who use drugs and young people. In particular cases, respondents recorded that the few individuals outside of policy makers involved were often former drugs users who participated on various prevention education programmes. On those rare occasions when young people were included in the design of prevention programming it was often facilitated through NGO participation, not directly with policy makers.

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We need to ask the right questions!

What do we really know about youth and drug use? Very little! We need to ask the right questions. Article 33 of the UN Convention on the Rights of the Child (CRC) is the only article in any of the UN human rights treaties to deal with drug use. It requires that states must take “all appropriate measures...to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties”. Our first question is therefore very obvious, but at the same time incredibly complicated.

What measures are “appropriate” to “protect children” from the illicit use of narcotic drugs?

In many countries, such measures are limited to zero-tolerance and “just say no” campaigns, random school drug testing and subsequent exclusion, coercive abstinence based treatment, mass incarceration of parents, siblings and youth, and the denial of harm reduction services based solely on arbitrary age restrictions.

Appropriate measures to protect children? Not in our view.

We can only answer this fundamental question by looking at the other articles of the CRC, carefully, honestly, and without lazy and selective interpretations. What is “appropriate” must take into account the right to life, health, education, social security and an adequate standard of living, to access to information, to freedom of expression and to privacy, and to freedom from discrimination, violence and neglect, from cruel inhuman and degrading treatment, economic exploitation and from arbitrary detention.

These are not aspirations. This is binding international law.

But the CRC goes further still. The four ‘General Principles’ of the CRC underpin the entire convention and guide not just the kinds of questions we need to ask, but how we should ask them.

Article 2 -- Non-discrimination

The right to be free from discrimination does not end with governments refraining from discriminating against certain groups and individuals, including people who use drugs. States must also work to actively identify vulnerable groups and individuals in need of special attention to ensure that their rights are guaranteed. This must include girls, street children, children of drug users, children who use drugs, child sex workers, indigenous and ethnic minority children, and children living with HIV. Achieving this goal requires

properly disaggregated data. It is not enough to ask how many children use drugs, or how many children are incarcerated for drug offences, how many children are living on the streets or how many are living with HIV. We need to know which children. In very few places is this information being collected. It means we that we are not properly looking at patterns of vulnerability. This affects how we target our efforts, and risks our missing the most vulnerable – often hidden from formal statistics.

Article 3 -- The best interests of the child

The child’s best interests must be “a primary consideration” in all legislation and policies affecting them, either directly or indirectly. We must ask ourselves, honestly, if the child’s best interests (meaning individual children and children collectively) are served through arbitrary age restrictions on access to harm reduction and drug treatment services? Are those interests best served by criminalising young drug users, or requiring parental consent for HIV testing or access to health services? Or do these measures serve political, economic or other interests?

Article 6 -- The right to life, survival and development

Rarely, if ever, does a child experience the violation of only a single right. Rather, one situation compounds another; one violation makes another all the more severe. This is the essence of a holistic approach to child rights and to drug use among children and young people. This General Principle requires that we consider the physical, social, emotional and social development of the child. We must consider how drug use affects the rights of the child, but also, how rights violations affect drug use and increase vulnerability to drug related harm.

Article 12 -- The right to be heard and have our views taken into account

When it was adopted twenty years ago, the CRC represented a radical departure from the traditional view of children and youth. How do you ask the right questions? By asking those affected what we should be looking at. How do you get the right answers? By asking the right people. How do you know what is in a child’s best interests? Why not ask? Children and young people have the right to be consulted in the decisions that affect them, individually, and collectively, and they have the right to participate in the development of youth-focused programmes.

We do not have all of the answers. But unless we ask the right questions, and in the right way, we will never have them.

Get Involved – Join Youth RISE!

We need your help. Young people need your support as policy-makers, donors, human rights and HIV activists, government officials and health providers in order to improve young peoples' access to harm reduction services and evidence-based education, prevention and treatment.

- **Young people do not forfeit their rights because of age, gender, ethnicity, substance use, homelessness or other status.**
Drug policies must be in full conformity with human rights, including the rights of the child.
- **We can't design targeted and effective programmes without the right information.**
Data on drug use, HIV and other drug related harms must be disaggregated properly.
- **Adult-focused services do not take into account the specific problems and barriers faced by young people.**
Youth-specific harm reduction, prevention and treatment services should must be developed.
- **Children and young people have the right to be heard.**
Young substance users and street involved youth should be empowered to participate in the decisions and programmes that affect them.

Become a Youth RISE member and connect to an international network of young people and allies who are working to address these issues! Please visit www.youthrise.com/members.html for more information. Here you can find links to relevant fact sheets, information and research on young people, substance use and harm reduction as well as advocacy and training opportunities.

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HR2 is the Harm Reduction & Human Rights Programme of the International Harm Reduction Association.

The goal of HR2 is to promote international law and policy that supports the expansion of harm reduction and that promotes the human rights of people who use drugs.

www.ihra.net

Youth RISE has over 250 members from more than 70 countries around the world. The membership is comprised of young people who use drugs, young people who have used drugs, young people working in harm reduction, young people affected by drug policies and others who are interested. Youth RISE takes leadership from an international working group (IWG), many of whom contributed to this report.

www.youthrise.org

