

## Public Health Intervention Standards Across the Continuum of Care and the Protection of the Human Right to Health in the Context of the “War on Drugs” (Philippines)

**Project Partners: NoBox Transitions Foundation; Philippine Commission on Human Rights; University of the Philippines**

### Project Overview

#### *Background*

Contemporary trends in global drug policy point to an increasing understanding and appreciation of the complex interplay of drug use, society, the economy, and the individual. Problematic drug use is not anymore seen as just a singular, isolated issue of public order or transnational crime, but as a dynamic variable that requires the lenses of the biomedical sciences, public health, social development, and international human rights law. Addressing the detrimental social impacts associated with the illicit drugs economy necessitates looking into social and economic determinants that overbroad criminalization and penalization dispense with.

Despite this policy shift, the prevailing drug control policy in the Philippines has emphasised a punitive platform, led by a punitive, law enforcement regime that emphasizes drug-related prosecution and incarceration. As a key strategy of the present administration, this punitive approach has been mainstreamed in other executive agendas, especially in foreign policy, education, local governance, and health.

This approach’s two-year implementation has, however, been punctuated by several controversies, especially as regards reported and documented human rights abuses – extra-

judicial killings by State agents, unlawful arrests and detention, overwhelming jail congestion, lack of access to courts or effective defenses/remedies, and coercive treatment and rehabilitation. The street-level police activities in mostly poor urban neighborhoods have been especially criticized for their inordinate effect on marginalized communities and groups. But while the police enforcement aspect of the “War on Drugs” has received significant attention from the press, academics, and researchers, another dimension remains largely unstudied: the public health interventions that follow this strategy.

Notably, the attention to problematic drug use has led to an increased demand for drug rehabilitation providers and healthcare professionals with expertise in problematic drug use. This “healthcare boom” in treatment rehabilitation centers, community-based drug rehabilitation services, and other clinical services puts to fore the need to assess whether these *public health interventions* actually reorient this highly punitive policy into a human rights and public health-based focus. Doing so first requires articulating the human rights standards and obligations specific to the context of health services and interventions for people who use drugs or those with problematic drug use.

### *Partners and Project Objectives*

By identifying applicable international human rights standards and obligations, the project closes significant gaps in legal support and evidence, to inform government agencies, especially the Department of Health (“DOH”), on standard-setting and policy coherence for healthcare services catering to the needs of persons who use drugs or those with problematic drug use. The output of this project will be particularly important considering the large role of the private healthcare sector in the Philippines’ health service delivery network. Moreover, the project findings will be timely in guiding legislators in possible discussions and debates on these health services in the ongoing universal health coverage reform agenda.

The project will build on the experience and expertise of **NoBox Transitions Foundation** (“NoBox Philippines”) in harm reduction. NoBox Philippines has been the leading local think tank on evidence-based and human rights-centered drug control policy in the country, and it has partnered with both public and private sectors in advocating for drug policy reforms. In this project, it will undertake the following roles: (1) facilitate coordination between project partners; (2) provide background information on the Philippines’ drug control policies and the healthcare system; (3) advise on the development of the research plans and methodologies; (4) provide feedback on the outputs of the research; and (5) use the findings to inform the analysis for its project and/or future work on drug policy reform and harm reduction.

The **Philippine Commission on Human Rights** (“CHR”) is the country’s independent National Human Rights Institution mandated to conduct investigations on human rights violations against marginalized and vulnerable sectors in Philippine society. In this project, the CHR will (1) assist in determining local policies and contexts of human rights violations in drug-related healthcare services, (2) provide technical and research expertise in human rights law, and (3) develop reform and advocacy plans based on the research findings.

The **University of the Philippines** (“U.P.”) is the national university of the Philippines and a chartered higher education institution. Through its think tank, the **University of the Philippines Center for Integrative and Development Studies** (“UP CIDS”), the University will engage a pool of professors/academics on social sciences, medicine, law, and related fields, who will serve as technical advisers in research planning and evaluation. Apart from this role, the UP CIDS will also assist in the dissemination of the research results by (1) conducting forums or roundtable discussions with academics and policymakers, and (2) publishing findings and distributing publications in the university’s libraries.

Through U.P., the project will likewise engage the **U.P. Law Center Institute of Human Rights** (“IHR”), an academic legal resource institute committed to the full promotion and protection of human rights through research and advocacy. The IHR will (1) share the findings of its ongoing evaluation of the country’s principal drug law, the Comprehensive Dangerous Drugs Act of 2002, (2) assist in the formulation of policy recommendations in the national legislative and administrative levels based on the research findings, and (3) conduct multi-stakeholder discussions with the project partners together with its institutional partners in government, members of the Philippine bar, and the civil society.

### Project Output

The project output from the Human Rights Clinic will consist of a 20-30-page report assessing key drug-related public health policies and laws currently in place in the Philippines in relation to the international human rights framework. Special reference will be made to the State obligation to respect, protect and fulfil the right to the enjoyment of the highest attainable standard of health as articulated in Article 12 of the International Covenant on Economic, Social, and Cultural Rights. A particular focus of the assessment should be on the areas of accessibility, availability, acceptability, quality, participation, non-discrimination, accountability and health governance, resourcing, and international cooperation. Population-specific determination of human rights standards will also be reviewed, including those for

children, women, indigenous persons and communities, persons with disabilities, and prisoners or detainees.

### Project Outline

#### Phase 1 (November-December 2018) – *Formalizing Partnerships and Research Planning*

1. The project partners' roles and responsibilities will be formalized.
2. Technical advisers from NoBox Philippines, the CHR, and UP CIDS will be organized.
3. Students will be acquainted with the situation in the Philippines through exchanges with NoBox Philippines and project partners, both as touch-base and orientation to the research context. Project partners will provide literature and reports for this purpose.
4. Students of the University of Essex Human Rights Centre will produce a 10-page literature and basic legal review of the human rights standards in the context of healthcare services for persons who use drugs or healthcare interventions for problematic drug use. (The literature review will be completed and submitted to NoBox Philippines at the end of the term and advisers will provide feedback before the January 2019 term.)
5. Produce a draft research project outline by December 2018
6. Draft and submit an application for ethical consent approval by the University of Essex.

#### Phase 2: (January-May 2019) – *Researching and Completion of Report/s*

1. Complete the comprehensive research based on project objectives, using an eclectic methodology (e.g., desk review, possible key informant interviews, project team discussions).
2. Submit regular writing drafts of research and full provisional draft to project partners for review and validation.
3. Complete a final, high-quality academic briefing paper. (The draft final report will be submitted no later than 30 April 2019 for review. The final report will be submitted by 31 May 2019.)
4. Complete an advocacy and project development plan for future human rights inquiries (assessment of existing interventions) using the project findings by 20 June 2019.

Phase 3: (June 2019) – *Dissemination and advocacy formation (undertaken by the project partners with HRC support and participation where appropriate)*

1. Conduct forums or roundtable discussions with project partners, academics, and policymakers from, among others, the DOH, Dangerous Drugs Board, Department of Interior and Local Government, Department of Social Welfare and Development, and Department of Justice, based on research findings and recommendations.
2. Hold briefing with the United Nations Special Rapporteur on the right to the highest attainable standard of health to inform him of the research findings and recommendations.

### Project Bibliography

The following list provides a preliminary compilation of applicable laws, both international and domestic, and reference materials that the research project will cover to fulfill its objectives:

#### *Treaties/Conventions*

- International Covenant on Civil and Political Rights and its Second Optional Protocol
- International Covenant on Economic, Social and Cultural Rights
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- Convention on the Rights of the Child
- Convention on the Rights of Persons with Disabilities
- Convention on the Elimination of all Forms of Discrimination Against Women
- Single Convention on Narcotic Drugs of 1961, as amended by its 1972 Protocol
- Convention on Psychotropic Substances of 1971
- United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988

#### *“Soft Law” Instruments*

- Universal Declaration of Human Rights
- United Nations General Assembly resolution 70/1, *Transforming our world: the 2030 Agenda for Sustainable Development* (the “Sustainable Development Goals”)
- Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, in accordance with Human Rights Council resolution 6/29

- Committee on Economic, Social and Cultural Rights General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12), adopted on 11 August 2000
- World Health Organization, *Public health dimension of the world drug problem*, Report by the Secretariat, 70<sup>th</sup> World Health Assembly, A70/29 (27 March 2017)
- United Nations Office on Drug and Crime. (2012). *UNODC and the Promotion and Protection of Human Rights*
- United Nations Standard Minimum Rules for the Treatment of Prisoners (17 December 2015), or the “Nelson Mandela Rules”
- World Health Assembly and Executive Board resolutions pertaining to substance use and substance dependence<sup>1</sup>
- Relevant UNODC Commission on Narcotic Drugs resolutions and reports
- Relevant reports of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

### *Domestic Laws and Regulations*

- The 1987 Philippine Constitution
- Republic Act No. 9165 (Comprehensive Dangerous Drugs Act of 2002)
- Republic Act No. 10606 (Universal Health Care Act of 2013)
- Republic Act No. 11036 (Mental Health Act of 2018)
- Revised Penal Code, as amended by special penal laws
- Presidential Executive Order No. 4, s. 2016 (Providing for the Establishment and Support of Drug Abuse Treatment and Rehabilitation Centers Throughout the Philippines)
- Department of Interior and Local Government and Dangerous Drugs Board (“DDB”), Joint Memorandum Circular No. 2018-01 (Implementing Guidelines on the Functionality and Effectiveness of Local Anti-Drug Abuse Councils)
- DOH, Administrative Order No. 2017-0018 (Guidelines for Community-Based Treatment and Support Services for Persons Who Use Drugs in Primary Health Care Settings)
- DOH, Administrative Order No. 2016-0038 (The Philippine Health Agenda 2017-2022)
- Philippine National Police Memorandum Circular No. 2016-16 (Anti-Illegal Drugs Campaign Plan)

### *References on Global and Local Drug Policy*

- United Nations Office on Drug and Crime, *World Drug Report*
- UNAIDS. (2016). *Do No Harm: Health, Human Rights and People Who Use Drugs*

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<sup>1</sup> [http://www.who.int/substance\\_abuse/resolutions/en/](http://www.who.int/substance_abuse/resolutions/en/)

- International Drug Policy Consortium et al. (2016). *A Public Health Approach to Drug Use in Asia: Principles and practices for decriminalization*
- DDB, Manual of Operations for Drug Abuse Treatment and Rehabilitation Centers
- DDB, *Philippine Anti-Drug Strategy 2016-2022: A Plan for Action on Drug Elimination*
- Lines R., Elliott R., Hannah J., et al. "The Case for International Guidelines on Human Rights and Drug Control". *Health Hum Rights* 2017;19(1):231-236.
- Publications and gray literature of NoBox Philippines and the CHR

### *Other Related Materials*

- Reports of independent human rights observers on the Philippines' "War on Drugs"
- Northern Ireland Human Rights Commission. (2015). *Human Rights Inquiry: Emergency Health Care*. Belfast, Northern Ireland.
- Asia Pacific Forum of National Human Rights Institutions & Raoul Wallenberg Institute of Human Rights and Humanitarian Law. (2012). *Manual on Conducting a National Inquiry into Systematic Patterns of Human Rights Violations*. Sydney, Australia/Lund, Sweden.