General Comment on the impacts of drug policies on economic, social and cultural rights.

Contribution from Metzineres

Spain

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1) Introduction

Metzineres is a non-profit, community-based cooperative organization located in Barcelona, Spain. It offers sheltered environments for women and gender non-conforming people facing various forms of violence and vulnerability, including homelessness, LGTBIQ+, mental health diagnoses, incarceration, living with HIV or/and HCV, engagement in sex work or in sex for survival, migratory experiences, and more.

From an intersectional feminist, harm reduction, and human rights perspective, Metzineres currently supports over 490 participants from more than 20 different nationalities, ranging in age from 19 to 75 years old.

In this contribution, we aim to shed light on the significant challenges faced by these women in accessing social services and healthcare networks. They are often excluded from various services, including those focused on drugs or gender-based violence. The lack of alternatives, access barriers, and institutional gaps intensify social control, inequality, social injustice, and exclusion. Prejudice, stigma, discrimination, and criminalization systematically violate their rights.

The information in this document is derived from research conducted by civil society organizations, official sources, and the testimonies of 499 Metzineres participants, systematized through our own database.

2) Discrimination in access to housing

About 35% of people in homless situation have drug use related problems (UNAD, 2021). Among Metzineres participants, 67% live on the street (roofless) and 86% is in a homless situation. Many of them engage in sex for survival, to keep a roof over their heads. For most of them, living on the street also means an increase in drug use, in addition to aggravating the associated problems. Lack of sleep and constant alert have very serious impacts on their mental health.

Women experiencing homelessness are often excluded from residential care networks or do not reach resources because these do not have entry channels appropriate to their realities. Previous telephone appointments or appointments at strict and unchangeable times are barriers to access for those women who do not have their own telephone or stable living structures that allow them to have rigorous continuity with the follow-up of appointments.

In addition, **most residential shelters exclude people who use drugs. Those that do not, tend to be markedly masculinized and do not respond to the specific needs of women and gender divers people, aggravating their chronic situations of exclusion**. Strict regulations (regarding entry and exit times, rules of behavior inside, abstinence, etc.) and the schedules themselves make it very difficult to stay in the resources, affecting and revictimizing those who are expelled.

Discrimination in access to the protection resources of the gender-based violence network.

Violence and problems related to drug use are strongly interrelated factors in women and gender non conforming people. Those who use illegal drugs are up to 6 times more likely to suffer gender violence than the general population (Generalitat de Catalunya, 2009). According to a comparative study among several European countries, 86% of women report having suffered psychological violence and physical, 74% of them; 44% report sexual violence in adulthood and 24% during childhood. In addition, 26% report institutional violence. Despite these data, more than 54% of professionals acknowledge not having knowledge about the intersection between drug use and gender-based violence and only 24% incorporate the gender perspective into their actions (Interleave, 2022).

According to data collected by Metzineres, in addition to situations of violence, they survive multiple situations of vulnerability: homelessness (86%) and rofless (67%), sex work (53%) and survival sex (68%), mental health diagnosis (74%), incarceration (40%), migration experience (43%), racialized (30%), lgtbiq+ (39%), among others.

Also within the network of attention to gender violence, drug use is one of the excluding factors for accessing protective housing resources, and drug use is one of the main factors for expulsion. There are very few residential resources exclusively for women and those that do exist do not incorporate a harm reduction perspective.

B.A., 41 years old, lives with her aggressor in an occupied space in downtown. Her partner physically, psychologically and economically abuses her. In December 2022, after suffering a serious episode of physical violence, she decides to file a complaint. When she is asked at the police station if she wants to apply for a protection order, she says no because the only place she has to sleep is the place where her partner lives. Given the lack of alternatives, she prefers not to apply for the order because she does not want to be alone in the street and be exposed to other violence from strangers. B.A. continues to suffer violence from her partner once the complaint is filed and it is not until February 2023 that Social Services refers her to a residential center. Despite reducing her alcohol consumption, B.A arrives at the center two days under the influence of alcohol, for which reason she is expelled from the resource. B.A. is now back on the streets, living with her aggressor, from whom she receives daily threats to withdraw her complaint.

3) Discrimination in access to health

Access to care and treatment services

Accessing and navigating the general healthcare system is complicated for those people finding themselves in multiple and interconnected situations of exclusion and vulnerability. Strict visit schedules are imposed on them that they cannot meet due to lack of solid life structures, or access through entry channels that are not available to them (cell phone, internet, etc.).

Metzineres participants report that they can only be tested early in the morning, but for those who work at night or sleep on the street, being functional at that time is practically impossible. Many Metzineres participants do not access or adhere to Methadone Maintenance programs for fear that their treatment will be abruptly interrupted.

S.L., 51 years old, *"Today I arrived and they were closed for a holiday, but today is not a holiday, they have a long weekend. As I don't have a telephone, I don't know if they have announced it. Since it's Easter they don't reopen until Tuesday. They won't give it to me and they won't give me any solution, but I can't go 4 days without Methadone. I am on 120 a day, if I don't get it I will have to use heroin".*

Certain medical treatments are only carried out in large hospitals, which are far from the areas where the women live. Lacking the means to travel or the financial means to afford public transportation, many women do not go or do not adhere to the treatments.

In terms of access to specialized drug dependence services, women represent only 13% of those accessing harm reduction centers in Catalonia (Subdirección General de Drogodependencias, 2022). This is due to women's efforts to avoid being identified as drug users due to the serious consequences this can have: loss of custody of their children, rejection by their communities, police harassment, among others.

H.J., 44 years old. She does not go to the social worker at her treatment center for fear of having custody withdrawn, failing to manage the social benefits that would be due to her. *"I don't come, because if they think I'm a user they won't give me back the child."*

Access to sexual and reproductive health

Drug use by women is one of the most stigmatized realities, which causes social rejection and is strongly penalized. Women who use drugs are considered incapable of caring for themselves and their communities, disqualified as mothers and criminalized. This generates feelings of shame and guilt. In addition, the reproduction of these stereotypes by professionals involved in care, as well as by the general population, constitutes one of the main barriers to access and adherence to care and treatment networks, as well as to other social assistance (UNAD, 2023). This leaves these women in a situation of helplessness and lack of protection. This is even more serious in the case of LGTBQ+ populations.

Despite the fact that there are more and more scientific studies indicating that external social factors unrelated to substance use have a greater impact on neonatal health than exposure to substances during pregnancy, in Spain substance use during pregnancy continues to be automatically linked to prenatal maltreatment. Thus, the use of substances during pregnancy is often a direct cause of withdrawal of custody by the administration and, on some occasions, is considered fetal abuse, punishable by imprisonment under the Spanish Criminal Law.

The resources for support and treatment for women who use drugs during pregnancy are very limited and in any case incorporate harm reduction perspective. Voluntary interruption of pregnancy is insisted upon as the only recommended option. Those who access care services are faced with a lack of specific and non-judgmental information on the impact of drug use on them and their children, as well as on the part of medical and health personnel on the use of substances. Maternal capacities are questioned, while motherhood is used as the main motivation to stop using substances.

There is a lack of agility in the response to motherhood in women affected by multiple situations of vulnerability. Often greater importance is given to the consumption trajectory than to comprehensive support, and the treatment to which women have access is also very limited.

A.M., 39 years old. She has been an injected heroin and cocaine user for 20 years. Mother of three children, the administration withdrew custody of the first two the day they were born. She stopped using after her last pregnancy. She explains that she is constantly on alert and afraid, due to the control she feels from the administration, more than to accompany or help her, to withdraw custody when the slightest thing she does wrong. *"I know that they are measuring every single thing I do. And I can't afford to make a mistake because if I do, whatever it is, if I make a mistake as a mother, they take my child away from me again."*

The fear of separation from their child or of being involved in legal proceedings, as well as the stigma that pregnant women and mothers who use drugs endure mean that in many cases they do not access either drug-related treatment or routine prenatal care. This puts both their own health and that of the fetus at greater risk.

V.L., 25 years old, kept her pregnancy a secret for fear of judgment and social rejection for using drugs while pregnant. She had no prenatal follow-up. When she woke up in the hospital, she saw that her son was no longer there and understood that she had been deprived of custody. She now carries guilt, shame and trauma.

Mental health care

The helplessness of homeless people with mental health diagnoses chronifies extreme situations of exclusion. Institutional responses are practically non-existent, forcing the person to deal with multiple diagnoses or none at all, treatment entrances and exits and, on the street, multiple situations of violence, especially in the case of women and gender divers people. Specific services to accompany these situations are totally insufficient.

Women who are homeless are much more likely to have mental health problems than those who have a stable residential situation. Sixty-seven percent of homeless people are likely to have mental health problems. This percentage rises to 80.5% in the case of women (FACIAM, 2022). Among the participants from Metzineres, about 74% have a mental health diagnosis.

P.I., 49 years old, was admitted in March 2023 urgently to the Hospital after a suicide attempt in the public street. At that time P was at high suicide risk, homeless and an active user of methamphetamine, with related episodes of acute psychosis. Despite this, the hospital kept her overnight for observation and discharged her the following day, assessing that the risk situation had decreased. After a week, she made a new suicide attempt in the Barcelona subway. Currently, the risk situation is still very high and, despite all the elements that prove it, she was not granted a place either in the public residential network or in the mental health care network, and is still in a street situation.

4) Criminalization

Criminalization in the administrative sphere

According to the Spanish CP, drug-related offenses include the cultivation, preparation, trafficking, promotion or illicit possession of toxic drugs, narcotics and psychotropic substances. The possession of drugs for personal use and self-consumption are not crimes, however, they are still administrative offenses when they occur in public spaces. Fines for these offenses range from 601 to 30,000 €.

These fines particularly affect women and gender diverse drug users who find themselves in multiple situations of vulnerability and contribute to increasing the stigma and criminalization they already suffer, as well as aggravating their economic vulnerability. For people experiencing homelessness, public space is often one of the few spaces they have to consume. Criminalization and stigma lead them to choose isolated and solitary spaces to use, increasing the risk of death in case of overdose. On other occasions, and to avoid consuming on the street, they consume in illegal drug dealing and consumption flats, often exposing themselves to multiple forms of violence, especially in the case of women and people of different genders.

In addition, these fines often lead to situations of police abuse and arbitrariness. In this regard, many women in Metzineres have denounced having been stopped and identified by the police on repeated occasions without any reason to justify the stop. Some of the women also explained irregularities committed by the police and how on occasions, as a result of these arbitrary stops, they have been victims of humiliating treatment, threats, verbal and even physical aggression by the officers.

T.J., 42 years old, explains that today the police have stopped her six times while she was walking down the street. *"They stop me constantly, they don't leave me alone. Today they searched me and took what I was carrying. My drugs and also my perfume. The perfume because they said I didn't have the tiket. And the drugs without no reason. Now I have nothing to use and no money. And they also made fun of me, saying that I was still lucky because they didn't fine me for possession. And where does the drug they are taking go to?".*

Criminalization in the penal sphere.

Prohibitionist drug policies aggravate the social and economic vulnerability already suffered by women who use drugs participating in Metzineres. Many of them do not have the economic means to acquire the substances, forcing them to resort to unsafe routes in which they are exposed to multiple forms of violence and, on occasion, to engage in criminal activities to obtain money to buy the drugs.

Of the 499 women currently participating in Metzineres, at least 40% are or have been in prison at some point in their lives. Many of these women have been in and out of prison several times or have been in and out since they were of age. Most of them are in prison for minor economic crimes that carry a fine. However, if they are unable to pay the fine, it is replaced by days of imprisonment. Others are charged with more serious economic crimes or crimes against public health.

Despite the minor nature of the crimes committed, the courts have failed to apply alternative penal measures, such as permanent localization or community service, an option expressly provided for in the Criminal Law.

Other women have been sentenced to prison for less serious economic crimes or crimes against public health. On some occasions these sentences have been suspended on condition that they undergo treatment. Many of these women either do not want to or are not prepared to give up drug use, but are forced to undergo these processes because the alternative is prison.

In addition, these treatments are adopted from a welfare approach that prevents the assumption of objectives aimed at improving the personal, family and social conditions of these women, favoring the confusion between assistance and control. For many women, drug use is neither the only nor the main problem they face. Those who sleep on the street often use substances to stay awake and alert during the night for fear of violence if they are alone and fall asleep. Abandoning use without first finding a safe space in which to rest is not an option on most occasions. **The percentage of women who adhere to treatment in these circumstances is minimal, causing that, on occasions, and given the impossibility of carrying out the required follow-up, the suspension of the sentence is revoked and the woman enters prison.**

Once in prison, for these women, drug use continues to be one of the main reasons for denying them permission to leave prison.

N.K., 40 years old, is currently imprisoned in a penitentiary center in Catalonia. She explains that the other day a disciplinary case was opened against her because a syringe was found on her. She obtained the syringe from the syringe exchange program provided by the prison's social and health care center. She is now afraid that she will be denied the next prison furlough because she has an open file.

C.M., 41 years old, was sentenced in 2018 to three and a half years in prison for a crime of robbery with intimidation, concurring the analogical attenuating circumstance of drug addiction. On November 14, 2018, it was agreed to suspend the execution of the prison sentence for a period of five years, conditioned to not committing a crime and to continue with the heroin and cocaine detoxification program until its completion. As part of the program, C.M. had to enter a therapeutic community for one year and subsequently follow up in a social-health care center, to which she had to go weekly. C.M. stopped using heroin, however, she continued to have problems related to cocaine use, with follow-up at the social-health care center as a condition of suspension. *"They would set me up for 9 a.m. visits. At that time I was working nights and, in addition, I was being harassed by the owner of the apartment I was living in, so most nights I didn't come by. At 9 a.m. I was in no condition to go on any visits. My bailiff spoke to me in masculine to every visit I went to, even though I always introduced myself with my feminine name. One day she told me that I was no longer old enough to do sex work or to do drugs. That drove me even further away from her."* On February 1, 2022, the judge revoked her suspended sentence due to irregular follow-up with the social-health care center and C.M. entered prison to serve the three and a half years imposed in the 2018 sentence. She is currently serving time in a prison in Catalonia. The first two leaves of absence proposed by the penitentiary center have been disallowed by the penitentiary surveillance judge. Despite all the favorable reports from the professionals of the penitentiary center, the judge argues that *"the convict needs a greater behavioral stabilization, because although she has favorably completed the specific treatment program, given her toxicological problems, she is currently under*

disciplinary proceedings for the use of a syringe with cocaine, which regardless of its cancellation or not, shows irregular behavior in the center, which in itself determines the disapproval of the leave requested (...)".

On many occasions, the entries and exits from prison break recovery and/or adherence processes that the women had begun (loss of places in shelters, interruption of treatment, etc.).

Also noteworthy is the lack of articulation, coordination and accompaniment by prison services for women leaving prison. No type of accompaniment upon release is provided and on many occasions no residential resource is even coordinated for the woman, thus leading her back to situations of vulnerability, reproducing the dynamics of violence and favoring the chronification of situations of social exclusion. This circumstance is even more aggravated when the woman is in an irregular situation, as she is not entitled to the release benefit or to any benefits upon release from prison.

J.B., 41 years old, has been in and out of prison since she was 18 years old. Most of the time for not being able to pay fines for minor economic crimes. Whenever she has been released from prison, she has always found herself back in a situation of homelessness. On her last release, prison professionals considered that since she was already receiving a state benefit (less than 500 euros per month), they could do nothing to find her a residential resource. Nor had they considered any training or socio-occupational insertion program. When she left, she found herself once again in a situation of homelessness, plunged into the same dynamics of delinquency and consumption.

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