Briefing 1

Human Rights and Drug Policy

Harm Reduction

"State Parties have obligations under international law and in particular under Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) to prevent epidemics. Therefore, states have an obligation under international law to pursue harm reduction strategies."

—Anand Grover[1]

UN Special Rapporteur on the right to the highest attainable standard of health

Context: Injecting drug use, HIV/AIDS and the 'war on drugs'

It is estimated that 15.9 million people inject drugs[2] in 158 countries and territories around the world.[3] The overwhelming majority lives in low- and middle-income countries. Unsafe injecting practices put people who inject drugs at high risk of HIV transmission. Outside of sub-Saharan Africa, up to 30% of all HIV infections occur through injecting drug use. In some countries, in particular in Central and Eastern Europe and East Asia, injecting drug use is the primary driver of HIV epidemics. In some places up to 80% of people living with HIV are likely to have acquired the virus through unsafe injecting.[4] Evidence suggests that more than three million people who inject drugs are living with HIV.[5]

What is harm reduction?[6]

The harm reduction approach to drugs is based on a strong commitment to public health and human rights, and benefits people who use drugs, their families and the community. Harm reduction, in essence, refers to policies, programs and practices that aim to reduce the harms associated with the use of psychoactive drugs without necessarily requiring the cessation of use. Harm reduction complements approaches that seek to prevent or reduce the overall level of drug consumption but accepts that many people who use drugs are unable or unwilling to stop. It also accepts that some people who use drugs do not need treatment. There is a need to provide people who use drugs with options that help to minimize risks from continuing to use drugs, and of harming themselves or others.

Examples of harm reduction interventions (see also briefings no. 3 and 5)

- Needle and Syringe Programs (NSPs)
- Substitute Medication Prescribing (e.g. opioid substitution therapy)
- Overdose Prevention (e.g. Naloxone, first aid training)
- Drug Consumption Rooms
- Route Transition Interventions[7]
- Outreach and Peer Education

Both needle and syringe exchange programs and opioid substitution therapy (OST) are essential components of the comprehensive HIV prevention, treatment and care package for people who inject drugs, as defined by UNAIDS, UNODC and WHO.[8]

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Harm Reduction in Policy and Practice Worldwide[9]

Despite the overwhelming evidence in favor of harm reduction as an effective HIV prevention strategy, the global state of harm reduction is poor. This is especially true in countries where harm reduction services are needed most urgently:

84 countries support harm reduction in policy or practice
74 have an explicit supportive reference to harm reduction in national policy documents
77 have needle and syringe exchange
10 have needle and syringe exchange in prisons
65 have opioid substitution therapy
37 have opioid substitution therapy in prisons
8 have drug consumption rooms

According to research by IHRA, there are at least 76 countries where injecting drug use has been documented and where no harm reduction services are available. Moreover, these figures are top line and do not indicate the scope, quality or coverage of services. In many countries, needle and syringe exchanges are run entirely by NGOs with, at best, grudging acceptance by the government, and, even though they are legal, are targeted by police (See Briefing No. 2). **Coverage levels sufficient to avert or reverse HIV epidemics have thus far only been implemented in parts of Western Europe, Australia and New Zealand.**

In the region of **South-East Asia**, only 3% of people who inject drugs have access to harm reduction programs. In East Asia, this figure is 8%. Needle and syringe exchange programs and opioid substitution therapy (OST) sites are currently limited to pilot programs in the majority of countries, reaching very small numbers.

Central and Eastern Europe and Central Asia witnessed the fastest growing HIV epidemics in the world. As a response to rapidly expanding HIV epidemics, almost all states in the region have needle and syringe programs, and the majority of states (23 of 29) prescribe OST for drug dependence. Russia, however, is home to around two million people who inject drugs, but the use of OST is still prohibited.

While injecting is rare in the **Caribbean**, recent research highlights a link between non-injecting drug use and sexual HIV transmission in several Caribbean countries, with HIV prevalence estimates among crack cocaine smoking populations reaching those found among injecting populations elsewhere. This linkage is not being adequately addressed and national drug and HIV policies remain largely unrelated in the region.

In **Latin America,** needle and syringe programs are available in five countries, although the vast majority operate in Brazil and Argentina. Mexico, with substantially more heroin users than other Latin American countries, is the only state which prescribes OST, although coverage is low.

In the **Middle East and North Africa,** six countries, including Iran, have needle and syringe programs and three have OST, although none have responses sufficient to meet the need. Across the region there is a low awareness of risks associated with injecting drug use. Few NGOs are working on harm reduction in the region, and in several countries restrictions on NGOs further limit the harm reduction response from civil society.

Although data on drug use in the region are limited, injecting has been reported in 31 of 47 **sub-Saharan African states.** Where data are available, they suggest high HIV prevalence among people who inject drugs. A Kenyan study, for example, found that six of every seven female injectors were living with HIV. Responses to HIV in the region currently include little focus on people who inject drugs. Mauritius, where an estimated 17,000—18,000 people inject drugs, is the only country where needle and syringe programs are operating.

Funding for harm reduction is very low globally and is neither representative of what is needed to address the HIV epidemic among injecting drug users, nor proportionate to injection-driven HIV transmission versus sexual transmission.[10]

In many countries, harm reduction is further hampered by criminal laws, disproportionate penalties and law enforcement practices that can drive people away from the health and harm reduction services that do exist and can lead to more risky forms of drug use. (See Briefing no. 2).

When people are imprisoned for drug related offenses, they often find that harm reduction services are unavailable to them. Only ten countries have needle and syringe exchange in prisons, and only 37 have OST. Prisons are concentrated risk environments for HIV transmission. As is regularly noted, good prisoner health is good public health. The absence of harm reduction in so many prisons is very worrying (See Briefing no. 3).

International Support[11]

Aside from support in the form of overwhelming scientific consensus,[12] harm reduction has been endorsed twice at the General Assembly, at the Economic and Social Council and recently at the Human Rights Council in the context of HIV/AIDS.[13]

These interventions are considered best practice in relation to HIV prevention among injecting drug users by every relevant UN agency, including the UN Office on Drugs and Crime, WHO, UNICEF, UNDP and UNAIDS.[14] The High Commissioner for Human Rights, Navanethem Pillay, has also expressed her office's support to harm reduction, stating that *"A harm reduction approach is the most effective way of protecting rights, limiting personal suffering, and reducing the incidence of HIV… We cannot deny that those suffering from addiction require medical care."*[15]

Harm Reduction and Human Rights

The right to health

The Committee on Economic, Social and Cultural Rights has, in recent sessions, recommended that states parties scale up their harm reduction programs in order to meet their obligations under article 12 of the Covenant. In relation to **Ukraine** in 2007, the Committee stated that it was "*gravely concerned at…the limited access by drug users to substitution therapy,*" and recommended that the state party *"make drug substitution therapy and other HIV prevention services more accessible for drug users."*[16]

In its Concluding Observations on **Tajikistan** in 2006, the Committee recommended *"that the State party establish time-bound targets for extending the provision of free testing services, free treatment for HIV and harm reduction services to all parts of the country."*[17]

Both the current and former Special Rapporteurs on the Right to the Highest Attainable Standard of Health have spoken out strongly in favor of harm reduction, in both speeches and following country missions.[18] As clearly stated by the former Special Rapporteur, Professor Paul Hunt, *"In seeking to reduce drug-related harm, without judgement, and with respect for the inherent dignity of every individual, regardless of lifestyle, harm reduction stands as a clear example of human rights in practice. What began as a health-based intervention in response to HIV must today be recognised as an essential component of the right to the highest attainable standard of health for people who inject drugs."*[19]

Freedom from cruel inhuman and degrading treatment

The Special Rapporteur on Torture has called specifically for harm reduction in places of detention.[20] (See also Briefing No. 3) He argued that "there can be no doubt that withdrawal symptoms can cause severe pain and suffering if not alleviated by appropriate medical treatment" [21] and concluded that "denial of medical treatment and/or absence of access to medical care in custodial situations may constitute cruel, inhuman or degrading treatment or punishment and is therefore prohibited under international human rights law."[22] He also recommended that "needle and syringe programmes in detention should be used to reduce the risk of infection with HIV/AIDS."[23]

The Special Rapporteur urged the Human Rights Council to address the tensions between drug control and human rights obligations. [24]

The rights of the child

Article 33 of the Convention on the Rights of the Child requires that States Parties "take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties..."

In its General Comment No. 3 on HIV/AIDS, the Committee on the Rights of the Child said, "Injecting practices with unsterile equipment further enhances the risk of HIV transmission. The Committee notes that greater understanding is needed of substance-use behaviours among children, including the impact that neglect and violation of the rights of the child has on these behaviours. In most countries, children have not benefited from pragmatic HIV prevention programmes related to substance use, which even when they do exist have largely been targeted at adults."[25]

The Committee has since called for *"the provision of necessary evidence-based support, recovery and reintegration services to all children affected by substance abuse…aimed at effectively reducing the harmful consequences of such abuse."*[26]

1 Foreword, "Harm Reduction and Human Rights: The Global Response to Drug Related HIV Epidemics," http://www.ihra.net/GlobalResponse.
2 Mathers B, Degenhardt L, Phillips B, Wiessing L, Hickman M, Strathdee S, Wodak A, Panda S, Tyndall M, Toufik A, Mattick RP and the Reference Group to the United Nations on HIV and injecting drug use, "The global epidemiology of injecting drug use and HIV among people who inject drugs: a systematic review," *The Lancet*, 2008, vol. 372.
3 Global State of Harm Reduction 2008: Mapping the Response to Drug-Related HIV and Hepatitis C Epidemics, International Harm Reduction Association, 2008, p. 12
4 Joint United Nations Programme on HIV/AIDS and World Health Organization, "AIDS epidemic update," 2007.
5 "The global epidemiology of injecting drug use and HIV among people who inject drugs: a systematic review."
6 http://www.ihra.net/Whatisharmreduction.
7 Route transition interventions aim to encourage people to move away from high-risk methods of drug use (such as injecting) to alternative methods which—while not *safe*—are much *safer* (such as intranasal or oral use). See Des Jarlais, D.C., Casriel, C., Friedman, S.R. & Rosenblum, A., "AIDS and the transition to illicit drug injection: results of a randomized trial prevention program," *Addiction*, 1992, vol. 87, pp. 493-498; Hunt, N., Preston, A. & Stillwell, G., "A Guide to Assessing 'Route Transitions' and Developing Interventions that Promote Safer Drug Use," 2005, Dorchester: Exchange Supplies; Pizzey, R. & Hunt, N. (2008). Distributing foil from needle and syringe programmes (NSPs) to promote transitions from heroin injecting to chasing: an evaluation. *Harm Reduction Journal,* 5:24; Southwell, M., "Transitions to and from injecting. In R. Pates, A. McBride & K. Arnold (Eds)," *Injecting Illicit Drugs*, (Oxford: Blackwell Publishing Ltd., 2005), pp.118-134.
8 http://www.unaids.org/en/PolicyAndPractice/KeyPopulations/InjectDrugUsers/default.asp.
9 http://www.ihra.net/GlobalStateofHarmReduction.
10 International Harm Reduction Association, "Three Cents a Day is Not Enough: Resourcing HIV harm reduction on a global basis," (forthcoming) 2010.
11 See, further, Human Rights Watch and IHRA, "Building Consensus: A reference guide to drug policy and human rights," 2008, http://www.ihra.net/BookofAuthorities.
12 See, for example, U.S. Institute of Medicine, "Preventing HIV Infection among Injecting Drug Users in High Risk Countries: An Assessment of the Evidence," September 2006, http://books.nap.edu/catalog.php?record_id=11731#toc;
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13 See http://data.unaids.org/pub/Report/2006/20060615_HLM_PoliticalDeclaration_ARES60262_en.pdf (para 22); http://data.unaids.org/pub/BaseDocument/2009/20090724_e2009l23_en.pdf (para 19); and Human Rights Council resolution 27/12, " The protection of human rights in the context of human immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS)," UN Doc No A/HRC/RES/12/27 (para 5), http://daccessdds.un.org/doc/UNDOC/GEN/G09/168/42/PDF/G0916842.pdf?OpenElement.
14 See , for example, World Health Organization, "Evidence for Action Technical Papers: Effectiveness of Sterile Needle and Syringe Programming in Reducing HIV/AIDS among Injecting Drug Users," (Geneva: World Health Organization, 2004), http://www.who.int/hiv/pub/prev_care/effectivenesssterileneedle.pdf; World Health Organization, "Evidence for Action Technical Papers: Effectiveness of drug dependence treatment in HIV prevention," (Geneva, World Health Organization: 2004), http://www.emro.who.int/aiecf/web203.pdf; World Health Organization, "Evidence for Action Technical Papers, Interventions to Address HIV in Prisons: Needle and Syringe Programmes and Decontamination Strategies," WHO/UNODC/UNAIDS, 2007, http://www.who.int/hiv/idu/oms_%20ea_nsp_df.pdf; World Health Organization, "Evidence for Action Technical Papers, Interventions to Address HIV in Prisons: Drug Dependence Treatments," WHO/UNODC/UNAIDS, 2007.
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16 UN Doc No E/C.12/UKR/CO/5 paras 28 and 51.
17 UN Doc No E/C.12/TJK/CO/1 para 70.
18 See for example, Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Paul Hunt, Mission to Sweden' (28 February 2007) UN Doc No A/HRC/4/28/Add.2 para 60; Anand Grover, Foreword, "Harm Reduction and Human Rights, The Global Response to Drug Related HIV Epidemics, International Harm Reduction Association," 2009.
19 Foreword, "Global State of Harm Reduction 2008: Mapping the Response to Drug-Related HIV and Hepatitis C Epidemics, International Harm Reduction Association," 2008, http://www.ihra.net/GlobalState2008.
20 UN Doc No A/HRC/10/44 paras 55-62.
21 UN Human Rights Council, *Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Manfred Nowak*, 14 January 2009, A/HRC/10/44, para. 57.
22 UN Human Rights Council, *Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Manfred Nowak*, 14 January 2009, A/HRC/10/44, para. 71.
23 UN Human Rights Council, *Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Manfred Nowak*, 14 January 2009, A/HRC/10/44, para. 74
24 UN Human Rights Council, *Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Manfred Nowak*, 14 January 2009, A/HRC/10/44, para. 71
25 N Committee on the Rights of the Child (CRC), *CRC General Comment No. 3: HIV/AIDS and the Rights of the Child*, 17 March 2003, CRC/GC/2003/3, para. 35
26 UN Doc No CRC/C/SWE/CO/4 para 49.