The adoption in 2001 of a “four pillars” approach to drug addiction in Vancouver, Canada is widely viewed as a watershed in the city’s efforts to address one of the developed world’s most severe injection-driven HIV/AIDS epidemics. Vancouver’s HIV/AIDS epidemic first came to national attention in the mid-1990s with the publication of estimates that the city’s injection drug users were becoming infected with HIV at a rate of about 20% per year, and that HIV prevalence among injection drug users stood at approximately 30–40% (Baglole, 2003; Crary, 1997). Policymakers increasingly embraced the view that traditional approaches to drug addiction, emphasizing criminal sanctions against drug users and provision of drug treatment and rehabilitation, were failing to stem drug use in the city and explosive rates of disease transmission. The four-pillars approach, which emphasized a “balance” of prevention of drug use, treatment, law enforcement, and harm reduction, was meant to depart from “business as usual” and to add Vancouver to the roster of progressive jurisdictions that emphasized “evidence-based” rather than punitive approaches to drug use and related HIV epidemics.

Deliberations of United Nations bodies in recent years suggest that other jurisdictions, as well as the UN itself, are also veering toward a global “balanced approach” to drug policy, one that ostensibly respects the role of both law enforcement and public health. This “balanced approach” is often expressed as meting out harsh punishment to drug traffickers and organized criminals, while treating drug users as “patients” in need of support and treatment. At the 48th session of the Commission on Narcotic Drugs in March 2005, the director of the U.N. Office on Drugs and Crime, Antonio Maria Costa, came out in favour of a “balanced” approach to drug policy and took pains to argue that law enforcement and public health objectives were mutually reinforcing (UNODC, 2005).

But does this “balance” hold water conceptually? Might there be an internal inconsistency among the various “pillars”? Could an alternative framework accomplish the same goals more effectively? These questions have generally not been critically analysed; nor has the political context behind “balanced” approaches, or the question of whether this “balance” is in fact a political compromise between opposing sides (law enforcement and public health) rather than a good-faith attempt to craft the best response possible to a public health crisis. This commentary argues that a human rights approach to injection drug use and HIV/AIDS, one that places human dignity at its center and guarantees an explicit range of human rights protections to injection drug users, is more likely than a “four-pillars” type approach to reap benefits for people who use drugs as well as for their families and communities.

Internal inconsistencies

Even prior to the adoption of the four-pillars strategy, there was significant evidence that traditional “law enforcement” approaches to illicit drug use, characterized by the widespread arrest and incarceration of people who possess or traffic banned substances, had the potential to undermine public health initiatives aimed at decreasing disease risk...
among drug users. The paradigm and reality of the drug user being driven “underground” by fear of arrest and not seeking health services are familiar to HIV/AIDS and public health experts. Researchers have documented increased syringe sharing among drug users during periods of intensified police activity, heightened HIV risk resulting from incarceration of drug users in prisons where syringe sharing is common, increased risk of overdose due to fear of police accompanying emergency medical services, and decreased attendance at voluntary treatment programs and needle exchange sites as a result of police surveillance (Aitken, Moore, Higgs, Kelsall, & Kegar, 2002; Blankenship & Koester, 2002; Bluthenthal, Kral, Erringer, & Edlin, 1999a; Bluthenthal, Lorvick, Kral, Erringer, & Kahn, 1999b; Human Rights Watch, 2003a, 2003b, 2003c, 2003d, 2003e, 2004a, 2004b; Koester, 1994; Maher & Dixon, 1999; Rhodes et al., 2003). These studies have highlighted the role of law enforcement in shaping the “risk environment” in which drug users inject, and have suggested that law enforcement approaches to illicit drug use must be rethought in order to ensure the effective implementation of harm reduction programs.

The notion that law enforcement actions might undermine (as opposed to complement) public health interventions for drug users is strikingly absent from Vancouver’s four pillars and other such approaches. Indeed, the “four pillars” document stresses the similarities between public health and law enforcement approaches, suggesting that both are ultimately aimed at “a safer, healthier community” (MacPherson, 2001, p. 32). The document posits that law enforcement officials might support public health programs by referring drug users to services, thus striking a “balance between public order and public health.” It does not acknowledge that the same police officer who might refer a drug user to a treatment program also carries the coercive powers of the state, and is therefore unlikely to be trusted in a social service role. Much less does it acknowledge that drug users’ interaction with law enforcement officials is often characterized by violence, infringements of due process, or verbal abuse. Law enforcement officials are viewed in the four-pillars approach as equal “stakeholders” in development of drug policy, not as agents of the state who ultimately have the power to strip drug users of their liberty or charge them with crimes, no matter how responsibly that power might be exercised.

This theoretical flaw in the four-pillars approach is clearly borne out in practice. In their article in this issue of the *International Journal of Drug Policy*, Small and colleagues observe an association between increased law enforcement activity during a 2003 crackdown in downtown Vancouver and a rise in unsafe injection practices, diminished access to sterile syringes, and decreased uptake of primary health care and harm reduction services (Small et al., 2006). This association is largely explained by the fear of arrest occasioned by a massively increased law enforcement presence in the downtown eastside in April 2003. In an earlier investigation of this crackdown, Human Rights Watch observed not only an increased police presence, but also a range of human rights violations including improper search and seizure, excessive use of force, and detention for vague or petty offenses such as vagrancy and jaywalking. Such abuses are not only illegal in themselves, but also increase the likelihood that drug users will retreat into hiding rather than avail themselves of available health services that could address their addiction or risk of infectious disease.

**Political compromise**

Advocates for harm reduction and HIV/AIDS prevention are familiar with the pitfalls of political compromise. In almost every society, the “wish list” of harm reduction advocates – government-funded needle exchange programs and opiate substitution therapy, both in and outside prison, equal access to antiretroviral treatment for drug users living with HIV/AIDS, etc. – falls victim to a process of political negotiation that ultimately results in a less than scientific result. The 1998 decision of President Bill Clinton to delegate funding for needle exchange to the state level (thus maintaining a ban on federal funding for sterile syringes) is a classic example. It would be naïve to suggest that the four-pillars approach is not similarly mediated. By its own description, the approach “seeks to bring together the diversity of views and issues surrounding substance misuse so that we can build a consensus for action” (MacPherson, 2001, p. 32). In this sense, the document may be described as more political than evidence-based. It is preoccupied with achieving “consensus” without reflecting on whether the consensus result is necessarily the best one for drug users and their communities.

Even if harm reduction is sometimes recognized in policy documents, as it is in Vancouver, consensus means that law enforcement will always carry equal if not greater weight than public health interventions, particularly as policy turns into practice. This is not only because police officers and prison guards represent powerful constituencies that command significant public resources. It is also because, in the lives of injection drug users, law enforcement officials represent a coercive and potentially abusive power that practitioners of harm reduction and public health simply cannot match. It was partly this imbalance of power – and also the heavy preponderance of resource allocation in Vancouver to police action among the “pillars” – that led one advocate to describe the strategy as “three toothpicks and a tree trunk.” (Human Rights Watch, 2003a).

To be sure, the fear of contracting HIV/AIDS and the fundamental instinct to protect one’s health may be positive incentives for drug users to avail themselves of needle exchange and other harm reduction programs. But this incentive is rarely as powerful as the fear of arrest or incarceration represented by law enforcement officials, even if those officials act within the bounds of professional conduct. “I’d rather get AIDS than go to jail,” says one injection drug user, expressing a sentiment that should provoke reflection on the
A human rights approach

It is tempting to conclude that law enforcement and harm reduction must always be in tension, as drug users will always fear arrest (and therefore shy away from certain health services) as long as possession of narcotic drugs is a criminal offense. However, a possible reconciliation of these approaches lies in an emphasis on human rights as a framework for drug policy. Under a human rights approach, it is not only drug users who are accountable to the law—it is also police officers as well. Human rights law places enforceable limits on the conduct of law enforcement officials, indeed on the conduct of sovereign states as a whole. It provides clear remedies for individuals who are mistreated by police, as well as creating a binding obligation on states to implement effective public health programs. In this sense, human rights has the potential to "level the playing field" between law enforcement and public health by placing binding legal obligations on governments in addition to those they govern.

Moreover, human rights represent the antithesis of political compromise, which is at the root of the internal inconsistencies in "balanced" approaches. Human rights inheres to the person and are not contingent on consensus or majority view. Where a consensus approach might result, for example, in the placement of needle exchange programs in "discreet" locations where the general public cannot see them, a human rights approach takes as its point of departure the right of drug users to gain access to health services. Similarly, where a consensus approach might privilege the desire of the "majority" of the community to enjoy "drug free" streets, a human rights approach would insist that the pursuit of this interest avoid needless intrusions into personal liberty. There is nothing in this approach that undermines public welfare or democratic ideals; on the contrary, protecting the rights of vulnerable groups is consistent with the highest ideals of democracy and public welfare. In cases where human rights and public welfare appear to conflict, human rights admit of justifiable limitations and aim to strike the appropriate balance between competing interests.

Finally, it is often said that human rights approaches pit individual freedoms against public welfare, in some cases contributing to tension and mistrust between individuals and public officials (including police officers). Officials in the Vancouver Police Department have on occasion criticized human rights advocates for driving a wedge between drug users and police officers, pointing to the fact that many drug users appreciate law enforcement efforts and desire "safe streets" as much as anyone (Human Rights Watch, 2003a). This is a mischaracterization of the rights approach. If protecting the rights of individuals were inconsistent with public order, societies would descend into totalitarianism. The fact that drug users appreciate the importance of public order does not mean they forfeit their rights, nor that they value law enforcement over and above harm reduction or any other "pillar." Ultimately, governments must accept that there is nothing divisive about respecting people’s rights, and that applying the rule of law to police and drug users alike befits society as a whole. Cities and states that seek to provide leadership in HIV prevention among drug users should dare to make human rights explicit in their drug policy.

References


