



**HIV/AIDS Asia Regional Program
(HAARP)**

**Law and Policy Review
July 2009**

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United Nations Regional Task Force on Injecting Drug Use and HIV/AIDS
for Asia and the Pacific

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Acronyms¹

AIVL	Australian Injecting and Illicit Drug Users' League
ATFOA	Asian Task Force on AIDS
ATS	Amphetamine Type Substance
APN+	Asia Pacific Network of People Living with HIV/AIDS
ART	Anti-Retroviral Treatment
ASEAN	Association of South East Asian Nations
ASOD	ASEAN Senior Officials on Drug Matters
AusAID	Australian Agency for International Development
CFP	Country Flexible Program
CND	UN Commission on Narcotic Drugs
COMMIT	Coordinated Mekong Ministerial Initiative against Trafficking
GFATM	The Global Fund to Fight AIDS, Tuberculosis and Malaria
HAARP	HIV/AIDS Asia Regional Program
HCCF	HAARP Consultation and Coordination Forum
HR	Harm Reduction
IDU	Injecting Drug User / Injecting Drug Use
INPUD	International Network of People who Use Drugs
MMT	Methadone Maintenance Therapy
MSM	Men who have sex with men
MOU	Memorandum of Understanding (on Drug Control)
NSP	Needle and Syringe Program
OST	Opioid Substitution Therapy
PCB	UNAIDS Programme Coordinating Board
PLHIV	People living with HIV/AIDS
RTCU	Regional Technical Coordination Unit
STI	Sexually Transmitted Infection
UNGASS	United Nations General Assembly Special Session on HIV/AIDS
UNODC	United Nations Office on Drugs and Crime
UNRTF	United Nations Regional Task Force on Injecting Drug Use and HIV/AIDS for Asia and the Pacific
VCT	Voluntary Counselling and Testing

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Disclaimer

This report was prepared by David Stephens on behalf of the Regional Technical Coordination Unit of the HIV/AIDS Asia Regional Program (HAARP). The views expressed in the report do not necessarily reflect the views of AusAID or the Australian government, or those of the HAARP program. Nor do they represent the capacity of the HAARP program to respond or an undertaking to do so. That responsibility is shared collectively by the members of the UNRTF and other actors in the HIV field.

¹ See Appendix 2 for Country Review Acronyms.

Executive Summary

This review provides an overview of international and national regulatory mechanisms on drug use and related HIV prevention, treatment and care with special reference to six countries (Cambodia, China, Lao PDR, Myanmar, Philippines and Viet Nam) included in the HIV/AIDS Asia Regional Program 2007- 2015 (HAARP).

Objectives of the review

- To identify the international, regional and national legislation, agreements and policies that critically impact on HIV prevention relating to injecting drug users (IDUs);
- To equip HAARP with information and analysis of the legal and policy environments regionally and within the CFPs for programming and advocacy purposes;
- To provide a baseline for measuring the contribution of HAARP to legal and policy development.

Summary of findings

- International and national drug control and HIV/AIDS prevention policies pay due attention to injecting drug users and their role as vectors of the HIV epidemic.
- Key international and regional policy frameworks that focus on HIV prevention, treatment and care are overwhelmingly supportive of harm reduction.
- Increasingly, international and regional policy frameworks focusing on drug policies, are also emphasising the need to address the 'harms' that result from drug use.
- However, there is a continuing disconnect between official policies, declarations and commitments and their application. Conflicting systems of regulation are applied side by side.
- In all HAARP countries compulsory treatment and incarceration are used side by side with harm reduction services. These centres frequently infringe the international human rights conventions.
- Nevertheless, all HAARP countries have succeeded in negotiating practical compromises enabling the provision of some harm reduction services.
- In all HAARP countries access to harm reduction services by injecting drug users remains inadequate.

Recommendations

1. Advocacy

The following key advocacy messages should be shared with all stakeholders:

- Drug users should be treated and not punished;
- Harm reduction is first and foremost a public health approach, and
- Drug control authorities should be assisted to develop voluntary treatment interventions as an alternative to compulsory treatment.

2. Rights based approaches

Ensure that all drug use and HIV interventions respect UN conventions on human rights.

3. Legal and policy implementation support

The best laws and policies are meaningless unless they are accurately and effectively implemented. Clear harm reduction policy guidance should be given to law enforcement agencies and officers and harm reduction program implementers.

4. Universal Access and harm reduction scale up

Policies need to be developed which favour the provision of linked HIV services for IDU and awareness of the HIV treatment needs of drug users among policy makers, drug treatment services and personnel should be a consideration of program implementation and operational policy.

5. Involvement of drug users

The active involvement of IDU in planning and implementation of harm reduction programs and in the development of related policy should be encouraged and supported.

Involvement of IDU needs to be considered:

- at the policy and advocacy level through support to regional, national and provincial drug users groups and networks; and
- at the program level through the development and/or adjustment of drug services to facilitate client involvement.

6. Policy monitoring and sharing

A strong policy environment is needed in order for harm reduction programs to perform to their full potential. There is great value for services within countries to monitor and share information about their policy and legal environments.

7. Collaboration with law enforcement

It is important to acknowledge that police have to negotiate a path between different and conflicting jurisdictions. Ongoing dialogue between harm reduction and law enforcement sectors, both at a community and national level, should be supported.

8. Focus on gender

Law and policy related to HIV and IDU should focus on gender equity to ensure that the diverse needs of men and women IDUs are met.

9. Local ownership

While international best practices and norms are important in providing benchmarks for policies and laws, without committed ownership and engagement from local actors, policy and legal activities can remain weak or marginal to effective program implementation.

For additional country specific recommendations, see Country Reviews.

Introduction

Drug laws and policies and HIV/AIDS prevention and care are inextricably linked. Injecting drug use is a major vector of HIV transmission and the ways in which drug laws and policies are framed and implemented impact upon efforts to prevent and treat HIV and AIDS. When drug users are provided with access to appropriate services, and have the tools and knowledge to protect themselves from viruses contracted through the use of contaminated needle and syringes, HIV infection rates are reduced. However, law and policy that does not support harm reduction can hinder IDUs ability to access these services.

Harm reduction is a pragmatic evidence-based approach, which aims to reduce harms from drug use without necessarily changing or stopping drug use. Harm reduction interventions include the dissemination of information on how to reduce risks associated with drug use, the provision of sterile needle and syringes to limit sharing of contaminated equipment, the distribution of condoms and making available HIV voluntary testing and counselling, treatment of opportunistic infections and antiretroviral (ART) treatment for AIDS when needed. Harm reduction also includes a range of drug dependence treatment options, such as opioid substitution therapy, which allows a drug user to substitute a synthetic medically sanctioned opioid for street drugs and to move out of the illegal drug scene.

Regardless of the critical link between injecting drug use and HIV transmission, all national governments in the Asia region have formulated their responses to drug use based on the conceptualization of drug use as an illegal and criminal activity. Some countries have adopted harsh policies to combat drug use. In South East Asia, several countries, including 5 out of 6 countries supported by the HIV/AIDS Asia Regional Program (China, Lao PDR, Myanmar (Burma), Viet Nam and the Philippines) have retained the death penalty for drug trafficking and for possession. Interestingly the actual quantities of drugs 'in possession' that may lead to a capital punishment vary greatly between countries. For example in China, the death penalty may be applied for possession of 50g of heroin. In Viet Nam, the quantity necessary to constitute a capital crime is double that amount (100g), while the 500g threshold in Laos is five times that of the Vietnamese legislation and ten times that under Chinese narcotics laws².

It is difficult to offer drug users harm reduction services such when drug use is heavily penalised. In Cambodia, China, the Lao People's Democratic Republic, Myanmar and Viet Nam drug users are routinely arrested and sent to compulsory drug treatment centres, which are supervised by law enforcement personnel with little involvement of medical or psychiatric staff. Where harm reduction services are either ongoing or under consideration, it is thus a major task to sensitize the local police by explaining the health objectives of the services.

The HIV/AIDS Asia Regional Program (HAARP)

The HIV/AIDS Asia Regional Program (HAARP) is committed to supporting the provision of high quality HIV prevention for injecting drug users in South East Asia. It aims to strengthen the capacity and will of governments and communities in the region to adopt effective

² Rick Lines (2007) The Death Penalty for Drug Offences: A violation of International Human Rights Law, the International Harm Reduction Association.

harm reduction approaches that address HIV transmission associated with drug use, especially injecting drug use.

HAARP operates in 6 South East Asian countries: Burma (Myanmar); Cambodia; China; Lao PDR; the Philippines and Viet Nam.

The guiding principles of the HAARP program are as follows:

- I. Nothing for us without us – Working with affected people;
- II. Effectiveness - Emphasising partnership and cooperation – emphasising partnership and cooperation;
- III. Evidence for action - Scaling up, in terms of quantity and quality of harm reduction programs;
- IV. Respect and protection – Advocating for tolerance and social change, in relation to drug users;
- V. Reducing vulnerability - Creating an enabling environment by addressing stigmatisation and criminalisation, and
- VI. Gender awareness and integration - Advocating for action and policy change that addresses the needs and roles of men and women in relation to HIV harm associated with drug use.

The drug use and HIV situation in HAARP countries

The estimated HIV prevalence in injecting drug users differs across the HAARP countries (and is not currently known in Laos PDR; see table 1). For example, HIV prevalence in IDU estimated in Burma is 42.6% and in the Philippines it is only 1%. However, of the 84 countries in the world with available data on HIV prevalence in IDU, Cambodia, Vietnam and Burma are within the 12 highest prevalence countries³.

Table 1 - Estimated number of IDU and HIV prevalence in IDU in HAARP countries

	Estimated number of IDU (year of estimate)	Prevalence of HIV among IDU (%) (year of estimate)
Burma	60,000 – 90,000 (2007)	42.6 (2006)
Cambodia	1,000 – 7,000 (2004)	14.3 – 31.3 (2006)
China	1,800,000 – 2,900,000 (2005)	7.96 – 19.2 (2005)
Lao PDR	--	--
Philippines	--	1.0 (2005)
Viet Nam	135,305 (2005)	1.9 – 65.8 (2006)

Purpose

This review analyses the regulatory environments that impact on HIV prevention activities, and influence the HIV/AIDS in Asia Regional Program (HAARP) Country Flexible Programs (CFPs).

³ Mathers et al (2008) Global epidemiology of injecting drug use and HIV among people who inject drugs: a systematic review The Lancet 2008, Volume 372

HAARP is an Australian Government, AusAID funded program that works to effectively implement harm reduction strategies to reduce drug-related HIV harm in the South East Asia Region. HAARP comprises two layers of activity focused on HIV and injecting drug use – at the regional level and at country levels in six countries. The first section of the report is concerned with HAARP law and policy activities at the regional level. The second addresses country level law and policy issues.

The report is designed to support HAARP with information that can be used to strengthen legal and policy strategies and activities designed to support harm reduction activities in Cambodia, China, Lao PDR, Myanmar, the Philippines and Viet Nam.

The Law and Policy Review is a joint activity of the United Nations Regional Task Force on Injecting Drug Use and HIV/AIDS in Asia and the Pacific (UNRTF) and the HAARP Regional Technical Coordination Unit (RTCU).

Objectives

- To identify the international, regional and national legislation, agreements and policies that critically impact on HIV prevention relating to injecting drug users (IDUs);
- To equip HAARP with information and analysis of the legal and policy environments regionally and within the CFPs for programming and advocacy purposes;
- To provide a baseline for measuring the contribution of HAARP to legal and policy development.

Methodology

This is a desk review of international and national HIV/AIDS and drug control legislation, national and sub-national strategic/action plans and regulatory guidelines/directives. Other subsidiary policies (for example Opioid Substitution Therapy guidelines) are included where it has been possible to source them. Other related national laws and policies (for example, laws on civil association) are discussed where relevant. Certain laws and policies related to drugs and harm reduction which may be of interest to some readers, such as the policies of prisons and other closed settings, are beyond the scope of this review. Other relevant material includes assessments commissioned by the UNRTF, reports from the Asia Regional HIV/AIDS Program (the predecessor to HAARP) and interviews with stakeholders at the country level.

In addition, the review has addressed the roles of policy and legal institutions and actors, including national ministries, legislative bodies and other civil society organisations, including drug user groups, people living with HIV (PLHIV) and the media. The review takes a broad definition of policy to include legal and policy documents, policy processes, policy monitoring, and evaluation and implementation.

Relevant national legal and policy documents were identified with HAARP stakeholders. Phone interviews and face-to-face discussions were held with in-country stakeholders in China and Viet Nam, Cambodia, Lao PDR, Myanmar and the Philippines. Also, in-country stakeholders provided input into the review during the HAARP Consultation and Coordination Forum (HCCF), a biannual meeting of all HAARP partners which was held in October 2008. Other interviews, including via email, were conducted with HAARP regional

and country level stakeholders. These included staff from the RTCU and CFPs, members of the UNRTF, members of AusAID country posts, and other country and regional actors.

Interviews were informal and covered broad themes related to the aims of the HAARP program, and the key legal and policy issues identified by country and regional stakeholders relevant to supporting the activities of HAARP and scaling up harm reduction services.

A draft of this report was reviewed by members of the UNRTF working group, the RCTU, and in-country stakeholders including AusAID and staff from the CFPs.

Key definitions

The following definitions have been used:

Agreement can have a generic and a specific meaning, such as ‘international agreements’, which do not meet the definition of ‘treaty’ – agreements are usually less formal and deal with a narrower range of subject matter than treaties⁴;

Strategies are generally time-bound short, medium or long-term action plans designed to achieve a set of specific goals and objectives. Strategies describe actions and what is to be done in order to achieve targets, objectives and goals;

Policies are typically understood as a deliberate plan of action to guide decisions and achieve rational outcome(s). However, the term may also be used to denote what is actually done, even though it is unplanned. Policy differs from law. While law can compel or prohibit behaviors, policy guides actions toward goals that are most likely to achieve a desired outcome.⁵ Laws can be designed as implementing strategies for policies;

Laws are rules of conduct or action prescribed or formally recognised as binding or enforced by a controlling authority. Laws are enforced by the state through the judiciary. In general laws covered in this review include HIV/AIDS laws and drug control laws;

Guidelines provide information on how to go about implementing a policy or law, and

Operational policy or operating procedures are intended to provide clear, standardised, transparent systems for decision-making on program implementation; for example, how to manage a needle and syringe program.

Table 1: Relevant laws, policies and agreements

Laws	<ul style="list-style-type: none">- HIV/AIDS legislation- Narcotic control legislation- Criminal law- Other relevant laws, for example laws governing civil association,
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⁴ This definition is taken from the United Nations Treaty Collection, Treaty Reference Guide. For more details, go to <http://untreaty.un.org/English/guide.asp#agreements>

⁵ This definition of policy is taken from Wikipedia as it captures the often blurred dimensions of HIV/AIDS policy. For example, a policy may relate to a set of practices as in voluntary counselling and testing, or more broadly to a general direction or policy approach characteristic of HIV/AIDS, for example multisectorialism. http://en.wikipedia.org/wiki/Government_policy

	anti-discrimination legislation
Policies	<ul style="list-style-type: none"> - National/provincial (local government) HIV/AIDS strategies - National/provincial (local government) harm reduction strategies - National/local government narcotic control strategies - Directives, circulars, implementing guidelines - Other relevant policies, for example workplace policy
Agreements	<ul style="list-style-type: none"> - HIV/AIDS global and regional agreements - Narcotic control global and regional agreements - Memoranda of understanding (MOUs)

Review limitations

While every attempt has been made to source the most up-to date national legal and policy documents from the HAARP countries, it was not always possible to source all relevant policy and legal documents pertaining to country level HAARP activities. The review was largely desk-based and this has implications regarding access to key stakeholders and documents at the country level. In essence, a desk-based review, while adequate, cannot provide the level of detail associated with direct access to sources and stakeholders at the country level.

International and Regional Law and Policy Review

International and Regional HIV/AIDS Frameworks

A number of international and regional HIV/AIDS frameworks commit governments to certain standards and principles in the conduct of HIV/AIDS and harm reduction activities. Importantly, these frameworks highlight the importance of human rights in all HIV activities and the role of affected communities, including drug users, in policy and program responses to HIV/AIDS.

UNGASS on HIV/AIDS

The Declaration of Commitment by the United Nations General Assembly Special Session (UNGASS) on HIV/AIDS is the most important of all international HIV frameworks. It requires governments to regularly consult and report to the United Nations on progress against an internationally agreed set of indicators, including National Policy Composite Indicators that relate to drug users and other vulnerable populations.

The Declaration of Commitment calls for an expansion of access to sterile injecting equipment and to harm reduction efforts related to drug use.⁶ The UNGASS Guidelines on the Construction of Core Indicators intended to monitor the implementation of the Declaration, notes that ‘safer injecting and sexual practices among IDUs are essential’. Countries are expected to provide information to the United Nations on the percentage of IDUs who report using sterile injecting equipment, who report the use of condoms, who are reached with HIV prevention education and information and who have tested for HIV.⁷

Universal Access

At the June 2006 United Nations General Assembly High-Level Meeting on HIV/AIDS, United Nations Member States agreed to work towards the goal of ‘universal access to comprehensive HIV prevention programs treatment, care and support’ by 2010. To achieve universal access, countries must commit to expanding services for all IDUs.⁸ Universal access to a comprehensive package of services for IDUs should include:

- Needle and syringe programs;
- OST and other drug dependence treatment;
- HIV testing and counselling;
- HIV treatment and care, including antiretroviral therapy;
- Prevention and treatment of sexually transmitted infections;
- Condom programming for IDUs and their sexual partners;
- Targeted information, education and communication for IDUs and their sexual partners;
- Hepatitis (B and/or C) diagnosis, treatment and vaccination where appropriate; and

⁶ “Declaration of Commitment on HIV/AIDS.” United Nations General Assembly Special Session on HIV/AIDS, 25-27 June 2001, paragraph 52.

⁷ “Monitoring the Declaration of Commitment on HIV/AIDS: guidelines on construction of core indicators: 2010 reporting.” Joint United Nations Programme on HIV/AIDS (UNAIDS), 2009.

⁸ Technical guidance to support universal access targets at the country level is provided in the document, “WHO, UNODC, UNAIDS technical guide for countries to set targets for universal access to HIV prevention, treatment and care for injecting drug users.” WHO, 2009.

- TB prevention, diagnosis and treatment.⁹

UNAIDS Programme Coordinating Board

In June 2009, the 24th Meeting of the UNAIDS Programme Coordinating Board (PCB) discussed HIV prevention among IDUs, based on a paper prepared by UNODC, WHO and the UNAIDS Secretariat. The Board requested the UNAIDS Secretariat and the Cosponsors, in particular UNODC, to significantly expand and strengthen the work with national governments to address the uneven and relatively low coverage of services among IDUs and to develop comprehensive models of appropriate service delivery for IDUs in line with relevant national circumstances and the “WHO, UNODC, UNAIDS Technical Guide for countries to set targets for Universal Access to HIV prevention, treatment and care for injecting drug users”.

In addition, the PCB also called for the expansion of resources for IDU work; requested to intensify the work with and support for civil society; called upon Member States to harmonise public health and drug control laws; defined harm reduction in accordance with the nine interventions of the WHO/UNODC/UNAIDS Target Setting Guide; called upon Member States to address specific subgroups such as female injecting drug users and non-injecting drug users; called for improving data collection; called for improving surveillance for viral hepatitis; and requested to strengthen work with stimulant users.

ASEAN

The Association of South East Asian Nations (ASEAN) is a geopolitical and economic organisation representing 10 countries on South East Asia. It provides a regional forum through which governments discuss and elaborate national and regional commitments on HIV/AIDS and drug control.

ASEAN established the ASEAN Task Force on AIDS (ATFOA) in 1993, which has developed a series of ASEAN Work Programmes on HIV (AWP). The current AWP is the third since the establishment of ATFOA and outlines a program of action for 2006-2010.

ASEAN established a number of mechanisms to help monitor the HIV/AIDS Epidemic:

1. Vientiane Action Program

The Vientiane Action Program (VAP) commits ASEAN governments to ‘strengthen capacity of ASEAN Member Countries to reduce the vulnerability of drug users to HIV/AIDS and other blood-borne infectious diseases’.¹⁰ VAP also reiterates ASEAN commitment to the timetable of a drug-free ASEAN and China by 2015;

2. The Cebu Statement

The Cebu Statement commits ASEAN governments to a number of country and regional responses to HIV, including supporting and engaging in partnerships with people living with HIV, and respecting, protecting and promoting the rights of people living with HIV and groups vulnerable and most at risk to HIV¹¹. The statement emphasises the importance of

⁹ “Towards universal access: scaling up priority HIV/AIDS interventions in the health sector. Progress report 2008.” WHO, 2008.

¹⁰ Vientiane Action Programme (VAP) 2004-2010.

¹¹ ASEAN Commitments on HIV and AIDS. Cebu, Philippines, 13 January 2007.

enacting necessary legislation to ensure that affected groups are not subject to stigma and discrimination, and that there is equal access to health, social welfare and education services.

3. Vientiane Statement

In May 2008, representatives of the ASEAN Task Force on AIDS and PLHIV groups in ASEAN countries released the Vientiane Statement of Commitment on the Greater Involvement and Empowerment of People Living with HIV/AIDS. The Statement affirms a commitment to the principle of greater involvement of people living with HIV (GIPA) including PLHIV who inject drugs. Among the commitments to support the rights of PLHIV (including drug users) and reducing stigma and discrimination, the statement commits ASEAN members to support the continued scale up of harm reduction prevention programs including NSP and OST¹².

International and regional drug control frameworks

ACCORD

An international congress, *In Pursuit of a Drug-Free ASEAN and China 2015* was held in Bangkok, Thailand, in October 2000, under the auspices of the United Nations Office on Drugs and Crime (UNODC) for East Asia and the Pacific.

This international congress resulted in the development of a regional framework: the ASEAN and China Cooperative Operations in Response to Dangerous Drugs (ACCORD). ACCORD was endorsed by 36 countries and 16 international organisations. A Plan of Action was adopted and divided thematically to address both the demand and the supply of drugs.

ACCORD is currently under review. Recommendations include a 10% annual increase in the number of total arrests for drug law violations and highlight the need to address laws and policies that may prevent access due to HIV status.¹³ However, in the section on HIV, the recommendations do not consider NSP, or the conflict generated by drug/criminal legislation that acts as a barrier to people accessing drug services.

UN CND Political Declaration

In March 2009 the High Level Segment of the UN Commission on Narcotic Drugs (CND) met to agree on a new Political Declaration on drugs. Representatives from 130 countries were present to conclude a two year review on the global drug control system and review progress on the UN General Assembly objectives set in 1998, of 'eliminating or significantly reducing' the cultivation of cannabis, coca and opium, and making measurable progress in demand reduction.

Despite worldwide advocacy to include harm reduction in the statement, it was excluded because of opposition from a small number of governments. An important opportunity to strengthen and align the global policy architecture of drug control with harm reduction was

¹² Vientiane Statement of Commitment on the Greater involvement and Empowerment of People Living with HIV/AIDS. Vientiane, Lao PDR, May 2008.

¹³ "Drug-Free ASEAN 2015: Status and Recommendations." United Nations Office on Drugs and Crime (UNODC) Regional Centre for East Asia, 2008.

lost.¹⁴ It should be noted that while the term 'harm reduction' is language which has been adopted in relation to HIV by the UN General Assembly both in its 2001 Declaration of Commitment on HIV/AIDS and in its 2006 Political Declaration on HIV/AIDS, as well as by the Programme Coordinating Board of UNAIDS, the term has remained disputed at the CND.

However, it is significant that the CND at its most recent session referred to the "WHO, UNODC, UNAIDS Technical Guide for countries to set targets for Universal Access to HIV prevention, treatment and care for injecting drug users"; in that guide are targets for all of the nine essential elements of comprehensive responses for HIV prevention among injecting drug users, a set of measures which many countries choose to refer to as 'harm reduction' measures. The CND Political Declaration recognized that countries have a shared responsibility for solving the world drugs problem, that a 'balanced and comprehensive approach' is called for and that human rights need to be recognized. Most importantly, the Political Declaration adopted at the CND stresses health as the basis for international drugs policy.

Other frameworks

In addition to ACCORD, the ASEAN Senior Officials on Drug Matters (ASOD) and the Memorandum of Understanding (MOU) on Drug Control provide further regional drug control frameworks.

ASOD is composed of senior drug control officials from ASEAN countries. It meets on an annual basis to discuss policy issues, approve new initiatives and review drug control progress in the ASEAN region. ASOD also has a plan of action for drug control that is regularly reviewed by member states.

The MOU on Drug Control was initiated in 1993 with China, Lao PDR, Myanmar, Thailand and UNODC as the first signatories. In 1995, Cambodia and Viet Nam became part of the MOU, creating a drug control framework that encompasses the Greater Mekong Region. Project implementation is the major focus of the MOU. Largely utilising external sources, the MOU provides a broad range of assistance to participating countries to address the demand and supply aspects of drug control.

China is a driving force in developing regional agreements with neighbouring countries. Among the reviewed countries, China is the largest consumer of heroin, making regional cooperation over drug control a high-ranking issue in transnational cooperation over crime.¹⁵

Brief critical review

Drugs and HIV and AIDS control and prevention intersects many different domains: law, criminal justice, human rights, public health and others. In each of these domains, the United Nations and national legislative instruments have laws, conventions and protocols and operating procedures. Some are "hard" laws while others are non-binding traditions or

¹⁴ "IDPC Briefing Paper: Why Is The Outcome Of The United Nations Drug Policy Review So Weak And Inconclusive?" International Drug Policy Consortium, April 2009. <http://www.idpc.info/php-bin/documents.pl?ID=1000235>

¹⁵ Sheng Lijun. "China- ASEAN cooperation against illicit drugs from the Golden Triangle." *Asian Perspective*, Vol.30, No.2, 2006: 97-126.

conventions. United Nations declarations on drug use call on member states to prioritize measures to reduce the demand for drugs, including early intervention, counselling, treatment, rehabilitation, relapse prevention, aftercare and social reintegration. Moreover basic rights such as the right to health for all which is enshrined in the International Covenant on Economic, Social and Cultural Rights (Article 25 of the Universal Declaration of Human Rights (1948) and affirms “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.” states that signatories must ensure that this right is exercised without discrimination of any kind. However, it remains true that in many countries, people who use drugs are systematically subjected to severe stigma and discrimination, which impedes their access to health.

Thus, while some international and national standards on practices of drug dependence treatment have been developed much ongoing drug treatment is rooted in the law enforcement paradigm and neither based on evidence, patently unsuccessful and ignorant to the notions of a balanced approach to drug problems.

Recommendations

1. Advocacy

To elicit real change in legal and policy frameworks which effect IDU and the prevention of HIV in IDU, the following key advocacy messages should be shared with all stakeholders:

- Drug users should be treated and not punished;
- Harm reduction is first and foremost a public health approach, and
- Drug control authorities should be assisted to develop voluntary treatment interventions as an alternative to compulsory treatment.

2. Rights based approaches

Human rights violations, stigma and discrimination play a large role in the capacity of drug users to access services. The importance of human rights for harm reduction activities also lies in the guidance that a rights based approach can provide to harm reduction services. One example is the development of a drug users/service charter of rights. A charter of rights outlines the principles by which services are developed and implemented for drug users, including the rights services users should expect (respect for dignity, confidentiality, right to complain, right to be fully informed and involved regarding all treatment decisions, etc.). A charter may also outline an agreed set of responsibilities to which service users commit.

3. Legal and policy implementation support

Stakeholder interviews and the policy review revealed a lack of clarity regarding the interpretation of appropriate policy and legal implementation measures for harm reduction in several countries. Measures can be vague in relation to agency responsibilities to implement activities in addition to lacking technically specific guidance. This may be compounded by a lack of clear implementation guidelines, and in some cases by a confusion of multiple directives and supplementary regulations provided with little clear indication of institutional roles and responsibilities.¹⁶

¹⁶ For example, in Viet Nam a review of harm reduction and drug related policies conducted in 2007 found over 50 relevant policy documents.

The best laws and policies are meaningless unless they are accurately and effectively implemented. Clear harm reduction policy guidance should be given to program implementers which could include clarifying existing policy conflict between narcotic control and HIV/AIDS law and policy frameworks; for example, the development of a clear and concise summary of relevant laws and policies, including a commentary on the hierarchy and relationships between different regulatory instruments.

4. Universal Access and harm reduction scale up

At the operational level, harm reduction and HIV services are not especially well networked or linked and systems are largely vertical. Although the trend is towards comprehensive linked services, significant gaps exist in operational policy and guidelines for more comprehensive services. Policies need to be developed which favour the provision of linked HIV services for IDU. Awareness of the HIV treatment needs of drug users among policy makers, drug treatment services and personnel should be a consideration of program implementation and operational policy.

5. Involvement of drug users

The importance of finding effective strategies to meaningfully involve drug users in policy and law development is acknowledged in the phrase 'Nothing about us without us' – a key principle of the HAARP program and the title of a report which discusses the public health, ethical and human rights imperatives to involving people who use drugs in the policies and services which affect them¹⁷.

The active involvement of IDU in planning and implementation of harm reduction programs and in the development of related policy should be encouraged and supported.

Involvement of IDU needs to be considered:

- at the policy and advocacy level through support to regional, national and provincial drug users groups and networks; and
- at the program level through the development and/or adjustment of drug services to facilitate client involvement.

6. Policy monitoring and sharing

A strong policy environment is needed in order for harm reduction programs to perform to their full potential. There is great value for services within countries to monitor and share information about their policy and legal environments.

7. Collaboration with law enforcement

Building relationships between health services and law enforcement and police services, and improving understanding of the importance of supportive policing practices, is typically undermined by police crack downs directed at drug users and sometimes harm reduction services when police are required to fulfill arrest quotas or implement security sweeps. The impact of police crackdowns on the capacity of harm reduction services to maintain continuity of service and client retention is profound.

¹⁷ Jürgens, R. "‘Nothing about us without us’ Greater, meaningful involvement of people who use illegal drugs: A public health, ethical, and human rights imperative, International edition." Canadian HIV/AIDS Legal Network, International HIV/AIDS Alliance, Open Society Institute, 2008; Fischer, J. and Neale, J. "Involving drug users in treatment decisions: an exploration of potential problems." *Drugs: Education, Prevention and Policy*, Vol. 15, Issue 2, Apr 2008: 161-175.

However, it is also important to acknowledge that police have to negotiate a path between different and conflicting jurisdictions. Ongoing dialogue between harm reduction and law enforcement sectors, both at a community and national level, should be supported.

8. Focus on gender

Laws and policies aimed at IDUs are often developed without any real attention to gender differentials and gender is a major factor that rarely receives sufficient attention from harm reduction services. The most obvious issues are reaching hidden populations of female drug users, drug injecting female sex workers and providing services for the sexual partners of male IDUs.

Law and policy related to HIV and IDU should focus on gender equity to ensure that the diverse needs of men and women IDUs are met.

9. Local ownership

While international best practices and norms are important in providing benchmarks for policies and laws, without committed ownership and engagement from local actors, policy and legal activities can remain weak or marginal to effective program implementation.

Country reviews

Cambodia

Context

HIV prevalence amongst the adult population declined from 3.3% in 1997/98 to 1.2% in 2003 and down to 0.8% in 2007.¹⁸ In 2007, the estimated number of adults and children living with HIV was 75,000, down from 120,000 in 2001. AIDS-related deaths also declined from 14,000 in 2001 to 6,000 in 2007.¹⁹

There are no accurate national population estimates for drug use in Cambodia. However, The National Strategic Plan for Illicit Drug Use Related to HIV/AIDS (2008-2010) reports that the numbers of drug users ranges from 6,000 to 40,000 and that within this group 600 to 10,000 are injecting drug users. Estimates of HIV prevalence among drug users range between 14% to 31% in injecting drug users and 3% to 18% in non-injecting drug users.²⁰

HIV and drug control agencies

In 1995, the Cambodian government established a ministerial level committee – the National Authority for Combating Drugs (NACD) – to make decisions on drug control policy and supervise drug control operations. The Secretariat for NACD is part of the Ministry of Interior, the key agency for law enforcement.

The Ministry of Health has responsibility for controlling manufacturing, importation, trading and distribution of licit drugs and psychotropic substances and is represented on the NACD. Ministry of Justice personnel are also active in the work of the NACD and in projects and training activities for the UNODC.

Within the National Police of Cambodia, anti-drug units have been established. The Phnom Penh Municipal Anti-Narcotics Police Unit (with 170 staff) also carries out drug enforcement operations in the capital.

The National AIDS Authority (NAA) coordinates and monitors Cambodia's national multi-sectoral response to HIV/AIDS. The functions of the NAA are set out in the Law on HIV Prevention and Control of HIV/AIDS (2002). This includes policy development and advocating for legislative support.

The Drug and HIV/AIDS Working Group (DHAWG) was created in 2007 and is co-chaired by the NAA and the NACD. DHAWG's overall role is to coordinate stakeholders to reduce HIV transmission that is related to drug misuse, and to enhance prevention, treatment and care services related to illicit drug and substance use in Cambodia.

Laws, policies and strategic plans

The Law on the Control of Drugs 1997 (amended in 2005) is the major legislative framework governing illicit drugs and substances. However, a new drug law is at the final draft stage. Provisions relating to the legal status of needle and syringe programs are perhaps the most compelling and urgent issue requiring review and amendment in the law.

¹⁸ Kingdom of Cambodia. National AIDS Authority. UNGASS Cambodia Country Progress Report for reporting period January 2006-December 2007. 31 January 2008.

¹⁹ HIV/AIDS data Hub for Asia, Country profile Cambodia <http://www.aidsdatahub.org/countries/profile/cambodia/>

²⁰ National Strategic Plan For Illicit Drug Use Related to HIV/AIDS 2008-2010, p. 12.

UN agencies (with support from HAARP and others) have been advocating for the introduction of articles on harm reduction, health services and drug treatment to be incorporated into the draft legislation. It is still unknown whether these articles will be included.

The National Drug Control Master Plan (2006-2010) outlines drug control activities, principles, strategies and objectives, resource requirements and financing, and implementation for priority projects and cooperation. It focuses on demand reduction, supply reduction, drug law enforcement and expansion of international cooperation. It also lists major activities for the prevention of HIV among substance users. These activities include raising awareness, treatment and rehabilitation, outreach and peer education, risk reduction and primary prevention of drug use.

The National Strategic Plan for a Comprehensive and Multi-sectoral Response to HIV and AIDS (2006-2010) (NSP II) was developed by the NAA. NSP II is the current plan, and will be replaced by NSP III in 2011.

NSP II strategies of direct relevance to harm reduction policies are:

- increased coverage of effective prevention, care and support, and the development of impact mitigation interventions;
- a supportive legal and public policy environment for the HIV/AIDS response; and
- increased availability of information for policy makers and program planners through monitoring, evaluation and research.

National Strategic Plan for Illicit Drug Use Related HIV/AIDS 2008-2010, which was finalised in 2008 under the leadership of the NAA and NACD, is the culmination of a series of consultations with all sectors and tries to address the major policy issues, to develop a comprehensive approach to prevent HIV transmission associated with illicit drug use and to provide treatment, care and support for drug users at risk of infection and living with HIV.

Discussion

Creating awareness of policy provisions, law and regulations among community and grassroots actors remains a challenge in Cambodia; information on policies, laws and regulations does not always reach the grassroots level and enforcement at the local level remains limited.²¹

Understanding among law enforcement agencies of the concept and implementation of drug-related harm reduction remains low. A key concern voiced by HAARP stakeholders is the potential role of public security agencies in limiting the proposed expansion of needle and syringe programs. The integration of harm reduction training within the curriculum of the Police Academy will be an important step in creating greater understanding, but it is clear that this is a long term strategy.²² In the meantime, training programs conducted by HAARP CFP with local police will need to be ongoing.

²¹ UNGASS - National Composite Policy Index (NCPI) 2007, Cambodia.

http://data.unaids.org/pub/Report/2008/cambodia_2008_ncpi_en.pdf

²² Stakeholder interview.

There is no direct mechanism for involvement of people who inject drugs in policy and service planning processes in Cambodia. The illegality of drug use – and the vulnerability of drug users to arrest when accessing harm reduction services (notably needle and syringe programs) – is a key constraint to supporting effective and sustainable involvement. However, indirect inputs are provided through the needle and syringe program in Phnom Penh, and through periodic meetings of the Substance Abuse Working Group, comprising a number of NGOs.

In Cambodia in 2008, police enforcement of sex trafficking legislation had a significant impact on HIV prevention activities with sex workers and drug users, resulting in detention of harm reduction service clients, disrupted access to services and a set-back in relations between the NGO that was primarily affected (Korsang) and the police. The importance of supporting strong links between police and harm reduction services is underscored by this recent event.

While a long term strategy of engagement between the police and the harm reduction sector should remain the overall goal of CFP activity, there is a need to develop crisis intervention protocols. Supporting the capacity of the NACD and the NAA to intervene with police authorities, in order to minimise disruption to services and protect clients, should be addressed.²³

Recommendations for Cambodia CFP:

1. Establish a Policy Focal Point (PFP) within the CFP HAARP management structure. A key role for the PFP would be to provide assistance and liaison to support high level advocacy with government stakeholders²⁴;
2. Develop workplace policies and guidelines on how to involve former/current drug users as volunteers, peer workers and management. Policies and guidelines should be developed in collaboration with drug user groups.²⁵ This could involve a harm reduction exchange/placement scheme which provides placement opportunities for clinic and hospital based staff with NGOs working with drug users and, where possible, drug user groups;
3. Initiate a review of developed and proposed legislation (sub-decrees) and the Law on Control of Drugs (particularly Articles 35, 37, 47) with the aim of providing recommendations for amendments which align drug control and HIV policies and laws;
4. Develop long term strategies to integrate harm reduction activities into the NSP III and the Health Sector Strategic Plan (2008-2015);
5. Develop harm reduction briefing materials, including overviews of harm reduction services and activities (NSP/MMT). These materials should provide an evidence informed rationale for harm reduction, addressing community concerns regarding the impact of these services on drug use, HIV and crime;

²³ Requests to NAA and NACD to mediate with police during this action were unsuccessful: stakeholder interview.

²⁴ The need for support for high level advocacy with government officials was indicated during stakeholder interviews.

²⁵ A generic training program developed in partnership with the RCTU and other HAARP countries has been recommended as an activity to RCTU. It should draw on the current experiences in Cambodia and be suitable for implementation in the Cambodian context.

6. Develop (with the RCTU) human rights and drug user briefing materials based on principles of working for and with drug users. A series of briefing documents which directly address key sectors, including law enforcement, health and national and local policymakers should be considered.
7. In collaboration with local law enforcement agencies and representatives, initiate a review of policing practices/operational policies which impact on drug users, with the aim to establish ongoing dialogue between drug users, harm reduction services and law enforcement agencies.
8. Develop crisis intervention protocols with NAA and NACD in order to address disruption to harm reduction services resulting from police activities.
9. Support the development of operational guidelines (for example, case referral procedures) linking harm reduction and HIV treatment services.
10. Support the completion of a nationally recognised and accredited methadone treatment certificate and investigate the potential for a community dosing program.

China

Context

According to UNAIDS estimates, approximately 700,000 people are living with HIV in China. Overall prevalence of HIV is estimated at 0.1%.²⁶ Injecting drug use is an important factor contributing to HIV transmission in China. By the end of October 2007, among the cumulative number of PLHIV, 38.5% of cumulative HIV infections were via injecting drug use²⁷ and among the 50,000 new HIV infections in 2007, 42.0% was among IDU.²⁸ The estimated HIV prevalence among IDUs across China is 12%.²⁹

The Government of China acknowledges that the total number of drug users is much higher than those who are registered. In 2007, there were a reported 937,000 registered drug users in China, with unofficial estimates putting the number closer to three or four million.³⁰

In a November 2008 presentation,³¹ Dr. Zunyou Wu provided the following data on drug use in 2007:

- Current drug users: 957,000
- Heroin users: 746,460
- Injecting drug use: 72.5%
- Sharing equipment: 40%

²⁶ UNAIDS Country Profiles. <http://www.unaids.org/en/CountryResponses/Countries/China.asp>

²⁷ UNGASS Country Progress Report. People's Republic of China. January 2006-December 2007.

²⁸ Wu, Zunyou. "Update of Harm Reduction in China. The Second Sida Project Advisory Committee Meeting," 10-12 November, 2008, Manila, Philippines.

²⁹ Mathers, Bradley M. et al. "Global epidemiology of injecting drug use and people who inject drugs: a systematic review." *The Lancet*, Vol. 372, Issue 9651, 15 Nov. 2008: 1733-45.

³⁰ HIV/AIDS in China. <http://www.avert.org/aidschina.htm>

³¹ The sources of the data were: a) Annual Report on Drug Control in China, 2008 (China National Narcotics Control Committee); and b) "A Joint Assessment of HIV/AIDS Prevention and Care in China (2007)" (State Council AIDS Working Committee Office, UN Theme Group on AIDS in China).

Some provinces in China are noted to have higher numbers of drug users; for example, Yunnan has an estimated 100,000 to 150,000 drug users. Infection rates among IDUs in Yunnan are as high as 80% and between 20-70% in Guangxi.

Lead HIV and drug control agencies

Three agencies have primary responsibility for controlling the licit and illicit drug markets nationally: the Ministry of Public Security (MPS); the State Food and Drug Administration (SFDA); and the General Administration of Customs (GAC). These agencies are part of the National Narcotics Control Commission (NNCC) that formulates drug policy in China.

At the provincial level, drug control is the responsibility of the drug control departments of public security authorities, co-administered by relevant government functional departments and participated in jointly by mass organisations.

The State Council AIDS Working Committee has established one national coordinating mechanism for the HIV response in China.

Legal and policy context

In November 2005, China passed an Administrative Law on Precursor Chemicals as well as an Administrative Regulation on Narcotic Drugs and Psychotropic Substances. The Narcotics Control Law was approved by the Tenth National People's Congress Standing Committee of China at its 31st meeting on December 29, 2007, and went into effect on June 1, 2008. The law contains measures requiring drug users to undergo community based detoxification, and to be provided with vocational training and employment assistance. The law also provides for public security departments to provide 'direct forced isolation treatment' for those deemed to be in non-compliance with community detoxification procedures for a period of two years.³²

National guidelines on the operation of MMT were issued by the Ministry of Health (MOH), MPS and the national Food and Drug Administration in 2006.³³ An administrative system of national and provincial and local MMT Work Teams consisting of representatives from MOH, MPS and the State Food and Drug Administration are responsible for overseeing the implementation of regulations.³⁴

The law contains one provision which allows for MMT to be organised jointly by the autonomous provincial regions and municipal health administrative departments working with public security, drug supervision and administrative departments. According to the law, methadone must be implemented in accordance with relevant national regulations including ensuring detoxification outcomes.

If drug users are registered with public security departments or clients of MMT services, Article 62 of the law allows an exemption from the administrative fine imposed on people found injecting drugs who are not registered with the security services.

³² Narcotics Control Law of The People's Republic of China. Adopted at the Thirty-First Meeting of the Standing Committee of the Tenth National People's Congress on December 29, 2007. This law is also referred to as the 'Anti-Drug Law of the People's Republic of China', in the PRC Presidential Decree: 79.

³³ Ministry of Health, Ministry of Public Security and National Drug and Food Administration (2006). Notification to all Provinces, Autonomous Regions, Municipal Cities, Health Departments and Food/Drug Administration Bureaux on Opioid Dependence Maintenance Treatment. Beijing, China.

³⁴ Smith, B. and Hayter, J. "Illicit Drugs Initiative Six Nation Situation Analysis and Training Needs Analysis For Opioid Substitution Treatment in Asia (OST/MMT)." Turning Point Alcohol and Drug Centre Inc., 2008.

China's MPS is in the fourth year of its National People's War on Illicit Drugs, begun in 2005 at the initiative of Chinese President Hu Jintao. MPS has designated five campaigns as part of this effort: drug prevention and education; drug treatment and rehabilitation; drug source blocking and interdiction; 'strike hard' drug law enforcement; and strict control and administration, designed to inhibit the diversion of precursor chemicals and other drugs.

For several years, the Chinese government has been moving to a more forthright acknowledgement of the HIV epidemic and to promulgation of policies for HIV prevention and AIDS treatment. In March 2006, the first Chinese HIV/AIDS control legislation – Regulations on AIDS Prevention and Treatment³⁵ – became effective. The Regulations call for the implementation of all levels of prevention measures including 'behavioural interventions' for vulnerable groups, peer education, MMT and condom promotion.

The Regulations do not explicitly mention NSPs and they mix drug control with HIV prevention objectives, calling on governments to 'establish the coordinating mechanism in their AIDS prevention and treatment as well as the works of anti-drug abusing' (Chapter III, Article 27). However, China's Action Plan for Reducing and Preventing the Spread of HIV/AIDS (2006-2010) sets goals for implementing and scaling up both NSPs and MMT, as well as condom use and antiretroviral treatment.

In 2004, the Responsive Measures for HIV/AIDS Prevention in Yunnan Province Law was implemented which legalised NSP and required hotels to make condoms available.

The Yunnan Action Plan for Containment and Control of HIV/AIDS (2006-2010) provides the framework for the provincial HIV responses and is based on the National Action Plan. It includes a provision for the expansion of pilot NSPs to increase coverage of IDUs from 30% to 50% between 2007 and 2010. In 2006, a new set of measures, the Yunnan Provincial AIDS Regulations, were approved by the provincial People's Congress.³⁶

However, the mix of harm reduction and drug control measures, noted above in national policy, is evident in the Yunnan Regulations. They provide for a range of HIV/AIDS prevention, care and treatment measures in line with China's national policy, as well as provisions for both harm reduction activities and drug control measures:

- People's Governments at every level should formulate plans for behavioral interventions targeting different groups based on the epidemic situation, and should organise the appropriate departments to extend behavioral intervention measures and help vulnerable groups to change their behaviors.
- The public security organs have a responsibility to strike against prostitution and the sale and use of drugs in order to clean up the social environment.
- The public security organs and departments of judicial administration will, in cooperation with the Bureau of Health, carry out HIV testing on drug users and prostitutes who have been arrested, detained or are serving prison sentences for the purposes of detoxification and or education according to the law; this testing

³⁵ "Regulations on AIDS Prevention and Treatment" adopted at the Executive Meeting of the State Council on January 18, 2006. Effective as of March 1, 2006.

³⁶ Yunnan Province AIDS Control and Prevention Regulations (approved November 30, 2006 by the 26th Meeting of the Standing Committee of the Yunnan Provincial 10th People's Congress).

will be carried out for the purpose of providing medical treatment to those who are HIV-positive. When HIV-positive prisoners are released from their supervisory environment, the supervisory organisation will in a timely manner inform the local Centre for Disease Control and Prevention (CDC) and community or village committee of that person's place of residence.

- Departments of public health, public security, and food and drug supervision will extend maintenance drug therapy and clean needle exchange programs through the approval process for healthcare organisations. Drug users will accept free HIV preliminary screenings.

Discussion

It was noted in interviews with stakeholders that there has been an attitude shift in favour of harm reduction among policy makers and police in situations where intensive harm reduction services have been implemented. However, an imbalance of national and local government support for MMT over NSPs still exists. MMT programs receive more popular, political and policy support. Based on the success of pilot projects, the Government has considerably scaled up MMT clinics and planned to provide MMT for 300,000 heroin users in 2008. In comparison, the strategy of implementing NSPs is not officially sanctioned by the MPS. However, Provincial Health Bureaux (PHB) in many provinces support NSP, and provincial level authorities are able to issue policy and guidelines to implement NSPs.

The new Anti Drug (Narcotic) Law provides for a period of community detoxification for drug dependent people and authorises mandatory forced detoxification only in cases which have failed at the community level. However there is a lack of clarity about the provisions attached to community detoxification and support for the agencies responsible for managing these programs.

For example, the law does address the issue of HIV and AIDS in relation to methadone treatment (Article 51) and contains a provision on drug users with infectious diseases (Article 44 mentions medical treatment and isolation). However the law is not clear about the relationship between HIV treatment – for example Anti-Retroviral Therapy (ART) – and alignment with drug control activities. Support for development of guidelines providing community based approaches (that is harm reduction) is an area that the HAARP CFP in China, with support from RTCU, may wish to consider.³⁷

The lack of clear regulatory direction at the national level creates an environment of uncertainty regarding the legality of these services at the local level, which can result in disruption and the arrest and incarceration of drug users by the police. In the absence of a legal resolution, efforts to address this situation have focused on police training and capacity building in harm reduction approaches.

Stakeholders noted that MMT is typically rolled out in a one-size-fits-all package, which can result in under-utilization of services. This is partly a result of stigma but also in part due to lack of attention to how services should be designed to meet local needs (for example, when clinics are located in remote areas and become inaccessible due to distance and the expense of transport costs).

³⁷ Potential partners at the national level include the University of Public Security in Beijing which supports the development of drug control regulations.

Funding for MMT is focused mainly on operational costs with less attention to clinician training and professional development. The result is that skill levels and morale among MMT clinicians is reported to be sub-optimal.³⁸

Local level regulatory barriers and costs inhibit access to MMT services. In Yunnan, people entering the MMT program are required to hold valid current identification and need to receive permission from the police to be accepted into the MMT program. This acts as a disincentive to people who are fearful of police persecution to access MMT services.³⁹

Evidence exists that relapse will decrease when additional services are offered by clinics running MMT programs and when there are incentives to use these services (such as free doses).⁴⁰ For example, in Yunnan clients pay up to 10 Chinese Yuan per day (1.30 USD) for their methadone, but in some areas where heroin is extremely inexpensive, the methadone is free. Cost effective establishment of clinics is being prioritised in areas with more than 500 heroin users.⁴¹

Similarly for NSP, while guidance is in place at the national level, there is less clarity regarding implementation of services at the local level. This includes operational guidance on design and implementation of services and the roles of police. There is also a lack of understanding of the program's benefits, particularly as a perception persists that NSP promotes injecting drug use and also because NSP does not receive the same level of support as MMT from the MPS and the State Food and Drug Administration.⁴²

Historically, a schism existed between the narcotic control sector and the harm reduction sector. However, it appears that a balance is now emerging. In most areas, the 'alignment between police and harm reduction services is effective for 11 months out of 12'.⁴³ This '11th month syndrome' occurs when large public or political events are staged, or when police respond to pressure to conduct drug crackdowns or fill arrest quotas. This has had obvious consequences on the capacity of harm reduction services to attract and retain drug users, and on the confidence of drug users in the services. This is particularly the case if, for example, police target harm reduction sites during a crackdown in order to arrest drug users, as has been reported.

Guidance on how to work between sectors and how to implement harm reduction particularly in relation to the role of the police remains weak, with the exception of the harm reduction training at the police academy in Yunnan.

The CFP country design for China calls for the implementation of harm reduction activities in the cross border areas between Guangxi and Viet Nam, and in the border areas between Yunnan and Myanmar. Interviews with stakeholders and discussions held during the HCCF meeting in October 2008 highlighted the importance attached to cross border issues, both

³⁸ Smith B. and Hayter, J. "Illicit Drugs Initiative Six Nation Situation Analysis and Training Needs Analysis For Opioid Substitution Treatment in Asia (OST/MMT)." Turning Point Alcohol and Drug Centre Inc., 2008.

³⁹ Stakeholder interview.

⁴⁰ "Harm reduction among IDU in China." China Country Team presentation at the HCCF, Phnom Penh, 2 October 2008.

⁴¹ "China's Action Plan (2006-2010) for Reducing and Preventing the Spread of HIV/AIDS." State Council Office Document (2006) No. 13.

⁴² This observation is supported by comments made during stakeholder interviews and was reported in the China Country Team presentation at the HCCF, Phnom Penh, 2 October 2008.

⁴³ Stakeholder interview, September 2008.

as necessary services and as an opportunity to establish functional links with CFP counterparts in Viet Nam and Myanmar.

Recommendations

1. Provide operational guidance to harmonise drug control law enforcement activities and harm reduction services at the provincial and local implementation level. Develop this in consultation with provincial level HIV and law enforcement agencies and outline the roles and responsibilities of each sector in supporting harm reduction activities. An aspect that requires particular attention is the communication between harm reduction services and police regarding police 'crackdowns' on drug users. Operational policy, in the form of a provincial level pilot with support from the National Centre for AIDS Prevention and Control (NCAIDS) is one option or method which could be trialed in Yunnan and Guangxi.⁴⁴
2. Develop cross border MOUs or agreements, with support from the RCTU, to design and implement activities between Myanmar and Viet Nam CFPs.
3. Develop and provide clear harm reduction policy guidance to provincial level implementers which includes clarifying existing policy conflict between the recent Anti Drug (Narcotic) Law and HIV/AIDS law and policy; including operational guidance to harmonise drug control law enforcement activities and harm reduction services at the provincial and local implementation level.
4. Develop a clear and concise summary of relevant law and policy, including a commentary on the hierarchy and relationships between different regulatory instruments, to provide to provincial level implementers.
5. Provide operational guidance on primary health care and HIV service linkages with harm reduction services.
6. Review current MMT operational guidance and regulations at the local level with a view to amending entry protocols requiring clients to have failed rehabilitation and drug detoxification and registration with police.

Lao People's Democratic Republic

Context

Prevalence of HIV in the Lao People's Democratic Republic (PDR) is low at 0.1%. By June 2007, the official cumulative number of HIV infected notification was 2,400. However, there is evidence of expansion of HIV among sex workers and their clients, and men who have sex with men.

The major mode of transmission of HIV infection in Lao PDR is through heterosexual intercourse (85%).⁴⁵ In 2007, 58% of reported HIV cases were male and 42% female.

⁴⁴ This method has been used by the CAHHF.

⁴⁵ Lao PDR UNGASS Country Report 2006-2007.

According to recent reviews, injecting drug use appears to be increasing, and there is growing concern about an acceleration of the epidemic through the interaction between drug use and sex work.

Lead HIV and drug control agencies

The Lao People's Democratic Republic (PDR) National Commission for Drug Control (LCDC) is the principal national agency concerned with drug control policy. It is empowered to develop and direct drug control policies and strategies, and to provide a coordination point for other agencies and sectors working in drug control, prevention and treatment.⁴⁶

The principal narcotics law enforcement bodies are the Counter Narcotics Units (CNU), the first of which was created in 1994 and which now exist as elements of provincial police in all provinces. Other important drug control institutions are the Provincial and Vientiane Capital Committees for Drug Control and Supervision (PCDC) chaired by the Provincial Vice-Governor. These replicate the structure and mandate of the LCDC at a provincial level. District Committees for Drug Control and Supervision (DCDC) implement policy and supervise and coordinate drug control and prevention activities at the local level.

The National Response to HIV/AIDS/STI is coordinated by the National Committee for the Control of AIDS (CHAS).

In 2007 a Task Force on HIV and Drug use was established to address the emerging issue of injecting drug use and HIV transmission. The Task Force is co-chaired by the Lao National Commission of Drug Control and Supervision, and the Ministry of Health (MOH), and involves the Ministry of Public Security (MPS). The Task Force has become increasingly active in addressing HIV and drug use and mobilising the involvement of several line ministries.⁴⁷

Legal and policy context

In 2007, the Lao National Assembly passed a narcotics law that defines which substances are prohibited and which pharmaceuticals are permissible for medical use. The new Law on Drugs (No. 10/NA) also outlines criminal penalties for possession and contains provisions for asset seizure.

The national drug control policy, The Balanced Approach to Sustaining Opium Elimination in the Lao PDR, covers a period of four years (2006-2009). This policy has four key components: civic awareness to mobilize communities against drugs; sustainable alternative development to replace the socio-economic incentive to produce opium; demand reduction to eliminate the need for opium; and law enforcement to stop trafficking for internal and external markets.⁴⁸ The government is currently in the process of drafting a new drug control master plan for 2009-2013.

Drug control is also covered by the penal code which provides for penalties and the treatment of drug offenders. Article 37 allows courts the discretion to increase criminal penalties when offences are committed by recidivists (1), and in states of drunkenness or

⁴⁶ Lao PDR Law on Drugs. 25 December 2007.

⁴⁷ Lao PDR UNGASS Country Report 2006-2007.

⁴⁸ The National Programme Strategy for the Post Opium Scenario is called 'The Balanced Approach to Sustaining Opium Elimination in the Lao PDR (2006-2009).' http://www.unodc.org/laopdr/en/strategic_pf_2006-2009.html

drug abuse (10)⁴⁹. Article 50 provides for the courts to apply measures for medical treatment if an offender is addicted to alcohol or drugs. Article 135 provides sanctions against production, trade, consumption and possession of narcotics. Purchase and possession of two grams or less of heroin is liable to one to five years imprisonment or re-education.⁵⁰

However, most importantly in terms of harm reduction measures, the law does provide support for a conceptual shift towards health and away from crime. Section 5 deals with treatment for drug addicted people, and contains three Articles (38-40) which outline treatment in the family; the community; and in drug treatment and rehabilitation centres, and detention and reformatory centres.⁵¹ Article 5.5 (Principles Regarding Drug Control, Prevention and Combating) contains the principle that 'drug addicts are to be considered as victims who need to be treated'.

There is no specific HIV legislation, and the legal environment (according to the National HIV strategy) does not facilitate interventions among marginalised groups, including drug users.⁵²

Although there is no specific HIV law, the National Response to HIV/AIDS/STI is coordinated by the National Committee for the Control of AIDS (NACCA). The National Strategic and Action Plan on HIV/AIDS/STI identifies drug users as one of the 'groups most at risk' of HIV infection. The National Strategic and Action Plan on HIV/AIDS/STI contains measures (under Section 3.1.5.3.1) to increase awareness of the vulnerabilities of drug users, to ensure an enabling legal and policy environment for harm reduction, and to expand behaviour change interventions including safe injecting. The measures proposed include:

- Improving the understanding of authorities and communities about the behaviour of drug users, about their vulnerability to HIV and STIs, and about the importance of harm reduction, rehabilitation and psychosocial support interventions through evidence based information.
- Reviewing and updating the National Policy on HIV/AIDS/STI, reflecting potential changes in drug use in Lao PDR.
- Ensuring that the legal and policy framework is conducive for implementation and scaling up of harm reduction, rehabilitation and psychosocial support activities.
- Increasing collaboration between relevant ministries on drug prevention, harm reduction and rehabilitation programs.
- Increasing cooperation between regional drug related programs.

Expected outcomes by 2010 include:

- At least 70% of injecting drug users will use sterile injecting techniques.
- At least 40% of drug users will be reached with behaviour change interventions and counselling.

⁴⁹ Decree of the President: Lao People's Democratic Republic. On the Promulgation of the Penal Law. 9 January 1990. No. 04/PO.

⁵⁰ At the time of writing it was not possible to assess whether provisions in the new narcotic law override criminal sanctions contained in the penal code, or how the new legislation will be interpreted by law enforcement agencies and the courts in relation to existing criminal legislation.

⁵¹ Lao People's Democratic Republic. "Law on Drugs." 25 December 2007.

⁵² National Committee for the Control of AIDS. "National Strategic Action Plan on the Control of HIV/STI 2006-2010."

- Evidence based information on drug use will be available and programmatically used.

However, the link between law enforcement and HIV/harm reduction sectors is weak and the law enforcement approach to drug use is dominated by a demand reduction approach.

Discussion

In the Lao PDR National Strategic and Action Plan on HIV/AIDS/STI, harm reduction is acknowledged as a major strategy for controlling HIV and STI among drug users. However, there is no clear plan for the delivery of services and a lack of technical assistance in all aspects of comprehensive service provision for injecting drug use. In addition, the framework for harm reduction outlined in the national HIV strategy still lacks a clear and supportive legislative framework (i.e. there is no HIV/AIDS law).

Drug interventions remain dominated by a supply and demand reduction approach. But the new narcotics law has provided an important framework to harmonise harm reduction and drug control regulatory measures. The development of the new law provides an important opportunity to support the government in strengthening the legal and policy environment for harm reduction.

Advocacy and awareness regarding the changing legal and policy environment will be a key factor in supporting collaborative approaches and the enabling environment proposed in the national HIV/AIDS/STI strategy.

Tincture of opium is the only form of OST available in Lao PDR. There are three residential hospital settings for providing drug treatment services in Vientiane, the capital: a 100-bed drug addiction treatment facility in Udomxai Province which opened in 2007, built with funds from China; Brunei funded construction of two smaller drug treatment facilities in Sayabouri, which opened in January 2007; and the United States of America supported the renovation of the women's rehabilitation facility at the Somsagna treatment centre on the outskirts of Vientiane, which can house up to 64 female patients.

Despite this augmentation of the Lao PDR's treatment capacity, existing facilities fall well short of even the most optimistic estimates of the numbers of people in need of treatment for Amphetamine Type Substances (ATS) or other illicit drugs. In addition, capacity to provide community based alternatives to institutional treatment settings is weak, as is access to services in remote and rural areas.

Increases in treatment capacity need to be accompanied and guided by standardised protocols, training, and monitoring and evaluation. Currently there is a lack of clarity regarding the protocol and guidelines relating to drug treatment. A recent survey conducted by Turning Point Drug and Alcohol Centre in Australia found that respondents reported differing beliefs regarding government authorities responsible for OST governance and regulation, the existence of guidelines for prescribing and dispensing OST, and the availability of standardised procedures to assess patients for OST.⁵³

⁵³ Smith B. and Hayter, J. "Illicit Drugs Initiative Six Nation Situation Analysis and Training Needs Analysis For Opioid Substitution Treatment in Asia (OST/MMT)." Turning Point Alcohol and Drug Centre Inc., 2008.

There are currently no local NGOs, and only a very limited number of international NGOs, operational in Lao PDR, none of which provide harm reduction services.

The Lao PDR has a national network of people living with HIV (LNP+), and people living with HIV are represented on national HIV committees and coordinating bodies. However, the involvement of positive drug users in this network is unclear and most probably limited to prevention activities at the local level. There appears to be no drug user representation or involvement in harm reduction policies or decision making bodies. However, policy support for involvement is provided by the Lao PDR National Strategic and Action Plan on HIV/AIDS/STI (2006-2010) which calls for the involvement of drug users in the planning and implementation of prevention and rehabilitation activities.⁵⁴

There is also support via the legal framework governing civil society associations, which is being strengthened in the Lao PDR. The government approved a Prime Ministerial Decree in 2009 enabling Lao citizens to establish non-governmental organisations, which may allow self-help and peer networking groups to be established among injecting drug users and facilitate greater involvement of drug-using populations in policy development and implementation.

Recommendations

1. Support increased awareness of the harm reduction legal and policy context in Lao PDR. Current weaknesses in the policy and legal system can be strengthened through the implementation and dissemination of the new law in conjunction with harm reduction measures contained in HIV/AIDS policies and strategies.
2. Provide continued support to the Task Force on Harm Reduction. Support should be linked to the development of the National HIV/AIDS and STI plan for 2010-2015 and will require technical input from the RTCU.
3. Provide support for the development of a coordinated, multi-sectoral national action plan on drug use and HIV. This should include mechanisms to link harm reduction and HIV services, for example voluntary and quality drug dependence and HIV treatment services and voluntary counselling and testing (VCT). There are opportunities for inter-country collaboration to support the Lao CFP with this activity; for example, the process of the development of the National Strategic Plan for Illicit Drug Use Related to HIV/AIDS developed in Cambodia. Technical assistance will also be required by the National Committee for the Control of AIDS to revise and develop the National HIV/AIDS and STI plan for 2011-2015.
4. Support the development of an integrated harm reduction advocacy plan for use at national and provincial levels (for example, with LCDC, MOH, the National Assembly⁵⁵ and local authorities and communities).
5. Support the development of a national and integrated communication plan for harm reduction and HIV in collaboration with LCDC, CHAS and the MOH. The communication plan needs to address key issues, including providing a summary of legislation and

⁵⁴ National Committee for the Control of AIDS. "National Strategic Action Plan on the Control of HIV/STI 2006-2010."

⁵⁵ Lao PDR parliamentarians are represented on the Asian Forum of Parliamentarians on Population and Development (AFPPD), a regional coordinating body of National Committees of Parliamentarians on Population and Development and Parliamentary Committees dealing with population and development issues including HIV/AIDS and drug use.

policy (specifically the new narcotics law, HIV/AIDS strategy and the drug control master plan).

6. Investigate and promote community alternatives to long term involuntary drug treatment, and provide policy and research briefings on community based treatment and support for drug users (including disseminating lessons learnt in the Lao PDR and other countries and the establishment of halfway houses and drop-in centres).
7. Support a review of current drug treatment regimes (treatment protocols and effectiveness) and provide policy advice to LCDC and the MOH on the outcomes of the review, including policy recommendations and operational guidelines, with the aim of providing clarity regarding drug treatment modalities and standardised approaches.
8. Develop and implement dissemination strategies and opportunities for dialogue on policy and law at the provincial and local levels. This should include policy and legal briefs which are designed to address community concerns regarding harm reduction activities, in addition to providing information on government policy and law.

Myanmar

Context

Myanmar has one of the most serious HIV epidemics in the region. In 2008, the estimated number of adults and children living with HIV was 237,427 and national adult prevalence of HIV was 0.57%.⁵⁶ Women account for an estimated 42% of the total number of people with HIV.⁵⁷ Prevalence of injecting drug use in Myanmar among sex workers has been estimated to be 50%.⁵⁸

The trend shows an overall decline in prevalence of HIV, including among drug users, from 43.3 % in 2005 to 29.2% in 2007. Although recent prevention efforts may have contributed to the decline in HIV among injecting drug users, the sharp drop may be more related to changes in sentinel surveillance sampling frameworks and the data needs to be interpreted in relation to the sampling methods used for each year.⁵⁹

Due to challenges in collecting independent data in Myanmar, estimating the number of drug users is difficult. Given the stigma and discrimination associated with drug use in Myanmar, it is likely that the real numbers are higher than government estimates, ranging between 300,000 and 400,000 people. Of these, 150,000 to 250,000 use injection as their preferred method of administration.

Approximately 30% of all people living with HIV in Myanmar have a history of injecting drugs. It is estimated that there is between 35% (low) and 65% (high) prevalence of HIV among injecting drug users.⁶⁰

⁵⁶ Myanmar: Epidemiologic data. Source: National AIDS Programme, Department of Health, Government of Myanmar.

⁵⁷ HIV/AIDS Data Hub for Asia and the Pacific. Myanmar. <http://www.aidsdatahub.org/countries/profile/myanmar/>

⁵⁸ "HIV/AIDS and Drug Use in Burma/Myanmar." TNI Policy Briefing 17, Transnational Institute, May 2006.

http://www.tni.org/detail_page.phtml?page=policybriefings_brief17

⁵⁹ "HIV Sentinel Sero-Surveillance Survey 2007 Myanmar." World Health Organization, National AIDS Program, Ministry of Health Myanmar, 2007.

⁶⁰ HIV/AIDS Data Hub for Asia and the Pacific. Myanmar. <http://www.aidsdatahub.org/countries/profile/myanmar/>

Lead HIV and drug control agencies

The Central Committee for Drug Abuse Control (CCDAC), attached to the Ministry of Home Affairs, is the national drug control entity governing and coordinating drug control policy. The CCDAC is not a drug enforcement agency comprised of personnel from the enforcement sectors only – it includes Supply Reduction sectors (such as Crop Substitution and Income Substitution); Drug Demand sectors (such as Treatment and Rehabilitation, Preventive Education for students and youth, and Mass Media information for the general public); Law Enforcement sectors (such as the National Police Force, Customs, Immigration, the Military, Precursor Chemical Control, and Administration of confiscated assets from drug cases); and international relations and cooperation. The Law Enforcement sector has 27 anti-drug units located strategically across the trafficking routes around the country.

The multi-ministerial CCDAC has a high profile within the Government and wields considerable power in shaping policy at a central level. CCDAC has also become an important player in promoting health, including harm reduction within Myanmar. Although the Ministry of Health and the National AIDS Program (NAP) take the lead in health and HIV/AIDS, CCDAC is responsible for matters of injecting drug use and related HIV/AIDS issues – as such, it is the lead Government implementing partner of the HAARP CFP.

Legal and policy context

Myanmar's official 15-year counternarcotics plan, launched in 1999, calls for the eradication of all narcotics production and trafficking by the year 2014, one year ahead of an ASEAN-wide plan of action that calls for the entire region to be drug-free by 2015. To meet this goal, the Government of Myanmar initiated its plan in stages, using eradication efforts combined with planned alternative development programs in individual townships, predominantly in Shan State. The government initiated its second five-year phase in 2004.

The Narcotics Drugs and Psychotropic Substances Law (1993) provides for penalties and treatment for drug users. It is mandatory for a drug user to register with a government identified facility in order to access medical treatment. Non-compliance results in prison terms of three to five years.

Inciting by any means to cause abuse of a narcotic or psychotropic substance is punishable, but this does not apply to needle and syringe provision. Other laws that are important to drug issues are the Control of Money Laundering Law in Myanmar (Law No. 6/2002), and the 1917 Myanmar Excise Act which prohibits the possession, sale or distribution of hypodermic needles without a license. In 2001, a Directive from the Myanmar Police Force Headquarters was given not to make arrests for possession of hypodermic needles. However, needles are confiscated and submitted to the courts as evidence when individuals are arrested for drug possession or having needles on-hand at the scene of a crime.

The Border Areas and National Races Law contains a number of provisions which impact on the treatment of drug users in the locations covered by the law.⁶¹ Measures contained in Chapter 8 of the Penal Code which criminalise an assembly of more than five persons if it is designated unlawful (intention of political activity), could have implications for the

⁶¹ See provision [I] laying down and carrying out special projects for medical treatment and rehabilitation of narcotic drug users in the development areas.

formation of small drug user self help groups, but does not apply to or have implications for the work of peer outreach activities.

The National Strategic Plan on HIV/AIDS 2006-2010 places a high priority on prevention among populations at risk of HIV, including drug users. An operational plan (2008-2010) has been developed to guide the implementation of the national strategy. The operational plan includes a graduated set of targets culminating in 180,000 drug users reached by harm reduction activities by 2009, including NSP and MMT. However, actual coverage remains very low, with MMT only reaching 500 IDUs.

Discussion

While the Government of Myanmar has moved progressively towards harm reduction approaches, key legal and policy barriers, resource constraints and widespread stigma against drug users continue to inhibit an effective response. There has been little alignment or review of drug control within the context of HIV/harm reduction law and policy in Myanmar. The UNGASS National Policy composite Index (NPCI) report to UNAIDS in 2007 records that legal and policy reviews since 1994 were conducted and resulted in two circulars being issued (allowing HIV positive women to request sterilisation, and exempting condoms as circumstantial evidence for prostitution).⁶² In addition, the Law on Blood and Blood Control has been reviewed in terms of conformity to HIV/AIDS control measures.

However, the NPCI report is silent on the relationships and interaction between the National Strategic Plan on HIV/AIDS 2006-2010 and laws containing measures affecting drug users, i.e. the Narcotics Drugs and Psychotropic Substances law (1993), the Control of Money Laundering Law in Myanmar (Law No. 6/2002), and the 1917 Myanmar Excise Act. The 1993 Drug Law is currently under review with a proposal for amending Section 15 concerning registration of drug users and decreasing the severity of punishment. The 1917 Excise Act is also under review at present.

The Ministry of Border Areas and National Races Development is a CFP implementing partner and should be supported to review relevant provisions in narcotics law to align these with HIV/harm reduction policy, and to include any operational and implementing guidelines.

The CFP Myanmar design includes the aim of addressing gender as a cross cutting issue and identifies resources from within the partner matrix to support this. However, this review could find no research or analysis of how HIV or related laws and policies affect women in Myanmar.

Conflict between operational policing and the implementation of harm reduction remains a considerable problem in Myanmar. Police crackdowns decrease NGO access to people who inject drugs, disrupting needle exchange and other services. They also result in the 'conversion' of more smokers into injectors because during police crackdowns on drug users the price of drugs increases, with many poorer users resorting to injecting.⁶³ Advocacy with State and Division level authorities has been successful in establishing an

⁶² UNGASS - National Composite Policy Index (NCPI) 2007, Myanmar.

http://data.unaids.org/pub/Report/2008/myanmar_2008_ncpi_en.pdf

⁶³ "HIV/AIDS and Drug Use in Burma/Myanmar." TNI Policy Briefing 17, Transnational Institute, May 2006.

http://www.tni.org/detail_page.phtml?page=policybriefings_brief17

understanding of harm reduction interventions and enforcement around HAARP CFP project sites, thus avoiding police crackdowns around the sites.

While substantial advances in the provision of HIV/AIDS services have been made since 2000, including outreach to most at risk populations to HIV, services are still not at a sufficient level to cover the majority of people in need of prevention, care treatment and support. A recent review of HIV services in Myanmar notes that the environment in Myanmar constrains activities but does not, in general, prohibit them. The slow rate of service expansion can be attributed to the burdens imposed by administrative measures; broader constraints on research, debate and organizing; and insufficient resources.⁶⁴

Médecins Sans Frontières reports that the situation for many people living with HIV in Myanmar is critical due to a severe lack of lifesaving ART, resulting in 25,000 deaths from AIDS in 2007. The impact of the lack of treatment is compounded by the limited number of available HIV services.⁶⁵

Recommendations

1. Support the Ministry of Border Areas and National Races Development, a CFP implementing partner, in order to review relevant provisions in the law affecting people with HIV/AIDS.
2. Conduct a review that focuses on aligning laws containing measures effecting drug users with policy documents on HIV and harm reduction, including operational and implementing guidelines.
3. Develop guidelines for communication between harm reduction services and police regarding police 'crackdowns' on drug users.
4. Develop information and training that will enhance an understanding of the concept and implementation of harm reduction to local level law enforcement and community leaders.
5. Provide operational guidance on primary health care and HIV service linkages with harm reduction services.

The Philippines

Context

The Philippines is an HIV low prevalence country with cumulative registered cases of 3,061 from 1984 to the end of December 2007. The national adult HIV prevalence remains under 0.1%.⁶⁶

Awareness of injecting drug use and the number of reported users is low in the Philippines. In 2007, it was estimated that there were between 7,239 and 14,478 people who inject

⁶⁴ Williams, Brian, Baker, Daniel, Bühler, Markus and Petrie, Charles. "Increase coverage of HIV and AIDS services in Myanmar." *Conflict and Health*, 2008, 2:3. <http://www.conflictandhealth.com/content/2/1/3>

⁶⁵ "A preventable fate: The failure of ART scale up in Myanmar." Médecins Sans Frontières, November 2008. <http://www.msf.org/hk/fs/download/?file%5fid=37881>

⁶⁶ Follow-up to the Declaration of Commitment on HIV and AIDS United Nations General Assembly Special Session (UNGASS). Country Report of the Philippines January 2006 to December 2007. Prepared by the Philippine National AIDS Council (PNAC).

drugs in the entire country.⁶⁷ The prevalence of HIV infections among IDUs was between 0.001% and 0.7%.⁶⁸ Between 1984 and 2007, seven people were recorded as becoming infected through injecting drug use.⁶⁹ Injection of nalbuphine hydrochloride (Nubain) was attributed to the majority of cases.

The proportion of female IDUs is estimated to be between 10% and 15%. This represents a key population at higher risk as many female IDUs are also engaged in sex work.

Drug use in the Philippines is dominated by use of crystal methamphetamine hydrochloride, known as *shabu*. Official estimates suggest about seven million people – almost 10% of the population – use this drug, accounting for approximately 95% of presenting drug problems.

Although the incidence of injecting behaviour is thought to be low, some reports indicate high levels of needle sharing and unsafe sexual behaviours among IDUs.

Lead HIV and drug control agencies

The Dangerous Drugs Board (DDB) is the policymaking and strategy formulation body for illicit drugs. DDB is directed by the Office of the President (OP) and has multi-sectoral composition from the Departments of Health, Social Welfare and Development (DSWD), Labor and Employment (DOLE), Education (DepEd), and Interior and Local Government (DILG). It is responsible for coordination and oversight of implementation of the National Anti-Drug Program of Action (NADPA) by national government agencies and NGOs.

The implementing arm of the DDB is the Philippine Drug Enforcement Agency (PDEA), which was established by the government in 2002 and modelled after the US DEA. PDEA became fully functional in 2007. In 2002, President Arroyo created by Executive Order the Philippine National Police (PNP) Anti-Illegal Drugs Special Operations Task Force (AIDSOTF) to maintain law enforcement pressure on narcotics trafficking.

The Philippines National AIDS Council (PNAC) is the body responsible for national HIV coordination.

Law and policy context

The Comprehensive Dangerous Drug Act of 2002 includes provisions that mandate drug use education in schools; the establishment of provincial drug education centres; development of drug-free workplace programs; the implementation of random drug testing for secondary and tertiary students; and mandatory drug testing for military and law enforcement personnel, and driver's license and firearm license applicants. People who voluntarily enrol in treatment and rehabilitation centres are exempt from prosecution for illegal drug use.

⁶⁷ Ibid.

⁶⁸ This summary is taken from the report "Situation Analysis Report for Component 1 (Injecting Drug Use). Regional Technical Assistance for Fighting HIV/AIDS in Asia and the Pacific (TA 6321-REG): Subproject 5 - Strengthening Country Response to HIV/AIDS among High-risk Groups in the Philippines." Report submitted to the Asian Development Bank (ADB), Manila, Philippines. May 2008. PRIMEX-RAF-ACHIEVE.

⁶⁹ UNGASS Country Report of the Philippines January 2006-December 2007.

http://data.unaids.org/pub/Report/2008/philippines_2008_country_progress_report_en.pdf

The law mandates the following penalties for possession of proscribed drugs: a person apprehended or arrested who is found positive for use shall be imposed six months rehabilitation in a government centre for the first offence; second offence, imprisonment from six years and one day to 12 years, and a fine ranging from 50,000 to 200,000 pesos (1,000 USD to 4,000 USD). Sentences ranging from life imprisonment to death for possession or proscribed quantities of illegal drugs may also be imposed. Drug users and those providing services to them are vulnerable to arrest by police if they are apprehended with needles and syringes.

The Government of the Republic of the Philippines (GRP) has developed and is implementing a counternarcotics master plan known as the National Anti-Drug Strategy (NADS). The NADS is executed by the NADPA and contains provisions for counternarcotics law enforcement, drug treatment and prevention, and internal cooperation in counternarcotics.

The Philippines enacted progressive HIV/AIDS legislation in 1998, which does cover drug users, although it does not specify measures to prevent drug related HIV transmission. Nevertheless the human rights principles on which the law is based apply equally to drug users affected or vulnerable to HIV infection.⁷⁰

In 1998, the Republic Act No. 8504 (more popularly known as the AIDS law) came into force and is currently under review. The law contains no explicit provisions relating to harm reduction. However, it does provide that 'the State shall positively address and seek to eradicate conditions that aggravate the spread of HIV infection, including but not limited to poverty, gender inequality, prostitution, marginalisation, drug use and ignorance'. It further states that 'in seeking to eradicate these conditions, there is no intent to undermine other HIV/AIDS prevention activities'. A review of the AIDS law conducted in 2005, while containing many recommendations for supplementary implementing regulations, was silent on harm reduction interventions or the prevention of HIV among IDUs.⁷¹

The Philippines 4th AIDS Medium Term Plan 2005-2010 calls for intensified prevention interventions for injecting drug users. Key Result Area 5 in the operational plan states that 'IDUs are provided with focused STI/HIV/AIDS preventive education and skills and services'. This includes an activity to 'explore policy support for harm reduction program-needle exchange', in addition to 'sustaining existing harm reduction programs in identified high risk areas; advocacy among local officials to support harm reduction programs; identify and capacitate NGOs to assist LGUs to implement the program, training of program implementers and service providers/outreach workers, dialogues with local police, Philippine Drug Enforcement Agency (PDEA) officials and other concerned agencies; procurement or making available needles and syringes for exchange; strengthen partnership among agencies at the local level (local government units [LGUs], NGOs, PDEA); and strengthen referral mechanisms for IDUs requiring special care and services'.⁷²

⁷⁰ RA 8504/Philippine AIDS Prevention and Control Act of 1998.

⁷¹ Avila, R. "Review of the Impact of AIDS Legislation in the Philippines." UNAIDS Philippines (unpublished). 2005.

⁷² 4th AIDS Medium Term 2005-2010. Philippine National AIDS Council.

The development of local HIV/AIDS related ordinances and measures is a feature of the Philippine response. Local health services in the Philippines operate with a large measure of autonomy, including developing local policy.⁷³

Discussion

In April 2007, PNAC issued a resolution to develop Guidelines on the Prevention, Care, Support and Treatment of HIV among IDUs, which would focus on harm reduction. The PNAC Resolution aims to facilitate the alignment of all relevant policies on the prevention of drug abuse and the prevention and control of HIV/AIDS and make the necessary recommendations to appropriate bodies, agencies and institutions based on empirical data and analysis.

The PNAC Resolution states that PNAC and DDB create a technical working group (TWG) on the prevention, treatment, care and support of HIV among IDUs. The PNAC TWG on HIV and IDU is composed of representatives from the Department of Health (DoH), DSWD, DILG, PNP, the HIV-positive community, civil society and NGOs working with IDUs.

The TWG's role is to oversee implementation of the Guidelines, in relation to policy level activities, and to 'facilitate the harmonization of all relevant policies on the prevention of drug abuse and the prevention and control of HIV and AIDS and make the necessary recommendations to appropriate bodies, agencies, and institutions based on empirical data and analysis'. The PNAC resolution provides a clear structural framework to initiate national and local policy review with the aim of analysing areas of conflict and proposing amendments.

As with other countries in the region, the Philippines will be developing a new national strategic plan on HIV beyond 2010. This provides an excellent opportunity for HAARP to work at the policy level to advocate for explicit and supportive inclusion of harm reduction in the next NSP, particularly since the Philippines is among the few remaining countries in Asia with national policy documents which do not make explicit supportive reference to harm reduction.⁷⁴ According to the IHRA (International Harm Reduction Association) February 2009 review of policies and practices on harm reduction, the Philippines is currently not considered to be providing 'explicit supportive reference' to harm reduction.

Several provisions (Sections 7, 11, 12 and 14) in the Comprehensive Dangerous Drugs Act 2002 make the possession of 'equipment, instrument, apparatus, and other paraphernalia' illegal, or provide for harsh penalties if a person is arrested in possession of equipment containing the residue of illegal drugs. These provisions have particular relevance to the vulnerability of peer outreach workers and their clients to arrest by police.

The Comprehensive Drugs Act is currently under review. However, the focus of the review is on regulation/classification of substances and the revision of the penalty provisions. It is not clear how the law is being reviewed in terms of measures complimentary to, or in

⁷³ UNGASS Country Report of the Philippines January 2006-December 2007.

⁷⁴ International Harm Reduction Association. "Harm Reduction Policy and Practice Worldwide An overview of national support for harm reduction in policy and practice," 6 February 2009.

conflict with, regulatory provisions related to HIV, other infectious diseases or harm reduction.⁷⁵

Recommendations

1. Support PNAC in their development of Guidelines on the Prevention, Care, Support and Treatment of HIV among IDUs.
2. Support PNAC to integrate harm reduction measures in the new national strategic plan (2011), specifically to address the importance of increasing policy support for needle exchange programs.
3. Support PNAC in its review of the Dangerous Drugs Act 2002, including the following:
 - Submissions to the review body, with an emphasis on amendment of provisions in the law relating to possession injecting equipment and other harm reduction materials.
 - Review of the role of NSPs.
 - Provision of international best practice models; for example, legislation on sentencing and alternatives to imprisonment.
 - Provision of technical and coordination support to link local HIV and harm reduction policy development with the national development level.
 - Specifically to advise on the amendment of local ordinances to include provisions on harm reduction and alignment between drug control and HIV prevention, treatment and care in view of the commitments made by the GRP on achieving Universal Access by 2010.

Viet Nam

Context

The HIV/AIDS epidemic in Viet Nam is currently in the concentrated stage, with high prevalence among high-risk groups and low prevalence in the general community. Approximately 290,000 adults are estimated to be living with HIV, equivalent to a population prevalence of 0.34% (1 in 300). HIV cases have been reported across all 64 provinces of Viet Nam. Over half are among young people aged 20-29 and over 80% are men.⁷⁶

Injecting drug use remains the most significant driver of the HIV epidemic in Viet Nam. Approximately 25% of IDUs in Viet Nam are infected with HIV. As HIV spreads from high to low risk populations, the challenges of containing the epidemic grow more urgent. Viet Nam's drug residential detoxification and rehabilitation centres hold an estimated 60,000 –

⁷⁵ "Situation Analysis Report for Component 1 (Injecting Drug Use). Regional Technical Assistance for Fighting HIV/AIDS in Asia and the Pacific (TA 6321-REG): Subproject 5 - Strengthening Country Response to HIV/AIDS among High-risk Groups in the Philippines." Report submitted to the Asian Development Bank (ADB), Manila, Philippines, May 2008. PRIMEX-RAF-ACHIEVE.

⁷⁶ Government of Viet Nam – Ministry of Health. HIV/STI Integrated Biological and Behavioural Surveillance (IBBS) in Vietnam 2005-2006.

70,000 people annually.⁷⁷ In 2008, methadone clinics in Hai Phong and Ho Chi Minh City enrolled 190 people in a pilot project designed to assess the viability of MMT in Viet Nam.⁷⁸

Lead HIV and drug control agencies

The agencies responsible for developing and implementing drug control policies are the Standing Office on Drugs Control (SODC) under the control of the Ministry of Public Security (MPS) and the National Committee for the Prevention and Control of AIDS, Drugs and Prostitution, the General Department of Customs, Border Army and Maritime Police and C17, Department for Drug and Crime Prevention (operational police).

In Viet Nam, the National Committee on AIDS, Drug and Prostitution (NCADP) is the national body responsible for providing coordination among government agencies working in HIV, drug use and sex work. In January 2007, Decision of the Prime Minister 50/2007 re-structured the NCADP to include The Ministry of Defence (MoD) and to direct the Ministry of Labor Invalids and Social Affairs (MOLISA) in the lead role in drug rehabilitation activities (previously this work was managed and implemented by local authorities). The Government Office (via the Department for Social Affairs) is now responsible for planning, coordinating and monitoring the activities of NCADP members.

There is a strong policy foundation supporting the coordination of activities among government departments and agencies implementing HIV, drug control and sex work related activities.⁷⁹ However, a lack of coordination persists among government agencies, including the Ministry of Health (MOH), MOLISA and MPS.⁸⁰ In part the lack of clearly defined and coordinated roles for MOLISA and MPS with MOH has been cited as a cause of weak coordination.⁸¹

Legal and policy context

The Law on Drug Control (2000, revised 2008 and in force January 2009) is the major drug control legislation in Viet Nam. It acknowledges that drug use is a social problem and that drug users should be viewed as needing assistance rather than as offenders or criminals. The law mandates drug treatment. Ordinance 44 on Administrative Violations prescribes sanctions for a range of infringements against security, social order safety and the interests of the Vietnamese State. The ordinance includes measures to deal with drug use and sex work. Article 23 provides for measures to rehabilitate people in the community.

Article 26 contains measures for the rehabilitation and detention of drug users and sex workers in closed settings, including a mandatory period of between one and two years for drug users and six to eighteen months for sex workers.

The Government of Viet Nam developed the National Drug Control Master Plan to 2010 (approved in 2007). It aims to reduce the number of drug users by 20% and control the

⁷⁷ "The Third Country Report on Following up the Implementation to the Declaration of Commitment on HIV/AIDS." Government of Viet Nam 2008 report to UNGASS, p. 17.

⁷⁸ Eligh, Jason and Jacka, David. "Contexts of Injecting Drug Use in Vietnam." United Nations Viet Nam, 2008. http://unaids.org.vn/othersupport/twg/docs08/16jul08/ppt001_e.pdf

⁷⁹ See Appendix 1 for a list of current documents directing coordination.

⁸⁰ Stakeholder interview.

⁸¹ Stakeholder interview.

number of drug users to below 0.1% of the national population. The plan calls for drug treatment for 80% of registered drug users by 2010.

The National Strategy for HIV/AIDS Prevention and Control was approved in 2004 and is current until 2010 with a vision towards 2020. The strategy contains provisions on harm reduction, including support for the provision of clean needles and syringes.

The Law on HIV/AIDS Prevention and Control (2007) and the Decree No. 108/2007/ND-CP (detailing the implementation of the HIV/AIDS Law) provide the authority for a legal framework for conducting effective harm reduction interventions at scale. The law contains legal measures that provide for harm reduction including clean needles and syringes, the protection of peer outreach workers from arrest, and the provision of MMT. Supplementary legislation in the form of Decree No. 108/2007/ND-CP (2007) provides more detailed guidelines on harm reduction activities.

In 2009, a new Decree was issued which provides details and guidelines on the implementation of the Law, which amends and supplements some of the articles in the Law on Drug Prevention and Control regarding post-detoxification drug user management. The Decree mandates a series of provisions for residential (home) and centre-based post detoxification management for former drug users classified as 'high risk drug reusers'.⁸² Post dextoxification management decision-making power is delegated to the People's Committees at district level.

Discussion

Viet Nam's legal and policy framework is supportive of harm reduction approaches. However, harm reduction programs targeting key populations at higher risk (drug users and sex workers) have, until recently, faced legal impediments resulting in limitations to the growth in scale of projects.

The rapid development of the legal and policy environment, while providing a powerful framework, has also created a large number of overlapping policy/regulatory documents and sets of measures. Regulatory guidance is apt to change and to be lacking in clear implementation guidance. In addition, there are clear conflicts between measures promulgated in HIV and drug/criminal law.

Political commitment to harm reduction is strong in Viet Nam; there is a legal framework to allow harm reduction, including condom promotion, NSPs and drug substitution (MMT). The legal framework has strengthened the National Strategy on HIV/AIDS Prevention and Control. Nevertheless, moves towards alignment between drug control and HIV/harm reduction activities still require strengthening. For example, while the Law on HIV Prevention and Control, the implementing Decree for the HIV/AIDS Law and the Program of Action (POA) on harm reduction all provide guidance and measures for the protection of peer outreach workers from arrest, there is less clarity regarding legal protection for drug users who are the recipients of these services.

HAARP in Viet Nam is already playing an important role in supporting high-level coordination for harm reduction through AusAID involvement in mechanisms such as the

⁸² Decree on Post Detoxification Chapter 3. Art.16.1.

informal Ambassador's coordinating group. This group has been coordinating donor and government activities, including the development of common HIV and harm reduction related cost-norms.

A recommendation from the 2006 ARHP advocacy report⁸³ is that the HAARP CFP facilitate drug users' involvement in Viet Nam's harm reduction program. This recommendation has been integrated in the HAARP CFP country design via the use of innovation funds to support peer networks and self help groups.⁸⁴

While PLHIV, and more generally civil society, involvement in HIV responses has been growing over recent years, it is still nascent in Viet Nam, particularly in relation to involvement in policy activities. However, in 2007 the Government endorsed and supported the "Viet Nam Call to Action for the Greater Involvement of People Living with HIV" (a joint initiative between the Communist Party, the Government, PLHIV and international partners).

A new national PLHIV network, currently comprising 128 self-help groups, was established in August 2008. The network includes current and former drug users and provides a range of community based peer support and advocacy for drug users. As such, the PLHIV network is an important resource for CFP efforts to support IDU peer networking and self help groups.

Recommendations

1. Coordinate CFP strategies, including data collection, services, advocacy and policy development/implementation across the primary implementing agencies (Viet Nam AIDS Administration of HIV/AIDS Control [VAAC], MOLISA and MPS), including the coordination of MOLISA and MPS CFP strategic plans with the national harm reduction action plan, National Strategy on HIV/AIDS Prevention and Control, and the Law on HIV/AIDS Prevention and Control.
2. Assist with harm reduction coordination activities, including donor funded activities (for example, [UK] Department for International Development [DFID], World Bank, the US President's Emergency Plan for AIDS Relief [PEPFAR] and UNODC) within an agreed national program of action and including aligned management and administrative arrangements (such as program cost norms).
3. Coordinate data collection with the RCTU, including an agreed data collection and monitoring framework.
4. Collaborate with NGO and PLHIV networks to develop and implement a strategy to support the meaningful involvement and representation of drug users in the design, implementation and monitoring activities of the CFP, at the provincial level.

⁸³ Asia Regional HIV/AIDS Project Strategic Recommendations for Advocacy for Harm Reduction in Viet Nam Milestone 25 Report, December 2006, Advocacy Objective 4.

⁸⁴ This use of innovation funds and support for peer networking has yet to be agreed upon among HAARP stakeholders in Viet Nam. However, it was raised by stakeholders during the interviews for the review and is noted for consideration should consensus be reached.

5. Appoint a designated legal advisory unit or staff member (for example the MOH legislation department, the Lawyers Association or an independent legal officer) with responsibility to summarise the legal and regulatory environment as it relates to HIV, drug control and harm reduction, convene relevant stakeholders, and design a long term strategy for legal review and reform (this activity could be linked to the Social Affairs Committee of the National Assembly).
6. Establish community based services linked to O5/O6 centres; for example, in the short-term a methadone service for residents of the centres (on day release) would address the short-term need of establishing access to methadone for centre residents and allow for a medium-term strategy to be developed to address the legal barriers prohibiting methadone in the centres.

Appendix 1. HAARP Countries: Key laws and policies relating to HIV and drug use

Cambodia	
The Law on the Control of Drugs 1997 (amended in 2005)	<p>Article 35-2, Article 37-5, Article 37-6, and Article 47 relate to criminal sanctions against persons facilitating drug use and require amendment to clarify protection for peer outreach workers and others providing harm reduction materials.</p> <p>The new drugs law is at the final draft stage at this time of this review. UN agencies (with support from HAARP and others) have been advocating for the introduction of Articles on harm reduction, health services and drug treatment into the draft legislation.</p>
The National Drug Control Master Plan (2006–10)	Includes provisions to: Develop drug abuse treatment rehabilitation and reintegration policy for government approval; establish drug treatment and rehabilitation services in Phnom Penh and in priority provinces; create a counselling team for follow-up of patients at the community and family level; encourage involvement of communities, NGOs, families, religions and former drug users in the treatment, rehabilitation and reintegration into society and follow-up of drug users.
National Strategic Plan for a Comprehensive and Multi-sectoral Response to HIV and AIDS (2006-2010) (NSP II)	<p>Guiding principle 3.9 harm reduction – endorses harm reduction and for respect for ‘people’s behavioural responses’.</p> <p>The NSP II Operational Plan sets the target of 60% coverage of injecting drug users to prevention interventions and calls for the following:</p> <p>Scale up prevention activities for substance users.</p> <p>Indicative activities include:</p> <ol style="list-style-type: none"> 1. Ensure that substance users receive awareness information regarding substance use and HIV vulnerability. 2. Promote development of and access to treatment and rehabilitation services for dependent substance users. 3. Scale up and ensure quality and appropriate outreach and peer education interventions and related services. 4. Ensure that alcohol and drug use prevention are incorporated into programming with most at risk groups. 5. Ensure access to risk education materials, including condoms, syringes, etc., in particular for IDUs. 6. Advocate for drug prevention programs to reduce HIV vulnerability.
National Strategic Plan For Illicit Drug Use Related to HIV/AIDS 2008-2010	Objectives 4.1.1-4.1.3 call for the inclusion of illicit drug related HIV activities in all national, sectoral and strategic planning and mainstreaming in local government development and investment planning in four provinces. Particular emphasis is placed on the Cambodian National Strategic Plan on HIV/AIDS III (NSP III) which will replace NSP II in 2011, and the Health Sector Strategic Plan 2008-2015. NACD and NAA are the lead government agencies responsible for this activity.
The Health Sector Strategic Plan 2008-2015 (HSP2)	The guiding framework for all decisions in the sector. It emphasises five key health system strengthening strategies which are: providing integrated health service delivery; ensuring an adequate level (and making effective use of) health financing; addressing human resource needs in the health sector and strengthening health system governance and health information systems. These crosscutting strategies are being applied with the objective of improving health outcomes in the three main program areas: reproductive, maternal, neonatal, and child health; communicable diseases; and non-communicable diseases.

	HSP2 will be implemented through 3-year rolling plans and annual operational planning processes. This implementation cycle offers considerable scope over the life course of the HAARP program for the CFP to provide submissions to the MOH to integrate harm reduction measures with a key national health policy instrument.
The Constitution of Cambodia	Provides a constitutional guarantee of equal rights for all Cambodian citizens regardless of race, colour, sex, language, religious belief, political tendency, birth origin, social status, wealth or other status.
China	
Regulations on AIDS Prevention and Treatment, 2006	Adopted at the Executive Meeting of the State Council on January 18, 2006. Effective as of March 1, 2006. The Regulations call for the implementation of all levels of prevention measures including 'behavioural interventions' for vulnerable groups, to include peer education, methadone maintenance treatment, and condom promotion. The Regulations do not explicitly mention needle/syringe programs and mix drug control with HIV prevention objectives, calling on governments to 'establish the coordinating mechanism in their AIDS prevention and treatment as well as the works of anti-drug abusing' (Chapter III, Article 27).
China's Action Plan (2006-2010) for Reducing and Preventing the Spread of HIV/AIDS	Sets goals for implementing and scaling up both needle/syringe exchange and methadone maintenance, as well as condom use and antiretroviral treatment.
Responsive Measures for HIV/AIDS Prevention in Yunnan Province Law, 2004	Legalised needle and syringe exchanges and required hotels to make condoms available.
The Yunnan Action Plan for Containment and Control of HIV/AIDS (2006-2010)	Provides the framework for provincial HIV responses and is based on the National Action Plan. It includes a provision for the expansion of pilot needle and syringe exchanges to increase coverage of IDUs from 30% to 50% between 2007 and 2010.
Yunnan Provincial AIDS Regulations, 2006	<p>The mix of harm reduction and drug control measures, noted above in national policy, is evident in the Yunnan Provincial AIDS Regulations. The Regulations provide for a range of HIV/AIDS prevention, care and treatment measures in line with China's national policy and provide for both harm reduction activities and drug control measures. The Regulations state the following:</p> <p>14. People's Governments at every level should formulate plans for behavioral interventions targeting different groups based on the epidemic situation, and should organize the appropriate departments to extend behavioral intervention measures and help vulnerable groups to change their behaviors.</p> <p>15. The public security organs have a responsibility to strike against prostitution and the sale and use of drugs in order to clean up the social environment.</p> <p>16. The public security organs and departments of judicial administration will, in cooperation with the Bureau of Health, carry out HIV testing on drug users and prostitutes who have been arrested, detained or are serving prison sentences for the purposes of detoxification and or education according to the law; this testing will be carried out for the purpose of providing medical treatment to those who are HIV-positive. When HIV-positive prisoners are released from their supervisory</p>

	<p>environment, the supervisory organization will in a timely manner inform the local CDC and community or village committee of that person's place of residence.</p> <p>25. Departments of public health, public security, and food and drug supervision will extend maintenance drug therapy and clean needle exchange programs through the approval process for healthcare organisations. Drug users will accept free HIV preliminary screenings.</p>
Administrative Law on Precursor Chemicals. Administrative Regulation on Narcotic Drugs and Psychotropic Substances, 2005.	Regulates the manufacture, distribution, purchase, transport, and import and exports of precursor chemicals.
The Narcotics Control Law, 2008	<p>Approved by the Tenth National People's Congress Standing Committee of China at its 31st meeting on 29 December 2007 and went into effect on 1 June 2008. The law contains measures requiring drug users to undergo community based detoxification, and to be provided with vocational training and employment assistance. The law also provides for public security departments to provide 'direct forced isolation treatment' for those deemed to be in non-compliance with community detoxification procedures for a period of two years.</p> <p>The law contains one provision which allows for methadone maintenance treatment organised by the provincial, autonomous regions and municipal health administrative departments jointly with public security departments and drug supervision and administration departments. According to the law, methadone must be implemented in accordance with relevant national regulations and the demands of solidifying the detoxification outcomes and the local HIV/AIDS prevalence. If drug users are registered with public security departments or clients of MMT services, Article 62 of the law allows an exemption from the administrative fine imposed on people found injecting drugs who are not registered with the security services.</p>
National People's War on Illicit Drugs	Began in 2005 at the initiative of Chinese President Hu Jintao. MPS has designated five campaigns as part of this effort: drug prevention and education; drug treatment and rehabilitation; drug source blocking and interdiction; 'strike hard' drug law enforcement; and strict control and administration, designed to inhibit the diversion of precursor chemicals and other drugs.
Notification on Opioid Dependence Treatment – Ministry of Health, Ministry of Public Security and National Drug and Food Administration (2006)	Notification to all provinces, autonomous regions, municipal cities, health departments and food/drug administration bureaux regarding national guidelines on the operation of MMT.
Lao PDR	
Law on Drugs (No. 10/NA), 2007.	Defines which substances are prohibited and which pharmaceuticals are permissible for medical use. The new Law on Drugs also outlines criminal penalties for possession and contains provisions for asset seizure.

	<p>However, most importantly in terms of harm reduction measures, the law does provide support for a conceptual shift towards health and away from crime. Section 5 deals with treatment for drug addicted people, and contains three Articles (38-40) which outline treatment in the family; the community; and in drug treatment and rehabilitation centres, and detention and reformatory centres. Article 5.5 (Principles Regarding Drug Control, Prevention and Combating) contains the principle that ‘drug addicts are to be considered as victims who need to be treated’.</p>
The National Programme Strategy for the Post Opium Scenario	<p>‘The Balanced Approach to Sustaining Opium Elimination in the Lao PDR (2006-2009)’ is the strategic framework developed by UNODC to support the government of the Lao PDR to address the potential problems and issues arising from the success of the opium reduction program, including drug related HIV transmission.</p>
Decree of the President: Lao People’s Democratic Republic. On the Promulgation of the Penal Law, January 9 th 1990. No. 04/PO.	<p>The penal code which provides for penalties and the treatment of drug offenders. Article 37 allows courts the discretion to increase criminal penalties when offences are committed by recidivists (1), and in states of drunkenness or drug abuse (10). Article 50 provides for the courts to apply measures for medical treatment if an offender is addicted to alcohol or drugs. Article 135 provides sanctions against production, trade, consumption and possession of narcotics. Purchase and possession of two grams or less of heroin is liable to one to five years imprisonment or re-education.</p>
National Strategic and Action Plan on the Control of HIV/AIDS/STI 2006-2010	<p>Contains measures (under Section 3.1.5.3.1) to increase awareness of the vulnerabilities of drug users, to ensure an enabling legal and policy environment for harm reduction, and to expand behaviour change interventions including safe injecting. The measures proposed include:</p> <ul style="list-style-type: none"> • Improving the understanding of authorities and communities about the behaviour of drug users, about their vulnerability to HIV and STIs, and about the importance of harm reduction, rehabilitation and psychosocial support interventions through evidence based information. • Reviewing and updating the National Policy on HIV/AIDS/STI, reflecting potential changes in drug use in the Lao PDR. • Ensuring that the legal and policy framework is conducive for implementation and scaling up of harm reduction, rehabilitation and psychosocial support activities. • Increasing collaboration between relevant ministries on drug prevention, harm reduction and rehabilitation programs. • Increasing cooperation between regional drug related programs. <p>Expected outcomes by 2010 include:</p> <ul style="list-style-type: none"> • At least 70% of injecting drug users will use sterile injecting techniques. • At least 40% of drug users will be reached with behaviour change interventions and counselling. • Evidence based information on drug use will be available and programmatically used.
Myanmar	
The Narcotics Drugs and Psychotropic Substances Law	<p>Provides for penalties and treatment for drug users. It is mandatory for a drug user to register with a government identified facility for medical treatment; non-compliance results in prison terms of three to five years. Inciting by any means to cause</p>

(1993)	abuse of a narcotic or psychotropic substance is punishable, but this does not apply to needle and syringe provision. Currently under review with a proposal for amending Section 15 concerning registration of drug users and decreasing the severity of punishment.
National Counter Narcotics Plan	Myanmar's official 15-year counternarcotics plan, launched in 1999, calls for the eradication of all narcotics production and trafficking by the year 2014, one year ahead of an ASEAN-wide plan of action that calls for the entire region to be drug-free by 2015. To meet this goal, the Government of Myanmar initiated its plan in stages, using eradication efforts combined with planned alternative development programs in individual townships, predominantly in Shan State. The government initiated its second five-year phase in 2004.
Control of Money Laundering Law (Law No. 6/2002)	Contains measures detailing offences related to money laundering, including offences committed under the Narcotic Drugs and Psychotropic Substances Law.
Myanmar Excise Act (1917)	Prohibits the possession, sale or distribution of hypodermic needles without a license. In 2001, a Directive from the Myanmar Police Force Headquarters was given not to make arrests for possession of hypodermic needles. However, needles are confiscated and submitted to the courts as evidence when individuals are arrested for drug possession or having needles on-hand at the scene of a crime. Currently under review.
The Development of Border Areas and National Races Law	Contains a number of provisions which impact on the treatment of drug users in the locations covered by the law (see provision (l) laying down and carrying out special projects for medical treatment and rehabilitation of narcotic drug users in the Development Areas.
The National Strategic Plan on HIV/AIDS 2006-2010	Places a high priority on prevention among populations at risk of HIV including drug users. An operational plan (2008-2010) has been developed to guide the implementation of the national strategy. The operational plan includes a graduated set of targets culminating in 180,000 drug users reached by harm reduction activities by 2009, which include needle and syringe exchange and methadone maintenance therapy (2008-9).
The Philippines	
The Comprehensive Dangerous Drug Act of 2002	Includes provisions that mandate drug use education in schools, the establishment of provincial drug education centres, development of drug-free workplace programs, the implementation of random drug testing for secondary and tertiary students; mandatory drug testing for military and law enforcement personnel, and driver's license and firearm license applicants. People who voluntarily enrol in treatment and rehabilitation centres are exempt from prosecution for illegal drug use.
National Anti-Drug Strategy (NADS)	Executed by the National Anti-Drug Program of Action (NADPA) and contains provisions for counternarcotics law enforcement, drug treatment and prevention, and internal cooperation in counternarcotics.
The 1998 Republic Act No. 8504 (1998)	Contains no explicit provisions relating to harm reduction, however it does provide that 'The State shall positively address and seek to eradicate conditions that aggravate the spread of HIV infection, including but not limited to, poverty, gender inequality, prostitution, marginalization, drug use and ignorance' and further states that 'In seeking to eradicate these conditions, there is no intent to undermine other HIV/AIDS prevention activities.

The Philippines 4 th AIDS Medium Term Plan 2005-2010	Calls for intensified prevention interventions for injecting drug users. Key result area 5 in the operational plan states that, 'IDUs are provided with focused STI/HIV/AIDS preventive education and skills and services', this includes an activity to 'explore policy support for harm reduction program-needle exchange', in addition to 'sustaining existing harm reduction programs in identified high risk areas; advocacy among local officials to support harm reduction programs; identify and capacitate NGOs to assist LGUs implement the program, training of program implementers and service providers/outreach workers, dialogues with local police, Philippine Drug Enforcement Agency (PDEA) officials and other concerned agencies; procurement or making available needles and syringes for exchange; strengthen partnership among agencies at the local level (local government units [LGUs], NGOs, PDEA); and strengthen referral mechanisms for IDUs requiring special care and services'.
Guidelines on the Prevention, Care, Support, and Treatment of HIV among IDUs, with a focus on harm reduction.	In April 2007 PNAC issued a Resolution to develop 'Guidelines on the Prevention, Care, Support, and Treatment of HIV among IDUs, with a focus on harm reduction'. The PNAC Resolution aims to facilitate the alignment of all relevant policies on the prevention of drug abuse and the prevention and control of HIV/AIDS and make the necessary recommendations to appropriate bodies, agencies, and institutions based on empirical data and analysis.
Viet Nam	
The Law on Drug Control (2000, revised 2008 and in force January 2009)	The major drug control legislation in Viet Nam. It acknowledges that drug use is a social problem and that drug users should be viewed as needing assistance rather than as offenders or criminals.
Ordinance on Administrative Violations (No. 44/2002/PL-UBTVQH10 of July 2, 2002)	<p>Prescribes sanctions for a range of infringements against security, social order and safety, and the interests of the Vietnamese state. The ordinance includes measures to deal with drug use and sex work.</p> <ul style="list-style-type: none"> • Article 23 provides for measures to rehabilitate people in the community. • Article 26 contains measures for the rehabilitation and detention of drug users and sex workers in closed settings: <ol style="list-style-type: none"> 1. The sending of persons who have committed acts of law offense prescribed in Clause 2 of this Article to medical treatment establishments to labor, have their general education, job learning and medical treatment under the medical treatment establishments' management shall be decided by the district-level People's Committee presidents. The medical treatment establishments must organize exclusive areas for persons of under 18 years old. The medical treatment establishments must apply measures to prevent and combat the spread of HIV/AIDS and other contagious diseases. The time limits for application of measure of sending to medical treatment establishments shall range from one to two years for drug addicts, and from three months to eighteen months for prostitutes. 2. Subjects to whom the measure of sending to medical treatment establishments shall apply include: <ol style="list-style-type: none"> a) Drug addicts aged full 18 or older who have already been subject to the application of measure of education at communes, wards or district towns, or have not yet been subject to the application of this measure but have no given residence places; b) Regular prostitutes aged full 16 or older, who have been subject to the application of measure of education at communes, wards or district towns or have not yet been subject to the application of this measure but have no given

	residence places.
Decree On Post Detoxification 2009	A decree on Post Detoxification drug user management was issued in 2009. The Decree Providing details and guidelines on the implementation of the new drug law with regards to post-detoxification drug user management and mandates a series of provisions for residential (home) and centre based post detoxification management for former drug users classified as 'high risk drug reusers'.
National Drug Control Master Plan to 2010 (approved in 2007)	Aims to reduce the number of drug addicts by 20% and control the number of drug addicts to below 0.1% of the national population. The plan calls for drug treatment for 80% of registered drug users by 2010.
The National Strategy for HIV/AIDS Prevention and Control (approved in 2004 and is current until 2010 with a vision towards 2020)	Contains provisions on harm reduction, including support for the provision of clean needles and syringes with a target of 100% coverage.
The Law on HIV/AIDS Prevention and Control (2007)	Creates a legal framework for conducting effective harm reduction interventions at scale. The law contains legal measures that provide for harm reduction including clean needles and syringes, the protection of peer out-reach workers from arrest and the provision of MMT. Supplementary legislation in the form of Decree No.108/2007/ND-CP (2007) provides more detailed guidelines on harm reduction activities.
Decree 108/2007/ND-CP (detailing the implementation of the HIV/AIDS Law)	Provides supplementary guidelines on the HIV/AIDS Law and more detailed guidelines on harm reduction activities.

Appendix 2. Regional and National Narcotic Control Frameworks and Agreements

Regional Drug Control Agreements

Date	Countries	Agreement
August 1990	Delegation from China Ministry of Public Security to Myanmar and Thailand	Consultation on transnational drug crimes
May 1991	China, Myanmar, Thailand and UNODCCP	Consultation to discuss measures against illicit drugs in Beijing
June 1992	China, Myanmar, Thailand and UNODCCP	Consultation and agreements signed in Yangon to launch demand reduction, crop elimination and anti-trafficking measures in Myanmar
1993	China, Lao PDR, Myanmar and Thailand	MOU to eradicate poppy cultivation, provide alternative development, eliminate trafficking and reduce demand from illicit drugs
1995	Cambodia and Viet Nam	Joined the 1993 MOU
1995	Cambodia, China, Lao PDR, Myanmar, Thailand and UNODCCP	First GMS (Greater Mekong Sub-region) ministerial meeting on drug matters 'Beijing Declaration' GMS plan of action on dangerous drugs
1996	Yunnan, Myanmar, Lao PDR and Viet Nam	Appointed Liaison officers for drug matters
1996	China, Myanmar and UNODCCP	Established a mechanism for regular meetings on drug matters and law enforcement in the in the borders areas of Yunnan and Myanmar
1999	Yunnan and Viet Nam	Cooperation between Wenshan city and Hejiang Province
1999 and 2001	China signs separate MOUs with Thailand, Myanmar, Lao PDR, Cambodia and Viet Nam	Cooperative agreements on demand reduction, management of narcotics, alternative development, preventative and rehabilitation programs, technical cooperation and information sharing
2000	ASEAN+1	In Pursuit of a Drug Free ASEAN 2015: ASEAN and China Cooperative Operations in Response to Dangerous Drugs (ACCORD work plan for the 2015 vision). 4 Pillars of Action: <ol style="list-style-type: none"> 1) Promoting civic awareness 2) Reducing illicit consumption 3) Strengthening the rule of law

		4) Eliminating or significantly reducing the production of illicit crops ACCORD evaluation 2008 'as a target of zero drugs for production, trafficking and consumption of illicit drugs in the region by 2015 is obviously unattainable' (Drug free ASEAN 2015 status and recommendations, page 1, 2008)
2001	China, Lao PDR, Myanmar and Thailand	Second Beijing Declaration. This declaration emphasised 'closer' cooperation, and included public awareness and law enforcement cooperation
2001	Yunnan and Lao PDR	Provincial liaison officers on drug matters
2002	ASEAN and China	ASEAN China 6 th Summit. 'The Joint Declaration of ASEAN and China on Cooperation in the Field of Non-Traditional Security Issues'
2004	ASEAN +3	ASEAN + 3 ministerial meeting to combat transnational crime, Bangkok. Memorandum of Understanding on Cooperation in the Field of Non-Traditional Security Issues
2004	China, Indonesia, Malaysia and the Philippines	MOUs on drug control

Country level agreements

Cambodia is a party to the 1988 UN Drug Convention, the 1971 UN Convention on Psychotropic Substances, and the 1961 UN Single Convention as amended by the 1972 Protocol. The National Assembly ratified the 1972 UN Protocol amending the 1961 Single Convention in September 2007 and the King signed it into law the following month. Cambodia is a party to the UN Convention against Transnational Organized Crime.

China has signed over 30 mutual drug control related legal assistance agreements with 24 countries and 58 bilateral treaties on legal assistance and extradition with 40 countries. China is a party to the 1988 UN Drug Convention, the 1961 UN Single Convention as amended by the 1972 Protocol and the 1971 Convention on Psychotropic Substances. To enhance information sharing and coordination efforts by countries in and around Central Asia, China has been participating with drug control programs with Iran, Pakistan, Tajikistan, Turkmenistan, Uzbekistan, Russia and the United States. China has signed drug control cooperation agreements with India and dialogue with Myanmar on counter drug issues on such matters as drug trafficking by the United Wa State Army. China is a signatory to the ASEAN declaration for a drug free ASEAN by the year 2015.

The Lao PDR is a signatory to the ACCORD 'drug-free ASEAN by 2015' strategy, a party to the 1988 UN Drug Convention, the 1961 UN Single Convention, but is not yet party to the 1972 Amending Protocol to the Single Convention. The Lao PDR is a party to the 1971 UN Convention on Psychotropic Substances, the UN Convention against Transnational Organized Crime, and its three protocols. The Lao PDR has legal assistance agreements with China, Thailand, Viet Nam, Cambodia, Burma and Indonesia.

Myanmar is a party to the 1961 UN Single Convention on Narcotic Drugs as amended by the 1972 Protocol, the 1971 UN Convention on Psychotropic Substances, and the 1988 UN Drug Convention. Myanmar is a party to the UN Convention against Transnational Organized Crime and its protocols on migrant smuggling and trafficking in persons, and has signed but has not ratified the UN Convention against Corruption. In addition, the Government is a party, with a number of countries, to ongoing bilateral agreements for cooperation on drug control and crime issues. At the regional level, Myanmar is a partner in a UNODC sub-regional action plan that includes China, Cambodia, the Lao PDR, Thailand and Vietnam; a member of ACCORD (ASEAN and China Cooperative Operations in Response to Dangerous Drugs), and in the inter-governmental network dedicated to the fight against illicit drugs in the region; and participates in the COMMIT (Coordinated Mekong Ministerial Initiative against Trafficking) process.

The Philippines is a party to the 1988 UN Drug Convention, as well as to the 1971 UN Convention on Psychotropic Substances, the 1961 UN Single Convention on Narcotic Drugs, and the 1972 Protocol Amending the Single Convention. The Philippines is a party to the UN Convention against Transnational Organized Crime and its protocols against trafficking in persons and smuggling of migrants. The Philippines has signed the UN Convention against Corruption.

Viet Nam is party to the UN 1961 Convention on Narcotic Drugs, the UN 1971 Convention on Psychotropic Substances and the UN 1988 Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. The Government has taken an active part in the

implementation of the Memorandum of Understanding on Drug Control and the ACCORD Plan of Action. Agreements on drug control cooperation have been signed with a number of other governments both regionally and beyond.

Appendix 3: Country Review Acronyms

Cambodia

AIVL	Australian Injecting and Illicit Drug Users' League
DHAWG	Drug and HIV/AIDS Working Groups
HSP	Health Strategic Plan
MOH	Ministry of Health
MoSAVY	Ministry of Social Affairs, Veterans and Youth Rehabilitation
NAA	National AIDS Authority
NACD	National Authority for Combating Drugs
NCHADS	National Centre for HIV/AIDS, Dermatology and STIs
NSP II	National Strategic Plan II
PFP	Policy Focal Point
PDCC	Provincial drug control committees

China

CAHHF	China Australia Health and HIV/AIDS Facility
CAIHHP	China Australia Integrated Health and HIV/AIDS Program
CDC	Centre for Disease Control and Prevention
EAPs	Effective Approach Projects
GAC	General Administration of Customs
MOH	Ministry of Health
MPS	Ministry of Public Security
NNCC	National Narcotics Control Commission
NCAIDS	National Centre for AIDS/STI Prevention and Control
PAWCO	Provincial AIDS Working Committee Office
PHB	Provincial Health Bureau
PMC	Program Management Committee
PSB	Public Security Bureau

Lao PDR

CNU	Counter Narcotic Units
CHAS	Centre for HIV/AIDS/STIs
DCDC	District Committees for Drug Control and Supervision
Lao PDR	Lao People's Democratic Republic
LCDC	Lao PDR Commission for Drug Control and Supervision
MOH	Ministry of Health
MPS	Ministry of Public Security
NACCA	National Committee for the Control of AIDS
PCDC	Provincial and Vientiane Capital Committees for Drug Control and Supervision

Myanmar

CCDAC	Central Committee for Drug Abuse Control
FHAM	Fund for HIV/AIDS in Myanmar
MOH	Ministry of Health
MoHA	Ministry of Home Affairs
MSI	Marie Stopes International
NAP	National AIDS Program, Ministry of Health
NDARC	National Drug and Alcohol Research Centre
NPCI	UNGASS National Policy Composite Index
TSC	Township Steering Committees

The Philippines

AIDSOTF	Anti-Illegal Drugs Special Operations Task Force
DDB	Dangerous Drugs Board
DepEd	Department of Education
DSWD	Department of Health, Social Welfare and Development
DILG	Department of Interior and Local Government
DoH	Department of Health
DOLE	Department of Labor and Employment
GRP	Government of the Republic of the Philippines
NADPA	National Anti-Drug Program of Action
NADS	National Anti-Drug Strategy
OP	Office of the President
PDEA	Philippine Drug Enforcement Agency
PNAC	Philippine National AIDS Council
PNP	Philippine National Police
TWG	Technical Working Group

Viet Nam

ARHP	Asia Regional HIV/AIDS Project
DFID	UK Department for International Development
MoD	Ministry of Defence
MOH	Ministry of Health
MOLISA	Ministry of Labor, Invalids and Social Affairs
MPS	Ministry of Public Security
NCADP	National Committee on AIDS, Drugs and Prostitution Prevention and Control
PEPFAR	US President's Emergency Plan for AIDS Relief
POA	Program of Action
SODC	Standing Office on Drug Control
VAAC	Viet Nam Administration of HIV/AIDS Control