

Abstract

This article is based on research on the response to drug use and HIV in Armenia and its conflicts with international law. It was conducted via an assessment of legal documents, resolutions, and position papers on drugs, human rights, and HIV, and an analysis of their practical exercise in Armenia. The article provides an overview of challenges to effective responses to drug use and HIV in Armenia, outlines the rationale for adopting human rights-based approaches, provides justification that the latter approaches would allow Armenia to better comply with its obligations under international treaties, and proposes policy recommendations for the promotion of human rights-based approaches.

Cet article repose sur les résultats d'une étude portant sur la riposte à l'association entre la toxicomanie et le VIH en Arménie, ainsi que sur les conflits avec le droit international engendrés par cette riposte. L'étude a été menée sous la forme d'un examen de documents juridiques, résolutions et exposés de position relatifs aux drogues, aux droits de l'homme et au VIH/sida, ainsi que d'une analyse de leur application pratique en Arménie. Cet article présente une vue d'ensemble des facteurs faisant obstacle à une riposte effective aux problèmes relatifs à l'association entre toxicomanie et VIH, dégage une justification pour l'adoption d'une approche fondée sur les droits de l'homme, et légitimise cette approche qui permettrait à l'Arménie de mieux remplir ses obligations découlant des traités internationaux et propose des recommandations de politique générale pour la promotion d'approches fondées sur les droits de l'homme.

Este artículo se basa en la investigación de la respuesta al uso de drogas y VIH en Armenia y su conflicto con la ley internacional. Fue realizado por medio de la evaluación de documentos legales, resoluciones y documentos de manifestaciones acerca de drogas, derechos humanos, VIH y un análisis de su ejercicio práctico en Armenia. En el artículo se suministra un panorama general de los desafíos para las respuestas efectivas al uso de drogas y VIH en Armenia, se esboza la razón fundamental para la adopción de enfoques basados en los derechos humanos, se suministra una explicación de que estos enfoques permitirían a Armenia cumplir mejor sus obligaciones bajo los tratados internacionales y se proponen recomendaciones sobre políticas para el adelanto de los enfoques basados en los derechos humanos.

MEETING THE CHALLENGE OF INJECTION DRUG USE AND HIV IN ARMENIA

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Injection drug use (IDU) rates and HIV rates in some countries of the former Soviet Union (FSU) are skyrocketing.¹ The epidemic of injection drug use is an epidemic of the young.^{2,3} These young people deserve attention and care, irrespective of how society feels about drug use. Stigmatizing them could risk the survival of a generation on which the promise of transition depends. Their drug use, the reasons behind it, and its consequences must be addressed with effective evidence-based methods—even if those methods may make some people uncomfortable.

Compared to the known prevalence of HIV in other countries in the region, such as Russia and Ukraine, that in Armenia is not high. Between 1988 and November 1, 2005, 375 people with HIV were registered in the country, and the estimated HIV prevalence rate in 2002 was less than 0.1%.^{4,5} This relatively low rate may not be enough alone to justify an immediate effort to develop an HIV prevention program.

Armenia's socio-economic crisis, however, in addition to other factors such as poverty, mass unemployment, and a considerable population of internally displaced persons and refugees, makes the HIV/AIDS epidemic a real danger for this

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small country of approximately three million people. As declared at the Caucasus Area Meeting on National Responses to HIV/AIDS, “. . . the alarming situation and experience of Ukraine, Belarus and Russia demonstrate that the number of HIV cases can increase from hundreds to thousands within a year. Tomorrow can be late. We have to act today. . . .”⁶

Official statistics show that the HIV epidemic in Armenia, as in other countries of the FSU, is driven mostly by injection drug use (54.5% of all registered cases).⁷ In recent years, a significant increase in the number of cases of infection resulting from the injection of drugs has been observed. So far, all of the individuals infected via IDU in Armenia have been men, the majority of whom were living temporarily in the Russian Federation (Moscow, St. Petersburg, Irkutsk, Surgut, and Rostov) and Ukraine (Odessa, Mariupol, and Kiev).⁸

Studies have demonstrated that when an HIV epidemic is driven by IDU, early intervention becomes critical: once HIV has been introduced into a local community of injection drug users, there is a possibility of extremely rapid spread.⁹ Moreover, once HIV prevalence exceeds 5-10% among injection drug users, overall infection rates can climb as high as 50% in fewer than five years.¹⁰ The potential for the rapid spread of HIV among injection drug users means that any delay in implementation of HIV prevention interventions carries particularly serious consequences.

Data on the prevalence of drug use in Armenia are scarce and vary widely at times. According to the operative data of the Ministry of the Interior, the number of drug users in Armenia in 2000 was about 20,000 (50% residing in the capital city, Yerevan), with 2,000 of them using injection drugs.¹¹ In its study, “Rapid Assessment of the Spread of HIV Infection Including Intravenous Drug Users,” the National Center for AIDS Prevention in Yerevan found higher rates. It showed that in Yerevan alone in 2000, there were from 19,000 to 20,000 drug users, of whom approximately 10% were injection drug users.¹² According to the World Health Organization (WHO) EURO databases, the estimated number of injection drug users in Armenia in 2003 was between 7,000 and 11,000.¹³ Even taking into account the differences in these estimates, the numbers are disturbing and reveal the need for intervention.

The Sentinel Epidemiological Surveillance carried out in 2000 found the HIV prevalence among injection drug users to be about 15%, demonstrating that they are key to the dynamics of the HIV epidemic in Armenia.¹⁴ To prevent a generalized epidemic, there is an urgent need to address the linkage between IDU and HIV infection.

Why Focus on Human Rights?

The evolving HIV/AIDS pandemic has led to an increased understanding of the importance of human rights as one of the primary factors in determining people's vulnerability to HIV infection.¹⁵ By the end of the 1980s, the first WHO global response to AIDS included reference to the protection of human rights as a necessary element of a worldwide public health response to the emerging epidemic.¹⁶

The human rights discourse is crucial in relation to HIV/AIDS for several reasons. First of all, conceptualizing something in rights terms emphasizes its exceptional importance as a social or public good.¹⁷ Second, use of rights language in connection with any issue emphasizes that the dignity of each person must be central to all aspects of that issue.¹⁸ And finally, framing an HIV strategy in human rights terms anchors it in international law, thereby making governments and intergovernmental organizations publicly accountable for their actions toward people living with HIV/AIDS, as well as those vulnerable to HIV/AIDS.^{19,20}

The key human rights document of the modern human rights movement is the Universal Declaration of Human Rights (UDHR), adopted by the United Nations General Assembly in 1948. The UDHR recognizes health as a fundamental human right.²¹ The International Covenant on Economic, Social, and Cultural Rights (ICESCR, 1966) further elaborates the concept of the right to health by declaring "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health," which encompasses the right to control one's health and body, including sexual and reproductive freedom. The ICESCR also includes the right to be free from interference, such as the right to be free from torture and non-consensual medical treatment as well as the right to a system of health protection that provides equality of opportunity for people to enjoy

the highest attainable level of health.^{22,23} Health and government responsibility for health in the context of the HIV/AIDS epidemic is codified in some form in other treaties including the International Convention on the Elimination of All Forms of Racial Discrimination (1965), the International Convention on the Elimination of All Forms of Discrimination against Women (1979), and the Convention on the Rights of the Child (1989).²⁴ In addition to the right to health, human rights relevant to HIV/AIDS include (but are not limited to) the right to non-discrimination and equality; to liberty and security of the person; to privacy; to seek, receive, and impart information; to participate in developing policies and programs that affect oneself; to marry and found a family; to work; and to have freedom of movement, association, and expression.²⁵

Having ratified the aforementioned treaties, Armenia committed itself to respect, protect, promote, and fulfill the rights recognized in them. The study summarized here sought to find out whether the nation has in fact done so.

The Study

Goal

The goal of this study was to analyze the Armenian illicit drug- and HIV-related laws, policies, and practices through a human rights lens in order to:

- identify areas of inconsistency between the Armenian approach and human rights principles;
- demonstrate how a lack of human rights-based policies may challenge effective responses to drug use and HIV; and
- draw conclusions and propose recommendations for bringing the Armenian legislative framework and its practices into compliance with international standards, which would also help control the twin epidemics.

Methodology

The study included these methods:

- Desk research that was done through the review and analysis of relevant materials, both printed and electronic.

The materials included legal documents, resolutions, position papers, research articles, books, and mass media articles on drugs, human rights, and HIV in general and in relation to Armenia in particular.

- Primary research that was carried out through key informant interviews.

Study subjects were selected in accordance with data from the literature identifying the key stakeholders and groups of people associated with the issues being examined. Key informants included officials from the Ministries of the Interior, Health, Education, Culture, and Youth Affairs; parliamentarians; health care providers; policemen; and representatives of nongovernmental organizations (NGOs) and the mass media. This study had a serious limitation, which was the inability of researchers to reach out to injection drug users and interview them. This restricted the knowledge available and thus the entire thrust of this article.²⁶

Results

As was stated above, the HIV epidemic in Armenia is mostly driven by IDU. Therefore, a primary component of the research was an analysis of the cornerstone of illicit drug-related legislation in Armenia, the Law of the Republic of Armenia on Narcotic Drugs and Psychotropic Substances, adopted December 26, 2002 (hereinafter the Armenian Law on Narcotic Drugs).²⁷ The purpose was to find out if and how this legislation poses obstacles to comprehensive rights-based approaches to HIV. Armenia assented to the three major UN Drug Control Conventions in 1993, and the Armenian Law on Narcotic Drugs closely tracks their provisions.^{28–30} The policy-makers developing the Armenian Law on Narcotic Drugs were guided by the government's stated slogan, "Armenia Free of Drugs."³¹

Zero Tolerance Approaches to Narcotics Regulation in Armenia. The provisions of the Armenian Law on Narcotic Drugs can be characterized as "zero tolerance" since it prohibits the sale, possession, and consumption of narcotics.³² With regard to consumption, Article 271 of the Criminal Code of Armenia states, "Use of narcotic drugs without medical permission, is punished with a fine in the amount

of up to 200 minimal salaries, or with arrest for the term of up to two months.”³³

A similar pattern is seen in the application of severe penalties to traffickers. Article 266 of the Criminal Code states, “Illegal . . . keeping, trafficking or supplying of narcotic drugs or psychotropic materials with the purpose of sale, is punished with imprisonment for the term of three to seven years. . . . The same action committed . . . in large amount . . . or . . . in particularly large amount . . . is punished with imprisonment for the term of five to 10 years . . . and . . . seven to 15 years (respectively) with or without property confiscation.”³⁴ It is important to mention here that thresholds for trafficking penalties are very low. For example, 0.025 to one gram of heroin is considered a “large” amount, and more than one gram is considered a “particularly large” amount. For hashish “large” and “extra large” amounts are five to 100 grams and more than 100 grams respectively.³⁵ Thus, the drug legislation makes little distinction between small-scale dealers/producers and industry kingpins.

The relationship between zero tolerance approaches to drugs and the human rights of injection drug users may not be readily apparent. However, as will be demonstrated further in this article, the criminalization of drug use, along with other provisions of the Armenian Law on Narcotic Drugs and provisions of related laws and policies, poses serious barriers to the adoption of a comprehensive human rights-based approach to HIV prevention.

Discrimination and Marginalization of Injection Drug Users: A Violation of Their Human Rights. Equality and nondiscrimination are fundamental principles of human rights law, and prohibition of discrimination is a dominant theme running throughout.³⁶ In accordance with international law, the Constitution of the Republic of Armenia (RA) provides for the right to nondiscrimination and equality by stating that all people are equal before the law and that discrimination based on sex, race, skin color, ethnic or social origin, genetic circumstances, language, religion, viewpoints, political or other opinion, belonging to a national minority, property status, birth, disability, age, or other conditions of personal

or social character shall be prohibited.³⁷ Similarly, the Law on Provision of Medical Aid and Services to [the] Population declares equality among people and prohibits discrimination with respect to the right to receive medical aid and services. In particular, the law provides that “in the Republic of Armenia everyone regardless of nationality, race, sex, language, religion, age, state of health, political and other opinions, social origin, property or other status has [the] right to receive medical aid and services.”³⁸

These guarantees are mostly illusory, however, when injection drug users are concerned. For example, international standards and practices recognize very few circumstances in which HIV testing should be required, or in which unauthorized disclosure of HIV status is permitted (such as when blood or tissues are donated).^{39,40} However, compulsory testing of at-risk groups, including injection drug users, is still legal in Armenia under Article 11 of the Armenian Law on HIV/ AIDS. Furthermore, the Standards of Treatment of Narcological Diseases, which were adopted in June 2005, also require HIV testing for every injection drug user who is admitted to the Narcological Center—either voluntarily or involuntarily.^{41,42} Additionally, as the staff of the Center stated during interviews, they do not inform injection drug users about the test in advance or obtain their consent to be tested.

The legislation of Armenia does not have statutes that specifically ban the release of confidential HIV information. Conversely, the Law on Provision of Medical Aid and Services to the Population, the Law on Personal Data, and the Law on HIV/AIDS permit disclosure of medical information in cases envisioned by law (HIV-positive status may be among these cases).^{43–45}

Such practices violate an individual’s right to security and privacy. Compulsory HIV testing, combined with involuntary disclosure of test results, increases the likelihood that the identity of people living with HIV/AIDS will be revealed without their permission, thereby facilitating official or unofficial discrimination and stigmatization, with potentially devastating consequences. Stigma pushes drug users further into the social margins. Once there, they have little incentive to refrain from such risky behaviors as sharing needles or having unprotected sex. While these drug users are among

the ones most in need of assistance, public health authorities have greater difficulty reaching them after they have been forced out of the mainstream of society. Therefore the effectiveness of prevention and treatment policies is reduced. Drug users are reluctant to seek assistance from public health facilities out of fear that they will be turned over to law enforcement authorities and denied health care. Those drug users who are diagnosed as drug addicts may also be forced into compulsory treatment under Article 49.4 of the Armenian Law on Narcotic Drugs.⁴⁶ The treatment available is limited to short-term routine detoxification with no provisions for rehabilitation or support.⁴⁷ Taking these facts into account, it is not surprising that demand for drug treatment in Armenia has been low and steadily declining since 2000.⁴⁸

Controversial Status of Harm Reduction. Obstacles to the adoption of comprehensive human rights-based approaches to prevention and treatment of HIV in Armenia are most apparent in policies relating to harm reduction. Advocates of harm reduction reason that dangerous drugs will always be available and that we must learn how to live with them in a way that minimizes their adverse health and social consequences. Harm reduction thus focuses on risks rather than on the drugs themselves and takes into account both adverse health effects and the range of people affected. Similarly, this approach recognizes that not all illegal drug use carries equal risk; identifies mediating factors that increase drug risk and related disease risk; and seeks to identify the tools and interventions that might best contain adverse health effects among the largest number of people.⁴⁹⁻⁵³ The full spectrum of efforts to reduce drug-related harm includes peer education, syringe exchange, safe injection rooms, methadone maintenance, and overdose prevention.

Harm reduction activities in Armenia can be described as falling somewhere between what is tolerated and what is supported. It cannot be stated that they are merely tolerated because the harm-reduction component theoretically is included in the National HIV/AIDS Prevention Program. The financial support provided for harm reduction projects by the government is extremely limited, however, and is unable to cover existing needs. Perhaps more significantly, under the

Armenian Law on Narcotic Drugs, legal issues may arise with regard to harm reduction programs. Below we analyze possible legal constraints for each major component of such programs.

Armenia was the last country in the region (Central and Eastern Europe and the FSU) to provide needle exchange programs for injection drug users. The first project was launched in August 2003.^{54,55} In late 2003 and early 2004, four other pilot projects were launched with funding from the Open Society Institute (OSI) and the Global Fund to Fight AIDS, Tuberculosis and Malaria (GFATM).^{56–58} Currently, within the framework of the GFATM-funded program, three needle exchange centers are running in Yerevan and two other large cities, Gumry and Kapan.⁵⁹ Another project funded by OSI is running in Vanadzor, which is the third-largest city.⁶⁰ The services provided by the centers include distribution of disposable syringes/needles and dissemination of condoms and educational/informational materials. The centers also offer voluntary HIV testing and counseling (VCT) services; voluntary counseling and symptomatic treatment for sexually transmitted infections (STIs); and legal advice. Few, if any, people take advantage of the services provided by the needle exchange centers, however.

Monitoring by OSI in December 2004 and interviews with staff at the centers revealed that the criminalization of drug use in Armenia had resulted in low success rates for the needle exchange projects. Injection drug users do not routinely visit the projects' offices because they distrust the staff and are afraid of being prosecuted for drug use. The majority of services are provided by a small number of outreach workers who were injection drug users in the past (usually one or two persons per project). However, even these outreach workers are reluctant to visit the centers or to register the users of their services. As former drug users, they note their concern about risks associated with carrying contaminated equipment even if obtained through needle exchange. It may seem safer for them to simply distribute clean injection equipment instead of exchanging the clean syringes/needles for used ones.⁶¹

Thus, the criminalization of drugs creates barriers for proper needle exchange in Armenia and for monitoring its effectiveness. It is therefore difficult to determine whether

needle exchange projects play the role that they are supposed to play and whether they can reduce the harm caused by injection drug use.

In addition to needle exchange, the centers are supposed to offer counseling on methods of cleaning needles and syringes to eliminate or reduce contaminants, as well as counseling on other measures to reduce or prevent the risk of transmission of HIV and hepatitis. Harm reduction programs can be effective only if they are permitted to offer all of these services.⁶² In Armenia, counseling is provided by outreach workers outside of needle exchange centers, which makes it difficult to determine whether the counseling is done properly. This activity also raises concerns from a legal perspective. Article 42 of the Armenian Law on Narcotic Drugs states:

1. The advertisement and propagation of the narcotic drugs . . . the activities of the natural or legal persons targeted at the dissemination of the information about the forms of the use of the narcotic drugs . . . using and acquiring them, as well as publication of the literature and dissemination of that . . . shall be prohibited.
2. It is prohibited to propagate the advantages of the narcotic drugs . . . over one another.⁶³

Article 42 defines “propagation” so broadly that virtually any drug-related activity or literature would seem to fall within it. As a result, neither the concept of needle exchange centers nor the services that they provide enjoy the full support of authorized agencies in Armenia.

Another harm reduction approach is the establishment of safe drug injection rooms. The stated purpose of this practice is to provide a hygienic environment where people can inject, thus reducing their exposure to infectious diseases and giving them access to basic health services.⁶⁴ Drug injection rooms are currently operating in Australia, Germany, Spain, the Netherlands, and Switzerland.⁶⁵ Evidence of the effectiveness of drug injection rooms is not as strong as for needle exchange programs. However, it appears that when implemented in consultation with the wider community, drug injection rooms are an important means of serving hard-to-reach populations.⁶⁶

Despite this evidence, safe drug injection rooms are not available in Armenia, and the National Program for AIDS Prevention does not refer to them in its recommendations. There may be several reasons for this. First, it may be that drug injection rooms are not as popular as other harm reduction approaches.⁶⁷ Further, it might be claimed that this approach is incompatible with the obligations to prevent the abuse of drugs, derived from Article 6 of the Armenian Law on Narcotic Drugs as well as from Article 38 of the 1961 UN Drug Convention and Article 20 of the 1971 UN Drug Convention.^{68–70} However, the most important reason that the National Program for AIDS Prevention does not include a recommendation for safe drug injection rooms may be that to do so would be considered illegal under the Criminal Code of the Republic of Armenia. Encouraging addicts to use drug injection rooms could arguably be construed as “abetting or involving . . . use of narcotic or psychotropic drugs,” as it is defined in Article 272 of the Criminal Code of the Republic of Armenia.⁷¹ In addition, the establishment of safe injection rooms may qualify as “organization and maintaining of dens for the use of narcotic or psychotropic drugs,” which is a criminal offense under Article 274 of the Criminal Code.⁷²

Another harm reduction strategy is substitution treatment, which can be defined as the prescription of a drug with similar action as the drug of dependence but with lower degree of risk and with specific treatment aims.⁷³ The role of substitution therapies in the reduction of HIV is indirect; injection drug users reduce or stop injecting and thereby decrease the incidence of a behavior deemed to be responsible for the spread of HIV.⁷⁴ The medical prescription of substitute narcotics for those who demonstrate narcotic dependency has been associated with opiate addiction from the time methadone was introduced as an opiate substitute in 1965.⁷⁵ Other drugs such as buprenorphine have also been shown to be effective as heroin substitutes.⁷⁶ The European countries in which methadone is most widely available report lower HIV prevalence rates among intravenous drug users.⁷⁷

Yet in Armenia, substitution therapies remain illegal under the Armenian Law on Narcotic Drugs, insofar as methadone and buprenorphine are concerned, even as a few

psychotropic drugs that can reduce some symptoms of withdrawal are legal. Article 4 of the Law defines four classes ("Lists") of narcotic drugs, psychotropic substances, and their precursors.⁷⁸ Methadone is included in List 1, which, according to the definition of Article 4, encompasses ". . . narcotic drugs and psychotropic substances, the traffic of which is prohibited in the territory of the Republic of Armenia."^{79,80} Buprenorphine is included in List 2, which encompasses ". . . narcotic drugs and psychotropic substances, the traffic of which in the Republic of Armenia is limited."^{81,82} The use of both methadone and buprenorphine for substitution treatment is also illegal under Article 28 of the Law on Narcotic Drugs, which states that ". . . the use of narcotic drugs and psychotropic substances for the treatment of drug addiction is prohibited in the Republic of Armenia."⁸³

Thus, unfortunately, legal issues arise under Armenian law with respect to harm reduction initiatives, likely preventing their full support by authorized agencies. To produce optimal results, these programs should be legalized and made operable in their entirety, without legal risk, challenge, or unwarranted intrusion.

Poor Democratization and Underdeveloped Civil Society.

Respecting the human rights and responding to the concerns of people infected by HIV as well as those vulnerable to the virus must be vital elements of any effective response to the epidemic.⁸⁴ Such concerns can be articulated, understood, and addressed only when the individuals and communities with the most at stake are included in policy-making processes and when supportive environments for dialogue and mutual understanding are established.⁸⁵ Countries that have had success in stemming the spread of HIV/AIDS have done so thanks to sustained engagement from NGOs and civil society more generally.⁸⁶

In Armenia, however, as in other countries of the FSU, communism's aftermath has not provided fertile soil for the flowering of civil society and the development of the grassroots organizations needed to articulate individual and community concerns. A major weakness of the few Armenian NGOs currently working in the area of HIV/AIDS and IDU is the lack of strong ties of these organizations to vulnerable

populations. Only one or two representatives of at-risk groups work within these NGOs, and, as a rule, their responsibilities are limited to outreach work. They are not represented in the governing bodies of NGOs and therefore do not have any decision-making power.⁸⁷

A major reason why drug users are not able to participate in issues affecting them is that their behavior is criminalized in Armenia. Given this, it is hard to imagine how they can officially establish an NGO or get involved in one. Many drug users believe that candid discourse with government representatives or other actors in drug use matters will result in punishment and social exclusion. Many harbor doubts about whether their government and society value and want to help them. They do not always believe the official information that they receive concerning the choices they can make and are far from thinking that they are entitled to services that government should provide.⁸⁸

Thus, while commitment to democratization and sustained engagement by NGOs and civil society more generally are critical for stemming the spread of HIV/AIDS, Armenia has not been effective in reaching injection drug users.

Discu]ssion

Two competing frameworks have defined national and international responses to drugs and drug users. The first of these, which has a longer history, is the law enforcement framework. It views illicit drug use as “abnormal” and seeks to track, restrict, or eliminate illicit drugs and prosecute those who sell, buy, or use them.^{89,90} This traditional approach to drugs and drug users reflects the position of the drug control entities of the United Nations, which are the Commission on Narcotic Drugs (CND) and the International Narcotics Control Board (INCB).⁹¹ The position is based on three protocols known collectively as the UN Drug Conventions—the 1961 Single Convention on Narcotic Drugs as amended in 1972, the 1971 Convention on Psychotropic Substances, and the 1988 Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.^{92–94}

The influence of these Conventions cannot be overstated: countries (including Armenia) that have ratified and signed the Conventions have been obliged to incorporate their provi-

sions into domestic law.⁹⁵ Yet because the first two drug Conventions predate the HIV epidemic, and the third one was approved before there was widespread awareness of the role that injection drug use plays in the epidemic, they do not address IDU-driven HIV infection.⁹⁶ Moreover, compliance with the Conventions has not stemmed the tide of drug use or the associated social and health risks, and appears to be accelerating, rather than containing, the spread of HIV.⁹⁷⁻⁹⁹

The second approach to drug use and drug users, that of harm reduction, gained credibility as a response to the global crisis of HIV infection among people who inject. Interventions to stem HIV and other harms among injection drug users have proven highly effective.^{100,101} Researchers evaluating harm reduction efforts have demonstrated positive outcomes in countries from Australia and the United States to Belarus and Thailand. Representatives of the Joint United Nations Programme on HIV/AIDS (UNAIDS) phrase it simply in their speeches and publications: "harm reduction works."^{102,103}

Unfortunately, years after gold-standard research has shown how swiftly injection drug use can spread HIV and how evidence-based approaches can effectively contain that explosive growth, Armenia continues to emphasize criminal enforcement over the best practices of public health. One possible reason is that Armenia has not been stricken by HIV/AIDS as severely as some other countries of the FSU. Therefore, it is easy for policy-makers to deny the existence of the epidemic and the necessity to take measures to control it.

A second possible reason is widespread disinterest and intolerance. Since drug users in Armenia are extremely marginalized, they have not been able to build effective social networks and advocate for their own rights. Thus there is little political interest in taking official measures to guarantee those rights. Moreover, some policy-makers are unwilling to "legalize" behaviors leading to HIV/AIDS that they feel are inconsistent with traditional Armenian moral values.¹⁰⁴ The UN Drug Conventions are used by policy-makers either as a reason or as a convenient excuse for their unwillingness to adopt public health- and human rights-oriented approaches.

Although the UN Drug Conventions predated the HIV epidemics driven by injection drug use and therefore do not specifically address the linkage between IDU and HIV, three

important features of the Conventions nevertheless could justify drug substitution therapy, safer injection rooms, and needle/syringe exchange. First, all of these measures could be seen as medical treatment, permissible under the Conventions. Second, the Conventions urge reduction of drug use and its adverse consequences, which clearly include HIV, thus potentially justifying measures to reduce infection. Finally, the Conventions prohibit intentional incitement to or encouragement of drug use, and none of the harm reduction measures could be said to be performed with the intent of incitement of greater drug use.¹⁰⁵

Based on those features, legal analysts within and outside the UN system have noted that measures to reduce the spread of drug-related HIV infections can be interpreted as legal under the Conventions, which call for the alleviation of human suffering, exempt appropriate medical interventions from criminalization, and specify that demand reduction should aim both at preventing the use of drugs and at reducing adverse consequences of drug use.^{106,107}

With regard to substitution treatment, the Legal Affairs Section of the UN Drugs Control Programme has said that “. . . in its more traditional approach methadone substitution/maintenance treatment could hardly be perceived as contrary to the text or the spirit of the treaties. . . . Although results are mixed and dependent on many factors, its implementation along sound medical practice guidelines would not constitute a breach of treaty provisions.”¹⁰⁸ The same position follows from the Commentary to the 1988 UN Drug Convention, which states that “. . . a number of treatment facilities may prescribe pharmacological treatment such as methadone maintenance.”¹⁰⁹

Armenian politicians who use the UN Drug Conventions as an excuse for their unwillingness to adopt human rights-based approaches to HIV rely on outmoded ways of thinking. Some progressive politicians have come to understand that the IDU-driven HIV threat is serious and that those very provisions in Armenian laws and policies that are unfavorable for the reduction of the IDU-driven spread of HIV are, at the same time, in conflict with the obligations of the country under international treaties.¹¹⁰ Meanwhile, the Declaration of the Commonwealth of Independent States for

Expanded Regional Response to the HIV/AIDS Epidemic called for revisions of national legislation to bring about full compliance with international obligations.¹¹¹

Responding to that call and guided by the international conventions on human rights, as well as by the 2001 UNGASS Declaration of Commitment on HIV/AIDS; the United Nations Guidelines on HIV and Human Rights; the Handbook for Legislators on HIV/AIDS, Law, and Human Rights; the World Health Organization's decision to place methadone and buprenorphine on its model list of essential medicines; as well as evidence-based best practices, Armenian legislators have initiated a revision of the national drug-, HIV-, and human rights-related legislative framework to bring it into compliance with international standards.¹¹²⁻¹¹⁶ The Law on the Prevention of the Disease Caused by Human Immunodeficiency Virus is undergoing a revision to eliminate mandatory HIV testing for so-called high-risk groups, including injection drug users.¹¹⁷ The corresponding legislative initiative is currently in the agenda of the National Assembly.

Additionally, the Lists of Narcotic Drugs and Psychotropic Substances are undergoing a revision which proposes to move methadone from List 1 to List 2.¹¹⁸ Furthermore, the use of methadone and buprenorphine for the treatment of opioid addiction was included in the Standards of Treatment of Narcological Diseases, which were adopted by the order of the Minister of Health in June 2005.¹¹⁹ To enable the implementation of the Standards, the working group within the framework of the Southern Caucasus Anti-Drug Programme proposed to revise Paragraph 5 of Article 28 of the Law on Narcotic Drugs, which currently prohibits use of narcotic drugs for the treatment of drug addiction.¹²⁰ The revised paragraph reads as follows: "The medical treatment of drug addiction in the Republic of Armenia is being held in order established by the governmental body in the health sphere."¹²¹ The corresponding legislative initiative is being presented to the National Assembly. It is a good time for advocates of human rights to unite in their efforts to compel the National Assembly to adopt the revisions. On a less optimistic note, even if the human rights of drug users become protected by law, it is doubtful that the practical positive impact of the legislative changes will be significant as far as the criminalization of drug use in Armenia is concerned.

Conclusion and Recommendations

An analysis of the interrelationship between drug use and HIV in Armenia through a human rights lens suggests the following:

1. Criminalization of drug use marginalizes injection drug users and excludes them from the social mainstream.
2. Exclusionary policies effectively deny the human rights of injection drug users and exacerbate the public health threat posed by the HIV epidemic.
3. The controversial status of harm reduction initiatives limits their promise to guarantee the right to health for injection drug users and to reduce their HIV risk.
4. As a result of obstacles that injection drug users encounter as they try to become engaged in programming directed at the twin epidemics, their human rights guarantees remain abstractions, and their needs remain unarticulated and unmet.
5. The provisions of Armenian laws and policies that are not favorable to the reduction of harm caused by injection drug use are in conflict with international law.

These conclusions suggest a number of policy recommendations for Armenia:

1. Overall, the Armenian drug-, HIV-, and human rights-related legal framework needs to be brought into full compliance with international obligations. In particular,
 - a) policies that impose non-voluntary HIV testing must be eliminated, and
 - b) a policy or official edict should be issued specifically to ban the release of confidential HIV information.
2. The legislation should be changed in order to enable harm reduction programs to operate in their entirety without legal risk, challenge, or unwarranted intrusion. In particular, the use of methadone and buprenorphine for substitution treatment or maintenance programs should be legalized.
3. The government should play an active role in establishing and supporting a large, strategically located network of harm reduction programs and provide adequate training to program personnel.

4. The representatives of injection drug users and persons infected with HIV should be included in policy-making and other initiatives directed at the epidemic; otherwise, many human rights guarantees will remain abstractions.

Organizations and individuals concerned about the spread of HIV through injection drug use should unite in their efforts and launch a campaign aimed at advocating for the implementation of these legislative changes.

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