



GLOBAL COMMISSION ON  
**HIV and the LAW**

**SELECTED BIBLIOGRAPHY**

RISK + STIGMA: PEOPLE WHO USE DRUGS

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*Empowered lives.  
Resilient nations.*

## **Selected Bibliography**

### **Risk + Stigma: PEOPLE WHO USE DRUGS**

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### **HIV and the Law: Risks, Rights & Health**

**September 2012**



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## Working Papers

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**Al-Shazly., F., (2011), *How to Best Reach HIV-Vulnerable Groups in Arab States: Drug Abuse in International Laws and Arabic Legislations*. Working Paper prepared for the Middle East and North Africa Regional Consultation of the Global Commission on HIV and the Law, 27-29 July 2011. Available at: <http://hivlawcommission.org/index.php/report-working-papers?task=document.viewdoc&id=92>**

Drugs are toxins that affect not only the addict, but his family and society as well. Criminology experts share the consensus that drug addiction is a leading cause of criminal behaviour. For this reason, the Abrahamic religions prohibit the use of any and all kinds of intoxicants and sedative narcotics. Man-made laws criminalize all forms of illegal drug dealing, whether it be related to cultivation, trafficking, possession with the intent of selling, possession for personal use, actual drug abuse or violating laws that govern the legitimate use of drugs and narcotics. The issue of drug abuse is not only being addressed through state-based solutions; global collaboration between different nations has helped international and regional organizations to enforce common laws to counter illegal drug use and trafficking. Criminal legislation is a commonly-used tool in combating drug abuse; a tool that mainly relies on criminalization and punitive action. Criminal legislators in most countries apply severe - perhaps excessive - punitive laws, thinking that rigorous punishment is the best approach to the alleviation of the problem of illicit drug use. However, experience has proven that the phenomenon of drug abuse and addiction requires the elimination of the driving factors behind the issues, rather than tracking or hunting down drug addicts. In fact, although criminal legislation plays an undeniable role, it is not an effective way to eliminate drug addiction. The role of criminal law (ie. criminalization and punishment) may be acceptable in addressing drug trafficking, but in the field of combating drug abuse and addiction, criminalization and punishment policies have proven unsuccessful in addressing the issue. In fact, resorting to punitive measures to combat drug addiction seems to have reverse effects, as it can lead to increased demand for the drug, resulting in the various health risks associated with drug abuse.

Studies have focused on criminalizing and enforcing punitive measures for illegal drug use, also known as "drug crime" - a category that includes the abuse of drugs, or the possession of drugs with the intent of abuse. The perception of drug users as patients in need of medical, psychological and social treatment, rather than criminals who deserve punishment, is a notion that has not yet attracted sufficient attention from law-makers, security officers or members of society. Therefore, the phenomenon of drug abuse continues to be dealt with through legal discourse and security measures, and remains marked by stigma and discrimination.

The issue of drug abuse is of utmost importance; addressing the issue medically has great benefits to both the individual and society, and may include:

- Reducing the demand for drugs. Drug addiction treatment can thus become an effective way of addressing drug trafficking.
- Reducing the risk of blood-borne diseases associated with injecting drugs.
- Less demand for drugs will allow foreign exchange reserves to grow: this is money which would have otherwise been spent on obtaining illegal substances.
- Decreasing the drug-related crime rate.
- Resolving the issue of overcrowded prisons, which house drug abuse offenders.

Regional and international laws differentiate between the different dealings related to drug abuse, where the addict is viewed as a victim rather than a criminal. National legislations in Arab states have been set based on these international and regional laws, providing treatment as an alternative to punishment for drug addicts.

However, the problem remains in the practical application of these international and national laws, where implementation remains largely based on a culture of criminalization and punishment

**Burris, S., and Chiu, J., (2011), Punitive Drug Law and the Risk Environment for Injecting Drug Users: Understanding the Connections. Working paper prepared for the Third Meeting of the Technical Advisory Group of the Global Commission on HIV and the Law, 7-9 July 2011. Available at: <http://hivlawcommission.org/index.php/report-working-papers?task=document.viewdoc&id=98>**

More than two decades of research leave no room for doubt that the enforcement of prohibitionist drug policy not only fails to substantially reduce drug use but also creates unintended negative health consequences for people who use drugs by injection (IDU). Meanwhile, a considerable body of research shows that a proven set of health interventions – harm reduction programs – minimize the harms associated with drug use, including the risk of HIV infection/ transmission for IDUs. This paper reviews and summarizes current knowledge of the relationship of punitive drug control laws and their enforcement on HIV/AIDS prevention, treatment, care and support among IDUs.

The report:

- Summarizes the research evidence assessing the effects of these laws and their enforcement on the prevention and treatment of HIV/AIDS among IDUs;
- Describes the general characteristics and distribution of laws criminalizing drug possession or otherwise targeting the behaviour or treatment of drug users;
- Describes the general characteristics and distribution of harm reduction policies; and
- Identifies laws and law enforcement practices that have attempted to create a more enabling environment for HIV prevention among IDUs.

The scope of the document is global. To describe laws and law enforcement practices, the authors relied on published legal research and grey literature, as well as a review of a selection of available national laws. The summary of the scientific research literature was based on published reviews, updated by searching in Medline and the grey literature. In both the collection and interpretation of evidence, the authors followed the practices described in “An Evidence Framework for the Global Commission on HIV and the Law.”

### **The Effects of Punitive Laws and Law Enforcement Practices on HIV Risk**

Punitive laws and their enforcement increase furtive, unsterile injection; reduce access to sterile injection equipment and health information; reduce access to treatment services for HIV (ART) and for opiate dependency (MAT); interfere with the ability of people who use drugs to organize and act for their own welfare and the improvement of public health; and increase stigma and discrimination against people who use drugs. IDUs are less likely to receive ART than other people living with HIV and unlikely to receive MAT in most countries. Prohibitionist drug control policy also heightens HIV risk for IDUs in prisons and other sites of detention. In several countries, prisons are key sites for HIV infection and transmission. Provision of MAT and ART in such settings is largely inadequate and when available, commonly interrupted. Enforcement of prohibitionist drug policy does not fall evenly across all societal sectors. Women, racial/ ethnic minorities, and sex workers who use drugs by injection, experience police harassment and abuse in many countries. Criminal proceedings can result in loss of parental rights, for example, and increase risk of partner violence.

### **Global Drug Policy and Practice**

Although traditional prohibitionist drug control policy continues to set the base line of global drug policy, some countries have decriminalized and others depenalized the possession or use of illicit injectable drugs. Decriminalization involves removing criminal penalties for drug use and/or possession. Depenalization is a policy or practice of minimizing the use of punishments formally allowed under the law in favor of diversion to

treatment, probation or other alternatives. Depenalization and decriminalization both may enable a public health approach to controlling drug use. Yet, much remains to be understood about their actual implementation and health effects. In East Asia, for example, countries that pursue a depenalization drug control policy for individual possession or use also enforce involuntary drug treatment and rehabilitation. The quality of care provided by compulsory treatment centers is questionable and widespread rights abuses have been documented. Still in other regions of the world, countries maintain strict enforcement-based drug control law and incarceration rates for possession and use without intent to sell are, not surprisingly, high.

### **Harm Reduction around the World**

Harm reduction programs such as medicine assisted treatment for opiate dependence (MAT), needle exchange programs (NEPs), safe injection facilities (SIF), and adequate anti-retroviral therapy (ART) improve health outcomes for IDUs. In addition, some harm reduction services have been shown to yield broader societal benefits, such as cost-savings and reduction in drug-related crime. Despite the proven health benefits of harm reduction programs, access to these programs is largely unavailable to most IDUs. Some form of harm reduction policy has been supported – either explicitly in national policy or otherwise provided – in 93 territories and countries. Past country experiences in providing harm reduction services – particularly MAT and NEPs – suggest that a harm reduction approach can improve the HIV risk environment for IDUs, including in those countries that have historically pursued a strict enforcement based approach to drug control (e.g., the United States and China). For example, NEPs and MAT are established in the United States though coverage is unevenly distributed. HIV prevalence among IDUs in the country is significantly less than in countries that pursue an enforcement-based drug control policy but are hostile to harm reduction (e.g., Russia and countries in Central Asia). Meanwhile, countries that have consistently implemented harm reduction policies as well as a depenalization or decriminalization approach to drug control have among the lowest HIV prevalence rates for IDUs in the world (e.g., New Zealand, Australia, and countries in the European Union). While a causal link between policy and HIV prevalence is not proved, the correlations between national HIV prevalence rates among IDUs and national harm reduction policy adopted illustrate, at minimum, the public health benefits of such programs.

### **Reforms, Large and Small**

As recognition grows that punitive drug control policies worsen HIV risk for people who use drugs by injection, many countries have attempted to respond through changes in policy or practice. Generally, policy responses fall into three major categories: (1) decriminalizing or depenalizing individual drug use and possession; (2) providing drug treatment and harm reduction services within the criminal justice system; and (3) integrating harm reduction into law enforcement and policy. Past country experience suggests also that police engagement is key to changing drug control policy and enabling a public health approach to drug control. Police training has resulted in improved and more frequent collaboration with members of the health sector. In some countries, police support has been critical to the operation of harm reduction programs – such as medically supervised injection facilities in Australia and Canada. As judges have been given a larger role in overseeing drug treatment, questions of their capacity to do so in a therapeutically effective and legally fair way have become critical. Decriminalization or depenalization that is unsupported by policy changes that enable adequate treatment, for example, is not likely to result in a change in health outcomes. Recent decriminalization of possession of small amounts of drugs in Portugal coupled with expansion of harm reduction services and active engagement by police illustrates the effectiveness of a multi-pronged approach.

### **Conclusion**

The primary aim of international drug control policy is to protect the health and welfare of mankind. This year, the Global Commission on Drug Policy reported that the prohibitionist policies that underlie the global “war on drugs” not only fail to substantially reduce drug consumption but produce substantial unintended harmful health effects. The Global Commission’s findings reinforce the Vienna Declaration’s call for broad evidence-based drug policy reform. Decades of evidence show that prohibitionist policy increases the risks of HIV transmission and exclusion

from HIV treatment for IDUs. Harm reduction programs, meanwhile, are proven effective in reducing the harms risk of HIV infection/ transmission among IDUs as well as providing other societal benefits.

# Judgments

<b>Case</b>	<i>Canada (Attorney General) v. PHS Community Services. Society</i> , [2011] 3 S.C.R. 134 (Can.)
<b>Nature &amp; Scope of Authority</b>	Decisions of the Supreme Court of Canada, Canada's highest court, are binding law across the nation.
<b>Facts &amp; Background Law</b>	<ul style="list-style-type: none"> <li>• Insite, located in Vancouver, B.C. (Canada), is North America's first government-sanctioned safe injection facility for injecting drug users. It opened in 2003, after receiving an exemption from the Canadian Minister of Health from prohibitions on possession and trafficking of controlled substances. The court describes Insite as a strictly regulated health facility that does not provide drugs to its clients but offers them a safe place where they are closely monitored during and after injection. Insite also provides clients with health care information, counseling and referrals to service providers and an on-site detox center. The court notes that Insite has been widely hailed as an effective response to the catastrophic spread of infectious diseases such as hepatitis C and HIV/AIDS.</li> <li>• The court describes the 'desperate and dangerous existence' of injecting drug users, noting that the need for an immediate fix or fear of police discovery can override safety habits and lead to needle-sharing, hurried injection 'in alleyways,' and the risk of overdosing alone and far from medical help. The decision by government authorities to permit establishment of facilities such as Insite was the result of years of research and planning. It has saved lives and improved health, without increasing the incidence of drug use and crime in the surrounding area, and it is supported by the local police, city and provincial governments.</li> <li>• This action arose when the Minister of Health denied Insite's application for renewal of its exemption.</li> <li>• Canada's Controlled Drugs and Substances Act provides that safe injection facilities such as Insite can be exempted from the federal criminal laws that prohibit possession and trafficking of controlled substances, at the discretion of the Minister of Health.</li> <li>• Section 7 of the Canadian Charter of Rights and Freedoms guarantees the right to life, liberty and security of the person 'and the right not to be deprived thereof except in accordance with the principles of fundamental justice.'</li> </ul>
<b>Issue</b>	Did the Minister of Health's action in refusing to extend Insite's exemption from criminal drug laws violate the Section 7 of the constitution?
<b>Holding</b>	<b>Yes. The Minister of Health's action violated the constitutional right to liberty and security of the person and cannot not be justified by any legitimate governmental purpose. The court orders the Minister to grant Insite an extended exemption.</b>
<b>Rule, Application, and Judgment</b>	The court upholds the statutory scheme but finds that the Minister's exercise of discretion in this instance resulted in a violation of the Section 7 rights of individuals to life, liberty and security. The court notes that, although the health professionals at Insite do not supply drugs to the clients, the staff may be subject to imprisonment for

possession of controlled substances unless they are permitted the benefits of the exemption; this violates their liberty rights under the constitution. With respect to the clients, prohibiting possession by drug users at Insite violates their rights to life and security of the person by preventing access to health care. The court rejects the government's arguments that any negative health risks the clients may suffer are caused not by governmental prohibition on possession of drugs, but rather are the consequence of the clients' decision to use illegal drugs. The court finds that Minister's decision was arbitrary and increased the risk of death and disease to injecting drug users.

**Notes**

Decision available at: <http://scc.lexum.org/en/2011/2011scc44/2011scc44.html>

**Case** *Doe v. Bridgeport Police Dept., 198 F.R.D. 325 (D. Conn.) (U.S.)*

**Nature & Scope of Authority** This decision by a trial level judge is binding on the parties in this case. It does not have precedential value, except as persuasive authority.

**Facts & Background Law**

- Plaintiffs are a putative class of injecting drug users, and a non-profit organization advocating harm reduction measures. They sue the Bridgeport, Connecticut police in federal court for violation of their federal constitutional right to be free from illegal searches and seizures, false arrest and malicious prosecution.
- Plaintiffs request class certification and seek a permanent injunction restraining the Bridgeport police from searching, stopping, arresting, punishing or penalizing any person, whether or not that person is a participant in the city's authorized exchange program, based solely on that person's possession of up to 30 sets of injection equipment, whether empty or containing trace amounts of narcotic substances.
- Connecticut state law makes it legal for any injecting drug user to possess up to 30 sterile hypodermic syringes and needles.
- State law also sets up a needle and syringe exchange program and permits exchange participants to possess up to 30 previously-used syringes and needles, including any trace amounts of narcotic substances contained therein as residue.

**Issue** Do city police violate the ban on unreasonable searches and seizures, under the Fourth and Fourteenth Amendments to the U.S. Constitution, when they arrest any injecting drug user, whether or not that person is a participant in a legally authorized syringe exchange program, for possession of up to 30 previously-used syringes along with the trace amounts of narcotic substances contained in the syringes as residue?

**Holding** **Yes; such an arrest would be unconstitutional. Possession of less than 31 previously-used syringes containing trace amounts of narcotic substances does not constitute a criminal offense under a reasonable interpretation of Connecticut state law; therefore, an arrest for such possession violates the U.S. constitution.**

**Rule, Application, and**

- The court certifies a class of all injecting drug users, present and future, in

<b>Judgment</b>	<p>Bridgeport.</p> <ul style="list-style-type: none"> <li>• The court examines state drug laws in detail and determines that the language of the statutes is inconclusive on the issue of whether possession of trace amounts of narcotic substances contained as residue in used syringes is criminalized. The court therefore turns to legislative history and finds that the state legislature intended to expand the needle and syringe exchange programs in order to prevent the spread of HIV and other blood-borne diseases, and further intended that the benefits of access to sterile equipment should extend to drug users who were not participants in exchange programs.</li> <li>• The court therefore holds that state law was meant to decriminalize the possession by any person of specified quantities of syringes and needles containing as residue trace amounts of drugs. Any other interpretation of state law, the court finds, would lead to absurd results and would thwart the public health purpose of the legislation.</li> <li>• Any arrest for the decriminalized behaviour would violate the Fourth Amendment to the U.S. Constitution, and the plaintiff class is entitled to an injunction against such arrests.</li> <li>•</li> </ul>
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<b>Case</b>	<i>Khudobin v. Russia</i> , [2006] Eur. Ct. H.R. 59696/00
<b>Nature &amp; Scope of Authority</b>	Rulings of the European Court of Human Rights interpreting the European Convention for the Protection of Human Rights and Fundamental Freedoms are binding on signatories to the Convention and are enforceable by the Council of Europe.
<b>Facts &amp; Background Law</b>	<ul style="list-style-type: none"> <li>• Khudobin was arrested in October 1998 and charged under Russian law with the offense of selling of 0.05 grams of heroin. He had no prior criminal history.</li> <li>• For several years prior to his arrest, Khudobin had suffered from numerous chronic diseases, including epilepsy, pancreatitis, viral hepatitis B and C, and various mental deficiencies. He had a history of intravenous drug use and was HIV-positive.</li> <li>• Khudobin was detained for over a year while several psychiatric examinations were performed. While in detention he contracted several serious diseases, including measles, bronchitis and acute pneumonia. He also had several epileptic seizures. On one occasion, prison officials ordered his cellmates, who were not medical professionals, to administer anti-seizure medication to him.</li> <li>• In November 1999, a Russian court found him guilty of selling heroin, but legally insane at the time of the act. The court ordered compulsory medical treatment, at home, and he was released from custody. His appeal was rejected, and he remained under treatment until April 2004.</li> <li>• Khudobin then brought this individual application alleging various violations of the European Convention, including lack of medical assistance, inhuman and degrading conditions in the pretrial detention facility, excessive pretrial detention, and other allegations.</li> </ul>
<b>Issue</b>	Did the treatment to which Khudobin was subjected in Russian corrections facilities violate Article 3 of the Convention, which prohibits torture or inhuman or degrading treatment or punishment, and other provisions of the Convention?

<b>Holding</b>	<b>Yes, his treatment violated the Convention.</b>
<b>Rule, Application, and Judgment</b>	<ul style="list-style-type: none"> <li>• Prison officials failed to provide adequate health care to Khudobin while he was in detention. He did not receive qualified or timely medical assistance for his seizures. Throughout his detention, authorities failed to monitor his chronic diseases and provide treatment, all of which aggravated his health conditions and increased his vulnerability to other illnesses such as repetitive pneumonia.</li> <li>• The court finds that these failings amount to inhuman and degrading treatment in violation of the Convention. The Convention requires that, if authorities decide to place a seriously ill person in detention, they must exercise special care to guarantee that the conditions of detention correspond to his special needs. In this case, Khudobin was HIV-positive and suffered from a serious mental disorder. This increased the risks associated with any illness he suffered during his detention and created feelings of insecurity sufficiently strong to rise to the level of degrading treatment within the meaning of Article 3.</li> <li>• The Court also found that Khudobin’s detention exceeded a reasonable time period, that his applications for release were unduly delayed, and that the conviction had been obtained by entrapment, all in violation of other Articles of the Convention.</li> <li>• The Court awards monetary damages for physical and mental suffering and awards Khudobin compensation for his legal costs and expenses.</li> </ul>
<b>Notes</b>	The judgment is available at: <a href="http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-77692">http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-77692</a>

<b>Case</b>	<b><i>McGlinchey v. U.K.</i>, [2003] Eur. Ct. H.R. 50390/99</b>
<b>Nature &amp; Scope of Authority</b>	Rulings of the European Court of Human Rights interpreting the European Convention for the Protection of Human Rights and Fundamental Freedoms are binding on signatories to the Convention and are enforceable by the Council of Europe.
<b>Facts &amp; Background Law</b>	<ul style="list-style-type: none"> <li>• Judith McGlinchey was convicted of theft by a U.K. court and sentenced to a term of four months’ imprisonment. Prior to her incarceration, she had a long history of intravenous heroin addiction and was asthmatic. She died in a Yorkshire hospital, while serving out her sentence, under the care of the U.K. government.</li> <li>• Her survivors bring this application, alleging a violation of Article 3 of the Convention which prohibits torture and inhuman or degrading punishment, as well as Article 13 which requires States Parties to provide an effective remedy for violations of Convention rights.</li> <li>• The following facts were established on the record: McGlinchey’s request for addiction treatment in lieu of imprisonment was rejected by the court. She entered the prison facility with asthmatic symptoms and an infected arm and was housed in the prison Health Care Center. She underwent withdrawal and became loud, demanding and uncooperative with prison authorities. She experienced severe and continuous bouts of vomiting, declined food and began to lose weight. A week after entering the prison, McGlinchey collapsed while vomiting and was taken to a hospital, where she suffered cardiac arrest.</li> </ul>

	<p>Although she was resuscitated, she experienced brain damage and died approximately three weeks later.</p> <ul style="list-style-type: none"> <li>• An inquest was held at which the cause of death was confirmed as hypoxic brain damage, or deprivation of oxygen to the brain, caused by a cardiac arrest occurring as a consequence of an upper gastro-intestinal hemorrhage.</li> </ul>
<b>Issue</b>	Did the U.K.'s treatment of McGlinchey while she was incarcerated violate the European Convention, and did the U.K. fail to provide an effective remedy for this violation?
<b>Holding</b>	<b>Yes. U.K. prison authorities subjected McGlinchey to inhuman and degrading treatment, in violation of Article 3 of the Convention. In addition, the U.K. government failed to provide an adequate remedy in the form of compensation for the non-pecuniary damage suffered by McGlinchey, in violation of Article 13. The court awards damages to McGlinchey's survivors.</b>
<b>Rule, Application, and Judgment</b>	<ul style="list-style-type: none"> <li>• Article 3 requires that States must ensure that persons are detained in conditions compatible with respect for their human dignity. While rejecting some of complaints of inhuman and degrading treatment, the Court finds that prison authorities violated Article 3 by failing to provide adequate care for McGlinchey's heroin withdrawal symptoms. She was not seen by a doctor for two days, during which time she was repeatedly vomiting, taking very little food and losing considerable weight. She was not timely admitted to a hospital to ensure the intake of medication and fluids.</li> <li>• The Court finds further that the U.K. breached the Convention by not providing an adequate domestic remedy for its failure to provide appropriate treatment. The Court finds this especially troublesome in light of the fact the breach in this case was a violation of Article 3, which ranks as one of the most fundamental provisions of the Convention.</li> </ul>
<b>Notes</b>	The judgment is available at: <a href="http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-61058">http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-61058</a>

<b>Case</b>	<b><i>Roe v. City of New York</i>, 232 F. Supp. 2d 240 (S.D.N.Y. 2002) (U.S.)</b>
<b>Nature &amp; Scope of Authority</b>	This opinion by a trial level judge is binding on the parties in this case. It does not have precedential value, except as persuasive authority.
<b>Facts &amp; Background Law</b>	<ul style="list-style-type: none"> <li>• Plaintiffs are a putative class of registered participants in legally authorized syringe exchange programs who have been stopped, arrested and prosecuted for possession of syringes and controlled substances. They sue the City of New York and police authorities and officers for constitutional violations, seeking a declaratory judgment that registered needle exchange participants are exempt from criminal liability for possession of the drug residue contained in used needles and syringes. Plaintiffs' claim, which they bring in federal court, is based on the right to be free of unreasonable searches and seizures under the Fourth and Fourteenth Amendments to the U.S. Constitution.</li> <li>• New York state penal statutes make it a misdemeanor to unlawfully possess or</li> </ul>

	sell a hypodermic needle, and to possess or sell a controlled substance. However, New York state public health statutes make it lawful to possess a syringe under certain conditions, including by prescription or by authorization from the Public Health Commissioner. Based on authority derived from the Public Health Law, the Commissioner issued regulations creating needle exchange programs as a public health and safety measure.
<b>Issue</b>	Do New York Police Department officers violate the federal constitutional rights of registered participants in legally authorized syringe exchange programs when they arrest them and charge them with possession of drug residue in used syringes?
<b>Holding</b>	<b>Yes. Such an arrest violates the arrestee’s rights to be free of unreasonable searches and seizures under the Fourth and Fourteenth Amendments to the U.S. Constitution. The motion for a declaratory judgment is granted.</b>
<b>Rule, Application, and Judgment</b>	<ul style="list-style-type: none"> <li>• The court holds that declaratory relief is appropriate, as there is an apparent conflict between the state’s Penal Law and its Public Health Law.</li> <li>• There is no express provision in state law exempting participants in needle exchange programs from criminal liability for possession of trace amounts of illicit drugs; yet state law also permits registered exchange participants to carry syringes after use for the purpose of exchanging them, and it is common sense that the used needles will contain trace amounts of drugs. Thus, drug users and needle exchange staff alike ‘are apparently expected to violate the Penal Law,’ as they must at some point possess dirty needles. The court finds that it would be ‘bizarre to conclude that the Legislative intent was to permit the creation of needle exchange programs in order to remove dirty needles, while at the same time frustrating that goal by making the essential steps of participation criminal.’</li> <li>• Plaintiffs’ motion for declaratory judgment is granted. The court holds that there is no criminal liability under state penal law for possession of drug residue remaining in a used needle or syringe in the course of authorized participation in a needle exchange program.</li> <li>• If it is found that the officers arrested Plaintiff Roe in the manner he alleges (an issue to be reached later in the case), then they arrested him without probable cause and thereby violated his rights under the U.S. Constitution.</li> </ul>

<b>Case</b>	<b><i>Yakovenko v. Ukraine</i>, [2007] Eur. Ct. H.R. 15825/06</b>
<b>Nature &amp; Scope of Authority</b>	Rulings of the European Court of Human Rights interpreting the European Convention for the Protection of Human Rights and Fundamental Freedoms are binding on signatories to the Convention and are enforceable by the Council of Europe.
<b>Facts &amp; Background Law</b>	<ul style="list-style-type: none"> <li>• Yakovenko was arrested in Ukraine in June 2003 and charged with burglary. His pre- and post-trial detention began upon his arrest and continued uninterrupted until his death in custody in May 2006. During his trial, which resulted in a conviction in November 2005, he notified the trial judge of his poor medical condition. In April 2006, his mother lodged a complaint with the Prosecutor-General challenging the prison authorities’ reluctance to move Yakovenko to a hospital in spite of their awareness that he was HIV-positive and suffering from tuberculosis.</li> </ul>

	<ul style="list-style-type: none"> <li>• Yakovenko filed an application with the European Court of Human Rights in April 2006, alleging the government of Ukraine was failing to provide him adequate medical treatment while he was in custody and was holding him in inhuman and degrading conditions. Shortly after his application was filed, the President of the Court indicated to the government of Ukraine that it would be desirable in the interests of the parties and conduct of the proceedings for Yakovenko to be transferred immediately to a hospital for medical treatment. He was transferred and died in May 2006. His mother continued the proceedings on her son's behalf.</li> <li>• The record established that Yakovenko was held in small basement cells which were continuously and severely overcrowded. There was a shortage of bunks so that inmates had to sleep taking turns. Yakovenko, along with the other inmates, was deprived of natural daylight and fresh air, and his cell was infested with cockroaches and ants. He was transported twice monthly for a period of two years and eight months in crowded, unventilated vans and train cars, without adequate water. He contracted tuberculosis while incarcerated and was diagnosed as HIV-positive.</li> <li>• Ukrainian law, in the form of a decree by the Ministry of Health and State Prisons Department, requires that incarcerated HIV-positive persons must be provided with outpatient monitoring, treatment for opportunistic infections, and antiretroviral therapy.</li> </ul>
<b>Issue</b>	Did Ukraine's treatment of Yakovenko while he was incarcerated violate the European Convention, Article 3, which prohibits inhuman or degrading treatment, and did Ukraine fail to fulfill its obligation under Article 13 to provide an effective remedy for breaches of the Convention?
<b>Holding</b>	<b>Yes, Ukrainian prison authorities violated Article 3 of the Convention by subjecting Yakovenko to inhuman and degrading treatment; they further violated Article 13 by failing to provide an adequate domestic remedy.</b>
<b>Rule, Application, and Judgment</b>	<ul style="list-style-type: none"> <li>• Prison authorities violated Article 3 by housing and transporting Yakovenko in crowded, poorly lit, poorly ventilated and unsanitary prison cells and prison vans, and by failing to provide him with adequate medical care for his HIV and tuberculosis. Although prison officials learned of Yakovenko's HIV status in February 2006, no urgent medical measures were taken at that time, as required by Ukrainian law. He was not brought before an infectious disease doctor for ART, nor was he monitored for opportunistic infections. After he developed tuberculosis, he was not given adequate and timely treatment.</li> <li>• In addition, Ukraine failed to supply an effective and accessible domestic remedy for these breaches, in violation of Article 13 of the Convention.</li> <li>• The Court awards monetary compensation for medical expenses and non-pecuniary damages.</li> </ul>
<b>Notes</b>	The judgment is available at: <a href="http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-82987">http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-82987</a>

# Legislative Materials

<b>Statute</b>	<b>Zimbabwe: <i>Criminal Law (Codification and Reform) Act No., 23 2004.</i></b>
<b>Nature, Scope, &amp; Source of Authority</b>	A nationally binding piece of legislation promulgated by the Zimbabwean Parliament that brings together in one Act all of the major aspects of Criminal Law in Zimbabwe. Previously, the criminal law of Zimbabwe had been widely dispersed, and contained in common law, rather than in a statute. The Act represents a codification of all this law, as well as reform with new materials.
<b>Substance</b>	Defines rape in the following way: “[W]here a male person knowingly has sexual intercourse or anal sexual intercourse with a female person and at the time of the intercourse (a) the female person has not consented to it; and b) he knows that she has not consented to it or realizes that there is a real risk or possibility that she may not have consented to it.”

<b>Statute</b>	<b>Cal. Penal Code § 667 (2012)</b>
<b>Nature, Scope &amp; Source of Authority</b>	Binding law in the U.S. state of California.
<b>Substance</b>	<ul style="list-style-type: none"> <li>• This statute is popularly termed California’s ‘Three Strikes and You’re Out’ law. The statute provides in subsection (b) that it is the intent of the Legislature to ensure longer prison sentences and greater punishment for those who commit a felony and have been previously convicted of serious or violent felony offenses. The current offense need not be a serious or violent felony for the ‘Three Strikes’ law to apply.</li> <li>• When a defendant is convicted of any felony, and has one or more prior convictions for offenses defined as serious or violent felonies, the court is required by this statute to adhere to the following rules, among others: <ul style="list-style-type: none"> <li>▪ Probation for the current offense shall not be granted;</li> <li>▪ The defendant must be committed to state prison;</li> <li>▪ Sentences for separate counts must run consecutively;</li> <li>▪ If the defendant has one prior conviction for a serious or violent felony, the sentence for the current offense shall be doubled;</li> <li>▪ If the defendant has two or more prior convictions for serious or violent felonies, the sentence for the current offense shall be an indeterminate term with a maximum of life imprisonment, and a minimum of 25 years (or other alternatives as set forth in the statute).</li> </ul> </li> </ul>

Statute	Indonesia Narcotics Law No. 35/2009 (2009)
<b>Nature, Scope &amp; Source of Authority</b>	Binding law in Indonesia.
<b>Substance</b>	<ul style="list-style-type: none"> <li>• Simple possession of Group 1 drugs (heroin, cocaine, marijuana, amphetamine, opium and others) is punishable by up to 12 years' imprisonment; possession of more than 1 kg of drugs in this group may result in a life sentence.</li> <li>• Some trafficking offenses carry the death penalty.</li> <li>• Persons who are drug-dependent are required to report themselves to authorities and go through 'medical and social rehabilitation'; criminal penalties are imposed for failing to do so.</li> <li>• Parents face imprisonment if they fail to report their minor drug-dependent children to government authorities.</li> <li>• Laboratory personnel who fail to report test results, or who counterfeit test results, are subject to up to seven years' imprisonment.</li> </ul>
<b>Notes</b>	<p>This abstract is based on an English translation of the draft 2009 Law, made available by the International Drug Policy Consortium at:</p> <p><a href="http://goseasia.about.com/gi/o.htm?zi=1/XJ&amp;zTi=1&amp;sdn=goseasia&amp;cdn=travel&amp;tm=16&amp;gps=252_370_1149_555&amp;f=11&amp;su=p284.13.342.ip_p531.56.342.ip_&amp;tt=2&amp;bt=0&amp;bts=0&amp;zu=http%3A//www.idpc.net/publications/indonesia-narcotics-law-september-2009-english">http://goseasia.about.com/gi/o.htm?zi=1/XJ&amp;zTi=1&amp;sdn=goseasia&amp;cdn=travel&amp;tm=16&amp;gps=252_370_1149_555&amp;f=11&amp;su=p284.13.342.ip_p531.56.342.ip_&amp;tt=2&amp;bt=0&amp;bts=0&amp;zu=http%3A//www.idpc.net/publications/indonesia-narcotics-law-september-2009-english</a></p>

Statute	Narcotic Addict Rehabilitation Act, B.E. 2545 (2002) (Thailand)
<b>Nature, Scope &amp; Source of Authority</b>	Binding law in Thailand
<b>Substance</b>	<ul style="list-style-type: none"> <li>• The Act establishes a Narcotic Addict Rehabilitation Committee under the direction of an executive Minister authorized to establish rehabilitation centers overseen by the Department of Probation of the Ministry of Justice. Day-to-day operations of the Committee are handled through Sub-Committees.</li> <li>• Consumption and possession of illegal drugs are criminal offenses in Thailand. This Act establishes a diversion system for persons charged with certain offenses related to consumption and possession of small amounts of illegal drugs. A court determines whether diversion to a rehabilitation program in lieu of prosecution is warranted. If the court decides to transfer a case a Sub-Committee, the accused is detained in prison for a period of up to 45 days while a probation officer makes an assessment whether the accused uses drugs or is dependent on drugs. If the accused is found to be a drug user, the Sub-Committee will order treatment, either in a custodial or non-custodial setting.</li> <li>• The Act empowers Sub-Committees to make determinations as to whether a person is dependent on drugs; to consider the granting of conditional release, either during the investigation period or during the period of treatment; to</li> </ul>

	<p>supervise the person’s period of detention and treatment plan; to consider transfer between treatment centers; and to consider the results of treatment.</p> <ul style="list-style-type: none"> <li>• The Sub-Committee is authorized to extend treatment for periods up to six months at a time, up to a maximum of three years. If at the end of treatment, the Sub-Committee finds that the treatment was ‘satisfactory,’ the person will be released; otherwise, the person will be subject to prosecution.</li> <li>• The accused may take an appeal to the full Narcotic Addict Rehabilitation Committee of three types of determinations by the Sub-Committee: a decision that the person consumed drugs or is drug-dependent; a decision to deny conditional release; and a decision to extend the period of compulsory treatment.</li> </ul>
<b>Notes</b>	<ul style="list-style-type: none"> <li>• The text of the Act is available in English translation at: <a href="http://thailaws.com/law/t_laws/tlaw0149.pdf">http://thailaws.com/law/t_laws/tlaw0149.pdf</a></li> <li>• An overview and commentary on the Act, prepared by the Canadian HIV/AIDS Legal Network, can be found at: <a href="http://www.aidslaw.ca/publications/interfaces/downloadFile.php?ref=1429">http://www.aidslaw.ca/publications/interfaces/downloadFile.php?ref=1429</a></li> </ul>

**International Treaties: Human Rights, Drug Control**

**Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Dec. 10, 1984, 1465 U.N.T.S. 85, available at: <http://treaties.un.org/Pages/Treaties.aspx?id=4&subid=A&lang=en>**

This multilateral treaty requires States Parties to take effective legislative, administrative, judicial or other measures to prevent acts of torture, defined as any act by which severe mental or physical suffering is intentionally inflicted on a person for the purpose of punishment or based on discrimination of any kind, when done by or with the acquiescence of a public official.

**International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 171, available at: <http://treaties.un.org/Pages/CTCTreaties.aspx?id=4&subid=A&lang=en>**

Along with the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights, this multilateral treaty is a core instrument of what is known as the international bill of rights. Among other things, the Covenant guarantees the rights to life, liberty, personal security, due process, self-determination, equality, non-discrimination, the right to be treated with dignity and the right to be free of torture or cruel, inhuman or degrading treatment or punishment.

**International Covenant on Economic, Social and Cultural Rights, Dec. 16, 1966, 993 U.N.T.S. 3, available at: <http://treaties.un.org/Pages/CTCTreaties.aspx?id=4&subid=A&lang=en>**

Along with the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, this multilateral treaty is a core instrument of what is known as the international bill of rights. Among its many protections is Article 12(1) which provides: “The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.”

**U.N. Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988, Dec. 19, 1988, available at: <http://www.unodc.org/unodc/en/treaties/illicit-trafficking.html>**

This Convention provides comprehensive measures against drug trafficking, including criminalizing various aspects of the drug trade such as money laundering and diversion of precursor chemicals, and providing for international cooperation in controlling the illicit drug trade. States Parties agree to take necessary legislative and administrative measures to address illicit traffic in narcotic drugs and psychotropic substances ‘having an international dimension.’

Article 14(4) of the treaty states that Parties shall adopt appropriate measures aimed at eliminating or reducing demand for narcotic drugs and psychotropic substances ‘with a view to reducing human suffering and eliminating financial incentives for illicit traffic,’ and that such measures may be based on the recommendations of the United Nations and its specialized agencies.

This treaty is intended to complement the 1961 and 1971 Conventions described above and does not derogate from the rights and obligations of States Parties under the two earlier treaties.

**U.N. Convention on Psychotropic Substances, 1971, Feb. 21, 1971, 1019 U.N.T.S. 175, available at: [http://www.unodc.org/pdf/convention\\_1971\\_en.pdf](http://www.unodc.org/pdf/convention_1971_en.pdf)**

The purpose of this Convention is to place restrictions on manufacture of, use of and trafficking in psychotropic substances, defined as substances which have the capacity to produce a state of dependence and central nervous system stimulation or depression, resulting in hallucinations or disturbances in motor function, thinking, behavior, perception or mood. Upon a finding by WHO that abuse of such a substance constitutes a public health or social problem that warrants placing the substance under international control, ECOSOC’s Commission on Narcotic Drugs may add the substance to the schedules of controlled substances established by the Convention. Parties to this Convention agree to abide by certain restrictions similar to those specified in the Single Convention on Narcotic Drugs, including criminalization, licensing, reporting and cooperation with international drug control efforts.

**U. N. Single Convention on Narcotic Drugs, 1961, as amended by the Protocol Amending the Single Convention on Narcotic Drugs, August 8, 1975, 976 U.N.T.S. 105, available at: [http://www.unodc.org/pdf/convention\\_1961\\_en.pdf](http://www.unodc.org/pdf/convention_1961_en.pdf)**

The Single Convention on Narcotic Drugs was negotiated at a conference convened by ECOSOC in 1961 for the purpose of consolidating into a single instrument the various existing multilateral drug control treaties. The 1961 Convention was amended by a 1975 Protocol.

The Convention states that addiction to narcotic drugs is a ‘serious evil’ and poses ‘social and economic danger to mankind.’ It requires States Parties to restrict, by licensing and other means, the use of controlled substances to medical and scientific purposes; to criminalize the cultivation, possession and distribution of scheduled drugs contrary to the provisions of the Convention; and to cooperate internationally in dealing with drug trafficking and drug offenders. The amending Protocol permits States Parties, in their discretion, to forgo criminal penalties if other methods – including treatment, education, rehabilitation and social integration – would be more effective in dealing with social problems related to drug addiction.

The Convention creates schedules, or lists, of controlled substances and permits amendment of the schedules without amendment of the Convention. However, certain substances identified in the text of the treaty itself – including cannabis, opium and coca – cannot be eliminated from the schedules except by amendment of the treaty. ECOSOC’s Commission on Narcotic Drugs is authorized, in consultation with WHO, to add or delete drugs from the

Schedules. ECOSOC as a whole has the power to confirm or override the Commission's scheduling determinations.

The Convention requires States Parties to estimate and report to the Board annually on the quantities of drugs to be consumed in their territories for medical and scientific purposes, and to supply statistics as to the production, consumption, import and export of narcotic drugs. Countries are expected to maintain only such quantities of narcotic drugs sufficient to meet medical and scientific needs.

General implementation and enforcement of the Convention is the responsibility of the International Narcotics Control Board. The International Court of Justice is designated as the authoritative interpreter of the Convention's provisions.

***Commission on Narcotic Drugs Res. 51/12, Strengthening Cooperation Between the United Nations Office on Drugs and Crime and other United Nations Entities for the Promotion of Human Rights in the Implementation of the International Drug Control Treaties, 51<sup>st</sup> Sess., Nov. 28, 2007 & Mar. 10-14, 2008, reported in Commission on Narcotic Drugs, Report on the Fifty-First Session, U.N. Doc. E/2008/28, E/CN.7/2008/15 (2008), available at: <http://www.unodc.org/documents/commissions/CND-Session51/E200828CVn-AUE.pdf>***

The Commission on Narcotic Drugs reports to the UN Economic and Social Council on its 51<sup>st</sup> meeting. Under the heading, 'Matters Brought to the Attention of the Economic and Social Council,' the Commission reports that it adopted Resolution 51/12, reaffirming its conviction that the world drug problem is a shared responsibility, that it must be addressed in a multilateral setting, requires an integrated and balanced approach, and that it must be carried out in full conformity with the UN Charter and international law, including respect for human rights.

***Commission on Narcotic Drugs Res. 53/9, Achieving Universal Access to Prevention, Treatment, Care and Support for Drug Users and People Living with or Affected by HIV, 53<sup>d</sup> Sess., Dec. 2, 2009 & March 8-12, 2010, reported in Commission on Narcotic Drugs, Report on the Fifty-Third Session, U.N. Doc. E/2010/28, E/CN.7/2010/18 (2010), available at: [http://www.unodc.org/documents/commissions/CND-Uploads/CND-53-RelatedFiles/E2010\\_28eV1052082.pdf](http://www.unodc.org/documents/commissions/CND-Uploads/CND-53-RelatedFiles/E2010_28eV1052082.pdf)***

The Commission on Narcotic Drugs reports to the UN Economic and Social Council on its 53<sup>rd</sup> meeting. Under the heading, 'Matters Brought to the Attention of the Economic and Social Council,' the Commission reports that it adopted Resolution 53/9, encouraging the UNODC to emphasize the importance of comprehensive, evidence-based HIV prevention programs as an essential element of national, regional and international drug control efforts. The Commission further urges member States to remove obstacles to the achievement of the goal of universal access to HIV prevention, treatment, care and related support services for the benefit of people living with HIV, including drug users.

***International Cooperation Against the World Drug Problem, G.A. Res. 66/183, ¶ 2, U.N. Doc. A/RES/66/183 (Apr. 3, 2012).***

This is one of the numerous General Assembly resolutions reaffirming that efforts to counter the world drug problem require a balanced approach and must be carried out in full conformity with provisions of international human rights law.

*See also, e.g.,* G.A. Res. 65/233, ¶ 2, U.N. Doc. A/RES/65/233 (Apr. 6, 2011); G.A. Res. 64/182, ¶ 2, U.N. Doc. A/RES/64/182 (Mar. 30, 2010); G.A. Res. 63/197, ¶ 1, U.N. Doc. A/RES/63/197 (Mar. 6, 2009); G.A. Res. 62/176, ¶ 1, U.N. Doc. A/RES/62/176 (Mar. 17, 2008); G.A. Res. 61/183, ¶ 1, U.N. Doc. A/RES/61/183 (Mar. 13, 2007); G.A. Res.

60/178, ¶ 1, U.N. Doc. A/RES/60/178 (Mar. 22, 2006); G.A. Res. 59/163, ¶ 1, U.N. Doc. A/RES/59/163 (Feb. 8, 2005); G.A. Res. 58/141, ¶ 1, U.N. Doc. A/RES/58/141 (Feb. 10, 2004), among others.

**United Nations, *Commentary on the United Nations Convention Against Illicit Trafficking of Narcotic Drugs and Psychotropic Substances 1988*, at par. 3.3, U.N. Doc. E/CN.7/590, U.N. Sales No. E.98.XI.5 (1998), available at: [http://www.unodc.org/documents/treaties/organized\\_crime/Drug%20Convention/Commentary\\_on\\_the\\_united\\_nations\\_convention\\_1988\\_E.pdf](http://www.unodc.org/documents/treaties/organized_crime/Drug%20Convention/Commentary_on_the_united_nations_convention_1988_E.pdf)**

This massive document, prepared at the request of the U.N.'s Economic and Social Council, includes detailed commentary on the 1988 Convention on Illicit Trafficking. It was designed to be of assistance to States in interpreting and implementing the Convention.

In discussing Article 3 of the Convention, the Commentary states that countries may decide to adopt stricter measures than those mandated by the Convention, but such initiatives must nevertheless conform to international human rights norms.

**U.N. Committee on Economic, Social and Cultural Rights, *General Comment No. 14(2000): The Right to the Highest Attainable Standard of Health (Article 12 of the International Covenant on Economic, Social and Cultural Rights)*, U.N. Doc. E/C.12/2000/4 (Aug. 11, 2000), available at: <http://www.fao.org/righttofood/kc/downloads/vl/docs/AH354.pdf>**

This Comment by the treaty body for the International Covenant on Economic, Social and Cultural Rights (ICESCR) is an authoritative interpretation of the treaty's provisions. The Committee notes that diseases unknown at the time ICESCR was adopted, including HIV/AIDS, have emerged, become more widespread, and created new obstacles for the realization of the right to health which must be taken into account when interpreting Article 12 of the Convention (which recognizes the right of everyone to the highest attainable standard of health).

The Committee interprets the right to health as 'an inclusive right,' encompassing not only health care but also the underlying determinants of health. Among these are access to health-related education, including information on sexual and reproductive health, and participation of the population in health-related decision making at all governmental levels. Health facilities must be accessible to all, especially the most vulnerable or marginalized segments of the population, without discrimination.

All States Parties must guarantee that the right to health will be exercised without discrimination of any kind. A State Party violates Article 12 if it implements policies or laws that 'are likely to result in bodily harm, unnecessary morbidity and preventable mortality,' or if it engages in 'misallocation of public resources which results in the non-enjoyment of the right to health by individuals or groups, particularly the vulnerable or marginalized.'

**U.N. International Narcotics Control Board, *Flexibility of Treaty Provisions as Regards Harm Reduction Approaches*, U.N. Doc. E/INCB/2002/W.13/SS.5 (Sept. 30, 2002), available at: <http://www.tni.org/sites/www.tni.org/archives/drugsreform-docs/un300902.pdf>**

This document is a legal opinion prepared by the Legal Affairs Section of the UN International Drug Control Program (UNDCP), a predecessor agency to the UN Office on Drugs and Crime, in response to a request by the International Narcotics Control Board (INCB). INCB is the independent and quasi-judicial control organ monitoring implementation of the UN drug control conventions.

The Legal Affairs Section noted in this opinion that the concept of 'harm reduction' was relatively new, having developed over the preceding decade, and was not foreseen by any of the international drug control treaties. The opinion set forth NCB's past position, *i.e.*, that harm reduction can serve a useful purpose but cannot be considered

a substitute for demand reduction programs. It also noted that UNDCP was considering its position on the issue but was on record as supporting a balanced approach that would match supply reduction measures and prevention, treatment and rehabilitation initiatives, with programs aimed at reducing the overall health and social consequences of drug abuse, for individuals and their communities.

The authors point out that the drug control treaties express concern for the health and welfare of mankind and obligate States Parties to take all practicable measures to prevent drug abuse and to institute programs for the early identification, treatment, rehabilitation and social reintegration of drug users. Article 14 of the 1988 drug control treaty authorizes Parties to base their demand reduction measures on recommendations by UN bodies; among those recommendations is a General Assembly resolution providing that demand reduction policies shall, among other things, aim at reducing the adverse consequences of drug abuse.

The legal opinion goes on to describe the major harm reduction interventions, including substitution and maintenance treatment, safe injection facilities, needle and syringe exchange programs, and drug-quality control. The authors conclude that, while Parties' obligations under the drug control treaties should be more comprehensive than simply alleviating the harm caused by drug abuse, the treaties do not prohibit Parties from considering and evaluating the merit of harm reduction interventions.

**U.N. Secretary-General, *Commentary on the Single Convention on Narcotic Drugs, 1961 (Prepared by the Secretary-General in Accordance with Paragraph 1 of Economic and Social Council Resolution 914D (XXXIV) of 3 August 1962)* (1973), U.N. Sales No. E.73.XI.1, available at:**

**[http://www.unodc.org/documents/treaties/organized\\_crime/Drug%20Convention/Commentary\\_on\\_the\\_single\\_convention\\_1961.pdf](http://www.unodc.org/documents/treaties/organized_crime/Drug%20Convention/Commentary_on_the_single_convention_1961.pdf)**

Exhaustive commentary on each provision of the 1961 Single Convention on Narcotic Drugs, prepared by the UN Secretary-General prior to adoption of the 1975 amendments.

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## Persuasive Authority

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**Martin C. Donoghoe, et al., *WHO, UNODC, UNAIDS Technical Guide for Countries to Set Targets for Universal Access to HIV Prevention, Treatment and Care for Injecting Drug Users* (2009), available at: [http://www.who.int/hiv/pub/idu/idu\\_target\\_setting\\_guide.pdf](http://www.who.int/hiv/pub/idu/idu_target_setting_guide.pdf)**

This paper was developed by three UN agencies to provide technical guidance to countries on setting national targets and measuring progress toward achieving universal access to HIV prevention, treatment and care for injecting drug users.

The recommended comprehensive package consists of the following interventions, found to have the greatest impact on HIV prevention and treatment: needle and syringe programs; opioid substitution therapy; HIV testing and counseling; ART, prevention and treatment of sexually transmitted infections; condom programs for IDUs and their sexual partners; targeted information, education and communication for IDUs and their sexual partners; prevention and treatment of viral hepatitis; and prevention and treatment of tuberculosis.

The Guide gives advice and access to further information for each of these interventions, along with guidance on the target-setting process and a set of benchmarks for monitoring and evaluating HIV interventions for IDUs.

**Editorial, *Evidence for Action: A Critical Tool for Guiding Policies and Programmes for HIV Prevention, Treatment and Care Among Injecting Drug Users*, 16*S International J. of Drug Policy* S1 (2005), available at: [http://www.who.int/hiv/pub/prev\\_care/drugpolicyjournal.pdf](http://www.who.int/hiv/pub/prev_care/drugpolicyjournal.pdf)**

This editorial introduces a special supplement to the International Journal of Drug Policy. The supplement presents a series of papers developed from World Health Organization on issues including: methods for assessing HIV risk and communication strategies; information, education and communication strategies; needle and syringe programs; community-based outreach; drug dependence treatment for HIV prevention; prevention of sexual transmission of HIV among IDUs; interventions for young and new injectors; interventions for highly vulnerable drug injectors, including prisoners, MSM, sex workers and indigenous injectors; and HIV treatment and care for drug users.

The editors note that there are more than 13 million IDUs worldwide, and HIV prevalence is high among this population. In the regions with the fastest spread of HIV infections, Eastern Europe and Central Asia, injecting drug use has been the primary driver of HIV infection. However, a number of countries have achieved success in containing HIV epidemics among IDUs through a comprehensive package of interventions. Effective strategies are those aimed at reducing the number of IDUs, preventing HIV transmission among those who use drugs and their sexual partners, and providing treatment and care for drug users who are living with AIDS. Barriers to implementation of comprehensive HIV prevention programs for IDUs include the politically and socially controversial nature of some interventions such as needle and syringe access and substitution therapies, difficulty in reaching many drug users due to marginalization, and local laws and regulations that prohibit implementation of many programs.

**Martin Frischer, et al., *Estimates of HIV Infection Among Injecting Drug Users in Glasgow, 1985-1990*, 6 *AIDS* 1371 (1992)**

This study linked datasets from a variety of sources to estimate the number of current IDUs in Glasgow, Scotland infected with HIV, the number of IDUs infected up to the end of 1990, and the recent incidence of infection. In 1990,

the number of injectors was estimated at 9400; of these, the number of HIV-positive injectors was estimated between 52 and 138, a low incidence of infection.

**Global Commission on Drug Policy, *War on Drugs: Report of the Global Commission on Drug Policy (2011)*, available at: [http://issuu.com/gcdp/docs/global\\_commission\\_report\\_english/1](http://issuu.com/gcdp/docs/global_commission_report_english/1)**

The Global Commission on Drug Policy is composed of former presidents or prime ministers, a former Secretary-General of the UN, and leaders in business, government and human rights. The Commission reported in 2011 that the 40-year-old 'war on drugs,' with its criminalization and repressive measures directed at producers, traffickers and consumers of illegal drugs, has failed to curtail supply or consumption. In addition, repressive efforts aimed at consumers have violated individuals' human rights and impeded public health programs designed to reduce HIV/AIDS and overdose fatalities.

The Commission recommends an increased effort to end the criminalization, marginalization and stigmatization of people who use drugs. Governments should experiment with new models of legal regulation of drugs to undermine the power of organized crime and safeguard the health and security of all citizens. Health and treatment services should be offered to those in need, including such measures as syringe access and other harm reduction methods. Abusive practices carried out in the name of treatment, such as forced detention, should be abolished. Drug policies driven by ideology and politics should be replaced with fiscally responsible policies grounded in science, health, security and human rights.

**Bradley M. Mathers, et al., *Global Epidemiology of Injecting Drug Use and HIV Among People Who Inject Drugs: A Systematic Review*, 372 *The Lancet* 1733 (2008), available at: <http://www.who.int/hiv/topics/idu/LancetArticleIDUHIV.pdf>**

The authors report that injecting drug use is responsible for an increasing proportion of new HIV infections throughout the world. This study is the first systematic review in four years of the epidemiology of injecting drug use worldwide among people ages 15-64. The researchers examined thousands of pieces of scientific literature and other documents and made the following findings: Injecting drug use was found in 148 countries, and the presence of HIV infection among IDUs appeared in 120 of those countries. Existing data are inadequate; however, estimates suggest that 15.9 million people might inject drugs worldwide, and 3 million IDUs might be HIV positive. Estimates of HIV prevalence in the three countries with the highest number of IDUs are China (12 percent), U.S. (16 percent) and Russia (37 percent). The authors warn of a substantial and growing global health challenge based on the increasing number of countries reporting injecting drug use, coupled with the high prevalence of HIV among such populations.

**Avril Taylor, et al., *Low and Stable Prevalence of HIV Among Drug Injectors in Glasgow*, 5 *Int'l J. of STD & AIDS* 105 (1994)**

An annual cross-sectional survey of HIV prevalence and risk behaviors among 500 IDUs in Glasgow, Scotland showed low and stable rates in the early 1990s. This paper reports that, since 1987, Glasgow has introduced and implemented a wide range of measures aimed at reducing HIV-related risk behaviors among IDUs. The findings indicate that introduction of harm-reduction measures when prevalence is low may be effective in inhibiting the rapid dissemination of HIV.

**UNAIDS, 24<sup>th</sup> Meeting of the UNAIDS Programme Coordinating Board, HIV Prevention Among Injecting Drug Users, UNAIDS/PCB(24)/09.9.Rev.1 (June 8, 2009), available at: [http://data.unaids.org/pub/InformationNote/2009/20090518\\_hiv\\_prevention\\_among\\_idus\\_final\\_en.pdf](http://data.unaids.org/pub/InformationNote/2009/20090518_hiv_prevention_among_idus_final_en.pdf)**

This paper reports on progress made by UNAIDS since adoption of the Policy Position Paper in 2005 supporting scaled up efforts by nations regarding HIV prevention among IDUs and related policy and guidance issues. UNAIDS reports that it has provided considerable support to the efforts, including technical support and capacity building; however, major gaps in coverage and barriers to effective programming remain. IDUs have multiple risks of contracting and transmitting HIV, including use of contaminated injection equipment; increased risk when IDUs are also involved in sex work and/or male to male sex, or are incarcerated for drug possession or sex work; and stigmatization of drug use, leading to decreased access to health services. The report notes that while the focus in HIV prevention among drug users has been on injecting users, there are HIV risks attached to other forms of drug use as well, particularly amphetamine use as a driver of HIV infection in some population groups.

**UNAIDS, Report on the Global AIDS Epidemic 2008 (2008), UNAIDS/08.25E / JC1510E, available at: <http://www.unaids.org/en/dataanalysis/epidemiology/2008reportontheglobalaidsepidemic/>**

UNAIDS reported in 2008 that a small number of countries are already providing universal access to ART and to services for prevention of mother-to-child transmission. In many countries, infection levels are falling. However, for every two people who start taking ARV drugs, another five will become newly infected. While the 6-fold increase in financing for HIV activities is beginning to yield results, the group reported, progress remains uneven and the future of the epidemic is still uncertain.

The region where IDUs are most heavily affected by the HIV epidemic is Eastern Europe and Central Asia. UNAIDS reports that of the new HIV cases reported in this region in 2006, about 62 percent were attributable to injecting drug use, and the overlap of sex work and injecting drug use features prominently in this region's epidemic. Even in countries which have begun implementing drug substitution therapy programs for IDUs, stigmatization and discriminatory attitudes prevent many people from accessing these programs. However, some countries, including China, Iran and Viet Nam have introduced or expanded evidence-informed initiatives to prevent HIV transmission among IDUs.

**UNAIDS, Global Report: UNAIDS Report on the Global AIDS Epidemic 2010 (2010), UNAIDS/10.11E / JC1958 E, available at: [http://www.unaids.org/globalreport/documents/20101123\\_GlobalReport\\_full\\_en.pdf](http://www.unaids.org/globalreport/documents/20101123_GlobalReport_full_en.pdf)**

UNAIDS reported in 2010 a 19 percent decrease in the number of new infections since 1999, and an increase in access to treatment for those living with AIDS in low- and middle-income countries. The report generally concludes that steady progress has been made toward achieving universal access to HIV prevention, treatment, care and support. However, while in recent years there has been a general global trend toward decrease in HIV incidence, high rates of HIV transmission continue to occur in Eastern Europe and Central Asia in networks of people who inject drugs and their sexual partners. Problems remain with stigma and discrimination, lack of access to services and 'bad laws.'

The report further notes that human rights are increasingly becoming part of nations' response to the AIDS epidemic, although criminalization and discriminatory laws are still a problem, and that despite extensive progress many countries will fail to meet MDG Goal 6 of halting and reversing the spread of HIV.

**UNAIDS, *UNAIDS Action Framework: Universal Access for Men Who Have Sex with Men and Transgender People* (2009), UNAIDS/09.22E / JC1720E, available at:**

**[http://www.unaids.org/en/media/unaids/contentassets/dataimport/pub/report/2009/jc1720\\_action\\_framework\\_k\\_msm\\_en.pdf](http://www.unaids.org/en/media/unaids/contentassets/dataimport/pub/report/2009/jc1720_action_framework_k_msm_en.pdf)**

This report finds that the failure to respond adequately to the human rights and public health needs of MSM and transgender people, two groups with the highest rates of HIV infection, has fallen far short of what is required to ensure universal access to services for HIV prevention, treatment, care and support.

The report notes that the global HIV epidemic among MSM contributes to the wider HIV epidemic, as the majority of MSM also have sex with women. In addition, the report states that in some contexts, MSM and transgender people are also involved in sex work and/or inject drugs. Therefore, addressing the epidemic among marginalized groups is important not only for members of those groups but also is an effective strategy to avert a larger epidemic among the general population. The strategy outlined in the Framework is based on three key guiding principles: Action must be grounded in a commitment to human rights; action must be informed by evidence; and action is required by a broad range of partners, including affected communities, governments, the private sector, and the UN family.

**U.N. Secretary-General, *United to End AIDS: Achieving the Targets of the 2011 Political Declaration: Rep. of the Secretary-General*, U.N. Doc. A/66/757 (April 2, 2012), available at:**

**[http://www.unaids.org/en/media/unaids/contentassets/documents/document/2012/20120402\\_UNGA\\_A-66-757\\_en.pdf](http://www.unaids.org/en/media/unaids/contentassets/documents/document/2012/20120402_UNGA_A-66-757_en.pdf)**

This is the first report by the Secretary-General to the UN General Assembly following the June 2011 High-Level Meeting on HIV/AIDS. That meeting resulted in the 2011 Political Declaration on HIV and AIDS, which adopted a 2015 deadline for achieving concrete results. The Secretary-General reports progress in several areas, including increased access to essential prevention and treatment services, a decline in new infections and AIDS-related deaths, and adoption of safer sexual practices among young people in high-prevalence countries.

However, many challenges remain, among them punitive laws and human rights violations which undermine national responses. The report estimates that 240,000 people who inject drugs are newly infected with HIV each year; therefore, to meet the Political Declaration's goal of 50 percent reduction in HIV transmission among IDUs by 2015, the number of infections in this population must fall by at least 120,000. While transmission as a result of drug use is entirely preventable by a package of methods including needle and syringe exchange programs, opioid substitution therapy, and comprehensive health and social support services, many countries do not provide such services. Furthermore, many injecting drug users avoid health and social services due to criminalization, discrimination and abusive law enforcement practices.

In sum, the Secretary-General reports that the world is not on track to meet the 2015 targets. He concludes that the global response to HIV must be smarter, more strategic and efficient, and grounded in human rights.

**WHO, UNAIDS, UNICEF, *Towards Universal Access: Scaling Up Priority HIV/AIDS Interventions in the Health Sector – Progress Report 2009* (2009), available at: [http://www.who.int/hiv/pub/tuapr\\_2009\\_en.pdf](http://www.who.int/hiv/pub/tuapr_2009_en.pdf)**

This is the third annual report on the health sector response to HIV, following 2006 U.N. General Assembly High-Level Meeting on AIDS. The reports states that as of 2007, there were 33 million people living with HIV and that the epidemic continues to be a global health challenge. Some countries had begun developing innovative solutions, and 2008 saw a significant increase in people receiving ART as well as an increase in counseling and testing for HIV. However, many low- and middle-income countries were still far from achieving their universal access goals.

The report notes that globally, the number of people who inject drugs appears to be growing. New HIV infections disproportionately affect IDUs, along with other vulnerable groups such as MSM and sex workers. Examples of scale-up efforts directed at IDUs include needle and syringe programs and opioid substitution therapy now offered in some low- and middle-income countries. However, these efforts are far from sufficient to end the epidemic, and IDUs continue to face legal and social barriers in accessing health services.

**Alex Wodak & Annie Cooney, WHO, *Effectiveness of Sterile Needle and Syringe Programming in Reducing HIV/AIDS Among Injecting Drug Users: Evidence for Action Technical Paper (2004)*, available at: <http://whqlibdoc.who.int/publications/2004/9241591641.pdf>**

This is one in a series of technical papers seeking to evaluate and make accessible to policy makers evidence for the effectiveness of selected key interventions in preventing HIV transmission among IDUs. The paper summarizes the published literature on sterile needle and syringe programs and discusses implications for programming, particularly in settings with limited resources.

The authors report that improved access to sterile needles and syringes is the most effective tool available to reduce the spread of AIDS among IDUs. However, the fact that needle syringe programs are illegal in some countries has made it difficult to demonstrate scientifically the efficacy of such programs. The report focuses on bleach and decontamination strategies, needle syringe programs, sale of needles and syringes from pharmacies and vending machines, needle syringe disposal, and injecting paraphernalia legislation.

Conclusions: There is compelling evidence that increasing the availability and utilization of sterile injecting equipment reduces HIV infection substantially and no convincing evidence of any major unintended consequences; needle syringe programs are cost-effective and have additional worthwhile benefits apart from reducing HIV infection among IDUs; evidence does not support the effectiveness of bleach and other forms of disinfection in reducing HIV infection; pharmacies and vending machines increase the availability, and probably the utilization, of sterile injecting equipment by IDUs; injecting paraphernalia legislation is a barrier to effective HIV control among IDUs; and needle syringe programs on their own are not enough to control HIV infection among IDUs.

**J.M.Arroyo-Cobo, *Public Health Gains from Health in Prisons in Spain*, 124 *Pub. Health* 629 (2010)**

The author works in the Directorate of Prisons in Spain's Ministry of the Interior. He describes how a comprehensive set of harm reduction initiatives, including needle and syringe exchange programs, has significantly reduced the infection rates of HIV in Spanish prisons.

**Commonwealth of Australia, Department of Health & Ageing, *Return on Investment 2: Evaluating the Cost-Effectiveness of Needle and Syringe Programs in Australia 2009* (2009), available at: <http://www.health.gov.au/internet/main/publishing.nsf/Content/needle-return-2>**

This government study conducted by a team of investigators at the National Centre in HIV Epidemiology and Clinical Research, University of New South Wales, reports on the population benefits, value and cost-effectiveness of needle and syringe programs throughout Australia from 2000 to 2009.

During this period, expenditure on needle and syringe programs increased by 36 percent, adjusted for inflation, and the authors estimated that these programs averted over 32,000 new HIV infections and over 96,000 Hepatitis C infections. An economic analysis revealed that the needle and syringe programs were very cost-effective compared to other common public health interventions.

**Kate Dolan, et al., The Beckley Foundation Drug Policy Programme, *Prisons and Drugs: A Global Review of Incarceration, Drug Use and Drug Services* (2007), available at: [http://kar.kent.ac.uk/13324/2/Beckley\\_RPT12\\_Prisons\\_Drugs\\_EN.pdf](http://kar.kent.ac.uk/13324/2/Beckley_RPT12_Prisons_Drugs_EN.pdf)**

This paper is a review of the literature on the international prevalence of drug use and related problems in prisons, and the effective responses that have been developed. The authors note that, for drug users, imprisonment itself can be seen as one type of harm; there is little evidence that large scale incarceration of drug offenders has deterred drug use or reduced drug problems. Drug users form a large proportion of prison populations in most developed countries, and many prisoners continue to use drugs while they are in prison, despite efforts by prison officials to prevent the entry of illicit substances. Prisons may also be environments in which people begin injecting heroin. Prisoners also undergo unsterile tattooing and body piercing and engage in unprotected sexual activity, voluntary and otherwise. HIV prevalence is generally several times higher in prisons than in surrounding communities.

As settings where widespread drug use occurs, prisons have an important role to play in attempts to reduce the harm caused by drugs; however, most countries lack adequate preventive measures and AIDS treatment in prisons. The authors review international guidelines on drugs and HIV/AIDS service in prisons and describe the effectiveness of several harm reduction strategies, including detoxification, drug-free wings and therapeutic communities within prisons, drug substitution therapy, and needle exchange.

**International Harm Reduction Association, *What is Harm Reduction?: A Position Statement from the International Harm Reduction Association* (2010), available at: [http://www.ihra.net/files/2010/08/10/Briefing\\_What\\_is\\_HR\\_English.pdf](http://www.ihra.net/files/2010/08/10/Briefing_What_is_HR_English.pdf)**

Harm Reduction International (formerly known as International Harm Reduction Association) is an NGO with consultative status with ECOSOC. The organization works to reduce the negative health, social and human rights impacts of drug use and drug policy. It promotes evidence-based public health policies and practices, and human rights-based approaches to drug policy.

This document is a position statement setting out the main characteristics of harm reduction, *i.e.*, policies, programs and practices designed to reduce the adverse health, social and economic consequences associated with the use of legal and illegal psychoactive drugs in people unwilling or unable to stop. Harm reduction should complement approaches that seek to prevent or reduce drug consumption. It is aimed at providing people who use drugs with options that help to minimize risks and prevent them from harming themselves or others.

**Ralf Jürgens, et al., *Interventions to Reduce HIV Transmission Related to Injecting Drug Use in Prison*, 9 *The Lancet Infectious Diseases* 57 (2009)**

As sites where injecting equipment is commonly shared among drug users, prisons are high-risk environments for the transmission of HIV, and released prisoners often carry the infection into the communities to which they return. The authors review the effectiveness of interventions to reduce risky drug use behaviors in prisons. They find increasing evidence that needle and syringe exchange programs and opioid substitution therapies are effective strategies in reducing risk behaviors in a wide range of prison environments without negative health consequences for prisoners or prison staff. They advocate the introduction of such strategies as part of a comprehensive program to address HIV in prisons.

**Heino Stöver & Ingo Ilja Michels, *Drug Use and Opioid Substitution Treatment for Prisoners*, 7 *Harm Reduction J.* 17 (2010)**

The authors conduct a survey of studies on the effect of opioid substitution therapy for drug-dependent inmates. They find that drug treatment programs for inmates are of lower quality and less accessible than are those available to non-incarcerated drug users. The authors argue that, because prisoners are at greater risk for some of the harms associated with drug use, they should receive the same, or higher, levels of therapeutic interventions as are available to drug users outside prisons. Opioid substitution therapy has been shown to be a clinically effective and cost effective treatment strategy, and the authors advocate establishment of such programs in prisons as beneficial not only to prisoners, but also to prison staff and the community at large.

**Damon Barrett & Manfred Nowak, *The United Nations and Drug Policy: Towards a Human Rights-Based Approach, in The Diversity of International Law: Essays in Honour of Professor Kalliopi K. Koufa* 449 (Artistotle Constantinides & Nikos Zaikos eds. 2009)**

The authors assert that the international 'war on drugs' has left in its wake human rights abuses, worsening national and international security and barriers to sustainable development, and that UN policy on drug control is widely seen as part of the drug problem rather than a solution to it. Those most severely impacted include indigenous people, farmers, people who use drugs and service providers. The authors point out that international human rights obligations are part of the UN Charter and the binding normative framework of international treaties, and that human rights must be incorporated into the legal framework of the complex issue of drug policy.

**Dave Bewley-Taylor, et al., *The Beckley Foundation Drug Policy Programme, The Incarceration of Drug Offenders: An Overview* (2009), available at: [http://www.beckleyfoundation.org/pdf/BF\\_Report\\_16.pdf](http://www.beckleyfoundation.org/pdf/BF_Report_16.pdf)**

At the time of this report, the Beckley Foundation Drug Policy Programme was chair of the International Drug Policy Consortium (IDPC), a global network of organizations and professionals working to promote objective debate around national and international drug policies and providing advice to governments on effective policy choices. The purpose of the Beckley Foundation is to offer research and analysis aimed at promoting the rational consideration of complex drug policy issues.

The authors report that a global prison crisis is the making as penal institutions around the world are becoming increasingly populated with drug users, with unintended consequences resulting, including significant financial and social costs with only a marginal or temporary impact on the illicit market for drugs. They point to an international legal framework, held in place by the 1988 Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, that strongly encourages a penal approach to the problem of drug addiction. Although exhibiting a recent and welcome focus on proportionality in the area of drug-related offenses, the UN drug control system, as described by the authors, is ambivalent in its attitude toward incarceration for drug offenders and focuses on the issue as a criminal matter rather than a public health issue.

The United States comes in for particular attention in this report, as its drug policies have been heavily weighted toward criminal prosecution and have resulted in a booming prison population. Evidence provides only marginal support for the oft-cited justifications of the criminal justice approach – incapacitation, rehabilitation and deterrence – and demonstrates, rather, that the financial and collateral costs of incarceration in terms of the negative impact on community relations, social cohesion and public health far outweigh the benefits. One of these collateral costs is a greatly increased risk among prisoners of blood-borne infections such as HIV and Hepatitis C.

**William E. Butler, *Narcotics and HIV/AIDS in Russia: Harm Reduction Policies Under Russian Law* (2005)**

The author is a law professor, jurist and expert on the law of Russia and other former Soviet republics. This book examines Russia's zero-tolerance approach to drug control and how that policy interacts with harm reduction programs under foreign assistance. The author discusses Russian judicial practice, European human rights standards, and the history of Russian narcotics and HIV legislation, including translations of the principal statutes.

**Scott Ehlers, et al., Justice Policy Institute, *Still Striking Out: Ten Years of California's Three Strikes* (2004), available at: <http://www.justicepolicy.org/research/2028>**

California's "Three Strikes and You're Out" law, passed in 1994, was much more punitive than the similar habitual-offender legislation passed in other U.S. states in that era. The law required sentences to be doubled for any felony – not only serious or violent offenses – if the offender had one prior serious or violent felony conviction. For two prior such convictions, the statute provided a 25-year-to-life sentence. In the ten years since passage of the law, over 42,000 persons, or one-fourth of all California prisoners, were serving a doubled or 25-to-life sentence under the "Three Strikes" law.

This study of the effects of the law summarizes and analyzes data and findings from a variety of criminal justice agencies. The author found that the law had led to significant growth in California's prison population, with associated costs to the taxpayer; that the law has had a disproportionate effect on non-violent offenders, African-Americans and Latinos; and that, while the crime rate has dropped in California since passage of the law, there is no evidence that this decline is associated with the "Three Strikes" law. Indeed, one study showed that the average dangerousness of the prison population had declined while that of the rest of the population had increased.

**Thomas Gabor & Nicole Crutcher, *Mandatory Minimum Penalties: Their Effects on Crime, Sentencing Disparities, and Justice System Expenditures* (2002), available at: [http://semainedesvictimes.gc.ca/eng/pi/rs/rep-rap/2002/rr02\\_1/rr02\\_1.pdf](http://semainedesvictimes.gc.ca/eng/pi/rs/rep-rap/2002/rr02_1/rr02_1.pdf)**

The purpose of this review is to assess mandatory minimum sentencing laws in effect worldwide from 1980 to 2000, as they impact crime prevention, fiscal issues, and social consequences.

With respect to drug offenses, the authors point to a 1997 study by the Rand Corporation which showed that mandatory minimum sentences were the most cost effective strategy only for the highest-level drug dealers, but that the low thresholds at which mandatory minimum sentences kick in means that these laws are more likely to ensnare low-level offenders. Another study showed that in Malaysia, which has a mandatory death penalty for drug trafficking, the judiciary tends to resort to various legal devices to avoid imposing capital punishment, including convicting the defendant of possession rather than trafficking. The authors conclude that mandatory minimum sentences do not appear to influence drug consumption or drug-related crime in any measurable way.

**Patrick Gallahue & Rick Lines, International Harm Reduction Association, Human Rights Programme, *The Death Penalty for Drug Offenses: Global Overview 2010* (2010), available at: [http://dl.dropbox.com/u/64663568/library/ihra\\_death\\_penalty\\_report\\_2010\\_eng.pdf](http://dl.dropbox.com/u/64663568/library/ihra_death_penalty_report_2010_eng.pdf)**

This overview is a follow-up to a 2007 report by the International Harm Reduction Association (IHRA) that provided a detailed review of the use of capital punishment for drug offenses worldwide. In that report, and again in this one, the authors argue that imposition of the death penalty for such offenses constitutes a violation of international human rights law.

The authors note that the International Covenant on Civil and Political Rights (ICCPR), art. 6(2) grants an exception to the right to life, guaranteed elsewhere in the Covenant, for countries that have not abolished the death penalty; however, this exception applies only for 'the most serious crimes,' and the international jurisprudence of human rights bodies holds that drug offenses are not among the 'most serious' crimes.

This study reports that 32 countries officially retain the death penalty for certain drug offenses, but only six of these countries currently enforce it with any vigor. Only two of these – Saudi Arabia and Iran, show no sign of reducing the number of executions. Five of these countries – the authors call them 'abolitionist de facto' – have not carried out any executions in the past ten years. Nine of the 32 countries are not parties to the ICCPR, and the authors feel that ratification of the Covenant would likely move these countries toward agreement with the proposition that executing persons for drug offenses is a breach of their right to life and right to be free of cruel, inhuman and degrading punishment.

**Martin Jelsma, *Drug Law Reform Trend in Latin America (2009)*, available at:**  
[http://www.akzept.org/pdf/volltexte\\_pdf/nr23/drogenpo\\_inter/tnltrends\\_latam0110.pdf](http://www.akzept.org/pdf/volltexte_pdf/nr23/drogenpo_inter/tnltrends_latam0110.pdf)

This is an unpublished overview of changes in drug laws in various Latin American countries between 1974 and 2009. The overview was compiled by the author, who is a political scientist and coordinator of the Drugs and Democracy Programme at the Transnational Institute, and it provided source material for his presentation, *Trends in Drug Law Reform in Europe and Latin America*, at the Thai Office of the Narcotics Control Board on Jan. 26, 2010 (see: <http://www.tni.org/paper/trends-drug-law-reform-europe-and-latin-america>).

The overview begins with a table presenting a chronological listing of legal developments in several Central and South American countries, followed by a narrative overview of recent changes in the law. The author reports a general trend toward decriminalization. Colombia, however, is a major exception to this trend; after the Colombian Supreme Court decriminalized possession of drugs for personal use, Congress reacted by amending the Constitution to prohibit drug consumption and possession.

**Marie Nougier, *IDPC Report: First IDPC Seminar on Drug Policy in the Middle East and North Africa (2011)*, available at:**  
[http://dl.dropbox.com/u/64663568/library/IDPC%20report%20on%20MENA%20seminar%20FINAL%20web\\_0.pdf](http://dl.dropbox.com/u/64663568/library/IDPC%20report%20on%20MENA%20seminar%20FINAL%20web_0.pdf)

IDPC, the International Drug Policy Consortium (IDPC), is a global network of organizations and professionals promoting objective and open debate around national and international drug policies. Noting the recent move in some MENA countries away from a law enforcement-based approach to illicit drugs and toward new intervention options addressing drug-related harms and drug dependence, IDPC collaborated with the National Rehabilitation Centre in Abu Dhabi to organize a seminar in support of these developments. The seminar brought in 150 policy makers, representatives of local and international NGOs, health care providers and law enforcement officers from 12 countries. It focused on four themes: prevention and reduction of drug use, drug dependence treatment, harm reduction, and drug laws and enforcement.

The report acknowledges that harm reduction – referring to pragmatic policies and programs aimed at reducing the adverse health, social and economic consequences of illicit drug use – can be controversial as it does not focus on reducing drug use. However, it is now widely recognized as an effective tool in reducing the spread of HIV and other illnesses. WHO, UNODC and UNAIDS have proposed a comprehensive package of evidence-based and cost-effective interventions including: needle and syringe exchange programs; opioid substitution therapies; HIV testing and counseling; ART; and education and communication strategies, among other things. Harm reduction services can be delivered through a variety of sources, including the health care system, NGOs, drug rehabilitation centers, and law

enforcement agencies. The latter can be useful, the report states, in identifying and referring dependent drug users to appropriate services, and in developing harm reduction programs in prisons.

**Open Society Institute, International Harm Reduction Program, *At What Cost? HIV and Human Rights Consequences of the Global 'War on Drugs'* (2009), available at: <http://www.soros.org/reports/what-cost-hiv-and-human-rights-consequences-global-war-drugs>**

As part of its Public Health Program, the Open Society Institute operates the International Harm Reduction Program (IHRD), an effort to reduce HIV and other harms related to injecting drug use and to press for policies that reduce stigmatization of drug users and protect human rights. IHRD's activities are based on the principle that people who are unable or unwilling to abstain from drug use can nevertheless make positive changes to protect their own health and that of others. It advocates expansion of needle exchange programs, improvement in treatment for both drug dependence and HIV, and increased participation of people who use drugs and those living with HIV in shaping policy in these areas.

The report notes that strengthened drug control efforts by countries worldwide has not only failed to reduce significantly the supply or use of illicit drugs but has had unintended negative consequences, including increased incarceration, human rights violations and disease. IHRD presents case studies from four countries – Indonesia, Cambodia, China and India – examining police practices and how they affect people who use drugs. It also examines the influence of the United States and Russia, two superpowers relying on punitive drug policies that lead to overcrowded prisons ill equipped to provide appropriate disease prevention or treatment measures. IHRD supports international calls for adherence to human rights commitments, comprehensive health interventions in prisons, and an adequate supply of medications to treat drug dependence and relieve pain; however, IHRD also advocates a much stronger worldwide effort to put in place drug control policies that appreciate the value of health and human rights.

**Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health, *Report of the Special Rapporteur, General Assembly, U.N. Doc. A/65/255 (Aug. 6, 2010) (by Anand Grover)*, available at: <http://www.drugtext.org/International-national-drug-policy/right-of-everyone-to-the-enjoyment-of-the-highest-attainable-standard-of-physical-and-mental-health.html>**

The Special Rapporteur reports to the U.N. General Assembly, in accordance with Human Rights Council Res. 6/29. He states that mounting evidence suggests that the current international system of drug control, focused almost exclusively on law enforcement policies and criminal sanctions, has been a failure. While eradication of illicit drugs and drug use are a noble goal, the current punitive regime has failed to ensure public health and has resulted in countless human rights violations.

The 1961 Single Convention on Narcotic Drugs states that the primary goal of international drug control is the 'health and welfare of mankind.' However, criminalization of drug use and excessive law enforcement practices perpetuate stigmas and increase health risks, not only to drug users but to entire populations. He advocates implementation of harm reduction initiatives and development of a new legal framework surrounding illicit drugs, one that respects and protects the human rights of people who use drugs.

**UNODC, Regional Office for Central Asia, *Accessibility of HIV Prevention, Treatment, and Care Services for People who Use Drugs and Incarcerated People in Azerbaijan, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan: Legislative and Policy Analysis and Recommendations for Reform (2010)*, available at: [http://www.unodc.org/documents/centralasia/Accessibility of HIV prevention treatment and care eng.pdf](http://www.unodc.org/documents/centralasia/Accessibility_of_HIV_prevention_treatment_and_care_eng.pdf)**

The UN Office of Drugs and Crime (UNODC), Regional Office for Central Asia, conducted an analysis of national programs on HIV and drug control, administrative and criminal laws, governmental decrees and ministerial orders in effect in 2007-2009 in five Central Asian countries and Azerbaijan. It found an absence of regulatory frameworks in these countries supporting evidence-based HIV prevention and treatment interventions, impeding full implementation of effective approaches to the HIV epidemic among vulnerable groups such as prisoners and people who use drugs.

The region comprising the countries of the former Soviet Union has seen rapidly-escalating rates of HIV infection, driven to a large extent by unsafe drug injecting practices. UN agencies estimate that more than 80 percent of HIV infections in Eastern Europe and Central Asia can be traced to injecting drug use. UNODC conducted this legislative assessment to assist countries in the region in strengthening their national capacities to achieve universal access to HIV prevention and treatment services. Laws, policies and programs that hinder effective responses include: punitive drug control practices; restrictions on the human rights of people living with HIV, people who use drugs, and prisoners; implementation of non-voluntary medical interventions such as coercive drug testing and compulsory treatment of drug dependence; and limited opportunities for vulnerable groups to participate in development of national strategies on drug control and HIV.

UNODC recommends that countries revisit their laws and policies regarding health care in general and HIV in particular, and develop them in line with evidence-based practices and human rights principles.

**UNODC, *Drug Control, Crime Prevention and Criminal Justice: A Human Rights Perspective*, U.N. Doc. E/CN.7/2010/CRP.6-E/CN.15/2010/CRP.1 (March 3, 2010), available at: [http://www.unodc.org/documents/commissions/CND-Uploads/CND-53-RelatedFiles/ECN72010\\_CRP6eV1051605.pdf](http://www.unodc.org/documents/commissions/CND-Uploads/CND-53-RelatedFiles/ECN72010_CRP6eV1051605.pdf)**

The Executive Director of the UN Office on Drugs and Crime submitted this Note to sessions of the Commission on Narcotic Drugs and the Commission on Crime Prevention and Criminal Justice, both meeting in Vienna in the spring of 2010. The director outlined the conceptual and legal foundations underlying the human rights aspects of drug control, crime prevention and the criminal justice system, and explained why human rights is an important aspect of UNODC's work.

The director noted that responses to drugs, crime and terrorism that are based on the rule of law must also incorporate human rights law and principles. Too often, law enforcement and criminal justice systems themselves perpetrate human rights abuses and marginalize those who most need treatment and rehabilitation. Human rights obligations are found in the UN Charter, the international crime, terrorism and drug-related treaties, and the nine core, legally binding international human rights treaties promulgated under the auspices of the UN.

In addition to obligations of States to protect the human rights of those persons caught up in the criminal justice system, States are also required to respect, protect and contribute to the fulfillment of social and economic rights, including the right to the highest attainable standard of physical and mental health. The right to health applies to everyone, including those who suffer from the health condition of drug dependence. Thus, the right to health for this population calls for access to measures such as counseling, advice, clean needles and syringes, and drug dependence treatment including, where appropriate, drug substitution therapy.

**UNODC, *World Drug Report 2010* (2010), U.N. Sales No. E.10.XI.13, available at: [http://www.unodc.org/documents/wdr/WDR\\_2010/World Drug Report 2010 lo-res.pdf](http://www.unodc.org/documents/wdr/WDR_2010/World_Drug_Report_2010_lo-res.pdf)**

The United Nations Office on Drugs and Crime (UNODC) describes itself as the guardian of the three principal drug treaties and the lead UN agency on drug control. In this paper, UNODC presents its annual report for 2010 assessing global drug issues.

UN Member States met in 2008 and called for the elimination of, or significant reduction in, supply and demand of illicit drugs by 2019. The annual World Drug Report is one of UNODC's contributions toward this effort; it provides information on the operation of illicit drug economies worldwide. The agency gathers data from UN Member States, analyzes the transnational drug markets and reports on the latest statistical data and trends related to international drug trade.

This 2010 report analyzes three key transnational drug markets: heroin, cocaine and amphetamine-type stimulants. It reports on statistical trends in drug production, seizures and consumption. A separate chapter examines the impact of the drug trade on levels of violence and corruption in transit countries in Latin America, the Caribbean and West Africa.

UNODC states in the report that international drug control is increasingly taking a more balanced approach, focused on development, security, justice and, above public health.

**Campbell Aitken, et al., *The Impact of a Police Crackdown on a Street Drug Scene: Evidence from the Street*, 13 *International J. Drug Policy* 193 (2002)**

The authors examine the impact of 'Operation Clean Heart,' a police crackdown on a street heroin market in a suburb of Melbourne, Australia. They found that the operation reduced the visible aspects of the street drug scene, but the market rapidly adapted to the new conditions. In addition, several negative unintended consequences ensued: The drug scene moved from its former location in the suburb to nearby metropolitan areas, safe injecting practices and safe needle and syringe disposal were discouraged, and violence and fraud incidents increased. The authors conclude that police crackdowns are counterproductive from a public health perspective. They advocate instead the use of approaches balancing demand reduction, supply reduction and harm reduction principles.

**F.I. Bastos & S. A. Strathdee, *Evaluating Effectiveness of Syringe Exchange Programmes: Current Issues & Future Prospects*, 51 *Soc. Sci. & Med.* 1771 (2000)**

The authors address the controversy surrounding recent studies on the effectiveness of syringe exchange programs (SEPs), which seem to indicate higher incidence of HIV among SEP attenders than among non-attenders. The authors apply concepts from infectious disease epidemiology to examine the effects of syringe exchange programs on the spread of blood borne pathogens, including HIV, in drug users, their social networks and the broader community. They conclude that biases common to observational studies can account for the recent findings, and that strong selection factors often lead high-risk drug users to be over-represented among SEP attenders. The authors also discuss social, legal and programmatic obstacles to maximization of SEP effectiveness.

**Leo Beletsky, et al., (2011), *The Roles of Law, Client Race and Program Visibility in Shaping Police Interference with the Operation of U.S. Syringe Exchange Programs*, 106 *Addiction* 357 (2011)**

The authors conducted a national survey of U.S. syringe exchange program managers on the extent of police interference with their operations. Fifty-six percent of managers reported no documented police interference. Of the programs that experienced police interference, reported activities included client harassment, unauthorized confiscation of clients' syringes, arrests of clients going to and from the center, and uninvited police appearance at the center at least twice a year. Programs serving primarily IDUs of color were more likely to report police interference. The authors note that programs reporting no adverse events are likely already working cooperatively with police in their area, a priority advocated by the U.S. Centers for Disease Control.

**Kim M. Blankenship & Stephen Koester, *Criminal Law, Policing Policy, and HIV Risk in Female Street Sex Workers and Injection Drug Users*, 30 *J. Law, Med. & Ethics* 548 (2002)**

The authors conducted ethnographic work among female street sex workers (most of whom are also IDUs) and IDUs (some of whom are also female street sex workers) in two U.S. cities, to examine whether criminal law and policing affect the HIV risk of these two groups. They found that policing practices have three major effects: They influence the availability of protective equipment – *i.e.*, syringes and condoms – and the conditions under which the use of such equipment is negotiated; they affect risk by increasing the vulnerability to incarceration of individuals in these two groups; and they reinforce stigmatization and social inequalities that can be determinants of HIV risk.

**Ricky N. Bluthenthal, et al., *Collateral Damage in the War on Drugs: HIV Risk Behaviors Among Injection Drug Users*, 10 *Int'l J. Drug Pol'y* 25 (1999)**

A study among IDUs in six San Francisco Bay Area communities indicates that two key policies of the U.S. government's 'war on drugs' – the criminalization of syringe possession and denial of Supplemental Security Income (SSI) benefits to drug users – are associated with HIV risk behaviours among IDUs. The authors found that IDUs who were concerned about possible arrest while carrying drug paraphernalia were more likely to share syringes, and IDUs who lost SSI benefits were more likely to participate in illegal activities, more likely to share syringes, and likely to inject drugs more often than those who retained benefits. The authors recommend that the government reconsider these two policies, as they increase the risk of HIV infection among IDUs.

**Ricky N. Bluthenthal, et al., *Impact of Law Enforcement on Syringe Exchange Programs: A Look at Oakland and San Francisco*, 18 *Med. Anthropology* 61 (1997)**

Noting that syringe exchange programs have started up in 25 states despite their illegality in most states, the authors studied two neighboring cities in California to assess the impact of police action and police threat on such programs. They found that police action and threat at the Oakland syringe site, in contrast to the tolerated San Francisco exchange site, led to decreased utilization by IDUs, limited the number and diversity of volunteers, and inhibited the operation and expansion of the site.

**Philippe Bourgois, *The Moral Economies of Homeless Heroin Addicts: Confronting Ethnography, HIV Risk, and Everyday Violence in San Francisco Shooting Encampments*, 33 *Substance Use & Misuse* 2323 (1998)**

The author recommends a 'participant-observation anthropological approach' by fieldworkers – in this case, ethnographic immersion among homeless heroin addicts – as a more accurate method of documenting risk-taking

practices of IDUs. He argues that such field work, accompanied by a greater theoretical sophistication about such factors as the pragmatics of income-generating strategies and social hierarchies of respect, identity and mutual dependence, reveal far more risky behavior, such as daily sharing of injecting paraphernalia, than the public health literature usually reports.

**Robert S. Broadhead, et al., *Safer Injection Facilities in North America: Their Place in Public Policy and Health*, 32 *J. Drug Issues* 329 (2002)**

In addition to needle exchange programs and street outreach, government-sanctioned 'safer injection facilities' (SIFs) are one service that countries around the world have added to the array of public health programs offered to IDUs. The authors found that SIFs in Western Europe and Australia help reduce rates of drug injection and related risks in public spaces, place IDUs in more direct contact with medical care and other social services, and reduce the volume of IDUs' discarded litter in public spaces and their expropriation of such spaces. The authors call for more municipalities in North America to provide support for demonstration SIF projects in injection drug using communities.

**Scott Burris, et al., *Addressing the 'Risk Environment' for Injection Drug Users: The Mysterious Case of the Missing Cop*, 82 *Milbank Q.* 125 (2004)**

This article examines the role of criminal laws and law enforcement practices in the risk environment of IDUs. The authors conclude that more research is needed in the areas of laws in general; management of law enforcement agencies; knowledge, attitudes and beliefs; and practices of law enforcement officers in the field. Such research can be the basis of law enforcement interventions that enhance IDU health.

**Scott Burris, et al., *Federalism, Policy Learning, and Local Innovation in Public Health: The Case of the Supervised Injection Facility*, 53 *St. Louis U.L.J.* 1089 (2009).**

The author reports that supervised injection facilities (SIFs), where drug users can self-administer pre-obtained drugs in a safe place under the supervision of health care providers, likely represent a medically effective and economically efficient strategy for reducing harms to IDUs in marginalized populations such as the chronically homeless. However, states and localities that authorize SIFs find their decisions open to challenge by federal law enforcement agencies as a violation of federal law.

The author argues that, although it's an uphill battle, local governments with the political will to advance evidence-based public health strategies have good legal arguments for establishment of SIFs, under their authority to protect and further public health. He concludes that drug policy is one of those difficult areas where states can act as laboratories for 'policy learning' to help inform federal policy.

**Scott Burris, et al., *Racial Disparities in Injection-Related HIV: A Case Study of Toxic Law*, 82 *Temple L. Rev.* 1263 (2010)**

The authors consider the fact that the incidence of HIV infection has been much higher in minority populations in the U.S. than in white populations. Among IDUs, the disparity is especially striking: African Americans who inject drugs are ten times more likely to be diagnosed with HIV/AIDS than are white drug injectors. The authors examine the impact of criminal laws and law enforcement practices in disparities in HIV incidence among IDUs and conclude that in one particular area – access to clean syringes – the law has been a hindrance. They argue that racial

disparities in HIV can be reduced by removing legal barriers to availability of syringes at pharmacies and syringe exchange programs, and eliminating harassment and other police practices that discourage IDUs from carrying syringes and that depress the effectiveness of syringe exchange programs.

**Patricia Case, et al., *Arrests and Incarceration of Injection Drug Users for Syringe Possession in Massachusetts: Implications for HIV Prevention*, 18 J. AIDS and Human Retrovirology S71 (1998)**

The U.S. state of Massachusetts criminalizes possession of drug paraphernalia, including syringes, without a prescription. The authors assessed the number of arrests and convictions for syringe possession in ten large cities in the state, looked at incarceration rates and length of sentences and estimated costs of incarceration. They found that the over \$1 million spent in 1994 to incarcerate these persons (a figure which excludes the costs of arrest, pretrial detention, prosecution and other costs of enforcement) could have paid for 1,629 admissions to drug detoxification programs. They conclude that retaining laws that criminalize syringe possession may contribute to HIV transmission and note that their findings support the recommendation of the American Medical Association that drug paraphernalia laws be modified to permit IDUs to purchase and possess syringes without a prescription.

**Hannah Cooper, et al., *Characterizing Perceived Police Violence: Implications for Public Health*, 94 Am. J. Pub. Health 1109 (2004)**

The authors conducted a study of a police crackdown in one police precinct in New York City in 2000, to assess residents' perceptions of and experiences with police-perpetrated abuse. The interviewees, particularly IDUs and non-drug using men, reported physical, psychological and sexual abuse by police and associated this abuse with crackdown-related tactics and perceived prejudice. The authors recommend that public health researchers conduct further studies addressing the public health implications of police violence.

**Joanne Csete, Human Rights Watch, *Lessons Not Learned: Human Rights Abuses and HIV/AIDS in the Russian Federation* (2004), available at: <http://www.hrw.org/reports/2004/04/27/lessons-not-learned-0>**

This report resulted from a study conducted in early 2004 in St. Petersburg and elsewhere in the Russian Federation. Researchers interviewed drug users, sex workers and people living with HIV; service providers including city health officials, a prison official and HIV/AIDS educators; federal health officials in Moscow; and donors and World Bank officials. Injecting drug use has been the leading factor in the explosive growth of the HIV epidemic in the countries making up the former Soviet Union. In 2003, Russia was estimated to account for 76 percent of all HIV infections in central and Eastern Europe.

The government has established AIDS centers throughout the country to carry out a massive program of mandatory testing and official registration of people living with HIV/AIDS. These centers do not provide HIV prevention and treatment. IDUs often spend some time in prisons, which are high-risk sites for HIV infection; however, prisons provide neither sterile syringes nor condoms for inmates. Russia allocates very little money to public awareness and HIV education programs. The low level of awareness of the basic facts of HIV/AIDS leads to stigma and discrimination against people living with AIDS, many of whom have been fired from their jobs or refused health care because of their HIV-positive status. At the time of this report, Russia had not registered any generic ARV drugs for sale in the country, and there is very little access to ARV treatment.

Police harassment of drug users is widespread in Russia and causes risky behavior among drug users. Harm reduction programs have an unclear legal status in Russia, and law enforcement officials consider needle exchange programs to be the equivalent of 'open promotion of illegal drugs.' Licensing and government oversight

of needle exchange sites is mandatory. Methadone and other drug replacement therapies are banned in Russia. The report includes recommendations for the government of the Russian Federation and for international donors and multilateral agencies.

**Joanne Csete, et al., *Lives to Save: PEPFAR, HIV, and Injecting Drug Use in Africa*, 373 *The Lancet* 2006 (2009)**

The authors note that PEPFAR (The U.S. President's Emergency Plan for AIDS Relief) has the potential to save many lives in Africa by funding effective strategies for HIV prevention and treatment for IDUs, and encouraging African countries to learn from programs around the world that have established drug-dependency treatment and sterile needle programs. Such programs can also serve as a bridge to ART and other care and support for HIV-positive IDUs. WHO has recommended drug substitution therapy as a central HIV-prevention measure, as it helps heroin users stabilize their cravings, avoid criminal activity and perform productive labor. PEPFAR, the authors state, is well placed to provide leadership in sub-Saharan Africa by funding initiatives such as needle exchanges and substitution therapy for IDUs.

**Sara LM Davis, et al., *Survey of Abuses Against Injecting Drug Users in Indonesia*, 6 *Harm Reduction J.* 28 (2009)**

The authors report that Indonesia has witnessed a rapid increase in injection drug use since the 1990s, as well as an increase in HIV prevalence. In 1997, the country launched a national 'war on drugs' which included sweeping arrests and lengthy prison sentences for trafficking and possession, with traffickers facing a possible death penalty. A number of NGOs in Indonesia have responded to this punitive approach by advocating or offering harm reduction services, including needle exchange programs. However, these programs operate in tension with law enforcement, as police are often ordered to implement punitive policies toward drug users.

JANGKAR (Indonesian Harm Reduction Network), a national network of local NGOs, conducted a 13-city survey of 1106 IDUs in Indonesia about their experiences of police abuse or discrimination in access to health services. Sixty percent of those interviewed reported abuse by police, including beating, burning with cigarettes, electrical shocks, and sexual harassment and abuse. However, local harm reduction NGOs have begun meeting with police officers in various communities to demand treatment access in detention centers and to raise concerns about the safety of individual detainees.

**T. Diaz, et al., *Needle and Syringe Acquisition Among Young Injection Drug Users in Harlem, New York City*, National HIV Prevention Conference 1999, Abstract No. 654, abstract available at: <http://ww1.aegis.org/conferences/nhivpc/1999/654.html>**

The authors examined syringe acquisition among IDUs in Harlem in 1999. At the time of the study, purchase or possession of a needle or syringe without a prescription was illegal. The authors interviewed street-recruited IDUs between the ages of 18 and 29. They found that although syringe exchange programs (SEPs) are available in this neighbourhood, only about half of the IDUs interviewed obtained their syringes from SEPs. Most were fearful of carrying syringes for fear the police would discover them. The authors also reported that sharing syringes was associated with not using a SEP for acquisition. They concluded that increased accessibility to syringes would require expansion of SEP services and also changes in legal policy.

**David Dixon & Lisa Maher, *Anh Hai: Policing Culture and Social Exclusion in a Street Heroin Market*, 12 *Policing and Society* 93 (2002)**

The authors interviewed 123 Indo-Chinese youth involved in heroin use and distribution in Cabramatta, a predominantly Vietnamese community in Sydney, Australia to determine how the interviewees experience and perceive policing in their community. Many of the young people reported routine harassment, intimidation, racism and mistreatment by police. Unlawful detentions and searches were common, and the authors also uncovered evidence of illegal seizures by police of drugs and money. The authors concluded that the interviewees' perceptions of their treatment by the police are shaped by their political and economic exclusion which, ironically, is compounded by their cultural inclusion. The wider Indo-Chinese community interpreted the police actions as offensive and unfair, and the young victims of police misbehaviour expressed a similar view.

**Alice A. Gleghorn, *Acquisition and Use of Needles and Syringes by Injecting Drug Users in Baltimore, Maryland*, 10 *J. AIDS & Human Retrovirology* 97 (1995)**

The authors conducted interviews of IDUs in Baltimore in 1995, before the opening of a needle exchange program, to determine how the IDUs obtained and used needles and syringes for drug injection. In Maryland, IDUs could legally purchase needles and syringes at pharmacies, at the pharmacists' discretion; however, possession remained illegal and most IDUs obtained needles and syringes from illegal sources. The authors found that pharmacy purchasers were less likely to have been jailed, to have shared needles or syringes, or to have used shooting galleries in the six months preceding the survey. They concluded that then-current patterns of needle and syringe acquisition and use increased the risk of HIV transmission, and that decriminalization of needle and syringe possession could decrease that risk.

**Chris Hagarty, Burnet Institute, *Harm Reduction in Asia: Progress Towards Universal Access to Harm Reduction Services Among People Who Inject Drugs* (2010)**

This report was commissioned by the UN Regional Task Force on Injecting Drug Use and HIV/AIDS in 15 countries in South and Southeast Asia. The purpose was to review the policies, resources and services for IDUs in those countries in order to update a baseline assessment conducted in 2006. The review identifies gaps in efforts toward achieving universal access to HIV prevention, treatment and care of IDUs. The author found that none of the countries was delivering all nine of the core interventions required as part of a comprehensive package of harm reduction services. In 12 of the countries under review, at least one of the core services – usually needle and syringe exchange programs and/or opioid substitution therapy – is prohibited by law.

Among the recommendations for improvements: national commitments to the delivery of the comprehensive package of harm reduction services; increased political commitment to harm reduction for IDUs; greater involvement by civil society and IDUs themselves; legal and policy reform; and greater support for regional initiatives.

**Theodore M. Hammett, *'Social Evils' and Harm Reduction: The Evolving Policy Environment for Human Immunodeficiency Virus Prevention Among Injection Drug Users in China and Vietnam*, 103 *Addiction* 137 (2008)**

The governments of China and Vietnam both apply punitive approaches to IDUs in the wake of HIV epidemics driven by injecting drug use. Somewhat paradoxically, however, both countries have also recently endorsed harm reduction. The authors identify the following reasons for this development: the emergence of effective 'champions' for harm reduction policies; a pragmatic ethos that is receptive to evidence; increased collaboration between public

health and law enforcement agencies; the influence of events such as the SARS epidemic; and pressure from donors and international agencies to adopt best practices in HIV prevention.

**Human Rights Watch, *The Rehab Archipelago: Forced Labor and Other Abuses in Drug Detention Centers in Southern Vietnam* (2011), available at: <http://www.hrw.org/sites/default/files/reports/vietnam0911ToPost.pdf>**

Human Rights Watch reports on abuses in Viet Nam's drug detention centers, which it calls 'forced labor centers for people who use drugs.' Some of the detainees are brought to the centers by police or local authorities on a compulsory basis, while others commit themselves voluntarily. A law passed by the National Assembly in 2009 extended to four years the length of time that an individual may be detained in these centers for supposed drug treatment.

Court orders are not required to round up people who use drugs and detain them at the centers, and detainees have no right to a lawyer or a court hearing and no right to appeal a detention order. While detained, the inmates are subjected to forced labour in agricultural production, manufacturing, and construction work. They are paid at rates below the minimum wage, if they are paid at all. If they refuse to work, they are subject to discipline including beating or shocking with electric batons.

None of the recently-released detainees interviewed by HRW had been provided with any form of medically appropriate drug dependency treatment at the centers. It is estimated that between 15 and 60 percent of people in these centers are infected with HIV, but few centers provide appropriate medical care for HIV. Some international donors have funded or provided HIV care for these detainees; however, because Vietnamese law provides that HIV-positive detainees have a right to release if appropriate medical care cannot be provided, such donor support has had the perverse impact of enabling the government to retain HIV-infected persons rather than release them to access appropriate care in the community.

HRW calls for closure of all drug detention centers in Viet Nam, immediate release of persons detained in the centers against their will, and criminal prosecution of persons responsible for violations of domestic and international laws against arbitrary detention, torture, inhuman and degrading treatment and forced labour. HRW also recommends that Vietnamese and foreign companies profiting from the labour of detainees cease all commercial relationships with drug detention centers, and that donors and NGOs review their programming to ensure that no funding goes to support the violation of international human rights law.

**Human Rights Watch, *'Skin on the Cable': the Illegal Arrest, Arbitrary Detention and Torture of People Who Use Drugs in Cambodia* (2010), available at: <http://www.hrw.org/sites/default/files/reports/skinOnTheCable.pdf>**

This paper reports on government-run drug detention centers in Cambodia which purport to provide treatment and rehabilitation to drug users but which in fact inflict forced labor and torture on detainees. The inmates, some of whom are not drug users at all, are rounded up in police raids or are arrested upon payment by family members. Detention occurs without judicial oversight or opportunity to appeal. Many of the detainees are under the age of 15 or suffer from mental illness. Former detainees told HRW researchers they were beaten, shocked with electric batons and whipped with twisted electrical cables; others were forced to perform painful physical exercises as 'treatment' or were chained while standing in the sun. Some were raped in the centers.

HRW calls for permanent closure of all drug detention centers in Cambodia and expansion of access to voluntary, community-based treatment for drug dependency that comports with international human rights and health care standards.

**Human Rights Watch, *Where Darkness Knows No Limits: Incarceration, Ill-Treatment, and Forced Labor as Drug Rehabilitation in China* (2010), available at:**

**[http://www.hrw.org/sites/default/files/reports/china0110webwcover\\_0.pdf](http://www.hrw.org/sites/default/files/reports/china0110webwcover_0.pdf)**

This study looks at China's first comprehensive narcotics control law, the Anti-Drug Law, which is supposed to subject drug users to administrative rather than criminal penalties. In spite of the language of law, however, China routinely places suspected drug users in drug detention centers for up to 6 years, without trial or judicial oversight. In these centers, detainees receive little or no medical treatment, certainly no support for quitting drugs; in addition, many are subjected to cruel, inhuman and degrading treatment and forced to engage in unpaid labour. Some have died as a result of this abuse.

At the same time, however, the Chinese government states that it is pursuing a more pragmatic and progressive strategy toward high rates of drug use and HIV/AIDS, including harm reduction measures such as methadone treatment and needle and syringe exchanges. While the Anti-Drug Law, passed in 2008, purports to represent a more human approach to illicit drug use, in reality it expands police power and removes legal protections for persons suspected of drug use. Ambiguous language in the statute provides latitude for abuses to continue, and HRW found that conditions in drug detention centers are as inhumane and as far removed from 'treatment' as they were prior to passage of the Act. It calls for immediate closure of all compulsory drug detention centers and expansion of access to community-based outpatient drug dependency treatment.

**International HIV/AIDS Alliance, *Ukraine: Crackdown on Drug Substitution* (Jan. 24, 2011), available at:**  
**<http://www.aidsalliance.org/NewsDetails.aspx?Id=810>**

This news item on the website of an international NGO working on HIV/AIDS issues reports that the Ukraine Ministry of Interior's drug enforcement department engages in harassment and abuse of patients receiving drug substitution therapy and of NGOs that support programs providing such therapy. Medication is withheld from patients unless they first pass an 'interview' with law enforcement officers and provide personal data, including HIV status. Providers are threatened with arrest if they refuse to fill out a questionnaire supplied by police. The crackdown has interfered with the operation of substitution therapy centers, threatening the health of more than 6,000 patients and impacting HIV prevention programs in Ukraine.

**Karyn Kaplan & Rebecca Schleifer, Human Rights Watch, *Deadly Denial: Barriers to HIV/AIDS Treatment for People Who Use Drugs in Thailand* (2007), available at:**

**<http://www.hrw.org/sites/default/files/reports/thailand1107.pdf>**

Human Rights Watch and the Thai AIDS Treatment Action Group conducted field investigations in Thailand, interviewing current and former drug users, health care workers, law enforcement officials and others, to examine the status of the HIV epidemic among IDUs in that country. The researchers found that although Thailand has been a relative success story in terms of the overall HIV epidemic, having cut the number of HIV infections by almost 80 percent since 1991, HIV prevalence among IDUs has not dropped at all. And while Thailand has been a leader in providing ART to prevent mother-to-child transmission, it continues to block access to ART for drug users. In spite of pledges by the Thai government to reverse this policy, the researchers found that drug users still face serious obstacles to obtaining treatment and care.

The authors recommend, among other things, that the government of Thailand increase harm reduction services to IDUs, including methadone and needle exchanges services, and that it take concrete steps to amend laws and policies that prevent drug users from seeking and taking advantage of health services.

**Thomas Kerr, et al., *The Public Health and Social Impacts of Drug Market Enforcement: A Review of the Evidence*, 16 Int'l J. Drug Policy 210 (2005)**

A law enforcement response to illicit drug use that involves intensifying policing in an effort to limit the supply and use of drugs often leads to harmful health and social impacts. The authors of this study identify some of those impacts: disrupting the provision of health care to IDUs; increasing risk behavior associated with disease transmission and overdose; and exposing previously unaffected communities to the negative consequences associated with illicit drug use.

The authors describe alternatives to traditional targeted enforcement approaches that have a greater potential for net community benefit, including: fostering partnerships between policing and public health agencies; developing systems to monitor policing activities; and providing harm reduction services such as safer injecting facilities and addiction treatment. They conclude that alternatives such as these will ultimately reduce the demand for illicit drugs.

**Stephen K. Koester, *Copping, Running, and Paraphernalia Laws: Contextual Variables and Needle Risk Behaviour Among Injection Drug Users in Denver*, 53 Human Organization 287 (1994)**

This ethnographic study by a professor of psychiatry revealed that IDUs in Denver share syringes because syringes are scarce, and they are scarce because they are illegal to possess without medical justification. The author argues that current laws, as well as other aspects of law enforcement, discourage street-based drug users from carrying syringes and encourage risky behaviour. He concludes that the paraphernalia laws in place in 44 states at the time of the article may not be serving the public interest.

**Lawyers Collective HIV/AIDS Unit, *Legal and Policy Concerns Related to IDU Harm Reduction in SAARC Countries (2007)*, available at: [http://www.unodc.org/pdf/india/publications/legal\\_policy\\_book\\_140807.pdf](http://www.unodc.org/pdf/india/publications/legal_policy_book_140807.pdf)**

This review was commissioned by the UN Office on Drugs and Crime (UNODC) Regional Office for South Asia. Lawyers Collective HIV/AIDS Unit of India was asked to report on the status of law and policy surrounding harm reduction efforts in the eight member states of the South Asian Association for Regional Cooperation (SAARC). Results of the research are expected to be used in the Regional Office's project, 'Prevention of Transmission of HIV Among Drug Users in SAARC Countries.'

The authors report that in recent years, most countries in the SAARC region have seen dramatic increases in both HIV prevalence and injecting drug use. In response, HIV/AIDS authorities in some countries have begun to implement harm reduction measures such as condom promotion and needle exchange systems, with positive results. This review is intended to determine whether such measures are within the boundaries of national laws or whether such laws hinder implementation of measures proven to be effective against the spread of HIV/AIDS.

The report describes the harm reduction approach as one that does not pass judgment on drug use but offers unconditional services to those persons who do not want to quit using drugs, or who cannot quit or relapse. Harm reduction is a pragmatic response to drug use, founded on a strategy that safeguards public health through preservation of individual rights. The reports sets out the necessary components of an effective harm reduction strategy in the context of IDUs, including: treatment for drug dependence; drug substitution therapy; clean needles and syringes; outreach and peer support; information, education and communication; voluntary counseling and testing; condoms; treatment for STIs; HIV/AIDS treatment; and basic medical care.

The authors found that, while some countries have articulated harm reduction strategies in their drug control plans, harm reduction has yet to be organically integrated into drug prevention and treatment programs in the SAARC region.

**Diederik Lohman, Human Rights Watch, *Rehabilitation Required: Russia's Human Rights Obligation to Provide Evidence-Based Drug Dependence Treatment (2007)*, available at: <http://www.hrw.org/sites/default/files/reports/russia1107webwcover.pdf>**

This report is based on information collected in early 2007, from interviews with 60 IDUs, government narcologists, doctors, representatives of a number of NGOs and several international experts on drug dependence. An explosion in drug use in Russia in the late 1990s was accompanied by a rapid increase in new HIV infections. Russian policy makers and law enforcement agencies responded to the growing drug use problem by emphasizing law enforcement at the expense of public health programs. Harsher penalties were instituted for simple possession, and the population of incarcerated persons increased five-fold in the three-year period between 1997 and 2000.

Harm reduction programs such as syringe exchange sites have limited effectiveness in Russia, as their legal status is unclear and some regional governments refuse to permit them at all. Drug dependence treatment centers are primarily state-operated, and although the Russian Constitution calls for free medical care at state-run clinics, some drug users are charged out-of-pocket fees for services or medications. The drug user registration system discourages some people from seeking health care for drug dependence or forces them to pay for services to avoid registration.

The report concludes that Russia's drug dependence treatment system disregards international best practices and relevant human rights norms. It recommends that Russian health officials offer drug dependent people unimpeded access to a full range of evidence-based treatments, including drug replacement therapy.

**Lisa Maher & David Dixon, *The Cost of Crackdowns: Policing Cabramatta's Heroin Market*, 13 *Curr. Issues in Crim. Just.* 5 (2001)**

The authors draw on their in-depth and long-term ethnographic research in Cabramatta, Sydney's principal street-level heroin market, to warn that police crackdowns on such markets are having negative effects on public health, community safety and police-community relations. These negative effects, the authors caution, must be weighed against any beneficial effects of the crackdowns, including potential improvement in the quality of life and reduction in some recorded crime rates. They conclude that the current deployment of law enforcement is inappropriate as it tends to increase, rather than reduce, the risks and harms associated with illegal drug markets.

**Lisa Maher & David Dixon, *Policing and Public Health: Law Enforcement and Harm Minimization in a Street-Level Drug Market*, 39 *Brit. J. Criminology* 488 (1999)**

The authors report on a three-year study of the effect of street-level law enforcement on the principal heroin market in Australia. Based on extensive interviews and ethnographic fieldwork, and using data on drug use, risk practices, crime and policing, the authors conclude that any success achieved by police crackdowns may be won at unacceptable costs in terms of threats to public health and community safety resulting from geographical, social and substance displacement.

**Vivek Maru & Rebecca Schleifer, Human Rights Watch, *Ravaging the Vulnerable: Abuses Against Persons at High Risk of HIV Infection in Bangladesh* (2003), available at:**

**<http://dspace.cigilibrary.org/jspui/bitstream/123456789/22421/1/Ravaging%20the%20Vulnerable%20Abuses%20Against%20Persons%20at%20High%20Risk%20of%20HIV%20Infection%20in%20Bangladesh.pdf?1>**

This report documents police abuses in Bangladesh directed at three groups at high risk for HIV infection: sex workers, MSM and IDUs. While the first two groups are often subjected to sexual abuse upon arrest, IDUs are more often beaten and subjected to extortion demands by police. Needle exchange workers are also arrested often, though they are rarely charged. These policing behaviours can have a devastating effect on the provision of life-saving harm reduction services, can lead to increased risk-taking behaviour such as needle sharing, and may reduce Bangladesh's capacity to stem its emerging HIV epidemic.

Among the recommendations for the government of Bangladesh are: reform of the law enforcement system, investigation and prosecution of human rights abuses by police, establishment of regular contact between supervising officers and representatives of groups that regularly face police abuse, enhanced public awareness about modes of HIV transmission and the rights of people living with HIV, support of needle exchange programs, and expansion of the availability of humane, effective treatment for drug addiction.

**Open Society Public Health Program, Open Society Foundations, *Barriers to Access: Medication-Assisted Treatment and Injection-Driven HIV Epidemics* (2008), available at: <http://www.soros.org/publications/barriers-access-medication-assisted-treatment-and-injection-driven-hiv-epidemics>**

This Fact Sheet demonstrates that developing and transitional countries, with HIV epidemics driven by injecting drug use, typically do not make available life-saving treatment with methadone and buprenorphine; indeed, as of 2007, fewer than 2 percent of IDUs were accessing these medications in government clinics. This is in spite of the fact that these medications are widely recognized as powerful tools for treating drug addiction, increasing access to HIV prevention and treatment, and improving public health for communities and quality of life for individuals.

**Open Society Public Health Program, Open Society Foundations, *Treated with Cruelty: Abuses in the Name of Drug Rehabilitation* (2011), available at: <http://www.soros.org/sites/default/files/treatedwithcruelty.pdf>**

Open Society reports on conditions in drug detention centers in China, Cambodia, Mexico and Russia. They find extensive serious human rights abuses in these centers, which purport to provide rehabilitation to drug users, and call for the centers to be closed down. A companion volume presents arguments under international law explaining how abuses in such centers can amount to torture or cruel, inhuman and degrading treatment or punishment.

**Open Society Institute, International Harm Reduction Program, *At What Cost? HIV and Human Rights Consequences of the Global 'War on Drugs'*, op. cit.**

The International Harm Reduction Program (IHRD) presents case studies from four countries – Indonesia, Cambodia, China and India – to demonstrate its premise that strengthened drug control efforts by countries worldwide have had unintended negative consequences including increased incarceration, human rights violations and disease. IHRD calls for adherence to human rights commitments, comprehensive health interventions in prisons, and an adequate supply of medications to treat drug dependence and relieve pain, as well as a stronger worldwide effort to put in place drug control policies that appreciate the value of health and human rights.

**David Otiashvili, *Georgian Drug War – Ignoring Evidences, Neglecting Human Rights*, Presentation at International Harm Reduction Association’s 19<sup>th</sup> International Conference (June 14, 2008), outline available at: [http://www.ihra.net/files/2010/05/03/2008\\_Wednesday\\_Plenary\\_HumanRights\\_Otiashvili.pdf](http://www.ihra.net/files/2010/05/03/2008_Wednesday_Plenary_HumanRights_Otiashvili.pdf)**

The author reports that registered HIV cases are increasing in Georgia, as law enforcement efforts become more punitive. National drug legislation includes a ‘zero tolerance’ approach to any crime, and drug possession or use in any amount is criminalized. Forced drug testing has increased exponentially, with 4 percent of the country’s male population aged 15-64 detained in 2007 and tested for drugs. Human rights issues in Georgia include punishment without treatment and forced street drug testing and workplace testing. The author notes that there is no evidence that current repressive anti-drug measures have reduced availability of drugs or reduced drug use and concludes that current government policy infringes individuals’ human rights.

***Porto Declaration 2009: Latin Judges’ Statement on Drugs and Human Rights Policies (2009)*, available at: <http://www.druglawreform.info/en/events/judges-for-law-reform/item/2590-porto-declaration>**

This document is a statement by a group of judges from Argentina, Brazil, Italy, Portugal and Spain, who met in Porto, Portugal in July 2009. Noting that the U.N. Office on Drugs and Crime supports an international drug control policy which gives priority to public health concerns and declares that universal access to treatment for drug addiction is one of the best ways of reducing the market for illicit drugs, the judges declare that punitive ‘drug policies have proved an outright failure.’

They state that the use of the penal system to solve a complex social problem constitutes a violation of the right to access to health. They affirm that every drug user should enjoy the right to health, voluntary treatment, information and diagnosis, and confidentiality of personal information. They condemn compulsory therapy as ineffective in helping drug users and a violation of the human right of autonomy.

**Gary Reid, et al., *Malaysia and Harm Reduction: The Challenges and Responses*, 18 Int’l J. Drug Policy 136 (2007)**

In Malaysia, over two-thirds of HIV cases are among IDUs, and the number of new infections in this group is rising rapidly. The government’s response to illicit drug use has been largely punitive, and the number of drug users has increased substantially in recent years. Harm reduction programs have only recently been introduced in Malaysia. The authors find cause for optimism in the government’s announcement that it will allow methadone maintenance programs to continue beyond the pilot phase, and in the impending establishment of needle and syringe exchange programs.

**Tim Rhodes, *The ‘Risk Environment’: A Framework for Understanding and Reducing Drug-Related Harm*, 13 International J. of Drug Policy 85 (2002)**

The author proposes the concept of the ‘risk environment’ as a framework for understanding drug-related harm. He argues that such a framework is useful in focusing on community action and environmental change, rather than on individual behaviour change. He advocates alliances between harm reduction and other social movements for addressing issues of vulnerability and promoting public health.

**Tim Rhodes, et al., *Situational Factors Influencing Drug Injecting, Risk Reduction and Syringe Exchange in Togliatti City, Russian Federation: A Qualitative Study of Micro Risk Environment*, 57 Soc. Sci. & Med. 39 (2003)**

The authors conducted a series of interviews with IDUs in a Russian city in May 2001. They found that risk behaviour such as syringe sharing may be influenced less by availability of equipment than by situational factors such as reluctance to carry syringes due to fear of being detained or arrested by police. The authors conclude that policing practices can influence risk reduction and that policing agencies have a potentially positive role in supporting HIV prevention initiatives among IDUs.

**Tim Rhodes, et al., *Street Policing, Injecting Drug Use and Harm Reduction in a Russian City: A Qualitative Study of Police Perspectives*, 83 J. Urban Health 911 (2006)**

The authors conducted in-depth interviews in May 2002 with police officers of varying ranks in a Russian city experiencing an explosive spread of HIV associated with injecting drug use. The interviewees said their approach to policing emphasized high police visibility on the streets and close surveillance of IDUs. One purpose of this type of street policing was to identify persons for registration as suspected or proven users of illicit drugs. Interviewees also said that confiscating of used injecting equipment could lead to prosecution on drug possession charges, and discovery of clean equipment was seen as sufficient to justify further investigation, including more extensive searches or questioning. The authors concluded that policing strategies can lead to greater risk taking by IDUs and undermine an approach to HIV prevention that relies on needle and syringe accessibility among IDUs.

**Russian Federation, *State Antidrug Policy Strategy: Strategy for the Implementation of the National Anti-Drug Policy of the Russian Federation in the Period Until 2020*, available at:**

**<http://stratgap.ru/pages/strategy/3662/4434/4437/index.shtml>**

This document sets out the anti-drug policy in the Russian Federation until the year 2020. The focus is on halting the spread of illegal drugs. Substitution drug therapy and legalization of drug use for non-medical purposes are strictly prohibited. The main features of the strategy include reducing the supply of illicit drugs through law enforcement activity; improvement of measures aimed at reduction of demand, particularly treatment for addiction and rehabilitation of drug users; international cooperation in drug control; and improved monitoring and legal regulation.

Among 'partly manageable' risks at which the policy is aimed, the report lists the following; 'generation of tolerable social attitude to illicit drug trade,' 'discrediting of the anti-drug activities' of governmental authorities, intensification of efforts to legalize drug substitution therapies, and 'promotion of drug use under the pretext of syringe replacement.'

**Rebecca Schleifer, Human Rights Watch, *Rhetoric and Risk: Human Rights Abuses Impeding Ukraine's Fight Against HIV/AIDS* (2006), available at: <http://www.hrw.org/reports/2006/03/01/rhetoric-and-risk-0>**

This is a report of a field visit to Ukraine in June-July 2005. Human Rights Watch workers interviewed 101 sex workers, IDUs people living with HIV, as well as health, human rights and law enforcement officials, NGOs and health care providers. In 2005, Ukraine had the highest HIV/AIDS prevalence rates in Europe, with IDUs representing over 70 percent of all registered cases. High rates of HIV were also reported among sex workers and prisoners. Tuberculosis has also exploded in Ukraine, particularly among prisoners, and is the leading cause of death among people living with HIV. Lack of knowledge about HIV/AIDS, and widespread stigma and discrimination, have compounded the problem.

On the plus side, Ukraine's national AIDS law includes commitments to provide HIV prevention services to IDUs and guarantees the right to HIV/AIDS information, confidentiality of HIV test results, and free medical care for people living with HIV/AIDS. In mid-2005 there were more than 250 syringe-exchange sites in Ukraine run by NGOs, and an additional 55 government-run consultation points for IDUs and other vulnerable groups. Pharmacies can legally sell syringes to adults in unrestricted numbers.

However, the human rights provisions of the legislation are not widely enforced. There are limited opportunities in Ukraine for drug addiction treatment, and drug replacement therapy is largely unavailable. Drug users often avoid seeking treatment out of fear that health care providers will report their drug use to police or to their employers. Incarceration is a major risk factor for HIV, and a large percentage of drug users in Ukraine are incarcerated at some point in their lives. Drug users and sex workers are easy targets for police officers under pressure to fill arrest quotas, and human rights bodies have reported widespread police abuse of drug users in Ukraine. The UN Committee Against Torture has expressed concerns about the large number of convictions based on confessions.

The report concludes with a number of recommendations to Ukraine regarding HIV, drug control and law enforcement conduct; to United Nations bodies; to nations and intergovernmental organizations; and to financial institutions.

**Acacia Shields, Open Society Institute, International Harm Reduction Development Program, *The Effects of Drug User Registration Laws on People's Rights and Health: Key Findings from Russia, Georgia and Ukraine (2009)*, available at: <http://www.soros.org/reports/effects-drug-user-registration-laws-peoples-rights-and-health>**

Russia, Georgia and Ukraine share a legacy of the Soviet era: drug user registration laws. Each of these countries maintains a drug user registry that is either maintained by, or shared with, law enforcement agencies. State-run drug treatment centers automatically register patients as drug users, without obtaining the voluntary informed consent as required by law. Other persons are registered as a result of medical examination, police raids, and drug testing at educational institutions and in the workplace. Once entered on the registry, a person's name may remain there for many years. Official removal from the registry occurs only after a person has remained drug-free for a mandatory period and in some cases pays a fee for a medical review. In some instances, registration is permanent, even if the person ceases to be drug dependent.

Negative consequences of drug user registration include restrictions on civil rights, marginalization, violation of privacy and confidentiality of health information, increased vulnerability to police abuse and extortion, and fear and other disincentives to seeking health care and harm reduction services.

Recommendations for reform include government education programs for law enforcement personnel, drug treatment specialists and drug users; investigation and prosecution of human rights violations committed against drug users; and eliminating the drug user registration system and replacing it with a new system for monitoring and evaluating drug use, informed by public health concerns.

**Will Small, et al., *Impacts of Intensified Police Activity on Injection Drug Users: Evidence from an Ethnographic Investigation*, 17 Int'l J. Drug Policy 85 (2006)**

The authors studied a large-scale police operation intended to dismantle the open drug market in a Vancouver neighbourhood and improve public order. They found that intensified police presence prompted 'rushed' injections, injecting in riskier environments and increased unsafe disposal of syringes. The police activities also discouraged access to health services by IDUs and negatively influenced IDUs' access to and willingness to carry syringes. While

less drug activity was reported in the particular neighborhood where the drug market was traditionally concentrated, drug activity was dispersed to other locations.

**David Stephens, HIV/AIDS Asia Regional Program (HAARP), *Law and Policy Review* (2009), available at: [http://www.unodc.org/documents/eastasiaandpacific/topics/hiv-aids/HAARP\\_Law\\_and\\_Policy\\_Review.pdf](http://www.unodc.org/documents/eastasiaandpacific/topics/hiv-aids/HAARP_Law_and_Policy_Review.pdf)**

This report is a joint project of the UN Regional Task Force on Injecting Drug Use and HIV/AIDS in Asia and the Pacific (UNRTF) and HIV/AIDS Asia Regional Program (HAARP). HAARP is funded by the Australian government and the Australian Agency for International Development; its purpose is to implement harm reduction strategies to reduce drug-related HIV harm in the South East Asia region. The report covers six countries: Cambodia, China, Lao PDR, Myanmar, Philippines and Viet Nam.

HAARP found that international and regional policy frameworks focusing on drug policies are beginning to address the need to include harm reduction strategies in their approaches. However, in all six countries, compulsory treatment and incarceration are used side by side with harm reduction services, and these drug detention centers often violate countries' obligations under international human rights treaties. Access to harm reduction services remains inadequate in all six countries.

Recommendations include: advocacy directed toward messages that drug users should be treated and not punished, that harm reduction should be seen first and foremost as a public health issue, and that drug control authorities should develop voluntary treatment interventions as an alternative to compulsory detention; all drug use and HIV interventions must respect UN Conventions on human rights; harm reduction policy guidance should be given to law enforcement agencies; IDUs need to be included in the planning and implementation of harm reduction programs; programs should be sensitive to gender issues; and countries should monitor and share information about their legal and policy environments.

**Marie Struthers & Joanne Csete, Human Rights Watch, *Fanning the Flames: How Human Rights Abuses are Fueling the AIDS Epidemic in Kazakhstan* (2003), available at: <http://www.hrw.org/reports/2003/06/29/fanning-flames-0>**

HRW reports that, at the time of this study, the incidence of HIV/AIDS in Kazakhstan was largely confined to IDUs and sex workers but that severe police repression and brutal abuse of these populations was impeding access to prevention and treatment programs and fuelling an impending HIV/AIDS epidemic. In addition, Kazakhstan has extremely harsh laws on drug possession. Drugs are reported to be widely available in prison settings, but harm reduction services are limited or non-existent. While some state health facilities have attempted to reach out to drug users and provide prevention and care services, law enforcement agencies typically use repressive practices to dissuade persons most at risk from using these services.

Narcological centers in Kazakhstan conduct compulsory testing of drug users and require patients to identify their sexual partners. These centers then register patients and their partners as IDUs or sexually transmitted disease carriers, information that becomes part of the official, permanent identification records of both persons. Harm reduction services are available in Kazakhstan but not at levels sufficient to counter the epidemic. Drug dependence treatment and rehabilitation services are severely limited, and ARV therapy is essentially nonexistent.

Some promising developments are reported, however. In 2001, the government instituted a five-year interministerial plan to combat HIV/AIDS. Laws and regulations relevant to HIV/AIDS were being reviewed for consistency with international standards on HIV/AIDS and human rights. In November 2002, the head of the National AIDS Program made the statement that persecution of drug users discourages their access to prevention programs and exacerbates the spread of HIV/AIDS.

**Jennifer A. Taussig, et al., *Syringe Laws and Pharmacy Regulations are Structural Constraints on HIV Prevention in the U.S.*, 14 AIDS S47 (2000), available at: <http://journals.lww.com/aidsonline/toc/2000/06001>**

The authors performed case studies in three U.S. states – Connecticut, Maine and Minnesota – where laws were modified to permit non-prescription purchase of sterile syringes from pharmacies. They concluded that, although further studies are needed to document the public-health effect of changing restrictive pharmacy laws and regulations, the pharmacy sale of syringes to IDUs appears to be an inexpensive public health intervention that has significant potential to contribute to preventing transmission of HIV and other blood-borne diseases.

**UNAIDS, *Feature Story: AIDS Project Helps Communities in Russia to Take Actions to Protect Themselves (May 10, 2011)*, available at: <http://www.unaids.org/en/resources/presscentre/featurestories/2011/may/20110510aidscompetence/>**

UNAIDS reports that mobilization of local communities in Russia is critical for keeping the HIV epidemic under control in that country, as there is a lack of funding at the federal level for HIV prevention programs. This news item reports that Eastern Europe is the only region in the world where the HIV epidemic is still on the rise. In Russia, there are 160 newly registered cases of HIV daily, driven primarily by injecting drug use. The report also describes the ‘AIDS Competence’ project in Kazan, Russia, which brings together trained facilitators and representatives of the local community to identify needs, formulate ideas and build a leadership team to take action to respond to the epidemic.

**UNESCAP, *Asia-Pacific High-Level Intergovernmental Meeting on the Assessment of Progress against Commitments in the Political Declaration on HIV/AIDS and the Millennium Development Goals, Country Statements for Agenda Item 5 (Feb. 6-8, 2012)*, available at: <http://unescapsdd.org/sites/test/files/Country-Statements-Item-5.pdf>**

The UN Economic and Social Commission for Asia and the Pacific (UNESCAP) is one of five UN regional commissions and represents the development arm of the UN for the Asia-Pacific region. In February 2012, UNESCAP convened a High-Level Intergovernmental meeting to assess regional progress toward achieving goals set forth in the Political Declaration on HIV/AIDS and the Millennium Development Goals, and as a follow-up to the UN General Assembly’s June 2011 High-Level Meeting on AIDS.

At the meeting, Indonesia reported that criminalization of drug users had contributed to the increase of HIV prevalence in prison settings, and an interministerial effort was therefore underway to approach drug addicts as persons in need of help rather than as criminals. Malaysia reported that the annual performance of the Ministry of Health would be judged in part on its implementation of harm reduction approaches, as measured by international standards.

**Urban Health Research Institute of the British Columbia Centre for Excellence in HIV/AIDS & Thai AIDS Treatment Action Group, *Reducing Drug-Related Harm in Thailand: Evidence and Recommendations from the Mitsampan Community Research Project (rev. ed. 2012)*, available at: <http://uhri.cfenet.ubc.ca/images/Documents/mscopy2012-eng.pdf>**

This report focuses on the Thai government’s response to that country’s drug problem, which takes a criminal justice approach relying primarily on policing, incarceration and mandatory drug detention centers. The authors report that, despite these punitive measures, illicit drugs remain widely available in Thailand, drug use is widespread and

HIV continues to menace the population of IDUs. The purpose of this research was to investigate patterns of drug use, health services use, criminal justice interactions and health-related harms among IDUs.

The study makes recommendations to the Thai government, including treating people who use drugs as patients, not criminals; phasing out compulsory drug treatment centers and increasing access to voluntary, evidence-based drug treatment and harm reduction services; and providing harm reduction and human rights training for law enforcement personnel while implementing a civilian-led complaint mechanism for complaints of police abuse.

***Voices of Community Advocates & Leaders (VOCAL), et al., Stuck in the System: Ending Syringe Access by Reconciling the Penal Code with the Public Health Law (2010)***

The purpose of this report is to document experiences of users of syringe exchange programs (SEPs), as well as licensed pharmacies, health care practitioners and facilities authorized under the expanded SEP program. The authors found that, although SEPs have been invaluable in preventing the transmission of HIV and other blood-borne pathogens, New York State's Penal Code and law enforcement practices are inconsistent with the state's public health goals and with the law authorizing SEPs. People with syringes are being arrested and in some cases abused by police, even though they have documentation establishing their participation in a lawful SEP. The fear of arrest encourages unsafe injection and disposal practices, and the punitive law enforcement practices documented in the report illustrate deeper problems with current drug control policies.

***Beth Weinstein, et al. Peer Education of Pharmacists and Supplying Pharmacies with IDU Packets to Increase Injection Drug Users' Access to Sterile Syringes in Connecticut, 18 J. AIDS & Human Retrovirology S146 (1998)***

This letter to the editor of a scientific journal by public health officials and academicians reports on two initiatives in Connecticut designed to increase IDUs' access to sterile syringes. One program is peer education for pharmacists; the other is a pilot program for sale and distribution from pharmacies of 'IDU packets,' each containing two syringes, two needles and two condoms. A 1992 change in the state law permitted the sale in pharmacies of fewer than 10 syringes without a prescription and legalized possession of up to 10 syringes without a medical reason. The purpose of the 'IDU packets' was to create a simple system for IDUs to access a small number of syringes, as previously syringes were sold in sterile packages of ten. The pilot program reported no problems related to the sale or distribution of the packets. The authors concluded that pharmacies and local health departments can work together to carry out HIV prevention programs for IDUs.

***Daniel Wolfe, Paradoxes in Antiretroviral Treatment for Injecting Drug Users: Access, Adherence and Structural Barriers in Asia and the Former Soviet Union, 18 Int'l J. Drug Policy 246 (2007)***

The author examines access to ART in Asia and the countries of the former Soviet Union. He finds that drug users are, as a whole, less likely to receive such treatment than non-users in spite of the fact that, offered appropriate support, IDUs are capable of adherence to an ART regimen and would benefit clinically to the same extent as other HIV patients. Reasons for this disparity include diversion of drug users into compulsory treatment and rehabilitation services that offer neither HIV treatment nor drug dependence treatment, lack of opiate substitution treatments; and policies that discourage delivery of ART to IDUs. He concludes that health systems that label drug users as socially untrustworthy or unproductive create 'a series of paradoxes' that ensure confirmation of that stereotype. He recommends reforms including educational campaigns aimed at the public and professional health care providers that emphasize IDUs' capacity for health protection and responsible choice, and integrated treatment that includes health providers along with IDU social networks and organizations.

**Daniel Wolfe & Roxanne Saucier, *In Rehabilitation's Name? Ending Institutionalised Cruelty and Degrading Treatment of People Who Use Drugs*, 21 Int'l J. Drug Policy 145 (2010)**

The authors report that, across the world, people who use drugs are subjected to cruel, inhuman and degrading practices sometimes rising to the level of torture. Such breaches of international human rights law are often conducted in the name of law enforcement, or in facilities run by police or military personnel. The authors emphasize the importance of protecting the rights of criminalized groups in state custody, many if not most of whom are drug users, and examining alleged 'treatment' systems more closely before assigning to the patients blame for failure of treatment.

**WHO, Western Pacific Regional Office, *Assessment of Compulsory Treatment of People Who Use Drugs in Cambodia, China, Malaysia and Viet Nam: An Application of Selected Human Rights Principles* (2009), available at: [http://www.wpro.who.int/publications/docs/FINALforWeb\\_Mar17\\_Compulsory\\_Treatment.pdf](http://www.wpro.who.int/publications/docs/FINALforWeb_Mar17_Compulsory_Treatment.pdf)**

This report describes a desk-based study of the 'compulsory treatment centers' in four countries in the Western Pacific region, in order to assess the treatment they provide. WHO states that the objective of the report is to use key human rights principles, primarily the right to health, as a lens through which to assess and document the situation in the centers 'in a positive way, as a basis for engaging in dialogue with policy-makers in these countries.'

Data for each of the four countries is presented and analyzed in light of the universal right to health, which includes the right to participate in health-related decision-making at all levels of government, and other human rights including the rights to equality and non-discrimination.

The authors note that in these four countries, people who use drugs are highly stigmatized and marginalized, and are likely to be arrested and sent to a compulsory treatment center or to prison. They find that these centers lack effective drug treatment services and lack prevention or care services for HIV in closed settings, and they conclude that people who use drugs in the region are at risk in these centers. WHO recommends that in the short term, these governments should move from a punitive approach to one that is voluntary, medically assisted and evidence based. Harm reduction initiatives should be implemented, with the ultimate goal that such initiatives will replace the compulsory treatment centers entirely.

**William A. Zule, *Risk and Reciprocity: HIV and the Injection Drug User*, 24 J. Psychoactive Drugs 243 (1992)**

The author reports on a study of IDUs in San Antonio, Texas (U.S.), conducted via interviews and observation, that found a dominant/subordinate relationship between drug suppliers and drug users. This asymmetrical social interaction meant that the supplier determined the needle hygiene for both parties in the exchange. The author suggests that an understanding of the subcultural rules that govern these interactions may be useful in designing interventions that reduce HIV risk among IDUs, and that education alone of IDUs may not be enough to change risk behaviors.

**Joanne Csete, Open Society Foundations, *From the Mountaintops: What the World Can Learn from Drug Policy Change in Switzerland* (2010), available at: [http://www.soros.org/sites/default/files/from-the-mountaintops-english-20110524\\_0.pdf](http://www.soros.org/sites/default/files/from-the-mountaintops-english-20110524_0.pdf)**

Swiss authorities, facing an open drug scene in some cities and a burgeoning HIV problem, rethought national drug policies in the 1990s. They were persuaded by health professionals who pointed to evidence that drug injecting

activity could be controlled more effectively by public health programs than by intensified policing, and chose to institute a comprehensive policy that included prevention of drug use, treatment of drug dependency and policing of drug crimes. Harm reduction initiatives, including significant expansion of methadone treatment and needle exchange programs (including in prison), and safe injection rooms, were instituted and then evaluated in detail. These initiatives, including a small heroin-assisted therapy program, were endorsed by the public in several referenda. As a result, Switzerland has seen a decline in HIV rates and improvements in public safety.

Because Switzerland is a small and wealthy country with a coherent public health system, its experience would not necessarily translate to other settings. Nevertheless, the Swiss experience has important lessons for the rest of the world, including the importance of letting science and scientific evidence form a basis for public policy; linking law enforcement and public health programs under an integrated policy; permitting independent review and evaluation of new programs; and standing up to ideological criticisms with evidence and pragmatism.

**Corey S. Davis & Leo Beletsky, *Bundling Occupational Safety with Harm Reduction Information as a Feasible Method for Improving Police Receptiveness to Syringe Access Programs: Evidence from Three U.S. Cities*, 6 Harm Reduction J. 16 (2009)**

Law enforcement practices based on misconceptions about the legality of syringe exchange programs can impede utilization of these programs and may increase the risk of needle stick injuries. Many operators of exchange programs conduct little or no outreach to police. This article reports on a pilot project for law enforcement personnel that combines education about the legality and public health benefits of syringe exchange programs with information addressing police officer concerns about infectious diseases and occupational safety. The trainees were found to be generally receptive to the curriculum, and the trainings led to better communication and collaboration between the operators of syringe exchange programs and law enforcement officers.

**Richard Elliott, et al., *Canadian HIV/AIDS Legal Network, Establishing Safe Injection Facilities in Canada: Legal and Ethical Issues* (2002), available at: <http://www.aidslaw.ca/publications/interfaces/downloadFile.php?ref=776>**

The authors describe harm reduction policies as an ‘ethical imperative.’ They discuss one harm reduction intervention – safe injection facilities (SIFs) – and outline the debate surrounding such facilities. SIFs are places where IDUs can inject using clean equipment under supervision of medically trained personnel. They describe the positive experience of others countries that have tried SIFs, including Switzerland, the Netherlands, Germany and Australia, and they discuss the legal issues arising under international and domestic law. They propose a regulatory framework for establishment and operation of SIFs. The authors conclude that Canada has an ethical, and arguably a legal, obligation to implement a trial of SIFs as a public health measure.

**Michael Farrell, et al., WHO, *Effectiveness of Drug Dependence Treatment in Preventing HIV Among Injecting Drug Users* (2005), available at: <http://www.who.int/hiv/pub/idu/drugdependencefinaldraft.pdf>**

This is another in a series of technical papers prepared by the World Health Organization, seeking to evaluate and make accessible to policy makers evidence for the effectiveness of selected key interventions in preventing HIV transmission among IDUs. This paper summarizes the evidence of the effectiveness of drug dependence treatment and the effect of such treatment on behaviours associated with high risk of HIV infection, including injecting drug use, sharing of injecting equipment, the number of sex partners, and unprotected sexual activity. The authors note that the value of substitution or maintenance treatment of drug dependency with respect to the HIV epidemic lies in the opportunity it provides for IDUs to reduce their exposure to risk behaviours and stabilize their health and social

situations before addressing the physical adaptation of drug dependence. Other approaches include abstinence-based treatments and behavioural interventions.

The authors conclude that all countries with a population of IDUs should aim to develop a comprehensive and varied range of treatment services, with drug substitution treatment as a critical component of the HIV prevention strategy. While there is likely to be continued controversy and resistance to drug substitution treatment programs, policy makers need to be made aware of the high costs of failing to implement such programs.

**Global Commission on Drug Policy, *War on Drugs*, op. cit.**

The Commission reported in 2011 that the decades-long ‘war on drugs’ has failed to curtail supply or consumption of illicit drugs, and repressive law enforcement efforts aimed at drug users have impeded public health programs designed to reduce HIV/AIDS. The Commission found that countries that have implemented harm reduction and public health strategies have experienced consistently low rates of HIV transmission among IDUs. While legal regulation of drugs can help undermine the power of organized crime and safeguard the health and security of citizens, those countries that criminalize users and rely primarily on repression and deterrence as drug control policies are witnessing the highest rates of HIV among IDUs. The Commission recommends an increased effort to end the criminalization, marginalization and stigmatization of people who use drugs.

**Glenn Greenwald, Cato Institute, *Drug Decriminalization in Portugal: Lessons for Creating Fair and Successful Drug Policies* (2009), available at: [http://www.cato.org/pubs/wtpapers/greenwald\\_whitepaper.pdf](http://www.cato.org/pubs/wtpapers/greenwald_whitepaper.pdf)**

The author examines the effects of the decision by the Portuguese government to decriminalize the use of all drugs. The law, effective in 2001, makes drug possession for personal use, and usage itself, an administrative violation outside the realm of the criminal justice system, although drug trafficking continues to be criminalized.

The author notes that decriminalization has become more and more popular in Portugal in the years since the law was passed, and empirical data show that none of the ‘nightmare scenarios’ envisioned by the law’s opponents has come to pass: Drug use has not shot up among young people, and the country has not become a haven for ‘drug tourism.’ Drug usage rates in Portugal are, in some categories, among the lowest in the EU. Decriminalization has broadened opportunities for provision of treatment services to drug users, with the effect that drug-related pathologies – such as sexually transmitted diseases and deaths due to drug use – have decreased dramatically. The number of newly reported cases of HIV infection among drug users has decreased substantially every year since the decriminalization law was passed, and the percentage of drug users among newly-infected HIV-positive individuals continues to decline. The number of drug-related deaths has decreased pre-decriminalization levels.

**Harm Reduction International, *Global State of Harm Reduction, International Response* (2010), available at: <http://www.ihra.net/international-response>**

Harm Reduction International provides a report on its website detailing the implementation worldwide of key harm reduction interventions, including needle and syringe programs and opioid substitution therapy. While such programs were available in an increasing number of countries in 2010, the coverage of services was often limited, particularly in low and middle-income countries. Implementation of harm reduction faces barriers worldwide, including a severe lack of resources, government apathy and distrust of harm reduction, the criminalization of drug users and of harm reduction services, and poor engagement of those people most affected by drug policy in the decision-making process.

**Caitlin Elizabeth Hughes & Alex Stevens, *What Can We Learn from the Portuguese Decriminalization of Illicit Drugs?*, 50 *British J. Criminology* 999 (2010)**

Portugal decriminalized all illicit drugs in 2001. In 2007 and 2009, the authors studied the effects of this policy and compared the criminal justice and health trends in Portugal, comparing them with neighboring Spain and Italy. The authors found that decriminalization did not lead to major increases in drug use; rather, they found that Portugal had experienced reductions in problematic use, drug-related harms and overcrowding in the criminal justice system.

**Gillian Hunter, et al., *The Introduction of Drug Referral Schemes in London: A Partnership Between Drug Services and the Police*, 16 *Int'l J. Drug Policy* 343 (2005)**

The authors interview police officers and drug workers involved in 'Arrest Referral' programs in London between 2000 and 2002. These programs are located in police stations and provide an opportunity for advice, information, assessment and referral to drug services at the point of arrest. The authors discovered differences between police and drug workers in their perceptions of the aims of the program, and found practical difficulties in delivering a drug service in a police custody environment. However, they also found that these programs helped foster greater collaboration and improved working relationships over time. The findings are discussed in the context of the introduction of Criminal Justice Integrated Teams in the U.K., initiatives for integrating criminal justice and community drug treatment interventions.

***International Developments: Mexico Decriminalizes Small-Scale Drug Possession*, 14 *Canadian HIV/AIDS Policy & Law Rev.* 23 (2009), available at: <http://www.aidslaw.ca/publications/interfaces/downloadFile.php?ref=1597>**

This review reports on legislation adopted by the Mexican government in August 2009 decriminalizing possession of small amounts of drugs. The author reports that the statute permits possession of amounts for 'personal and immediate use,' defining those amounts as 0.5 gram of cocaine, five grams of marijuana, 50 mg of heroin, 40 mg of methamphetamine, and 0.015 mg of LSD. The law provides that persons found with drugs up to these amounts will be encouraged to seek treatment. Anyone caught with small amounts of drugs for a third time will be referred for mandatory treatment.

The report notes that the new law was intended to reduce drug demand by treating drug dependent people as potential medical patients rather than as criminals, to fight corruption among police, and to concentrate resources on organized crime.

***Islamic Republic of Iran, Country Report on Monitoring of the United Nations General Assembly Special Session on HIV and AIDS, Feb. 2010*, available at: [http://data.unaids.org/pub/Report/2010/iran\\_2010\\_country\\_progress\\_report\\_en.pdf](http://data.unaids.org/pub/Report/2010/iran_2010_country_progress_report_en.pdf)**

This is Iran's third report to the U.N. General Assembly on its efforts to control and prevent the transmission of HIV, in accordance with commitments made in the 2001 Declaration of Commitment on HIV/AIDS and renewed in 2006. Iran reports that, in the early 2000s it was facing an increase in injecting drug use and experiencing a concentrated HIV epidemic, with incidence passing the critical five percent level. But after policy makers instituted a new approach to the epidemic based on harm reduction principles in 2005, the country has seen at least a deceleration in the growth of the HIV epidemic among drug users.

Iran reports that 69.8 percent of all cases of HIV transmission since 1986 were caused by sharing drug injecting equipment, so injecting drug use is a major driver of the epidemic in Iran. After the mid-2000s, however, with

institution of harm reduction measures, the rapid pace of growth in the epidemic has slowed among IDUs. During this reporting period, Iran says, the head of its judiciary issued a directive removing barriers against harm reduction and another prohibiting sentencing drug users to imprisonment. In addition, government employees are no longer subject to mandatory blood testing HIV-positive persons may not be dismissed from state employment, and schools may not refuse to enroll students living with HIV, and condom distribution has been increased. Among challenges remaining, the government cites negative attitudes among certain national policymakers regarding some aspects of education and prevention surrounding sexual transmission of HIV.

**Ralf Jürgens, et al., *People Who Use Drugs, HIV and Human Rights*, 376 *The Lancet* 475 (2010)**

The authors reviewed over 900 studies and reports on the link between human rights abuses of people who use drugs and vulnerability to HIV infection. They found documentation of widespread abuses that increase vulnerability to infection and limit access to HIV services, including denial of harm-reduction services, discriminatory access to ART, abusive law enforcement practices, and coercion in the guise of treatment. They note that rights-based approaches to HIV and drug use have had good outcomes and should be replicated worldwide.

**Latin American Commission on Drugs and Democracy, *Drugs and Democracy: Toward a Paradigm Shift* (2009), available at: <http://cbdd.org.br/en/files/2011/05/CLDD-Relat%C3%B3rio-ING.pdf>**

The Commission advocates a change in the ‘war on drugs’ approach followed in Latin American countries over the past 30 years. It points to the facts that Latin America remains the major global exporter of cocaine and cannabis and is branching out into other illicit drugs; that levels of drug use continue to grow in the region, even as they are stabilizing in the U.S. and Europe; that the region has witnessed a rise in organized crime and its infiltration into democratic institutions along with a growth in unacceptable levels of drug-related violence; and continuing problems involving corruption of public servants, the justice system and law enforcement. The Commission states that current policies have failed and calls for an opening a discussion about new policies that can lead to safer, more efficient and humane drug policies.

The focus in Latin America, the Commission says, must be on reducing drug consumption worldwide. It criticizes both the repressive approach used in the U.S., as well as the harm reduction approach of the E.U., for ineffectiveness in reducing demand. The ‘new paradigm’ offered by the Commission includes five components: Drug users should be treated as patients to be cared for in the public health system rather than buyers in the illegal drug market; decriminalization of cannabis possession for personal use should be given serious consideration; information campaigns aimed at reducing consumption should be accessible by young people; domestic policies should focus on organized crime and be coordinated regionally and internationally; and alternative forms of work must be offered to cultivators involved in the drug trade.

**Michael Mason, *Collaborative Partnerships for Urban Development: A Study of the Vancouver Agreement*, 39 *Env’t & Planning A* 2366 (2007)**

This paper examines the Vancouver Agreement, an urban development compact between the governments of Canada, British Columbia and the City of Vancouver designed to address the urban deterioration of Vancouver’s Downtown Eastside, a neighbourhood whose illicit economy centered on the drug and sex trades and which was home to an acute health crisis featuring a high incidence of mental illness, drug addiction and HIV. Under the Agreement, law enforcement efforts aimed at dismantling the open drug market in Downtown Eastside are combined with initiatives to provide addiction treatment services, a school-based prevention program, and North America’s first medically-supervised injection facility. The author concludes that it is unclear whether the

Agreement will have long-term success in improving overall economic activity and living conditions in Downtown Eastside; however, he identifies some successful short-term outputs, including evidence that the supervised injection clinic has cut syringe sharing among injection drug users.

**Richard Midford, et al., *Cops, Drugs and the Community: Establishing Consultative Harm Reduction Structures in Two Western Australian Locations*, 13 Int'l J. Drug Policy 185 (2002)**

This article discusses pilot projects in two Western Australian cities, testing a new model of drug law enforcement incorporating a community-based consultation structure. The authors discuss how the project officers overcame the several challenges raised by the new model and incorporated harm reduction into drug policing.

**Bijan Nissaramanesh, et al., *The Beckley Foundation Drug Policy Programme, The Rise of Harm Reduction in the Islamic Republic of Iran* (2005), available at: [http://www.beckleyfoundation.org/pdf/paper\\_08.pdf](http://www.beckleyfoundation.org/pdf/paper_08.pdf)**

This paper sets out Iran's struggle with drug addiction within its borders and the government's turn away from heavy law enforcement tactics toward a response that takes into account the social and health aspects of addiction. The author notes that Iran has been attempting to restrict drug use for four centuries. In the 1950s, drinking opium in coffee and tea shops was a common practice, officially and culturally tolerated. The first anti-opium laws were introduced in 1955, but following the 1979 revolution, a tough anti-drug campaign was launched.

This approach featured closure of drug dependence treatment centers and their replacement with compulsory 'rehabilitation' camps. Some drug offenses incurred the death penalty. People were routinely faced with mandatory drug tests when applying for a marriage license, driver's license, or government employment. This response to the drug problem, heavily invested toward the law-enforcement side, began to change with the turn of the 21<sup>st</sup> century.

By 2005, the date of this report, drug addiction was still considered a crime in Iran, but there was also widespread recognition that it was also a medical problem. Along with concern about the community impacts of drug addiction, there has also developed a growing fear of an injection-driven HIV epidemic. The government has responded to these concerns by instituting programs of substitution therapy, community drop-in centers providing reliable information and education regarding drug use and risks of HIV infection along with needle exchange programs, and developing treatment and prevention services for drug users in prisons. While acknowledging that significant challenges remain for Iranian authorities, most particularly Iran's proximity to centers of opium production, the author nevertheless finds hope in the fact that the government is facing the challenges directly, at a time when it is still possible to make significant reductions in societal problems related to drug abuse.

**Kelechi Ohiri, et al., *HIV/AIDS Prevention Among Injecting Drug Users: Learning from Harm Reduction in Iran* (2006), available at:**

**<http://siteresources.worldbank.org/SOUTHASIAEXT/Resources/223546-1192413140459/4281804-1231540815570/5730961-1236796342147/4.pdf>**

In April 2006, a consultation on prevention of HIV transmission among IDUs was held in Tehran, organized by the government of Iran, the World Bank, UNODC and UNAIDS. Officials from Iran and five neighbouring countries (Pakistan, Afghanistan, Tajikistan, Kyrgyzstan and Uzbekistan) met to review what works and to learn from the experience of Iran in moving toward harm reduction programs.

Participants report that the types of interventions used in most countries to date, which aim to reduce demand for drugs as well as eradicating availability, have had only limited success in preventing the harmful effects of drug use, including HIV infection. A more effective approach to HIV prevention is a comprehensive package of harm reduction interventions, including drug substitution treatment; needle and syringe exchange programs with promotion of safer injecting practices; education with voluntary counseling, testing and condom promotion; better general medical care, including provision of ART; and reduction of stigma and other barriers to health care access.

Iran is a case in point. That country began its drug control efforts by putting in place a supply-reduction policy that criminalized any quantity of drug possession or use. A gradual shift in government policy came about due to advocacy by NGOs; cooperation between the Ministry of Health, prison health authorities and the judiciary; and informed advocacy among senior policy makers. Current harm reduction policies in Iran include ‘triangular clinics,’ which integrate services for treatment and prevention of sexually transmitted infections, injecting drug use and HIV/AIDS, and are set up in prisons and by NGOs. One NGO provides needle exchange services, methadone maintenance treatment, general medical care, and referral for voluntary counseling and testing.

The participants report that while implementation of these practices still face many challenges in Iran, that country’s experience can serve as an example of the urgent need to scale up harm reduction interventions in countries with large IDU populations, though a mix of best practices and innovative approaches.

**Tina Rosenberg, *An Enlightened Exchange in Iran*, N.Y. Times, Nov. 29, 2010, available at: <http://opinionator.blogs.nytimes.com/2010/11/29/an-enlightened-exchange-in-iran/>**

In an opinion piece, the author tells the story of how Iran went from a repressive drug control policy driven by religious and political ideology, to a system where clean syringes are available in vending machines, where drug users are not prosecuted as long as they are in treatment, and where clean needles and methadone maintenance therapy are available even in prison. As a result, crime has decreased, HIV rates have dropped among drug users, and the spread of infection from IDUs into the larger community has slowed.

Shortly after the Islamic Revolution in 1979, Iran began a severe crackdown on drugs. Possession of heroin was a capital offense. Drug addiction was declared to be counter-revolutionary, drug treatment was halted and drug users were sent to labour camps. By 2000, Iran had one of the most serious drug problems in the world. However, by 2005, pragmatists in Iran had convinced the clerics the government that harm reduction should be instituted as an official policy. Since then, the rate of new HIV infections in Iran has been declining.

**Jean-Félix Savary, et al., *The Beckley Foundation Drug Policy Programme, The Swiss Four Pillars Policy: An Evolution from Local Experimentation to Federal Law* (2009), available at: [http://dl.dropbox.com/u/64663568/library/Beckley\\_Briefing\\_18.pdf](http://dl.dropbox.com/u/64663568/library/Beckley_Briefing_18.pdf)**

In a 2008 referendum, the Swiss people ratified Switzerland’s federal narcotics law. In doing so, they established in national legislation the principle of ‘Four Pillars,’ a policy which spread across the country from its origins at the municipal level. The authors describe the story of how an innovative and at first controversial set of initiatives – including establishment of government-run injections centers and the prescription of opiates, including heroin, in the treatment of addiction – gained footing in some urban centers and then earned the support of the population as a whole, as voters became convinced by the advantages of the new policy in terms of public security, public health and social cohesion. The “fourth pillar” of drug policy, in addition to law enforcement, prevention and treatment, refers to the principle that drug users who are unable to break the cycle of dependence continue nonetheless to have the right to harm reduction practices. This is now part of official drug policy in Switzerland.

**Mark Stevenson, *Mexico Decriminalizes Small-Scale Drug Possession*, Huffington Post (Aug. 21, 2009), available at: <http://www.huffingtonpost.com/2009/08/21/mexico-decriminalizes-small-scale-drug-possession-264904.html>?**

This news item reports on legislation passed in Mexico in 2009, decriminalizing possession of small amounts of marijuana, cocaine, heroin and other drugs. The law sets clear limits for personal-use possession and takes discretion from the hands of the arresting officer. A representative of the Mexican attorney general's office said that small users did not really face prosecution even before the new statute was passed, but this change reduces opportunities for police corruption and extortion and allows the government to focus more on big-time traffickers.

**Alison Symington, *HIV/AIDS in the Courts-International: Brazilian Appeals Court Rules that Criminal Prosecution for Drug Possession is Unconstitutional*, 13 Canadian HIV/AIDS Policy & Law Rev. 48 (2008), available at: <http://www.aidslaw.ca/publications/interfaces/downloadFile.php?ref=1636>**

The Canadian HIV/AIDS Policy and Law Review reports on a judicial opinion of the Sao Paulo Justice Court, 6<sup>th</sup> Criminal Chamber, holding that a statute criminalizing possession of drugs for personal use violates the Brazilian constitution. This was the first time an appellate court in Brazil had so ruled.

Defendant Ronaldo Lopes was convicted of possession and trafficking with respect to 7.7 grams of cocaine. He was sentenced to 2 ½ years in prison as a drug trafficker and appealed the conviction. The appellate court held that the trafficking charge was unfounded, as it was based on an anonymous complaint, and further held that statute criminalizing drug possession for personal use violates constitutional principles prohibiting harm to third persons, invasion of privacy, and equality.

Two years before this ruling, Brazil changed its drug laws to eliminate jail sentences for possession of drugs for personal use. Under the reformed law, mere possession remained a criminal offense but was sanctioned with fines, fees, education and community service rather than incarceration. The appeals court reasoned that there is no harm to third persons in mere possession; that possession of drugs for one's own use is a personal choice, protected by constitutional guarantees of privacy; and that criminalization of small amounts of an illicit drug violates constitutional guarantees of equal protection, in that there is no similar criminal sanction for possession of alcohol.

**Norma C. Ware, et al., *Adherence, Stereotyping and Unequal HIV Treatment for Active Users of Illegal Drugs*, 61 Soc. Sci. & Med. 565 (2005)**

The authors tested the hypothesis that drug users are less capable than others of adhering to an ART regimen. They found that drug using did interfere with adherence, but not in all cases or in every circumstance. The hypothesis, they concluded, is based on a stereotype of drug users, and stereotyping obscures the capabilities of drug users to stick with an ART regimen and contributes to unequal access to HIV treatment for such persons.

**Daniel Wolfe & Jonathan Cohen, *Human Rights and HIV Prevention, Treatment, and Care for People Who Inject Drugs: Key Principles and Research Needs*, 55 J. AIDS S56 (2010)**

This article is an overview of the intersection of human rights principles with drug control policies that may deter drug users from seeking and obtaining health services. The article includes a chart listing a number of 'health deterring policies or practices' and the basic human rights that are violated by each such practice. The authors review the extant scientific literature and outline areas where further study is needed. They conclude that, given the scale of police abuses against IDUs, national commitments to universal access to HIV prevention and treatment must recognize that drug users do not forfeit their entitlement to health services or human dignity.



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