

Legal Harm Reduction among Intravenous Drug Users

Ronnachai Kongsakon MD, LLB, MSc*,
Narumon Pocham LLB, BA, BPA, MA, LLM**

* Department of Psychiatry, Faculty of Medicine, Ramathibodi Hospital, Mahidol University

** Faculty of Law, Eastern Asia University, Pathumthani

Objective: HIV/AIDS infection in injecting drug users occurs with explosive rapidity and, having occurred, they can form a core group for further sexual and vertical transmission. As HIV transmission among injecting drug users can be extremely rapid, various approaches to intervention and obstructing the spread of HIV infection have been explored. Overall, these have been relatively ineffective so what has emerged, both in the developed and developing world, is harm reduction.

Material and Method: In the light of these general considerations, the authors reviewed the law of Thailand in relation to drug abuse and dependence according to the harm reduction for the prevention of HIV/AIDS infection in injecting drug users.

Results: With the review, the authors recommend some changes in the law:

1. Introducing a law that allows IDUs to possess sterile syringes & needles while under supervision of a physician.
2. Introducing a law that allows for testing for HIV in people in custody in whom there are grounds for suspecting drug abuses.
3. Establishing and financing a Multi-disciplinary Coordinating Committee on the Prevention of HIV/AIDS (MCCPH/A)

Conclusion: It should be emphasized that, as in other countries, drug abuse and dependence should, where appropriate, be decriminalized. A large proportion of people with drug-related problems are ill and in need of treatment rather than criminals requiring harsh penalties handed down by the courts.

Keywords: HIV, IDUs, Addiction, Drug abuse, Harm reduction, Law

J Med Assoc Thai 2006; 89 (9): 1545-50

Full text. e-Journal: <http://www.medassochai.org/journal>

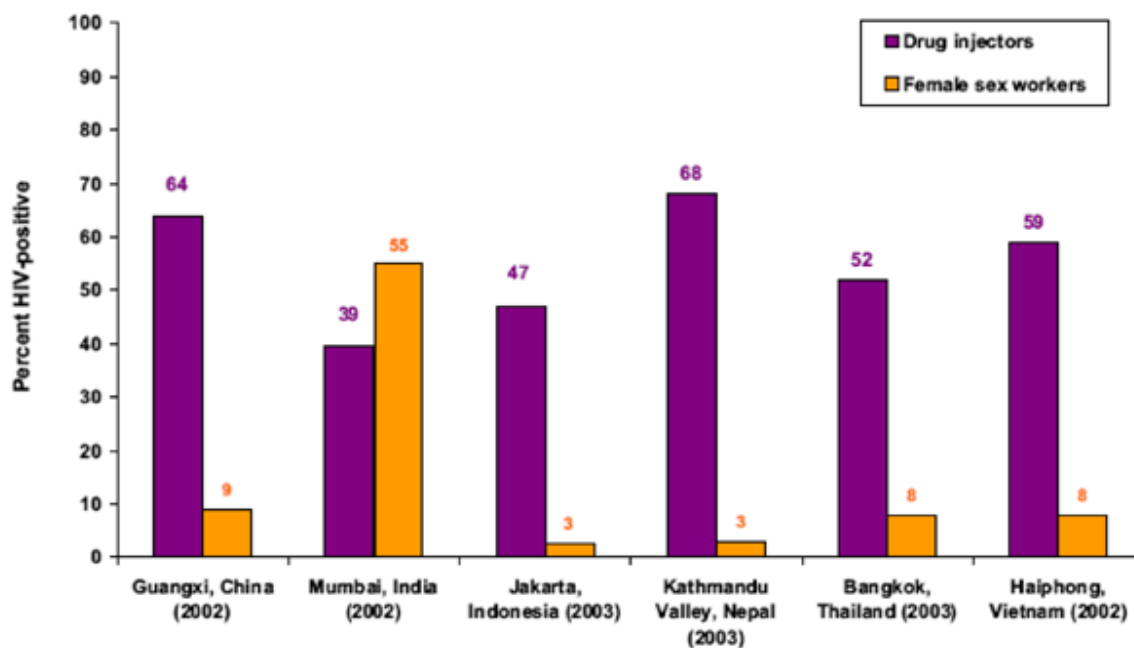
In most countries illicit drugs are given by injections and in at least 80 countries⁽¹⁾ there are epidemics of HIV infection among injecting drug users (IDUs). This mostly results from sharing contaminated needles and syringes⁽²⁾. Epidemics can occur with explosive rapidity and, having occurred, they can form a core group for further sexual and vertical transmission⁽³⁾ (Fig. 1). It is, therefore, very important to include preventive measures against HIV transmission among IDUs in any comprehensive HIV/AIDS strategy.

Another area of concern is the occurrence of HIV/AIDS among individuals with concurrent medical

and psychiatric conditions. So common in treatment settings are patients with drug abuse, psychiatric disorders and HIV/AIDS that a new term has been coined: "triple diagnosis"⁽¹⁾. Patients with these disorders are over-represented in treatment settings because their symptoms are chronic and severe. The importance of intensive coordinated care for the patients is great because studies have shown that they have a greater number of sexual partners, and are less likely to stop high-risk sexual behavior after being educated about HIV prevention⁽²⁾.

The United States National Strategy for Prevention of Drug Abuse addresses these issues. Its aim is to develop a drug policy that focuses at decreasing the supply and the demand for drugs and the damage caused by drug abuse⁽³⁾.

Correspondence to : Kongsakon R, Department of Psychiatry, Ramathibodi Hospital, Faculty of Medicine, Mahidol University, Praram 6 Rd, Bangkok 10400, Thailand. Phone: 0-2201-1478, Fax: 0-2201-9647, E-mail: rarks@mahidol.ac.th



Source: National surveillance reports UNAIDS, AIDS in Asia: Face the Facts. Geneva, 2004⁽⁴⁾

Fig. 1 The epidemic of HIV infection among injecting drug users (IDUs) and female sex workers in Asia 2002-2003⁽⁴⁾

The priority objectives of the National Strategy are to strengthen drug addiction treatment and rehabilitation systems, to raise the quality of the services offered and to make them better accessible to the public. Important components of the strategy are to increase awareness of the danger in young people, homosexual men, prostitutes, drug abusers and prison inmates and to improve the quality of life of those already infected with HIV/AIDS⁽⁴⁾.

The association between intravenous drug abuse and HIV/AIDS is of critical concern⁽⁵⁾. Approximately 50% of IDUs are infected with the HTLV-III virus⁽⁶⁾. There is a high risk of infection through shared needles, sexual intercourse and intra-uterine transmission. The impact of the large numbers of established cases of HIV/AIDS among addicts on health care services, especially in urban areas, is enormous⁽⁷⁾.

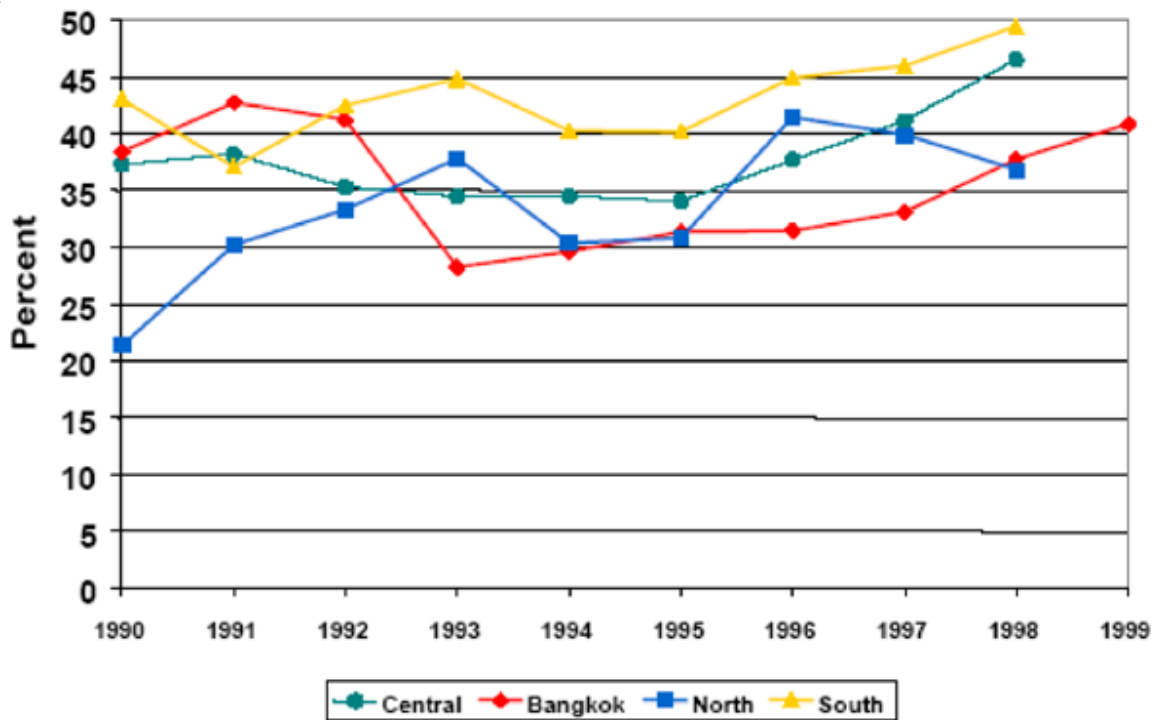
The three epidemics - of drugs, of injecting drugs and of HIV infection - among injecting drug users can develop extremely quickly and often unexpectedly. The diffusion of HIV among IDUs has been most pronounced in drug-producing and - transporting countries of South-East Asia⁽⁸⁾. Explosive epidemics have been documented among IDUs in Thailand (Fig. 2), Myanmar, Malaysia, Vietnam and Northeast India⁽⁹⁾.

The prevalence of HIV infection among IDUs in these countries has often reached 60-90% within six months to a year of the appearance of the first reported case. In many countries, these explosive epidemics among IDUs then form epicentres for the wider diffusion of HIV to other parts of the community.

As HIV transmission among IDUs can be extremely rapid, various approaches to intervention and obstructing the spread of HIV infection have been explored. Overall, these have been relatively ineffective so what has emerged, both in the developed and developing world, is harm reduction⁽¹⁾.

Some key points of harm reduction are:

1. Drug use will not disappear but its harmful effects can be decreased. Harm reduction should therefore be a goal for service organizations and governments.
2. Some drugs are safer than others and some ways of using drugs are less harmful than others.
3. The drug abusers themselves are best able to reduce the harm caused by their drug use.
4. Although abstinence is the ultimate goal, even reducing the use of drugs can result in less drug-related disease, death, and crime.
5. The criminal justice approach should not be the only method of dealing with drug use. Combin-



Source: AIDS Division, MOPH.Thailand⁽¹⁴⁾

Fig. 2 Percentage of HIV infection among injecting drug users (IDUs) in Thailand 1990-1999⁽¹⁴⁾

ing it with a public health approach is more constructive.

6. Services for drug users should be non-judgmental and treatment should be voluntary.

To establish a sustainable harm reduction network in Asia it is advisable:

1. To develop a comprehensive understanding of patterns of injecting drugs and the associated harm (especially HIV infection) in Asian countries.

2. To provide a forum to encourage communication and the exchange of information between individuals, organizations and countries participating in the network.

3. To provide training and support for individuals and organizations, sharing core skills and a coherent philosophy which can underpin their work.

4. To facilitate policy and program development at non-government organization (NGO), government, regional and international levels.

5. To promote national harm reduction networks.

Prevention is the responsibility of the entire community. There is a role for everyone - from effective

parenting, tutoring and mentoring to positive peer group and substance-free social activities.

A broad range of programs has been implemented to help change behaviour, reduce the risk of HIV infection among IDUs, and foster harm-reduction principles. These include:

1. The provision of information to inform IDUs of the risks.

2. The establishment of drug treatment substitution programs, such as prescribing methadone for opiate dependent people.

3. Outreach education using peer educators.

4. Sterile needle/syringe exchange, distribution and disposal programs.

5. Over-the-counter sales of injecting equipment.

6. Counseling and testing for HIV among IDUs.

7. Increasing access to primary health care.

8. Removing the barriers to safe injecting, including laws and police practices.

9. Targeting special groups and situations.

Detoxification is also encouraged. Typically,

patients with substance abuse problems enter a detoxification program at the start of treatment. Those on methadone maintenance, whose urine tests are positive for cocaine or other drugs during the course of treatment, are referred for detoxification from that specific drug, and then continue on their methadone treatment. Thereafter they complete a slow program of detoxification from methadone.

Prevention may be universal, selected or “indicated”.

1. Universal prevention measures are directed towards an entire population (national, local, community, school or neighbourhood), with messages and programs aimed at preventing or delaying the use of alcohol, tobacco and other substances.

2. Selective prevention measures target subgroups of the total population that are considered to be at high risk of substance abuse by virtue of their membership of a particular segment of the population.

3. Indicated prevention measures are designed to prevent the onset of substance abuse in individuals who do not meet the medical criteria for addiction, but who show early danger signs, such as falling grades in school and some use of alcohol and/or cannabis.

The Joint United Nations Program on HIV/AIDS (UNAIDS)⁽²⁾ believes that everyone is entitled to anonymous and confidential testing, as well as to pre- and post-test counseling so that people who are worried about their status can get proper information, and that “This has a more positive impact than just screening the blood of injecting drug users.”

The primary aim of harm reduction for IDUs is to reduce the harm associated with the injecting of drugs, especially the transmission of HIV and other blood-borne viruses, without necessarily diminishing the quantity of drugs use. This is entirely compatible with sensible demand and supply reduction and sees drug use as a public health, rather than just an illegal, issue. As with all effective community responses, the harm reduction approach acknowledges the humanity and worth of the individual whose uses drugs and creates a partnership with him or her and the community to help protect their common health.

In the light of these general considerations, the authors recommend that the Thai Government review the law in relation to drug abuse and dependence and consider the following suggestions for change.

Suggested Changes to the Law

The authors recommend:

1. Introducing a law that allows IDUs to possess sterile syringes & needles while under supervision of a physician

At present, there is no law in Thailand that prohibits a person from possessing syringes & needles that can be used for intravenous injections of illegal drugs. However, the police search people whom they suspect as being in possession of such injecting equipment and interrogate them illegally to seek information about drug trafficking. As a result, drug abusers take steps to avoid the detection and contact with the police. Consequently, drug taking goes underground where practices, such as needle sharing, are prevalent. This in turn facilitates the spread of HIV/AIDS. For these reasons the authors recommend introducing the law to allow IDUs to possess sterile syringes and needles while under treatment with a physician.

Section 86 of the Criminal Law states that anyone who supports or facilitates a drug abuser in injecting drugs is an accessory to the crime and liable to punishment amounting to two-thirds of that of the offender. This clearly discourages doctors from providing syringes & needles for drug injectors. However, a newly introduced law could allow doctors to prescribe sterile syringes & needles for drug abusers who meet the appropriate diagnostic and treatment criteria.

The authors recommend that the Thai government adopt a different approach to drug misuse and change the law accordingly. The authors recommend that intravenous drug dependence be regarded as a communicable disease and dealt with under the Contagious Disease Act 1979. Section 5 of this Act already allows the Minister of Health to define whatever communicable and dangerous disease he or she regards as being contagious.

The Constitution of the Kingdom of Thailand, Section 52, Clause 3, further states that to prevent and eliminate a communicable and dangerous disease, the Government must provide in law treatment free of charge. This, in the authors’ opinion, should include the provision and exchange of intravenous syringes & needles as already practiced in some other countries.

2. Introducing a law that allows for testing for HIV in people in custody in whom there are grounds for suspecting drug abuses

The Constitution of the Kingdom of Thailand, Section 3, says that everybody has the “right and liberty of life and body”. Arrest, custody, inspection searches and/or other actions that violate this right and liberty will accordingly not be allowed unless “otherwise pro-

vided by law". Legally, life and body include the whole person - the superficial and internal parts. This means that the taking and testing of specimens, such as blood and urine, without the person's permission is a violation of his or her right and liberty.

The laws that do provide for further examination and testing of a person in custody against his or her will are:

1. The Act of Correction 1936. Section 10 of this Act allows a physician to examine any new prisoner.

2. The Act of Correction 1979. Section 6 of this Act authorises a correction officer to refer a person in custody to a doctor, so that the doctor may examine the prisoner's physical and mental state. This Act authorises the taking of blood samples but correction officers are mostly unaware of this.

By contrast, the Rehabilitation of drug users Act 2002 and item 3 of the physicians Code of Conduct do not give doctors authority to undertake blood testing, except where it is necessary in a life-saving situation. Doctors are only given that authority, if the person in custody is given sufficient information and clearly understands the reasons for the testing and gives his or her consent for the tests to be known. Under existing law, this right does not extend to the immigrant work force.

3. Establishing and financing a Multi-disciplinary Coordinating Committee on the Prevention of HIV/AIDS (MCCPH/A)

It is recommended that such a committee be established and appropriately financed. The committee should be the authority on any source of information and on all aspects of intravenous drug use and its complications, including HIV and other acquired infections. Any and all material on this subject should be collected and disseminated by the committee and provided to professional involved in the treatment to rehabilitation of drug abusers.

Conclusion

AIDS relates with IDUs and is a big problem. It needs to be social concern and results in some changes in the law. It should be emphasised that, with all the reviews, as it's done in other countries, drug abuses dependence should, where appropriate, be decriminalised. A large proportion of people with actual drug related problems are ill and in need of treatment. They are not criminals requiring harsh penalties. Finally, establishing a funding committee on prevention is

needed.

Acknowledgment

The authors wish to thank Prof. Swang Boonchalermvipast for his valuable critical review and helpful discussion.

References

1. Hull GW, Rabbani F, Abbas F, Wheeler TM, Kattan MW, Scardino PT. Cancer control with radical prostatectomy alone in 1,000 consecutive patients. *J Urol* 2002; 167: 528-34.
2. Catalona WJ, Smith DS. Cancer recurrence and survival rates after anatomic radical retropubic prostatectomy for prostate cancer: intermediate-term results. *J Urol* 1998; 160: 2428-34.
3. Leewansangtong S, Soontrapa S, Nualyong C, Srinualnad S, Taweemonkongsap T, Amornvesukit T. Outcomes of radical prostatectomy in Thai men with prostate cancer. *Asian J Surg* 2005; 28: 286-90.
4. Rassweiler J, Stolzenburg J, Sulser T, Deger S, Zumberg J, Hofmockel G, et al. Laparoscopic radical prostatectomy - the experience of the German Laparoscopic Working Group. *Eur Urol* 2006; 49: 113-9.
5. Trabulsi EJ, Guillonneau B. Laparoscopic radical prostatectomy. *J Urol* 2005; 173: 1072-9.
6. Hegarty NJ, Kaouk JH. Radical prostatectomy: a comparison of open, laparoscopic and robot-assisted laparoscopic techniques. *Can J Urol* 2006; 13(Suppl 1): 56-61.
7. Ferguson GG, Ames CD, Weld KJ, Yan Y, Venkatesh R, Landman J. Prospective evaluation of learning curve for laparoscopic radical prostatectomy: identification of factors improving operative times. *Urology* 2005; 66: 840-4.
8. Gosselaar C, Roobol MJ, Roemeling S, de Vries SH, Cruijsen-Koeter I, van der Kwast TH, et al. Screening for prostate cancer without digital rectal examination and transrectal ultrasound: results after four years in the European Randomized Study of Screening for Prostate Cancer (ERSPC), Rotterdam. *Prostate* 2006; 66: 625-31.
9. Leewansangtong S, Tantiwong A, Ratanarapee S, Nualyong C, Soontrapa S. The risks of prostate cancer detection by transrectal ultrasound guide biopsy in Thai men with abnormal prostatic-specific antigen or abnormal digital rectal examination. *J Med Assoc Thai* 2000; 83: 1519-24.

การลดผลกระทบจากการใช้ยาเสพติดในกลุ่มผู้ใช้ยาเสพติดชนิดฉีด

รณชัย คงสกนธ์, นฤมล โพธิ์แจ่ม

วัตถุประสงค์: การติดเชื้อเอชไอวีในกลุ่มผู้ใช้ยาเสพติดชนิดฉีดมีจำนวนเพิ่มขึ้นอย่างรวดเร็ว โดยเกิดขึ้นในรูปแบบของการติดต่อทางเพศสัมพันธ์และติดต่อโดยตรงทางเลือด โดยเฉพาะในกลุ่มของผู้ใช้ยาเสพติดชนิดฉีด จึงเกิดวิธีการหลากหลายในการป้องกันและแก้ไขปัญหาการแพร่กระจายของเชื้อเอชไอวี ซึ่งหนึ่งในวิธีการเหล่านั้นคือ การลดผลกระทบจากการใช้ยาเสพติด ซึ่งแนวทางในการนำการลดผลกระทบจากการใช้ยาเสพติดมาใช้ในประเทศไทย ต้องพิจารณาถึงบทบัญญัติแห่งกฎหมายที่เกี่ยวข้องกับการปฏิบัติที่ไม่เป็นธรรมต่อผู้ติดยาเสพติด และแนวทางที่เอื้อต่อการนำการลดผลกระทบจากการใช้ยาเสพติดมาใช้ในประเทศไทย ในการลดการติดเชื้อเอชไอวีในกลุ่มผู้ใช้ยาเสพติดชนิดฉีด

วัตถุประสงค์และวิธีการ: เป็นการทบทวนและสังเคราะห์องค์ความรู้เพื่อนำไปสู่การปรับปรุงกฎหมายที่เกี่ยวข้องกับการลดผลกระทบจากการใช้ยาเสพติด จากการติดเชื้อเอชไอวีในกลุ่มผู้ใช้ยาเสพติดชนิดฉีด

ผลการศึกษา:

1. เสนอแนะการปรับปรุงกฎหมายในการอนุญาตให้ผู้ใช้ยาเสพติดชนิดฉีดสามารถใช้อเข็มฉีดยาที่สะอาดภายใต้การควบคุมของแพทย์
2. เสนอแนะการปรับปรุงกฎหมายในการให้อำนาจในการตรวจหาเชื้อเอชไอวี ในกรณีที่ต้องสงสัยว่าเป็นผู้ติดเชื้อในกลุ่มผู้ใช้ยาเสพติดชนิดฉีด
3. เสนอแนะให้มีการจัดตั้งกองทุนและคณะกรรมการควบคุมและป้องกันโรคเอดส์

สรุป: ผู้ติดยาเสพติดจำนวนมากจะต้องประสบกับปัญหาความเจ็บป่วย และต้องการเข้ารับการรักษา แต่อาจจะต้องเสี่ยงกับการถูกดำเนินคดีและลงโทษทางอาญา การเปลี่ยนมุมมองด้านกฎหมายอาจสามารถแก้ปัญหาให้ดีขึ้น
