Dangerously Out of Step

The International Narcotics Control Board and HIV/AIDS

DRAWING COURTESY OF CANADIAN HIV/AIDS LEGAL NETWORK

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Every year in late February or early March, television and newspaper reports across the world carry headlines such as "UN raps countries over cannabis let-up" or "UN slams drug injection room." These stories come from the annual report of the International Narcotics Control Board (INCB), a 13-person, ostensibly independent body that is an integral part of the UN drug control system. Like other UN entities active in the control of illicit drugs, the INCB has a crucial role to play in the global response to HIV/AIDS. Since UNAIDS now estimates that nearly 30 percent of HIV infections outside sub-Saharan Africa are among people who inject drugs, the future of effective HIV prevention in these countries rests with whether governments turn to harsh criminal penalties that emphasize containment or control of drug users, or to public health approaches shown to reduce HIV transmission. Those who turn to the INCB for guidance are likely to set off in the wrong direction.

What is the INCB and Why Does is Matter for HIV?

Resting squarely at the intersection of health policy and drug policy, the INCB remains oddly out of sync with the rest of the UN system on matters of HIV. UNAIDS emphasizes the importance of protecting the human rights of people who use drugs and ensuring their meaningful participation in program and policy decision-making. WHO has promoted harm reduction, a central feature of its analysis on how injecting drug-driven HIV epidemics are best controlled. Even UNODC (UN Office on Drugs and Crime) with its historic emphasis on crime control, has an HIV/AIDS unit that is among the agency's fastest growing and best funded. While the UNODC unit's staff does not often speak publicly about harm reduction per se, publications such as its 2007 recommendations for HIV prevention in prisons make it clear that needle exchange and methadone treatment are the preferred methods for people who inject drugs.

The hard line, in contrast, has been taken up by the INCB as it monitors countries' compliance with the UN drug conventions and estimates the amount of legal opiates each country requires. INCB members visit about 20 countries a year, collect additional data from questionnaires, and issue hundreds of letters to governments urging them to amend drug policies. INCB's annual reports scold countries appearing to do too little to prevent diversion of drugs to illicit markets, noting with concern developments ranging from the sale of hemp products to what they see as celebrity glorification of illegal drug use, to country failure to control drugs or the chemicals used to make them. Historically, the INCB's task has involved little in the way of AIDS awareness: all three conventions (1961, 1971 and 1988) from which it derives its authority predate either HIV itself or knowledge of explosive injection-driven HIV epidemics in the developing world. For some years, however, INCB reports have emphasized the twin problems of drugs and HIV, and the report they released in 2007 mentioned HIV no fewer than 18 times. Solutions – like needle exchange and methadone maintenance—are mentioned not at all.

Measuring the Damage Done by Silence

It is difficult to measure the damage done by silence – or what is *not* mentioned. But given the INCB's responsibility to help ensure the availability of legal opiates for legitimate treatment, what the Board does not say is as damaging as what it says. While WHO, UNAIDS and UNODC have acted in concert to help increase the availability of methadone and buprenorphine, the board's reports are notably quiet on the failures of countries with injection-driven HIV epidemics to provide these treatments. Instead, the INCB focuses on the dangers of diversion of such medications to illicit uses. Board missions to countries where treatment for opiate dependence is a critical need – including for HIV prevention – often fail to mention the subject.

INCB silence regarding the importance of methadone and buprenorphine for drug dependence treatment is most striking in countries where the lack of such medications is having the deadliest effect. In Russia, for example, where as many as 2 million injecting drug users could benefit, methadone and buprenorphine remain banned as a treatment for addiction. Visiting Russia in 2005, the board did note the country's fast-growing HIV epidemic linked to heroin use. But rather than pressing Russia to reverse its ban on

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methadone, the INCB's report praised "the commitment of the government to addressing the problems of drug abuse and trafficking." That same year, former Russian minister of health and current INCB member, Tatyana Dmitrieva, signed an error-filled memorandum that misrepresented the science of methadone treatment and urged the country to not allow it. Despite objections from dozens of international experts documenting the misinformation in the memorandum, the INCB issued no public correction.

The INCB's sad record on drug treatment is nearly matched by its views on sterile-syringe programs such as needle exchange. In 2002, board president Philip Emafo stated in a UN publication that "to promote drug use illicitly through the giving out of needles … would, to me, amount to inciting people to abuse drugs, which would be contrary to the provision of the conventions." This statement followed a finding by UN lawyers that syringe programs were compatible with the conventions. While a subsequent INCB report acknowledged that needle exchange was acceptable, the board still fails to comment on the many countries where police practice or national policy severely hamper such services.

The board does, however, speak up when it comes to supervised injection facilities (SIF), established by public health authorities in some countries to allow people to inject drugs under medical supervision. The INCB has consistently berated countries that run SIF, comparing the facilities to "opium dens." The board has provided no scientific or legal justification for its claims, and offers no opportunity for countries that disagree with its findings to engage in open dialogue about the evidence. Its opposition contradicts the findings of the UN's own legal experts who, in 2002, confirmed at the board's request that such facilities do not "aid, abet or facilitate the possession of drugs" and are consistent with the drug conventions in "provid(ing) healthier conditions for IV drug abusers" and "[reach] out to them with counseling and other therapeutic options."

At times, the INCB has even sought to muzzle others in the UN system who emphasize evidence over ideology. In 2006, then-UN Special Envoy for HIV/AIDS in Africa, Stephen Lewis of Canada, visited a supervised injection facility in Vancouver and made a speech encouraging the Canadian government to open other such facilities. An INCB official called Lewis the next day, and then wrote to Lewis' superior, former UN Secretary-General Kofi Annan, demanding that Lewis retract his support of supervised injection facilities.

Human Rights Conventions or Drug Conventions?

Twenty-five years of AIDS have underscored the importance, acknowledged by all UN agencies, of respecting the human rights of people with HIV. The INCB, however, prefers to highlight the "human right to be protected from drug abuse" to the human rights of people who use drugs, to whom it refers exclusively as "drug abusers."

The example of Asia is striking. In 2003, Thailand conducted one of the most brutal drug crackdowns in recent history, resulting in the arrest or internment of more than 50,000 people and the killing of more than 2,500 in what human rights groups called extrajudicial executions. While human rights organizations in Thailand and across the world were calling for the government to allow an independent investigation of the crackdown, the INCB visited the country to examine the impact of this "war on drugs" and expressed appreciation of the government's investigation of the killings. It uttered no concern about the thousands interned in the name of drug treatment or the impact of the crackdown on HIV services. Similarly, on recent visits to China, the board has failed to comment on reports that the country regularly uses the occasion of the UN International Day against Drug Abuse and Illicit Trafficking to engage in show trials and mass executions, despite the fact that these practices clearly violate international human rights conventions.

Asked in March 2007 about the board's lack of attention to these abuses, INCB Secretary Koli Kouame said that it sticks to drug conventions, not human rights conventions. The INCB, he noted, was not "set up" for human rights and, "therefore, we will not talk about human rights." Human rights, however, is both a founding principle of the United Nations and a central concern in the struggle to respond to HIV among people who use drugs. The INCB is in the human rights business whether it likes it or not.

Closed to Reason?

How such a body can remain so out of step with UN principles or public discourse is a difficult question to answer – largely because INCB deliberations remain closed to public view. At a time when the UN system is striving for greater transparency and engagement with civil society, the INCB remains strikingly and unapologetically closed. Meetings are not open to the public, and there are no published minutes. INCB reports cite little evidence for their conclusions, and offer NGOs and even governments little opportunity to contest findings or correct mistakes. Country visits by board representatives are not publicized in advance, and there is no public forum where those most directly affected by HIV – or by board policies – might air their views. "We deal with governments," INCB members insisted at a recent press conference, although government representatives say privately that their access, too, has been highly limited.

AIDS advocates hoping for reform from within may find little reason for optimism. Current board members include toxicologists, pharmacologists, psychiatrists and law enforcement specialists, but have little in the way of HIV expertise. Almost none of the biographies of INCB members mention HIV, and a review of peer-reviewed literature shows that board members have no publications on the subject.

If the INCB is mandated to have a "quasi-judiciary" function, the question of who judges the judges must be raised. Since drug policy irrevocably affects the direction of AIDS policy, the costs of failure to implement sensible policies are measured in new HIV infections, and new deaths. The INCB may insist that it is immune to considerations of HIV, but the growing concern expressed in its reports tell a different story. Those working to prevent HIV infections among drug users – inside the UN system and without – should urge the UN Secretary General to call for an independent review of the INCB, ensure that the relevant bodies nominate and elect board members with particular expertise in HIV prevention, and push for the INCB's veil of secrecy to be replaced by a more transparent means of working.

This article is based on the report by the authors: "Closed to Reason: The International Narcotics Control Board and HIV/AIDS," which is available at www.aidslaw.ca and www.soros.org/harm-reduction.

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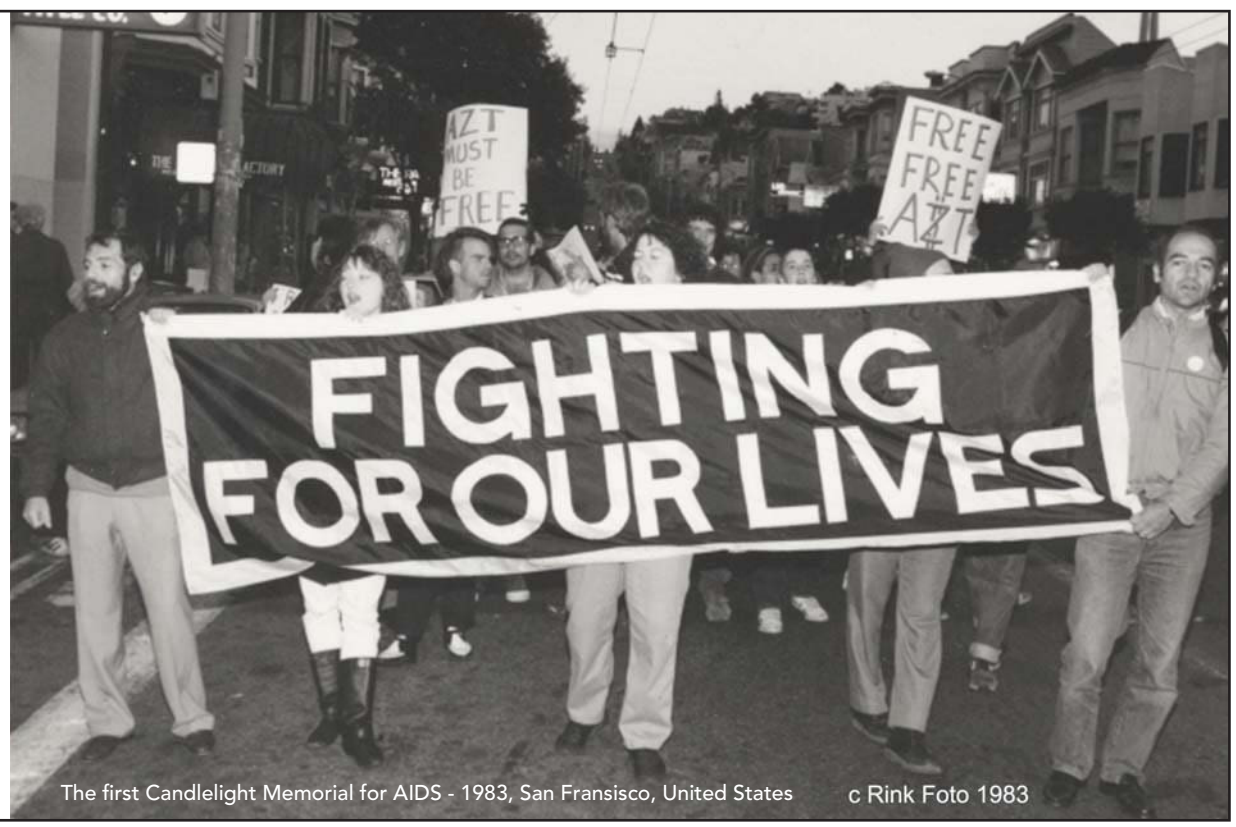

The first Candlelight Memorial for AIDS - 1983, San Fransisco, United States c Rink Foto 1983