

# Drug use and HIV/AIDS in Thailand

1

This is one of a series of six info sheets on legal and ethical issues related to drug use and HIV/AIDS in Thailand.

## 1. HIV and HCV in Thailand: implications for national drug policy

2. Harm reduction: lessons from the region
3. Sterile syringe programs
4. Opioid substitution treatment
5. Outreach and information programs
6. Harm reduction in prison and detention facilities

## HIV and HCV in Thailand: implications for national drug policy

Canadian HIV/AIDS Legal Network | Réseau juridique canadien VIH/sida



### Introduction

In countries the world over, the epidemics of HIV and hepatitis C virus (HCV) highlight how international and national policies on illegal drugs have major implications for public health and human rights. Thailand is no exception. The intertwined health challenges of illegal drug use and infectious disease make a powerful case for ensuring that national drug policy is soundly based on evidence and best practices, so as to protect both public health and human rights.

In broad terms, effective drug policy will involve a pragmatic mix of prevention, treatment, law enforcement and harm reduction. According to a report from the United Nations Office on Drugs and Crime (UNODC):

Improving the performance of the drug control system ... requires four things simultaneously: enforcement of the laws; prevention of drug-related behaviour; treatment of those who are neither deterred or prevented from entering into illegal drug use; and mitigation of the negative consequences of drugs, both for those who are caught in the web of addiction, as well as for society at large. The last of those four is what is normally called “harm reduction.”<sup>1</sup>

Getting the balance right is important in order to ensure effectiveness. Traditionally, policies on illegal drugs

have focused on reducing the supply of drugs and the demand for drugs. These are clearly elements of illegal drug policy wherever use of a particular drug poses a serious threat to public health. But when the goals of supply and demand reduction are primarily pursued through law enforcement, there is often a negative impact on the health and human rights of people who use drugs and on public health more broadly. This is especially the case if the law enforcement component of national drug policy is implemented in ways that largely exclude or seriously undermine the other three components: prevention, treatment and harm reduction.

### Illegal drug use in Thailand

It is important to note that attempts to study the nature of illegal drug use in Thailand are compromised by widespread marginalization and stigmatization of people who use drugs. Most data regarding the prevalence and nature of drug use are based on individuals who voluntarily present themselves to drug treatment services, or individuals who are arrested or detained by law enforcement agencies.

Since the mid-1990s, the use of drugs in Thailand has widened from opium, heroin and cannabis to include amphetamine-type stimulants (ATS). One particularly common drug is methamphetamine, commonly known

as *ya ba* or *ya ma*.<sup>2</sup> Between 1993 and 2001, methamphetamine use in Thailand rose an estimated 1000 percent and methamphetamine overtook heroin as the drug of choice in the country.<sup>3</sup> Thailand has among the highest rates of methamphetamine consumption in Southeast Asia, most frequently smoked but also injected, with some indications of decreased use of methamphetamine pills but increased use of crystallized methamphetamine powder.<sup>4</sup>

Estimates of the number of people who inject drugs in Thailand vary widely. Some recently published estimates put the number at between 160 000 and 270 000.<sup>5</sup>

There are recent reports of increased use of midazolam, a short-acting benzodiazepine available on prescription (or without prescription from corrupt clinics or doctors).<sup>6</sup> Midazolam use has been associated with HIV risk behaviours and serious health problems such as abscesses and vein degradation.<sup>7</sup> Reports also indicate an increasing use of inhalants.<sup>8</sup>

### HIV and HCV among people who use injection drugs in Thailand

The HIV prevalence among Thailand's injection drug users has been reported at between 30–50 percent since 1989.<sup>9</sup> It is estimated that around one-quarter of

all new HIV infections in Thailand occur through contaminated injection equipment and this figure may rise to 40 percent in the next few years.<sup>10</sup> Some studies have shown that as many as 68 percent of people who inject drugs in Thailand share contaminated needles.<sup>11</sup>

Hepatitis C virus (HCV) is endemic among people who inject drugs in Thailand. Studies have shown a HCV prevalence rate among Thai injection drug users greater than 90 percent.<sup>12</sup> Due to overlapping modes of transmission, HCV is highly prevalent among HIV-positive injection drug users. Some studies have found extremely high HIV/HCV co-infection prevalence among injection drug users, including co-infection levels as high as 99 percent among injection drug users in prison.<sup>13</sup>

The sustained high prevalence of blood-borne diseases such as HIV and HCV among people who use drugs in Thailand signals a clear need for a range of evidence-based interventions that will help prevent HIV transmission through shared injection equipment and help ensure access to care, treatment and support for people who are living with HIV. How the law treats illegal drug use and people who use drugs, and how the law is enforced, will affect how successful such efforts will be in Thailand.

## Drug laws in Thailand

Thailand is a party to the three United Nations drug control conventions.<sup>14</sup> Those treaties require states to impose controls on various substances, including the use of criminal law in some instances. However, they also stress the importance of ensuring access to health services for treatment, rehabilitation and reintegration of people with drug dependence, and contain various flexibilities such as allowing for alternatives to conviction and incarceration for drug offences in many instances.

Historically, Thai drug policy has prioritized the criminalization and imprisonment of people who use drugs in

attempts to make the country “drug free.” There are a number of laws governing drug use currently in force in Thailand.

The most important acts are the *Psychotropic Substances Act, B.E. 2518 (1975)* and the *Narcotics Act, B.E. 2522 (1979)*. These two Acts concentrate on banning the unauthorized production, consumption, possession and sale of a wide range of drugs. Controlled psychotropic substances are listed in Schedules I-IV of the *Psychotropic Substances Act*. Controlled narcotic substances are enumerated in Categories I-V of the *Narcotics Act*. Both Acts create criminal offences for both personal use and personal possession of controlled substances. Production, importation or exportation of narcotics listed in Category I, when “for the purposes of disposal,” is punishable with the death penalty.<sup>15</sup> These Acts, as well as the *Narcotics Control Act, B.E. 2519 (1976)*, give police and other competent officials wide powers of search, seizure and arrest, and authorize police to conduct drug testing.<sup>16</sup>

The *Narcotic Addict Rehabilitation Act, B.E. 2545 (2002)* incorporates a different approach to drug use by creating a legal regime to provide alternatives to incarceration for some drug offences. In the year 2008, around 40 000 people passed through Thailand’s compulsory drug treatment system, with some 10 000 of these detained in treatment centres.<sup>17</sup> As with any other aspect of the law, such programs need to be evaluated in light of their effectiveness and how they comply with human rights requirements under Thailand’s domestic law and the international law by which Thailand has agreed to be bound.

## Health and human rights laws in Thailand

Thailand is a party to many of the primary international human rights treaties, which provide important guidance for ensuring Thai drug policy supports effective measures to respond to HIV and HCV among people who inject drugs.

For example, Thailand is a party to the *International Covenant on Civil and Political Rights (ICCPR)*, which prohibits such things as arbitrary arrest or detention (Article 9), the death penalty, except for the most serious crimes (Article 6), and torture or other cruel, inhuman or degrading treatment (Article 7); and which guarantees various due process rights in legal proceedings (Article 14).<sup>18</sup> Thailand is also a party to the *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*.<sup>19</sup> Such treaties need to be respected in any enforcement of drug laws, including in prisons and any other settings (e.g., compulsory treatment centres) within the control of the government.

Thailand is also a party to the *International Covenant on Economic, Social and Cultural Rights (ICESCR)*, which guarantees all individuals the right to the “highest attainable standard of physical and mental health” (Article 12).<sup>20</sup> The Thai *Constitution* also includes a basic right to receive health services.<sup>21</sup> Ensuring access to evidence-based services to protect and promote the health of people who use drugs, including those with drug dependence, is a key element of realizing these rights. International agencies have identified a range of best practices and recommendations for responding to HIV, including among injection drug users, that are effective in part because they respect and protect the human rights of those who are marginalized and hence more vulnerable to poor health, including the risk of HIV infection.<sup>22</sup>

## Recommendations

- The Thai government must ensure that the nature and implementation of policies to reduce the supply of, and demand for, illegal drugs do not have a negative impact on the health or human rights of people who use drugs or on those who provide services to them.
- The Thai government needs to ensure that its national drug policy includes harm reduction as a key component, and that harm reduction is implemented through a range of evidence-based services and programs to protect and promote the health of people who use drugs.

## References

- <sup>1</sup> UNODC, *2008 World Drug Report*, 2008, p. 217.
- <sup>2</sup> *Ya ba* means, literally, “crazy drug,” referring to the limited cases when a methamphetamine consumer might display “crazy” behaviour, possibly due to a drug-induced psychosis. *Ya ma* means, literally, “horse drug,” referring to its effects on the consumer’s energy level. The latter term is often preferred among people who consume methamphetamine as being less stigmatising.
- <sup>3</sup> G. Reid and G. Costigan, *Revisiting “The Hidden Epidemic” — A Situation Assessment of Drug Use in Asia in the Context of HIV/AIDS*, 2002, p. 208.
- <sup>4</sup> UNODC, *2008 World Drug Report*, pp. 154–158.
- <sup>5</sup> Thai Working Group on AIDS Projections, *Projections for HIV/AIDS in Thailand: 2000–2020*, 2001, p. 12; UNODC, *Drugs and HIV/AIDS in South East Asia: A Review of Critical Geographic Areas of HIV/AIDS Infection Among Injecting Drug Users and of National Program Responses in Cambodia, China, Lao PDR, Myanmar, Thailand and Viet Nam*, 2004, p. 37.
- <sup>6</sup> F. Van Griensven et al, “Trends in the injection of midazolam and other drugs and needle sharing among injection drug users enrolled in the AIDS VAX B/E HIV-1 vaccine trial in Bangkok, Thailand,” *International Journal of Drug Policy* 16 (2005): 171–175.
- <sup>7</sup> N. Kiatying-Angsulee et al, “Midazolam use in injecting drug users (IDUs) in Bangkok: preliminary results of a qualitative study,” paper presented at the XV International AIDS Conference, 2004, Bangkok, Thailand.
- <sup>8</sup> See, for example, UNODC, *2008 World Drug Report*, p. 283.
- <sup>9</sup> Bureau of Epidemiology, Department of Disease Control, Ministry of Public Health, *HIV/AIDS Analytical Situation in Thailand*, at [www.aidthai.org](http://www.aidthai.org).
- <sup>10</sup> United Nations Development Programme, *Thailand’s Response to HIV/AIDS: Progress and Challenges*, 2004, p. 54.
- <sup>11</sup> P. Perngmark et al, “Needle sharing among southern Thai drug injectors,” *Addiction* 98(8) (2003): 1153–1161; P. Perngmark et al, “The Thai HIV/AIDS epidemic at 15 years: sustained needle sharing among southern Thai drug injectors,” *Drug and Alcohol Dependence* 92(1–3) (2008): 183–190.
- <sup>12</sup> T. Hansurabhanon et al, “Infection with hepatitis C virus among intravenous drug users: prevalence, genotypes, and risk-factor-associated behavior patterns in Thailand,” *Annals of Tropical Medicine & Parasitology*, 96(6) (2002): 615–625; J. Jittiwutikarn et al, “Hepatitis C Infection among drug users in Northern Thailand,” *American Journal of Tropical Medicine and Hygiene* 74(6) (2006): 1111–1116.
- <sup>13</sup> W. Paungtubtim et al, “High incidence and prevalence of hepatitis C virus infection among Bangkok inmates, Thailand,” paper presented at XV International AIDS Conference, Bangkok, 2004. See also, S. Sungkanupharph et al, “Prevalence of hepatitis B virus and hepatitis C virus co-infection with human immunodeficiency virus in Thai patients: a tertiary-care-based study,” *Journal of the Medical Association of Thailand* 87(11) (2004): 1349–1354.
- <sup>14</sup> *Single Convention on Narcotic Drugs*, 1961, UN, 520 UNTS 331, as amended by the 1972 Protocol; *Convention on Psychotropic Substances*, 1971, UN, 1019 UNTS 175; *Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances*, 1988.
- <sup>15</sup> *Narcotics Act*, B.E. 2522 (1979), s. 65.
- <sup>16</sup> See *Narcotics Control Act*, B.E. 2519 (1976), s. 14. The *Narcotics Act*, B.E. 2522 (1979) also permits searches (s. 49) and drug testing (s. 58(1)), while the *Psychotropic Substances Act* B.E. 2518 (1975) contains broad powers of search in s. 49.
- <sup>17</sup> Department of Probation, *Department of Probation & the Compulsory Drug Treatment System in Thailand*, undated.
- <sup>18</sup> *International Covenant on Civil and Political Rights* (ICCPR), adopted December 16, 1966, entered into force January 3, 1976, 999 U.N.T.S. 171.
- <sup>19</sup> *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, entered into force June 26, 1987, 1465 U.N.T.S. 85.
- <sup>20</sup> *International Covenant on Economic, Social and Cultural Rights* (ICESCR), adopted December 16, 1966, entered into force January 3, 1976, 993 U.N.T.S. 3..
- <sup>21</sup> *Constitution of the Kingdom of Thailand*, B.E. 2550 (2007), s. 51.
- <sup>22</sup> E.g., Office of the U.N. High Commissioner for Human Rights (OHCHR) and UNAIDS, *International Guidelines on HIV/AIDS and Human Rights*, 2006 Consolidated edition. See also, the “Evidence for Action” technical papers and policy briefs on addressing HIV among injection drug users produced by the World Health Organization, UNAIDS and UNODC, online via [www.who.int/hiv/pub/idu/idupolicybriefs/en/index.html](http://www.who.int/hiv/pub/idu/idupolicybriefs/en/index.html).

# 1

This publication contains general information. It does not constitute legal advice, and should not be relied upon as legal advice.

Copies of these info sheets are available on the website of the Canadian HIV/AIDS Legal Network at [www.aidslaw.ca/drugpolicy](http://www.aidslaw.ca/drugpolicy). Reproduction is encouraged, but copies may not be sold, and the Canadian HIV/AIDS Legal Network must be cited as the source of the information. For further information, contact the Legal Network at [info@aidslaw.ca](mailto:info@aidslaw.ca).

This info sheet is also available in Thai.

Funding for this publication was provided by the Levi Strauss Foundation.

© Canadian HIV/AIDS Legal Network, 2009.



Canadian  
HIV/AIDS  
Legal  
Network

Réseau  
juridique  
canadien  
VIH/sida