

# Key Recommendations by Harm Reduction Implementing Partners

Legal Review Workshop on  
1993 Narcotic Drugs and Psychotropic  
Substances Law



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# Rationale: Importance of Changing the Drug Laws

- ☞ In Myanmar, **devastating** HIV and Hepatitis C epidemics have flared among people who use drugs since the early 90's.
- ☞ The situation has been fueled by **unsafe** injecting practices such as sharing contaminated needles, syringes and other paraphernalia.
- ☞ A **new** set of policies is urgently required to face up to the new challenges in Myanmar!
- ☞ We welcome a new window of opportunity opening up with the current Law reform process.

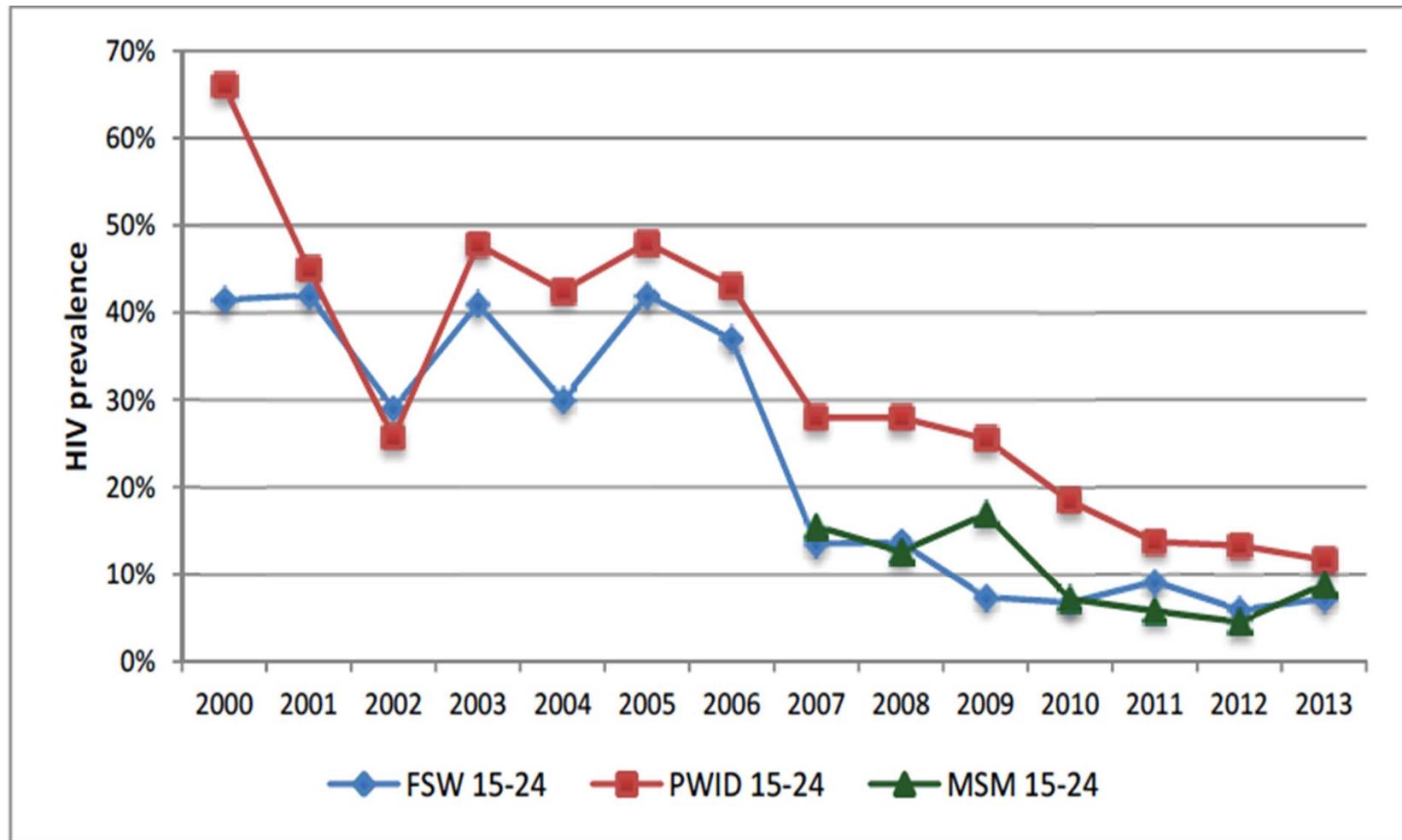
# Rationale: Importance of Changing the Drug Laws

- ∞ The revised Law will hopefully help reducing the harms associated with:
  - drug production, use and trafficking
  - And meet the needs of communities living in affected areas.
- ∞ Today, we would like to present with concrete examples and recommendations from the implementing partners on harm reduction in Myanmar.
- ∞ Aiming to contribute to an enabling legal environment which protects the rights of affected communities and minimizing negative consequences to all communities at the same time.

# Drug Use and Public Health

- ☞ HIV prevalence among PWID in Myanmar: measured well above 50% from 1992 to 2000, before it eventually started declining.
- ☞ Prevalence among PWID in 2013 was still the highest among marginalized populations, at 18.6% (National AIDS Program, Department of Health, MoH).
- ☞ Programmatic data collected by NGO's suggests that Hepatitis C prevalence among PWID is way above 50%.
- ☞ Drug users are just human beings. They have their family including partners. Need to take continuous action to combat the HIV epidemic among drug users and general community.

# HIV prevalence among young PWID (15-24 years) (2000-2013)



# Drug use vs Treatment

- ⌘ Not all drug users need treatment!
- ⌘ UNODC estimates - only between **10-15 %** of drug users develop **problematic** patterns of use that require psychological or medical attention.
- ⌘ Drug users should be able to choose treatment options, if required and necessary.
- ⌘ Informed consent for treatment is a part of the right to health!

# Voluntary vs Compulsory treatment

- ⌘ Compulsory drug detention and rehabilitation centers raise human rights issues.
- ⌘ Centers also threaten the health of detainees, including increased vulnerability to HIV and tuberculosis (TB) infection. Examples from the field (reported by implementing partners):
  - Dozens of users who relapsed despite numerous inpatient treatment courses (in some cases more than 20 times!!!)
  - Uncountable cases of relapse even after long term “rehabilitation” (several months)

# Voluntary vs Compulsory treatment

- ⌘ Overdoses, sometimes lethal, are very common after discharge from inpatient treatment, rehab, or release from prison.
- ⌘ Frequent human rights issues in “rehab” centers: people chained to their beds, kept against their will without trial neither legal guarantees, absence of adequate medical treatment etc.
- ⌘ Compulsory rehabilitation centers are seen as highly unrealistic: currently a minimum of 3000 IDU’s in Myitkyina town alone: there should be hundreds of rehab centers to accommodate all users in Kachin: who will build, maintain, staff those centers? With which resources?

# Drug use vs Human Rights

## *The Right to Health!!!*

- ∞ People who use drugs have the right to available, accessible, acceptable and sufficient quality health services.
- ∞ Criminal laws banning syringe provision and possession create a climate of fear for drug users, driving them away from life-saving HIV prevention and other health services.
- ∞ Access to essential medicines is a recognized core-minimum requirement of the right to health.

# Legalize Harm Reduction

- ✎ Explicitly endorse Harm Reduction as a key intervention, providing a solid legal basis for the provision of Harm Reduction services such as
  - Needles and Syringes Exchange Programs,
  - Peer Education,
  - Opioid Substitution Therapy
  - Overdose prevention and management
- ✎ Listing such interventions will be crucial to allow an adequate scale up of services in all affected areas.

# Decriminalization

- ✎ In many countries, personal consumption of drugs is not an offence.
- ✎ UN conventions do not oblige any penalty (penal or administrative) to be imposed for consumption *per se*.
- ✎ Clearly stated in the official Commentary to the 1988 Convention: “It will be noted that, as with the 1961 and 1971 Conventions, paragraph 2 does not require drug consumption as such to be established as a punishable offence”.

# Proportionality of Sentence

- ✎ Small-scale opium cultivators should not be criminalized and targeted with legal action.
- ✎ ‘User-dealers’ should be dealt with as a separate category of offenders.
- ✎ Criteria should be established to separate between: micro-trade, transport/courier, mid-level trading and organized trafficking
- ✎ Take into account the level of **responsibility** the offender has in the trafficking chain, earnings and reasons why he/she became involved.

# Threshold Quantities for Personal Use

- ✎ **Low** threshold of drugs separating personal use and traffic might result in users being imprisoned as traffickers.
- ✎ **High** threshold could allow dealers to continue working with little interference.
- ✎ Emphasis should be on the **intent** rather than the amount possessed.
- ✎ No country definitively uses the quantity to determine who is a user or a trafficker.

# Key Recommendations

- ☞ Decriminalize drug use and possession for personal use.
- ☞ Compulsory registration requirement should be removed.
- ☞ Drug treatment should be voluntary and only for those who need it.
- ☞ Drug laws and policies should respect human rights.
- ☞ Legalize harm reduction and its key interventions, including NSEP, Peer Education, MMT, Overdose management.

# Key Recommendations

- ❧ Decriminalize needle possession by drug users, outreach workers and peer educators to prevent the transmission of communicable diseases such as HIV and Hepatitis.
- ❧ Proportionality of sentence and threshold of amount of drugs should be considered.
- ❧ Civil Society Organizations, people using drugs and farmers' communities, who need to be continuously and meaningfully involved in the dialogue for the current Law reform process



Thank You for your attention!