

**LEGAL SERVICES AND HARM REDUCTION MEETING  
WARSAW, POLAND  
May 12-13, 2007  
FINAL REPORT**

**I. Summary**

OSI's Law and Health Initiative (LAHI) and the International Harm Reduction Development program (IHRD) hosted a meeting entitled "Legal Services and Harm Reduction" on May 12-13, 2007 in Warsaw, Poland to coincide with the International Harm Reduction Conference held the same week. The meeting was designed to bring together legal professionals who work with drug users in a variety of different capacities: as legal representatives, advocates, trainers, human rights documentarians, and funders. The meeting was coordinated by LAHI and IHRD in conjunction with the Open Society Institute Fund—Lithuania, and a local partner, the Social AIDS Committee, a Warsaw-based NGO.

The objectives of the meeting were to:

- Identify existing legal resources that are available to drug users for both advocacy and representation;
- Explore avenues for increasing the capacity of individual practitioners and organizations to broaden both the scope of their work and the number of clients they serve;
- Strengthen networking and communication between legal professionals working on issues impacting drug users around the world; and
- Conduct a needs assessment to determine how best researchers and funders can assist in capacity development for legal service projects.



Attendees were selected from among the LAHI-IHRD grantees and allies from the fields of harm reduction, HIV/AIDS service providers, and professionals from other legal organizations in the region, including the American Bar Association Central European and Eurasian Law Initiative (ABA CEELI).

The agenda was developed in consultation with meeting participants through a series of meetings and phone calls, as well as the administration of a pre-meeting questionnaire to determine the level of expertise among participants, and the needs they identified for the gathering. The final agenda is

appended to this report as Attachment A; the “Pre-meeting questionnaire is appended as Attachment B].

Thirty-four participants completed the survey, and as a result, organizers were able to determine prior to the meeting that the majority of participants that provide legal services to drug users were doing so for less than four years, although most of them had considerable experience in legal work, or work on behalf of drug users or PLHAs. Approximately one-third of the meeting participants were planning to attend the International Harm Reduction Conference.

Forty-eight legal professionals from thirteen countries, including Poland, Russia, Ukraine, Czech Republic, Georgia, Azerbaijan, Kazakstan, Kyrgyzstan, Bulgaria, Lithuania, Hungary, United States, and Canada attended the two-day meeting. The final participant list is appended as Attachment C. The meeting was conducted in both Russian and English.

Leading litigators from the Czech Republic and Russia attended the meeting and delivered major presentations. Participants broke into four groups to discuss how to involve law students in legal service provision, issues facing women drug users, bringing test case litigation, and transforming work from service to advocacy. On the second day, participants shared their conclusions and recommendations from the day before, and heard a panel discussion on involving people who use drugs in program design and service provision. The meeting ended with a discussion about fundraising strategies beyond OSI. A summary of some of the major issues raised and the discussions that took place follows.

## **II. Introductory remarks**

Kasia Malinowska-Sempruch opened the meeting by stating that no matter how fabulous harm reduction services are, if the police are outside on the corner arresting clients, those cannot be terribly effective. If the people served by harm reduction programs are sent to prison, and if no services are available in prison, this significantly undermines what can be done in terms of needle exchange and substitution treatment programs. Malinowska-Sempruch said: “We always assume that money is the problem; that if we only had enough money for needle exchange, or substitution therapy, then we would have effective programs. But the laws in many of our countries are not supporting what the funding is rolling out.” She encouraged meeting participants to share stories about how legal services can support harm reduction programs.





Jonathan Cohen, the Director of OSI's Law and Health Initiative told that participants that for the past few years, a small group of people has been meeting informally at the International Harm Reduction Conference to discuss using the law on behalf of marginalized groups. Cohen explained that LAHI is supporting the development of legal assistance programs, and this meeting is a continuation of those efforts to expand and advance

access to legal services. He called for a more systemic approach, and hoped that this meeting would signal the birth of a new network of people who approach legal services to drug users from a harm reduction perspective, and who can figure out what it takes to put legal services on the map.

### **III. Mapping the availability of services**

Participants were asked to identify on a regional map where they were physically located, and to describe the services they provide. Meeting participants described, for example, litigation on behalf of people whose rights are violated by law enforcement in St. Petersburg and Voronezh in Russia; legal work on behalf of People Living with HIV/AIDS (PLHAs) in Kazan in Tatarstan; direct legal services to PLHAs, drug users, and substitution therapy patients in the cities of Lviv, Mikolayev, Kherson, and Poltava in Ukraine; the provision of education and legal advice to drug users in Lithuania; pro bono legal services and assistance in restoring identification documents in Kyrgystan; legal assistance and targeted advocacy to IDUs in Kazakstan; trainings for drug users and monitoring of law enforcement in Georgia;



defense of civil liberties and strategic litigation in Hungary; direct legal services and training of law enforcement in Philadelphia in the U.S.; representation of drug users and work with parents and those close to drug users in Prague in the Czech Republic; and reintegration work with drug users returning from prison in Kyiv in Ukraine.

Most participants shared that they had been providing legal services for less than five years, a large number had been doing so for only one or two years. Moderators suggested that those new to the field pose questions to those who are more experienced, particularly about how they have been able to sustain their work.

Participants had questions for lawyers in Kyrgyzstan who spend a considerable amount of time assisting their clients in restoring identification papers and passports. A lawyer from Kyrgyzstan explained that this was one of the major problems identified by the organization's drug using clients, who, as a result cannot access their rights as citizens. He explained: "your identification papers, your passport gives you access to healthcare, social services, other types of benefits. You are denied your rights as a citizen when you do not have papers." Recognizing how much time was spent (by both the agency and the officials who must work to restore the documents) the organization is beginning to advocate for a systemic solution—the adoption of an official policy prohibiting police from taking identification papers in the first place. Other participants suggested looking for a model case for litigation to demonstrate the consequences of stolen documentation.



#### **IV. Keynote Address: Why is it important to provide legal services to drug users?**

Hana Gajdosikova, an attorney with the Center for Addictology at Carles University in Prague, Czech Republic delivered the keynote address on the first day, entitled: "Why is it important to provide legal services to drug users?" She began her speech by explaining that providing legal services to drug users is just as important to improving overall health

outcomes as medical care. She quoted from the Constitution of the World Health Organization: "Health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity."

Gajdosikova suggested using that definition as a starting point, understanding that the persistent legal problems of our PLHAs and drug users are the exact opposite of health. The failure to resolve their problems affects every area of health identified by WHO in 1946. She posed two questions: Why is it necessary to provide legal services to our clients? And what does it mean to provide services based on harm reduction principles. She emphasized that principles of democracy both afford everyone the right to legal aid, and guarantee that although perpetrators of criminal offenses should be punished,

punishment must comply with the rule of law and be accompanied by the right to defense.

Although it is a major barrier to obtaining effective legal services, the lack of money is not the only problem that drug users face. Gajdosikova acknowledged that drug users are not the most popular clients for attorneys. Attorneys often hold the same negative social opinions of drug users that the rest of society does, and very few have a desire to change that attitude. Stereotypes of drug users are often reinforced in the legal setting, as attorneys find drug users difficult to communicate with and many times not reliable in working towards their own defense. Attorneys who work with drug users are obliged to develop at least a basic awareness of drugs and their effects. She emphasized the need for lawyers to collaborate with professionals who understand such issues.

When drug users are unable to obtain the assistance of attorneys, they are pushed farther to the margins of society, resulting in a worsening of both their health and social conditions. The feeling that they are excluded has a spiraling effect: someone who feels excluded by society begins to stop even asking for help because he believes he will be turned down as a “junkie.” These problems can disrupt or destroy the result of previous treatment or work with the client. They may lose their motivation for treatment, for example, because of the loss of their family, or because of a criminal sentence they consider unjust. This could lead to relapse or recidivism. This is true of clients who have become abstinent, and also substitution clients who quit treatment. Deepening social exclusion can also lead drug users to stop observing principles of safer drug use and to discontinue their contact with service providers, and fall back into the hidden population of drug users.

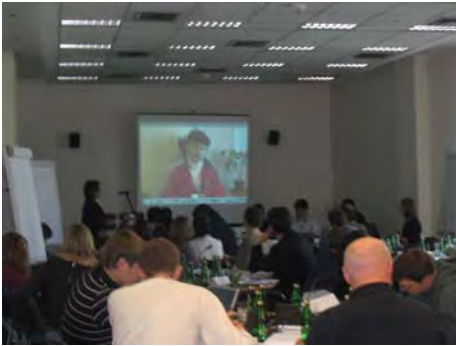
Lawyers, Gajdosikova explained, have a tremendous opportunity to influence the opinions of judges officer and police officers who deal with drug using clients. This opportunity carries with it a responsibility to gain a greater understanding of the issues affecting drug users, not just legal issues.

Gajdosikova encouraged participants to learn more about non-legal issues facing their drug using clients by making use of multidisciplinary teams of experts. She also warned against burn out for lawyers themselves because, as she acknowledged, it is difficult to deal with the stories the clients relay, to see them coming back again and again despite repeated help, and to face the negative responses from those around us who thinking of lawyers who do this work as “junkie’s lawyers.”

## **V. Moderated Discussion: Success Stories**

Nadegda Kravchenko from Mangust in Kherson, Ukraine; Sergey Oleynik from Anti AIDS in Penza; Lukasz Serednicki from Monar in Krakow, Poland, and Erik Iriskulbekov from Adilet in Kyrgyzstan were invited to share with the group some of their successes. The moderator of the session, Jonathan Cohen, explained that organizations are called upon by funders to demonstrate success, and usually they respond with the numbers of clients that they serve. Is that a sign of success? If not, how

can organizations demonstrate that services have an impact? Cohen posed the following questions to the panelists: What does it mean to have success? If we win one case, does that mean that we have been successful? If we successfully integrate services into a harm reduction program, and create demand for legal aid, does that mean success? If we win a case, and then the client is rearrested or facing another legal problem in two weeks, is that success?



Kravchenko showed a video to begin her presentation which featured a former drug user who suffered from abuse and harassment by law enforcement in Kherson, Ukraine. The client talked about approaching Mangust for assistance, and being able to avoid a prison sentence as a result. Kravchenko said that many drug users face the same problems everywhere—particularly those who have previous convictions. She explained that when charges were brought against her client, the

program assigned a young lawyer to begin working on the case. As a result of the organization's work, the judge considered arguments in favor of the client.

Mangust is now focusing on educating drug users about their rights. For example, the Ukrainian criminal code has a provision that allows drug users to voluntarily agree to treatment in order to avoid prison. Using needle exchange programs as contact points for clients, the program has been providing advice to drug users facing their first arrest and opting for treatment. She explained that among the challenges they face is the public opinion against lawyers who assist drug users. Kravchenko shared that there have been articles in newspapers condemning them for providing legal services to their clients.

Sergey Oleynik from Penza in Russia discussed a number of cases where legal assistance was provided to clients, including cases where clients had been denied medical treatment and legal advocacy forced the authorities to begin providing it; and advocacy on behalf of drug users whose documentation had been seized and held by the police where the officer was disciplined. Oleynik also described situations where his organization looked for systemic ways of addressing issues clients faced. For example, several clients were complaining that the police were confiscating their syringes. The organization complained, and the police who were patrolling near harm reduction centers moved to another location.

Oleynik explained that one of the biggest challenges his program faces is that often clients who suffer abuse are not willing to make officials complaints. He described a situation where there was a recent raid on a club in Russia, and thirty young patrons of the club were arrested. They did not challenge their arrests in court, despite being well-off and not marginalized. If they chose not to complain, he asked, what can we expect from our clients? He encouraged the group to recognize that clients should not be made worse as a result of the legal assistance provided to them. They should be warned that

they might suffer repercussions suffer consequences, if they complain, but lawyers should also work to minimize these negative consequences.

Lukasz Serednicki from Monar in Krakow, Poland told the group that each individual success for a client is a success for their project. “For us,” he said, “maybe it’s not a major leap, but for the individual drug user, it’s an opportunity to try a different way of living.” Serednicki told the group that he began working with a client who, when he first approached the organization had “almost reached the bottom.” He had no identification, an extensive criminal history, he was facing a civil case for alimony, and three criminal cases. He was able to avoid prison with the assistance of the organization which, though not able to provide representation, was able to advise him about how to represent himself. Serednicki told the group that this was incredibly empowering for the client.

Erik Iriskulbekov from Adilet in Kyrgyzstan told the group that in his experience, without defending human rights, it is impossible to prevent the spread of HIV. Iriskulbekov described a major case that his organization worked on regarding the illegal disclosure of HIV-related medical information by an important doctor in the oblast AIDS center. The doctor had invited a television journalist to shoot footage in the clinic. He asked the journalist to show a patient who exhibited physical manifestations of the disease. The program was aired and the doctor boasted of success. The face of the patient was shown, covered with ulcers. When he left the hospital, he faced total rejection from his community; he was denied any services in stores and public facilities, and people would point fingers at him. He died very soon after that incident.

Iriskulbekov’s organization appealed to the oblast prosecutor to file suit against the doctor on behalf of the man’s family. The case took 18 months to litigation, but the organization was able to engage in a media campaign around the case, and they secured a guilty verdict that held the doctor liable for unlawfully disclosing medical information about his patient. Iriskulbekov explained that the case was a success because it now serves as an example for other people who are infected with HIV, and also as a lesson to physicians who are used to being protected by the health ministry.

## **VI. Using Regional and International Mechanisms to Address Human Rights Violations against Drug Users**

Ksenia Kostromina, a celebrated criminal attorney from Russia, spoke on the second day, about the landmark case she brought before the European Court of Human Rights on behalf of a drug user who was illegally detained and held without access to essential medical care. Meeting participants also heard from the father of the plaintiff in that case, Victor Khudobin. Daniel Wolfe, Deputy Director of IHRD, introduced Kostromina and Khudobin by noting that “it doesn’t just take a lawyer to bring successful cases, it takes people who are willing to go before the court sometimes at great personal cost.”



The case involved Khudobin's son who, after being arrested as the result of a drug-buy operation arranged by law enforcement, had been kept in detention illegally for two years without appropriate medical care. Kostromina brought the case before the European Court of Human Rights claiming various violations of the European Convention for Human Rights. Her organization was the first to bring a case like this to the European court.

The case took seven years to litigate, and was ultimately successful; the plaintiff was awarded a considerable sum in compensation for his damages. Unfortunately, not only has the practice of arranged drug-buy operations not ceased in Russia as a result of the ruling, but the plaintiff is still unable to secure employment as a result of the criminal case. Russian attorneys have attempted to use the judgment in other criminal cases, but judges in Russia generally scorn decisions based on international law, but Kostromina said she and other attorneys plan to continue insisting that the decision should affect police practice in Russia.

## **VII. Beyond OSI: Fundraising strategies**

Jonathan Cohen began this discussion by acknowledging that sustainability of legal services is an issue that hangs over all of our discussions. He told the group that diversification of funding sources is an important issue not just because OSI is not able to fund programs indefinitely, but because if OSI remains the principal funder of legal services to PLHAs and drug users, we will never be able to reach the large numbers of people who need such services. He invited participants to discuss other sources of funding that may be approachable on these issues, and also other models of funding that harm reduction and legal service organizations may be able to use to finance their work. He encouraged participants to think of ways that they can help OSI to mobilize other funding by documenting their successes and accompanying OSI staff to meetings with other funders.

Pavel Skala spoke to the group about his work with an organization that is the main recipient in Ukraine of Global Fund money—the All-Ukrainian Network of People Living with HIV/AIDS. The organization has been very successful at attracting funding for advocacy projects throughout Ukraine, and while funding is sufficient, at least for the moment, he is concerned that projects have not been paying enough attention on how they document success. Often, much is done on behalf of individual clients, but at the end of the funding cycle, the program has nothing to show for what they have done. He encouraged lawyers and advocates to become more visible, and to document their successes. He said donors in the past used to be more trusting; they would hear from advocates that everything is dismal, rights are being violated, and nothing is being done about it. But now, donors are more selective, and they want to see demonstrated success.



Joanne Csete of the Canadian HIV/AIDS Legal Network described a new model of sustainability that does not rely on government funding, or the

assistance of international donors. She described how in Vancouver, a city with a challenging drug scene and home to the only supervised injection facility in North America, the Pivot Legal Society had tremendous success with documenting human rights abuses against drug users, but could not find the funding to sustain their work. Lawyers with that organization created a cooperative law firm that has a foundation attached to it so that earnings from the firm can be applied to the non-profit work of the organization. The firm's lawyers engaged in day-to-day lawyering in civil and criminal matters. They have attracted a group of volunteer lawyers who devote ten or more hours a week to the firm's clients, and they generate enough revenue to fund the work that they do on behalf of street-based drug users sex workers. Csete said that her organization is currently working on documenting Pivot's experience to demonstrate the model to others.

### **VIII. Panel Discussion: Involving Drug Users**

Alex Shoshikelashvili from the Center for Protection of Constitutional Rights in Georgia began his presentation by showing a video that his organization developed and that aired on the public television channel in Tblisi. The video showed a drug user approaching various services, and a red stamp appearing after the request which said "Refused." The video was used to publicize the availability of help for drug users because his organization found that it was difficult to attract clients who wanted to complain about the abuses and denial of rights that they faced.

Shoshikelashvili told the group that it is important to involve drug users in the design of legal assistance programs because if they are involved in the work, they will be more trusting. He said that frequently, drug users believe that they are easy prey for police, and difficult to persuade them that a legal remedy is available. Involving them makes it easier for them to understand how the law works, and how their rights can be protected. He said that rapport between a lawyer and a drug user possible if they work together, and that the work of lawyers can be leveraged if one drug user knows about the law and can educate his or her peers.



Milena Nadyanova of Bulgaria, who has worked with a drug user organization in that country for four years, spoke of the challenges of involving drug users in the advocacy process. She said the first challenge is to "make a professional group out of a bunch of drug users with long experience of being outlaws, being homeless, living in marginalized communities, who have lost their ability to go to work and lost their ability to do anything meaningful."

Often when drug users begin on substitution therapy treatment, she explained, they become re-socialized and no longer want to be connected to drug users, or work in places where they see no progress.

Nadynova told the group that after years of organizing, and several false starts, the organization was able to begin functioning when they identified areas of advocacy where they could work with allies on issues that affected both active drug users and drug users in recovery. For example, the drug user organization worked with substitution treatment clients to protest the closing of maintenance programs; and with people who had been shown on television injecting methadone in front of a clinic by working with the Helsinki Committee to sue the producers of the program.

Joanne Csete of the Canadian HIV/AIDS Legal Network told the group that one of the effects of hypercriminalization is that people who use drugs are excluded from civic participation, and from public policy discussions and program discussions that concern them directly. She said that much, if not most of the successful work done by her organization has been the result of the voices of people who are living with HIV. As a result, in Canada, they have developed the concept of Greater Involvement of People Living with AIDS, or GIPA. Inspired by the drug user organization VANDU in Vancouver, they began looking for publications that spoke to the issue of greater and meaningful involvement of people who use drugs. Unable to find anything in writing, they put out a report of their own, a book entitled “Nothing About Us Without Us,” a phrase that the drug users suggested borrowed from the disability movement in North America.

They looked at barriers to drug user involvement in Canada, and at the work done by VANDU and Australian drug user organizations to understand better how some of those barriers have been overcome. Over 100 people who use drugs with whom they worked asked them to help them form a list of “Dos and Don’ts” for involving drug users. Just a few examples include the following:

- Don’t just invite the safe user, do invite active users even if they make you uncomfortable;
- Don’t invite us to come and speak at 8 am;
- Do provide an honorarium, don’t think you shouldn’t just because we may spend the money on drugs; and
- Don’t include us only as token people just to have a drug user at your meeting.

The report has been a powerful tool in Canada. It has taught people that meaningful participation does not mean that you invite one of each affected group to a meeting... This “simple Canadian project,” as Csete said, sparked a worldwide response. Many organizations called from around the world and asked if they could translate the report because there is so little written on the subject. As a result, they have been able to garner funding (with the help of OSI) for two international versions—one designed specifically for the former Soviet region, and the other one with a global audience in mind.

The discussion that followed the panel focused on the particular challenges of involving people who use drugs on the design of legal services, and even participation in their own cases. Nadynova made a powerful point by saying that “some of us are here today, and tomorrow we are dead or gone, or in hospital or we may have stopped and we don’t want to have anything to do with our former community.” She acknowledged that court cases may go for years. Some practitioners suggested that lawyers identify any and all possible contacts for drug users in case they disappear.

Other participants raised the issue of what to do when the client’s interest differs from the interests of the organization, particularly relevant in the context of systemic litigation. Often, when government policies are challenged, the governmental agency may offer money to the client, or quickly change its policies or practice with regard to that one particular client. This may be in the best interest of the client, and lawyers who work in this arena must be prepared to honor the wishes of the client, and forgo the advocacy outcome. This should challenge lawyers to find five, ten, even twenty examples of the problem in the event that just one client may decline the government’s offer and allow the lawyer to seek the advocacy result.

## IX. Breakout groups

### Group 1: Involving Law Students

Often law students are required to obtain hands-on experience in community-based settings. Harm reduction organizations can establish relationships with law schools to encourage their students to complete internships with them. Law students can be



involved in legal service programs for drug users both as assistants for practicing attorneys, and as trainees for future professional work. Participants discussed the point at which law students can begin to become involved in the delivery of legal services and concluded that it is better to involve law students who are in their third year of study and have sufficient training to understand how laws apply to drug users. Legal service programs should first, however, assess whether law students are psychologically ready to work with active drug users. Students should work closely with experienced attorneys, and keep logs or diaries of their work. Training for law students should consist of information not only about domestic and international law, research, and procedure, but also about communication skills, drugs, drug users, and even first aid. Law students training to work with drug users should be trained not only in proper procedure, but also on the informal ways available to skilled lawyers to advocate for their clients. They should be trained in working with the client, and be involved in actual counseling sessions with the client, so long as the client consent. Law students can also help experienced lawyers in drafting documents, and assisting in the office.

Adilet was advanced as an example. The organization signs agreements with law schools encouraging them to send students for internships. They advertise the internships in law school buildings, and conduct a yearly selection process which consists of reviewing their grades and testing them in their knowledge of domestic and international law. The organization selects about twenty students annually who are in their fourth or fifth year, because at that point they have basic legal knowledge. Law students selected to work with the program receive eight hours of training each week, two hours of which are lectures that provide in-depth theoretical knowledge in different areas of law, for example, on migrants, HIV/AIDS, juvenile justice, drug users, and other issues. Students are also taught using case studies from prior work done on behalf of real clients. Six hours a week is practice where they can apply their theoretical knowledge. Two or



three students are assigned to one mentor, who has a full case load. After several months of training when they have gained some knowledge and skills, students can then begin to provide actual services under the supervision of an attorney, and, of course, with the client's consent.

Mariana Berbec Rostas, with OSI-Hungary, works with university law clinic. She described how in Africa, they started instituting a legal clinic for HIV/AIDS modeled on the Street Law projects started in the U.S. in the 80s which were designed to train non-lawyers in legal issues. Law students are trained to train non-lawyers, social workers, and members of affected populations. They have created small "palm cards" for people telling them about their rights vis-à-vis the police which state: "I have a lawyer, here is his number, I know I have rights, you can't do x, y, and z." The cards have been very effective.

She suggested that participants interested in working with law students map the services available in their own countries, cities, and find out whether the university has a clinic, and whether they would be interested in thinking about working with HIV/AIDS service organizations or harm reduction programs. Berbec-Rostas' program does curriculum design and compiles teaching materials dealing with HIV/AIDS and the law for legal clinics, and others interested in teaching about legal rights.

## **Group 2: Working with Women Drug Users**

Women face double stigma in many countries, being a woman, and being a drug user. Participants advanced two theories about the legal needs of women drug users: First, that women may have more legal problems than their male counterparts because of their children; they may be more visible to the system because of the needs of their children. And second, some participants felt that women, in fact, gain some advantage in criminal cases because of their children. They inspire a degree of leniency in the courts, sometimes they are given conditional discharges, supervised release, or even sent to specialized facilities, often less harsh than prison, where they can bring their children or keep custody of their children up to a certain age if they give birth while they are in custody. On the other hand, participants noted that in some places, judges may in fact send pregnant drug users to jail in order to protect their fetuses.



Women IDUs who are also sex workers are vulnerable to abuse by police, but it is often difficult for legal service and harm reduction organizations to address this problem because police retaliate and women are reluctant to report. Women also face problems with custody of their children. They arise through criminal proceedings, and they court takes note that they are custodial parents, and should no longer have custody; law enforcement officers who observe drug users in the

community them in the community and allege that they are unfit; or as a result of allegations by a spouse or another family alleging that they are unfit. Where legal counsel is available legal to these women already the quality of the services may be low because they have so many cases and they are paid very little.

Pregnant women and women with children who use drugs may be deterred from seeking both substance abuse treatment, and prenatal care for fear of being detected. One participant shared information about a recent study in Poland which showed that pregnant drug users begin receiving care late in their pregnancies because they fear being reported to the police and having custody taken away.

Alternatives to incarceration programs (ATIs) which emphasize treatment over imprisonment, which gender neutral on their face, may pose particular problems for women. Many treatment programs will not accept women who are pregnant and HIV+, or HIV+ and actively using. IN addition, ATI schemes that mandate abstinence instead of substitution therapy, for example, can work to exclude pregnant women, for whom substitution therapy is the standard of care (and in fact, for whom detoxification can pose serious health risks).

A question was posed to the entire group about whether anyone was aware of women drug users being forced to terminate their pregnancies, particularly in former Soviet countries. There was some disagreement about the whether this is actually happening, but many seemed to feel that if the practice was not explicit, many drug using women, and women who are HIV+, are encouraged by health care providers to not carry their pregnancies to term. For women who are already marginalized, disempowered, and without resources, misinformation (about HIV transmission and the effectiveness of PMTC and the effects of drugs and substitution therapy on the fetus) and even subtle pressure, has a tremendous impact. Meeting participants were encouraged to look out for this issue and document incidents.

### **Group 3: Test Case Litigation**

The discussion in this group was led by Peter Sarosi, an attorney with the Hungarian Civil Liberties Union (HCLU), who shared excellent strategies that organization has used to highlight abuses against drug users and point up flaws in that country's national drug control policies.

The HCLU has requested data on how much the government was spending on raids of discos and clubs in Hungary and shared the data with the media. They were able to show that the money spent on one raid exceeded the budget of a harm reduction program for a year. In the process, they were also able to demonstrate that these raids don't just affect drug users, but anyone who goes into a disco stands to have their urine tested.



A massive civil “obedience” campaign was also organized by the HCLU, with dozens of people, including celebrities and public figures, admitting to having used or possessed drugs in order to expose how drug laws are selectively enforced against marginalized pops. The campaign attracted significant media attention and was considered a huge success.

The group also identified areas for potential strategic litigation, and began to discuss ways to work on these issues:

- ***Compulsory and non confidential drug testing in Russian schools.*** Participants shared that one study showed that only .3% tested positive, and the group discussed whether highlighting the cost effectiveness of the program would be helpful.

- ***Drug registries in Lithuania and Ukraine.*** The requirement that drug users register with the state is a widespread practice in the region, and the names of those who seek treatment in public hospitals or treatment programs are maintained on non-anonymous lists. The NGO “I Can Live” in Lithuania is pursuing this problem not through litigation but through advocacy. The group expressed an interest in hearing from anyone who is considering strategic litigation around this issue.

- ***Access to clean syringes.*** In Hungary, providing clean syringes is considered facilitation of drug use. In Poland, the law was that needle exchange was considered facilitating drug use only if profit was the motive, but law was recently amended to say that needle exchange is a crime despite the lack of a profit motive. Poland also has a law endorsing harm reduction, and so there is a conflict of law. One strategy that they used was that a needle exchange volunteer went to the police and turned himself in for distributing syringes and for having a contaminated syringe. There was a media campaign, the charges were dropped. The group expressed that in order to engage in test case litigation, it is important to have both a media strategy and a sympathetic client.

- ***Access to methadone.*** Bringing a case about free access to methadone is being considered in Lithuania. Participants were concerned about how to handle this type of litigation without opening up a whole debate about harm reduction and potentially reverse gains that had been made. The use of a sympathetic client, however, would put a face on the issue, and may change the public dialogue around drug treatment.

#### **Group 4: From Service to Advocacy**

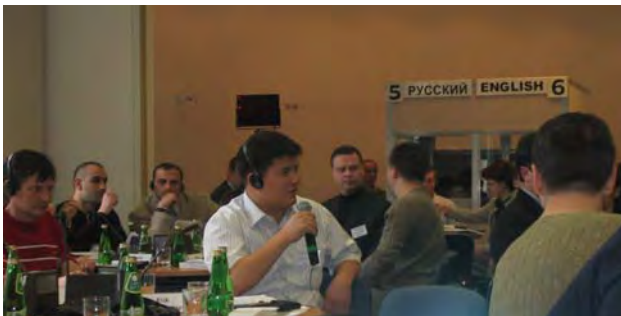
Participants in this group engaged in a theoretical discussion about the value of shifting from service to advocacy. Providing services, they explained to the rest of the participants, allow us to influence a small group of people, and advocacy allows us to achieve systemic change to make services more effective. The group shared examples of successful advocacy campaigns in Ukraine, and recommendations for future advocacy efforts in the region.

Participants identified the following advocacy goals:

- Decriminalize personal drug use by working to change the thresholds of amounts of drugs in order to be charged with criminal possession;
- Increase access to ARVs, TB and STI treatment;
- Increase access to drug treatment, including substitution and rehabilitation;
- Increase the coverage of harm reduction programs;
- Decrease stigma and discrimination against drug users;
- Increase domestic funding for services; and
- Improve legal protection of people living with HIV and people who use drugs.

The following methods of advocacy were also identified:

- Working with decision makers and opinion leaders;
- Mobilizing of civil society;
- Documenting human rights abuses;
- Organizing affected populations;
- Coalition building with businesses, media, government officials, and affected groups;
- Education, training, and awareness building among harm reduction workers;
- Direct action campaigns (e.g., the World Marijuana March in Kiev),
- Socializing with public officials; and
- Finding new allies.



## X. EVALUATION

Participants were asked to evaluate the meeting through the use of a post-meeting evaluation form. (The evaluation form is appended to this report as Attachment D). The results of that evaluation are as follows:

- On a scale of 1-5, with 5 being “excellent,” all of those who returned surveys rated the success of the meeting either a 4 (40%) or 5 (60%).

- Only 33% of participants felt that the mapping exercise was “very useful” to their work; while 62% felt that it was “somewhat useful.”
- 64% of participants felt that the moderated discussion on success stories was very useful to their work.
- 56% of the participants felt that the Keynote Address on providing legal services to drug users was very useful.
- 81% of participants found the break out sessions very useful; while only 64% felt that the report back from those groups was similarly helpful.
- 68% of participants found the presentation on Using Regional and International Mechanisms was very useful.
- Only 42% of participants found the needs assessment exercise very useful.
- Half of the meeting participants found the presentation on involving drug users very helpful.
- Only 26% of participants felt that the discussion on fundraising strategies was very helpful.
- 96% of participants felt that they had enough opportunity to interact with others.
- 96% reported that they had met people at the meeting with whom they planned to communicate afterwards.
- 74% said that they had enough opportunity to voice their opinions, while 4% said that they did not.
- 89% felt that the time allotted for questions and discussion was sufficient, while 11% said it was too short.
- 96% said that the presentations were just the right length, while 4% said that they were too long.
- 100% of participants said that they found the materials distributed during the meeting useful.

## **XI. Recommendations**

Throughout the meeting, both in structured sessions and informal ones, participants made



suggestions for how to maximize the impact of existing legal services, leverage those services by cooperating with other legal and medical professions, and expand access to legal services for drug users in their regions. There were two global recommendations that were made by a number of meeting participants: (1) more meetings or gatherings like this one to share strategies and success stories; and (2) translation of advocacy, research, and policy documents, key cases, and website resources.

## **I. Training for harm reduction lawyers**

1. Applying domestic and international human rights law to harm reduction and drug user issues
2. Test case litigation
3. Communicating effectively with police and other state entities (e.g., courts, departments of health)
4. Media training: Using the press to publicize advocacy and legal cases brought on behalf of drug users with the goal of “normalizing” the image of a drug user
5. Litigation vs. advocacy: advantages and disadvantages of each approach to a particular problem, which approach to choose in which kind of situations
6. Study trips for lawyers to meet and work with lawyers who are dealing with similar issues in other countries

## **II. Training for other professionals and organizations**

1. How to interact with drugs users and steer them towards legal services (for social service and healthcare providers)
2. Identifying legal issues and doing basic advocacy that can be done by non-lawyers (training curriculum for social service and mental health professionals)
3. Effects of penal sanctions on drug users’ individual health and public health (model training for judiciary and law enforcement)



## **III. Technical Assistance**

1. Financial management, fundraising, professional development, and advocacy
2. Building harm reduction networks

#### **IV. Networking**

1. Identify an organization that does international partner litigation (e.g. OSI Justice Initiative, Interights) to meet with several NGOs doing harm reduction law and identify possibilities for joint litigation
2. Identify other organizations like the International Protection Centre that provide technical assistance and training to lawyers who want to engage in human rights litigation
3. Identify others lawyers and policy analysts in other settings who are working on issues relating to the rights of drug users who may not already be plugged in to harm reduction networks
4. Identify other professionals who can assist in legal advocacy efforts (as amicus, expert witnesses, providing background information) like therapists, doctors, psychologists, etc.
5. Develop country-based databases of organizations that serve people who use drugs and people living with HIV/AIDS (legal, social, healthcare, and mental health services)
6. Develop of regional and international listservs to share information on legal strategies
7. Create regional and/or international websites with current legal developments in the field of harm reduction (sharing key cases and judicial decisions in more languages); best practices for providing legal services; and success stories of legal action with detailed information about what kinds of cases have potential for success, why, and what is needed in order to win
8. Hold more forums for discussing cases like Khudobin and the Kyrgystan HIV case

#### **V. New Research**

1. Develop a research study that would measure the impact that providing legal services has on overall health in general, HIV/AIDS prevention and treatment, substance abuse treatment, and overall quality of life (Specifically: hold a meeting with leading harm reduction/drug user litigators, policy analysts (including Katarina Lovecka), and researchers (including Michael Murtagh) to develop the parameters of a research study that would measure the effectiveness of providing legal services and harm reduction advocacy on health benefits)
2. Compile research from across the world about the consequences of applying the penal code to drug users

3. Compile information about access to legal services for poor people (For example, is the right to an attorney guaranteed? If people can't afford an attorney, is one provided for them? What is the general perception regarding the quality of free legal services?)
4. Monitor and report on violations of domestic law and law enforcement
5. Conduct research on the legal needs of Roma drug users, pregnant women who use drugs, and migrant drug users, and other marginalized groups
6. Research the effectiveness of interventions, what legal strategies have been successfully employed, and information on possible legal strategies to use
7. Survey the availability of methadone and bupenorprhine in various countries, and how those countries which recently approved of substitution therapy did so
8. Research with regard to pregnant women: Which countries allow substitution treatment during pregnancy? What are different countries' drug testing policies for pregnant/birthing women? Are there laws that provide for termination of parental rights when drug use is discovered? Is there regional research on access to prenatal care for low-income or drug using women?
9. Conduct public opinion polls on attitudes towards drug users and drug laws generally
10. Measure cost effectiveness of harm reduction projects, repressive drug policies (How much progressive measures would cost as opposed to repressive so that we can show the government how much money can be channeled in a different way)

## **VI. Dissemination of existing research and information**

1. Provide information that lawyers can understand about the efficacy of methadone and bupenorprhine
2. Publicize work that has been done in other countries about consequences of the penal code on drug users; provide information about the effect that criminalizing drugs has on drug users
3. Distribute the international version of GIPA (Greater Involvement of People living with AIDS)
4. Compile and distribute leaflets, brochures, and any other public materials that programs have developed on drug users' rights (in various languages)

## **VII. Publications**

1. Publish an article in IJDP on what it means to provide legal services in a harm reduction context
2. Publish a manual of international and domestic standards, and legal, ethical, medical standards that would apply in a harm reduction context
3. Develop a protocol for assisting drug using clients with obtaining their criminal records and assisting them in clearing old warrants for their arrest
4. Document prison/detention policies regarding drug use (policies on provision of methadone, analgesics and other medication to reduce the effects of withdrawal, mental health care, HIV-related care, and substance abuse treatment).
5. Report on legal issues facing women who use drugs
6. Expand model legislation that the organization put together by Canadian HIV/AIDS Legal Network on drug related issues
7. Develop a manual (perhaps authored by someone from Adilet, Dmitry Dinze) on how to involve law students in a harm reduction law project
8. Summarize best practices of legal assistance to drug users, especially successful cases submitted to the European Court and the Supreme Courts of respective countries.
9. Create a newsletter for drug users.
10. Publish an informational booklet on legal issues affecting people who use drugs and people living with HIV/AIDS

### **VIII. Leveraging**

1. Develop a template for a university law clinic focused on drug users in the context of HIV prevention or harm reduction
2. Educate lawyers not working in a harm reduction context but who nevertheless have contact with drug using clients of the aims of harm reduction law
3. Conduct outreach to legal service organizations that serve people who are HIV+ and their families

### **IX. Miscellaneous**

1. Develop curricula for secondary schools on drug use and HIV/AIDS
2. Hold a forum, develop an advocacy tool or campaign, or a set of best practices/recommendations for restoring documentation for drug users whose documentation was

confiscated, lost, or taken from them when they were sent to prison, or assisting drug users who never had documentation in the first place to obtain it, especially where not having documentation serves as a barrier to obtaining healthcare