"IN THE NAME OF CREATING DRUG FREE SOCIETY": A QUALITATIVE INVESTIGATION ON IMPLICATIONS OF DRUG LAW ENFORCEMENT ON HARM REDUCTION PROGRAMS AND PEOPLE WHO INJECT DRUGS IN KATHMANDU VALLEY, NEPAL

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ABSTRACT:

Background: A polarized approach to drug use endures in Nepal. The Ministry of Home Affairs (MoHA) enforces criminal drug law to create a drug free society, while the Ministry of Health and Population (MoHP) advocates and endorses harm reduction policies to reduce drug-related harms, HIV and other BBI epidemics.

Methods: This study employed qualitative methods to explore the implications of drug law enforcement as possible barriers to accessing harm reduction services, human rights violations and risky behavior among PWID. In June 2016, 28 in-depth interviews were conducted with four distinct population categories [Policy level (1), national HIV program level (7), harm reduction service delivery level (5) and community level (15)]. A maximum variance sampling technique - strategy for purposeful sampling aimed at capturing and describing the central themes that cut across a great deal of variation was applied.

Results: Drug laws provided ultimate power to law enforcement authorities and concomitant fear to PWID. Abuse of such power resulted in range of human rights violations, including sexual harassment, brutal torture and financial hassle, in part due to a nexus between some field authorities and drug rehabilitation providers, and increased barriers to accessing harm reduction services as well as increasing risky behavior practices among PWID. Law enforcement was associated with high drug price, which often were associated with delinquent activities and risky behaviors. Findings suggested that most of the law enforcement related impediments were occurring due to lack of awareness, and failure in flow of information within government agencies and law enforcement authorities, and good monitoring and governance. Knowledge of harm reduction services resulted in changes in law enforcement activities, such as referrals and service intake while in custody.

Conclusion: Consistent coordination, monitoring mechanisms and education for law enforcement authorities should be initiated as an immediate response to improve the dire situation of PWID. However, the long-term health development of PWID cannot be envisaged without favorable policy and law reform around age of consent, appropriate police academy curricula and drug control law that recognizes public health implications, human rights and evidence-based harm reduction approaches, and a participatory process.

Keywords: Drug law enforcement, Harm reduction, People who inject drugs, Nepal

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INTRODUCTION

The health of populations is determined by the policies and actions beyond the mandate of the health sector [1]. A key issue in shaping drug policies is the choice that has been posed between two targets: the prevention of HIV infection and transmission among people who use/inject drugs (PWID) and the prevention of drug abuse [2]. This potential intersectoral controversy is experienced in

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most of the countries, including Nepal. Such controversy of perspectives and approaches regarding the issue of illicit drug use endures in Nepal, where Ministry of Home Affairs (MoHA) enact and enforce criminal drug law to create a drug free society, while Ministry of Health and Population (MoHP) advocate and endorse harm reduction policies to reduce drug-related harms, HIV and other Blood Born Infections (BBI) epidemics [3-5].

Removal of legal barriers and cooperation of the law enforcement authorities to increase access to harm reduction programs has been identified as an important part of a comprehensive approach to reducing HIV transmission among PWID [6]. A qualitative study in Canada, service providers, specifically outreach indicated negative impacts of law enforcement, such as heavy police presence, displacement of PWID and their reluctance to carry syringes [7]. As PWID are criminalized universally, estimates suggest that 56-90 percent of PWIDs will be incarcerated at some stage during their life [8]. In addition to the legal barriers, PWID face a range of other contextual realities, including human right abuses, abusive police practices, and widespread use of arrest, detention, and incarceration which have an impact on health, wellbeing, and the lives of PWID resulting in increased risks to health via limiting access to health services [9]. Numerous studies have demonstrated that intensified police presence increased the risk of overdose, prompted rushed injection before confiscation in riskier shooting locations, and deterred PWID from carrying injection equipment resulting in unsafe injection and disposal of syringes [7, 10-12].

Nepal has a concentrated HIV epidemic with prevalence rate of 0.2 percent among adults aged 15 to 49 [13]. The HIV epidemic remains concentrated among key populations, including PWID [14].Through the focused effort of the national HIV program, NGO-run harm reduction programs and support of various partners, Nepal has successfully reduced HIV prevalence and significantly curtailed an HIV epidemics. However, UNAIDS and SAARC report have identified significant gap in coverage and high prevalence of HIV within the population sub-groups [8, 15-17].

The role of criminal law is still not clear but some aspects of the drug law enforcement appear to be fueling HIV vulnerability among PWIDs and their sexual partners [18]. Existing studies on PWIDs or HIV services focused on the drug user as the unit of analysis, identifying drug use status, attitudes toward services, and individual conditions as factors in effective service delivery [19]. However, such an approach may fail to understand that the situation of PWID in Nepal might be impacted by systematic barriers rather than those emerging from the individual. In contrast to the existing research, this study aimed to investigate the implications of the drug law enforcement in the three major areas - barriers to access harm reduction services, human rights violations and risky behaviors among PWIDs.

MATERIALS AND METHODS

Participants

The study utilized a qualitative research design and was conducted in Kathmandu Valley, which is composed of three major districts of Nepal – Lalitpur, Bhaktapur and Kathmandu. Four distinct populations were studied. A maximum variance (purposive) sampling technique was applied. This strategy for purposeful sampling aims at capturing and describing the central themes that cut across a great deal of variation [20]. Restraining in the characteristics such as role in the drug and HIV sector, and purpose and scope of their involvement, the samples were drawn from the four heterogeneous population categories - policy, national HIV program, harm reduction service delivery and community level.

Further variations within the four population categories were considered - law enforcement authorities at Narcotics Control Bureau (MoHA) and officials at National Centre for AIDS and STI Control (MoHP) under policy level; employees working at 5 National networks and 3 international organizations under national HIV program level; outreach workers at 5 different harm reduction service delivery sites (Needle and Syringe Program, Oral Substitution Therapy, Anti-Retroviral Therapy, HIV Testing Counseling and Hepatitis C Testing) at harm reduction service delivery level; and (36,998) PWID in the valley [21] at community level. A total of 16 in-depth interviews (1 with head of the identified organizations under policy, national AIDS program and 5 in-depth interviews with Outreach workers at harm reduction service delivery level) were targeted. At community level, the sample size determination was based on the saturation of the information taking budget and time into consideration.

Materials

The primary tool used in this study was an open-ended in-depth interview checklist. Basically, the checklists covered issues pertinent to drug use situation, Government strategies and law enforcement activities, harm reduction program, human rights and risky behavior that were followed by detailed probing questions. The checklists were devised in such a way that participants had equal opportunity to provide their opinion both positive and negative. For instances, if participants were asked how law enforcement authorities deter PWID to access harm reduction services, then they were given equal opportunity to answer by another question on how law enforcement authorities support PWID to access harm reduction services. Both closed ended and leading questions were avoided as much as possible. All the interviews were recorded using an audio recorder. Content of the open-ended in-depth interview checklists were constantly consulted with and validated from committee members, HIV sector professionals and research assistants. Five research assistants were recruited to undertake the data collection process. These assistants were oriented on overall study objectives and design as well as trained and assessed for conducting an effective open-ended in-depth interview.

Ethical consideration

This study was approved by Nepal Health Research Council (NHRC) (Reg.no.117/2016).

Data analysis

This study used thematic content analysis, adapted from Glaser and Strauss [22]. The audio recordings of the interviews were first transcribed and then translated into English language for comprehensive analysis and interpretation purpose. Then, through iterative processes of reading, highlighting, generating matrix with quotation, crosschecking and adjustments- interview transcripts were categorized and put into broader themes identified [23].

RESULTS

In total, 28 participants were interviewed (policy level -1; national HIV program level -7; harm reduction service delivery level -5; and community level -15 (male-11 and female- 4). Findings emerging from the analysis of the data from participant's interviews were grouped into seven major themes; drug use scenario; perception of harm reduction; access to harm reduction services; human rights violations; risky behaviors; prison setting; and joining the dots.

The objectives of this study to determine the implications of drug law enforcement on barriers to access harm reduction services, violations of human rights and risky behavior practices among PWIDs are presented in detail under theme III, IV and V respectively. The study also aimed to identify any further implications beyond the three specific objectives and the findings are presented under theme I, VI and VII.

Theme I: Drug use scenario

There was a rapid increase in juvenile drug use with age of initiation as early as 13 years.

> *…the people of age group 15-18 seem to be using drugs more than any other. But, since our studies do not cover the age below 18, we do not have sufficient data. So, we talked to other centers and they told us that people start using drugs from the age of 13* [a representative from UNODC, National HIV program level].

Drug cost per dose increased by more than 30 times and was associated with assisting drug dealers to sell drugs for daily dose, formation of group to manage money, use of low quality mixtures to redress amount of drug shared among group members, and sharing of syringes among group members, thereby increasing cases of abscess, Deep Vein Thrombosis (DVT) and BBI among PWIDs.

> *A drug user needs at least NRs 3000 per day to meet his dosage. Now, he doesn't always have NRs 3000 with him... He will get his dose so he won't hesitate to sell the drugs* [a member of Union C, National HIV program level].

> *Now there are many cases of abscess, DVT... due to mixture like stargon, phenergan, other… avil* [an outreach at NSP Centre, Harm reduction service delivery level].

Theme II: How do they perceive harm reduction programs?

Participants perceived harm reduction programs to be imperative and that proactive implementation could not only avert drug-related harms but would also play vital role in shaping the quality of life of PWID.

If harm reduction programs were implemented proactively, 80-90% ID users would not have been infected with Hepatitis [a representative from Save the Children, National HIV program level].

Participants associated the presence of harm reduction programs to reduction in selling of sex among female PWID and different physical harms and unsafe injection practices. Frequent complaints on the degrading quality of OST (Methadone) and syringes by PWID were reported.

Harm reduction has done good work… Like there are female drug users also, they don't need to sell sex for money, they won't be physical harmed [a female outreach at OST Centre, Harm reduction service delivery level].

… methadone is not as strong as it used to be. The quality has degraded... And needle syringe is not as good as the lifeline syringe that we used to get earlier [a member of Union C, National HIV program level].

Theme III: Access to harm reduction services

Presence of law enforcement authorities near service delivery sites, their intervention, on-street stopping, searching and interrogations, arrests for carrying a syringe all deterred PWIDs to accessing harm reduction services. PWID with multiple arrest histories or disclosed drug using status experienced more obstacles in accessing services compared to other PWID.

Sometimes, when the police are around, we feel frightened even to go near to the DIC [a female PWID receiving both HCV and NSP services, Community level].

I can't even walk that way to the DIC [a male PWID receiving NSP service, Community level].

Law enforcement authorities were mostly unaware about harm reduction services. Knowledge of such services resulted in actual changes in law enforcement activity such as referral and service intake inside custody. Generally, law enforcement authorities were personally inclined and more supportive in referring PWIDs to abstinence based drug rehabilitation rather than harm reduction services.

… senior level officers said, they did not know about harm reduction earlier [an official at NCASC, MoHP, Policy Level].

I am telling you what I have seen and the police allowed his family to administer the required dosage of methadone to him… [a female PWID receiving HCV and NSP services, Community level].

Theme IV: Human rights violations

Human rights violations of PWID were one of the most reported results of law enforcement. They were in the form of stringent scrutiny, threats and arrests, breach of confidentiality, stigma and discrimination, sexual harassment among female PWIDs, physical punishments and financial hassles. Disclosing of drug use behavior to families by law enforcement authorities was associated with crises that drove a PWID into the world of isolation and petty crimes.

I feel my rights are violated (Pause)... while walking with my family, one police called me and searched my pocket in front of my family [a male PWID receiving NSP service, Community level].

…after family society comes to know, fear of seclusion, fear of being hated, these are experienced [a male PWID receiving HCV service, Community level].

Participants perceived behaviors like calling by slang words *(such as 'tyape', 'junkie', 'addict' or 'drug abuser')*, being treated as 'once an addict always an addict', and unfair judgments during encounter as stigma and discrimination. There was a likelihood of being stopped and searched wherever encountered or whenever some incident happened in the locality, and if an individual was previously arrested or was known to have drug use history. Such PWIDs were also vulnerable to being convicted for crimes other than their drug use also.

They insult us by calling us 'tyape' (Slang for addict) and other indecent terms [a member of Union C, National HIV program level].

They always look at us from the same angle [a male PWID receiving NSP service, Community level].

Police also know me as a drug user now, and wherever they see me, they call me and check my body [a male PWID receiving NSP service, Community level].

…Whenever there is the incident related to drugs, they come to our junction and arrest us and even harass us sexually [a female PWID receiving OST service, Community level].

Female PWIDs were often humiliated and forced to comply with sex demands inside custody. Male PWID partners and drug dealers also created such compelling situations.

… 2-3 cops took me. They offered me the drug stash they had busted. I even took some. They again asked me to sleep with them. I had to get out and take some drugs, so I accepted the offer [a female PWID receiving ART service, Community level].

The fear of arrest among PWID as a result of criminal law enforcement in Nepal had become an opportunity to create a nexus of some of the field level law enforcement authorities and drug rehabilitation facilities. Brutal tortures and death from such torture has been reported inside such facilities, while not necessarily directly carried out by law enforcement authorities, was one of the outcomes of drug law enforcement.

There is a nexus between the rehabs and some police… They forcefully take away people just like in cases of kidnapping. They torture people inside the rehab. Some of our friends have died and those cases haven't come out [a member of Union C, National HIV program level].

Financial hassles were also one of the worst outcomes of drug law enforcement. Senior law enforcement authorities were found to be supportive regarding the issues of PWID while, due to lack of awareness and strict/regular field monitoring, some field level law enforcement authorities were trading drug users with rehabilitation facilities for huge commissions.

…some referral taking place for commission is not a good thing. It feels like they are trading drug users [an outreach at ART Centre, Harm reduction service delivery level].

…before agreeing to refer a drug user, they ask for commission... They charge you 20,000 and divide the money among themselves. Also, they demand things such as mobile balance (recharge card) or the latest iPhone as bribes [a member of FDDR, National HIV program level].

These two – rehab and police – together catch the drug user and blackmail his family [a member of Union C, National HIV program level].

No proper mechanisms to report human rights violations were identified. However, three major parties were identified as responsible to protect the human rights of PWIDs – law enforcement authorities, Human Rights Commission and organizations working for people who use drugs. PWID either had no awareness or feared to report violations as the law criminalized their drug use behavior.

There is no proper department to file the complaints against these violations and unfortunate incidents. S/he should go to human rights commission (laughs) [a representative from UNODC, National HIV program level].

Generally he can go to police station, but (Pause).. [a representative from Save the Children, National HIV program level].

Theme V: Risky behaviors

Most of the participant directly associated stringent drug law enforcement with high level of risky behavior practices among PWIDs. The risks included: syringe exchange practices hasty injection practices; risk of overdose; risky shooting locations and a shift in drug administration route from oral to injection.

If we suppress too much, there might be risky behavior practices [an official at NCASC, Policy level].

I can't take risk to carry syringe whole day without finding drug... First one friend will use it and then clean it with saliva and then turn-by-turn we all use it cleaning in same way [a male PWID receiving NSP service, Community level].

…due to that disturbances, injecting the drugs in haste sometimes goes out of track, due to which abscess happens [a male PWID receiving HCV service, Community level].

…mostly, two of us used to stay in a small toilet and inject drugs [a female PWID receiving HCV and NSP services, Community level].

Theme VI: Prison setting

Most of the law enforcement authorities, in best-case scenario, referred PWIDs to abstinence based drug rehabilitation facilities or at worst sent them to prison on drug offences. Either way PWID suffered from a range of human rights violations and health-related risks. High availability of drugs, financial hassles and far worse risk of injection equipment exchange were identified inside prison.

If one can provide money, marijuana and hashish was accessible [a male PWID receiving NSP service, Community level].

Inside prison, there was big situation. There was the situation of using same syringe for weeks [a male PWID receiving OST and ART services, Community level].

Theme VII: Joint the DOTS

One of the changes that most of the participants repeatedly mentioned was increased support from the law enforcement authorities to effectively implement harm reduction services in the Kathmandu Valley. High-ranked law enforcement authorities (Inspector and above) were more receptive and supportive towards issues related to PWID.

Nowadays police also don't punish drug users, they take them to a rehab centre or harm reduction programs [an official at NCASC, Policy level].

Police department (Pause)… they also provide positive response for it but they don't implement it [a female member of NEDUPA, National HIV program level].

…high rank police officers… know drug users have rights, etc. but lower rank police at field don't know about anything [an outreach at NSP Centre, Harm reduction service delivery level].

Analysis of data also showed most of the law enforcement related impediments might be occurring due to failure in effective and updated flow of information within and between government agencies such as Health Ministry and Home Ministry, Home Ministry and drug law enforcement authorities, and senior law enforcement authorities to field level authorities.

The policies and regulations are made and signed in the higher level of the system but the makings of such policies and regulations are not communicated well throughout the system [a representative from UNODC, National HIV program level].

if the user asks for his medicine, say ART, the police will not understand what ART is [an outreach at NSP Centre, Harm reduction service delivery level].

…organizations like Home Ministry, Health Ministry, Nepal Police Department, Army Officers' Wives Association, and communities are working on their own way [a representative from national network of people who use drugs].

DISCUSSION

This qualitative investigation is one of the first empirical studies that has explored the impacts of drug law enforcement on harm reduction programs and people who inject drugs in the Kathmandu Valley, Nepal and raised issues that, hitherto, have been peripheral and mostly unheeded.

The study identified an increase in the price of drug per dose by more than 30 times during the past decade. Juveniles who use or inject drugs usually do not have income sources other than their families. There were some evidences to suggest that law enforcement initiatives are positively associated with the price of drugs. In fact, higher levels of enforcement affects, primarily the price, but not necessarily the availability; further impoverishing

PWIDs [24, 25], compelling some to finance their habit through property crime [26] and adopting different situational cost management strategies. Some of the strategies associated with an increase in drug price were assisting drug dealers to sell drugs to get free daily dose, formation of a group to manage money, use of low quality mixtures to redress the amount of drug they lost due to sharing among group members, and sharing of injecting equipment among group members when new syringes were inaccessible. This kind of situation was further associated by participants with increase in cases of abscess, DVT and BBIs among PWIDs.

Analysis of interview data established how the presence of law enforcement authorities near service delivery sites, their intervention, on-street stopping, searching and interrogations, arrests for carrying a syringe deterred PWID from accessing harm reduction services. Participants mostly experienced such interventions to access while accessing NSP or OST services. This finding is consistent with many previous studies in different parts of the world that have suggested law enforcement efforts ranging from regular scrutiny to tortures create barriers to accessing harm reduction services, in particular sterile injecting equipment acquisition when placed in proximity to service delivery points [9, 27, 28]. This situation was associated with multiple arrest histories or disclosed drug using status as identified by a study in Russia [29].

Human rights violations were one of the most reported outcomes of law enforcement. Most of the participants perceived the behavior of law enforcement authorities to be stigmatizing and discriminative. For instances, using by slang words such as 'tyape', 'addict' or 'drug abuser' in public spaces like streets and hospitals; treating a person as 'once an addict always an addict' when they were trying to quit illegal drug and enroll themselves in harm reduction services; and unfair judgment during encounters with the authorities. Labeling PWID in a stigmatized and discriminative way by the criminal justice system leads to an increased delinquent self-identity, decreased pro-social expectations, and an increased association with delinquent peers, which can then lead to an increased likelihood of engaging in subsequent delinquency [30].

Law enforcement authorities were reported as indulgent to offer drugs to female PWIDs during their withdrawal in custody and forcing them to provide sex in return. Serious human rights abuses by guards, including severe beatings and sexual assault, have been reported in most of the compulsory drug detention centres in South-East Asian countries [31]. Financial hassles practiced by some of the corrupted field level law enforcement authorities and some drug rehabs were one of the worst outcomes of law enforcement. Above that, brutal tortures and unreported deaths occurring inside some drug rehabilitation facilities were also the outcomes of drug law enforcement. Maher and Dixon have argued that enforcement of the law does not suppress illegal activity, but can increase the potential for police corruption [12]. No adequate mechanisms to report human rights violations were identified.

Stringent law enforcement was directly associated with high level risk behavior practices among PWID. Such risks included exchange of injecting equipment, hasty injection practices, overdose, unsafe injecting and a shift in drug administration route from oral to injection. Previous studies also indicate that arrest for possession of injection equipment was associated independently with syringe sharing [29, 31]. Similarly, in order to avoid interruption by law enforcement authorities before confiscation, PWID had to rush the injecting, increasing the risk of abscess and even overdose [7, 12, 32, 33]. A meta-analysis demonstrated high risk of overdose among the PWID during the first 2 weeks after their release from any form of detentions such as compulsory drug centres and prison [34].

Gaps in coordination between law enforcement authorities and health workers, including service providers and civil society networks were identified. In a recent online news report, the Deputy Inspector General of Police, NCB explained that organizations in Kathmandu do not coordinate with them and instead of coordinating beforehand, they only visit them when any of their staffs or recovering users are arrested [35]. However, the converse was reported by participants in this study.

In absence of consistent coordination and partnership, it is obvious that law enforcement authorities are left with no choice other than enforcing the law and filling courts and prison with PWID [12]. In addition, analysis of data also showed most of the law enforcement related impediments were occurring due to lack of awareness and failure in effective and updated flow of information within and between government agencies and law enforcement authorities. For instance, the Department of Drug Administration (MoHP) has listed Methadone and Buprenorphine (Narcotics and

Psychotropic Substances) in the 'Essential Drugs' list. Since it comes under Schedule A of the Drug Act, 2035 B.S, it requires the approval of MoHA for importation into the country [36]. This means that the MoHP endorsed implemented OST (methadone) services require approval from MoHA. However, due to the lack of awareness, field level law enforcement authorities still create barriers to access to such essential medicines. Most of the law enforcement authorities, in best-case scenario, referred PWID to abstinence based compulsory drug rehabilitation or at worst sent them to prison on drug offence. Either way PWID had to suffer a range of human right abuses and health-related risks. Numerous studies have demonstrated that PWIDs mostly continue to use drugs while imprisoned and often prison is also a place to initiate drug use as a means to cope with overcrowded and violent environments [31, 37]. Being closed setting with no legal access to injection equipment, inmate PWIDs are more likely to share equipment than PWID outside prison [38].

CONCLUSION

A harm reduction approach requires cooperation with every level of stakeholders, especially police-based and non-police based organizations committed to demand reduction and public health. This study highlights the critical implications of drug law enforcement on the drug use scenario, particularly the price of drugs and its consequences; barriers to accessing harm reduction services; human rights violations, with emphasis on physical torture and financial hassles; and risky behavior practices among PWID in Nepal. Drug laws provide ultimate power to law enforcement authorities and concomitant fear to PWID. Abuse of such power resulted in range of human rights violations, including formation of a nexus for financial misfeasance and increased barriers to accessing harm reduction services, and increased risky behavior practices among PWID.

RECOMMENDATIONS

Efforts to develop and maintain consistent coordination; effective monitoring mechanisms, placing human rights violations reporting desks; education and training of law enforcement authorities and families of PWID should be initiated as an immediate response to improve the dire situation of PWID in Nepal. The long-term health development of PWID cannot be envisaged without favorable policy and law reform through meaningful involvement of all the key actors, specially the PWID community. Priority should be given to removal of age of consent barriers for adolescents and young people, endorsement of education and training module for law enforcement authorities into curricula of the police academy and most importantly, drug control laws should be revisited and amended through the perspective of public health, based on human rights and evidence-based harm reduction approaches.

LIMITATIONS

This study has several important limitations. First, the scope of the current study was limited in that the perspectives of law enforcement authorities (NCB representatives) could not be included. Second, there are also chances of recall bias as most of the interviews were based on experiences of participants from their past. Finally, the present study is also limited in that it was not able to further assess in depth, the degrading quality of medicines (methadone) and injecting equipment that were distributed through harm reduction services; and financial hassles and risks in the prison setting that were mentioned by the participants.

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