Police Involvement in the Needle and Syringe Exchange Programme (NSEP): The Malaysian Experience

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ABSTRACT
The Needle and Syringe Exchange Programme (NSEP) in Malaysia is a fully Government-supported programme carried out multi-sectorally to reduce the spread of HIV/AIDS among drug users. However, NSEP contravenes the Malaysia Dangerous Drugs Act for which the enforcement is under the purview of the Royal Malaysia Police (RMP). This article attempts to highlight the challenges faced by the RMP in supporting the NSEP. Five police officers from the Narcotics Crimes Investigation Department were selected for in-depth interviews. Results show police officers had seized the NSEP’s objective, philosophy and intervention. However, they were not informed on how exactly the NSEP operates in the field. The findings also showed disagreement between law enforcement terms of reference and the NSEP strategies. Much effort is needed to integrate the NSEP into law and the stakeholders’ have to deliberate continually and provide accurate information on the NSEP implementation at all levels. It is also hoped to increase multi-sectoral participation based on punitive prohibition for drug offence in Malaysia.

Keywords: Police involvement, NSEP, law enforcement, multi-sectoral participation

INTRODUCTION
Many studies have been conducted on the Needle and Syringe Exchange Programme (NSEP) throughout the world since the inception of the NSEP. Most of the researchers applied the philosophy of harm reduction and the efficacy of the programme, as their inquiry focused on two main aspects: (i) the reduction of HIV/AIDS cases in countries that implement harm reduction intervention (McDonald, Law, Kaldor, & Dove, 2003; Commonwealth Department of Health and Ageing, 2002;
Burrows, 2000; Schechter, Strathdee, Cornelisse et al., 1999), and (ii) the change of attitudes among intravenous drug users (IDU) participants, from sharing to not sharing needles as well as a number of IDU success cases that overcame addiction and shifted to methadone therapy (Braine et al., 2004; Des Jarlais et al., 2000; Joseph et al., 2000; Wong et al., 2003; Valente et al., 2001). However, the understanding on multi-sectoral implementation of the NSEP is still at a minimal level. Besides, there is still a lack of studies on the coordination issues among the stakeholder agencies. In fact, most of the existing studies do not pay much attention to coordination and were mostly done in countries where the political establishment opposes NSEP (Philbin et al., 2008; Centre for Harm Reduction, 2003a; Wong et al., 2003; Burrows, 2000). On the contrary in Malaysia the NSEP has been a fully government project since 2007. Does the NSEP, a government initiative in Malaysia, face the same challenges as in countries where the program receives no government or county political support? This article will provide empirical discussion in answering all the above questions by discussing the impact that law enforcement, particularly the Royal Malaysia Police (RMP) has on the efforts of implementing NSEP in Malaysia.

**HISTORY OF THE NSEP IN MALAYSIA**

The NSEP programme in Malaysia began with a 2006 pilot project by the Ministry of Health (MOH) (United Nations Regional Task Force Report - Malaysia, December 2006). The NSEP became a fully government project since 2007 after the success of the 2006 pilot project. MOH plays a vital role of a leading agency in NSEP on behalf of the government, with the support of stakeholders such as the Malaysian AIDS Council and the Royal Malaysian Police (RMP) as the enforcement agency. In Malaysia, multi-sectoral agency participation is important in implementing the NSEP successfully. Generally, the NSEP in Malaysia provides two main services: i) providing support, including counselling and references at the Drop In Centre (DIC), and ii) exchange of needles and syringes through field outreach. There are three DICs that performed the NSEP directly during the pilot project, namely the AIDS Action Research Group (AARG) in Penang, the Ikhlas Drop-in Centre in Kuala Lumpur, and the Intan Life Zone Centre in Johor Bahru.

The Malaysian NSEP received full government support to reduce the spread of HIV/AIDS among hardcore addicts. A set of Standard Operating Procedures (SOP) have been drafted to accelerate the program coverage and lessen any obstruction due to the controversies surrounding NSEP. A group of stakeholders were involved in drafting the Malaysian NSEP SOP. The stakeholders’ collaboration highlights the importance of multi-agency participation.
Malaysia practices a strict law and rehabilitation policy, as well as drug war campaigns and total abstinence which clearly is shown under the implementation of the Malaysian Dangerous Drugs Act. The support of law enforcers particularly police is important in maximising the effectiveness of NSEP and other harm reduction programs (Griffin, 1995). Nevertheless, implementing NSEP and calling for the existing policing protocols to support the harm reduction approaches such as agreements that police not patrol directly outside the NSEP area contravenes the enforcement of the Dangerous Drugs Act in Malaysia where enforcing the law is under the purview of the Royal Malaysia Police (RMP). Law-enforcement agencies, particularly the police were not supportive of NSEP, as the program was seen to condone drug abuse (Burris, 2009; Kutin & Alberti, 2007; Midford et al., 2002). This research aims at investigating the challenges that the police face as an enforcement agency to support and collaborate with a program that contravenes Dangerous Drugs Act.

METHODOLOGY
This exploratory study used a qualitative approach and chose the RMP agency as a unit of analysis. Five respondents representing the RMP were interviewed for an average of one hour to one and half hours. Approximately two-to-three interviews were conducted for each respondent. The interviewing guide was developed based on the empirical studies on the harm reduction programme (Mogg & Levy,
2009; Philbin et al., 2008; Open Health Institute, 2006; Eke et al., 2006; Dolan et al., 2005; Reid et al., 2004; Centre for Harm Reduction, 2003a, 2003b; Commonwealth Department of Health and Aging, 2002; Des Jarlais, 1995) and the conceptual framework of inter-agency coordination in social services (Johnson & Yanca, 2007; Netting & Williams, 1996; Jenning & Krane, 1994; Hammer, 1990). This study applied the data analysis method by Netting and Williams (1996), Braun and Clarke (2006) and Blaikee (2007). In the tradition of grounded theory (Glasser & Strauss, 1967) the interview scope was designed semistructurally to allow respondents the opportunity to describe their agencies’ as well as their own professional experiences in handling issues pertinent to the NSEP in Malaysia. Generally, the qualitative data analysis method requires the researcher to search and identify a number of sub-themes beforehand and later, from this group of subthemes, a larger theme would be shaped, thereby shaping the main themes. This theme-shaping analysis from the interview data is known as an inductive analysis method. Comparison is then made to highlight similarities and differences between themes. Data segments with similarities are later labelled under the same group. Differences between each segment of data are also identified and categorized into different groups.

RESULTS

Results from the analysis exhibited two main themes on the challenges of encouraging RMP’s involvement in the NSEP. The two themes are: i) limitation of complete information regarding the needle and syringe exchange process thus implicating the low involvement and comprehension of the police force, and ii) the contradicting stance of NSEP implementation with laws and police delegation. This article examines the level of police involvement in order to have a better understanding on their role in the program.

**RMP's Involvement and Police Personnel Comprehension of the NSEP**

The RMP Narcotics Department serves as the enforcement agency for the NSEP. The RMP cooperates by not entering certain outreach areas when the programme personnel performed the needle and syringe exchanges. This is to allay the Intravenous Drug Users-IDUs fears of going to these exchanges if at the same time they could detect police presence. The RMP also supports the NSEP as a government programme by distributing the Standard Operating Procedures (SOP) to agency personnel. This is done to inform the RMP members on duty in drug operations about the NSEP areas. Furthermore, the SOP is also distributed to direct key agencies so each agency would be aware and alert of each other’s roles. For instance,

*The RMP has representatives involved with the National AIDS Task Force (NATF). We follow government policies along with other agencies. The NGOs carry out the NSEP and the methadone...*
Collectively, the respondents voiced out the issues of information channel, comprehension and acceptance of police officers as a challenging task at the beginning of the NSEP implementation. Even though there was a consistent comprehension of the harm reduction among respondents, in which analysis revealed that the RMP’s knowledge was not enough, they need more knowledge on how the NSEP can perform on the field. They gained no source of information particularly on how the needle and syringe was exactly exchanged and whether the IDUs really practiced safe injection methods. For example,

Addict comes, the needle that he used is dumped there, he takes a new one and then he left. Is it like that program right? But after they left, whether they used or sold, we don’t know. Nobody control what?

Without complete and precise information, the police officers tend to have doubts on the NSEP clients’ ability to follow the program appropriately as they should be. They did not believe that the IDUs were misused because the idea was to give them clean needles but proper monitoring cannot be ensured. This statement explains this clearly below:

One does not have a strong ability to quit. So there is an inclination for addicts to manipulate the programme. He will sell the drugs as he could use the Identity Document, ID-each drug addicts who joins
NSEP will be given an Identity Document Card which ratify them as program user. We are not really sure how far he does not share the needles. Drugs are difficult to get! They are close to each other. Can we ensure the programme user realise how sharing leads to disease?

A low level of agency knowledge of the NSEP implementation on the field is analysed as a significant challenge prior to inter-agency cooperation. The questions that are considered important to police officers are: i) how the needles are exchanged, ii) whether counselling is carried out as stated in the module, and iii) how monitoring is carried out. This includes how far the implementers know that the needles are not shared and to what extent the NSEP’s clients determine safe practices for needle and syringe use.

Law Enforcement and Police Duty
Extensively, the NSEP is challenged by the prohibitionist ideology that adheres to the philosophy where drug abuse cases can only be handled with punishment and conviction. The idea of punishment as the IDU’s rehabilitation method is influenced by a mixture of religion, culture, and social mores of the legislators. Even though the NSEP’s main focus is on the containment of the HIV/AIDS spread, but as it targets the IDUs, it can not be discussed independently of drug abuse rehabilitation. The Malaysian drug laws themselves are prohibitionist by definition.

This study found that law enforcement in Malaysia faces challenges in coordinating the social network agency. It is because the NSEP requires the participation and cooperation of the RMP. The RMP is the main law enforcement agency in Malaysia in eradicating drug abuse, including arresting the IDUs. They are involved with the NSEP to provide cooperation in which they would not enter the outreach areas when the NSEP workers exchanged needles. This was done to prevent the IDUs from feeling afraid to exchange their needles when they sensed the presence of the police officers.

The main reason for the challenges in inter-agency coordination is the contradiction between the importance of obeying the law and the need of the NSEP to achieve their target of HIV/AIDs reduction in Malaysia. Although the role of the agencies can be synchronised through understanding and choice, it has not obtained any success due to the difference between the public and the agency’s goals.

The law is the main problem of agency coordination and agency role synchronisation. It falls back to law. Possession of drugs, even in a small amount, is against the law. We have to look at the whole scenario when the NSEP is implemented. Whether we received proper or improper advice from a legal sense could not be ascertained as there is no participation from the legal body in this NSEP task force.
Respondents of this study also claimed that there was no legal representative while developing the NSEP task force. This is why confusion occurs when the RMP as the law enforcement agency is being assumed as the legislative body. For instance,

> When we say law we mean the legislative, not the police. They are the experts. The question is whether or not our action is legal. Can they order the police to not go to NSEP area? Can they issue directives to not arrest their client? No, they cannot issue such directives. Why should they be privileged? There are so many unclear points by the implementers on the procedures. Even though we have the SOP, but it is more on the technical matter. It should also involve legal matter.

The respondents also highlighted the challenges in implementing the NSEP as a result of the public’s misperception towards the RMP. If they do not take any action on the NSEP’s clients, the drug distribution and addiction problems will remain unresolved in the society. However, they claimed that the NSEP did not include the issues of drug distribution and addiction which made them concerned about police involvement in the NSEP.

Furthermore, the respondents also addressed the issue of conviction as influencing their level of involvement in the NSEP. For example, there is no change or amendment of police duty that allows them to excuse the NSEP’s clients from legal action. The police are still answerable to the need to obey the law to carry out drug abuse eradication operations, including arresting the IDUs. Whereas the RMP understands why the IDUs are provided clean needles through the NSEP, it is not a licence to the IDUs to be immune to the law. For instance,

> Drug laws in Malaysia is not amended, there is no new exception. So when these IDU’s enter the harm reduction programme he is not exempted from law.

The NSEP’s clients are still subject to legal conviction if they commit other crimes. It is clear that law enforcement officers in this study are firm in the enforcement of the Drugs Act and want the NSEP’s clients to be held responsible for their behavior when involving crimes. The respondents emphasized that IDUs are also committing other crimes to support their addiction needs. Thus, they will never be exempted from the law. Indirectly, the RMP wants other agencies especially the implementers to understand that police duty in enforcing law has not changed. The police still have to perform their duties in combating drug abuse even for the NSEP’s clients if they are found to be involved in any form of violation of the law. Since there is no provision under the law excluding the NSEP’s clients, the RMP was requested to exercise their discretion in this programme. However, discretion did affect the cooperation between the RMP and the NSEP’s implementers. The concept
of discretion is complicated and strongly dependent on police interpretation and current circumstances especially concerning their duties in combating drug abuse.

DISCUSSION

Malaysia is well known in the Asian region and at international levels as a country with strict drug laws. The National Drug Policy (NDP) was launched in 1983 and revised in 1996 with a number of strategies. Focus is given to prevention, enforcement, treatment, rehabilitation and cooperation internally and internationally. This policy justifies the importance of the 1985 Dangerous Drugs Act which is still in use in Malaysia until today. The main component of the drug policy in Malaysia is zero tolerance. The main goal is towards a drug-free Malaysia by 2015. Efforts towards zero tolerance shape law enforcement in combating drugs. Law enforcement seeks to see a decline in crime, and increases in security and public safety (Beyrer, 2012). This is opposed to the harm reduction ideology practised as a step in reducing the HIV/AIDS and the blood-borne diseases among the IDUs. Harm reductionists on the other hand, aim to see declines in the social consequences of substance abuse particularly in reducing the spread of new HIV infections among drug users for the case of the NSEP.

Harm reductionists try to change the criminal justice perspective which currently dominates the way Malaysia views drug problems to a more public health approach. Although the Malaysian government is supporting the NSEP as one of the country’s intervention efforts to combat the spread of HIV/AIDS, the NSEP implementation remains controversial. This is especially true when discussing it from the legal aspect. As this research focuses more on the challenge of involving the RMP, which is the main law enforcement agency, the discussion considers how law is still a significant influence in reducing the RMP’s support. The research finding shows how law enforcement can have an opposing effect on the NSEP and any prevention programs which try to address the legality of drug use. It points out the power police actions have on the program efficiency and treatment. A similar finding is also observed in the Gardiner, (2012) study on police attitudes and response towards the criminal justice system in California which has been radically changed from a crime control model to an addiction treatment model in dealing with drug offenders.

The law enforcement agency, predominantly the police are found to have become less committed to NSEP when their terms of reference are subject to laws. Existing research confirmed that the police were not supportive of the NSEP markedly in the beginning when the program was introduced (Kutin & Alberti, 2007) as the program was seen to tolerate drug use. The NSEP implementation around the world seeks for police involvement by not carrying out patrols or person checks near needle exchange outreach spots. A similar type of collaboration is highlighted by the Malaysia NSEP as well. The outreach spot refers to a 30 meter radius space where the NSEP’s
clients gather to exchange a used needle and syringe for new ones. The police is expected not to disturb the area during the exchange. Thus, this limits their operation to arrest IDUs who are in the specific areas. Police cooperation is regarded by the implementers as a strategy to encourage the IDUs to exchange needles without the fear of being arrested (Murphy et al., 2004). Most IDUs who participate in the NSEP are found to be those with life circumstances that put them at greater risk for crime and legal status. They were most likely to fear identification by the police. According to Murphy et al. (2004), the most frequently mentioned hurdle by the IDUs to attending NSEP was the fear of police raids. Above all, police cooperation and discretion is seen by the harm reductionist as enormously significant in maximising the effectiveness of NSEP. On the contrary, laws involving drug offences have restricted the police from giving discretion to NSEP particularly when they were requested not to arrest and convict the NSEP clients subject to the criminal offense law. It is clearly stated under the acts that any individual detained or suspected of possessing drugs or found with any equipment containing drugs is subject to offenses under Malaysia Dangerous Drugs Act. The act shapes the agency’s perception in evaluating drug abuse as a legal and security issue. Provision of needles in the NSEP is judged as providing kits to drug addiction. Even though the NSEP does not provide drugs, possession of this kit is considered a crime if drugs are found in the kit, especially the needle and syringe. One thing that the police in this study agreed unanimously, is that addicts are criminals mostly because they commit other crimes in order to support their addictive habit. Existing research supports their line of reasoning (Gardiner, 2012; Mazerolle et al., 2007; Midford et al., 2002). The police contention plays as a fundamental rule on valuing the NSEP as condoning drug abuse. Given that, the NSEP is viewed as sending the message to IDUs that breaking the drug possession law is not a big deal as far as the harm of injecting behavior is minimized.

There is a major challenge to inter-agency coordination because of the differences in goals, policies, work procedures and decision-making techniques. It causes conflict when they have to conform to the law (Jennings & Krane, 1994; Hammer, 1990). Based on the findings, the NSEP implementing agency and the RMP could not find a common point in line with their respective roles. It seems difficult to hold on to the concept of discretion alone when it involves various matters pertaining to the law. This is especially when possession of drugs and needles are subjected to law enforcement. Coordination is inclined to face the issue of bureaucracy and problems caused by collaborative discrepancies between agencies. The aspect of value and law can prevent agencies from compromising. It is therefore important for implementing agencies to pay attention to the legal restraints on police roles and other rehabilitation agencies. Agencies should also take into account how best to tolerate and align their efforts to promote...
NSEP. Tolerance is not only necessary in understanding the rationale of why the government has initiated the NSEP, but to be tolerant with the limits of other agencies especially in matters of law enforcement is nonetheless essential.

IMPLICATION AND CONCLUSION

According to Burris (2009), Williams, (2005), Midford et al. (2002) and Sutton and James (1996), the Harm Reduction programme should take into account these efforts to ensure more participation of law enforcement like the police:

a. Form a framework to integrate current drug policies by focusing more on harm reduction

b. Ensure an effective method in evaluating the results of harm reduction intervention. This includes developing a universal information (data) collection system

c. Encourage and improve inter-sectoral cooperation as an integrated method in achieving the goal of reducing demand (drug supply) and harm reduction (due to drugs)

d. Form a common understanding between key agencies regarding the harm reduction module

e. Form an integrated training strategy between police and other agencies.

The idea to integrate the harm reduction programme with drug laws and the zero tolerance approach applied in most countries should be strongly emphasized. However, the effort will require changes in existing social policies and drug laws. It is a time-consuming process but it can ensure the success of the NSEP. Therefore, this study attempts to propose the importance of fieldwork for local police by focusing on exposure and training. This suggestion is made based on observations of two harm reduction programmes in Geraldton and Mirrabooka, Western Australia that received better support and cooperation from the police officers (Midford et al., 2002). Besides that, there is a need to run interactive workshops for the police officers who are involved in the NSEP. This workshop should cover topics such as: i) harm reduction as an alternative to drug rehabilitation, and ii) the use of discretion in responding to the breaches of the law. Previously, this kind of workshop has raised awareness and improved the job of the police when dealing with the NSEP’s clients (Midford et al., 2002; Sutton & James, 1996).

Apart from that, the NSEP implementation in Malaysia has to focus on providing education to the public. This is important to reduce public misunderstanding about the NSEP and police involvement. There is an obvious need to promote awareness and better understanding of the harm reduction concept commencement through the NSEP. Indeed, valuing IDU as patients who suffer from abusing drugs instead of regarding them as criminal offenses need to be further inculcated not only in the society but also among law enforcement officers.

As a conclusion, building an effective multi-agency integration in expanding
Police Involvement in the Needle and Syringe Exchange Programme (NSEP): The Malaysian Experience

NSP is crucial. Efforts made in integrating the “law on books” with a more pragmatic approach even with a different perspective and agenda is considered as an important key to agency coordination. Nevertheless, it is important to acknowledge the reality of the bureaucracy of agencies with regards to law enforcement. Law can disrupt the coordination between agencies. Law is categorised as a technical hurdle especially when its enforcement is challenged by differences in perspectives and values held by agencies. Hence, this study suggests that the NSEP implementers in Malaysia should synchronise the interests of different agencies in order to ensure the success of inter-agency coordination.

REFERENCES


