

**HUMAN RIGHTS COUNCIL
Universal Periodic Review Working Group Review of TAJIKISTAN
Twelfth's Session (2011)**

Submission from: Canadian HIV/AIDS Legal Network; International Harm Reduction Association; Eurasian Harm Reduction Network; NGO "SPIN+", Tajikistan; NGO "Volunteer", Tajikistan; NGO "Buzurg", Tajikistan; NGO "Apeiron", Tajikistan¹

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Introduction

1. In its Concluding observations on Tajikistan in 2006, the International Committee on Economic, Social and Cultural Rights (ICESCR), expressed concerns about the rapid spread of HIV in Tajikistan, in particular among drug users, prisoners, sex workers and migrant workers returning to the country². The Committee noted that factors such as lack of basic knowledge about the disease and its transmission (particularly among rural women), breaches of confidentiality relating to medical information, and lack of appropriate training for health care workers contribute to the significant stigma and discrimination surrounding the disease and, ultimately, the spread of HIV³. Strong recommendations have been made about further expansion of harm reduction services for those in need⁴.

Injecting drug users and prisoners.

Scope of the problem:

Injecting drug users remain the main group affected by the HIV epidemic in Tajikistan. Overall, 54.5% of all 2,336 HIV infections diagnosed in the country by October 1, 2010, were among injecting drug users (IDU)⁵. A study of the AIDS Project Management Group (APMG) proposed that the number of IDUs in Tajikistan in 2009 was 25,000 with a possible range of 20,000–30,000⁶. Data of 2009 show around 8,000 inmates in 19 penitentiary institutions, including 5 pre-trial detention centers and one medical facility⁷. In 2007 about one third of all inmates (2, 328) were convicted for drug-related crimes⁸. More than one third of all inmates had experience of injecting drug use⁹. HIV prevalence among prisoners is much higher than in general population (8.4%)¹⁰. Opioid Substitution Therapy (OST), Needle and Syringe Programs (NSP) and overdose prevention comprise the vital part of the nine key interventions recommended by the World Health Organization (WHO), UN Office on Drugs and Crime (UNODC) and the UN Joint Program on HIV/AIDS (UNAIDS) to effectively address HIV prevention among injecting drug users. Though legally permitted and implemented in the country, these programs remain with low coverage and geographic availability. OST became available in the middle of 2010 through one site in the capital city of Dushanbe, serving a small number of clients¹¹. Effective HIV prevention is further undermined and HIV epidemic is fueled by punitive and stigmatizing laws and practices, lack of OST and low access to NSP¹² in prisons which

¹ Information about these organizations is annexed to this report.

² Concluding Observations of the Committee on Economic, Social and Cultural Rights on Tajikistan. 24 November 2006. Paragraphs 38, 70. E/C.12/TJK/CO/1

³ Ibid

⁴ Ibid

⁵ Latypov, A., Rhodes T., Platt, L., Hope, V., & Reynolds, L. (2011). Regional Overview of the HIV Epidemic in Central Asia. Forthcoming.

⁶ Ibid.

⁷ Ibid

⁸ "Accessibility of HIV Prevention, Treatment and Care Services For People Who Use Drugs and Incarcerated People in Azerbaijan, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan Legislative and Policy Analysis and Recommendations for Reform". UNODC, Canadian HIV/AIDS Legal Network, 2010., page 349

⁹ Ibid.

¹⁰ Global State of Harm Reduction 2010: Eurasia, Regional Overview. IHRA, London.

¹¹ Latypov, A., et al.

¹² Until 2010, when the first pilot NDP was introduced in one penitentiary institution, no needle and syringe programs were available in Tajik Prisons. See Latypov, A., at al

are usually overcrowded. Despite of international recommendations¹³, there is very little meaningful engagement of people living with and vulnerable to HIV, such as drug users, sex workers, prisoners, into the processes of development, implementation, monitoring and evaluation of HIV and drug-related policies.

Recommendation to the Government: Based on consultations with meaningful engagement of the groups affected by HIV, provide clear legal and financial support for OST, NSP, overdose prevention, including in prisons, according to WHO, UNODC, UNAIDS technical guide, 2009;¹⁴ and remove laws stipulating custodial sanctions against drug users for possession of illicit drugs with no intent to sell¹⁵ as well as laws and practices providing for registration of drug users and violating their right to privacy, confidentiality and personal data protection.

Prevention of HIV transmission through sexual contacts

Scope of the problem:

The second major route of HIV transmission in Tajikistan is sexual intercourse (29%)¹⁶. Furthermore, for the time period from 2006 to 2010, the first 9 months of 2010 showed the highest proportion of women diagnosed with HIV (25%)¹⁷. As noted by ICESCR, the lack of basic knowledge about the disease and its transmission (particularly among rural women), breaches of confidentiality relating to medical information, and lack of appropriate training for health care workers contribute to the significant stigma and discrimination surrounding the disease and, ultimately, the spread of HIV. Despite the international recommendations¹⁸ consensual sex between adults with commercial purposes remains an administrative offence. Research data suggest that the number of commercial sex workers in Tajikistan in 2009 was 12,500, - a midpoint within a range of 10,000 and 15,000¹⁹. Police brutality, harassment, extortion of money and misuse of power towards sex workers was reported from Tajikistan²⁰. Stigmatizing provisions remain in criminal, health and family laws, providing for specific offences of exposure to HIV, compulsory drug and HIV testing, preventing adoption of children by HIV positive people and deprivation of parental rights based on the fact of addiction per se²¹.

Recommendation to the Government: Based on consultations with meaningful engagement of the groups affected by HIV, launch an information campaign on HIV for the general population and scientifically-based and human rights oriented HIV prevention training for medical, social workers, law enforcement and criminal justice; repeal the laws punishing commercial sex work between adults under consent and eliminate stigmatizing provisions of criminal, health and family laws, providing for specific offences of HIV exposure, compulsory drug and HIV testing, preventing adoption of children by HIV positive and deprivation of parental rights based on the fact of addiction per se.

¹³ Declaration of Commitment on HIV/AIDS, 2001. A/RES/S-26/2; Political Declaration on HIV/AIDS, 2006. A/RES/60/262; Political Declaration and Plan of Action on International Cooperation towards an Integrated and Balanced Strategy to Counter the World Drug Problem, 2009. Adopted at CND, 52 Session.

¹⁴ WHO, UNODC, UNAIDS technical guide for countries to set targets for universal access to HIV prevention, treatment and care for injecting drug users. WHO, 2009.

¹⁵ In the case of “small” minimal [мелкие] quantities (0,5-10g of heroin) the accused can face a penalty of imprisonment for up to two years. (The Criminal Code of Tajikistan, article 201). The laws do not require establishing the purity of the seized drugs, providing the same responsibility for the mixtures. Taking into account that street drugs have low purity, it is very easy to overcome the threshold of “small” amount even with one daily dose of drug user with the mid tolerance. The minimum penalty for any repeated offences or offences committed by group of people or in a prison is up to 8 years imprisonment, and possibly confiscation of property — even if the possession still only involved “small” or “minor” quantities (The Criminal Code of Tajikistan, article 201). This subjects drug users, especially those with addiction, to disproportionately severe punishment, taking into account that drug dependence is a chronic, relapsing condition.

¹⁶ Latypov, A., et al.

¹⁷ Ibid.

¹⁸ International Guidelines on HIV/AIDS and Human Rights (Guideline 4, para. 21(c)).

¹⁹ Latypov, A., et al.

²⁰ Ibid.

²¹ *Family Code of the Republic of Tajikistan*, (13 November 1998, last amended 20 March 2008), Article 69; Government of the Republic of Tajikistan, Resolution “On adopting a list of diseases in the presence of which one cannot adopt or receive custody of a child”, Resolution No. 406 (1 October 2004).

Annex

This submission was prepared, on behalf of the organizations listed above, by the Canadian HIV/AIDS Legal Network (www.aidslaw.ca), an NGO with a Special Consultative Status with the Economic and Social Council of the United Nations whose mission is to promote the human rights of people living with and vulnerable to HIV/AIDS through research, legal and policy analysis, education and community mobilization.

The Eurasian Harm Reduction Network is an NGO with a Special Consultative Status with the Economic and Social Council of the United Nations which operates as a regional network with a mission to promote humane, evidence-based harm reduction approaches to drug use, with the aim of improving health and protecting human rights at the individual, community, and societal level.

The International Harm Reduction Association (IHRA) is one of the leading international NGOs promoting policies and practices that reduce drug-related harms, a mandate that has a significant intersection with human rights issues. Drug-related harms in this context include not only increased vulnerability of people who use drugs to HIV and hepatitis C infection, but also includes poor access to healthcare, discrimination, police harassment, imprisonment, invasion of privacy, social marginalization and, in some countries, capital punishment. IHRA is an NGO in Special Consultative Status with the Economic and Social Council of the United Nations.

NGO "SPIN+", Tajikistan; NGO "Volunteer", Tajikistan; NGO "Buzurg", Tajikistan; NGO "Apeiron", Tajikistan are NGOs from Tajikistan working in the fields of HIV/AIDS prevention, treatment and support, and advocating on behalf of the health and welfare of people who use drugs.