

Submission on the Russian Federation's Sixth Periodic Report to the Committee on Economic, Social and Cultural Rights

International Centre on Human Rights and Drug Policy

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Introduction

The Russian Federation's penalisation of drug use has directly contributed to a highly punitive environment for marginalised communities—one that includes mass-incarceration, heavy policing of poor communities, the legal prohibition of an essential medicine—methadone for opioid substitution treatment, compulsory rehabilitation under the guise of “treatment”—and has systematically fuelled discrimination against people who use drugs. The Government's policies and practises have deteriorated human rights protections for these communities—many of whom are poor, under-housed, and unemployed—including violations of economic, social and cultural rights protected under the International Covenant.

The current policy environment towards drugs is antithetical to the grave public health challenges the country is experiencing. In July 2016, the UN's leading agency on HIV/AIDS, UNAIDS released a stark report highlighting that the Russian HIV epidemic is the fastest growing in the world.¹ The main drivers of HIV in Russia are injecting drug use and unsafe sexual contact—both dealt with at the policy level through abstinence programmes. Abstinence from drug use is pursued through criminalization and other outdated health policies, despite the country having the highest rates of injecting drug use in the region.² Even with overwhelming scientific evidence demonstrating how opioid substitution treatment (OST) is the gold standard of care for drug dependence and the best intervention for reducing HIV transmission, it is legally banned throughout the country.³ The reach of the criminal law does not end at the criminalization of personal use, it seeps into the everyday lives of drug users. For example, pregnant women who use drugs or women who are primary care givers automatically lose custody of children when drug use is reported—many of these children are kept in institutional care and even more never see their birth parents again.⁴

¹ UNAIDS (2016), *Prevention Gap Report*, UNAIDS, Geneva, online: <http://www.unaids.org/sites/default/files/media_asset/2016-prevention-gap-report_en.pdf>.

² *Ibid*, p 174.

³ Opioid Substitution Treatment: The International and European Evidence Base http://www.hrdp.org/files/2016/08/30/ICHRDP_OST_Factsheet_Aug2016_2.pdf

⁴ Sophie Pinkham & Kasia Malinowska-Sempruch (2007), *Women, Harm Reduction, and HIV*, Open Society Institute, New York, p 20, online: <https://www.opensocietyfoundations.org/sites/default/files/women_20070920.pdf>; Kasia Malinowska-Sempruch & Olga Rychkova (2015), *The Impact of Drug Policy on Women*, Open Society Institute, New York, <<https://www.opensocietyfoundations.org/sites/default/files/impact-drug-policy-women-20160928.pdf>>.

Individuals identified as drug users or those convicted of drug offences are often denied access to social services including public housing⁵ and have difficulties obtaining employment because they have been identified as drug users.⁶

The impact of criminalisation is cyclical, particularly with socio-economic inequality in the country on the rise. Core determinants of drug use include childhood trauma, the experience of systemic discrimination, and socio-economic deprivation. While countries previously under review by the Committee, such as The Philippines, have flagrantly flouted the rule of law, using bullets and physical violence to address drug use, the Russian Federation has used criminal law as a weapon, which has slowly, but with precision, dismantled the lives and potential of people who use drugs and their families. The highly punitive regime towards drugs, particularly people who use them, is a regime of exclusion, one that leads to a social death, accompanied by pernicious morbidity and mortality rates. Securing the economic and social rights, through decriminalisation and the implementation of evidence based health and social policies for this community is central to the restoration of their dignity and the alleviation of their suffering.

Issues of Concern

Opioid Substitution Therapy

OST remains illegal in the Russian Federation. Since the early 1970's, OST has been banned in favour of state run abstinence programmes proscribing treatment protocols widely discredited by the international medical establishment and refuted by scientific evidence.⁷ Within the Council of Europe, only the Russian Federation prohibits OST.⁸ In Central Asia, OST programs are available in all countries except Turkmenistan, Uzbekistan and Russia.⁹

Unsafe injecting drug use is a primary driver of HIV infection in the state. An estimated 80% of all people living with HIV in Russia are current or former injecting drug users. In January 2016, the one millionth person was formally diagnosed with HIV in the Russian Federation, though actual figures are likely much higher. The former head of the Russian Federation's AIDS Agency described the crisis as a concentrated epidemic on the verge of becoming generalised. Only four NSP sites operate in the country, none with the support of government.¹⁰ Without

⁵ *Ibid*, p 17.

⁶ N Bobrova, T Rhodes, R Power et al (2006), "Barriers to Accessing Drug Treatment in Russia: A Qualitative Study in Two Cities, Drug and Alcohol Dependence, Supplement 1:S57-S63.

⁷ OST was first banned by a Ministry of Health order and later banned in 1998 by the Federal Law.

⁸ According to most recent reports, OST is not delivered by public health services in the Principality of Monaco, but there is no prohibition on its use.

⁹ HRI (2016), *Global State of Harm Reduction 2016*, Harm Reduction International, London, online: <<https://www.hri.global/files/2016/11/15/Eurasia.pdf>>.

¹⁰ *Ibid*.

access to evidence-based prevention services including sterile needles and OST, communities of people who inject drugs will continue to face perilous risk for infection, with estimated rates doubling in the next 4-5 years.

Criminalization of People Who Use Drugs

Lifting the ban on OST is an important first step towards addressing human rights violations of people who use drugs in Russia. However, it is insufficient to address the larger systemic barriers to healthcare, social services, employment, and the preservation of family units. A regime of punitive criminalisation cuts across the entire range of economic and social rights protected under the Covenant.

The inability of people who use drugs to access prevention and treatment services is compounded by the highly punitive measures meted out by law enforcement, including frequent arrest and incarceration. Punitive drug laws and policies have resulted in large numbers of people who use drugs being imprisoned, with nearly all drug-related convictions being for drug use as opposed to drug trafficking.¹¹ High levels of arrest and incarceration impacts people's willingness to seek necessary health, social, and harm reduction services. Further, services such as OST and needle and syringe programmes, which reduce the risk of HIV, are not available in prisons in the Russian Federation.¹²

Women who use drugs are particularly vulnerable to violence. A 2016 study found that sexual violence from police against women who inject drugs was common and that this significantly contributed to their unwillingness to approach harm reduction services.¹³

Developments in the Committee's jurisprudence

The Committee has increasingly turned its attention to issues of drug use and drug related harm. The following issues have been taken up:

- Needle and syringe programmes (Mauritius 2010, Russia 2011, Sweden 2016, Philippines 2016)
- Opioid substitution therapy (Poland 2009, Kazakhstan 2010, Mauritius 2010, Russia 2011, Sweden 2016)

¹¹ AVERT (2017), "HIV and AIDS in Russia", online: <<https://www.avert.org/professionals/hiv-around-world/eastern-europe-central-asia/russia>>; HRI (2016), note 5.

¹² *Ibid*, AVERT.

¹³ Lunze, K., *et al* (2016), "Sexual violence from police and HIV risk behaviours among HIV-positive women who inject drugs in St. Petersburg, Russia – a mixed methods study", *Journal International AIDS Society* 19.

- Overdose prevention (Russia 2011, Sweden 2016)
- Youth-focused harm reduction services (Mauritius 2010)
- Specific protections for women at risk (Mauritius 2010)
- Prison OST and NSPs (Ukraine 2007, Mauritius 2010, Sweden 2016)
- Law reform to facilitate harm reduction (Mauritius 2010, Russia 2011, Philippines 2016)
- Violence against drug users (Philippines 2016)
- Discriminatory impacts of drug policy on the poor and marginalized (Philippines 2016)
- Decriminalization of the possession and use of drugs (Philippines 2016)

In light of the issues presented above, we wish to make the following recommendations:

- Undertake a comprehensive review and reform of drug policy that is human rights based, informed by international standards and scientific evidence, which explicitly incorporates a harm reduction approach with a view to harmonising efforts across the law enforcement and health ministries and an objective to strengthen the capacity of the national health care infrastructure.
- Comprehensive drug law reform must include the decriminalisation of drug use and drug possession for personal use, as well as the decriminalisation for possession of safe injecting equipment.
- Undertake legislative reform to lift the ban on OST.
- To stop all forms of violence against drugs users and to promptly and thoroughly investigate all reported cases and punish the perpetrators with sanctions commensurate with the gravity of the crime.
- With the active and meaningful participation of people who use drugs (including women), undertake the immediate implementation of harm reduction services, including needle and syringe programmes in both communities and in prisons.
- Rapidly develop and expand evidence-based drug dependence treatment options in the community, with the full participation of people who use drugs.
- Adopt comprehensive anti-discrimination legislation that firmly protects people who use drugs, including women and pregnant women who use drugs.