Report to the International Committee on Economic, Social and Cultural Rights (CESCR)

Adoption of the list of issues with regard to Uzbekistan
March 2013

This report is submitted by the Canadian HIV/AIDS Legal Network and the Eurasian Harm Reduction Network[1].

Introduction

As of January 1, 2012 there were 21,524 people living with HIV officially registered in Uzbekistan; 44.6% of them are identified as people who inject drugs.[2] Injecting drug use is the main risk factor driving the epidemic in Uzbekistan.[3]

In 2006, the CESCR recommended Uzbekistan to prevent and combat the spread of HIV/AIDS; in so doing the CESCR recommended to take into account its General Comment No 14 on the right to health."[4] The concluding observations also expressed concern at the increase in drug use and incidence of HIV/AIDS.[5] In its second periodic report, the State did not address these issues.

Termination of the Opioid Substitution Therapy Pilot Project

Opioid substitution therapy (OST) has been listed by WHO, UNODC, and UNAIDS as a key component of a comprehensive package of interventions for HIV prevention among people who inject drugs.[6] There is a large body of scientific evidence that shows the effectiveness of OST in preventing HIV infections, reducing opioid use, reducing criminal activity and preventing overdose deaths.[7, 8, 9] There is also good evidence that OST improves the overall health status of drug users infected with HIV[10], reduces heroin use and is more effective in retaining drug users in treatment than detoxification[11]. OST has many other benefits including improved levels of employment and social integration.

In 2006, Uzbekistan started a pilot program to implement OST. However, the pilot program was shut down in 2009 by the Ministry of Health, citing its ineffectiveness. This step was taken despite recommendations by the World Health Organization (WHO) to expand OST programs to areas of the country outside the capital, Tashkent, where the pilot program took place.[12]

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[1] Information about these organizations is annexed to this report.
[2] Country Report on the Implementation of the 2001 UNGASS Declaration. Reporting period January 2010- December 2011. Tashkent, 2012, p. 3.
[3] Ibid.
[4] UN Economic and Social Council. "Consideration of Reports Submitted by States Parties Under Articles 16 and 17 of the Covenant: Uzbekistan." Concluding Observations of the Committee on Economic, Social and Cultural Rights, January 24, 2006. Para 64.
[5] Ibid.
[6] WHO, UNODC, UNAIDS. "Technical Guide for Countries to set targets for universal access to HIV prevention, treatment and care for injecting drug users." 2009.
[7] Ward J, Mattick RP and Hall W (1998) Methadone maintenance treatment and other opioid replacement therapies Amsterdam: Harwood Academic Publishers
[8] Sorensen JL and Copeland AL (2000) Drug abuse treatment as an HIV prevention strategy: a review *Drug and Alcohol Dependence* 59(1):17-31
[9] Gowing L, Farrell M, Bornemann R and Ali R (2004) Substitution treatment of injecting opioid users for preventing transmission of HIV infection (Cochrane review protocol) *Cochrane Library* 2004 Issue 3 Chichester, UK: John Wiley and Sons Ltd.
[10] Weber R, Ledergerber B, Opravil M, Sigenthaler W and Luthy R (1990) Progression of HIV infection in misusers of injected drugs that stop injecting or follow a programme of maintenance treatment with methadone *British Medical Journal* 301(6765)1362-5
[11] Mattick RP, Breen C, Kimber J and Davoli M (2002) Methadone maintenance therapy versus no opioid replacement therapy for opioid dependence (Cochrane review) *Cochrane Library* 2002 Issue 4 Chichester, UK: John Wiley and Sons Ltd.
[12] Eurasian Harm Reduction Network. "Opioid Substitution Therapy in Central Asia: Towards Diverse and Effective Treatment Options for Drug Dependence." 2010.

There were number of shortcomings of the pilot project, including:

- Lack of political commitment and political hostility – the OST was never regulated in the country at the law level, moreover neither methadone, nor buprenorphine, the medicines used for OST were not included in the essential medicines list, making the program subjected to the political decisions and changes.
- Organization of the program, including inconvenient working hours of the program and the geographical isolation of the center made the program physically inaccessible for many clients. Moreover OST provided in the specialized and isolated facility, cut away from other health, including psychological support services, which decreases the effectiveness of treatment;
- Lack of proper evaluation and technical support to pilot program. OST programs invariably attract special attention from politicians, communities and professional groups related in one way or another to the problems of drug use and HIV/AIDS, including law-enforcement agencies. Given the need to overcome political opposition to OST programming it is vital that data on the effectiveness of pilot programs is adequately documented and that these programs are provided with adequate technical support to deliver high quality services, which never was done in Uzbekistan in order to improve the program and address the barriers in building an effective drug treatment program[13].

At the time of closure, almost 200 opioid-dependent people were enrolled in the program and had displayed health and social improvement since the start of treatment.[14] The WHO experts carried out the evaluation of the pilot project in 2007 noted a range of indicators showing that patients had improved in a number of ways after beginning the
treatment. The indicators included improvements in general health of the patients, a move away from illegal drugs, and lowered criminal activity. It was recommended that access to OST be broadened in the country by opening other points offering the treatment in different regions of Uzbekistan, as well as removing shortcomings in the pilot project[15].

In 2008, the Ministry of Health carried out its own evaluation of the pilot project. The evaluation was run by the chief drug treatment specialist, who from the very beginning of the pilot program was one of the main opponents of the introduction of OST to the country. The results of this evaluation were presented at a meeting of partners, including state structures, NGOs and international organizations working on HIV prevention and drug dependence. According to the representatives of international organizations presented at this meeting, the report on the pilot project was mainly negative, often had a subjective character and was prone to a very liberal interpretation of facts.[16]

Closing the program erased the gains associated with the OST. While other countries worldwide continue to save lives by maintaining OST, Uzbekistan is the only country in the world to have shut down existing OST programs. Rather than addressing the shortcomings of the pilot project and improving the effectiveness of an essential HIV prevention measure, the Ministry chose to discontinue access to this evidence based intervention proved to be effective all around the world.

Legal Considerations

Article 12 of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) states that all people are entitled to the "highest attainable standard of physical and mental health." Article

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[13] For more, please see EHRN assessment of OST in Central Asia countries: Latypov, A. Aizberg O, Boltaev A. (2010) Opioid substitution therapy in Central Asia: towards diverse and effective treatment. EHRN: Vilnius, Executive Summary: http://www.harm-reduction.org/images/stories/library/ost_final_2010.pdf; full report: http://www.harm-reduction.org/images/stories/library/ost_ca_full_report_2010.pdf.

[14] Eurasian Harm Reduction Network. "Closure of Pilot OST Programs in Uzbekistan." June 30, 2009.

[15] Subata, E., Moller, L., Kharabara, G., & Suleimanov, S. (2007). Evaluation of pilot opioid substitution therapy in the Republic of Uzbekistan. Copenhagen: World Health Organization Regional Office for Europe.

[16] Latypov, A. Aizberg O, Boltaev A. (2010) Supra note 13.

12, as well as Article 2, of the ICESCR further obliges States Parties, such as Uzbekistan, to take steps "to achieve the full realization of this right," including "those necessary for… the prevention, treatment and control of epidemic…diseases, [and] the creation of conditions which would assure to all medical service and medical attention in the event of sickness."

According to General Comment No. 14 of the Committee on Economic, Social and Cultural Rights, outlining States Parties' obligations regarding the realization of the right to health under the ICESCR:

> *"As with all other rights in the Covenant, there is a strong presumption that retrogressive measures taken in relation to the right to health are not permissible. If any deliberately retrogressive measures are taken, the State party has the burden of proving that they have been introduced after the most careful consideration of all alternatives and that they are duly justified by reference to the totality of the rights provided for in the Covenant in the context of the full use of the State party's maximum available resources". (para. 32)*

The Committee on Economic, Social and Cultural Rights also explicitly recommended the access to OST as a key obligation of countries in guaranteeing the right to health and complying with Article 12 of the ICESCR and as an effective way of prevention of injecting driven HIV epidemics, including in other countries of the region[17].

The decision to terminate the OST pilot project is clearly a retrogressive measure negatively affecting the response of the Government of Uzbekistan to the HIV epidemic. Prior to this decision, the Government undertook no research or assessment, and so was simply unable or unwilling to give serious and careful consideration to the circumstances related to the effectiveness of the project and to the possible consequences of terminating it. In particular, the Ministry of Health did not demonstrate that it had taken any measures to improve the systemic problems of the public health and drug treatment system affecting the program, or to improve the low capacity of the program staff or to cultivate political support, which were chiefly responsible for the program's shortcomings. Despite these challenges, the pilot program did in fact lead to better health outcomes for those reached by the service. Instead of taking positive measures to improve the effectiveness of the program, the Government chose to terminate it.

As a consequence, all those receiving OST through the pilot project were forced into detoxification with no further support – a situation seriously exacerbating the risk of relapse into illicit drug use, with all the attendant adverse consequences, from the greater risk of disease or death via risky injection practices (in addition to the risk of prosecution for use of illicit drugs and the further adverse health consequences to follow from detention and imprisonment).

As the Committee has made clear in its General Comment No. 14, there is a strong presumption that retrogressive measures in relation to the right to health are not permissible - and at a bare minimum, any such measures cannot be taken arbitrarily. Both the substance of Uzbekistan's termination of the pilot project on OST, and the manner in which it was done, contravene Article 12 of the Covenant.

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[17] For example" Consideration of reports submitted by States parties under articles 16 and 17 of the Covenant. Concluding observations of the Committee on Economic, Social and Cultural Rights. Poland, UN Doc E/C.12/POL/CO/5, paragraph 26: http://www2.ohchr.org/english/bodies/cescr/cescrs43.htm; Consideration of reports submitted by States parties under articles 16 and 17 of the Covenant Concluding observations of the Committee on Economic, Social and Cultural Rights. Kazakhstan, UN Doc E/C.12/KAZ/CO/1, paragraph 34: http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/428/62/PDF/G1042862.pdf?OpenElement; Consideration of reports submitted by States parties under Articles 16 and 17 of the Covenant. Concluding Observations of the Committee on Economic, Social and Cultural Rights. Russian Federation, UN Doc. E/C.12/RUS/CO/5, paragraph 29: http://www2.ohchr.org/english/bodies/cescr/cescrs46.htm.

Issues for consideration by the Government of Uzbekistan

With this in mind we would like to request the Committee on Economic, Social and Cultural Rights to offer the following issues to be addressed by and with the Government of Uzbekistan:

> *What were the reasons for the termination of the pilot program on opioid substitution therapy and what alternatives did the State Party considered before deciding to terminate the OST pilot program in order to justify its decision was not arbitrary with due reference to the right to health and other rights provided for in the Covenant, including the rights of the OST project's patients? Is the member state considering any plans to reinstate the OST program in some form, as recommended by UN specialized agencies?*

We would also like to offer the following **recommendation** for the Government of Uzbekistan:

> The State party shall resume the opioid substitution therapy program, in line with *WHO Guidelines for the Psychosocially Assisted Pharmacological Treatment of Opioid Dependence (2009),* to ensure an appropriate coverage as recommended in the *WHO/UNODC/UNAIDS Technical Guide for Countries to Set Targets for Universal Access to HIV Prevention, Treatment and Care for Injecting Drug Users (2009).*

ANNEX

The Canadian HIV/AIDS Legal Network (www.aidslaw.ca) promotes the human rights of people living with and vulnerable to HIV/AIDS, in Canada and internationally, through research and analysis, advocacy and litigation, public education and community mobilization. The organization is an NGO in Special Consultative Status with the Economic and Social Council of the United Nations.

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The Eurasian Harm Reduction Network (www.harm-reduction.org) 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.

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