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## ATMOSPHERIC PRESSURE: RUSSIAN DRUG POLICY AS A DRIVER FOR VIOLATIONS OF THE UN CONVENTION AGAINST TORTURE AND THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Mikhail Golichenko and Anya Sarang

### ABSTRACT

*Background:* Responding to problematic drug use in Russia, the government promotes a policy of “zero tolerance” for drug use and “social pressure” against people who use drugs (PWUD), rejecting effective drug treatment and harm reduction measures.

*Objective/Methods:* In order to assess Russian drug policy against the UN Convention Against Torture and the International Covenant on Economic, Social, and Cultural Rights, we reviewed published data from government and non-governmental organizations, scientific publications, media reports, and interviews with PWUD.

*Results:* Drug-dependent people (DDP) are the most vulnerable group of PWUD. The state strictly controls all aspects of drug dependence. Against this background, the state promotes hatred towards PWUD via state-controlled media, corroding public perception of PWUD and of their entitlement to human rights. This vilification of PWUD is accompanied by their widespread ill-treatment in health care facilities, police detention, and prisons.

*Discussion:* In practice, zero tolerance for drug use translates to zero tolerance for PWUD. Through drug policy, the government deliberately amplifies harms associated with drug use by causing PWUD (especially DDP) additional pain and suffering. It exploits the particular vulnerability of DDP, subjecting them to unscientific and ideologically driven methods of drug prevention and treatment and denying access to essential medicines and services. State policy is to legitimize and encourage societal ill-treatment of PWUD.

*Conclusion:* The government intentionally subjects approximately 1.7 million people to pain, suffering, and humiliation. Aimed at punishing people for using drugs and coercing people into abstinence, the official drug policy disregards the chronic nature of drug dependence. It also ignores the ineffectiveness of punitive measures in achieving the purposes for which they are officially used, that is, public safety and public health. Simultaneously, the government impedes measures that would eliminate the pain and suffering of DDP, prevent infectious diseases, and lower mortality, which amount to systematic violations of Russia’s human rights obligations.

### INTRODUCTION

There are an estimated 5 million people who use drugs (PWUD) in Russia.<sup>1</sup> Approximately 1.7 million people use opiates, predominantly by injection.<sup>2</sup> In response to growing problematic drug use, the federal government adopted a national drug policy in 2010 that was founded on zero tolerance for use of narcotic drugs and contained no reference

to human rights.<sup>3</sup> Medical interventions suggested in the policy are rooted in a total-abstinence framework and withhold evidence-based services such as opioid substitution therapy (OST) with methadone or buprenorphine. This leaves PWUD without access to a critical, scientifically established treatment method. Public health officials have suggested exerting “social pressure” on PWUD as an effective means of preventing drug use and dependence, setting a clear direction that the state and society should make the lives of PWUD so unbearable that they will be forced to cease using drugs.<sup>4</sup>

This paper assesses Russian drug policy in the light of the UN Convention against Torture (CAT) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR).<sup>5</sup>

We argue that it is important to review how social pressure and zero tolerance—allegedly aimed at alleviating drug problems—in reality serve to promote torture and other, cruel, inhuman, and degrading treatment and punishment (TCIDTP) of PWUD, especially drug dependent people (DDP), and to legitimize the state’s intentional failure to fulfill core obligations under Article 12 of ICESCR regarding the right to the highest attainable standard of health.

In this paper, we focus on three specific domains:

- media-promoted hate-discourse;
- ill treatment in medical institutions; and
- the abuse of power by police and penitentiary services.

We illustrate how public hate conspires with structures of state-sponsored violence and withholding of access to essential medicines and HIV prevention programs, creating a pressurized atmosphere in which PWUD are systematically deprived of their humanity and dignity.

## METHODS

In preparing this paper, we reviewed published data from the government; nongovernmental organizations; scientific publications; media reports; and interviews with PWUD. The data were assessed against the elements of ill treatment pursuant to the CAT and the state’s obligations related to Article 12 of the ICESCR.<sup>6, 7</sup>

## FINDINGS

### *Special vulnerability of DDP*

In Russia, opioids are by far the drug of choice of PWUD who develop drug dependence.<sup>8</sup> Opioid dependence is a chronic, relapsing brain disease.<sup>9</sup> All aspects of drug dependence are strictly controlled by the state:

- Drug use and possession for personal consumption is punishable by imprisonment;<sup>10</sup>
- People with drug dependence can be treated only in state health care institutions, and only with methods approved by the Ministry of Health (OST is prohibited);<sup>11</sup>
- The state equates effective HIV prevention programs such as needle and syringe programs to drug propaganda;<sup>12</sup>
- Health officials and official state drug policy promote intolerance towards PWUD.<sup>13</sup>

Exerting such control over the lives of DDP, the government humiliates users through an atmosphere of pain, suffering, and death in order to establish social pressure and expel drug users—and hence drug use—from society.

### *State promotion of hate-discourse via mass media*

Russian media outlets routinely represent drug-dependent people as “animals,” “scum,” “inhuman,” “dead men,” “zombies,” and people without “moral and ethical norms.”<sup>14</sup> The title of a 2010 federal television program is typical: “How to beat the crap out of an addict (my son is a monster).”<sup>15</sup> In another project, the commercial contractor developed twelve videos with the financial support of the government.<sup>16</sup> One video shows a man receiving anal sex while asking painfully, “I am a junkie; it is a disease, why does everyone laugh at me?” An off-screen voice answers, “No, my dear, you are a fag, because all junkies are fags, but not all fags are junkies.” The other 11 videos have a similar tone.<sup>17</sup>

The Russian Orthodox Church, one of the main implementers of the state drug policy and a prominent force in shaping public opinion, publicly shares the government’s attitude.<sup>18</sup> A senior Church representative in charge of cooperation with law enforcement states, “An addict either undergoes treatment or should be isolated from society ... we have many islands in our country; in the north, in the Far East.”<sup>19</sup>

Presenting PWUD as animals and zombies corrupts

perception of them as people “deserving” of human rights. Consider this comment by the plenipotentiary representative of the Chamber of Attorneys of the European Union to Russia, regarding a complaint submitted by a drug-dependent person to the UN about the lack of effective drug treatment in Russia: “I think this complaint has no prospects whatsoever. It was written by a person who depends on drugs and is unlikely to be considered legally capable, because drug dependence means that a person requires isolation and treatment.”<sup>20</sup>

By promoting hate and stigma against PWUD the state instigates and encourages their ill treatment by the state and private actors contrary to Article 2 of CAT.<sup>21</sup> It also promotes discriminatory practices that impede equal access to health services, in violation of Article 2(2) of ICESCR.

#### *TCIDTP in health care facilities*

Rationing medications and outright denial of access to health care are often justified on the presumption that PWUD don’t deserve expensive medications unless they solve their “drug problem.”<sup>22</sup> Drug-dependent patients are routinely banned from medical institutions; many such cases were documented in tuberculosis treatment facilities, which discipline drug-dependent patients by denying them access to medication and care, thus endangering their lives.<sup>23</sup>

Medical personnel regularly and deliberately humiliate PWUD, including pregnant women:

Yulya, 18, an HIV-positive former drug user from Kaliningrad:

The first words from the nurse: Go have an abortion. I said that I won’t. Then they started—how are you going to buy your child trousers? If your child is born without a leg, how are you going to buy shoes and put on trousers? They told me that a child could be born without legs or arms. When they learned that I am an ex-drug user, in their eyes I was a lost cause.<sup>24</sup>

The degrading treatment described in this interview violates Article 16 of CAT. In addition, the health care worker’s provision of false information contradicts the state’s obligation to refrain from intentional-

ly misrepresenting health-related information under Article 12 of ICESCR.<sup>25</sup>

Denial of access to life-saving medications is a *de facto* sentence to suffering and death. One of the most torturous practices is the denial of medication to manage pain:

Lesha Gorev, 35, died of AIDS-associated lymphoma:

I was in such pain. [Hospital personnel] thought I was a junkie. I never knew of pain like that before ... but they don’t care—“You’re in withdrawal! Go to narcology, we don’t treat people like you.” Only suffering and pain and hopelessness — and no help.<sup>26</sup>

This case is typical for DDP in Russian health care institutions: Patients experience pain, suffering, and denial of human dignity, even those who are terminally ill, all in the name of exerting “social pressure” on drug users. The government’s failure to ensure access to controlled medicines for pain relief is at odds with obligations under Article 2 of CAT and Article 12 of ICESCR.<sup>27</sup>

#### *Drug treatment: Ineffective and inhuman*

In the government’s view, “social pressure” encourages PWUD to quit drugs and DDP to begin drug treatment. Proponents of the social pressure approach argue that criminalization should be extended to include any use of a prohibited drug, with DDP then being offered so-called treatment as an alternative to criminal punishment. In other words, they seek to further intensify the state’s coercion, ostensibly to improve the therapeutic impact of treatment.<sup>28</sup> However, the system of drug treatment in Russia remains archaic and ineffective, based strictly on detoxification practices that follow Soviet-era models of repressive psychiatry. Such treatment runs contrary to international standards and causes suffering and humiliation for DDP.<sup>29</sup> Some of the medications which are not appropriate for drug dependence treatment are well known for their use in the repression of Soviet political dissidents.<sup>30</sup> For example, haloperidol, an antipsychotic medication used to treat schizophrenia, has no relation to drug treatment, but is commonly used to discipline patients:

Maxim Shmelev, 31, Kursk:

Once, [clinic staff] injected me with haloperidol. [When the] effects kicked in, I had horrendous feelings—my whole body felt twisted ... All my muscles were twisted by spasms, my head was thrown back, my spine was wrenched, and saliva was coming out of my mouth ... It was so painful! ... Haloperidol is not for medical purposes. It is a punishment.<sup>31</sup>

The use of psychiatric drugs outside of psychiatric protocols amounts to torture.<sup>32</sup> According to drug treatment experts, drug treatment in Russia is based not on scientific evidence, but on a belief that “if you suffer, next time you won’t do anything bad.”<sup>33</sup>

The government admits that over 90% of patients resume the use of illegal drugs within the first year following treatment.<sup>34</sup> Besides ill-designed detoxification, there is very limited access to affordable or quality drug treatment and rehabilitation: In 2011, there were three rehabilitation centers in Russia, with a total of 130 beds, as well as 87 rehabilitation wards, with a total of 1,730 beds, all for about 2.5 million officially registered people with addictions.<sup>35</sup>

Ineffectiveness of the state drug treatment system, coupled with the high demand for drug rehabilitation, results in a large number of private rehabilitation practices. Though often licensed by the state, these practices employ flogging;<sup>36</sup> starvation, and long-term handcuffing to bed;<sup>37</sup> “coding” (hypnotherapy aimed at persuading the patient that drug use leads to death); brain surgery;<sup>38</sup> live-burial for up to 15 minutes<sup>39</sup>; and electro-shock causing seizures, including via the placement of electrodes in the patient’s ears.<sup>40</sup>

Against this background, the government continues to ban proven and effective evidence-based OST with methadone and buprenorphine,<sup>41</sup> despite being criticized for the omission by UN human rights bodies.<sup>42</sup> PWUD also have very limited access to HIV prevention services such as needle and syringe programs (NSPs), which, despite being recommended by the World Health Organization and the UN General Assembly,<sup>43</sup> are equated with drug propaganda<sup>44</sup> and denounced as criminal offenses.<sup>45</sup>

Outdated and ineffective drug treatment methods on the one hand, and denial of the effective drug

treatment methods on the other hand, inevitably and predictably result in ill-treatment of DDP in state and private clinics. By demonstrating indifference or inaction, even in the face of well-documented abuses, public authorities acquiesce to this continued ill-treatment in evident violation of the government’s obligations under Article 2 of CAT. This is a clear instance of violation of CAT operating hand-in-hand with the government’s failure to ensure access to methadone and buprenorphine, which are listed by WHO as essential medicines for the treatment of opioid dependence.<sup>46</sup> Provision of essential medicines is among a state’s positive obligations under Article 12 of ICESCR.<sup>47</sup> Furthermore, the failure to discourage ongoing harmful medical practices is an additional violation of the government’s obligation to protect the right to health.<sup>48</sup>

*Torture or cruel, inhuman, or degrading treatment or punishment by law enforcement*

TCIDTP by law enforcement in Russia has been under review by the Committee Against Torture.<sup>49</sup> Police violence toward PWUD in Russia has been documented and referred to as omnipresent, “routine,” and “normalized.”<sup>50</sup> Arbitrary detention, physical violence, planting of drugs, extortion of money, rape (especially of sex workers), and torture to extort confessions<sup>51</sup> occur daily and without any accountability for the perpetrators. In the perception of police officers, human rights violations against PWUD are justified by the need to “press” them into “normal” lives.<sup>52</sup>

Male drug user, 29, Volgograd:

[The police major] has the distinction of being particularly pitiless with junkies. He considers them animals...he puts the gas mask on you, pinches the tube so that you can’t breathe, and then smacks the ashtray into your face so it turns black. He also liked to play with the telephone with a disk, by taking out two bald cables, putting them on your belly, and twisting the disk.<sup>53</sup>

Police brutality and lack of accountability, combined with a tough-on-drugs approach as part of the “social pressure” against drug use(rs), is manifest in the high rate of prosecution and incarceration of PWUD. Over 65% of drug users have prison experience.<sup>54</sup> The Federal Drug Control Service (FDCS) reports,

“One in every eight inmates in Russia is convicted for drug crimes; the number of drug users in the penitentiary system grew twofold from 2005 to 2011.”<sup>55</sup> In 2010, there were 222,600 drug crimes registered in Russia.<sup>56</sup> More than 75% of 104,000 convictions for drug crimes were for possession for personal use and for drug trafficking in “small amounts” (less than 0.5 gram for heroin).<sup>57</sup> In other words, 75% of convictions were directed against those who *use* rather than those who *supply* illicit drugs. When sentencing PWUD, courts commonly ignore the procedural errors made by law enforcement.<sup>58</sup> Police entrapment is a routine practice in Russia and courts often do not perceive it as a violation of the right to fair trial.<sup>59</sup> The rate of acquittals in Russian courts is less than 1%.<sup>60</sup>

### *Incarceration as death sentence for DDP*

Russia’s prisons are sites of rampant TCIDTP, in particular due to overcrowding and the lack of adequate health care.<sup>61</sup> Conditions in prisons are especially torturous for DDP who do not receive quality drug treatment. Opioid withdrawal syndrome “can cause severe pain and suffering if medical assistance is not provided accordingly.”<sup>62</sup> The common “treatment” for withdrawal in Russian prisons is physical violence and humiliation by the prison staff.<sup>63</sup>

The lack of effective drug treatment and HIV prevention measures in penitentiary facilities turns them into high-risk environments for HIV infection, since drugs are accessible in prisons while sterile syringes are not.<sup>64,65</sup> Prisons in Russia are also known as one of the main incubators of TB.<sup>66</sup> For many DDP, especially those with immune systems compromised through drug dependence or HIV, imprisonment in Russia is a de facto death sentence:

Parents of V. P. Samokhin, a 27-year-old prisoner from Orsk:

On July 15, Vova [Samokhin] had no TB. On September 14, Vova was suddenly taken to a prison hospital. The prison doctor told us that he was receiving treatment and that we only needed to bring in medicines for him. We did. A week before Vova died we were allowed to visit him .... Two men carried him in supporting him by his arms. Vova could hardly sit, could not speak and swallow, he only asked for some water. He had seven days to live. He died in

the most painful way, under the tranquil gazes of doctors and prison administrators. Along with the dead body, we were given the bag with medicines that we had sent him. The pills and ampoules were not even opened. Vova had not been given anything.<sup>67</sup>

State authorities admit that the “penitentiary system in Russia is ‘overwhelmingly archaic’ and ‘cripples the human psyche’ .... [T]he medical services cannot cope with the flow of human material that ends up in the penitentiary facilities.”<sup>68</sup> The harsh, frequent application of criminal justice measures instead of evidence-based social and medical interventions for PWUD means that authorities nullify the modest positive results of the ongoing reforms to the penitentiary system aimed at making prisons healthier and safer. Furthermore, authorities fail to fulfill their obligations to prevent unnecessary morbidity and preventable mortality under Article 12 of ICESCR, as well as obligations to prevent TCIDTP under Article 2 of CAT.<sup>69</sup> Indeed, withholding access to evidence-based health care, in prison conditions that intensify pain and suffering and contribute to preventable infections, is direct and deliberate state action that constitutes TCIDTP.

### DISCUSSION

The above-presented facts of ill-treatment in prisons, medical, and law enforcement settings are sufficient to establish Russia’s breaches of CAT. However, it is equally important to understand how the overall drug policy framework encourages these violations against a group of particularly vulnerable people whose lives and well-being are almost entirely controlled by the state because of their drug dependence and the state’s active, targeted efforts to expel drug use and users from society through punishment and coercion.

In practice, a government program of zero tolerance for drug use translates to zero tolerance for PWUD and those who advocate for their rights. Through drug policy, the government systematically and deliberately amplifies harms sometimes associated with drug use by causing PWUD (especially DDP) additional pain and suffering. Through its system of drug control laws, the government imposes extreme state control over the lives of DDP, rendering them particularly vulnerable to abuse, ill health, and unscientific and ideologically driven drug prevention and treatment

approaches. Only two options exist for DDP: overcome a chronic illness through willpower alone (in the face of an overwhelmingly hostile environment aimed at degrading the very person expected to overcome this health condition through such willpower), or continue using drugs and risk the consequences, including ostracism from society, medical humiliation or abandonment, exposure to HIV and other infectious diseases, incarceration, and finally death from overdose or other adverse health consequences of illicit drug use. Meanwhile, evidence-based drug treatment methods widely implemented around the world are withheld through criminal prohibition.

From the family sphere to mass media, institutional medicine, law enforcement, courts, and prisons, the ill treatment of people with a health condition is legitimized in private and public life. This incites and encourages state and private actors to treat these people poorly and deny them access to essential medicines and HIV prevention services. Against the backdrop of the Russian government's broader drug policy, these practices appear normalized, justified, and even beneficial in order to promote social pressure on drug users, while any restoration of rights or pursuit of social justice are framed as "loosening up on drugs."

The government is aware of the suffering of DDP due to their lack of access to effective medical services.<sup>70</sup> Yet it continues to exercise repressive law enforcement and judicial practices towards PWUD, with the apparent intent to humiliate, intimidate, and debase them through "social pressure," with the goal of purging drug use from society.

Given the high efficiency of OST, harm reduction, and human rights-based approaches, as well as clear recommendations for urgent introduction of these interventions in order to fulfill state obligations under Article 12 of ICESCR, the current Russian drug policy falls far short "the required necessary response" and appears to be in conflict with the core objectives of drug control, public health and public safety.<sup>71,72</sup> Studies demonstrate that harsh laws have no significant impact on drug use or on the availability of drugs in society, but contribute instead to the spread of HIV and death through overdose.<sup>73</sup> By contrast, harm reduction and OST are the most effective methods of prevention and treatment of opioid dependency and a key component of the prevention of both HIV and criminal activity among PWUD.<sup>74</sup>

While failing to reach the objective of protecting public safety, Russia's drug policy also undermines public health and violates human rights obligations in multiple ways.

## CONCLUSION

By promoting its policy of "social pressure," fixating on drug law enforcement, and denying evidence-based public health interventions, Russia reinforces structural conditions for the normalization of practices of TCIDTP against PWUD, in particular DDP. This pressure, allegedly aimed at alleviating drug problems and encouraging people to seek treatment, effectively leads to suffering, pain, humiliation, and often death. The broader analysis demonstrates how Russian drug policy amounts to ongoing, systematic violations of CAT and ICESCR. By way of drug policy founded on zero tolerance and social pressure on PWUD Russian state officials, medical doctors, non-governmental organizations, church, mass media, and other organizations, acting with the state's consent or acquiescence, are intentionally subjecting about 1.7 million people to severe physical pain, suffering, and humiliation, effectively punishing them for using drugs and trying to coerce them into abstinence. This is in complete disregard of the chronic nature of dependence and of the scientific evidence pointing to the ineffectiveness of punitive measures in achieving protection of public safety and public health. At the same time, the government is actively impeding measures that would eliminate the pain and suffering of DDP, prevent infectious diseases, significantly lower mortality, and ensure compliance with human rights obligations.

This policy must be revised in line with human rights standards. Respect for rights and dignity are as important for recovery of DDP as their access to effective treatment. Russia must urgently adopt a federal law promoting drug demand reduction and drug-related harm reduction through social and medical measures, rather than through law enforcement. The health care system should urgently accommodate the recommendations of WHO and the CESCSC related to drug treatment and HIV prevention among PWUD. Law enforcement and health care providers should be given appropriate training to protect PWUD from discrimination and ill-treatment, and bring Russia closer in line with international standards of human rights for all.

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