

**Implementation of UPR recommendations received and accepted by the Russian Federation during the second UPR cycle, as relevant to the fast growing HIV epidemic combined with multidrug-resistant tuberculosis**

Submission to the United Nations Human Rights Council  
Universal Periodic Review Working Group

Third Universal Periodic Review of the Russian Federation

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This report is drafted on behalf of three groups - Russian Public Mechanism for Monitoring of Drug Policy reform, Russian movement of activists and advocates for sex workers' rights 'Silver Rose', and a Russian MSM NGO Phoenix PLUS. The report is drafted by the Andrey Rylkov Foundation for Social Justice and Health with technical assistance of the Canadian HIV/AIDS Legal Network\*.

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## INTRODUCTION

1. This report provides information on the implementation of UPR recommendations received and accepted by the Russian Federation during the second UPR cycle, as relevant to the fast growing HIV epidemic combined with multidrug-resistant tuberculosis and rifampicin-resistant tuberculosis (MDR/RR-TB).<sup>i</sup>

2. We begin with UPR recommendations related to the right to health (Cuba and Brazil) and follow with UPR recommendations which have direct relevance to people who inject drugs (PWID), sex workers (SW), and men who have sex with men (MSM) as groups most marginalized and affected by HIV in Russia. PWID are also a group most vulnerable to MDR/RR-TB in Russia

3. We conclude with the following **recommendations for the Russian Federation during the third UPR cycle:**

- Provide clear legal grounds and other support to WHO recommended measures for HIV prevention among people who inject drugs, in particular the opioid substitution therapy with use of methadone and buprenorphine, as well as needle and syringe, and overdose prevention programs
- Address the vulnerability of people who inject drugs to HIV and depenalize drug use, by repealing administrative and criminal punishment for the use of narcotic drugs, possession of narcotic drugs with no intent to supply, and social distribution (micro-trafficking) of narcotic drugs.
- Address the vulnerability of sex workers to HIV and depenalize sex workers by repealing administrative and criminal punishment for voluntary adult sex-work and its management, and establish HIV and other health services for sex workers.
- Address the vulnerability of men who have sex with men and transgender persons to HIV and provide them with necessary protection against discrimination and violence, in particular through the adoption of anti-discrimination legislation and the revision of the existing discriminatory laws that prohibit information related to “non-traditional sexual relations”.
- Provide support for science-based and human rights oriented HIV prevention, treatment and care services for MSM and transgender persons.

## **UPR RECOMMENDATIONS GIVEN TO RUSSIA DURING THE SECOND UPR CYCLE, RELEVANT TO HIV AND MDR-TB**

4. Continue its efforts to ensure free medical services of high quality for its population (given by Cuba during the second UPR cycle and accepted by the Russian Federation)<sup>ii</sup>;
5. Strengthen its programmes aimed at the promotion of the right to health (given by Brazil during the second UPR cycle and accepted by the Russian Federation)<sup>iii</sup>.

## **IMPLEMENTATION OF THESE RECOMMENDATIONS BY RUSSIA WITH RESPECT TO HIV**

6. The Russian Federation failed to implement these recommendations.
7. Nearly two-thirds of European HIV cases are now in Russia. It is the only European country with a rising rate of new HIV infections, and that trend is getting worse.<sup>iv</sup>
8. Nearly 80 people living with HIV died every day during the first part of 2017. As of 30 June 2017 there were 1, 167, 581 HIV people officially registered in Russia; 259, 156 of them died since the beginning of epidemic in 1980th.<sup>v</sup>
9. As of June 2017 antiretroviral therapy (ARVT) was provided for 298, 888 patients (32,9% of all officially registered people living with HIV). Of them 12, 280 stopped taking ARVT for different reasons.<sup>vi</sup>
10. The number of people with combined HIV and TB is growing, reaching 35, 334 as of June 2017. People living with HIV are 50.9 times more often suffer TB than people from the general population.<sup>vii</sup>
11. In 2017, 50,3% of new cases of HIV were related to heterosexual contacts; 1,9% – homosexual contacts; and 46,6% – were due to unsafe injecting of illicit drugs. Thus, people who inject drugs (PWID), sex workers (SW), and men who have sex with men (MSM) remain the groups most affected and vulnerable to HIV.<sup>viii</sup>

## **IMPLEMENTATION OF THESE RECOMMENDATIONS BY RUSSIA WITH RESPECT TO MDR/RR-TB**

12. The Russian Federation failed to implement the above mentioned recommendations with respect to MDR/RR-TB.

13. The Russian Federation is a third after Lesotho and Namibia with the highest rate of MDR/RR-TB in the world. World Health Organization (WHO) estimates that Russia has a rate of 42 cases of MDR/RR-TB per 100,000 people; India - 9.9 cases; and China - 5.1 cases.<sup>ix</sup>

14. Russia, India, and China are responsible for 45% of all MDR-TB cases in the world.<sup>x</sup>

15. Official Russian statistics for 2015 shows 178, 080 people officially registered as living with TB; of them 37, 925 had MDR-TB.<sup>xi</sup> There is a stable annual growth of MDR-TB patients in Russia, from 17.1% of all TB patients in 2010 to 27,3% in 2016.<sup>xii</sup>

16. More than 40% of all people died of TB in Russia in 2015 had MDR-TB.<sup>xiii</sup> According to one official health institution, the number of TB cases decrease mostly because of the deaths of people living with TB, in particular of people living with combined HIV and TB.<sup>xiv</sup>

## **THE MAJOR REASON FOR FAILURES TO IMPLEMENT UPR RECOMMENDATIONS**

17. According to UNAIDS, HIV epidemic in Russia is an epidemic of stigma and discrimination.<sup>xv</sup> This extends to the above-mentioned three groups of the most affected populations.

18. Stigma and discrimination against PWID is a major driver for HIV and MDR/RR-TB, in particular because PWID suffer legal persecution, massive imprisonment, and the lack of access to evidence based HIV and TB prevention, treatment and care services for patients with drug dependence.<sup>xvi,xvii</sup>

19. Stigma and discrimination against SW is the major driver for HIV and sexually transmitted diseases among SW because they suffer legal persecution, police harassment, violence from their clients and often from police, and the lack of legal protection. Being legally outcast due to the legal ban on sex work, SWs are put in a position when the government stripes them of any legal protection and personal security. Law enforcement harassment and police raids increase vulnerability of SW to HIV. The government does not provide any support to researches and HIV prevention programs among SW.

20. Stigma and discrimination is a major driver for HIV among MSM due to the fact that the state-sponsored anti-gay propaganda laws drive MSM out of HIV prevention and treatment services. These laws fuel violence against MSM and prevent distribution of HIV prevention information among MSM through internet. The government does not provide any support to researches and HIV prevention programs among MSM.

### **UPR RECOMMENDATIONS GIVEN TO RUSSIA DURING THE SECOND UPR CYCLE, RELEVANT TO VULNERABLE GROUPS.**

21. Continue efforts to promote the rights of the vulnerable and marginalized groups in the country (given by Nepal and accepted by the Russian Federation);<sup>xviii</sup>

22. Carry on its efforts to protect the rights of vulnerable groups including children and persons with disabilities (given by Greece and accepted by the Russian Federation).<sup>xix</sup>

23. Many countries made recommendations regarding the need to intensify the protection of human rights of women. The Russian Federation accepted the majority of these recommendations.<sup>xx</sup> These recommendations are relevant to SW and women who use drugs.

24. Many countries made recommendations regarding non-discrimination of LGBT. The Russian Federation accepted some of these recommendations.<sup>xxi</sup> These recommendations are relevant to MSM.

### **IMPLEMENTATION OF UPR RECOMMENDATIONS WITH RESPECT TO PWID.**

25. The Russian Federation failed to implement these recommendations with respect to people who inject drugs as a marginalized and vulnerable group.

26. The government's official policy towards drug use is one of "social intolerance,"<sup>xxii</sup> which seeks to legitimize and encourage societal ill treatment of people who use drugs. Russian and international civil society organizations have documented massive and grave human rights violations and published reports describing the impacts of Russian drug treatment and care on the human rights of PWUD, including widespread and systematic torture and ill treatment, and the denial of access to essential medicines and services<sup>xxiii,xxiv,xxv</sup> As such, the Russian government treats drug use as punishable offence, rather than a health condition.

27. There are two cornerstones of this policy. The first is a ban on opioid substitution therapy (OST), and the preclusion of harm reduction services. The second is a criminalization of drug use and drug-use related behavior, such as the possession or illicit drugs for personal use, and the social distribution of drugs in small quantities (micro-trafficking). In 2013-2015 Russia also introduced different forms of coercive treatment enforced by the criminal justice system, which is in conflict with the International Covenant on Economic, Social and Cultural Rights as it does not allow for the ability to withdraw from treatment.<sup>xxvi</sup>

28. As a result of the current drug policy, about 25% of all prisoners in Russia are in prison for drug crimes; and almost 40% of imprisoned women are in prisons for drug crimes.<sup>xxvii</sup>

29. Policing and the risk of arrest drives people who use drugs from health services and force them to practice unsafe injecting, which leads to HIV. When in prison PWID get infected with TB, often due to the fact that their immune system is weakened by drug dependence and HIV.<sup>xxviii</sup> In addition to this, the lack of evidence based drug dependence treatment, such as OST, also leads to high failure and default rates of TB treatment among PWID, which leads to MDR/RR-TB.<sup>xxix</sup>

**UN HUMAN RIGHTS TREATY BODIES RECOGNIZE THESE FACTORS OF STIGMA AND DISCRIMINATION AND MADE IMPORTANT RECOMMENDATIONS TO THE RUSSIAN FEDERATION.**

30. The UN Committee on Economic, Social and Cultural Rights (CESCR) urged the Russian Federation to apply a human rights-based approach to drug users so that they do not forfeit their basic right to health. The Committee strongly recommended the Russian Federation to provide clear legal grounds and other support for the internationally recognized measures for HIV prevention among injecting drug users, in particular the opioid substitution therapy with use of methadone and buprenorphine, as well as needle and syringe, and overdose prevention programs.<sup>xxx</sup>

31. The Russian Federation did not implement these CESCR recommendations

32. The UN Human Rights Committee (HRC) recommended Russia to take all measures necessary to ensure that: (a) its policies vis-à-vis drug users deprived of their liberty fully conform to its obligation to effectively protect them against the pain and suffering associated

with the withdrawal syndrome and that timely, adequate and scientifically based medical assistance to counter withdrawal symptoms is available in practice; (b) adequate legal safeguards are in place to prevent interrogations or any other procedural actions being conducted while the person is suffering from the withdrawal syndrome; and (c) due process rights of drug users deprived of their liberty, including not to be compelled to testify against themselves, are effectively respected in practice.<sup>xxxii</sup>

33. The Russian Federation did not implement these HRC recommendations.

34. The UN Committee on the Elimination of Discrimination against Women (CEDAW) recommended Russia to to develop programs of substitution therapy, in line with the recommendations of the World Health Organization, for women drug users, and intensify the implementation of strategies to combat HIV/AIDS, in particular preventive strategies, including by increasing efforts to prevent sexual and mother-to-child transmission.<sup>xxxiii</sup>

35. The Russian Federation did not implement these CEDAW recommendations.

36. The implementation of these recommendations is absolutely critical to ensure the right to health, the right to be free from discrimination, the right to be free from ill-treatment, and the right to liberty and security of the person in Russia. Moreover, the implementation of these recommendations is critical to ensure effective measures of HIV and MDR/RR-TB prevention, care and treatment in Russia.

### **RECOMMENDATIONS TO THE RUSSIAN FEDERATION DURING THE THIRD UPR CYCLE WITH RESPECT TO HIV AND MDR/RR-TB MOST AFFECTED POPULATION – PEOPLE WHO INJECT DRUGS.**

- Provide clear legal grounds and other support WHO recommended measures for HIV prevention among people who inject drugs, in particular the opioid substitution therapy with use of methadone and buprenorphine, as well as needle and syringe, and overdose prevention programs
- Address the vulnerability of people who inject drugs to HIV and depenalize drug use, by repealing administrative and criminal punishment for the use of narcotic drugs, possession of narcotic drugs with no intent to supply, and social distribution (micro-trafficking) of narcotic drugs.

## **IMPLEMENTATION OF UPR RECOMMENDATIONS WITH RESPECT TO SW.**

37. The Russian Federation failed to implement these recommendations.

38. The Russian Federation penalizes sex workers in two ways. First, by imposing the administrative punishment for prostitution.<sup>xxxiii</sup> Second, by imposing criminal punishment of up to 8 years in prison for the organization of “prostitution”.<sup>xxxiv</sup>

39. According to the Russian Supreme Court, in 2015, magistrates considered 12,269 administrative cases under Article 6.11 and convicted 10 536 persons<sup>xxxv</sup> vs total of 60 persons convicted under criminal article 240 (engaging others into “prostitution”) and 123 persons under Article 241 (organizing of the “prostitution”) of the Criminal Code.

40. The criminalization of sex work infringes on the enjoyment of the right to health, by creating barriers to access by sex workers to health services and legal remedies. When sex workers are not recognized as engaging in legitimate work, they are not recognized by standard labor laws. Sex workers often cannot gain access to State benefits, and are not protected by occupational health and safety regulations that routinely protect employees in other industries.<sup>xxxvi</sup> Although sex work is often stigmatized and morally condemned, this is often the result of the state’s failure to respect, protect and fulfill the rights of sex workers. Sex work doesn't fit the Government's ideas of morality, and it starts from two quite opposite positions: that all “prostitution” is violence against women.<sup>xxxvii,xxxviii</sup>

41. Penalization of sex work deprives SW of their legal protection and basic freedoms. In 2013, the first All-Russian Sex Workers’ Association was refused the official registration with references to laws, which prohibit “prostitution”.<sup>xxxix</sup>

## **UN HUMAN RIGHTS TREATY BODIES AND UN AGENCIES RECOGNIZE THESE FACTORS OF STIGMA AND DISCRIMINATION AND MADE IMPORTANT RECOMMENDATIONS TO THE RUSSIAN FEDERATION.**

42. CEDAW recommended the Russian Federation to repeal a provision of its Administrative Code, which penalizes prostitution, and to establish an oversight mechanism to monitor violence against women involved in prostitution, including by the police.”<sup>xl</sup>

43. The International Labour Organization recognizes voluntary sex work as a form of



labour<sup>xli</sup> as does the Committee on the Elimination of all Forms of Discrimination Against Women.<sup>xlii</sup>

44. The UN Special Rapporteur on the right health recommends the UN member states to decriminalize sex work as a public health measure.<sup>xliii</sup>

45. Amnesty International, recommends to repeal laws which criminalize the sale of sex, and to repeal laws which make the buying of sex from consenting adults or the organization of sex work (such as prohibitions on renting premises for sex work) a criminal offence.<sup>xliv</sup>

46. WHO, UNAIDS and other UN agencies and programs relies on human rights and public health arguments in favor of “decriminalization of sex work and the elimination of the unjust application of non-criminal laws and regulations against sex workers to recognize and respect sex work as a legitimate occupation or livelihood”. They recommend to “decriminalize or de-penalize sex work in order to reduce fear among sex workers and increase condom use” as a part of national policies crucial for HIV prevention.<sup>xlv</sup>

47. The Lancet, a medical journal, in March 2017, published an article with a clear conclusion that countries that have legalized sex work have significantly lower HIV prevalence among sex workers than countries that criminalize sex work”.<sup>xlvi</sup>

48. The Russian Federation does not take these recommendations into account and continues to penalize sex work.

### **RECOMMENDATIONS TO THE RUSSIAN FEDERATION DURING THE THIRD UPR CYCLE WITH RESPECT TO HIV AFFECTED POPULATION – SEX WORKERS**

- Address the vulnerability of sex workers to HIV and depenalize sex workers by repealing administrative and criminal punishment for voluntary adult sex-work and its management, and establish HIV and other health services for sex workers.

### **IMPLEMENTATION OF UPR RECOMMENDATIONS WITH RESPECT TO MSM.**

49. The Russian Federation failed to implement these recommendations.

50. In August 2017 a coalition of LGBT organizations presented a joint report for CESCR. The report attests to multiple cases of systematic and serious human rights violations, including violence against people from LGBT communities, and the violation of the right to health due to the lack of HIV prevention among MSM and transgender persons. The state-sponsored stigma and discrimination, including the anti-gay propaganda laws, is a particular reason for these violations.<sup>xlvi</sup>

**UN HUMAN RIGHTS TREATY BODIES AND UN AGENCIES RECOGNIZE THESE FACTORS OF STIGMA AND DISCRIMINATION AND MADE IMPORTANT RECOMMENDATIONS TO THE RUSSIAN FEDERATION.**

51. CEDAW recommended the Russian Federation to provide necessary protection against discrimination and violence against lesbian, bisexual, transgender and intersex women, in particular through the adoption of anti-discrimination legislation and the revision of the existing discriminatory laws that prohibit intersecting forms of discrimination.<sup>xlvi</sup>

52. HRC recommended that the Russian Federation should clearly and officially state that it does not tolerate any form of social stigmatization of homosexuality, bisexuality or transsexuality, or hate speech, discrimination or violence against persons based on their sexual orientation or gender identity; and take all the steps necessary to strengthen the legal framework protecting LGBT individuals from discrimination and violence and ensure the investigation, prosecution and punishment of any act of violence motivated by the victim's sexual orientation or gender identity; repeal laws banning the "promotion of non-traditional sexual relations to minors" adopted at the regional and federal levels; exclude transgender identity, bi - gender identity, asexuality and cross-dressing from the list of medical conditions constituting contraindications to driving; guarantee the exercise in practice of the rights to freedom of expression and assembly of LGBT individuals and their supporters .<sup>xlv</sup>

53. The UN Committee against torture (CAT) recommended the Russian Federation to take effective measures to ensure the protection of LGBT persons, and condemn attacks against LGBT persons, organize awareness-raising campaigns, including among the police, promoting tolerance and respect for diversity.<sup>1</sup>

54. The Russian Federation did not fulfill these recommendations. We argue that had the Russian Federation paid heed to these recommendations, the vulnerability of MSM to HIV would have been significantly reduced.

## **RECOMMENDATIONS TO THE RUSSIAN FEDERATION DURING THE THIRD UPR CYCLE WITH RESPECT TO HIV AFFECTED POPULATION – MSM**

- Address the vulnerability of men who have sex with men and transgender persons to HIV and provide them with necessary protection against discrimination and violence, in particular through the adoption of anti-discrimination legislation and the revision of the existing discriminatory laws that prohibit information related to “non-traditional sexual relations”.
- Provide support for science-based and human rights oriented HIV prevention, treatment and care services for MSM and transgender persons.

### **ANNEX I**



Andrey Rylkov Foundation for Health and Social Justice ([www.rylkov-fond.org](http://www.rylkov-fond.org)) is a grass-roots organization from Moscow, Russia with the mission to promote and develop humane drug policy based on tolerance, protection of health, dignity and human rights. The Foundation engages in 4 key strategies to advance its mission: advocacy, watchdog, service provision and capacity building of affected communities and individuals. From 2009 the Foundation serves as a Secretariat for the Russian Public Mechanism for Monitoring of Drug Policy reform, a consortium of more than 70 civil society activists, legal and medical professionals, which are committed to improve drug policy in Russia through legal and policy analysis, information sharing, and strategic litigation.

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In preparation of this report the Foundation was assisted by the Canadian HIV/AIDS Legal Network



The Canadian HIV/AIDS Legal Network ([www.aidslaw.ca](http://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 Legal Network is Canada’s leading advocacy organization working on the legal and human rights issues raised by HIV/AIDS. (An NGO with Special Consultative Status with the Economic and Social Council of the United Nations)

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- <sup>i</sup> Global tuberculosis report 2016. Table 2.2 <http://apps.who.int/iris/bitstream/10665/250441/1/9789241565394-eng.pdf?ua=1>
- <sup>ii</sup> Human Rights Council. Twenty-Fourth Session. Report of the Working Group on the Universal Periodic Review. Russian Federation. A/HRC/24/14. July 2013.
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- <sup>v</sup> HIV in Russia. Statistics of the first part of 2017. September 11, 2017. <https://spid.center/articles/1420> (Accessed October 4, 2017)
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- <sup>xii</sup> Epidemiological TB situation in Russia in 2015
- <sup>xiii</sup> WHO Global tuberculosis report 2016. <http://apps.who.int/iris/bitstream/10665/250441/1/9789241565394-eng.pdf?ua=1> (Accessed 4 October 2015)
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- <sup>xix</sup> Ibid.
- <sup>xx</sup> Ibid
- <sup>xxi</sup> Ibid
- <sup>xxii</sup> Adopted by the Decree of the President of the Russian Federation No. 690 of June 9, 2010. Para 23, 48.
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\*Information about this organization is in Annex II

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