

of services is crucial for addressing both acute physical needs and the social dimensions of the epidemic.

Palliative care aims to improve the quality of life for patients and families facing life-threatening diseases by relieving pain and suffering through the provision of physical, psychosocial and spiritual care.<sup>2</sup> Dealing with legal and human rights issues that arise is thus a natural part of this holistic approach. Providing legal services to people in palliative care not only can protect their rights, but also can reap improvements in their health, well-being and quality of life.

People living with HIV/AIDS often face complicated legal questions related to the disposition of property, planning for children, gaining access to social benefits, and combating discrimination in employment, housing and education. Children, elderly caregivers and child- and youth-headed households are particularly vulnerable to human rights abuse.

The reference committee initiative aims to create the partnerships necessary between the palliative care and legal communities for the provision of comprehensive services that enable both pain management and the tackling of important social concerns. With a robust legal community in addition to a growing network of hospice and palliative care providers, South Africa is an ideal place to pilot such an integrated initiative.

Based in Cape Town, the reference committee is made up of three working groups composed of legal and palliative care practitioners from across South Africa. The working groups focus on the need for materials straddling both the palliative care and legal disciplines; the integration of legal services in hospices; and advocacy for improving access to palliative care (including pain relief) in the public sector as a basic human right.

Projects already underway include a joint paralegal and palliative care manual on comprehensive end-of-

life services, a university law student placement in a hospice to defend the rights of palliative care patients, and a background paper and curriculum exploring legal arguments and mechanisms to promote palliative care as a human right. It is hoped that the project will serve as a model for the integration of health and legal services in other disciplines and regions.

— Tamar Ezer and Joan Marston

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<sup>1</sup> South African Department of Health, *National Strategic Plan for HIV, AIDS, TB and STIs 2007-2011*.

<sup>2</sup> World Health Organization Definition of Palliative Care, 2002. At [www.who.int/cancer/palliative/definition/en/print.html](http://www.who.int/cancer/palliative/definition/en/print.html).

## Legal aid works! Harm reduction and legal services in Poltava, Ukraine

**Drug users' inability to protect their rights makes them easy targets for extortion and false arrest by law enforcement officials, writes Maxim Demchenko, a lawyer from Poltava. In response, a legal aid project supported by LAHI and OSI's International Harm Reduction Development Program (IHRD) has succeeded in defending drug users against criminal charges and changing the attitudes of some police officers.**

Ukraine has obligations under both national and international law to respect the human rights of people liv-

ing with HIV and those who are vulnerable to HIV infection from the use of illicit drugs. For these obligations

to be met, the cooperation of all government authorities, particularly the Internal Affairs agencies, is essential.

The reality, however, is that it is common practice among law enforcement bodies in Ukraine to arrest drug users, confiscate their narcotic substances, register them on official lists, and initiate criminal proceedings against them.

Such conduct is encouraged by documents in the Ministry of Internal Affairs of Ukraine that still authorize criminal proceedings for illegal preparation, purchase or storing of a relatively small amount of psychoactive substances for personal use (Article 309(1)). A majority of persons prosecuted through this article are those who suffer from drug dependency and are themselves victims of organized drug crime. Unless this law is repealed or amended, it will be impossible to improve the conduct of law enforcement officials towards drug users and, in turn, to reduce HIV vulnerability.

Drug users in Ukraine cannot adequately protect their rights. Knowing this, law enforcement officials institute criminal proceedings against them without any policy justification, leading to severe overcrowding in prisons and jails.

Prisons in Ukraine are not designed to accommodate the present number of sentenced persons, a majority of whom are chemically dependent and living with HIV/AIDS. As a result, incarceration conditions do not meet even the existing sanitary and hygienic norms required by Ukrainian legislation, let alone international human rights standards.

Currently, police officers are required to submit regular performance reports based on a series of indicators, one of which is the number of criminal cases instituted for crimes in the area of illegal drug trafficking. This compels officers to

institute criminal cases with no valid evidence in order to avoid being fined, which is contrary to the goals of both the criminal law and public health.

In the city of Poltava, it is quite common to charge drug users (a majority of whom are HIV-positive) with unsolved crimes not even related to drug use. Police officers deliberately make false accusations, justifying their illegal actions by claiming that drug users are guilty of some sort of offence in any case.

Coercive and illegal interrogation methods, including threats of physical and psychological violence, and the use of unmediated withdrawal from opiates as a form of physical duress, are used to extort confessions from accused persons, after which they sign the relevant documents without knowing their content or the likely outcomes of their action.

Through a combination of human rights monitoring of police investigations, awareness-raising among law enforcement officials, and meetings with top officials of the agencies of the Ministry of Internal Affairs, it has been possible for civil society organizations to significantly lessen these abuses.

In 2005, with the support of the Soros-funded International Renaissance Foundation (IRF) and the cooperation of the law firm YUREKS, the NGO Light of Hope established a Legal Assistance Centre at its harm reduction program in Poltava. Over 100 drug users, people living with HIV, or their relatives have received some form of legal assistance.

A number of drug users were found not guilty of criminal charges as a result of lawyers pointing to the lack of evidence to prosecute

their case. The mere presence of a powerful and professional legal organization working closely with drug users has changed the attitude of even some of the most hardened members of the Ministry of Internal Affairs, which has helped to prevent a significant number of human rights violations.

The IRF-funded project also includes educational workshops for various branches of the police and prosecutors to educate them about harm reduction and antiretroviral treatment for HIV. The workshops emphasize that police are, first and foremost, members of the community, with a responsibility to protect other citizens.

Our experience has shown that intensive and continuous awareness-raising among police is one of the key ways to foster tolerant attitudes towards drug users and people living with HIV/AIDS. These workshops are so essential that we conduct them even when we do not have the funds to do so. Also, as a result of the workshops, we have succeeded in establishing constructive partnerships with the top officials of the city and regional departments of the Ministry of Internal Affairs of Ukraine.

In spite of this progress, the same human rights violations that we initially observed three years ago are still particularly acute in the Poltava region, particularly in the towns of Kremenchuk, Lubny and Khorol. These violations are not limited to the criminal justice sphere. We have also observed many instances of denial of high-quality health care, involuntary disclosure of HIV status by health workers, and refusal to admit children living with, or affected by, HIV/AIDS or addiction to kindergartens.

We will continue to work on these issues, as we have since 2003. In a short time, we have gained experience in protection of the rights and freedoms of our clients, improved our relationships with local authorities,

and earned a positive image as an organization that can stand up for the rights of its most marginalized clients.

– Maxim Demchenko

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## Georgia: Anti-drug law violates human rights

**At a time when the Georgian government should be protecting the human rights of people who use drugs, Parliament enacted a law that specifically aims to increase stigma against drug users by imposing a range of administrative sanctions against them, Nina Kiknadze and David Otiashvili write.**

In July 2007, legislation entered into force in Georgia imposing a range of administrative sanctions against people who use drugs in order to increase social stigma against drug use. The legislation deprives drug users of several rights and privileges for a period of three years. These rights include: the right to drive a vehicle; the right to hold a medical license; the right to advocate as a lawyer; the right to teach and take part in educational institutions; the right to participate in state or local public administration bodies; certain voting rights; and the right to manufacture, purchase, store and carry firearms.

The situation of drug use and related harms (such as HIV infection) has worsened in Georgia in the last ten years. According to a 2005 public opinion survey, the general public views the drug use as the second most serious problem in Georgia after unemployment.<sup>1</sup>

Injecting drug use presents one of the most serious threats to public health in the country. As many as 63.9 percent of all identified cases of HIV occur among injecting drugs users. Still, the government has undertaken no concrete steps to adequately respond to this problem. There is a dire lack of treatment options, especially for drug users from lower social classes who cannot afford to pay for treatment. Existing drug programs are outdated, and evidence-based treatment is lacking.

In 2005, only 603 drug users were estimated to have entered treatment in Georgia, although the demand for treatment was much higher. Thousands of drug users are on waiting lists for opiate substitution treatment, which is the most effective proven treatment for opioid addiction.

This huge gap results from significant funding cuts in recent years in the government's budget for addiction treatment. Government funding

for prevention, treatment, rehabilitation, harm reduction and research has decreased from 430,000 GEL (US\$275,475) in 1997 to 50,000 GEL (US\$32,032) in 2006.

Civil society organizations identify the main barriers to addressing Georgia's drug problem as lack of political acknowledgement of the real problems underlying, and caused by, drug use — as well as a weak commitment on the part of decision-makers to solve these problems in an evidence-based way. Proven evidence-based interventions are severely neglected.

The government employs a simplistic, but politically expedient, prohibitionist approach as the main tool for solving drug problems. Georgian legislation qualifies any drug offence as a severe crime and criminalizes drug use itself. Yet this strict criminal approach has not been effective to reduce drug problems in Georgia (or anywhere else for that matter).

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