

How to Make Tajikistan's Drug Laws More Effective and Humane

Tajikistan's current laws regarding drug users and drug policy are a cumbersome mix of recently adopted international obligations and regressive provisions dating back to the Soviet period. With support from the Open Society Foundations' Global Drug Policy Program and the Open Society Institute Assistance Foundation–Tajikistan, representatives from the country's Ministry of Health, the Drug Control Agency, and civil society organizations analyzed existing drug legislation and bylaws with the aim of identifying areas for improvement. The group's initial research includes the following findings and recommendations.

FINDINGS

Overzealous law enforcement

- Current legislation stresses criminalization of drug use over treatment. Consequently, law enforcement officials combating drugs are often held to achieving “results” in the form of arrests and convictions, prompting police officers and their supervisors to abuse the basic rights and procedures for drug users and others detained by the police. Courts demonstrate similar behavior, with an emphasis on rendering convictions that can overshadow and potentially violate due process and human rights: in 2009, out of 637 cases considered, courts in Tajikistan rendered only 4 “not guilty” verdicts.

Discriminatory labor and civil codes

- The country's labor code gives sweeping rights to employers to fire or suspend any employee who uses narcotic substances—this blanket permission completely disregards the situation and legal rights of employees who are participating in opioid substitution therapy.
- Provisions in the country's civil and family codes directly discriminate against drug users and can be used against people who are trying to manage their addiction to strip them of their rights to marry, be a parent, adopt a child, or receive financial support from a spouse.

- Tajikistan's civil code imposes limitations on citizenship rights for people who abuse drugs or alcohol.

Insufficient support for harm reduction

- Tajikistan's law on narcotic drugs requires major reforms and lacks sufficient measures to protect and promote substitution therapy and other harm reduction practices.

Mandatory treatment and lack of confidentiality

- Tajikistan's executive and general criminal codes specify mandatory medical treatment for individuals who suffer from alcoholism or drug addiction as well as those who have HIV, TB, and or venereal disease.
- Tajikistan's public health protection law specifies that patients diagnosed with TB and other diseases who refuse official examination and treatment are subject to forced examination and treatment and potentially further legal punishment.
- Despite laws with language regarding patient confidentiality, standards and practices to ensure confidentiality are not in place. In fact, the confidentiality of patients is often violated based on other laws that allow officials to ask health providers about patients. Health providers, particularly in rural areas, often misunderstand these

requests or are unaware of confidentiality practices and supply officials with detailed personal information about patients who have received medical services.

RECOMMENDATIONS

The following recommendations are a starting point for reforms to make drug policies in Tajikistan more effective and humane.

Reform law enforcement policies and practices

- Labor laws and civil codes that single out an individual for only having the condition of drug dependency or alcoholism should be rewritten. The focus should be on the individual's behavior and actions that are inappropriate or illegal, not their consumption of substances.
- Law enforcement officials and agencies need to review the existing measures they use to assess performance in combating drugs. Overreliance on indicators such as "arrests" and "convictions" can often come at the expense of civil and human rights, the erosion of the rule of law and due process, and the increase of mistrust and tension between the criminal justice system and the public. Law enforcement officials need to shift the focus of their policies and practices from drug users to dealers and large scale drug selling networks.

Ease restrictions on opioid-based medicines

- The country's laws on narcotic drugs, narcological aid, and medical activities need to be reformed to decrease limitations on the use of opioid-based medicines. Legal reforms should support and strengthen needle and syringe exchange and opioid substitution therapy programs that prevent the spread of HIV.

Outlaw forced medical treatment

- The forced medical treatment described in Tajikistan's executive criminal code limits an individual's human right to manage their own personal health. Forced medical treatment may be justified only when an individual is assessed by health professionals as suffering from mental health conditions that make the individual dangerous to themselves or others. Just as most societies do not impose legal penalties for those who do not seek treatment for the condition of alcoholism, not seeking treatment for addiction to psychoactive substances does not justify criminal penalties such as forced treatment.
- The executive code's requirement of mandatory medical treatment for people living with HIV is also a basic violation of an individual's right to choose their own treatment. Tajikistan's executive criminal code laws regarding HIV also appear to be in conflict with the country's law on the prevention of HIV and AIDS, which specifies that individuals should pursue HIV therapy on a voluntary basis.

Enforce doctor/patient confidentiality

- Requiring medical caregivers and natural healers to inform health officials about patients with HIV and AIDS is a violation of doctor/patient confidentiality. Confidentiality laws in Tajikistan need to be strengthened and publicized. The emphasis should be on making health providers and law enforcement officials aware of the requirements that need to be met before officials prompt caregivers to disclose confidential information about patients.

To view the full report (in Russian) go to:
www.soros.org/initiatives/drugpolicy

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