



OPEN SOCIETY INSTITUTE
Public Health Program

Public Association “Musaada”

Observance of the Rights of Sex Workers to Obtain Health Care Monitoring of human rights in medical institutions in Osh city in the Kyrgyz Republic

Report for the “Akyikat” Project,
supported by the Soros Foundation Kyrgyzstan
and the Law and Health Initiative and Sexual Health
and Rights Project of the
Open Society Institute Public Health Program

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**OBSERVANCE OF THE RIGHTS OF SEX WORKERS
TO OBTAIN HEALTH CARE
MONITORING OF HUMAN RIGHTS IN MEDICAL
INSTITUTIONS IN OSH CITY IN THE KYRGYZ REPUBLIC**

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When I went to the hospital with appendicitis, the nurse learned that I work at the sauna. She became rude with me, saying that girls like me should be killed or put in jail. All the nurses learned where I work. Because of this, I had to be discharged from the hospital ahead of schedule, before my stitches were removed.

-- "Tatiana," a 19 year old sex worker from Osh

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INTRODUCTION

The situation that sex workers face when they seek treatment in the health care system was selected as the theme for this report due to on-going discrimination against and stigmatization¹ of this group.

The research team set out to identify the types of situations that sex workers face when they seek medical care and the types of rights violations that take place. Researchers undertook to confirm whether health care personnel discriminated against and stigmatized sex workers and committed other rights violations when sex workers sought treatment or counseling.

The results of the research presented in this report will form the basis for further initiatives on the elimination of stigma and negative attitudes toward other marginalized groups, including drug users, people living with HIV, and men who have sex with men (MSM), and the protection of their rights in the health care system.

Representatives of the investigated group reported cases when employees of medical institutions refused to provide them health care services. Such actions are evidence of discrimination and the violation of human rights.

Osh is the second largest city in Kyrgyzstan and is located in the Fergana Valley in the south of the country. The population of Osh is about 250,000 people, 35% of whom live below the poverty line. The minimum monthly wage being earned is about 300 som (about US\$8); enough money for just thirty loaves of bread. The economic backwardness of the southern part of the country, unemployment, and the low income of the majority of the population have been an impetus for an increase in the number of women selling sexual services. It is mainly needy women who are engaged in sex work in the south of the country. Because it is the second largest city in Kyrgyzstan, women migrate to Osh city in search of income from Osh, Jalal-Abad, and Batken provinces in Kyrgyzstan, as well as from neighboring countries that face economic difficulties. In the south, Kyrgyzstan borders three states—Uzbekistan, Tajikistan and China—the first two of which have soft border crossing regimes in place.

The Kyrgyz Republic has high levels of drug consumption. The situation is worsened by the fact that the drug trafficking route from Afghanistan to Russia and other countries in Eastern Europe goes through the Kyrgyz Republic (specifically Osh province). This factor promotes the growth of drug consumption and the involvement of young people in drug trafficking. In order to get money for drugs, female drug users take up sex work; at the same time, sex workers, trying to cope with stigma and other problems they face, begin to use drugs. According to official data, there are about 2,000 sex workers in Osh. Involvement in sex work exposes this group of women to a range of health risks.

At the present time, Osh province is first in the country in terms of the prevalence of HIV/AIDS, sexually transmitted infections, and drug addiction. Violations of sex workers' rights by medical personnel create an environment that fosters an increase

¹ Stigma (a word that comes from the ancient Greek) means a mark, a brand, a tattoo, a stain, or a spot. Stigma is interpreted as a prominent feature of a person that considerably "discredits" him or her in the opinion of other people. In our society, there is a strong opinion that people with sexually transmitted diseases or HIV/AIDS deserve this illness because of their presumed misbehavior. Frequently, behavior such as rendering sexual services, injection drugs use, homosexual relations, etc. is perceived as "bad behavior" that is connected with legal prohibitions or public censure of certain acts as nontraditional or immoral.

in the spread of disease, including HIV/AIDS and sexually transmitted infections, among the population. Sex workers deserve to enjoy good health and access to quality medical care to maintain their health. Addressing health risks that sex workers face will improve the health of this vulnerable group and also reduce the risk of the spread of disease to others.

SUMMARY OF FINDINGS

In interviews with researchers, sex workers reported numerous cases of discrimination, stigmatization, and infringement of their rights in the health care system.

Sex workers reported that they were often denied emergency health care; emergency staff either denied care outright or demanded that sex workers pay for the emergency teams' gasoline costs in exchange for treatment. Medical workers stigmatize sex workers and deny members of this group appropriate help when they learn their status as sex workers. There have been cases when medical personnel who possessed confidential information have disclosed this data about the private lives of patients and have violated the laws on medical secrecy. The research revealed facts of insult and humiliation of members of the target group.

Interviews with doctors revealed that stigmatization of, and discrimination against, patients who are sex workers is a serious problem at many medical institutions; one that reduces the efficiency of the health care being provided and that interferes with the implementation of preventive programs. Stigmatization and discrimination take various forms and can be seen in untimely and inadequate treatment or refusal of treatment and in unethical behavior or inadequate safety measures by medical personnel treating the surveyed group. They also have the effect of undermining patients' trust in doctors.

SUMMARY OF CONCLUSIONS

The research for this report identified problems that included discrimination against sex workers, stigmatization, untimely arrival of first aid, denial of health care to sex workers, and demands for extra payment for health care services. This has led sex workers to lose trust in medical institutions and often to make the decision to avoid professional medical aid and opt instead for self-treatment. Researchers learned that these factors have resulted in the deterioration of sex workers' health.

Eleven out of the thirteen doctors interviewed reported that polyclinics or hospitals are insufficiently staffed with qualified personnel and are insufficiently equipped with sanitary and hygienic supplies, medical preparations, and equipment; shortages that often are the reason for the refusal of medical aid to those who need it. All thirteen of the doctors interviewed underlined particularly medical personnel's heavy workload and low wages (the average monthly wage is 800 som, or about US\$21), and said that the co-payments, established as lawful fees that patients contribute toward in-patient medical treatment, have become an additional source of support for them. According to the regulation on co-payment, if a person is insured, the fee charged ranges from 200 to 650 som, depending on the nature of the medical services rendered; and in the absence of an insurance policy, the fee ranges from 970 to 2,500 som. As a rule,

sex workers are not covered by health insurance policies, therefore, the co-payment they are compelled to pay is perceived by them as extortion by medical staff; this then worsens the situation and increases a sex worker's self-stigmatization. This internalized stigma, or self-hate, can manifest itself in the development of an inferiority complex, the inability to build relationships with people, fear of discrimination, unreasonable feelings of helplessness, and a sense of one's lack of control over one's situation. The result is that a person forms the belief that his or her own opinion and interests have no value and that he or she is incapable of changing a situation.

Half of the doctors interviewed agreed to speak with researchers only on the condition of anonymity, in order to avoid being seen in a bad light or discriminated against by their colleagues or employers.

In Osh there is only one medical facility that provides sex workers with free health care services. This clinic is run by the NGO "Podruga," but is limited in the set of health care services it can provide as it employs only a few medical experts with narrow areas of expertise. Sex workers therefore have to seek care at other medical institutions, where they face discrimination and stigmatization.

SUMMARY OF RECOMMENDATIONS

The work of health care providers is most successful when accompanied by an information campaign to overcome stigmatization of, and discrimination against, patients. Considerable reduction of stigmatization and discrimination in the health care system can be achieved through a variety of complementary activities.

First of all, health care facilities should implement policies that prohibit discrimination against patients during the performance of professional duties. In addition, employees of treatment and prevention facilities should be provided comprehensive support, including programs to improve workplace conditions. Health care employees at all levels should be provided appropriate training to help them to understand the importance of the problem of negative and discriminatory attitudes toward patients from vulnerable groups and to participate in solving this problem.

Agencies responsible for providing training to health care workers should include in these programs information about the transmission of sexually transmitted diseases, HIV infection, and other diseases, as well as their level of professional risk. Training should also cover interpersonal skills required for respectful communications and equal treatment of patients, colleagues, and other people. Such trainings should also address methods for combating stress and coping with the physical and moral load that staff bear, as well as policy for proper staffing of medical facilities, including: expansion of the possibilities for independent work by health care personnel;² introduction of shift-based work hours; creation of possibilities for professional growth and promotion; early recognition of stress; and the development of communication skills. Trainings for health care workers should also include instruction about the rights of patients and health care workers guaranteed by the current legislation of the Kyrgyz Republic and international instruments.

² Pursuant to articles 22 and 84 of the Law "On protection of the health of citizens of the Kyrgyz Republic."

METHODOLOGY

During the course of research for this project, the team studied the observance of the rights of sex workers seeking health care at state medical institutions in Osh, where services are most accessible to the general population, including high-risk groups. Research covered five clinical hospitals, seven polyclinics (family health centers), and emergency health care centers in Osh city and Karasu district (a suburb of Osh). The thirteen doctors interviewed have various areas of specialty relevant to the health care needs of sex workers. Researchers interviewed 22 sex workers and surveyed another 107 sex workers about their experiences with the medical system. The names of those who agreed to provide information for this report were changed to preserve their confidentiality.

To conduct the research for this report, the team developed its own research methodology and monitoring plan. Researchers used a variety of methods of inquiry, including surveys, interviews, and open-ended conversations. Analysis of survey responses was conducted without the use of special software. The basic method of inquiry was a questionnaire developed for the conduct of semi-structured interviews. Separate questionnaires were developed for sex workers and for doctors.

LEGAL ANALYSIS³

The rights of patients in the Kyrgyz Republic are protected by constitutional guarantees providing equal rights for all citizens and specific legislation on health care, including the law "On protection of the health of citizens of the Kyrgyz Republic." Violation of domestic legislation protecting patients' rights is punishable under the law. In addition, the government has agreed to provide to Kyrgyz citizens the rights enshrined in core UN human rights documents, such as the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).

The most comprehensive articulation of patients' rights is provided in the European Charter of Patients' Rights. While the Charter is not legally binding on the government of the Kyrgyz Republic, as domestic legislation and UN obligations are, it does represent the regional standard for patients' rights to which countries should aspire and it therefore provides a useful framework for analyzing the performance of state health care systems in meeting the needs and rights of the citizenry.

The Committee on Economic, Social and Cultural Rights' General Comment to article 12 of the ICESCR elaborates on the right to the highest attainable standard of health.⁴ The General Comment establishes the international standard for important patients' rights issues such as consent to treatment, confidentiality of health information, and non-discrimination.

THE RIGHT OF ACCESS

Every individual has the right of access to the health services that his or her health needs require. The health services must guarantee equal access to everyone, without discriminating on the basis of financial resources, place of residence, kind of illness or time of access to services.⁵

³ This section was prepared by Dmitry Kabak for the Law and Health Program of the Soros Foundation Kyrgyzstan.

⁴ Substantive Issues Arising in the Implementation of the International Covenant on Economic, Social and Cultural Rights. General Comment No. 14 (2000). The right to the highest attainable standard of health (article 12 of the International Covenant on Economic, Social and Cultural Rights).

⁵ Article 2 of the European Charter of Patients' Rights.

Accessibility of medical services

International agreements urge states to create conditions that would assure to all medical service and medical attention in the event of sickness.⁶

The Constitution of the Kyrgyz Republic recognizes the need for regulation of the health care system through legislation. It guarantees the free delivery of first aid, as well as free medical care in certain cases of disease. The Constitution also recognizes the right of socially vulnerable groups to obtain medical care. The delivery of care is guaranteed both at private and public medical institutions.⁷ The right to emergency care is further elaborated in domestic legislation that guarantees immediate medical intervention will be provided in life-threatening situations.⁸

Non-discrimination

International agreements to which the Kyrgyz Republic is a party prohibit discrimination in the provision of the rights and freedoms therein.⁹ The ICESCR specifically guarantees access to health care facilities and services without discrimination.¹⁰

Domestic legislation also guarantees the equality of all people before the law. It states that no one can be exposed to any kind of discrimination or infringement of his or her rights based on origin, gender, race, ethnicity, language, confession, political and religious beliefs, or by any circumstances of a personal or public nature.¹¹

Domestic legislation explicitly guarantees that medical care will be provided to all without discrimination.¹² The doctors' oath includes a promise to deliver medical care to patients, respecting their human dignity, regardless of ethnicity, social position, political views or religion.¹³

THE RIGHT TO INFORMED CONSENT

*Every individual has the right of access to all information that might enable him or her to actively participate in the decisions regarding his or her health; this information is a prerequisite for any procedure and treatment, including the participation in scientific research.*¹⁴

Obligations adopted by the Kyrgyz Republic in the framework of international agreements guarantee each person's freedom from non-consensual medical treatment.¹⁵ These international instruments also assert rights integral to the exercise of informed consent, including the rights to security of person¹⁶ and to seek and obtain information.¹⁷

⁶ Article 12, paragraph 2 (d) of the International Covenant on Economic, Social and Cultural Rights.

⁷ Article 34, sections 1 and 2 of the Constitution of the Kyrgyz Republic.

⁸ Articles 22 and 23 of the Law "On protection of the health of citizens of the Kyrgyz Republic."

⁹ Article 2, paragraph 1 of the International Covenant on Civil and Political Rights; article 2, paragraph 2 of the International Covenant on Economic, Social and Cultural Rights; and others.

¹⁰ Substantive Issues Arising in the Implementation of the International Covenant on Economic, Social and Cultural Rights. General Comment No. 14 (2000). The right to the highest attainable standard of health (article 12 of the International Covenant on Economic, Social and Cultural Rights).

¹¹ Article 13, section 3 of the Constitution of the Kyrgyz Republic.

¹² Article 61 of the Law "On protection of the health of citizens of the Kyrgyz Republic."

¹³ Article 92 of the Law "On protection of the health of citizens of the Kyrgyz Republic."

¹⁴ Article 4 of the European Charter of Patients' Rights.

¹⁵ Substantive Issues Arising in the Implementation of the International Covenant on Economic, Social and Cultural Rights. General Comment No. 14 (2000). The right to the highest attainable standard of health (article 12 of the International Covenant on Economic, Social and Cultural Rights).

¹⁶ Article 9, paragraph 1 of the International Covenant on Civil and Political Rights.

¹⁷ See the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, and the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families.

The right to obtain information is recognized by the Constitution.¹⁸ Domestic legislation gives patients the right to information about their health, including the right to receive information in a comprehensible form and to receive information about the results of examinations, the occurrence of a disease, its diagnosis and forecasting, methods of treatment and related risks, options for medical intervention, their consequences, and the results of treatment that has been conducted.¹⁹ It is prohibited to conduct medical, biological and psychological experiments on people without their properly expressed and certified voluntary consent.²⁰

THE RIGHT TO FREE CHOICE

*Each individual has the right to freely choose from among different treatment procedures and providers on the basis of adequate information.*²¹

The exercise of conscious and responsible choice can take place only when a patient has been provided the relevant information by medical professionals. International human rights instruments affirm a person's right to obtain information²² and to recognition as a person before the law.²³

In accordance with the laws of the Kyrgyz Republic, a patient has the right to obtain comprehensible information about methods of treatment, the risk related to a particular treatment, options for medical intervention and their consequences, and data on medical personnel participating in the patient's examination and treatment.²⁴ Patients also have the right to select their attending physician, to reject the participation of students in diagnosis and treatment,²⁵ and to choose a family physician and general practitioner.²⁶

THE RIGHT TO PRIVACY AND CONFIDENTIALITY

*Every individual has the right to the confidentiality of personal information, including information regarding his or her state of health and potential diagnostic or therapeutic procedures, as well as the protection of his or her privacy during the performance of diagnostic exams, specialist visits, and medical/surgical treatments in general.*²⁷

International human rights law holds that nobody can be exposed to arbitrary or illegal intervention in his or her private or family life. Every person has the right to legal protection from such intervention or encroachment²⁸ and a specific right to have his or her personal health data treated with confidentiality.²⁹

The Constitution of the Kyrgyz Republic recognizes the right to protection of one's private life³⁰ and does not allow for collection, storage, use or dissemination of confi-

¹⁸ Article 14, section 3, paragraph 13 of the Constitution of the Kyrgyz Republic.

¹⁹ Article 73 of the Law "On protection of the health of citizens of the Kyrgyz Republic."

²⁰ Article 19, section 2 of the Constitution of the Kyrgyz Republic.

²¹ Article 5 of the European Charter of Patients' Rights.

²² See the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, and the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families.

²³ Article 16 International Covenant on Civil and Political Rights.

²⁴ Article 73 of the Law "On protection of the health of citizens of the Kyrgyz Republic."

²⁵ Article 72 of the Law "On protection of the health of citizens of the Kyrgyz Republic."

²⁶ Articles 61 and 66 of the Law "On protection of the health of citizens of the Kyrgyz Republic."

²⁷ Article 6 of the European Charter of Patients' Rights.

²⁸ Article 17, paragraphs 1 and 2 of the International Covenant on Civil and Political Rights.

²⁹ Substantive Issues Arising in the Implementation of the International Covenant on Economic, Social and Cultural Rights. General Comment No. 14 (2000). The right to the highest attainable standard of health (article 12 of the International Covenant on Economic, Social and Cultural Rights).

³⁰ Article 14, section 3 of the Constitution of the Kyrgyz Republic.

dential information about a person without his or her consent, except in cases established by law.³¹

Guarantees of confidentiality are part of the notion of medical secrecy, which covers information regarding referral to medical care, one's health status, diagnosis of a disease, and other data obtained upon examination or treatment of a patient.³² People who obtain data comprising medical secrets during training or execution of professional, official or other duties are not permitted to disclose such information.³³

THE RIGHT TO RESPECT FOR PATIENTS' TIME

*Each individual has the right to receive necessary treatment within a swift and pre-determined period of time. This right applies at each phase of the treatment.*³⁴

The ICESCR requires the creation of conditions that would ensure delivery of medical care to everyone in case of sickness.³⁵ The Committee on Economic, Social and Cultural Rights has interpreted this provision to include a guarantee of equal and timely access to medical treatment. The core UN documents do not set out standards for the timeliness of specific treatments.

The Constitution of the Kyrgyz Republic establishes that procedures for obtaining medical care shall be specified by the law.³⁶ The legislation entrusts health care facilities with the responsibility to provide timely medical care in accordance with their material and financial resources.³⁷ The right to respect for a patient's time is defined by programs approved by the authorized state body of the Kyrgyz Republic on public health.³⁸

THE RIGHT TO THE OBSERVANCE OF QUALITY STANDARDS

*Each individual has the right of access to high quality health services on the basis of the specification and observance of precise standards.*³⁹

International agreements to which the Kyrgyz Republic is a party assign the state the responsibility for ensuring protection of the rights of each person to the highest achievable level of physical and psychological health.⁴⁰

In the Kyrgyz Republic, the law recognizes the right of the patient to access to quality medical care at health care facilities, including private medical practices.⁴¹ The law also establishes penalties for the failure of people who deliver health services to provide quality care.⁴² In order to improve the quality of medical care, the authorized body in the health sector maintains accreditation of people in the medical field,⁴³ controls the quality of medical care and disease-prevention services, coordinates the quality of education, ensures quality control, safety, and the effectiveness of medications.⁴⁴

³¹ Article 14, section 4 of the Constitution of the Kyrgyz Republic.

³² Article 91 of the Law "On protection of the health of citizens of the Kyrgyz Republic."

³³ Article 91 of the Law "On protection of the health of citizens of the Kyrgyz Republic."

³⁴ Article 7 of the European Charter of Patients' Rights.

³⁵ Article 12, paragraph 2 (d) of the International Covenant on Economic, Social and Cultural Rights.

³⁶ Article 34, section 2, paragraph 2 of the Constitution of the Kyrgyz Republic.

³⁷ Article 95 of the Law "On protection of the health of citizens of the Kyrgyz Republic."

³⁸ Article 10 of the Law "On protection of the health of citizens of the Kyrgyz Republic." Under most circumstances the relevant authorized state body would be the Ministry of Health or the national Mandatory Health Insurance fund.

³⁹ Article 8 of the European Charter of Patients' Rights.

⁴⁰ Article 12, paragraph 1 of the International Covenant on Economic, Social and Cultural Rights.

⁴¹ Article 72 of the Law "On protection of the health of citizens of the Kyrgyz Republic."

⁴² Article 4 of the Law "On protection of the health of citizens of the Kyrgyz Republic."

⁴³ Article 6 of the Law "On protection of the health of citizens of the Kyrgyz Republic."

⁴⁴ Article 10 of the Law "On protection of the health of citizens of the Kyrgyz Republic." Here too, the authorized state body would most likely be understood to be the Ministry of Health or the national Mandatory Health Insurance fund.

THE RIGHT TO SAFETY

*Each individual has the right to be free from harm caused by the poor functioning of health services, medical malpractice and errors, and the right of access to health services and treatments that meet high safety standards.*⁴⁵

The safety of medical care is provided for through legislatively fixed procedures for health care delivery.⁴⁶ People responsible for delivering health care are held accountable for failure to provide such care safely.⁴⁷ The authorized state body responsible for health care regulates the observance of safety procedures.⁴⁸

THE RIGHT TO AVOID UNNECESSARY SUFFERING AND PAIN

*Each individual has the right to avoid as much suffering and pain as possible, in each phase of his or her illness.*⁴⁹

Each person has the right to security of his or her person.⁵⁰ International human rights standards include recognition of the inherent dignity of all people.⁵¹ Legal instruments specifically assert that no one shall be exposed to torture or cruel, inhuman and degrading treatment or punishment.⁵² The infliction of severe pain or physical or moral suffering by an official or any other person acting in an official capacity based on discrimination of any type is to be considered torture.⁵³

The Constitution of the Kyrgyz Republic provides for protection from torture and inhuman or degrading punishment.⁵⁴ A doctor's oath includes a pledge to relieve a patient's suffering to the best of his or her knowledge and skill.⁵⁵ Domestic legislation further stipulates that patients have the right to be treated with a humane attitude by medical staff and attendants.⁵⁶

THE RIGHT TO FILE A COMPLAINT

*Each individual has the right to complain whenever he or she has suffered a harm and the right to receive a response or other feedback.*⁵⁷

UN agreements on human rights guarantee each person the right to effective remedy for rights violations.⁵⁸ In its General Comment to article 12 of the ICESCR, the Committee on Economic, Social and Cultural Rights explicitly asserts that the covenant provides that, "Any person or group victim of a violation of the right to health should have access to effective judicial or other appropriate remedies at both national and international levels. All victims of such violations should be entitled to adequate reparation, which may take the form of restitution, compensation, satisfaction or guarantees of non-repetition. National ombudsmen, human rights commissions, consumer forums, patients' rights associations or similar institutions should address violations of

⁴⁵ Article 9 of the European Charter of Patients' Rights.

⁴⁶ Article 34, section 2, paragraph 2 of the Constitution of the Kyrgyz Republic.

⁴⁷ Article 4 of the Law "On protection of the health of citizens of the Kyrgyz Republic."

⁴⁸ Article 10 of the Law "On protection of the health of citizens of the Kyrgyz Republic." The Ministry of Health and other bodies to whom the state delegates authority are responsible for regulation of safety procedures.

⁴⁹ Article 11 of the European Charter of Patients' Rights.

⁵⁰ Article 9, paragraph 1 of the International Covenant on Civil and Political Rights.

⁵¹ The Universal Declaration of Human Rights.

⁵² Article 7 of the International Covenant on Civil and Political Rights.

⁵³ Article 1 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

⁵⁴ Article 19, paragraph 1 of the Constitution of the Kyrgyz Republic.

⁵⁵ Article 92 of the Law "On protection of the health of citizens of the Kyrgyz Republic."

⁵⁶ Article 92 of the Law "On protection of the health of citizens of the Kyrgyz Republic."

⁵⁷ Article 13 of the European Charter of Patients' Rights.

⁵⁸ Article 2, paragraph 3 (a, b, c) of the International Covenant on Civil and Political Rights.

the right to health.⁵⁹ The right to file a complaint is also explicitly provided for in cases of torture and cruel treatment or punishment.⁶⁰

In the Kyrgyz Republic, in case of violation of a patient's rights, the patient can file a complaint directly with an official of the health care facility, as well as to corresponding state medical institutions or to the courts. The legislation establishes a thirty-day period for the examination of complaints.⁶¹ When a case involves a legally defined crime or violation of law, the applicant should appeal to the authorized agencies, such as a department of the Ministry of Internal Affairs (the police), the Prosecutor's Office, and the courts.⁶²

SPECIFIC LEGAL PROTECTIONS RELEVANT TO SEX WORKERS

The Global Fund against AIDS, Tuberculosis and Malaria (the Global Fund) finances antiretroviral therapy (ARV therapy), methadone substitution therapy, and other treatments aimed at preventive maintenance of opportunistic infections. Health care for related conditions affecting people living with HIV is provided on a paid basis. Given the serious problem of HIV/AIDS, it is necessary for the government to provide funds for comprehensive medical and social support to people who are HIV positive, as part of the implementation of the state program for prevention of HIV/AIDS and its social and economic consequences in the Kyrgyz Republic for the period of 2006-2010.⁶³

Analysis of the government decree "On the terms for granting medical and sanitary care to citizens of the Kyrgyz Republic for 2008 under the program of the state guarantees for providing citizens of the Kyrgyz Republic medical and sanitary care" has shown that representatives of vulnerable groups, other than people living with HIV/AIDS (whose treatment is financed by the Global Fund), are not included in section I of the program, which lists the categories of people who, because of their social status, have the right to be provided with medical care free of charge and with favorable terms on an out-patient basis and in hospitals.

HIV/AIDS patients do not reveal their status to medical personnel in an effort to avoid stigmatization and out of fear that private information will be spread beyond the medical institutions.

In section II of the government program, the following categories of people are listed as having the right to free medical care because of their risk for disease (sex workers are often among those in these at-risk groups): women registered because of pregnancy; women hospitalized for a pregnancy-related illness; women hospitalized for abortion due to social or medical reasons; women hospitalized for childbirth; women with postnatal complications within 10 weeks after childbirth; and tuberculosis patients.

When sex workers apply for treatment and preventive care based on the above clinical indications, they have the right to receive health services free of charge, but their

⁵⁹ Substantive Issues Arising in the Implementation of the International Covenant on Economic, Social and Cultural Rights. General Comment No. 14 (2000). The right to the highest attainable standard of health (article 12 of the International Covenant on Economic, Social and Cultural Rights).

⁶⁰ Article 13 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

⁶¹ Article 8 of the Law of the Kyrgyz Republic "On procedures for examination of complaints of citizens."

⁶² The authorized body is defined by its investigative jurisdiction, in accordance with article 163 of the Criminal Code of the Kyrgyz Republic or Chapter 41 of the Code of Administrative Responsibility of the Kyrgyz Republic.

⁶³ This program was enacted by a decree of the government of the Kyrgyz Republic on July 6, 2006, number 498.

rights are frequently violated because they are not aware of their rights to free care. In other cases, sex workers do not have residence registration and, therefore, cannot be registered at family health centers and, therefore, cannot be registered with facilities such as the Maternity Welfare Clinic for pregnancy, for example.

Section III of the government program lists those people who are entitled to partial privileges in relation to medical care. In a hospital, the following categories of people have the right to receive compensation equal to 85 to 90% of the established average cost of treatment: women hospitalized for abortion; patients with acute brucellosis; patients with malaria; and patients with acute aggravated hepatitis. People who independently contribute to mandatory insurance and who are hospitalized are entitled to compensation equal to 75% of the established average cost of treatment. Those contributing to insurance and receiving out-patient care have the right to receive compensation for 50% of the established average cost of treatment.

Kyrgyzstan accepted the obligation to take measures to eliminate discrimination against women in the health care system, to provide men and women equal access to medical services, including those related to family planning. Specific health services that must be provided to women include health care during pregnancy, birth and post-partum. Such services, as well as proper nutrition during pregnancy and breastfeeding, should be provided free of charge when necessary.⁶⁴

LEGAL REQUIREMENTS FOR CO-PAYMENTS FOR HEALTH CARE SERVICES

Sex workers, as a rule, do not have insurance under the state's mandatory health insurance policy and, therefore, cannot take advantage of the privileges provided by the government. Co-payment fees range from 970 to 2,500 som. With the minimum monthly wage at 340 som (about US\$9), this makes health care services inaccessible to needy people and contradicts part 1 of article 34 of the Constitution of the Kyrgyz Republic, which says, "Citizens of the Kyrgyz Republic have the right to health care, to free use of the network of government and municipal health care organizations." At the same time, part 2 of article 34 of the Constitution states that, "Paid medical services shall be allowed on the basis and in the procedure established by law."

The law "On protection of the health of citizens of the Kyrgyz Republic" guarantees people the right to affordable, quality medical care.⁶⁵ At the same time, the approved price list for treatments does not correspond to the minimum wage and is not affordable for needy citizens. Co-payment was introduced in order to cover the costs of health care services and set up an economically viable system. In practice, patients are compelled to pay for all health care costs, including medical counseling, tests, medicines, "light supplies," and hospital stays.

⁶⁴ Convention on the Elimination of All Forms of Discrimination Against Women.

⁶⁵ Article 72 of the law "On protection of the health care of citizens of the Kyrgyz Republic."

VIOLETIONS OF PATIENTS' RIGHTS

VIOLETION OF THE RIGHT TO QUALITY HEALTH CARE

Violation of the right to quality health care is highlighted in cases when sex workers were denied help when they called for emergency care. Dispatchers who received emergency calls replied rudely, refused to register and accept the calls, or made reference to the personnel's lack of gasoline. Sex workers reported that in order to get an ambulance to come they had to call several times and to agree to pay for the gasoline and for the emergency medical services provided.

Aipery (a pseudonym), a 22 year old, told researchers:

I had a fever; I had been in bed for a day. My girlfriends suggested I call for first aid.

When we called, they began to ask: 'Who are you? How old are you? Where do you live?' They hung up. I called back once again and got the following rude response: 'The call is accepted, wait.' We waited for two hours, then my girlfriends called back once again. The answer was: 'If you didn't spend so much time in the sauna, you wouldn't have gotten that!' When they began to ask for the name of the dispatcher who accepted the call, the answer on the line was: 'Can you pay for the arrival of the ambulance?' We agreed to pay for the arrival of the ambulance, after which the medical aid was provided – we paid for gasoline and medications.⁶⁶

Yelena (a pseudonym), a 27 year old, said:

After using drugs my girlfriend overdosed. I called the ambulance and told them what happened. While we waited for the ambulance, I began rendering first aid to my girlfriend (by administering a salt solution intravenously) and she regained consciousness. After a while she again lost consciousness. And she died without regaining consciousness. The ambulance never arrived. Then I called again, I began to swear, I told them that because of them a person died, they said rudely that I should call the police.⁶⁷

Sex workers interviewed for this report testified that ambulances generally are delayed in arrival and that this is explained to them as being due to numerous calls and a lack of emergency vehicles. Health care is provided, but not always adequately. For example, in the presence of indications of the need for hospitalization, emergency staff try to avoid transporting patients, and suggest instead that they go to a relevant polyclinic the next day.

One emergency services staff person said:

When we receive a call, we don't know who is calling us – prostitutes or not. When we arrive, we can determine it objectively, based on their behavior, speech, and location. If there are indications [of medical need], the patient is delivered to the clinical hospital with the appropriate profile. It is very seldom that we deny someone hospitalization; only when the patient is in a state of alcohol intoxication, when he or she has a slovenly appearance, or chronic illness. Then we have to take them to a health care center, to give them temporary shelter and provide them with medical aid. We do not refuse [treatment to] drug addicts also, but we don't have medications required for overdose, such as nalorphine, nalaxone, or bemegride.

⁶⁶ Musaada interview with Aipery (a pseudonym), April 2007.

⁶⁷ Musaada interview with Yelena (a pseudonym), April 2007.

We provide first aid irrespective of the person's status and residence registration. We refuse nobody, since the Office of the Public Prosecutor takes this business seriously, even if a person is a vagrant [homeless].⁶⁸

The unconcerned use of terms such as "prostitute," "addict" and "vagrant" during this interview testify to emergency workers' prejudice against vulnerable groups. The phrase "the Office of the Public Prosecutor takes this business seriously" tells us that workers are performing their duties with a view to the oversight of the Office of Public Prosecutor, rather than due to internal motivation to fulfill their professional duties. Legislation articulating medical professionals' responsibilities ensures that doctors perform their duties. It is very important that issues of responsibility and liability for misconduct are understood by new students when they enter medical school, when there is still a possibility for them to choose a different profession.

Sex workers' right to quality health care is violated not only by emergency services teams, but also by doctors at city hospitals.

Zilola (a pseudonym), a 22 year old, said:

When I was drunk I cut my hand with a knife. My girlfriends took me to the hospital. The doctor began to shout at me and called me bad things. I didn't remain silent either, I swore at him and left. Since my hand was not stitched up, it healed by itself, only the scar remained. After that I prefer not to visit the hospital. I visit only our doctors from the friendly clinic under the NGO. We talk to them and share information about our problems with illness. They do not condemn us, do not call us bad things, and they accept us as we are. We sometimes come in not for examination, but just simply to talk.⁶⁹

According to a doctor at the trauma center of a city clinical hospital:

There are cases when, during the night duty, the ambulance brings prostitutes with various traumas, cuts, bruises. As a rule, they are in a state of alcohol intoxication.

They behave in a boorish way, they swear, offend the medical staff, refuse treatment. We are powerless to help them in these cases.⁷⁰

The statement by the doctor that "we are powerless to help them" speaks to the vulnerability of sex workers when seeking medical care, namely that obtaining the necessary aid depends on the willingness of health workers to help them.

Rano (a pseudonym), a 29 year old, told researchers:

I am HIV infected. I have not hidden my status for a long time now. When I was young and silly I worked as a call girl. When I got the chance to marry and give birth to a child, I learned about my [HIV] status. I gave birth to the child; to my happiness, to a healthy one. Similar to all children, he sometimes gets a cold. Once there was a case [when he got a cold] and I took him to the doctor at the polyclinic. The doctor knew about my status. She spoke to me nicely and smiled. My son took a pen from her table and began to play with it. When we were leaving, he wanted to return the pen, but the doctor's behavior changed drastically and she asked me to throw the pen into the trash bin. I left the polyclinic with tears in my eyes, not because my son was sick, but because of the future he will have to face.⁷¹

⁶⁸ Musaada interview with an emergency services staff person, May 17, 2007.

⁶⁹ Musaada interview with Zilola (a pseudonym), May 2007.

⁷⁰ Musaada interview with a doctor from the trauma center, May 18, 2007.

⁷¹ Musaada interview with Rano (a pseudonym), May 2007.

VIOLATION OF THE RIGHT OF ACCESS

The survey revealed cases in which patients were unable to access care at a polyclinic because they lacked residence registration or citizenship. As noted above, the south of Kyrgyzstan borders Uzbekistan, Tajikistan and China. Due to the lower living standards in Uzbekistan and Tajikistan, numerous sex workers from these countries come to Kyrgyzstan to earn money. As a rule, without residence registration, one cannot obtain a mandatory health insurance policy. In the absence of social protection these foreign sex workers become targets for extortion when they visit health care facilities.

Yulduz (a pseudonym), a 29 year old, said:

I visited a doctor because of pains in my lower abdomen. The doctor I knew was not available, so I was received by the doctor on duty. After the examination she began to fill out the visiting card where one's residence should be listed. The doctor demanded two times the [usual] fee for payment on the basis that I'm not local and I should not go to medical facilities located in places other than where my registered residence is. I paid and left. After that, following the advice of my acquaintances, I began self-treatment.⁷²

It is possible to draw the conclusion that a patients' lack of local residence registration and the fact of foreign citizenship can lead to discrimination by workers at medical institutions.

The following case relates to the right of pregnant women to receive preferential medical aid under certain medical and social conditions.

Dinara (a pseudonym), a 21 year old, said:

I visited the gynecologist about my pregnancy. I was in the early stage of pregnancy. I didn't know how much money was required, so I got together only what I had at home at the moment. The doctor referred me to get an ultrasound and only then, having seen the stage of my pregnancy, told me about the money. I did not have that much. I began asking her to do it [perform an abortion] for the amount that I had. The response I got was: 'In the saunas your daily income is higher than my monthly income. Furthermore, by not using condoms, you transmit infection.' After that, I went back to the sauna and the girls taught me how to cause an abortion myself. I drank cognac with milk and took a steam bath. The miscarriage happened. For several days I was bleeding and then the bleeding stopped by itself.⁷³

The words of the doctor—"In the saunas your daily income is higher than my monthly income. Furthermore, by not using condoms, you transmit infection"—are evidence of a negative attitude toward sex workers. Refusal to render medical aid in such a case is an act of discrimination.

VIOLATION OF THE RIGHT TO FILE A COMPLAINT

Many sex workers do not submit complaints against the unlawful actions of medical workers because they do not know how to file complaints to various agencies.

Gulya (a pseudonym), a 30 year old, said:

I cut my hand by accident. I had to go to the local polyclinic, where they infected my hand. After treatment in another medical institution, I addressed a complaint to

⁷² Musaada interview with Yulduz (a pseudonym), May 2007.

⁷³ Musaada interview with Dinara (a pseudonym), May 2007.

the polyclinic [where the infection was contracted], where they told me: 'You're a former prostitute, and you should have been examined for HIV, STIs and any other infectious diseases.'⁷⁴

This story illustrates how stigma and discrimination can lead to violation of other human rights, in this case the right to file a complaint.

VIOLATION OF THE RIGHT TO SAFETY

Research has revealed cases of patients' rights violations related to the failure of medical personnel to observe sanitary conditions, and negligent treatment of patients that led to health complications.

Larisa (a pseudonym), a 19 year old, reported:

I went to the polyclinic with an ordinary cold. After examination and tests the doctor prescribed injections. I was advised to take a course of injections at their polyclinic, according to the doctor, 'by a skilled nurse.' I agreed. On one of the days, after receiving an intravenous injection, I felt pain in my hand. The nurse laughed and said, 'No problem, it'll heal soon,' and made a subcutaneous injection. The hand began to decay, the treatment for it was long. And here, look, I still have the scar.⁷⁵

Interviews with polyclinic staff have revealed employees' discontent with their low wages, a heavy workload, an insufficient supply of medical equipment, and low level supply of medication, disinfectants, gloves, masks, and quartz lamps. Given these circumstances, complications from medical treatment are inevitable. However, the difficulties that doctors have noted do not justify negligence and stigmatization of patients.

The following case is an example of a doctor causing sex workers pain and suffering while taking part in a police-sanctioned illegal epidemiological examination carried out for the purpose of extorting money.

Nigora (a pseudonym), a 24 year old, said:

One day when we were standing on the street, the police conducted a raid accompanied by doctors and shoved us into a car and drove us away, explaining that we had to take some tests. We were brought to the detention center and forced to undress. There were many policemen there. The doctor examined us in front of them and cursed at us. Those of us who refused to have the blood test, the police twisted their hands, and the doctor took blood violently. Then we had to pay [for the test], and we were released.⁷⁶

This case illustrates that law enforcement agents and medical workers have committed actions that violate the law and sex workers' fundamental right to safety.

VIOLATION OF THE RIGHT TO FREEDOM OF CHOICE

The following case demonstrates violation of the right of sex workers to freedom of choice, as well as discrimination by medical workers on the basis of citizenship.

⁷⁴ Musaada interview with Gulya (a pseudonym), May 2007.

⁷⁵ Musaada interview with Larisa (a pseudonym), May 2007.

⁷⁶ Musaada interview with Nigora (a pseudonym), May 2007.

Shahnoza (a pseudonym), a 17 year old from Uzbekistan, told researchers:

I came from the city of Andijan. We live at our pimp's place; there are eight of us, eight girls. There are girls from Namangan, Fergana, Khojend, Isfara. Once, in the afternoon, the local doctor came and all of us were taken by the police to the tuberculosis center for X-ray examination. There we were scolded, called prostitutes, and were forced to write that we spread tuberculosis and that if we continue our stay in Osh, we will be put in prison.⁷⁷

In an interview, a doctor from the tuberculosis center said:

Sex workers often come in with chronic bronchitis, but not with tuberculosis. Sex workers can give a note stating that they will not transmit the infection. It is known in practice that many girls have tuberculosis and upon examination are found to have an advanced form [of TB]. If one has insurance, the funds are sufficient for treatment. Local doctors give patients referrals for fluorography, which is free of charge, but the sex workers are reluctant [to undergo such treatment].⁷⁸

The current system allows unethical local doctors and police officers to extort money from sex workers.

VIOLATION OF THE RIGHT TO PRIVACY AND CONFIDENTIALITY

Medical secrecy is a professional, moral and ethical standard of those in the medical profession. This is illustrated by the solemnity with which the Hippocratic Oath is taken at graduation. Nevertheless, stigma and discrimination lead medical workers to violate the tenets of the medical profession.

Tatiana (a pseudonym), a 19 year old, told researchers:

When I went to the hospital with appendicitis, the nurse learned that I work at the sauna. She became rude with me, saying that girls like me should be killed or put in jail. All the nurses learned where I work. Because of this, I had to be discharged from the hospital ahead of schedule, before my stitches were removed. I got the stitches removed at a private clinic.⁷⁹

Lyuda (a pseudonym), a 29 year old, said:

I've been rendering paid sexual services for a long time. I'm elite, not like the riffraff working in the street. I work in a hotel. One evening there was a raid by the "Berkut" and all the girls who were in the bar were taken to the narcological center. It was cold in the office. They forced us to undress. During this, the doctor was rude. We were a little drunk—having been drinking to warm up—but the doctor diagnosed me as highly intoxicated. It turns out that everything was filmed by a hidden camera. The next day we appeared on local TV, which publicized this activity. My neighbors and the parents of my daughter's schoolmates saw everything. That next day my daughter came home from school in tears. I could not fight and argue with everyone, so I had to send my daughter to her father in a different city. I do not hide my type of employment, but my daughter is already an adult, she is 13 years old. I have to send money to my daughter and to her father, who is an alcoholic.⁸⁰

⁷⁷ Musaada interview with Shahnoza (a pseudonym), May 2007.

⁷⁸ Musaada interview with a doctor from the tuberculosis center, May 23, 2007.

⁷⁹ Musaada interview with Tatiana (a pseudonym), May 2007.

⁸⁰ Musaada interview with Liuda (a pseudonym), May 2007.

During researchers' conversation with one doctor, an expert in narcology, the doctor explained:

Employees of law enforcement bodies often bring sex workers in for examination. According to the law, we carry out examination for sobriety or someone's degree of alcohol intoxication. The examined person pays 20 som per examination; we provide them with a receipt. Sometimes, when they behave violently, we have to raise our voice in order to speak with such violent patients. There were cases when, in pursuit of sensational material, the TV operators shot footage about drunkards.⁸¹

The behavior of the nurse in the first case above is unacceptable from the point of view of medical ethics, and also could be the subject for criminal liability, as noted in the legal analysis section. The interview with the doctor of narcology demonstrates that not only actions that directly violate patients' rights, but also the failure to act to protect patients' rights can aggravate the stigma that sex workers face. Not prohibiting cameramen from the narcology office is an example of this.

VIOLATION OF THE RIGHT TO PREVENTIVE CARE

Cases of discrimination against, and stigmatization of, people living with HIV and AIDS by medical staff were revealed during the course of research for this report.

Vika (a pseudonym), a 27 year old, said:

I'm one of the people living with HIV. I try to hide my status. Once I went to the dentist and I decided that it was my duty to tell the doctor that I was HIV infected. When he heard it, he refused to treat me and advised that I be treated at the AIDS center. There is no dentist at the center. I visited a different dentist, but I didn't tell him that I was infected.⁸²

Interviews with doctors have shown their awareness of the issue of HIV/AIDS. Every doctor underlined the necessity of prevention of the HIV epidemic. At the same time, monitoring has revealed a high level of AIDS-phobia (the fear of becoming infected with AIDS) among doctors.

⁸¹ Musaada interview with a doctor specializing in narcology, June 3, 2007.

⁸² Musaada interview with Vika (a pseudonym), May 2007.

CONCLUSIONS

During interviews with researchers, doctors testified that patients are received irrespective of their social or other status. It follows that the violations of patients' rights that were revealed apply to all patients. Not only members of vulnerable groups, but also members of the general population are victims of rights violations in the health care system, however, in the case of vulnerable groups such as sex workers, violations are more frequent and severe. Monitoring has shown that in the medical institutions in Osh city fundamental laws on the protection of citizens' health, guaranteed by the Constitution and laws of the Kyrgyz Republic, are not being observed. The process of surveying and interviewing sex workers has elicited facts of violations of legal guarantees by medical personnel. Sex workers are compelled to avoid medical facilities and to resort to self-treatment because of the probability they will encounter stigmatization and discrimination at medical facilities and out of fear that doctors will disclose their social status. In a best case scenario, sex workers go to one of the friendly medical centers set up with the participation of nongovernmental organizations.

Interviews with doctors indicate that the average wages of medical personnel are 800 som per month. This is evidence of a lack of appropriate guarantees for medical professionals; a lack of adequate compensation for their work that corresponds to the cost of living. The desire of doctors to remain anonymous during interviews for this report is evidence of their sense of insecurity, as well as their low level of awareness about the procedures for hiring and dismissal.

Medical institutions lack an appropriate working environment, with the required stock of medicine and equipment. This testifies to the poor support of the work of medical professionals. At the same time, inadequate compensation for their work cannot excuse violation of the rights of sex workers by medical personnel. Eradication of stigmatization of, and discrimination against, the surveyed group depends less on material assets and more on the professional attitude of medical personnel toward their patients, regardless of the patients' social status.

Infringement of the rights of sex workers by medical personnel are connected with the biases that have developed in society, as well as common stereotypes, traditions and customs. These factors have implanted in the public consciousness an intolerance toward sex workers. The majority of the population considers these women to be causing harm, to be carriers of disease. Representatives of the given group are accused of destroying the moral foundations of society and its cultural values. As a consequence, sex workers are constantly subjected to violation of their rights, including by representatives of the medical profession.

Patients are poorly informed about their rights. Medical professionals also do not always have competence in the laws guaranteeing medical aid. Social stereotypes further influence the way medical personnel discharge their duties.

RECOMMENDATIONS

1. Raising the level of legal literacy of both patients and medical professionals is required in order to improve sex workers' access to health care services. It is necessary to raise awareness through distribution of information materials, publications in the print mass media, and radio and TV programs on human rights involving the participation of qualified medical experts and civil society representatives.
2. It is necessary for NGOs to conduct outreach work with sex workers through "peer to peer" education programs and the distribution of information materials on patients' rights. It is also necessary for NGOs to build up cooperation with legal clinics and legal consulting offices to which sex workers can turn for consultation.
3. In order to improve the observance of patients' rights in the health care system, it is essential that the relevant agencies responsible for health care and the training of medical professionals, including the Ministry of Health and the Kyrgyz State Medical Academy, develop methods for training doctors in new approaches to the provision of public health services. It is recommended that the Ministry of Education introduce patients' rights into the curricula of medical schools. Health care authorities in Osh should certify that doctors in Osh medical institutions know about their responsibilities and patients' rights. The relevant agencies should introduce a course on patients' rights at the institute for the development of doctors' professional skills. Doctors' certification examination should include questions on patients' rights. Osh province authorities and the mayor of Osh city should oblige chief physicians of medical institutions in Osh city to equip the buildings with information stands that provide information about the rights of patients and duties of medical personnel. Chief physicians should also inform patients about the procedures for filing complaints and for consideration of complaints against the actions of medical personnel.
4. The situation requires that the government establish an agency or service on protection of patients' rights that would be independent from other health care authorities. This service could function as part of the Ombudsman's Office. In order to set up such a service, quality training for employees should be provided and it will be necessary to develop the normative basis on which the service will operate. International agencies and local and international nongovernmental organizations engaged in the protection of patients' rights should be involved in training expert employees.

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LIST OF ABBREVIATIONS

- ARV - therapy – antiretroviral therapy
- HIV – Human Immunodeficiency Virus
- STI – sexually transmitted infection
- KR – Kyrgyz Republic
- PLWH – people living with HIV
- ICCPR – International Covenant on Civil and Political Rights
- ICESCR – International Covenant on Economic, Social and Cultural Rights
- MSM – men who have sex with men
- NGO – nongovernmental organization
- MHI – Mandatory Health Insurance
- AIDS – Acquired Immune Deficiency Syndrome

