

DISCRIMINATION AND STIGMA AGAINST PEOPLE LIVING WITH HIV

ABBREVIATIONS USED

Human immunodeficiency virus	HIV
Acquired immune deficiency syndrome	AIDS
Sexually transmitted infection	STI
Voluntary counseling and testing	VCT
Non-governmental organization	NGO
United Nations Agency	UN Agency
Mongolian Family Welfare Association	MFWA
Youth for Health Center	YHC
Great state agency/ National Parliament /	NP
National Center for Communicable Diseases	NCCD
National Committee on AIDS	NCA
World Aids Day	WAD

PREPARATION OF INFORMATION AND CONSULTATION PROCESS

1. The review process and information collection for recommendation of the people living with HIV included activities such as: 1) Consultative meeting with key stakeholders including decision makers and officers in charge of the Government agencies, NGOs working with key populations, such as Youth at Health Centers, the Together Center, the Human Rights & Youth-Health Support Center, Positive life, New positive life, MFWA, Psychological Responsiveness and representatives of people living with HIV; 2) interviews with representatives of the people living with HIV; 3) collecting suggestions via the internet; 4) discussion and consultation by the Human Rights NGO Forum¹.

POSITIVE DEVELOPMENTS

2. The Parliament of Mongolia reviewed and approved “The Mongolian Law on HIV, AIDS prevention” in December 2012.
3. The Health Law of Mongolia was approved in 2011 and included a provision stating that it “shall be elaborate state policy on health care services [to be] provided to all citizens without any discrimination².”
4. The new draft Criminal Law of Mongolia is included in the provision stating that if it “shall be considered as a discrimination and stigma then it is a crime.”

¹ Meetings of the NGO Forum on Human Rights were held on 22 August and 3 September 2014 and discussed report by the NGOs working with key population to UPR

² The Health Law Mongolia, 2011, Article 4, Government policy and principles on health sector, 4.1.2

5. The new draft Labor Code of Mongolia is included in the provision stating that it “shall be prohibited all forms/types of direct and indirect discrimination and stigma.”
6. The Government of Mongolia approved the implementation of the National Strategic Plan on HIV/AIDS and STIs for 2010-2015 and produced a report on the Midterm External Review of the implementation in May 2013.
7. The multi-sector approach has made significant progress in increasing STI and HIV prevention, in increasing the availability and accessibility of voluntary testing and treatment throughout the country, and in providing training to medical service providers and doctors.

IMPLEMENTATION OF THE UPR RECOMMENDATION

86.5 (Mexico); Adopt quick and effective measures, as well as necessary legislation, in order to explicitly prohibit, prevent, punish and abolish discrimination on any grounds, including on the basis of HIV/AIDS status

8. The review findings and analysis within this recommendation noted that although some laws had been adopted and implemented, such as “The Mongolian Law on HIV, AIDS Prevention” and “The Mongolian Health Law” there is still an insufficient mechanism for the coordination and monitoring of implementation, and there is also a limited allocation of government funds and insufficient monitoring and supervision of expenditures within the current program. The review team noted that with the adoption of the Mongolian Law on HIV, AIDS had satisfied concerns related to human rights issues, but the implementation of this provision, “Establishment of National Committee on AIDS (NCA)” is not in place and the non-functioning of NCA has led to weak coordination, collaboration and harmonization of the multi-sector response on HIV, AIDS and STI. In addition to that insufficient and different knowledge and attitude, including frequent changes of human resources of the government service providers and decision makers, as well as authorities in line with their obligations to protect the rights of the people living with HIV and the provision of implementation of the law leads to a concerning analysis that concludes: “INSUFFICIENT IMPLEMENTATION ” of the law.

Evidence to contribute statements based on the person to person interview as follows:

Evidence 1: My name is D... I used to work. But I decided to quit my work, because I was afraid of being discriminated against with my HIV positive status, as there could have been HIV testing done at my workplace. It happened 5 years ago, but now I feel deep sorrow with my last decision. The first time, after taking antiretroviral treatment pills I had complications and went to see the doctor, but the service provider did not know how to provide health services for me. The medical doctors and service providers are arrogant and impolite. They treated us with no respect and like we weren't human beings. It is very difficult to see medical service providers to take regular antiretroviral treatment and their bureaucracy is a serious obstacle to treatment. It seems like they are spending money from their own pockets and asked us to show them the rest of the pills not yet taken. So I had to go back home to show them. It is a waste of my time.

Source of information: Interview with HIV positive young man...

Evidence 2: In 2010, citizen E butchered fanatically and found a perpetrator as a citizen ... and was sentenced to 5 years in prison by the Chingeltei district Court. The wife of the victim was disappointed with this punishment and wanted to complain, but she did not take follow through, because she was afraid that relatives and others would know the victim's HIV positive status.

Source of information: Interview with HIV positive man....

9. Although, there is an allocation of small funds to various levels of government agencies directed at both the prevention of HIV, AIDS and information education and communication as well as funds for organizing national seminars and meetings, the recommendations are not implemented fully and insufficient monitoring reports were documented by staff from the NGOs during some field visits. Additionally, the World Aids Day campaign is in place yearly and messages are disseminated, but the sustainability of the program and coordination, collaboration and harmonization is still weak. There is no effective mechanism on information sharing and it leads to weak nationwide access to information. In spite of the insufficient information sharing of people living with HIV, their voice and participation remains weak, leading to insufficient results.

RECOMMENDATION

10. Increase the public sector participation of people living with HIV through revision and amendments of the policy documents, programs and implementation on HIV/AIDS issues in order to take more effective measures.
11. Open information dissemination about policies and programs on HIV/AIDS issues through mass media to the public in order to build awareness discrimination.

NEW ISSUES FOR CONSIDERATION:

The right of people living with HIV /AIDS to be free from discrimination and stigma.

12. There is no Anti-Discrimination policy or legislation in Mongolia. Direct and indirect practices of discrimination against people living with HIV/AIDS in Mongolia still exist. The Constitution of Mongolia includes provision 14.2³, which prohibits discrimination, but there is no inclusion of discrimination against an individual's health status and it is noted that there is no legislative environment on the basis of an individual's HIV/AIDS status.
13. To take into consideration the practices on the adoption of discriminatory policy documents against people living with HIV/AIDS by the policy and decision makers on all levels.

Evidence 3: There are a few policy documents and laws that include direct discrimination provisions against people living with HIV/AIDS. But, the Mongolian Law on HIV/AIDS prevention includes provision 11.5, " [an] identified person living with HIV/AIDS loses the ability to work and the rate of disability is as considered according to Article 30 of the

³ 14.1. All persons lawfully residing within Mongolia are equal before the law and the court.

Article 14.2. No person shall be discriminated against on the basis of ethnic origin, language, race, age, sex, social origin and status, property, occupation and post, religion, opinion or education. Everyone shall have the right to act as a legal person, Constitution of Mongolia, adopted 1992, Article 14.1 and 14.2

Labor Safety and Hygiene Law and provision 5.1.5 of this law,” which we feel discriminates against the HIV/AIDS positive individual’s ability to work.

Evidence 4: My name is B. I am unemployed and difficult to get job. I am carpenter by my own. It has happened that I cut one’s my finger and went to trauma hospital to get first aid. There was no medical service provider in the trauma hospital to help me and I had to wait for two hours for the medical doctor who is in charge of people living with HIV/AIDS from the National Center for Communicable Disease and I got treatment in a separate room, because of my positive status.

Source of information: Interview with HIV positive man...

Evidence 5: The provision 15 of the newly drafted Criminal Law of Mongolia has a discriminatory policy against people living with HIV/AIDS. According to this provision, HIV/AIDS is considered a dangerous communicable disease and the concept of inclusion in this law is to show the public that an HIV positive person spreads this dangerous disease. We feel that this provision is discriminatory against HIV positive people, because the provision singles out just this one particular disease.

Source of information: An official letter No.02/03 to the Minister of Justice, from “New Positive Life “ NGO.

14. There are several incidents of direct and indirect discrimination against people living with HIV/AIDS. For example: Government service providers and medical service providers are not providing services to people living with HIV/AIDS, if they know his/her positive status, employer requesting test results and dismiss his/her job, if it the HIV positive status of the individual is known.
15. In addition, sexual minorities living with HIV receive double the amount of discrimination. There are some discussions and measures concerning incidents of discrimination against minorities, including lesbian, gay, bisexual, and transgender persons, but due to the traditional understanding, the general social attitude leads to misinterpretation, negative information and misconceptions of HIV positive individuals.

Evidence 6: According to the assessment report on “ Human right status of MSM living with HIV/AIDS,”⁴ 8 percent of people experienced violations against their right to live due to their HIV positive status, 10 percent of people experienced violations against their right to receive an education, 60 percent of people experienced violations against their right to work and 3 percent of them reported that service providers within the health-care field denied them medical treatment, and 45 percent of them reported that their privacy and confidentiality is not kept.

RECOMMENDATION

⁴ Youth for Health Center NGO, National Human Right Commission, United Nations Development Program, “ Human right status of MSM living with HIV/AIDS” assessment report. Page 6, 2012

16. Adopt quick and effective measures, as well as necessary legislation, in order to explicitly free from discrimination on the basis of their HIV/AIDS status and in the case of incidents of discrimination, strengthen individuals' rights.
17. Re-establish the National Committee on AIDS and its branches in provinces.
18. Stop donor funding and allocate a national budget for prevention from HIV/AIDS related activities. Advocate for employment opportunities for people living with HIV/AIDS and ensure that employers do not discriminate on the basis of an individual's HIV/AIDS status.
19. Reduce the doubled discrimination against sexual minorities living with HIV/AIDS.
20. Increase government support to the NGOs working with high-risk groups on HIV/AIDS infection.

Evidence 7: The HIV positive pregnant women do not deliver at the regular maternity wards, rather they are sent to a separate facility to deliver under the supervision of the AIDS doctors at the National Center for communicable diseases (NCCD). The NCCD is not a medical institution for new born. This indicates a high level of discrimination in the health sector. Because of the mother's HIV status, the newborn faces the risk of not accessing the adequate perinatal services. In addition, hospitals enforce HIV testing, more especially for surgical wards without the knowledge of their patients. Moreover, some public swimming pools ask for HIV testing.

RECOMMENDATION:

21. The Ministry of Health needs to review and revise its discriminatory policies which further stigmatize PLWH.
22. The State inspection agency should monitor the implementation of the HIV-related regulations.